



Planning Commission

DRAFT Meeting Minutes

June 17, 2019

7:00 p.m.

Planning Commission met in regular session in the Council Chambers at Village Hall, 99 W. Main Street and was called to order by Planning Commission Chair Mr. Neil Kirby at 7:07 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. Brad Shockey	Absent
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Andrea Wilttrout	Present
Mr. Sloan Spalding (council liason)	Absent

Staff members present: Steven Mayer, Development Services Coordinator; Jackie Russell, Development Services Coordinator; Chris Christian, Planner; Mitch Banchefsky, City Attorney; Ed Ferris (left at 9:03 p.m.), City Engineer; and Josie Taylor, Clerk

Mr. Kirby asked for any corrections to the May 6, 2019 meeting minutes.

Mr. Wallace stated there were two (2) corrections: (a) on page 2, the third paragraph should be corrected to state "Mr. Banchefsky indicated it had been denied, but the vote that evening was to have the variance request reconsidered at a later date"; (b) also on page 2, the notation of the vote for V-23-2019 should be corrected to show a vote of 3-2 with no votes to abstain.

Moved by Mr. Wallace, seconded by Ms. Wilttrout to approve the May 6, 2019 meeting minutes as corrected. Upon roll call: Mr. Wallace, yea; Ms. Wilttrout, yea; Mr. Kirby, yea; Mr. Schell, yes. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Kirby asked for any corrections or additions to the Agenda.

Mr. Christian replied there were none from staff.

Mr. Kirby swore to truth those wishing to speak before the Commission.

Mr. Kirby requested all present silence their phones.

Mr. Kirby invited the public to speak on any non-agenda items. (No response).

ZC-45-2019 Rezoning

Review and recommendation to city council for 1.6+/- acres from Agricultural (AG) to Limited General Employment (L-GE) at 13920 Morse Road (PIDs: 082-108156-00.000, 082-108162-00.000).

Applicant: MBJ Holdings, LLC c/o Aaron Underhill

Ms. Russell presented the staff report.

Mr. Kirby asked to hear from the Applicant.

Mr. Aaron Underhill, attorney for the applicant, stated this parcel had been recently acquired and the request for rezoning will make this parcel consistent with the parcels surrounding it.

Mr. Kirby stated there were not many names listed on the notification list and asked if there was just one neighbor effectively.

Mr. Underhill stated that was correct.

Mr. Kirby asked if the neighbor was across the street.

Mr. Underhill replied yes, stating the applicant owns everything around it.

Ms. Wilttrout asked if the applicant would be giving the same right-of-way for this parcel as it did for surrounding area.

Mr. Underhill stated that was correct.

Moved by Mr. Wallace to accept the staff report and related documents into the record for ZC-45-2019, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wilttrout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Mr. Wallace, to approve ZC-45-2019 based on the findings in the staff report with no conditions listed in the staff report, subject to staff approval, seconded by Ms. Wilttrout. Upon roll call: Mr. Wallace, yea; Ms. Wilttrout, yea; Mr. Schell, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

CU-47-2019 Conditional Use

Conditional use application to allow a monopole cellular tower telecommunication facility to be developed at 5089 Johnstown Road (PID: 222-001516).

Applicant: UAS Inc, c/o Rob Ferguson

Mr. Mayer presented the staff report.

Mr. Mayer noted that City Code required the conditional use for this new cellular tower to be reviewed by the Planning Commission because it would be an institutional use located in an area that is residentially zoned. Mr. Mayer stated there was also a variance request for this cellular tower to be permitted a forty (40) foot setback when the Code requires a 200 foot setback that will be heard by the Board of Zoning Appeals on June 24, 2019.

Mr. Mayer noted this cell tower was to be located at the back of Temple Beth Shalom and was 130 feet in height. Mr. Mayer stated the applicant had sent a red balloon into the air to get a sense of how tall the cell tower would feel from various locations and provided photos of those views.

Mr. Kirby asked if there was any engineering.

Mr. Ferris stated no.

Mr. Kirby asked to hear from the applicant.

Mr. Joe Perotti, attorney for Verizon, introduced Mr. Rob Ferguson, site acquisition consultant for Verizon, and Mr. Robert Schroeder, also with Verizon. Mr. Perotti stated that applications such as this are years in the making and involve geotechnical investigations, network needs, and reviews of gaps in coverage, calls dropped, and reviews of other co-location opportunities. Mr. Perotti noted that in this case other co-location opportunities are not available, or Verizon is already on those sites, or they are not able to meet the gap in coverage. Mr. Perotti added that needs for availability have increased as today cellular phones are used for talk, data, Internet access, and many other things that place greater capacity demands on available cell towers.

Mr. Perotti stated that to demonstrate demand for the new cell tower, Verizon had sent texts to New Albany residents asking them to respond "yes" if they were in favor of improved Verizon service in New Albany and a new wireless location in New Albany. Mr. Perotti stated Verizon had received 558 affirmative responses between June 3, 2019 and June 6, 2019. Mr. Perotti stated there was a critical need for this new cell tower.

Ms. Wiltrout asked how the applicant defined a critical need and what factors were considered.

Mr. Perotti stated it stemmed from federal law, the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended in 1996, which states that if a wireless provider can establish there is a significant gap in coverage and fulfills that gap through the least intrusive means that it can build that facility, as permitted by local zoning. Mr. Perotti stated a gap in coverage means the inability of wireless customers to access a wireless satellite.

Ms. Wiltrout asked if it was a decision made by a third party or body or if it was a benchmark that needed to be reached to reach the critical needs stage.

Mr. Perotti stated the "critical need" phrase was his own terminology. Mr. Perotti indicated the term under law was "significant gap," the inability of wireless customers to access a wireless cell site. Mr. Perotti stated that, in layman's terms, antennae only have certain capacity and, over time, as more and more customers place demands on that capacity, antennae are unable to meet the demand and all comes to a grinding halt.

Ms. Wiltrout asked if this had occurred in New Albany.

Mr. Perotti replied yes.

Ms. Wiltrout asked how that was known.

Mr. Perotti stated Verizon could testify to that at the next week's Board of Zoning Appeals meeting.

Mr. Wallace asked who was present to testify to these matters this evening.

Mr. Perotti stated there was no radio frequency specialist present to testify this evening, but could provide the studies that had been submitted.

Mr. Wallace stated he believed that was a big problem because ordinance requires these matters to be proved and the Planning Commission is an evidentiary type hearing where there is an obligation to hear sworn testimony. Mr. Wallace noted that if an engineer was not present to testify under oath as to the critical need and other matters he did not think a sufficient record existed to vote on this evening.

Mr. Perotti indicated the applicant had submitted data on dropped call rates and that type of literature.

Mr. Wallace stated he noticed a letter from Mr. Ferguson that stated "Exhibit A" was a type of radio frequency affidavit, but said he had not seen a statement that had been notarized and sworn under oath.

Mr. Perotti asked if there was a document dated May 17 that was seven (7) or eight (8) pages in length.

Mr. Wallace replied he did not see where that document was notarized or stated under oath.

Mr. Perotti stated this was Verizon Wireless work product.

Mr. Wallace stated he understood that, but noted the applicant was bringing testimony in for the Planning Commission to look at that was not sworn. Mr. Wallace stated that putting aside the question of whether an affidavit would be sufficient because it would not offer those who might be opposed to the application the ability to cross examine witnesses and test the evidence, he did not believe the applicant had submitted an affidavit under oath to meet a minimum standard for bringing evidence before the Planning Commission.

Mr. Perotti asked if that condition could be imposed on the Board of Zoning Appeals where they would have their engineer testify to those matters.

Mr. Wallace replied that would be fine, but that was a separate board and there would be a need to check with the law director as to whether sworn testimony presented before a different board would be sufficient for the Planning Commission to rely on. Mr. Wallace noted that whether that would be sufficient, he did not think there was sufficient evidence before the Planning Commission this evening for a vote. Mr. Wallace said his recommendation was to table this application to either (a) determine whether sworn testimony, assuming any were put in, at the Board of Zoning Appeals would be sufficient for the Planning Commission or (b) bring the engineer to testify before the Planning Commission.

Mr. Kirby asked Mr. Banchefsky for his comments.

Mr. Banchefsky stated the issues raised by Mr. Wallace were valid and noted it was not uncommon to have an expert testify in terms of the propagation model and why the tower was needed. Mr. Banchefsky noted that was a legitimate line of inquiry for the Planning Commission and stated he had no problem with tabling the application to obtain additional information.

Mr. Wallace stated he was not prejudging this matter, but given the audience present he believed there were residents who were opposed and that, even if the Planning Commission voted to approve the application, he believed if an appeal from that decision occurred there could be a potential problem to affirm that decision. Mr. Wallace noted he did not believe the applicant had sustained its burden but that regardless, he did not believe it could be sustainable if appealed and for those reasons he recommended this be tabled for a future hearing.

Mr. Kirby noted there were a number of people present who wanted to speak on this application and the Planning Commission would continue the hearing to obtain the public's views and answer questions.

Mr. Wallace replied that without evidence available at this meeting he was not sure the public's comments would be fully heard and it would not mean that another meeting would not be required and may not be helpful.

