



**New Albany Planning Commission**  
January 22, 2020 Minutes

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 7:01 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 Wiltrout                 | Present |
| Mr. Sloan Spalding (council liason) | Absent  |
| Mr. Kasey Kist (for Mr. Spalding)   | Present |

Staff members present: Steven Mayer, Development Services Coordinator; Chris Christian, Planner; Mitch Banchefsky, City Attorney; Ed Ferris, City Engineer; and Josie Taylor, Clerk

Moved by Mr. Wallace, seconded by Ms. Wiltrout to approve the December 16, 2019 meeting minutes. Upon roll call: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Kirby, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Mr. Kirby asked if there were any additions or corrections to the agenda.

Mr. Christian asked to move applications FDP-104-2019 and ZC-107-2019 to the front of the Agenda for discussion. Mr. Christian stated the applicants requested FDP-104-2019 and ZC-107-2019 be tabled until the February 19, 2020 Planning Commission meeting.

Moved by Mr. Wallace, seconded by Mr. Schell to table FDP-104-2019 until the February 19, 2020 Planning Commission meeting. Upon roll call: Mr. Wallace, yea; Mr. Schell, yea; Ms. Wiltrout, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Moved by Ms. Wiltrout, seconded by Mr. Kirby to table ZC-107-2019 until the February 19, 2020 Planning Commission meeting. Upon roll call: Ms. Wiltrout, yea; Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Mr. Kirby swore to truth those wishing to speak before the Commission and asked for cell phones to be silenced.

Mr. Kirby asked if members of the public wished to speak on any non-agenda items. (No response.)

**ZC-102-2019 Zoning Change**

**Rezoning of 95.48 acres from Infill Planned Unit Development (I-PUD) and Limited General Employment (L-GE ) to Infill Planned Developed (I-PUD) for an area to be known as the Beech Crossing zoning district, generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road (PIDs 093-107046-00.000 and 093-106512-00.000).**

**Applicant: MBJ Holdings LLC c / o Aaron Underhill**

Mr. Christian presented the staff report.

Mr. Kirby asked for the Engineering review.

Mr. Ferris stated Engineering requested an updated traffic study and an update on the intersections; did not recommend additional Beech Road curb cuts at this time and that prior Ohio Department of Transportation approval had to be obtained; that a label be placed on the right-of-way south of the line on the site plan; and that all internal roads be built to public road standards.

Mr. Aaron Underhill, for the applicant, reviewed the application.

Mr. Tom Rubey, for the New Albany Company, noted that pedestrian connectivity was planned for the site but that it might not be appropriate to put sidewalks in all locations.

Mr. Kirby noted that would be fine if pedestrians had ways to safely cross the site but, if not, then sidewalks would be needed.

Mr. Rubey stated he agreed, but sidewalks only if they were justified.

Mr. Kirby complimented the staff and applicant on the clarity of the application.

Mr. Schell noted the applicant had requested building heights of 80 feet be permitted at the location and asked if the applicant could see a potential request for a 100 foot tall building.

Mr. Underhill stated it was difficult to say, but it was not impossible. Mr. Underhill noted they were comfortable with 80 feet though.

Mr. Schell asked if parking would be on a lot or in a garage.

Mr. Underhill stated either or both, they did not know yet.

Mr. Wallace noted he recalled there had been two areas for retail.

Mr. Rubey stated they had removed retail.

Mr. Wallace noted the potential medical and hotel uses may create a demand for retail.

Mr. Underhill noted that east of the line there was an outparcel and they would see what occurred.

Mr. Wallace stated that to eat there would be a need to drive into New Albany so there may be a need for retail not to be zoned out.

Mr. Underhill stated they had heard that as well and hoped to see it there.

Mr. Kirby noted that 65 feet was the fire safety limit from Plain Township Fire Department (hereafter, "PTFD") and asked if anyone had checked with the PTFD about the 80 foot height.

Mr. Mayer stated not yet.

Ms. Wilttrout asked how tall the surrounding buildings were.

Mr. Mayer replied 65 feet, noting that some architectural features could exceed beyond that height..

Mr. Underhill stated the Code did not have a height limit.

Mr. Kirby noted the OCD might have a limit.

Mr. Mayer stated yes.

Mr. Underhill stated okay.

Mr. Kirby stated applicant should get a letter from PTFD that the height was okay.

Mr. Underhill stated yes.

Mr. Kirby noted one area of the site and asked if there was enough room to build out.

Mr. Rubey stated there was not enough due to wetlands.

Mr. Kirby noted it should be in the record and to make the case there was not enough room.

Ms. Wiltrout asked what the procedure was for this application.

Mr. Mayer stated the applicant would provide a site plan for Planning Commission review.

Mr. Kirby asked if all 95 acres required a final development plan.

Mr. Mayer stated not for general use.

Mr. Kist asked if this would provide the services of a full hospital.

Mr. Underhill stated that was possible, but it could also provide ambulatory care, similar to that available at the Dublin Methodist Hospital.

Mr. Kist asked if medical helicopter flights would be available.

Mr. Underhill stated they would be permitted, adding that they would be infrequently used.

Moved by Ms. Wiltrout to accept the staff reports and related documents into the record for ZC-102-2019, seconded by Mr. Wallace. Upon roll call vote: Ms. Wiltrout, yea; Mr. Wallace, yea; Mr. Schell, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Moved by Mr. Wallace to approve ZC-102-2019 based on the findings in the staff report with the conditions listed in the staff report and with the additional fourth condition that applicant obtain a letter from the Plain Township Fire Department about fire safety issues in an 80 foot tall building, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wiltrout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

### **FDP-111-2019 Final Development Plan**

**Final development plan application for a skyway connection to be constructed between the Medical Office I & II buildings located at 5040 Forest Drive and 7277 Smith's Mill Road (PIDs: 222-003261-00 and 222-00356-00).**

**Applicant: Mark A. Davis**

Mr. Christian presented the staff report.

