



**New Albany Planning Commission  
March 16, 2020 Meeting 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 7:05 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. Brad Shockey	Present (left 7:20 p.m.)
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Andrea Wiltrout	Present
Mr. Sloan Spalding (council liason)	Present

(Mr. Shockey, Mr. Schell, Ms. Wiltrout, and Mr. Spalding present via GoToMeeting.com).

Staff members present: Steven Mayer, Development Services Coordinator; Chris Christian, Planner; Mitch Banchevsky, City Attorney (via GoToMeeting.com); Ed Ferris, City Engineer (via GoToMeeting.com); and Josie Taylor, Clerk (via GoToMeeting.com).

Moved by Mr. Wallace, seconded by Ms. Wiltrout to approve the February 19, 2020 meeting minutes. Upon roll call: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Shockey, abstain; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 1. Motion passed by a 4 - 0 - 1 vote.

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

Mr. Christian stated none from staff.

Mr. Kirby asked to move the Organizational Meeting to the front of the agenda.

Mr. Kirby swore to truth those present and wishing to speak before the Commission. Mr. Kirby requested that all joining the meeting via GoToMeeting.com who wished to speak to the Commission this evening please state their names and that they were sworn in.

Mr. Frank Petruziello, Mr. Carter Bean, Mr. Edward Gunther, Mr. Ryan Herchenroether stated they were sworn in.

Mr. Kirby 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.)

### **Annual Organizational Meeting**

Mr. Kirby asked if there were any new members to swear in.

Mr. Christian replied there were not.

### **Chairperson Nomination**

Mr. Kirby nominated Mr. Kirby as Chairperson.

Moved by Mr. Kirby, seconded by Ms. Wilttrout to nominate Mr. Kirby as Chairperson. Upon roll call: Mr. Kirby, yea; Ms. Wilttrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

### **Vice Chairperson Nomination**

Mr. Wallace nominated Mr. Wallace as Vice Chairperson.

Moved by Mr. Wallace, seconded by Mr. Kirby to nominate Mr. Wallace as Vice Chairperson. Upon roll call: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea; Mr. Schell, yea; Ms. Wilttrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

### **Secretary Nomination**

Mr. Wallace nominated Ms. Wilttrout as Secretary.

Moved by Mr. Wallace, seconded by Mr. Schell to nominate Ms. Wilttrout as Secretary. Upon roll call: Mr. Wallace, yea; Mr. Schell, yea; Ms. Wilttrout, yea; Mr. Shockey, yea; Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 - 1 vote.

### **Establish date, time, and location for 2020 regular meetings**

Moved by Mr. Kirby, seconded by Mr. Wallace to approve the continuation of the current schedule of meeting dates and times. Upon roll call: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Wilttrout, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

Mr. Wallace asked if someone needed to be re-nominated as the liaison to the Board of Zoning Appeals.

Mr. Mayer stated yes.

### **Board of Zoning Appeals Liaison Nomination**

Mr. Wallace nominated Ms. Wilttrout as the liaison to the Board of Zoning Appeals.

Moved by Mr. Wallace, seconded by Mr. Kirby to nominate Ms. Wilttrout as liaison to the Board of Zoning Appeals. Upon roll call: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea; Mr. Schell, yea; Ms. Wilttrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

Mr. Wallace asked if any of the Planning Commission members serving on the Strategic Committee needed to be re-nominated.

Mr. Mayer stated no.

Mr. Shockey stated he had not been present when VAR-112-2019 was initially voted on and would need to abstain. Mr. Shockey also noted that he had interests or involvements with the remaining applications for this evening and felt he needed to recuse himself from the meeting.

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

#### **Variance Reconsideration**

**Reconsideration request for a variance to the Tidewater zoning text section VI(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 the applicant to speak.

Mr. Muhammad Arif, the applicant, reviewed the variance request.

Ms. Wilttrout noted she was reviewing the criteria for rehearing and asked if the additional land would change the analysis of whether or not this property encroached into the flood plain.

Mr. Mayer stated the vote this evening was to determine if the applicant's new information met the criteria to warrant a reconsideration of the variance at a future meeting.

Mr. Schell asked if this had been done before, if there was any type of precedent allowing a person to put up another portion of their land.

Mr. Mayer stated he was not aware of one like this involving a trade in a preservation zone. Mr. Mayer stated they would check on that if the rehearing of the variance was granted.

Mr. Kirby asked the applicant if he would have a connection between the patio and the side yard that did not go through the preservation zone.

Mr. Arif asked if he was asking about where the preservation zone started from the house.

Mr. Kirby asked if Mr. Arif could walk from the patio into the side yard without walking through the preservation zone.

Mr. Arif stated yes, on the right side (referring to the presentation) there was a four (4) foot space for an entrance.

Mr. Kirby asked if that would be the side they would walk on from the front to reach the back and they would not go west due to a wall being present.

Mr. Arif stated yes.

Mr. Ferris stated it looked like there was an encroachment into the hundred (100) year flood plain and he thought the applicant should analyze conditions to see if he was raising the hundred (100) year flood elevation at this point, which would restrict building in the flood plain.

Mr. Arif stated it was not in the flood plain.

Mr. Kirby asked if there was a delineation of the flood plain available this evening.

Mr. Mayer stated they might be able to pull it up on the Internet but it was not readily available. Mr. Mayer noted a prior reconsideration heard by the Board of Zoning Appeals had such an analysis conducted at the re-hearing meeting, not at the time of reconsideration.

Mr. Kirby asked if any member of the audience or on GoToMeeting.com wished to speak. (No response).

Mr. Wallace asked the applicant if he had any information other than what he had submitted with the request for rehearing.

Mr. Arif stated no.

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

Moved by Mr. Wallace to reconsider VAR-112-2019 based on the findings in the staff report, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, no; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wiltrout, yea. Yea, 3; Nay, 1; Abstain, 0. Motion passed by a 3 - 1 vote.

Mr. Mayer asked the Planning Commission to table the hearing of VAR-112-2019 to the regularly scheduled April 2020 Planning Commission meeting.

Moved by Mr. Kirby to table the hearing of VAR-112-2019 to the regularly scheduled April 2020 Planning Commission meeting, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Kirby, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, no. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3 - 1 vote.

#### **FDP-15-2020 Final Development Plan**

**Final Development Plan application for 12.47 +/-acres for the development of a private road within the Walton-62 I-PUD zoning district, generally located north of and adjacent to US-62, east and adjacent to Walton Parkway and south and adjacent to Bevelhymer Road. (PIDs: 222-000616, 222-000617, 222-000618, 222-000655, 222-000623, 222-004186, 222-004466, 222-002558, 222-004467, 222-004184, 222-004185, 222-002557).**

**Applicant: The New Albany Company LLC c/o Aaron Underhill**

Mr. Christian presented the staff report.

Mr. Kirby asked if there were any Engineering comments.

Mr. Ferris reviewed the eight (8) comments from Engineering in the staff report.