Ms. Wiltout noted people needed to be able to cross examine the evidence produced by the engineer and the Planning Commission should only proceed knowing that another chance would be provided for public comment.

Mr. Wallace suggested the Planning Commission vote to table or to proceed with a hearing.

Mr. Kirby stated he did not know how many of those present this evening would attend a second meeting and want to be heard nor how many questions could be answered without a need for sworn testimony from a professional, but that those present should be heard.

Mr. Schell stated there was an existing cell tower fairly close to the location proposed for this cell tower and asked if the applicant could not modify an existing cell tower to increase capacity.

Mr. Ferguson described where the surrounding cell towers were located and whether they were macro site (greater than forty (40) feet tall) or micro site (between 25 and 45 feet tall) cell towers.

Mr. Kirby asked if the cell towers on the north were on the school complex.

Mr. Ferguson replied yes, they were in and around it.

Mr. Ferguson commented that Verizon was already on those cell towers in the area and that the location for the proposed cell tower, Temple Beth Shalom ("TBS," hereafter) does not have a cell tower near it for about a half mile. Mr. Ferguson stated the gap in coverage is around the New Albany Country Club.

Mr. Wiltrout asked if Verizon was on the small cell towers.

Mr. Ferguson replied yes.

Mr. Schell asked if there were no other options but to build a new 140 foot tower.

Mr. Ferguson stated there were none the applicant could find. Mr. Ferguson noted there was an existing transmission line that runs through but that is not preferred nor does it provide good service. Mr. Ferguson indicated Thompson Road Park had been considered but a majority of the park is on a flood plain which removed a lot of options and noted TBS was the only option because there were also no towers to co-locate on.

Ms. Wiltrout asked why more small cell towers could not be put up.

Mr. Ferguson replied small cell towers did not offer the proper capacity.

Ms. Wiltrout asked for a ratio on how many small cell towers would be needed to equal a large cell tower.

Mr. Ferguson stated that was a radio frequency engineer question.

Mr. Perotti commented that small cell towers could service a concert halls, sports venues, and things of that nature, but could not provide large site coverage. Mr. Perotti noted the capacity needed is what determined what size cell tower was needed.

Mr. Ferguson stated that was correct.

Mr. Kirby stated that for a wide area altitude and power were needed.

Mr. Perotti stated yes, noting that factors such as topography, traffic congestion, etc., also were considered.

Ms. Wiltrout asked if the engineer could specifically speak to this.

Mr. Perotti stated yes.

Mr. Kirby mentioned that multiple diagrams in the packet were supposed to be in color but are not and asked if the equivalent was being shown on the slides presented this evening.

Mr. Wallace stated the applicant could forward color copies via email and he would be able to provide color copies for this packet if needed for future meetings.

Mr. Kirby asked the applicant to explain some figures.

Mr. Ferguson stated the macro site is significantly further away from the area that they are trying to cover, which is south of the country club. Mr. Ferguson stated there were two real problems in the southern sections, the area shown on the heat map shows a lot of dropped calls due to service capacity and added that there was a portion of the territory where a lack of population density, although there was a capacity problem likely to exist, had not made the issue noticeable.

Mr. Kirby asked about Figure 3,

Mr. Ferguson stated that table was representative of macro sites and small cells.

Mr. Kirby asked for comments from members of the public.

Mr. Paul Baily, of Oxford subdivision, said he was kind of representing neighbors as well as himself, in this opposition. Mr. Baily stated that the photo provided by the applicant showing a view from Oxford to the cell tower was taken from a point that was the furthest away from the potential cell tower location that would still allow the person taking the photo to be inside the Oxford subdivision. Mr. Baily stated he lived in the back part of the subdivision, further north, and in the winter he can clearly see the area where the proposed cell tower would be put. Mr. Baily stated he and neighbors believe if this tower is constructed it will have an adverse impact on property values and the neighborhood.

Mr. Baily stated that he wanted to discuss this application as he thought it related to the Code. Mr. Baily stated he wanted to know the height of the cell tower as that was a significant visual impact as people entered New Albany and from the Oxford subdivision. Mr. Baily noted he lives in Oxford and is a builder in the subdivision and believes this cell tower will impact his ability to sell those homes. Mr. Baily added that some things in the City Code were subjective, but one area in particular that he noted Chapter 1115.03 and said most of the items listed there, (a) through (f), were significant in that the proposed use should be harmonious and not hazardous to existing or future

uses. Mr. Baily stated there was concern the height of the tower would harm property values. Mr. Baily noted that his comments and their relation to the requirements of Chapter 1113 of the City Code, §1113.03(e)(2) and City Code §1113.06(a) and (e) also spoke against approval. Mr. Baily said the City Code's telecommunications provisions required the Planning Commission to provide a list of public lands that could be used for a facility like this cell tower and asked if this was available.

Mr. Kirby asked if the applicant could address this one.

Mr. Ferguson said they had looked at Thompson Road Park, the closest publicly owned land the applicant was aware of, which has a significant flood plain issue and puts the applicant further away from the problem area.

Ms. Wilttrout asked if the engineer could provide some data on this matter and if there was any usable public land or if it's all in the flood plain.

Mr. Ferguson replied okay.

Mr. Baily asked if a small cell could be made into a macro cell.

Mr. Kirby replied no, saying he would let the expert address it, but that height and power rules mean that for wider ranges a macro cell is needed.

Mr. Schroeder stated that he confirmed what Mr. Kirby stated and noted that a small cell has less power and is in the public right-of-way on utility poles, which is why they are also not preferred.

Mr. Baily asked about the requirement to have a list of public lands available made public.

Mr. Kirby asked if that was available.

Mr. Mayer stated that information was not available right then, but it can be provided on request.

Mr. Baily stated that the visual impact on the community and the decrease in property values were something he did not want to see happen.

Mr. Kirby asked who Mr. Baily's cell phone provider was.

Mr. Baily replied AT&T.

Mr. Wallace said he noted in the staff report that the only ordinance section was 1179 but this application was for a conditional use where typically a different statutory section would be used. Mr. Wallace asked Mr. Banchevsky and staff if §1179 superceded the standard conditional use analysis.

Mr. Banchefsky replied yes.

Ms. Leslie Timmons, a resident of the area right next to where the proposed cell tower would be placed, stated she had concerns. Ms. Timmons said her land was right up against a creek and that she would be shocked to find that the proposed tower was not going into a one hundred (100) year flood plain and noted she thought it was the same issue as Thompson Road Park. Ms. Timmons also stated she thought the Code required cell towers to be placed in non-residential areas whenever possible and is not clear as to why this cannot take place with this cell tower, noting that if the cell tower is in a flood plain in the proposed location why can it not go into a flood plain at Thompson Road Park.

Mr. Ferguson stated the cell tower at Thompson Road Park is a small cell.

Ms. Timmons asked if the same standard was still not applicable.

Mr. Shroeder stated it was a different standard.

Ms. Timmons stated she was a Verizon user who had never had a dropped call. Ms. Timmons also noted that she had not received the text the applicant indicated it had sent out to Verizon users and when she had learned of the text and looked at it, it was poorly worded and only allowed respondents to reply "yes" as there was no option for "no," so its design may have worked toward Verizon's advantage.

Mr. Kirby asked if staff had a computer available to find out if the location was in a 100 year flood plain according to Franklin County Auditor's website.

Mr. Mark Fixari, of 5765 Thompson Road, where he said he has been for approximately 26 years. Mr. Fixari stated the cell tower would compromise his home and that of surrounding family members who lived on same land in their own homes. Mr. Fixari stated that of the nine cell phones in his home none got the text message from Verizon and that he did not have a problems with dropped calls. Mr. Fixari noted he and his wife were both health care providers and their research on the health effects of cell towers found that new 5G towers have not been fully reviewed as to health concerns and they are concerned about this. Mr. Fixari stated the firefighters association no longer wants cell towers at firehouses due to health concerns. Mr. Fixari stated their opposition was due to aesthetics, property value concerns, and health concerns and this seemed like an incredible intrusion.

Mr. Kirby asked what they did as health care providers.

Mr. Fixari replied he and his wife were both dentists.

Mr. Banchefsky stated the Federal Communications Act prohibits the consideration health impacts when reviewing a cellular tower.

Mr. Kirby stated thank you.

Mr. Banchefsky stated they had looked up whether the proposed location was in the flood plain but that it did not look like the stream had been studied per the auditor's website. Mr. Banchefsky noted it may be dated information, but that could not be known.

Mr. Wallace stated he wanted to clarify something. Mr. Wallace asked if the Board of Zoning Appeals ("BZA." hereafter) would look at the issue as to whether the pole could be located in this particular location because of its proximity to property lines.

Mr. Mayer stated that was correct, to residentially zoned property lines.

Mr. Wallace asked if the Planning Commission was considering whether a conditional use to put the pole in this location in a residential area would be appropriate?

Mr. Mayer replied that was correct.

Mr. Kirby asked if the underlying zoning was residential.

Mr. Mayer replied that was correct.

Mr. Kirby noted that is what sparks the conditional use for this parcel and asked if the BZA would hear the "in this neighborhood" of this matter.

Mr. Mayer replied that per codified ordinances, the BZA hears any variances for straight zoned properties and as this is a residentially zoned three (3) property it is straight zoned and goes to the BZA for variances.