Mr. Kirby noted there was eternal gratitude for the cross access.

Mr. Kirby asked for Engineering.

Mr. Ferris stated they requested signage, particularly for trucks and emergency responders.

Mr. Patrick Giordana, architect, reviewed the application.

Mr. Kirby asked if there would be a problem with a condition that the parking lot be completed before the skyway opened.

Mr. Giordana stated okay.

Mr. Schell asked if all had agreed on who would bear which costs.

Mr. Giordana stated the medical office building (hereafter, "MOB"), MOB2 was paying.

Ms. Wilttrout asked if the skyway would be heated.

Mr. Giordana stated it was being discussed.

Mr. Wallace asked if the applicant was okay with the Engineering comments.

Mr. Giordana stated yes.

Mr. Kirby asked if there were any comments from the public. (No response.)

Moved by Ms. Wilttrout to accept the staff reports and related documents into the record for FDP-111-2019, seconded by Mr. Schell. Upon roll call vote: Ms. Wilttrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Moved by Mr. Kirby to approve FDP-111-2019 based on the findings in the staff report with the conditions listed in the staff report and with the additional condition that the parking lot be completed prior to the opening of the skyway, seconded by Ms. Wilttrout. Upon roll call vote: Mr. Kirby, yea; Ms. Wilttrout, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

#### **VAR-112-2019 Variance**

**Variance to zoning text section V I(D)(6) to allow a patio to be installed within the platted preservation zone where the zoning code does not permit(PID: 222-003794).**

**Applicant: Muhammad Arif**

Mr. Christian presented the staff report.

Mr. Kirby asked for Engineering on the application.

Mr. Ferris noted Mr. Michael Barker had inspected the location.

Mr. Barker discussed the issues with the location.

Mr. Muhammad Arif, the applicant, reviewed the application and indicated his realtor had not revealed the restrictions prior to purchase.

Mr. Kirby asked if Mr. Arif could name the realtor.

Mr. Kist stated the realtor's name, M. Miller, was stated in the document.

Mr. Arif noted he had hired contractors to build a patio to provide a safe environment for his children to play and that other neighbors also had patios. Mr. Arif stated the work was over ninety percent (90%) complete when he received a notice from the City.

Mr. Kirby asked what the contractor's name was.

Mr. Arif noted he could not recall, he believed it had a Spanish name.

Mr. Schell asked if a permit had been pulled before construction.

Mr. Arif stated he did not know.

Mr. Schell asked staff if the neighbors had sought permits prior to construction.

Mr. Mayer stated he would look.

Mr. Kist asked if a survey had been completed.

Mr. Arif stated no.

Mr. Barker noted there was an original plot plan from the builder.

Mr. Arif stated they requested a variance of between 21 and 27 feet.

Mr. Wallace asked if exact measurements were available.

Mr. Arif noted the house sat at an angle.

Mr. Schell asked Mr. Arif if he had been in contact with the contractor.

Mr. Arif stated the contractor was not taking or returning his calls, adding the contractor had already been paid.

Mr. Kirby asked the staff if markers should have been on the property.

Mr. Mayer stated they were currently required on every other lot, but he was not sure what the requirement may have been at the time of the Tidewater development.

Mr. Kirby noted if it was required by Code then the builder was on the hook.

Mr. Arif stated his neighbors patios were closer to the water than his.

Ms. Wiltrout asked if there had been any other variance requests for that development.

Mr. Mayer stated none that staff found.

Mr. Kist asked if there were any setback requirements.

Mr. Mayer stated one could build right to the preservation line.

Mr. Kist asked if there was ten (10) to fifteen (15) feet that were still usable?

Mr. Arif stated no, it was a preservation zone.

Mr. Wallace asked staff if there had been a requirement to pull a permit and if, once a permit were requested, the issue here would have become evident.

Mr. Mayer replied yes to both.

Mr. Wallace asked if there had been no patio at the time the house was purchased.

Mr. Arif stated that was correct.

Mr. Wallace asked if the variance were denied would the only solution be to remove the entire patio or to only remove the part that was in the preserve area.

Mr. Mayer said yes, either.

Mr. Kist asked if the patio would then be in compliance in terms of square foot requirements.

Mr. Mayer stated there were no maximum limits on patio areas.

Mr. Wallace stated he would be in favor of providing the applicant a month to obtain a contractor's plan to correct the patio if he was willing to do that.

Ms. Wiltrout asked if the applicant was willing to alter the plan.

Mr. Arif stated no, that he had spoken to contractors who had told him that the patio would need to be entirely taken up, that it could not be partially separated or removed.

Mr. Wallace stated that if it were voted down then the only option was to remove it in the entirety and build a new one.

Mr. Arif stated two contractors had told him the same thing.

Mr. Wallace noted the contractor had not followed the rules, had not obtained a permit, and that homeowners were charged with knowledge of the law.

Mr. Banchevsky noted that no electrical inspections had been performed on the patio.

Mr. Kirby asked if there was an electric cable under the patio.

Mr. Arif stated the contractor had placed a low voltage cable for lighting.

Mr. Barker noted that at the time of inspection he found a low voltage, fourteen (14) gauge electrical wire and electrical inspections were required.

Mr. Kirby asked if a permit was required when building a pergola.

Mr. Mayer stated yes.

Mr. Arif stated it had not yet been built.