Mr. Kirby asked to hear from the applicant.

Mr. Aaron Underhill, attorney for the applicant, reviewed the project. Mr. Underhill noted the applicant agreed with all Engineering comments except for number two (2), the recommendation that the traffic study from 2006 be updated. Mr. Underhill stated that the zoning text approved for the Walton-62-I-PUD district, section P(3), indicated a traffic study could be waived by the City. Mr. Underhill said that as no use and, hence no traffic, was being added with this final development plan, the applicant requested consideration of this in regard to Engineering comment number two (2) and its requirement.

Mr. Kirby asked if Mr. Underhill was fully expecting to meet that requirement in subsequent final development plans.

Mr. Underhill stated yes.

Mr. Kirby asked Mr. Underhill if he represented all of the landowners that would be subject to development and to this.

Mr. Underhill stated correct.

Mr. Kirby stated if that meant there was no odd-developer out.

Mr. Underhill stated correct.

Mr. Kirby asked why a private road.

Mr. Underhill stated there were a number of reasons. Mr. Underhill stated considerations included the specifications needed to be met, the rights-of-way that go along with that, a review of what was happening across the street, and discussions with staff.

Mr. Kirby asked if the one coming off US-62 was expected to potentially become public.

Mr. Underhill stated that was correct. Mr. Underhill stated the trigger for that was when the city requested it after development occurred to the north, which, if needed, could be a condition. Mr. Underhill stated that, in the meantime, they would build it to public specs and maintain it.

Mr. Kirby asked if there was any access restriction that the applicant would want to keep in place that a public road would not have.

Mr. Underhill stated he did not believe so, there was access from three (3) public streets.

Mr. Kirby asked if the applicant would accept, as a condition of approval, that access to the private road would be as if it were public.

Mr. Underhill asked if that was so the general public could use it.

Mr. Kirby stated it was so any landowner who abutted it would have access to it.

Mr. Underhill stated absolutely, it was already a requirement of the zoning and every parcel would have access.

Mr. Wallace asked how exactly the applicant wanted Engineering condition number two (2) to be changed.

Mr. Underhill stated he believed in this circumstance a waiver of the requirement that a traffic study be provided was warranted.

Mr. Kirby asked if staff was good with this.

Mr. Mayer stated yes.

Mr. Wallace asked if, in regard to Engineering comment number eight (8), the applicant was clear as to which of the Notes were to be deleted.

Mr. Underhill stated they would work that out with staff.

Ms. Wilttrout and Mr. Schell stated they had no questions.

Mr. Kirby asked if any member of the public had questions or comments. (No response.)

Moved by Mr. Kirby to accept the staff reports and related documents into the record for FDP-15-2020, seconded by Mr. Schell. Upon roll call vote: Mr. Kirby, yea; Mr. Schell, yea; Ms. Wilttrout, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Moved by Mr. Wallace to approve FDP-15-2020 based on the findings in the staff report, with the conditions listed in the staff report, and the following conditions:

1. The fifth condition in the staff report, in relation to the City Engineer's comments, be amended to delete the second comment and the comment relating to the Engineer's comment number eight (8) will be worked out with staff; and
2. An additional condition six (6) that access to the private road is provided as if it were a public road to adjacent landowners;

seconded by Ms. Wilttrout. Upon roll call vote: Mr. Wallace, yea; Ms. Wilttrout, yea; Mr. Kirby, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 -0 vote.

#### **FDP-16-2020 Final Development Plan**

**Final Development Plan application for the Sheetz development to be generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road (PIDs: 222-000616 and 222-000615).**

**Applicant: Morse Road Development LLC**

Mr. Christian presented the staff report for FDP-16-2020 and also discussed the related variance requests on VAR-18-2020.

Mr. Kirby asked for all comments to be made at the microphone. Mr. Kirby repeated a member of the public's question, asking if it was a gas station or a truck stop.

Mr. Kirby noted it was a gas station.

Mr. Kirby asked for Engineering comments.

Mr. Ferris reviewed the six (6) comments from Engineering in the staff report.

Mr. Kirby asked if the temporary right-in/right-out curb cut mentioned was the temporary right-in drive or something else.

Mr. Christian stated it was just a right-in curb cut.

Mr. Kirby noted the Engineering memorandum dated March 16, 2020 stated a right-in/right-out and he wanted to be sure they were not talking about something further down, closer to Walton Parkway.

Mr. Mayer asked which comment that was.

Mr. Kirby said it was Engineer's comment number three (3).

Mr. Mayer stated that should be right-in only.

Mr. Kirby indicated that further down, closer to Walton Parkway there appeared to be a right-in/right-out for another parcel.

Mr. Mayer stated that was correct, but the temporary curb cut was a right-in only.

Mr. Kirby asked to hear from the applicant.

Mr. Frank Petruziello, president of development for Skilken Gold Real Estate Development, stated they had no problem with staff or engineering comments and would make the changes as recommended, except for one item they wanted to discuss. Mr. Petruzeillo noted that all parking spaces throughout the development would be fine at nine by nineteen (9x19) feet but they would prefer to maintain parking spaces up against the building at ten by twenty (10x20) feet so they could accommodate the depth without overhang that would normally exist without a curb and provide easier access to the building and pumps for customers. Mr. Petruziello introduced other members of his team present at the meeting, adding they were all able to answer any questions.

Ms. Wiltrout stated she had no questions.

Mr. Schell asked if there was an obligation to speak with Turkey Hill and what the thought process for putting the businesses so close together was.

Mr. Mayer noted Turkey Hill had been notified of the application but did not believe they had commented or responded.

Mr. Christian stated they had not responded.

Mr. Kirby asked if the second of the taller 'order here' areas was a notice to order at the touchpad or a menu.

Mr. Petruziello stated there were a total of three (3) touchpads inside and one (1) outside and the area mentioned was being reduced from eighteen (18) feet to fourteen (14) feet.

Mr. Kirby stated he wanted to be sure there was not a thirteen (13) foot menu board.

Mr. Ryan Herchenroether, project manager for Skilken Gold Real Estate Development, stated the thirteen (13) feet included the overhang portion to protect the touchpad from weather and said 'order here.'

Mr. Kirby noted Turkey Hill had issues with the height of their menu board and he wanted to ensure this was not a menu board and it seemed this only instructed people to place their orders at the touchpad.

Mr. Herchenroether stated that was correct.

Mr. Kirby asked if the seven window signs on the doors requiring a variance only had the company logo and name.

Mr. Herchenroether stated the signs, as shown in the presentation, were modest and meant to highlight pedestrian entry into the building.

Mr. Kirby asked if they were good with having a condition of approval that the content of those signs be limited to what he had just described.

Mr. Herchenroether stated he had not understood what Mr. Kirby had said.

Mr. Kirby asked if the applicant would agree, in regard to VAR-18-2020 variance (A) for the door signs, as they required a variance, to a condition that they only display the company logo and name on those signs.