Mr. Kirby asked Mr. Mayer to reiterate the variance.

Mr. Mayer stated the variance is to allow the setback of the cell tower to be forty (40) feet from the northern property line, he believed, where Code requires a minimum 200 foot setback from any property that is zoned to allow single family residential use.

Mr. Wallace stated this was a clarification for the public of what is taking place at the current Planning Commission hearing versus what is going to happen at the June 24, 2019 BZA meeting. Mr. Wallace stated he was not sure what needed to be shown or proved by the applicant about the location issue, but noted there was talk of what the applicant needed to come forward with in order to meet the conditional use.

Mr. Perotti stated he could, with the Planning Commission's permission, propose going in front of the BZA on June 24, 2019 for their approval or denial and then, regardless of the BZA decision, they could have a radio frequency engineer present to continue this Planning Commission hearing.

Mr. Kirby suggested that if the variance was not approved then the conditional use was moot.

Mr. Perotti stated he thought that because the BZA and the Planning Commission were autonomous there could, hypothetically, be an appeal from the BZA decision by the applicant or any interested parties, while the Planning Commission could still proceed.

Mr. Kirby stated right, so if a condition was laid out in Planning Commission on something that had already been denied but was later won on appeal, then the applicant could proceed.

Mr. Wallace stated that would need to be looked at, depending on what happens at the BZA, whether it made sense for the Planning Commission to consider the application or table it until there was some decision on appeal from an adverse decision to the applicant on the variance issue. Mr. Wallace noted they were speaking hypothetically, as this was not known for certain, but added that the applicant should bring an engineer and others who would provide technical type data to support the application to the Planning Commission meeting.

Mr. Kirby asked if an electronic copy of materials submitted could be made available to the public.

Mr. Mayer replied yes and stated the public could request copies of the materials presented this evening from staff.

Mr. Wallace asked if the applicant submitted the slide presentation.

Mr. Ferguson replied that was staff who had put the presentation together.

Mr. Wallace asked what the idea behind the particular depiction currently shown in the slide presentation was.

Mr. Mayer stated this was to visually show the cell tower's location to adjacent residential. Mr. Mayer noted there is residential in the area that meets the variance but stated this was taken into consideration. Mr. Mayer stated this location was chosen due to its low impact as the large setbacks have less of an impact on neighboring residents than other areas in the community.

Mr. Schell asked staff to show the image with the red balloon again and asked how high some of the existing trees are and if they would be tall enough in three (3) or four (4) years to provide cover.

Mr. Fixari stated those were mature trees.

Mr. Baily asked how large the red balloon used by the applicant to simulate the size and height of the proposed cell tower was in relation to the cell tower.

Mr. Ferguson replied the balloon was about six (6) feet wide and the tower at the top, at its widest width would be about 13 feet long.

Mr. Baily stated that would then be about double the size of the balloon and this image was taken from the farthest point he had earlier referenced in the Oxford community. Mr. Baily said that in winter there was no tree cover and from his own home he could see the property clearly. and it was visually impactful.

Mr. Kirby asked the slide presentation to be moved forward to show where the pictures were taken from and asked if that is where the sight lines came from.

Mr. Ferguson replied that was correct and added that while he understood Mr. Baily's point, he had to go back that far in Oxford to see the balloon.

Mr. Kirby asked if he had been closer it would have been covered by other trees.

Mr. Ferguson replied that he would not have seen it because of the trees, correct.

Ms. Timmons stated when her home was built she had split the property and currently owns both lots, but there is 2.7 acre portion she had intended to sell at some point, but said there would be nobody who would build a house probably right between hers and the cell tower if it were put in place. Ms. Timmons stated the proposed cell tower would exponentially impact her property value and there was a hazard the cell tower could fall onto that land.

Mr. Ferguson stated this cell tower, as most cell towers, are designed with a crimp in them and do not fall like trees, meaning they do not fall straight from the bottom, and will bend on themselves.

Ms. Timmons stated it would still fall on her property

Mr. Mark Burch, a resident of the Oxford subdivision, stated that in regard to the resident who had stated how far back the image of the red balloon had been taken, he lived on that street and would see the tower, being twice the size of the balloon. Mr. Burch stated he was a Verizon customer, had lived in Oxford for two (2) years, and had never dropped a call so he did not understand the critical mass issue. Mr. Burch said property values will drop.

Mr. Fixari stated that whenever Thompson Road Park had been mentioned there was always a qualifier stated about most of the park. Mr. Fixari asked if a surety that Thompson Road Park offers no opportunity for the tower, that it was completely eliminated, could be provided. Mr. Fixari stated he was curious about the financial relationship and asked why this spot, why forty (40) feet, from residential.

Mr. Kirby stated he thought that would be answered the next time the Planning Commission hears this application because he believed the applicant would bring in the flood plain markers in Thompson Road Park to show what is or is not in there.

Mr. Baily asked to also know about the implications of a flood plain relative to this location.

Mr. Kirby replied yes, noting that he saw Mr. Perotti nodding his head that this documentation would be available the next time this matter is reviewed.

Mr. Don Feibel, a member of TBS, stated he wanted to answer the last question. Mr. Feibel stated the New Albany Company had been after a cell tower for the better part of two (2) years , having looked throughout the whole community working with Verizon. Mr. Feibel stated the New Albany Company selected this site and the deal with the cell tower is with both TBS and All Saints Episcopal Church.

Mr. Kirby asked if a motion to accept the documents into the record was not required.

Ms. Wilttrout stated that because applicant would be adding to the record that would not be done.

Mr. Wallace asked if thirty (30) would be enough for the applicant to obtain what they needed.

Mr. Perotti stated yes.

Moved by Ms. Wilttrout to table CU-47-2019 till the next scheduled meeting of the Planning Commission, seconded by Mr. Wallace. Upon roll call: Ms. Wilttrout, yea; Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0-0 vote.

**TM-49-2019 Nottingham Trace PUD Zoning Text Modification
Amendment to the Nottingham Trace PUD zoning text to allow for 16 and 18 foot wide driveways where the current text permits a maximum of 12 feet in width (PID: 222-004730-00).**

Applicant: Pulte Homes of Ohio, c/o Matt Callahan

Mr. Christian presented the staff report. As part of the application Mr. Christian distributed a revised condition for the Street Tree Planting Plan, provided by the applicant, for the Nottingham Trace development to the Planning Commission.

Mr. Wallace asked Mr. Banchefsky what standard of review should be used on this application, adding that it had appeared initially as a variance but it was not being considered under variance analysis under Ohio law.

Mr. Banchefsky stated it was not a variance. Mr. Banchefsky stated it would be the same standard as when reviewing a re-zoning, reliable and credible evidence.

Mr. Kirby stated if that would roughly equivalent to asking if one would have zoned it this way in the first place given the choice back then.

Mr. Banchefsky replied that made sense.

Ms. Wilttrout stated this seemed like a large difference in planning and asked what the Planning Commission had considered when this was originally approved, whether the

driveway size had been important and how it came to pass the applicant now needed more space.

Mr. Kirby asked if there was any engineering on this application.

Mr. Ferris replied no.

Mr. Kirby asked if the applicant wanted to make any comments to introduce the application prior to questions.

Mr. Matt Callahan, with Pulte Homes, stated he was happy to answer questions at this point.

Ms. Wilttrout asked what had happened, why did the applicant originally have a twelve (12) foot distance but now sought a large width increase.

Mr. Callahan stated that when the applicant initially went to the boards and commissions regarding this community a lot of emphasis had been placed on street scape, home elevations, and the overall feel of the community. Mr. Callahan stated the twelve (12) foot opening at the right-of-way was a part of that consideration and, along with that, was the concept of the double row of street trees and other street scape treatments that had gone into the design. Mr. Callahan stated at the time it all made sense but this change was brought about as the home for the first resident in the community, Mr. Joel Topolosky, was ready to be closed on.

Mr. Callahan asked that slides of photos taken by Mr. Topolosky be presented to the Planning Commission. Mr. Callahan stated the photos show that accessibility to the driveway area is very challenging and the purpose of this request is to increase the livability and ability of current and future residents to access and utilize both their driveways and garages.

Mr. Wilttrout asked how many lots had been sold at this time.

Mr. Jim Marcero, division president with Pulte Homes, replied nine (9) homes had been sold.

Mr. Topolosky stated he was the first to build in this community. Mr. Topolosky stated the driveway when poured had a twelve (12) foot wide apron and that from the garage to the sidewalk it was approximately twenty (20) feet. Mr. Topolosky noted his Chevrolet Tahoe was seventeen (17) feet long. Mr. Topolosky stated he had seen that where homes were about forty (40) feet back from the driveway or had alleys to access garages did allow people to properly access and use those driveways. Mr. Topolosky stated that not only did the size of the driveway mean this could not work, but the community is for residents who are 55 and older where handicapped drivers can be expected and this is a real problem. Mr. Topolosky stated the codes were not built for these types of communities.

Mr. Kirby asked how wide the main garage door was.

Mr. Topolosky stated it was sixteen (16) feet.

Mr. Topolosky stated if the lots were thirty (30) or forty (40) feet deeper the current standard would work, but with short driveways it will be very difficult.