Mr. Ray Burgess, a neighbor to Mr. Arif's property, noted he was concerned about the precedent to be set by the Planning Commission if this variance were approved.

Ms. Samantha Rico, President of the Homeowners' Association (hereafter, "HOA") in the community, stated a concern that if this variance were approved it would bring flooding to the homes downstream of this property.

Mr. Barker noted the patio did not affect the stream but that it was beyond the flood line and could increase the speed of water flow.

Ms. Rico noted Mr. Arif had not completed the forms required by the HOA to build the patio.

Ms. Wiltrout asked if in addition to not requesting a permit Mr. Arif also failed to file with the HOA.

Ms. Rico stated correct.

Ms. Betsy Burgess, a neighbor to Mr. Arif's property, stated she had wanted to place fencing around her property but was told she could not because of the preservation zone and the drainage it provided.

Mr. Kirby asked Mr. Arif if he wanted to have a vote on the application this evening.

Mr. Arif stated yes.

Moved by Mr. Kirby to accept the staff reports and related documents into the record for VAR-112-2019, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Kirby, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Moved by Mr. Kirby to approve VAR-112-2019 based on the findings in the staff report with the conditions listed in the staff report, seconded by Mr. Schell. Upon roll call vote: Mr. Kirby, no; Mr. Schell, no; Ms. Wiltrout, no; Mr. Wallace, no. Yea, 0; Nay, 4; Abstain, 0. Motion denied by a 0 - 4 vote.

Mr. Kirby stated he voted no on the application because it failed the Duncan factors and the checks that had been in place were not followed. Mr. Kirby noted his sympathies were with the homeowner.

Ms. Wiltrout stated she voted no because if the proper procedures had been followed when building the patio this issue would have been avoided. Ms. Wiltrout also noted she worried about the precedent this would have set if it had been approved.

Mr. Wallace noted he agreed with the comments stated by other members of the Planning Commission.

#### **Other Business**

#### **Engage New Albany Strategic Plan Update**

Mr. Mayer presented the update.

With no further business, Mr. Kirby polled members for comment.

Mr. Kirby asked if local HOAs could be reminded about the requirement to place markers in preservation zones.

Mr. Mayer stated he would reach out.

Ms. Burgess asked if previous owners could be liable to new buyers if they did not tell them about the preservation zone.

Mr. Kirby stated he did not know.

Ms. Wiltrout stated it should be noted on the deed to the property.

Mr. Kirby adjourned the meeting at 8:52 p.m.

Submitted by Josie Taylor.



**Planning Commission Staff Report  
January 22, 2020 Meeting**

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**BEECH CROSSING ZONING DISTRICT  
ZONING AMENDMENT**

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**LOCATION:** 95.48 +/- acres generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road (PIDs: 093-107046-00.000 and 093-106512-00.000).  
**APPLICANT:** MBJ Holdings LLC c/o Aaron L Underhill  
**REQUEST:** Zoning Change  
**ZONING:** I-PUD Infill Planned Unit Development and Limited General Employment (L-GE) to I-PUD Infill Planned Unit Development  
**STRATEGIC PLAN:** Retail/Office Mix  
**APPLICATION:** ZC-102-2019

Review based on: Application materials received on December 16, 2019 and January 13, 2020.

*Staff report completed by Chris Christian, Planner*

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**I. REQUEST AND BACKGROUND**

The applicant requests review and recommendation to City Council to rezone 95.48+/- acres to Infill Planned Unit Development (I-PUD) from Infill Planned Unit Development (I-PUD) and Limited General Employment (L-GE). This application proposes to rezone the area generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road to create a new zoning district to be known as the Beech Crossing Zoning District. The proposed text allows for an expansion of the permitted uses within the Zoning District to include medical uses. Additionally, the proposed text allows for General Employment and C-3 uses within a portion of the rezoning area which are currently permitted uses between all three existing zoning districts.

16.62 acres of the proposed rezoning were included in the recent "Northwest Beech Interchange Zoning District" rezoning which was reviewed and approved by the Planning Commission on October 21, 2019 (ZC-71-2019). The remaining acres currently consist of two zoning districts, the Beech/161 Northwest Quad Zoning District which was approved by the Planning Commission in January 2018 and a Limited General Employment District known as Business Park East Subarea 8 that was approved by the Planning Commission on May 20, 2013 (TM-126-2013).

**II. SITE DESCRIPTION & USE**

The zoning district is generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road in Licking County. The neighboring uses and zoning districts include L-GE, I-PUD and state route 161 to the south. The current zoning of this 95 acre area currently allows for General Employment and retail uses which could include businesses like the AEP office buildings, the Bob Evans site and more retail type developments like those at the Canini Trust Corp. The site is currently undeveloped.

**III. PLAN REVIEW**



Planning Commission's review authority of the zoning amendment application is found under C.O. Sections 1107.02. CF requirements are found under Chapter 1151, GE requirements are found under Chapter 1153, and C-3 requirements are found under Chapter 1149. 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, zoning text, and zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

**A. New Albany Strategic Plan**

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

1. All development standards of the Office District and retail district shall still apply.
2. Parking areas should promote pedestrians by including walkways and landscaping to enhance visual aspects of the development.
3. When parking vastly exceeds minimum standards, it should be permeable or somehow mitigate its impact.
4. Combined curb cuts and cross access easements are encouraged.
5. Building architecture and design should complement and follow the standards set by previous retail developments in New Albany.
6. A 200 foot building and parking buffer should be provided along State Route 161.
7. Curb cuts on primary streets should be minimized and well organized connections should be created within and between all retail establishments. Combined curb cuts and cross access easements between parking are preferred between individual buildings.
8. Entrances to sites should respect existing road character and not disrupt the Green Corridors strategy objectives.
9. Walkways at least 8 feet in width should run the length of the building.
10. Green building and site design practices are encouraged.
11. Large retail building entrances should connect with pedestrian network and promote connectivity through the site.
12. Large retail establishments are encourages to contribute features that will encourage pedestrian activity and encourage pedestrian activity and enhance the space around the retail.