Mr. Herchenroether stated he understood Mr. Kirby was referring to the message; yes.

Mr. Kirby asked if there was a requirement for cross access along Johnstown Road near the right-in entrance.

Mr. Mayer stated he believed the final development plan showed they were providing a cross access easement to the future site along the north to Johnstown Road.

Mr. Kirby asked as you head out of town.

Mr. Mayer stated yes.

Mr. Kirby asked staff to clarify in regard to VAR-18-2020 variance (B) that if the building were surrounded by public roads on all sides there would not be a need for variance (B).

Mr. Mayer stated that was correct.

Mr. Kirby stated the applicant was good with all of the conditions and the condition of approval that the right-of-way removal agreement was executed.

Mr. Petruziello stated except for the ten by twenty (10x20) foot parking spaces along the building.

Mr. Kirby stated he got it.

Mr. Wallace asked staff to clarify if the drive-thru signs' location was the portion of the site directly adjacent to the residential use.

Mr. Christian stated that was correct.

Mr. Wallace asked what type of screening was being contemplated between the signs and the residential use.

Mr. Christian stated the zoning text required a ten (10) foot pavement setback along the perimeter boundary, but City Code recommended a minimum 25 foot buffer between residential use properties and commercial use properties as well as a landscape buffer within those 25 feet.

Mr. Mayer noted the reason for the 25 foot buffer was to allow naturalization of the landscaping.

Mr. Kirby noted this would be a 24 hour operation where headlights would sweep a residence and the screening here should be more dense, particularly at headlight level.



Mr. Wallace asked if applicant would agree to something more opaque as Mr. Kirby noted, and how tall the screening would be.

Mr. Petruziello asked if this was in regard to the buffer between the drive-thru lane and the houses.

Mr. Wallace and Mr. Kirby stated yes.

Mr. Petruziello stated they would stipulate to do so.

Mr. Wallace asked if the height of the drive-thru signs could be shorter than indicated by the applicant and still accommodate the vehicles they needed to be able to service.

Mr. Kirby stated they were asking about vehicle height in the drive-thru and noted the applicant may have been on mute.

Mr. Petruziello asked Mr. Herchenroether at what point any illumination of the menu board stopped, how high was the business end of the menu board.

Mr. Herchenroether stated four-and-a-half (4.5) feet.

Mr. Petruziello asked four-and-a-half (4.5) feet from the ground.

Mr. Herchenroether stated yes.

Mr. Petruziello asked if anything above four-and-a-half (4.5) feet was not illuminated.

Mr. Herchenroether stated he could confirm but was fairly certain of that, yes.

Mr. Petruziello asked if anything above that was just structure as canopy.

Mr. Herchenroether stated that was right.

Mr. Petruziello asked if that allayed the concern.

Mr. Wallace stated yes and asked if the height of the two signs could be shortened to be less intrusive.

Mr. Petruziello stated they could commit to work with staff to see if it could be lowered to be more acceptable.

Mr. Wallace noted there were two (2) commitments: (1) to work with staff regarding the height and (2) a firm commitment to increase landscaping and screening to provide opacity greater than 75%.

Mr. Kirby added that the initial part of the drive-thru needed to be opaque in winter.

Mr. Wallace asked if another variance was to allow an additional sign on the main structure that he believed would be visible from the adjacent residential property.

Mr. Mayer stated one of the wall signs would be on that side of the property.

Mr. Wallace noted he believed that would be visible to traffic inbound to New Albany on US-62 and asked if it would be possible to put the sign up after the residential use was gone.

Mr. Kirby said he understood the point but that sign was the one best read by incoming traffic.

Mr. Kirby asked Ms. Wiltrout and Mr. Schell if they had any questions.

Ms. Wiltrout stated she had no questions.

Mr. Schell stated he had no questions.

Mr. Kirby asked staff how wide a handicapped parking spot was.

Mr. Mayer stated he believed it was the same space but they had a hatch next to them to allow for loading and unloading of vehicles, but he could not confirm at this time.

Mr. Kirby noted wider spots made it easier for people to get in and out.

Mr. Wallace asked if the additional green space, or lesser amount of pavement, derived from the length dimension rather than the width dimension.

Mr. Mayer stated that was correct.

Mr. Wallace asked if it would be appropriate to discuss a ten by nineteen (10x19) foot space as that would maintain the same number of spaces but just make them shorter in length.

Mr. Mayer stated yes, that would still accomplish the staff recommended buffer size.

Mr. Petruziello asked if that was for spaces against the building.

Mr. Kirby stated correct.

Mr. Petruziello asked if they were suggesting the spaces be ten by nineteen (10x19) feet.

Mr. Kirby stated yes.

Mr. Petruziello stated yes, they could work with that.

Mr. Kirby asked for comments or questions from others. (No response.)

Moved by Mr. Kirby to accept the staff reports and related documents into the record for FDP-16-2020, 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.

Mr. Wallace asked to confirm that the number of spaces being offered were sufficient.

Mr. Kirby stated he thought they were good.

Mr. Wallace asked if any Planning Commission members were uncomfortable with the number of parking spaces proposed. (No response.)

Moved by Mr. Kirby to approve FDP-16-2020 based on the findings in the staff report, with the ten (10) conditions listed in the staff report and the following three (3) additional conditions, which may modify the original conditions:

11. Increase in landscaping with particular attention paid to opacity in the first part of the drive-thru, especially in winter at headlight level; and
  12. Work with staff on heights for the drive-thru signs;
  13. Adjacent to the building, parking spaces should be nineteen (19) feet long and ten (10) feet wide with those not near the building being nine by nineteen (9x19) feet as stated in condition (2);
- seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 -0 vote.

#### **VAR-18-2020 Sheetz Variances**

**Variances associated with the final development plan for the Sheetz development located north of US-62, east of Walton Parkway and south of Bevelhymer Road (PIDs: 222-000616 and 222-000615). Applicant: Morse Road Development LLC**

Moved by Mr. Kirby to accept the staff reports and related documents into the record for VAR-18-2020, 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.

Moved by Mr. Wallace to approve VAR-18-2020 based on the findings in the staff report, with the condition listed in the staff report and the additional condition that relates to variance (A) that the door signs be limited to the manner in which they are depicted in the application and simply have the logo and no additional information, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 -0 vote.

#### **CU-19-2020 Conditional Use**

**Conditional use application to allow manufacturing and production uses for properties located north of and adjacent to Innovation Campus Way West (PIDs: 222-005107 and 222-002133). Applicant: The New Albany Company LLC c/o Aaron Underhill**

Mr. Christian presented the staff report.

Mr. Kirby asked for any Engineering comments.

Mr. Mayer stated he did not believe there were Engineering comments on this application.

Mr. Kirby asked to hear from the applicant.

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

Mr. Kirby asked if this was 34 or so acres where slightly less than 33.5 acres were north of the center line of Innovation Campus Way (hereafter, "Innovation") and there was a one (1) acre tract south of Innovation before the lot line.