Mr. Kirby stated there had been a lot of serious discussion about garages at the front of the houses for this community which only makes this problem worse. Mr. Kirby noted that had been a sticking point. Mr. Kirby asked if the width of the apron is being measured at the curb or at the sidewalk for the curb cut.

Mr. Topolosky replied that it was at the asphalt side of the sidewalk.

Mr. Kirby asked what the dimensions of the concrete apron were, how wide at the curb, how narrow at the neck.

Mr. Mayer stated the right-of-way was typically at the back side of the sidewalk.

Mr. Kirby asked if that was the twelve (12) foot measure.

Mr. Mayer stated that was the twelve (12) foot measure. Mr. Mayer stated it was a typical two (2) foot flare on the driveway within the treed lawn area.

Mr. Kirby asked if the apron was sixteen (16) feet at the curb cut.

Mr. Mayer replied yes.

Ms. Wiltrout asked if all of the curb cuts would need to be changed or just the apron.

Mr. Callahan stated they would need to do changes to any of the homes that have aprons poured already but was not sure how many that would be at this time. Mr. Callahan said it would not be a big deal on the curb cuts as they would just cut them for a little bit wider opening.

Mr. Kirby asked how wide the lots were.

Mr. Callahan stated they were 52 feet wide.

Mr. Topolosky stated this one was sixty (60) feet with a twenty (20) foot easement.

Mr. Schell asked Mr. Callahan if he had built some of these homes in Florida.

Mr. Callahan replied Pulte homes had built some in Florida.

Mr. Schell asked what the model looked like down there, what is the length and width of the driveways.

Mr. Marcero stated it was not atypical to have that twenty (20) foot setback, but there was not usually that restriction to a twelve (12) foot limit to the width of the right-of-way so the driveway would just be a straight shot and you would not have that tapering. Mr. Marcero stated they built comparable product in several communities around the Columbus area where that restriction is not in place, it is unique to Nottingham Trace.

Mr. Kirby asked staff if there was a precedent for a non-tapered apron in the village.

Mr. Mayer stated there might be but cannot think of any at this time. Mr. Mayer added it was not a Code requirement that there must be an apron, it is a best practice. Mr. Mayer stated he thinks it is typical but not 100 percent sure about some of the older homes.

Mr. Kirby stated there was already a sixteen (16) foot curb cut baked in and the applicant is asking for a sixteen (16) foot neck, so if the flare went away you would have the problem of not cutting the corner too hard because you would be on the curb but you would get the width they need. Mr. Kirby added that right now it necks and expands out and the driveway is wider than the allowed curb cut.

Mr. Mayer replied that if it were to go straight back you would just lose some green space but the way that they envision it if they allow additional width of the driveway then everything shown in the presentation, including the flare, shifts out two feet in each direction.

Mr. Kirby stated one of the discussions in the original zoning was that there needed to be enough on street parking spaces and they had been careful about that and this removes a parking space per lot because a 52 foot typical lot width would lose sixteen (16) feet at the flare would get 34 feet, which is two (2) Tahoe's worth of space, then take out four (4) more feet away, and that will lose a lot of on street parking.

Mr. Topolosky stated there was no parking on one side of the street.

Mr. Kirby stated so that means a lot of parking is then lost on the one side which had been a part of the computations.

Mr. Mayer stated that certainly on street parking was a consideration, adding that the applicant had added parking to the club house so that may help alleviate some of the parking. Mr. Mayer stated the applicant had committed to provide a double row of street trees throughout the subdivision and the staff concern was to ensure the same quantity of street trees would remain. Mr. Mayer noted that during the final development plan discussion the trade off with garages and architectural features had been to add additional landscaping onto the streetscape. Mr. Mayer said in other subdivisions with even wider driveways staff had noted that as pavement is added to the tree line it lessens the ability to put in street trees. Mr. Mayer added that their concern had been to maintain the same number of street trees. Mr. Mayer noted that people could park six (6) cars on their property and that other subdivisions, such as Upper

Clarenton and Wolcott, have wider curb cuts and he is not aware of any parking issues there.

Mr. Kirby asked what the lot width was.

Mr. Mayer replied that it was a wider lot width but he thought they had even wider curb cuts of up to eighteen (18) feet for Upper Clarenton and for Wolcott its even a little bit wider.

Mr. Kirby stated it looked here that lesson learned is that a garage that close to the street is a bad idea.

Mr. Mayer stated the twelve (12) foot width is City Code standard and comes from the parking code. Mr. Mayer noted it was certainly a one-size fits all and was envisioned for a typical suburban subdivision home that is on a larger lot. Mr. Mayer stated that practically speaking the twelve (12) foot wide curb cut for these homes does not allow residents to fully utilize their driveways without going over the tree lawn, which is city property. Mr. Mayer indicated they did not want this to occur due to maintenance issues and aesthetics. Mr. Mayer stated that, practicality wise, the sixteen (16) and eighteen (18) foot wide driveways was a good compromise as driveways would not be over-widened but residents were still allowed to properly use their driveways.

Mr. Marcero stated that the wider driveway would also provide off-street parking and with the taper as it currently is they would be encouraging residents to use the street instead of the full width of their driveway.

Mr. Wallace asked Mr. Marcero for clarification on that statement.

Mr. Marcero stated that in this scenario, the ability to access the driveway when one vehicle was already parked there was limited and this would encourage people to park in the street instead of the driveway.

Mr. Wallace stated he saw in the applicants' submission that seven (7) lots with a three (3) car garage would be affected and asked how many lots with a two (2) care garage would be affected.

Mr. Marcero replied all of the two (2) car garages would be affected.

Mr. Wallace asked if the main issue is the fact that the set back from the street was closer than other areas in New Albany where there is a longer approach into the garage.

Mr. Marcero stated that was correct and that it was an oversight and not typical of what they see in any other municipality or other areas in New Albany.

Mr. Wallace asked if the setbacks in Florida are normally further back from the street.

Mr. Marcero replied, no, they just do not have the same access issue as in New Albany.

Mr. Wallace asked if the cars would not be parked in the garage.

Mr. Marcero stated that generally speaking he did not disagree, he was addressing the concern about providing adequate parking on the street.

Mr. Wallace stated he was aware of that, but a great deal of the justification for the need is the concept that if there are three (3) cars in the driveway then you must shuffle the vehicles. Mr. Wallace added that it is an over 55 subdivision and likely most of the residents would have two (2) vehicles, and this seems like a solution searching for a problem.

Mr. Marcero stated that in order to accommodate the spaces for the cars to get access you had to aggressively taper the driveway, because of the setback, once you get to the interior side of the sidewalk. Mr. Marcero stated this creates damage to the landscape and aesthetics of the community.

Mr. Wallace stated he was struggling with the idea that this is only a problem if people do not put their cars into their garages and garages are designed to hold cars.

Mr. Marcero replied that the requirement was that they be able to provide those off street parking spaces in the driveway outside of the garage.

Ms. Wilttrout asked if it was hard to get the car out of the garage.

Mr. Topolosky stated his vehicles were normally in the garage, but if there were two (2) guests parking in the driveway they would run over the sides when accessing driveway.

Mr. Schell stated if the problem would not be resolved once drivers are accustomed to the space available would it not work fine even if not perfect.

Mr. Topolosky replied that cars were getting wider.

Mr. Wallace stated his other concern was that looking at the strategic plan rear and side loading garages are encouraged, but if this change is made then side load and rear load garages are discouraged and front load garages are encouraged.

Mr. Marcero stated these were considerations and concessions made on the city's behalf in order to make this an age restricted community and to make this practical. Mr. Marcero added there are a lot of benefits to the city for making this an age restricted community and these were some of the concessions that came about as part of that. Mr. Marcero noted that the community was in its early stages and residents are speaking out about this already and said this does not save the applicant money and the applicant believes this is truly the right thing for residents, future residents, New Albany, and the aesthetic of the community.

Mr. Kirby asked if any members of the public wished to speak on this. (Hearing none).

Mr. Wallace asked what the Planning Commission would have done if they had seen this issue at the beginning.

Mr. Kirby stated they would have had a different discussion than the one that took place.

Mr. Marcero stated he thought it was part of the city's ordinance that that is what is typical for a right-of-way and they were encouraged to comply with that not fully appreciating the impact the setback would have on that approach.

Mr. Wallace stated that was a valid point, but added that if they moved ten (10) lots the problem would also be alleviated.

Mr. Marcero replied that they have committed to maintaining the streetscape, not losing a single tree, and the amenities they provided and this is needed and is the right thing to do for the people who are going to live in the community.

Mr. Topolosky stated the bottom line was whether New Albany wanted to have this type of community.

Mr. Kirby asked if what the concerns would be with a having a non-flared driveway.

Mr. Mayer stated this was discussed with landscape architect consultants MKSK and they were in support of the application so he did not think they have concerns as far as adding pavement to the tree lawn versus the practical reasons. Mr. Mayer stated their experience is that people will hop the curb and leave tire tracks through the yard if there a clear way out is not provided.

Mr. Kirby stated he was referring to having the apron, instead of being a trapezoid, being a square or rectangular.

Mr. Wallace stated the problem is that the sixteen (16) and eighteen (18) feet results in twenty (20) and 24 feet spaces because of the flaring.