**B. Use, Site and Layout**

1. The proposed text rezones a total of 95.48+/- acres from Limited General Employment (L-GE) and Infill Planned Unit Development (I-PUD) to Infill Planned Unit Development (I-PUD).
2. A purpose of this rezoning is to consolidate the zoning regulations for the subject property. The property is currently regulated by three different zoning districts. By consolidating use and development standards, potential inconsistencies can be avoided and future administration of the zoning will be easier by eliminating the need to cross-reference multiple zoning texts.

3. The proposed text expands the permitted uses within the current zoning district to include Community Facilities (CF) medical uses. Additionally, the text permits General Employment and C-3 uses in a specific area which are existing permitted uses under the current zoning texts.
4. Chapter 1151 of the New Albany City Code provides a general description of “Community Facility” uses. The proposed text provides a more in depth description of the intended permitted uses for this zoning district under the Community Facilities (CF) classification which include:
  - a. Hospitals, with or without emergency departments
  - b. In-patient surgery centers
  - c. Ambulatory care uses
  - d. Medical-related office uses
  - e. Skilled nursing and rehabilitation facilities
  - f. One helipad, but only in conjunction with one or more permitted CF uses.
4. The proposed text also permits the following accessory uses within a building whose primary use includes one or more of the permitted CF uses:
  - a. Cafeterias, cafes, restaurants and food courts
  - b. Fitness centers, health clubs and physical therapy facilities
  - c. Gift shops and flower shops
  - d. Convenience stores and other similar commercial uses that are typically found in a hospital or related use.
  - e. Conference facilities
  - f. Pharmacies
  - g. Day Care
  - h. Hospice care
5. The proposed text retains the provision that truck stops, travel centers, self-storage facilities and automobile sale uses are prohibited throughout the zoning district.
6. The applicant is proposing the following modifications to the setbacks from this zoning district. All setbacks are measured from right-of-way unless otherwise noted.

| <b>Street Name</b> | <b>Business Park East Subarea 8</b>   | <b>Beech/161 Northwest Quad Zoning District</b> | <b>Northwest Beech Interchange Zoning District</b>  | <b>Proposed Text</b>   |
|--------------------|---------------------------------------|---|---|--|
| State Route 161    | 90 foot building and 45 foot pavement | 125 foot building and pavement setback          | 125 foot building setback. Pavement setback varies, it follows the northern boundary of the existing gas line easement. | <p>CF Uses and Office Uses: the greater of (a) the northern boundary of the gas line easement described in the Easement Agreement or (b) 75 feet for pavement and 125 feet for buildings</p> <p>All other uses: the northern boundary of the gas line easement is the building and pavement setback except it shall be 125 foot building and pavement for properties that do not contain the easement.</p> |
| Beech Road         | N/A                                   | 100 foot building and                           | 75 foot building and  | 75 foot building setback and 40 foot pavement  |

|                      |  |  |                                       |  |
|----------------------|--|--|---------------------------------------|--|
|                      |  | 55 foot pavement                       | 40 foot pavement                      |  |
| Smith's Mill         | 100 foot building and 50 foot pavement | 100 foot building and 55 foot pavement | 75 foot building and 55 foot pavement | Outparcels: 75 foot building and 55 foot pavement<br><br>All other: 100 foot building setback and 55 foot pavement |
| Other Public Streets | N/A                                    | N/A                                    | N/A                                   | 25 foot building and pavement setback  |

7. The current zoning district map/exhibit does not reflect the correct setbacks along State Route 161. Staff recommends a condition of approval that the zoning map/exhibit be updated to show the correct setbacks along State Route 161.
8. The proposed zoning text retains a limitation on total acreage that can be utilized for retail uses in the Beech Road / Smith's Mill Road area. Currently, there are four existing subareas located in the Business Park East area zoned to allow retail uses: Innovation Zoning District Subareas B and C, Business Park East Zoning District Subarea 5, Beech/161 Northwest Quad Zoning District and the Northwest Beech Interchange Zoning District totaling approximately 92 acres. It is the developer's intent to limit those existing subareas allowing retail and the newly proposed subareas to maximum of 92 acres. Once 92 acres have been developed with retail uses found in the C-3 and GE zoning district, the remainder of the land from all of these subareas can only allow non-retail General Employment (GE) zoning district uses listed in their respective zoning texts. This provision is consistent with the Beech/161 Northwest Quad Zoning District text and other zoning texts where retail is permitted.
9. 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 north, the site appears to be appropriate for retail and commercial development.

#### **C. Access, Loading, Parking**

1. The proposed text retains the provision for the creation of a private road near the intersection of Beech Road and Smith's Mill Road that was approved by the Planning Commission on October 21, 2019 (FDP-72-2019).
2. The text also retains the provision for at least two additional access points on the south side of Smith's Mill Road.
3. Parking will be provided per the city's parking code requirements (Chapter 1167).
4. An 8 foot wide leisure trail will be installed along Smith's Mill Road and Beech Road which is consistent with the previously approved zoning texts for the area.
5. The text requires an internal pedestrian circulation system be created within the zoning district. The zoning text requires that a five foot sidewalk must be installed on both sides of all publicly and privately owned roads, and private drives that provide access to multiple sites. This internal pedestrian circulation system will not only provide walkways between developments, it will require safe access through parking lots as well. Every development within this zoning district will be required to connect into this pedestrian circulation system and outparcels will be required to provide pedestrian connections into the leisure trail system along Beech Road or Smith's Mill Road, shared connections between site is encouraged in the text.