Mr. Dick Roggenkamp, director of real estate development for the applicant, stated the acre south of Innovation was entirely encompassed with a utility easement in favor of the city, so while technically a part of the parcel it could not be developed.

Mr. Kirby stated it was more than technically part of the parcel as it prevented the southern parcel from accessing the right-of-way except at the bulb of the cul-de-sac.

Mr. Roggenkamp stated he believed there was an access easement across that as well.

Mr. Mayer stated there was an access easement and a public utility easement to allow public utilities to go through this stretch of land on the south side of the road.

Mr. Kirby asked if the southern property owner, if different, had full access to the length of Innovation.

Mr. Mayer stated he believed so based on existing easements.

Mr. Kirby stated if it was intentional he wanted it open and was curious as to why.

Mr. Roggenkamp stated he could provide a bit of history. Mr. Roggenkamp stated this property, and the adjacent property to the east and to the south which Mr. Kirby asked about, known as the Strauss farm, were all brought through for zoning together when they were under contract to the current owner of the Strauss farm, New Albany Power Grid, LLC (hereafter "PG"). Mr. Roggenkamp said that after that zoning was completed, PG did not buy the 34 acre parcel being discussed today from the Bolen sisters, the applicant did. Mr. Roggenkamp stated that when the road was platted for the extension of Innovation was when access and utility easements over the southern strip, paralleling Innovation, were imposed.

Mr. Kirby noted it was habitual for the applicant to very carefully control access to right-of-ways and he wanted to be clear on what happened here.

Mr. Roggenkamp stated all of the rights and easements in existence today were in existence when the applicant acquired the property.

Mr. Kirby asked if Ms. Wilttrout or Mr. Schell had questions.

Ms. Wilttrout stated no.

Ms. Abigail Miller asked if Evans Road, running from Central College down towards this property, was going to be connected in any way, would there be any access over to Central College at any time in the future.

Mr. Underhill stated no.

Ms. Miller stated thank you.

Mr. Wallace asked if Mr. Underhill could provide examples of the types of manufacturing, processing, and fabrication uses that would fall within §1153.03(A)(3).

Mr. Underhill stated examples would be CCL Label, a manufacturer of labels for bottling and packaging and Alene candles. .

Mr. Roggenkamp added that everything in the original beauty campus had this same conditional use and added that this was approved to date but could not add an exhaustive list.

Mr. Wallace asked Mr. Mayer if, when the underlying zoning was approved, the City had already determined that they wanted to screen for both sound and sight.

Mr. Mayer stated that requirement was in the zoning text for rooftop equipment.

Mr. Kirby asked for comments or questions from the public.

Mr. Jeffrey M. Lewis, attorney for Mr. Michael Sergakis and NAP Farms, LLC, stated his clients were adjoining property owners. Mr. Lewis stated he had made a public records request for all documentation with this application but had not seen the building plans. Mr. Lewis asked if his brief had been provided to Planning Commission members and asked that it be entered into the record.

Mr. Mayer stated the brief had been emailed out to all members but had not been distributed to them all in person and asked Mr. Christian to provide that to Planning Commission members at the meeting location.

Ms. Wiltrout stated she had received the email.

Mr. Lewis noted he had not previously looked at the site plan, but now that he saw it some of the brief's arguments regarding the absence of a site plan were not applicable. Mr. Lewis indicated where his clients' properties were located on the presentation, adding that his clients' residence and farm had been there since 2004 and were adversely affected by this application. Mr. Lewis noted the City Code, with respect to conditional use permits, stated that under some unusual, unusual, circumstances a use, singular, not plural, which more intensely affects an area than those uses permitted in the zoning district may nevertheless be desirable and also compatible. Mr. Lewis said a conditional use put heightened scrutiny on a particular use, not uses, that may be permitted in a particular zoning classification. Mr. Lewis noted it offered Planning Commission an opportunity to more intensely scrutinize the use.

Mr. Lewis stated §1115.03 said the Planning Commission shall not approve a conditional use unless it shall in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use, not uses, at the proposed location shall meet all of the following requirements and then listed the criteria which a special permit use must meet. Mr. Lewis stated §1105.02(aaa) defined use as the purpose for which a building is arranged, designed, or intended, or for which either land, lot, piece or parcel thereof or a building located thereon may be occupied or maintained; a use, singular. Mr. Lewis noted §1105.02(n) talked about conditional use and said it was an uncommon or infrequent use which may be permitted in specific zoning districts subject to compliance with certain standards, explicit conditions, and the granting of a conditional use permit.

Mr. Lewis stated he had looked at the application and, Mr. Underhill was correct, although there was no limitation text he was given in the public records request so he did not know specifically what kinds of limitations were going to be put on this particular application. Mr. Lewis added that it did say to allow manufacturing or production uses as a conditional use, which seemed contrary to what he had put down to limit the uses, although it was not in the application reference to a Code section, to those uses that ... (Mr. Lewis asked for time to locate information and searched through his documents).

Mr. Lewis said the application did not list a specific use but opened it up to firms involved in manufacturing, processing, fabrication, packaging or assembly of goods, raw, secondary, or

partially completed materials may be used. Mr. Lewis stated he had written down what the applicant had stated in response to a question, speaking about an exhaustive list of things that might go on this particular piece of property. Mr. Lewis stated that was not the charge under the Code, it was a use, not uses. Mr. Lewis stated they had no limitation text, his client was sitting 125 feet from a building that was going to be 43 feet, towering over his property despite the ten (10) foot buffer zone. Mr. Lewis noted the question of sound was raised saying the buffer zone had nothing to do with sound. Mr. Lewis stated they did not know what would be going in this site.

Mr. Lewis stated the staff recommendation was to approve it first and then let staff approve the buildings. Mr. Lewis stated that was the cart before the horse as the use and buildings should be first. Mr. Lewis stated staff could not be delegated the Planning Commission authority to determine what buildings or uses were and were not suitable for this site. Mr. Lewis stated he had not seen the requirements to the application itself showing all the locations and all buildings, parking and loading areas, traffic circulation, open spaces, landscaping, refuse and service areas, utility signs, and such other information the Commission may require to determine if the conditional use meets the intent and requirements of the Code. Mr. Lewis stated that, according to what he was given, he did not see a narrative statement evaluating the effects on adjoining properties such as that of his clients. Mr. Lewis noted the effect of such elements was noise, glare, odor, light fumes, and vibration.

Mr. Lewis said there was a note the applicant had satisfied the criteria with respect to objectionable uses because another section of the Code prohibited objectionable uses - that was a tautology. Mr. Lewis added that he and his clients would propose to have his clients sit down with the developer and at least discuss the case and a limitation text of sorts. Mr. Lewis stated if the Planning Commission was inclined to pass this tonight, which he and his clients were not in favor of, they would ask it be tabled to provide them an opportunity to sit down with the developer and better define precisely what was planned for this building and what use and use limitations there were and what uses might be objectionable to his clients.