Mr. Mayer stated they would be supportive and thought that was a good compromise where it allows a driver to go straight down from the driveway to the street but still keeps as much green space as possible.

Mr. Topolosky stated that in order to turn into the driveway, no matter what size car you had, the arch you would need to make in the street would put you two-thirds of the way across the street and if a car was parked across the street it would be difficult to make the driveway because you can't make the corner if it is a squared off edge.

Mr. Schell asked how Pulte felt about the straight edge.

Mr. Marcero stated he shared Mr. Topolosky's concern. Mr. Marcero provided photographs of the Pulte Eagle Trace community to the Planning Commission, which depicted a straight driveway through the apron with no taper at all.

Mr. Wallace stated this did show a taper.

Mr. Marcero stated it did show a taper through the apron but there is no taper of the driveway.

Mr. Kirby stated it was blacktop straight to the sidewalk.

Mr. Schell asked how wide the driveway in the photos was.

Mr. Marcero stated it was sixteen (16) or eighteen (18) feet.

Mr. Schell asked if that a two car.

Mr. Kirby stated yes.

Ms. Wiltrout asked if this had worked well at Eagle Trace.

Mr. Marcero stated it did work well for accessibility.

Mr. Schell asked if this had been addressed in the other development.

Mr. Mayer stated that the other age-restricted development had actually submitted the same request and it is scheduled to be heard by the Planning Commission in July 2019.

Mr. Kirby asked if page seven (7) of the packet was what the applicant wanted to achieve.

Mr. Wallace stated page seven (7) is where they are looking at two (2) car garage scenarios with eighteen (18) and sixteen (16) foot widths at the right-of-way.

Mr. Christian presented an image of page seven (7) on the screen.

Mr. Wallace noted the image presented did not look like the image in packet.

Mr. Christian replied that one image showed an eighteen (18) foot wide curb cut which staff had determined they would not be supportive of and they blanked that side out and just showed the sixteen (16) foot wide for presentation purposes.

Mr. Kirby stated that unlike the photograph the Planning Commission had just been handed, this showed a two (2) car garage with eighteen (18) feet of blacktop at the garage door, so it was wider than the garage door.

Mr. Marcero stated it was one (1) foot on each side.

Mr. Kirby noted this tapered down to sixteen (16) feet where it crossed the right-of-way and then going to twenty (20) feet at the curb cut.

Mr. Schell asked if in doing these adjustments there was still plenty of on-street parking.

Mr. Mayer replied yes, there should be sufficient parking.

Mr. Kirby asked if there were any numbers on that.

Mr. Mayer replied there were not, that this was based on circumstantial evidence from similar subdivisions where similar curb cuts had been done.

Mr. Kirby noted the other subdivisions had wider lots.

Mr. Mayer stated he believed the best example would be Wolcott Manor where they had wider driveways with limited on street parking and it is also a 55 and over community. Mr. Mayer stated staff had not been made aware of any parking issues.

Mr. Schell asked how many additional parking spaces the applicant had added at the club house.

Mr. Marcero stated he believed it was ten (10) incremental spaces.

Mr. Callahan stated he believed it was ten (10) or twelve (12) more spaces.

Mr. Wallace asked if the Planning Commission had confirmed if the applicant is okay with the one condition in the staff report.

Ms. Wiltrout noted it had been changed, as provided by staff to the Planning Commission.

Mr. Kirby asked if the applicant was okay with that condition.

Mr. Callahan nodded his head.

Mr. Kirby noted the applicant had committed to not losing any of the committed street trees from prior as part of this.

Mr. Kirby asked what was being voted on this evening.

Mr. Mayer stated there should be a revised text and up on the slide was a proposed text language.

Mr. Kirby asked what page that was.

Mr. Wallace stated it was page sixteen (16).

Mr. Wallace asked if the width of the taper should be limited.

Mr. Kirby asked if the standard two (2) foot taper on both sides of a curb cut was required by ordinance or simply a matter of practice.

Mr. Mayer replied it was matter of practice.

Moved by Mr. Wallace to accept the staff report and related documents into the record, including the revised condition and the three (3) photographs submitted by the applicant, for TM-49-2019, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wilttrout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Mr. Wallace, to approve TM-49-2019 based on the findings in the staff report with the condition provided at the Planning Commission meeting this evening that substituted for the original condition set forth in the staff report, noting that the applicant has agreed to two (2) foot tapers and retaining all the street trees committed, subject to staff approval, seconded by Mr. Schell. Upon roll call: Mr. Wallace, yea; Ms. Wilttrout, yea; Mr. Schell, yea; Mr. Kirby, no. Yea, 3; Nay, 1; Abstain, 0. Motion passed by a 3-1 vote.

Other Business

Review and Recommendation to City Council for Updates to Codified Ordinances Section 1165—General Development Standards

Ms. Russell presented the staff report.

Ms. Russell stated there was a typo in the text on page two (2).

Mr. Kirby stated there were no page numbers and asked Ms. Russell to call it by paragraph.

Ms. Russell stated it was §1165.03(a)(1), for detached structures. Ms. Russell stated it should be 800 for less than one (1) acre lots, 1200 for the one (1) to two (2) acre lots, and 1600 for the two (2) acre and above lots.

Mr. Wallace asked about the language just above this section. Mr. Wallace stated the text said "[i]ncludes detached garages, enclosed, accessory buildings larger than 200 square feet, pool houses, and other structures not considered to be Recreational Accessory Accommodations" and asked if it should not be "Recreational Amenities" instead of "Recreational Accessory Accommodations."

Ms. Russell replied yes, the name had been simplified.

Mr. Kirby asked what the selection criteria had been to cover the lots.

Mr. Christian stated they would have been residentially zoned or if it was an agricultural lot that had a residential use on it.

Mr. Kirby stated the largest house in New Albany is probably not marked on this presentation.

Mr. Christian stated that was purposely left out so it did mess with the data.

Mr. Mayer stated there are some unique areas, like the Farms, where technically it is a limited agricultural area but it allows R1 uses which is a little different from the rest but it has been included here, but other than that it is mostly residentially zoned lots.

Mr. Kirby asked if the materials had been modified to include stone.

Ms. Russell stated not for Recreational Amenities.

Mr. Kirby asked if stone could be added to the list of materials.

Mr. Mayer said they could add stone.

Ms. Russell stated staff had a question for Planning Commission this evening regarding lot coverage. Ms. Russell stated that currently the R1 zoning district does not have a lot coverage. Ms. Russell asked if the Planning Commission thought one was required or needed for these types of lots. Ms. Russell asked that since a deck or patio could cover a whole lot currently, do they care to change this at this time.

Mr. Mayer stated that to clarify, lot coverage, as defined in the Codified Ordinance, is any structure. Mr. Mayer noted that today one could put a deck or patio over their whole back yard (as permitted by the setback requirements), but it is when things go vertical that R1 lots do not have any coverage. Mr. Mayer stated that some residents may elect to cover their entire back yard with a patio or pergola structure and it may be prudent to have some type of limitation as far as having structure coverage.

Mr. Kirby asked if there was a percentage basis for the other lot sizes.

Mr. Mayer stated he believed it was 25% and 30% for R2, R3, and R4.

Ms. Wiltrout asked what staff proposed for R1.

Mr. Mayer replied staff would propose to have R2, the closest residential district, apply to R1.

Mr. Kirby stated he remembered the lot coverage number had been 20%.

Mr. Mayer replied that could be and that PUDs do vary a little bit.

Mr. Kirby stated that because of the large size of the R1 lots one had to be careful about the proportions of a more dense lot.

Mr. Mayer stated R2 allows a maximum lot coverage of 25%, R3 is 30%, and R4 is 30% and added that he did not think there was any zoning beyond that.

Ms. Wilttrout stated 20% made sense because it provides a little bit more freedom to do what they want.

Mr. Mayer stated that was reasonable.

Mr. Kirby agreed with 20%.

Mr. Wallace commented this section of Code had a subsection discussing fees-in-lieu of sidewalk and trail construction. Mr. Wallace stated that a couple of weeks prior the Planning Commission had made a recommendation to City Council to not encourage fees-in-lieu, and asked if this would be an appropriate time to put some new language in this section to reverse it.

Mr. Kirby stated yes, they could certainly add that and bring it back for review.

Mr. Wallace stated he would like to see something like that.

Mr. Mayer asked if the Planning Commission would like to make have that change as part of tonight's amendment or to come back with that amendment.

Ms. Wilttrout stated she was fine seeing it later and fleshing it out.

Mr. Wallace agreed with Ms. Wilttrout.

Mr. Mayer noted it would also require due diligence, including posting and publishing.

Mr. Wallace asked if §1165.01(h) "Architectural Features" was a definition.

Ms. Russell stated that allows for the setback to occur.

Mr. Wallace stated it was talking about the kinds of features that can be subject to that setback.

Ms. Russell stated that was correct and they were trying to distinguish the difference between types of things that might project into the setback.

Mr. Wallace suggested inserting the word "similar" after the word "other" in that subsection because if you look down at building .service features it talks about "similar items" and this gives the idea that the list is not exclusive.

Ms. Russell asked if Mr. Wallace was comfortable with "or similar items".