#### **D. Architectural Standards**

1. The proposed architectural standards for C-3 and GE uses is consistent with the previously approved zoning texts for this area and no changes are being proposed as part of this rezoning application.
2. The proposed text allows for some architectural flexibility for CF used buildings in order to accommodate the unique design process for these types of uses. All buildings with CF uses are required to meet the city standards in terms of quality of materials and design. These buildings are permitted to have a maximum height of 80 feet, they are permitted to use long blank facades as long as they are not visible from public rights-of-way and are permitted to have flat roofs. Staff is supportive of this increase in height due to this site being surrounded by commercial uses. Additionally, buildings within GE zoning district and hotels are permitted to have a maximum 65 foot tall buildings therefore an additional 15 feet in this case does not appear to be significant and will not be out of character for the area. The proposed text includes standard architectural requirements including complete for all ground and roof mounted mechanical equipment.

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

1. The text requires that a master landscape plan for the area located west of the previously approved “Outparcel Access Road” will be completed as part of the first final development plan that is submitted for a property located west of this road. The plan will be reviewed and approved by the city landscape architect and will include:
  - a. Master grading
  - b. Street typologies
  - c. Detention pond vegetation
  - d. Street lighting
  - e. Street Trees
  - f. Planting guidelines
2. There are no changes to preservation commitments. The zoning text contains similar language regarding tree preservation as appeared in the zoning text for the Innovation District rezoning to the north, stating “reasonable and good faith efforts will be made to preserve existing trees and tree rows occurring within the setbacks in this subarea.”
3. The proposed text retains a provision that encourages shared stormwater management for the entire district so individual sites such as outparcels do not have their own on-site basin.
4. The proposed text states that a minimum of 6 trees per 100 lineal feet are installed in the setback areas along State Route 161, Smith’s Mill Road and Beech Road. The previous texts have varied in this requirement. The Northwest Beech Interchange and the Beech/161 Northwest Quad zoning district texts required a minimum of ten trees per every 100 linear feet along these roads and the Beech/161 the Business Park East Subarea 8 text required a minimum of four trees per 100 linear feet. However, staff is supportive of this change since it is consistent with other, with the neighboring zoning texts of the Licking County portion of the New Albany Business Park.

#### ***E. Lighting & Signage***

1. The proposed text takes into consideration the unique needs of CF uses in regards to signage and provides some flexibility in signage standards in order to meet the unique needs that these uses have while still maintaining an appropriate design and location on the site and buildings. The text states that a sign master plan for CF uses shall be filed as part of a final development plan application to be reviewed and approved by the Planning Commission.
2. The proposed text states that ground signage shall not be permitted to be installed along State Route 161 and Beech Road for non-CF uses. Staff is supportive of this provision given existing conditions along Beech Road. There is not ample space due to the existing horse fence being constructed along the Beech Road right-of-way. The city sign code does not permit ground signs within the public right-of-way. Because of these conditions, signage along this road would have to be located behind the horse fence which would result in larger monument signage having to be installed in order for the signs to be visible from Beech Road. Larger signs behind the horse fence does not match New Albany roadway aesthetic. Additionally, the character of the surrounding area does not promote the use of larger signage along Beech Road. The zoning text includes a space for gateway features at the corner of Smith’s Mill Road and Beech Road. The features have not been determined at this time, but may include wayfinding and signage. Additionally,

- signage is permitted on the access drives within the site.
3. No proposed changes to the lighting requirements as part of this zoning. All parking lot and private driveway lighting shall be cut-off type fixtures and down cast and shall be from a controlled source in order to minimize light spilling beyond the boundaries of the site.

#### ***F. Other Considerations***

1. The proposed rezoning retains the Beech/161 Northwest Quad and Northwest Beech Interchange zoning text provision which allows L-GE uses to be processed and reviewed by city staff in the same manner as if they were not being developed within a planned unit development zoning district. Any retail use or CF use development is required to be reviewed by the Planning Commission as part of a final development plan.

#### **IV. ENGINEER'S COMMENTS**

The City Engineer, E.P. Ferris reviewed the proposed rezoning application and provided the following comments. Staff recommends a condition of approval that the comments of the city engineer are addressed and incorporated into the zoning text as appropriate, subject to staff approval.

1. Update the Traffic Study addendum to include all land uses and curb cuts previously not considered. The number of access points and turning movements at each intersection as provided in the text must be supported by the updated traffic analysis and be evaluated as well. We do not recommend that additional Beech Road curb cuts other than that shown on the Northwest Beech Interchange Final Development Plan be approved at this time.
2. ODOT approval of the Beech Road curb cut and turning lane improvements shown on the FDP must be obtained where encroachments into Limited Access Right-of-Way (LA/RW) are proposed.
3. The zoning texts allows for up to two 40' wide curb cuts associated with a proposed gas station. We recommend one 40' curb cut is permitted and up to two if justified by a truck turning analysis at the time of a final development plan
4. If not already shown, please label the LA/RW and the existing petroleum easement along the south property line of the Zoning Site Plan.
5. We recommend that all internal private roads be built to public road standards.