Mr. Sergakis, 6400 Evans Road, stated he had been in New Albany since the early 1980s and owned about twenty acres. Mr. Sergakis noted there were neighbors with him this evening and said they had been misled since Abercrombie & Fitch first purchased all the houses on the south side of Central College Road and the west side of Evans Road. Mr. Sergakis said they were told there would never be a permanent entrance on Evans Road or Central College Road. Mr. Sergakis stated there was now a permanent entrance on Central College Road next to the three way intersection of US-62, Kitzmiller, and Central College which created a huge traffic problem. Mr. Sergakis stated the parcels had been rezoned in 2018 to allow for warehousing and data centers and he had been told about twenty (20) people would work in the warehouse and there would not be a bunch of trucks backing up, loading, unloading, or making noise or causing vibrations. Mr. Lewis said they were now coming back with a different total use.

Mr. Sergakis said, in his opinion, the New Albany council administrators were expected to be highly influenced by the New Albany Company which they saw routinely and it did not help reduce his property taxes and just pushed rezoning ahead to allow for manufacturing. Mr. Lewis stated he thought this change would be similar to the changes in 2019 that converted the Central College Road emergency exit gate for the Abercrombie parking lots to a daily in and out gate and increased traffic on Central College Road and US-62. Mr. Sergakis stated if the recent zoning did change to manufacturing the increased traffic would become unmanageable as trucks from outside the city bring in traffic and noise. Mr. Sergakis stated none of it would increase their

property values or decrease their property taxes as the City urged industry to come with complete tax abatements.

Mr. Sergakis stated traffic was already a problem and they had no plans to fix that and rush hour traffic was already a concern on certain roads. Mr. Sergakis also noted there was the issue of flooding and runoff from all the roofs as New Albany is low, adding that he was an insurance agent and flood insurance had just become available. Mr. Sergakis added he did not believe there had been any real planning. Mr. Sergakis stated he believed the EPA would be an issue, the Army Corps of Engineers should be consulted, the screening would not be effective for anything, and the pollution and noise would all be totally different than what they had understood initially. Mr. Sergakis stated the Planning Commission really needed to look at what was around and if the City wanted them to move then give them 150% of the appraised value to leave rather than just forcing them out by bringing manufacturing in or there would be a problem.

Mr. Kirby asked what his EPA complaint was.

Mr. Sergakis stated he believed there had not been any studies done on what was going on with stripping that land. Mr. Sergakis stated there were many waterways, and Franklin County was now stripping on Evans Road, to prohibit flooding already occurring. Mr. Sergakis asked if anyone on the Planning Commission had been down there, adding no, he did not think so.

Mr. Sergakis stated Franklin County was right now, between Evans Road and Central College Road, stripping every tree, limb, and piece of dirt, cutting a swath through there because the roadways flooded from the runoff that existed there. Mr. Sergakis stated he advocated the use of the Army Corps of Engineers rather than Franklin County engineers, to complete a further study of this land because his property was already seeing problems with flooding and then the runoff from the proposed building roofs would only add more. Mr. Sergakis added he had not seen any plans for retention ponds.

Mr. Kirby noted that did not come with zoning, it came with development plans.

Mr. Lewis stated he disagreed, saying he was looking at the Code and told the Planning Commission to go back to the Code to see what was required.

Mr. Kirby stated that was a different issue and he was trying to nail down concrete issues with EPA and Army Corps of Engineers claims.

Mr. Lewis stated he agreed, those were not relevant to the Planning Commission this evening.

Mr. Kirby stated when development plans showed up or building permits were pulled, then there would be engineering and changes in drainage.

Mr. Lewis stated he would agree except to the extent, when one looked at the criteria in §1115.03, that talked about it being harmonious and other considerations which case and statutory law discuss. Mr. Lewis stated City application requirements required a lot of stuff that was not filed with this application and if this was not worked out those would become issues.

Mr. Kirby asked the applicant if the Army Corps of Engineers had been consulted about wetlands on this property.

Mr. Underhill stated yes.

Mr. Kirby asked if the applicant had a letter from the Army Corps of Engineers.

Mr. Roggenkamp stated there were no wetlands on this property other than perhaps a little bit around the edges, but none that would be impacted.

Mr. Lewis stated they were not discussing what would be on the applicant's land but what would be on others' land. Mr. Lewis stated the New Albany Code ...

Mr. Kirby stated he wanted to come down to if there was a real Army Corps of Engineers issue here. Mr. Kirby said the applicant said the Army Corps of Engineers had been consulted and asked if Mr. Lewis was disputing that.

Mr. Lewis stated he had not seen anything and he disputed it until he saw it.

Mr. Wallace stated the applicant had just said there was nothing to be seen because there were no wetlands that the Army Corps of Engineers would have jurisdiction over.

Mr. Lewis stated there were three (3) waterways there and the Blacklick Accord had also been implemented that New Albany was a member of, and they were tearing up part of the other waterways now.

Mr. Wallace asked Mr. Lewis if his point was that because the New Albany Code spoke about a use and not uses, his position was that Planning Commission could not grant a blanket conditional use when the actual use was not known at the time the application was filed.

Mr. Lewis stated that was one of his points. Mr. Lewis said the other point was that the Planning Commission had to make a determination the area had to be served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewers. Mr. Lewis stated these were all things the Planning Commission had to make an informed finding of and they were way too early in this process, they did not have information. Mr. Lewis stated they would like to get with the developers and draw limitations to help solve these issues for adjoining property owners. Mr. Lewis said if the application were tabled they would have an opportunity to do that and they might have no objections after that.

Mr. Wallace asked if Mr. Underhill had a response to Mr. Lewis.

Mr. Kirby asked if Mr. Banchefsky had good enough audio for this.

Ms. Miller stated she lived on the other side of Central College Road and that whole road for the past few years, between Evans Road and where it turns off into Jug Street, had flooded every year and it never did when she was a child. Ms. Miller stated the runoff was a very big concern.

Mr. Kirby asked if Mr. Banchefsky had good enough audio to follow this.

Mr. Banchefsky asked for a clarification of the question.

Mr. Kirby asked if Mr. Banchefsky had good enough audio to follow what had just been said in the last five (5) or ten (10) minutes.



Mr. Wallace reviewed his question to Mr. Lewis regarding his objections and the discussion regarding that. Mr. Wallace stated he believed Mr. Kirby had asked Mr. Banchefsky if he had any comments for the Commission as to the basis for that position.

Mr. Banchefsky asked if they were talking about the use prior to the initial zoning.

Mr. Wallace stated he did not think so. Mr. Wallace stated he thought Mr. Lewis was talking about the anticipated use that the conditional use would allow and the fact that the specific use or uses had not been articulated in this application making it more of a general request for a myriad of uses, and the Code did not permit an application to be approved in that manner.

Mr. Banchefsky asked if that was the issue of use or of uses.