Mr. Wallace stated he was going to suggest changing it to "similar items" but then it was not clear to him whether what was being discussed was an item or features so he had not. Mr. Wallace stated he did not have a problem with either "architectural features" or "features," whichever way makes more sense to staff.

Mr. Wallace stated the only other concern he had in a couple of sections, such as the section on recreational amenities, §1165.03(b), is that it reads almost like a definition.

Ms. Russell stated she believed that was supposed to be the definition and below it are the requirements.

Mr. Mayer asked if it would help if they added that to the definitions section.

Mr. Wallace stated he had wondered if it should not just be included in the definitions section, but he said it was fine as it is.

Ms. Russell stated they could move the definition to the beginning.

Mr. Kirby stated that were they were defined in the flow could be moved into the definitions section.

Mr. Wallace stated he thought that would be easier for people to use and if there was no hurry maybe they could bring this back with the fee-in-lieu of section as well.

Mr. Mayer replied certainly.

Ms. Wiltrout stated she was fine with that.

Mr. Mayer asked if they would like to table this matter for a month.

Mr. Kirby moved to table the Review and Recommendation to City Council for Updates to Codified Ordinances Section 1165—General Development Standards for the next regularly scheduled meeting, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Wiltrout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Mayer stated he wanted to give the Planning Commission an update on the Strategic Plan. Mr. Mayer noted the first Steering Committee meeting had been held as well as the first neighborhood gathering and both went well. Mr. Mayer said they were moving forward with focus groups and will also attend the Farmer's Market on June 27, 2019 and July 11, 2019 and hope to have a booth at the Taste of New Albany.

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 9:33 p.m.

Submitted by Josie Taylor.



APPENDIX

Planning Commission Staff Report June 17, 2019 Meeting

13920 MORSE ROAD ZONING AMENDMENT

LOCATION: 13920 Morse Road (PID: 082-108156-00.000, 082-108162-00.000)
APPLICANT: MBJ Holdings, LLC c/o Aaron Underhill
REQUEST: Zoning Amendment
ZONING: AG Agricultural to L-GE Limited General Employment
STRATEGIC PLAN: Office District
APPLICATION: ZC-45-2019

Review based on: Application materials received April 26 and May 31, 2019.

Staff report completed by Jackie Russell, Development Services Coordinator.

I. REQUEST AND BACKGROUND

The applicant requests review and recommendation to rezone 1.6+/- acres. The applicant proposes to create a new limitation text in the New Albany Business Park. This area will be known as the Business Park South Expansion Zoning District, and will be zoned Limited General Employment (L-GE). The proposed limitation text meets the intent of the Strategic Plan's mixed use office district land use category by providing compatible general employment uses.

This new text contains the same list of permitted, conditional, and prohibited uses as Business Park East Innovation District Subareas, known as the Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axiom, and Veepak are located. Other development standards are almost identical to the surrounding subareas.

II. SITE DESCRIPTION & USE

The overall site consists of two parcels and it is located within Licking County. The site is located on the north side of Morse Road, east of Beech Road and west of Harrison Road. The annexation petition was filed on April 5, 2019 and is scheduled for its first reading at New Albany City Council on June 18, 2019 and second reading on July 2, 2019. C.O. 1111.02 allows a change in zoning to be initiated by motion of Council, or by motion of the Planning Commission. The immediate neighboring zoning districts include L-GE and unincorporated agricultural/residential. The site is comprised of a single family home and undeveloped land.

III. PLAN REVIEW

Planning Commission's review authority of the zoning amendment application is found under C.O. Chapters 1107.02 and 1159.09. Upon review of the proposed amendment to the zoning map, the Commission is to make recommendation to City Council. Staff's review is based on city plans and studies, proposed zoning text, and the codified ordinances. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

Per Codified Ordinance Chapter 1111.06 in deciding on the change, the Planning Commission shall consider, among other things, the following elements of the case:

- (a) Adjacent land use.
- (b) The relationship of topography to the use intended or to its implications.
- (c) Access, traffic flow.
- (d) Adjacent zoning.
- (e) The correctness of the application for the type of change requested.
- (f) The relationship of the use requested to the public health, safety, or general welfare.
- (g) The relationship of the area requested to the area to be used.
- (h) The impact of the proposed use on the local school district(s).

A. New Albany Strategic Plan

The 2014 New Albany Strategic Plan lists the following development standards for the Office District:

- 1. Office buildings should not exceed five stories in height.
- 2. The design of office buildings should include four-sided architecture in order to address multiple frontages when present
- 3. On-Street parking is discouraged.
- 4. Primary parking should be located behind buildings and not between the primary street and the buildings.
- 5. Parking areas should be screened from view.
- 6. Loading areas should be designed so they are not visible from the public right-of-way, or adjacent properties.
- 7. Sidewalks/leisure trails should be placed along both sides of all public road frontage and setback 10 feet from the street.
- 8. Common open spaces or green are encouraged and should be framed by buildings to create a "campus like" environment.
- 9. Appropriate screening should be installed as a buffer between the office district and adjacent residential. If mounding is necessary to achieve this the "reverse slope" type with a gradual slope side toward the right-of-way is preferred.
- 10. Street trees should be provided at no greater a distance than 40 feet on center.
- 11. Individual uses should be limited in size, acreage, and maximum lot coverage.
- 12. No freeway/pole signs are allowed.
- 13. Heavy landscaping is necessary to buffer these uses from adjacent residential areas.
- 14. A 200 foot buffer should be provided along State Route 161.
- 15. Structures must use high quality building materials and incorporate detailed, four sided architecture.
- 16. When double fronting sites exist, office buildings should address both frontages.
- 17. Plan office buildings within the context of the area, not just the site, including building heights within development parcels.

18. Sites with multiple buildings should be well organized and clustered if possible.
19. All office developments should employ shared parking or be designed to accommodate it.
20. All office developments should plan for regional stormwater management.
21. Office developments should provide connections to the regional trail system.
22. Green building and site design practices are encouraged.
23. Innovative and iconic architecture is encouraged for office buildings.

B. Use, Site and Layout

1. The applicant has used the same development standards from the Beech Road South Zoning District text to create this zoning text.
2. This district has the same list of permitted, conditional, and prohibited uses as Business Park South zoning district and the Business Park East Innovation District Subarea A, known as the Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axium, and Veepak are located.
3. The proposed zoning text is a limitation text. A limitation text can only establish more restrictive requirements than the zoning code.
4. The limitation text will allow for general office activities, warehouse & distribution, off-premises signs, and research & production uses. Personal service and retail product sales and services are only allowed as accessory uses to a permitted use in this subarea.
5. Conditional uses include car fleet and truck fleet parking, and manufacturing and production.
6. Prohibited uses include industrial product sales and services, mini-warehouses, vehicle services, radio/television broadcast facilities, and sexually oriented business.
7. The text establishes a 100 foot building and pavement setback from the edge of right-of-way for Morse Road which matches the surrounding zoning districts.
8. The text contains the same provision for elimination of setbacks for building and pavement when this zoning district and any adjacent parcel located outside of this zoning district come under common ownership, are zoned to allow compatible non-residential uses, and are combined into a single parcel.
9. The text contains the same setback requirement from residential properties as the Business Park South zoning text. The requirement is a 50 foot minimum building and pavement setback for all properties which are adjacent to residential uses.
10. Due to the proximity of this site to the State Route 161 interchange and its location adjacent to commercially zoned land in the existing Licking County business park to the east, the site appears to be most appropriate for commercial development.

C. Access, Loading, Parking

1. Detailed traffic access will be determined in consultation with City Staff as the site is developed.
2. Parking will be provided per code requirements (Chapter 1167) and will be evaluated at the time of development for each individual site.
3. The text requires an internal pedestrian circulation system to be created so that a pedestrian using a public sidewalk or leisure trail along a public street can access the adjacent building through their parking lots with markings, crosswalks, etc.

D. Architectural Standards

1. The proposed rezoning seeks to implement many of the same or improved standards and limitations set forth in the New Albany Architectural Design Guidelines and Requirements (Chapter 1157).
2. The same architectural requirements as surrounding business park zoning districts.
3. The City's Design Guidelines and Requirements do not provide architectural standards for warehouse and distribution type facilities. Due to the inherent size and nature of these facilities careful attention must be paid to their design to ensure they are appropriately integrated into the rest of the business park. This zoning text contains specific design requirements for uses not governed by the DGRs, which will ensure the quality design of these buildings.
4. The proposed text contains a requirement for complete, four-sided screening of all roof-mounted equipment for sight and sound.

D. Parkland, Buffering, Landscaping, Open Space, Screening

1. Maximum lot coverage for this subarea is 75%. This matches the surrounding zoning districts.
2. The proposed zoning text contains the same tree preservation language as the neighboring approved Business Park South zoning text.
3. The text requires the landscape treatment along Morse Road that were approved with the Business Park South zoning text. This includes: a landscape buffer along Morse Road to contain one tree per 25 feet (in addition to street trees), a four rail horse fence, and the possibility to include mound with a maximum height of 12 feet.
4. Street trees will be located an average of 1 tree for every 30 feet of road frontage along Morse Road. The trees may be grouped or regularly spaced to create a more natural appearance.
5. Minimum tree sizes and heights for on-site trees match the standards in the surrounding business districts.