#### **V. RECOMMENDATION**

##### ***Basis for Approval:***

The proposed text revisions are appropriate given the type of retail and commercial mixture of uses that are envisioned for this area in the 2014 Strategic Plan. The proposed text provides flexibility in design for CF uses in order to accommodate the unique nature of this type of development type by allowing for an increase in the maximum permitted height, reducing the required setbacks and providing specific sign standards for this use type. Additionally, the proposed text provides some design parameters for future internal access routes by establishing that all internal roads shall include side walk and street trees, regardless of whether they are private or publically owned roads. While CF, GE and retail use developments are more auto oriented in nature, the proposed text ensures that there will be strong, safe pedestrian access not only between development sites but through parking lots. These connections will be reviewed on a site by site basis at the time of a final development plan application. All of these provisions provide guidance for future development to ensure that these important design elements are implemented to provide a more cohesive development for the entire 95 acres.

Staff recommends approval provided that the Planning Commission finds the proposal meets sufficient basis for approval with the conditions of the approval listed below.

#### **VI. ACTION**

##### **Suggested Motion for ZC-102-2019:**

Move to recommend approval to Council of the rezoning application ZC-102-2019, subject to the following conditions:

1. The City Engineer's comments are addressed and incorporated into the zoning text as appropriate, subject to staff review.
2. The zoning exhibit must be updated to show the correct setbacks along State Route 161.
3. All private drives that provide access to more than one site shall be required to be built to public street standards and include sidewalks and street trees on both sides of the road.

**Approximate site Location:**



Source: Google Maps



**Planning Commission Staff Report  
January 22, 2020 Meeting**

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**MEDICAL OFFICE BUILDING I&II SKYWAY  
FINAL DEVELOPMENT PLAN**

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|            |   |
|------------|---|
| LOCATION:  | 5040 Forest Drive and 7277 Smith's Mill Road<br>(PIDs: 222-003564-00 & 222-003261-00) |
| APPLICANT: | Mark A. Davis   |
| REQUEST:   | Final Development Plan  |
| ZONING:    | Blacklick Trust Corp: Mixed Use Subarea 8g  |

Review based on: Application materials received December 16 and 24, 2019 and January 10, 2020

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*Staff Report completed by Chris Christian, Planner*

## **II. REQUEST AND BACKGROUND**

The applicant proposes to install an enclosed skyway connection between Medical Office Building I and II. MOB I is directly connected the Mount Carmel Surgical Hospital so this will connect all three buildings. Because this site is located within an Infill-Planned Unit Development (I-PUD) zoning district, a final development plan is required to be reviewed and approved by the Planning Commission.

In addition, the applicant proposing to connect the existing MOB I and II parking lots.

## **III. SITE DESCRIPTION & USE**

The sites are located at the corner of Smith's Mill Road and Forest Drive. Currently the sites are developed with medical offices and the New Albany Surgical Hospital.

## **III. EVALUATION**

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text. Planning Commission's review authority is found under Chapter 1159.

The Commission should consider, at a minimum, the following (per Section 1159.08):

- a. *That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;*
- b. *That the proposed development is in general conformity with the Strategic Plan/Rocky Fork-Blacklick Accord or portion thereof as it may apply;*
- c. *That the proposed development advances the general welfare of the Municipality;*
- d. *That the benefits, improved arrangement and design of the proposed development justify the deviation from standard development requirements included in the Zoning Ordinance;*
- e. *Various types of land or building proposed in the project;*
- f. *Where applicable, the relationship of buildings and structures to each other and to such other facilities as are appropriate with regard to land area; proposed density may not violate any contractual agreement contained in any utility contract then in effect;*
- g. *Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area;*
- h. *Building heights of all structures with regard to their visual impact on adjacent facilities;*
- i. *Front, side and rear yard definitions and uses where they occur at the development periphery;*
- j. *Gross commercial building area;*
- k. *Area ratios and designation of the land surfaces to which they apply;*
- l. *Spaces between buildings and open areas;*
- m. *Width of streets in the project;*
- n. *Setbacks from streets;*
- o. *Off-street parking and loading standards;*
- p. *The order in which development will likely proceed in complex, multi-use, multi- phase developments;*
- q. *The potential impact of the proposed plan on the student population of the local school district(s);*
- r. *The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required);*
- s. *The U.S. Army Corps of Engineers 404 permit, or nationwide permit (if required).*

It is also important to evaluate the PUD portion based on the purpose and intent. Per Section 1159.02, PUD's are intended to:

- a. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- b. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- c. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*
- d. *Result in a desirable environment with more amenities than would be possible through the strict application of the minimum commitment to standards of a standard zoning district;*
- e. *Provide for an efficient use of land, and public resources, resulting in co-location of harmonious uses to share facilities and services and a logical network of utilities and streets, thereby lowering public and private development costs;*
- f. *Foster the safe, efficient and economic use of land, transportation, public facilities and services;*
- g. *Encourage concentrated land use patterns which decrease the length of automobile travel, encourage public transportation, allow trip consolidation and encourage pedestrian circulation between land uses;*
- h. *Enhance the appearance of the land through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space in excess of existing standards;*
- i. *Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;*
- j. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- k. *Provide an environment of stable character compatible with surrounding areas; and*
- l. *Provide for innovations in land development, especially for affordable housing and infill development.*

■ **Use, Site and Layout**

1. The proposed site changes are limited in scope and only related to a specific area in between the buildings. The applicant is proposing to install a skyway connection that will provide an enclosed pedestrian connection between the two buildings. The original approved plans for the Medical Office II conceptually envision this skyway connecting the two buildings in the same general location. Since it was conceptual in nature the applicant must submit this application for a full review by the Planning Commission.
2. The proposed plans indicate that there will be a minimum 15 feet of vertical clearance from the pavement to the lowest point of the skyway. The city's chief building official has reviewed the proposed plans and states that the applicant is providing sufficient vertical clearance for fire trucks and this will be confirmed with the Plain Township Fire Department during the building permit process.
3. The zoning text is silent on internal side yard setbacks for this zoning district therefore no setback variances are required as part of this project and zero foot setback development is permitted within this zoning district.