Mr. Wallace stated it was broader than that. Mr. Wallace stated Mr. Lewis was saying it had to consider other aspects such as police and fire access and that sort of thing.

Mr. Banchefsky stated he had just gotten the brief and had not yet looked at it. Mr. Banchefsky noted that he did not think that the Code using the word use in the singular limited the Commission or applicant from proposing a host of items.

Mr. Underhill stated the Code said one could request manufacturing and production uses and provided examples of those as a blanket. Mr. Underhill stated it did not say that one must specify exactly what that would be nor had they ever done that. Mr. Underhill stated that if one took that to its logical conclusion with a multi-tenant building, then each time a use changed one would have to return to the Planning Commission for permission. Mr. Underhill noted he believed the general language used in the Code was there for just that reason.

Mr. Wallace stated Mr. Lewis suggested the application be tabled for a month and asked Mr. Underhill about that.

Mr. Underhill stated there was not a specific user at this time, but they did have one user, already in the beauty campus, that had indicated interest. Mr. Underhill stated there was a limitation text that went along with the zoning and would go along with this use as well. Mr. Underhill stated his understanding was that had been negotiated with the neighbors and the applicant was bound by that. Mr. Underhill added that some of the issues being brought up involved Abercrombie and that was not the applicant's ground. Mr. Underhill stated they would not prefer to table this, adding that Mr. Lewis and his client could have contacted him at any time to discuss this application but had not, and it did not seem fair to the applicant to table.

Mr. Wallace stated fair enough.

Mr. Kirby asked for comments or questions from the public.

Ms. Tamara Davies stated she lived right where Evans Road and Central College Road meet. Ms. Davies stated the applicant had stated there would not be access to Evans Road there, but the New Albany Strategic Plan from 2006 and 20014 showed Evans Road going through that border there. Ms. Davies said at some point they were probably going to want access on Evans Road. Ms. Davies stated her concern was that when the access to Abercrombie was changed it was done without notifying the neighbors and who was to say in the future they would not want access. Ms. Davies also stated the New Albany Strategic Plans also did not show any houses along Evans

Road or Central College Road, they showed business campuses there. Ms. Davies stated people in that area did not want something to sneak in on them and they wanted a guarantee.

Mr. Mayer stated that at the time of re-zoning a possible connection to Evans Road was contemplated and the 2014 Strategic Plan did show a connection in the future. Mr. Mayer stated nothing in the text prohibited a connection to Evans Road. Mr. Mayer noted that they had found that manufacturing and production uses did not generate any more traffic than one of the permitted uses does today.

Mr. Wallace asked if Mr. Mayer was saying that historically, to the extent there might be a connection of Evans Road to the business campus, whatever was decided this evening would not have been an appreciable change in what could happen anyway under the existing zoning.

Mr. Mayer stated that was correct.

Mr. Al Carifa, 8154 Central College Road, spoke for he and his wife, Becky Carifa. Mr. Carifa stated that Evans Road almost dead ended into their property. Mr. Carifa stated they were pleased to live in New Albany and appreciate the work of the Planning Commission members and asked them to review the neighbors' complaints. Mr. Carifa stated he believed he had called everyone under the sun regarding the water issue. Mr. Carifa stated they had severe flooding on the north side of Central College Road which touched his property, Ms. Davies', and Mr. Selegakis'. Mr. Carifa stated a Franklin County engineer had been to look at his property and helped coordinate a fix even though most of the issue was on the New Albany side. Mr. Carifa stated he was very upset about the traffic. Mr. Carifa noted that while the Abercrombie issue did not connect to this applicant, the neighbors in that area had been promised the gate would only be used for emergencies and then it was just suddenly open all the time. Mr. Carifa stated traffic from that gate was dangerous and rude and must be looked at. Mr. Carifa stated he believed the City had not respected the residents dealing with traffic or flooding issues in that area and asked if the City wanted to run them out.

Mr. Kirby asked staff if New Albany Engineering did drainage or whether Franklin County did.

Mr. Mayer stated the drainage area for Haines Ditch, as it was on the property, would be evaluated as part of the engineering plan approval by the City of New Albany.

Mr. Kirby asked what it would take to have a regional review of the flooding in that area as several homeowners had stated an issue existed.

Mr. Mayer stated they could work with the City engineer to further investigate and look at the overall drainage area that was coming into it when the permit was under review. Mr. Mayer added that there were Code requirements for setbacks and flood plain ordinances that were considerations that would be reviewed by staff as part of the site improvement plan.

Mr. Kirby asked Mr. Underhill if there was a way the applicant could work with the neighbors to fix some drainage problems.

Mr. Kirby called a break.

Mr. Schell asked if they should not table this application due to some difficulty hearing residents speaking via the conference link as well as the late receipt of the brief.

Mr. Kirby stated it was worth thinking about.

Mr. Underhill stated Mr. Lewis was a pro who had been doing this for a while and that he too, if he had been in Mr. Lewis' position, would have dropped the brief right at the meeting to require it be tabled. Mr. Underhill stated that was unfair to the applicant as Mr. Underhill's name and contact information were on the application for about a month and he had not heard a word. Mr. Underhill said that, with respect to the drainage, whether this use was approved or not, the same problem was there. Mr. Underhill stated it was about what the zoning allowed, what was allowed to be put on the ground. Mr. Underhill stated this application was not changing any of that so the drainage was what it was and it was irrelevant to the use question. Mr. Underhill stated the applicant would prefer to go forward.

Mr. Lewis stated the notice letter sent to his client was dated March 6, 2020 and did not get delivered until March 10, 2020. Mr. Lewis stated his client contacted him on Thursday and he had gone out on Friday. Mr. Lewis stated he had made a public records request and had supposedly looked at the file with everything, which they did not get. Mr. Lewis stated his associate had reached out on Friday to Mike Shannon at Mr. Underhill's firm to say they had an opposition to the zoning and ask for a call.

Mr. Underhill stated he had heard about that this morning, adding that he had not been directly contacted and this was a game of telephone. Mr. Underhill stated he did not know what records the City had provided. Mr. Underhill stated what he had provided this evening was not filed with the application as it was meant more to show where they were going with the site plan and to the extent Mr. Lewis had not gotten that, that was not the City's fault as it was not part of the formal application. Mr. Underhill stated his view on that was that the underlying zoning was very particular about setbacks, screening requirements, and building heights and there were ample guidance and requirements in there to understand what this was going to look like and where the buildings were going to sit.

Mr. Banchevsky stated the Code said the Planning Commission had thirty (30) days from the date of the hearing to render an opinion. Mr. Banchevsky stated they could either table the case, by agreement or, if there was no agreement as to tabling, then they would have thirty (30) days to render a decision. Mr. Banchevsky stated that typically the Planning Commission made its decision the night of the hearing but it did not have to.