E. Lighting & Signage

1. All signage shall conform to the standards set forth in Codified Ordinance Section 1169.
2. All lighting shall be cut-off type fixtures and down cast to minimize light spilling beyond the boundaries of the site. The maximum height is 30 feet.
3. The zoning text requires landscape lighting details to be included in the landscape plan which is subject to review and approval by the City Landscape Architect.

IV. ENGINEER'S COMMENTS

The City Engineer has reviewed the referenced plan in accordance with the engineering related requirements of Code Section 1159.07(b)(3) and states they have no comments.

V. RECOMMENDATION

Basis for Approval:

The proposed rezoning is consistent with the principles of commercial development in the Strategic Plan and the existing business park in Licking County. Additional restrictions and commitments have been provided that are above what the base zoning code would require.

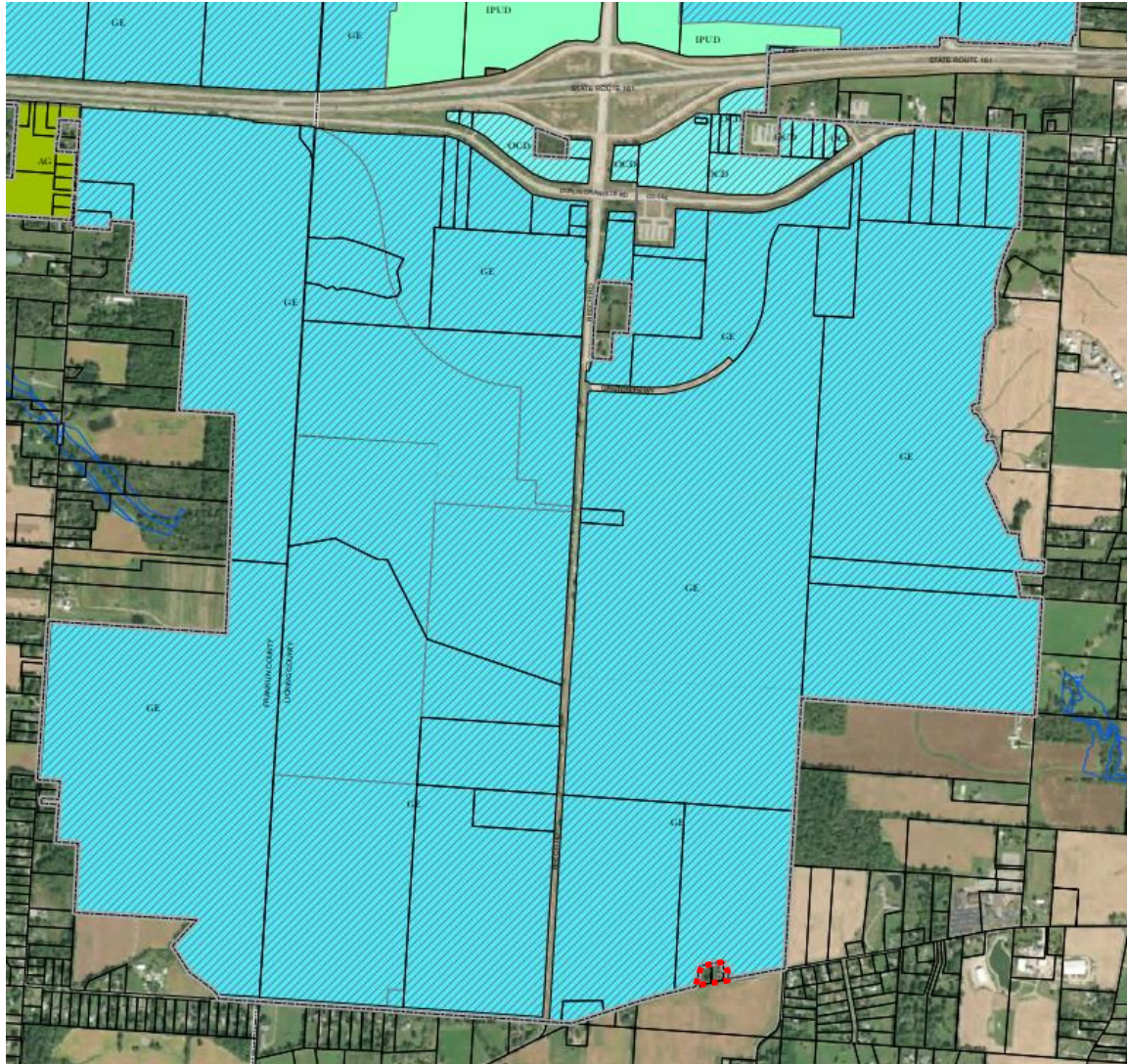
1. The rezoning will result in a more comprehensive planned redevelopment of the area and will ensure compatibility between uses (1111.06(a)).
2. The L-GE rezoning application is an appropriate application for the request (1111.06(e)).
3. The overall effect of the development advances and benefits the general welfare of the community (1111.06(f)).
4. The proposed rezoning will allow for the development of businesses that will generate revenue for the school district while eliminating residential units having a positive impact on the school district (1111.06(h)).

Staff recommends approval provided that the Planning Commission finds the proposal meets sufficient basis for approval.

VI. ACTION

Suggested Motion for ZC-45-2019:

To recommend approval to Council of Zoning Change application ZC-45-2019. **Approximate Site Location:**





**Planning Commission Staff Report
June 17, 2019 Meeting**

**CELL TOWER
CONDITIONAL USE**

LOCATION: 5089 Johnstown Road (PID: 222-001516-00).
APPLICANT: UAS Inc. c/o Rob Ferguson
REQUEST: Conditional Use
ZONING: R-2
STRATEGIC PLAN: Neighborhood Residential
APPLICATION: CU-47-2019

Review based on: Application materials received May 17, 2019

Staff report prepared by Chris Christian, Planner

II. REQUEST AND BACKGROUND

The applicant requests approval of a conditional use for a cell tower to be located on a residentially zoned property. C.O. 1179.06 states Wireless Telecommunications Facilities that include towers, are permitted as a conditional use on any property with an institutional use (e.g., religious, education, recreation, government, park, library, municipal government, hospital, school, utility). The applicant is proposing to install a 130 foot cell tower on the Temple Beth Shalom property located at 5089 Johnstown Road. The property has a residential zoning, but contains a religious use on the property. Therefore a conditional use application must be reviewed by the Planning Commission.

As part of this project, the applicant is also seeking a variance to C.O. 1179.06(3)(a) to allow the proposed cell tower to be setback 40 feet away from a residential lot where code requires a minimum 200 foot setback. The Board of Zoning Appeals will evaluate this variance request on June 24, 2019.

III. SITE DESCRIPTION & USE

The site is located on the west side of Johnstown Road, south of Thompson Road. There is an institutional use on the property, the Temple Beth Shalom. The property is adjacent to another institutional use as well as single family residential and the Oxford subdivision.

IV. EVALUATION

Standards for Conditional Uses:

The general standards for Conditional Uses for wireless telecommunications facilities are contained in Codified Ordinance Section 1179.07. According to the code section, a wireless

telecommunications facility which includes a tower may be permitted as a conditional use for review, the applicant must prove that a newly constructed tower is necessary because co-location or an existing tower is not feasible in accordance with C.O. 1179.08.

(a) A wireless telecommunications facility which includes a tower may be permitted as a conditional use in a residential or commercial district. In order to be considered for review, the applicant must prove that a newly constructed tower is necessary because co-location or an existing tower is not feasible in accordance with Section 1179.08. The following steps must also be taken for the application to be considered for review in this category:

- *C.O. 1179.08(c) states a conditional use permit shall be issued only if there is not technically a suitable space reasonably available on an existing tower or structure within the coverage area to be served. With the permit application, the Applicant shall list the location of every tower or antenna support, or structure within the coverage area that could support the proposed antenna. The Applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower or antenna support structure. If another tower or antenna support structure is technically suitable, Applicant must show that it has offered to allow the owner to co-locate the wireless telecommunications facility on another tower within the City owned by Applicant on reciprocal terms, and the offer was not accepted, or the other tower is presumed to be reasonably available.*
 - *The applicant states there are no towers within a half mile of the proposed location that are suitable to remedy the issues customers are having. There are towers over a mile away that are suitable towers for co-location, and the applicant has already co-located on these towers but significant cell service issues persist due to capacity gaps.*
- (1) The Applicant shall demonstrate that the Tower must be located where it is proposed in order to service the applicant's service area. There shall be an explanation of why a Tower and this proposed site is technically necessary.*
- *The applicant has submitted evidence the cell tower is necessary in order to fill an existing service gap and the service issues are not able to be solved with co-location since there are no towers available for co-location in the needed area. The applicant has provided a map showing the number of dropped calls in this area. The applicant states this parcel is the only parcel available to remedy this service gap.*
- (2) Where the wireless telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and that the vehicular access is provided to the facility.*
- *The applicant has provided written documentation from the property owner stating that they support the application.*
- (3) The applicant shall present a site/landscaping plan showing the specific placement of the wireless telecommunications facilities on the site; showing the location of existing structure, trees and other significant site features; and indicating type and locations of plant materials used to screen the facilities, and the proposed color of the facilities.*
- *The Temple Beth Shalom site is approximately 6.65 acres and is adjacent to another institutional use property, single family residential and the Oxford subdivision. The cell tower will be located 250+ feet away from the Temple Beth*

Shalom, 600+ feet from the Oxford subdivision and 500+ feet from the nearest single family home.