■ **Access, Loading, Parking**

1. The proposed plans indicate that none of the 262 parking spaces on the MOB II site will be removed and a total of 4 of the 440 parking spaces on the MOB I site will be removed as part of the skyway project. Staff is supportive of the proposed decrease in parking spaces due to the fact that the MOB II/Mount Carmel Surgical Hospital sites are still meeting code requirements for the number of parking spaces provided on site after the removal of the parking spaces.
2. The applicant has provided two site plans as part of the final development plan application to show parking lot connection options. The applicant wishes to discuss these plans with the Planning Commission to determine if just a connection at the northern portion of the site is appropriate or if a connection at both the north and south ends of the parking lots are desired.
  - a. The connection between the two parking lots would require the removal of an additional 4 parking spaces. Staff is supportive of this due to an abundance of parking being provided between the site(s).
  - b. Staff is supportive of the removal of 8 total parking spaces (for the skyway and two



parking lot connection) because the parking lots will now be connected to allow maximum maneuverability between sites. Additionally connections promote shared parking between MOB I, MOB II and the Mount Carmel Surgical Hospital as recommended and allowed by the city parking's regulations. Jointly the sites meet the on-site parking requirements.

- c. The Planning Commission should evaluate the proposals. Staff recommends that the parking lots are connected at both the north and south ends.

▪ **Architectural Standards**

1. Zoning text section 8g.03(1)(a) states that buildings within this zoning district must be complimentary in design and shall be of similar design, materials and construction. The city architect has reviewed the application and is supportive of the proposal.
2. Zoning text section 8g.03(1)(c) requires brick to be the predominant material for structures but states precast and synthetic materials may also be used. The MOB I and II buildings are predominately brick and contain glass and metal design elements. The skyway design meets code requirements since it is complimentary to the existing buildings on site and is utilizing similar building materials including brick, metal and glass.
3. The zoning states tinted glass shall be permitted but reflective or mirrored shall be prohibited. The proposed glass meets code requirements.

▪ **Parkland, Buffering, Landscaping, Open Space, Screening**

1. No additional landscaping is required as part of this application.
2. The construction of the skyway results in the relocation of one tree on the site.

▪ **Lighting & Signage**

1. No changes to the exterior lighting on site are being proposed.
2. No new signage is being proposed.

**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 provided the following comment. Staff recommends a condition of approval that this comment is addressed subject to staff approval.

1. We recommend that signage be provided alerting delivery trucks or emergency responders of the vertical clearance.

**V. RECOMMENDATION**

Staff recommends approval of the skyway final development plan application. The proposed skyway compliments the existing structures by using similar building materials and is well designed. The enclosed pedestrian skyway connection between the two buildings and the connection of the parking lots allow maximum maneuverability between sites. Staff recommends that both of the proposed connections between the two parking lots are approved and constructed. The 2014 New Albany Strategic Plan's Office Campus recommendations encourage office developments to be utilize a campus style pattern and provide organized sites that are not isolated from one another and utilize innovative architecture and design. The construction of the skywalk and parking lot connections results in the creation of a cohesive, campus-like environment between these three similar use buildings in an innovative way thereby accomplishing these important goals.

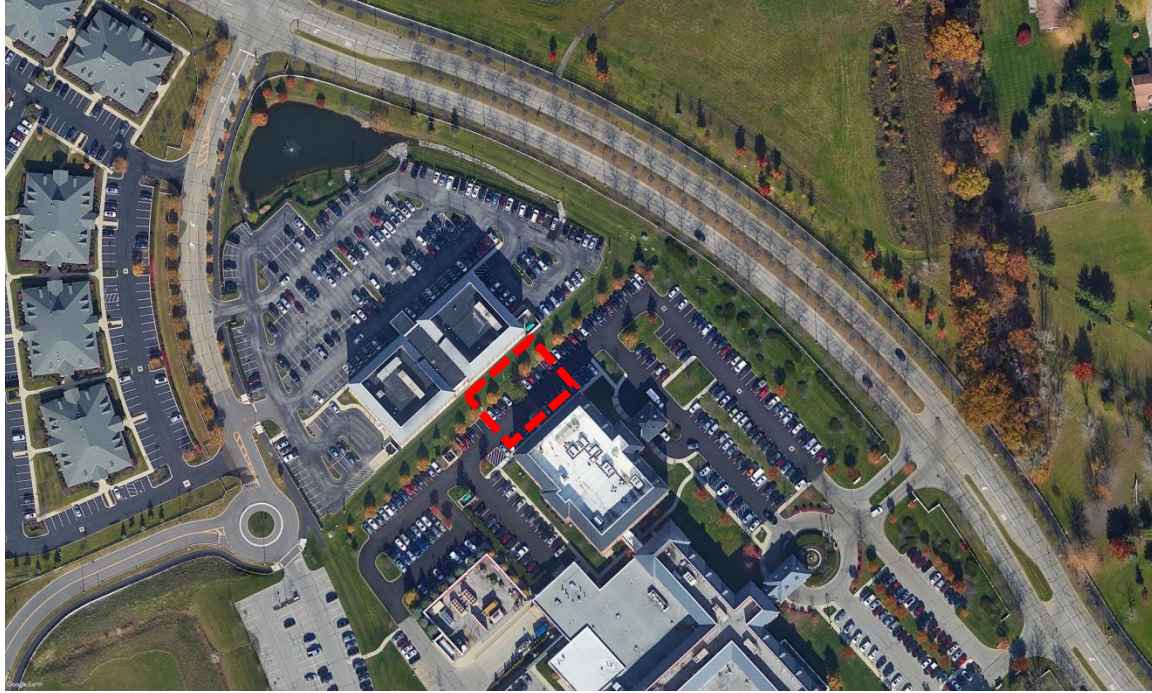
**V. ACTION**

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

**Move to approve final development plan application FDP-111-2019, subject to the following conditions:**

1. The city engineer's comments are addressed, subject to staff approval.
2. Both of the proposed parking lot connections are made and their final design is subject to staff approval.