Mr. Roggenkamp stated he wanted to pick back up the drainage issue under discussion before the break. Mr. Roggenkamp stated that section of Central College Road and where it made the turn north and became Jug Street has been a drainage problem for over thirty (30) years. Mr. Roggenkamp stated it was a multi-jurisdictional problem with Plain County, the City, Licking County, and Franklin County. Mr. Roggenkamp stated it was a large watershed that was contributing to that problem. Mr. Roggenkamp said they would be willing to sit down at the time an engineering plan was submitted with the City engineer, the site engineer, and any member of the community that wanted to make sure this would not exacerbate that problem. Mr. Roggenkamp stated he did not know if it would lead to a solution but he wanted to make that offer. Mr. Roggenkamp added that he would make the commitment that this parcel would not have access to Evans Road.

Mr. Kirby asked if any community members had a different comment to add or question to ask.

Mr. John Fike, 8096 Central College Road, stated he wanted to second everything his neighbors had discussed about the drainage and the traffic issues from Abercrombie and the business park.

Mr. Fike stated he disagreed with Mr. Mayer's comment on traffic. Mr. Fike stated he had been in manufacturing for forty (40) years and to say it did not bring a different level of traffic than a data center or warehouse facility was not correct. Mr. Fike stated these would probably be 24 hour facilities and, in most cases, operate seven (7) days a week. Mr. Fike stated they would have semis coming 24 hours a day. Mr. Fike said there would be drop trailers at any reasonable manufacturing facility all over the property. Mr. Fike stated an eight (8) foot mound with a two (2) foot bush was not going to block that. Mr. Fike stated that was why Mr. Sergakis would want to have input on what might move in next to him.

Mr. Underhill stated he wanted everyone to realize that warehousing and distribution were allowed today, as of right. Mr. Underhill said those issues were hopefully taken into account when the zoning was done. Mr. Underhill added that those sorts of trucks and trailers were going to be present here if that use came to be anyway.

Mr. Wallace asked Mr. Schell if he wanted to move to table this.

Ms. Wiltrout stated before voting on tabling, she had a question. Ms. Wiltrout asked what the use would be, would there be any clarity on that if it were tabled.

Mr. Mayer stated this would be just for a manufacturing and production use. Mr. Mayer said like other conditional uses it would run with the property. Mr. Mayer stated that staff was asking that the site characteristics of things like the building, parking setbacks, and drainage be evaluated by staff. Mr. Mayer stated this property had many restrictions on it and, based on those additional restrictions, the Planning Commission had, in the past, given staff the ability to review those site characteristics for things such as flooding and drainage. Mr. Mayer stated tonight the use that could go in those buildings was being evaluated.

Mr. Underhill stated he did not believe they would have any more guidance on a specific use if they were to return in a month. Mr. Underhill stated these would be multi-tenant buildings so having a broader use was important so they would not have to return every time a new tenant arrived.

Ms. Wiltrout asked Mr. Mayer if there was any difference in the buildings that were allowed if the land were approved for manufacturing/production rather than for fabrication/packaging or assembly.

Mr. Mayer stated no, they would all have to follow the same development regulations.

Ms. Wiltrout asked if there were any operating hours restrictions that were different.

Mr. Mayer stated no.

Ms. Wiltrout asked if there were any noise restrictions that were different.

Mr. Mayer stated no.

Ms. Wiltrout asked if the opportunity for staff to review things like flood plain and the items he had just mentioned was typical for these types of plans.

Mr. Mayer stated adding the manufacturing and production use to this property as permitted uses did not change the staff review process.

Ms. Wiltrout asked if an assembly plant wanted to build there, staff would review the flood plain for that building.

Mr. Mayer stated that was correct.

Mr. David Akin, 5390 Aldie Mill Drive, stated his concern was based on his neighbors. Mr. Akin stated that if his neighbors started to go away and have their houses consumed by the different buildings and factories planned for this area, then he was squeezed out. Mr. Akin said he was in an area he chose because it was somewhat rural and had space. Mr. Akin stated that was being compromised greatly. Mr. Akin added that the Abercrombie & Fitch rear entrance, that had been dubbed as emergency only, he had seen that a gate, paving, and booths were there all under the ruse of emergency use. Mr. Akin stated that now between the hours of 3:30 p.m. and 6:30 p.m., if you were making a left onto US-62, you could sit through three light cycles. Mr. Akin stated the traffic made driving dangerous in that area. Mr. Akin stated he was also concerned about property values and he wanted this tabled. Mr. Akin added that he was a tax paying resident and was tired of paying to have businesses come into his community and pay no taxes and create problems.

Mr. Lewis stated he wanted to direct attention to the staff report which stated site and building plans for proposed developments within this subarea would be approved by user basis. Mr. Lewis continued that approval of these individual site plans should be subject to staff approval as part of the approval of individual zoning and building permits. Mr. Lewis said that basically what the Planning Commission was being asked to do was delegate its authority over specific uses to a decision by the staff. Mr. Lewis stated that was unconscionable with respect to Ohio law. Mr. Lewis stated he was trying to avoid litigation.

Mr. Underhill stated delegation of authority to staff was a delegation to determine if a plan met the underlying zoning and Code, that was all.

Mr. Kirby stated thank you.

Mr. Kirby asked if Mr. Schell or Ms. Wiltrout had any other questions or comments.

Ms. Wiltrout stated none.

Mr. Schell stated no.

Mr. Ryan Avery, a resident on Evans Road, stated his only concern would be that any house north of the property used wells for drinking water. Mr. Avery asked if, with the use change from warehouse and data center to manufacturing, there would be an increased possibility for ground water contamination due to the use change.

Mr. Mayer stated ground water was not tested or part of the review by the City when looking at site improvements.

Mr. Underhill stated that as perhaps Ms. Wiltrout and Mr. Schell had not heard all testimony, if the applicant could return at the next available meeting they would agree to table. Mr. Underhill stated he was not sure they would meet with Mr. Lewis and Mr. Sergakis and others that would like to or if anything would change, but they would be open to listening.

Mr. Wallace stated he was not particularly inclined to repeat a meeting of this length but he appreciated the applicant's position.

Mr. Underhill stated they would entertain tabling. Mr Underhill stated that, in closing, before they considered a motion, he would say that in comparison to other sites, what had been done for the neighbors in other instances, this was a much better situation.

Mr. Adeel Khan, 9250 Pamplin Way, stated he seconded many of the residents and agreed with the traffic issues. Mr. Khan stated that once Evans Road was connected to Innovation it would, of course, increase a lot of traffic. Mr. Khan stated he supported tabling the vote because he had only found out about this today and he agreed that 200 feet being used for those the City would contact was not fair. Mr. Khan stated he was concerned with the noise, a lot of it would be generated from heating and air conditioning units that would be running all the time. Mr. Khan stated he was concerned with the continued use of tax abatements around farmland and residential areas. Mr. Khan stated that once this passed then more buildings, either apartments, warehouses, manufacturing, etc. would also be. Mr. Khan stated he was also not clear on what the zoning was for this property.