- The applicant is proposing to install a 130 foot cell tower with a 10 foot lightning rod on the property for a total height of 140 feet.
- This property is adjacent to on the edge of the community where the general vicinity is mostly rural in nature and has larger, single family residential lots.
- The tower is going to be located in the rear of the Temple Beth Shalom property where the primary building is set back approximately 370+/- feet from Johnstown Road and approximately 880+/- feet from Thompson Road.
- The tower will be located in a 29'x32'x7' fenced area and all ground equipment will be installed within the fenced area.
- The applicant has provided a landscape plan as a part of the submittal and it appears that the proposed landscaping will screen ground equipment and mechanical units associated with the tower. The applicant will install twenty, five foot tall arborvitae trees to screen ground level equipment.

The cell tower will be installed in the back of the Temple Beth Shalom property. There is an existing tree stands that between the cell tower and the adjacent residential properties to the west and north.

(4) *Applicant shall present a signed statement indicating:*

- a. *The applicant agrees to allow for the potential co-location of additional wireless telecommunications facilities by other providers on the applicant's structure or within the same site location; and*
 - b. *That the applicant agrees to remove the facility within one hundred eighty (180) days after the site's use is discontinued.*
 - The applicant has provided a letter stating that the tower will be removed with 180 days after the use is discontinued and agrees to allow for the potential co-location of additional wireless telecommunications facilities by other providers.
- (b) *A conditional use permit must be approved by the Planning Commission with a subsequent building permit issued for construction of new Towers in nonindustrial districts. Co-location of antennas on a single tower, antennas attached to existing structures/buildings, towers located in industrial districts, or replacement towers to be constructed at the site of a current tower are permitted uses and will not be subject to the conditional use permitting process.*
- The applicant is required to submit permits for construction to be reviewed by city staff if the application is approved by the Planning Commission.
- (c) *Any decision to deny a request to place, construct or modify a wireless telecommunications facility and/or tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Planning Commission.*

V. RECOMMENDATION

The overall proposal is consistent with the code requirements for conditional uses. The applicant states that the company seeks to fill a service gap that cannot be remedied via co-location. The applicant has provided evidence that co-location is not a feasible solution to address the service gap. According to the applicant the company is already co-located on several towers in the area and an existing, suitable tower does not exist within a half mile of the proposed location. The cell tower appears to be an appropriate use in this area due to the large setbacks from both Johnstown Road and Thompson Road. The existing woods and other

landscaping serve to limit the visibility of the tower at ground level. Additionally, the site is adjacent to both a neighboring religious use property as well as larger residential lots, and due to this existing character, greater separation between the tower and surrounding uses is achieved.

Staff recommends approval provided that the Planning Commission finds the proposal meets sufficient basis for approval.

VI. ACTION

The Commission shall approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved with supplementary conditions, the Planning Commission shall direct staff to issue a zoning permit listing the specific conditions listed by the Planning Commission for approval.

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve application CU-47-2019 with the following conditions:

- 1) The variance application must be approved.

Approximate Site Location:



Source: Google Maps



Planning Commission Staff Report June 17, 2019 Meeting

NOTTINGHAM TRACE DRIVEWAY WIDTH TEXT AMENDMENT

LOCATION: Nottingham Trace, 7563 Schleppi Road (PID: 222-004443-00)
APPLICANT: Pulte Homes of Ohio c/o Matthew Callahan
REQUEST: Zoning Text Modification
ZONING: I-PUD Nottingham Trace
STRATEGIC PLAN: Office Campus
APPLICATION: TM-49-2019

Review based on: Application materials received May 17, 2019.

Staff report completed by Chris Christian, Planner.

VII. REQUEST AND BACKGROUND

The applicant is requesting a modification to the zoning text for Nottingham Trace to allow driveways to have a maximum width of 16 feet at the right-of-way for homes constructed with two car garages and a maximum width of 18 feet for homes constructed with a three car garage. The current text states that all driveways shall be no more than 12 feet wide at the right-of-way. The applicant states that the current driveway width restriction makes it difficult to park two cars side by side and does not allow sufficient access to third car garage bays due to proximity of the homes to the street.

II. SITE DESCRIPTION & USE

The Nottingham Trace subdivision contains 240 age-restricted lots. The subdivision is approximately 89.6+/- acres. There are currently twelve homes being constructed.

The preliminary and final development plan was approved on June 19, 2017. Phase 1 of this development was approved by the Planning Commission on September 18, 2017 and phases 2, 3 and 4 were approved on March 18, 2019.

VIII. New Albany Strategic Plan

The majority of the site is located in the 2014 New Albany Strategic Plan's Office Campus future land use district, with a small portion in the Rural Residential future land use district. However given the proposed use, staff has evaluated this proposal against the Town Residential District standards. The 2014 New Albany Strategic Plan lists the following development standards for the Town Residential District:

- a) Houses should front onto public open spaces and not back onto public parks or roads.

- b) Houses should be a minimum of 1.5 stories in appearance and a maximum of three stories.
- c) Rear and side-loaded garages are encouraged. When a garage faces the street, the front facade of the garage must be set back from the front facade of the house.
- d) The maximum width of a garage door facing the street is ten feet.
- e) Open space should be sited to protect and enhance existing natural features and environmentally sensitive habitats
- f) Neighborhood open spaces and parks should be located within 1,200 feet of all houses. They should vary in size and be easily accessible to pedestrians.
- g) Streets should have five-foot wide sidewalks on both sides of the street, other than in locations approved for eight-foot leisure trails.
- h) Leisure trail connections must be established throughout.
- i) Deciduous street trees should be planted 30 feet on center.
- j) Primary roads should be designed according to its designated corridor typology
- k) Sidewalks should be located on all internal subdivision streets and leisure trails located along all external roadway frontages with connections from sidewalks to the leisure trails.
- l) Cul-de-sacs are discouraged in all developments and a multiplicity of connections should be made.

III. PLAN REVIEW

Review is based on the city's Strategic Plan, existing zoning text, and planning, subdivision and zoning regulations, including the design standards. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

1. The applicant requests a modification to the Nottingham Trace text section H.4(b) to allow a maximum 16 foot drive way width at the right-of-way for homes with a two car garage and to allow a maximum 18 foot driveway width for homes with a three car garage. The current zoning text allows for a maximum 12 foot driveway at the right of way.
2. There are 240 planned lots in the Nottingham Trace subdivision. Of these lots, there are seven lots that are wide enough to accommodate three car garages. The 18 foot wide driveways would be limited to these parcels.
3. The applicant states that the current driveway width restriction makes it difficult to park two cars side by side and does not allow sufficient access to third car garage bays due to the limited length of the driveway. The 12 foot wide driveway width requirement at the right-of-way was added to the zoning text in order to match the city's code requirement found in 1167.03(d). This is a one size fits all requirement that is meant for a typical subdivision where the lots are larger and the homes are setback further from the street and there is more opportunity to have a longer driveway.
4. The typical lot in the subdivision has 52 feet of frontage. Under the current zoning requirements, curb cuts take up approximately 23% of a typical lot frontage. Under the new requirements, the typical lot frontage that is taken up by the curb cut would be approximately 30% with a 16 foot wide driveway. The average frontage of lots designed to have three car garages is 58 feet which. Under the current zoning requirements, curb cuts take up approximately 21% of lot frontage, with the 18 foot

wide curb cut it would be 31% of the frontage. Neither of these changes appear to be a substantial.

5. By allowing wider driveways, the amount of green space provided by the street yard is reduced. The applicant states that the number of street trees provided will not be affected as a result of the wider driveways. The 2014 New Albany Strategic Plan highlights the importance of high quality residential design and maintaining open space in residential districts. In order to ensure that the increased paved areas in front of homes does not reduce the number of street trees planted, staff recommends a condition of approval that the each lot be required to install two street trees and two deciduous trees in the front yard setback.
6. The 12 foot wide driveway causes maneuverability issues when more than one car uses the garage. Additionally, the limited driveway width almost completely removes the ability to access a third bay garage. When there are cars parked in the driveway, there is not enough space for an additional vehicle to maneuver around the parked car to access the third garage.

IV. RECOMMENDATION

Basis for Approval:

Staff recommends approval of the text modification to allow for wider driveways in the Nottingham Trace subdivision. The applicant has demonstrated that 12 foot wide driveways causes maneuverability issues and restricts the ability to access a third car garage. The increased driveway width will result in a decrease in the amount of green space provided in the subdivision. However, the subdivision committed to providing additional trees along the public right-of-way at the time of the rezoning and final development. To ensure the number of trees are still installed, even though there is street lawn, staff recommends each lot is required to install two street trees and two deciduous trees in the front yard setback.

V. ACTION

Suggested Motion for TM-49-2019:

Move to approve development text modification application TM-49-2019 with the following conditions of approval (conditions of approval may be added):

1. Each lot is required to install two street trees and two deciduous trees in the front yard setback.

Approximate site location:



Source: Google Maps