**Approximate Site Location:**



Source: Google Maps

**9230 PAMPLIN WAY  
PRESERVATION ZONE VARIANCE**

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LOCATION: 9230 Pamplin Way (PID: 222-003794-00)  
APPLICANT: Muhammad Arif  
REQUEST: Variance to Tidewater I-PUD zoning text section VI(D)(6) to allow a patio to be installed within a preservation zone where the zoning text does not permit any construction, grading or clearing to occur.  
ZONING: Tidewater I-PUD  
STRATEGIC PLAN: Rural Residential  
APPLICATION: VAR-112-2019

Review based on: Application materials received December 18, 2019

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*Staff report completed by Chris Christian, Planner*

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#### **IV. REQUEST AND BACKGROUND**

The applicant requests a variance to allow a patio to be built within a preservation zone located at 9230 Pamplin Way in the Tidewater subdivision. The preservation zone extends approximately 130 feet from the rear lot line into the property. The applicant proposes an approximate 10 foot encroachment into the preservation zone.

The application is a result of a zoning code violation complaint from the Tidewater Homeowners Association. City staff visited the site and determined the patio encroached the preservation zone by approximately 10feet. A building permit has not been submitted and the paver patio has been constructed. The homeowner is requesting a variance in order to allow the patio to remain as built.

#### **II. SITE DESCRIPTION & USE**

The site is located at 9230 Pamplin Way in the Tidewater subdivision, east of US-62 and north of Central College Road in Franklin County. According to the Franklin County Auditor website, there is currently has a 4,451 square foot single family home developed on the .53 acre property.

#### **III. EVALUATION**

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

##### ***Criteria***

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Commission must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment."*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the "spirit and intent" of the zoning requirement and whether "substantial justice" would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (Section 1113.06):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

#### IV. RECOMMENDATION

##### *Considerations and Basis for Decision*

##### **A. Variance to Tidewater zoning text section VI(D)(6) to allow a patio to be installed within the preservation zone where the zoning code does not permit any structure to be built, no grading or clearing.**

The following should be considered in the Commission's decision:

1. Tidewater zoning text section VI(D)(6) states no structure or building shall be placed upon , in or under the area designated "Preservation Area" hereon, nor shall any work including but not limited to grading and clearing be performed thereon which would alter the natural state or topography of such area or damage any of the trees or vegetation thereon including but not limited to planting and mowing of turf grasses, provided that the use of hand tools for the removal of debris and dead woody vegetation shall be permitted.
2. The applicant requests a variance to allow a patio to be installed within a platted preservation zone at 9230 Pamplin Way located in the Tidewater subdivision. The patio was constructed without obtaining a permit and city staff was notified by the subdivision homeowners association that work was being completed in the preservation zone in October 2019.
3. A significant portion of this property is located within the platted preservation zone which contains a creek and a corresponding 100 year floodplain. This lot has a depth of 232 feet and the preservation zone extends approximately 130 feet from the rear lot line into the property. City staff visited the site and determined that the patio was encroaching into the platted preservation zone by 10 feet.
4. This preservation zone also serves as a floodway for the Tidewater subdivision and an area located outside the subdivision and is not supportive of the variance request. City staff determined that the patio is not installed within the 100 year flood plain therefore no other variances are needed.
5. The variance request is substantial and does not meet the spirit and intent of the zoning text which is to keep the preservation area undisturbed by requiring it to remain in its natural state. There is a stream located within the preservation zone and one of the recommendations of the 2014 New Albany Strategic Plan is to establish and preserve setbacks along stream corridors in order to protect water quality. The boundary line of the preservation zone was established at the time of a final plat in order to maintain the riparian corridor of a stream with a significant drainage area of 150 acres.
6. It does not appear that there are special conditions and circumstances which are peculiar to the land that justify the variance request. There are multiple homes within this subdivision that back onto

preservation areas. There is approximately 20 feet from the back of the home to the preservation area to build a patio

7. The applicant states that they were not aware of the preservation zone when they purchased the home and they constructed the patio as a safety measure to allow their children to play outside. The applicant states that there are snakes in the backyard which raises some safety concerns.

Staff is not supportive of the variance request. The intent of the zoning text is to allow the preservation area to remain and re-establish the in its natural state. In order to accomplish this the text restricts structures, grading, and clearing from occurring in this area. The 2014 New Albany Strategic Plan states that setbacks should be established along stream and riparian corridors. This preservation zone was established for this subdivision in order to maintain the riparian corridor of a stream with a significant drainage area of 150 acres. It does not appear that there are any special conditions or circumstances that are peculiar to the land that justify the variance request. There are multiple homes within the subdivision that back on to preservation zones and there appears to be adequate space for the property owner to build a patio that does not encroach into the preservation zone.

## **V. ACTION**

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

**Move to approve application V-112-2019 based on the findings in the staff report. Conditions of approval may be added.**

**Approximate Site Location:**





Source: Google Maps