Mr. Kirby stated they could put a warehouse there tomorrow; the current, by right zoning, means they could put a distribution center in there.

Mr. Mayer stated the current zoning allowed for warehouse and distribution, research and production, data center, and office uses.

Mr. Wallace asked Mr. Mayer if there was, down the road, a desire to extend or make a connection between Innovation and Evans Road, would that need to come before the Planning Commission with some sort of a plat request and a public hearing would be needed.

Mr. Mayer stated that was correct.

Mr. Wallace stated that was not what was being talked about today at all, but he wanted to make sure. Mr. Wallace asked, so, if there was ever going to be such a plan it would be subject to a public hearing with comments and questions.

Mr. Mayer stated that was correct and plats were reviewed by the Planning Commission which made a recommendation to City Council for alternate review and approval of plats for public streets.

Mr. Kirby asked if this went to City Council.

Mr. Mayer stated no.

A member of the public asked who would be notified if that was the case.

Mr. Mayer stated a plat would not require neighbor notification but they would post the agenda on the website and in the town hall building as required by Code.

Mr. Kirby stated they had in the past, when not required to notify, notified anyway. Mr. Kirby stated this would be one of those he would direct staff that it be a notification event to plat a road connection.

The same member of the public asked what area would be notified.

Mr. Kirby stated anybody within 200 feet.

A member of the public stated that would be one person or three people.

Mr. Kirby stated that was what the Code called for.

The member of the public asked if the Code could be changed.

Mr. Kirby stated he should talk to his council people.

Mr. Wallace stated that it was also up to the public to be generally aware of what was going on. Mr. Wallace stated he guessed that if a road was being platted in that area they would find out about it one way or the other.

Mr. Kirby stated beforehand.

Mr. Sergakis asked why he had only gotten notice on the tenth.

Mr. Kirby stated there would not be more discussion.

Mr. Kirby asked if anyone wanted to make any motions.

Mr. Wallace restated Mr. Kirby's question regarding motions to table (No response).

Moved by Mr. Wallace to accept the staff reports and related documents into the record for CU-19-2020, including the additional slide show information that came in from the applicant, the email received prior to the meeting from Ms. Abigail Keel and the memorandum of law from Mr. Lewis, seconded by Mr. Kirby. Upon roll call vote: Mr. Wallace, yea; Mr. Kirby, yea; Ms. Wilttrout, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4 - 0 vote.

Moved by Mr. Wallace to approve CU-19-2020 based on the findings and information in the staff report, the other information that was submitted into the record, with the condition listed in the staff report and the condition that any access to Evans Road be restricted until a public hearing with notification is held, 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.

Mr. Kirby requested that the Other Business, New Albany Strategic Plan Update, be moved to another evening.

Mr. Mayer stated that could be done and asked members of the Planning Commission to review the information provided about the update in their packets and to send staff any questions.

Mr. Kirby adjourned the meeting at 10:41 p.m.

Submitted by Josie Taylor.

## APPENDIX



### Planning Commission Staff Report March 16, 2020 Meeting

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#### 9230 PAMPLIN WAY PRESERVATION ZONE VARIANCE RECONSIDERATION

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LOCATION: 9230 Pamplin Way (PID: 222-003794-00)  
APPLICANT: Muhammad Arif  
REQUEST: Variance Reconsideration  
ZONING: Tidewater I-PUD  
STRATEGIC PLAN: Rural Residential  
APPLICATION: VAR-112-2019

Review based on: Application materials received December 18, 2019 and February 27, 2020.

*Staff report completed by Chris Christian, Planner*

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#### I. REQUEST AND BACKGROUND

The applicant requests a reconsideration of a variance application the Planning Commission reviewed and denied on January 22, 2020. The variance request was 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 applicant proposes to dedicate new and additional land on their property as preservation zone in order to offset the encroachment. The applicant's submittal can be found in a separate letter provided attached to this staff report.

Per Codified Ordinance 159.06(c) (Reconsideration of Commission/Board Action) the Planning Commission may reconsider any action it has taken upon its own motion for good cause shown. Any action denying or disapproving an application, other than one involving an incomplete application, may be reconsidered no later than the second regular meeting after the original action from which reconsideration is being requested was taken, only if the applicant or its designee clearly demonstrates one of the following:

1. Circumstances affecting the subject property or item under consideration have substantially changed; or
2. New information is available that could not with reasonable diligence have been presented at a previous hearing.

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



1. Move to reconsider variance application V-112-2019 pursuant to Codified Ordinance 159.

If the motion passes, staff recommends that the board immediately table the application until the next regularly scheduled meeting date so that the surrounding neighbors can be notified of the hearing and staff can prepare staff report containing a full evaluation of the proposal.

## **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. ASSESMENT**

### ***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.*

**Approximate Site Location:**



Source: Google Maps



**Planning Commission Staff Report  
March 16, 2020 Meeting**

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**SHOPPES AT SMITHS MILL  
PRIVATE ACCESS ROAD FINAL DEVELOPMENT PLAN**

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LOCATION: Generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road.  
APPLICANT: The New Albany Company LLC c/o Aaron Underhill  
REQUEST: Final Development Plan  
ZONING: Walton-62 Commerce Zoning District (I-PUD)  
STRATEGIC PLAN: Retail  
APPLICATION: FDP-15-2020

Review based on: Application materials received on February 14<sup>th</sup> and 28<sup>th</sup>, 2020.

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*Staff Report completed by Chris Christian, Planner*

**II. REQUEST AND BACKGROUND**

The application is for a final development plan for the development of a private access road, generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road. This development is located within the Walton-62 Commerce zoning district which was reviewed and approved by the Planning Commission on March 18, 2019 (ZC-6-2019). The rezoning approval included an exhibit that demonstrated the general desired alignment of this private access road system.

There is also a final development plan application for Sheetz on the March 16, 2020 Planning Commission agenda that is within this zoning district and is served by this proposed private road. This application will be evaluated under a separate staff report (FDP-16-2020).

**III. SITE DESCRIPTION & USE**

The site is generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road. The overall zoning district is 12.47 acres and is currently undeveloped.

**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.*

■ **New Albany Strategic Plan**

1. This site is located in the Neighborhood Retail district of the 2014 New Albany Strategic Plan. The development standards for this type of use include (but are not limited to):
  - Curb cuts on primary streets should be minimized and well organized connections should be created within and between all retail establishments.
  - Sidewalks or leisure trails should be included along primary roadways as well as internal to the developments.
  - Entrances to sites should respect existing road character and not disrupt the Green Corridors strategy objectives.

■ **Use, Site and Layout**

1. This final development plan application for a private access road within the US-62 Commerce zoning district which was reviewed and approved by the Planning Commission on March 18, 2019 (ZC-6-2019). Zoning text section III(B)(3) contemplates a private access road going through the site. The location of this access road matches the alignment of a private road shown in the rezoning's subarea exhibit.
2. The access road serves the entire 12.47 acres zoning district.

■ **Access, Loading, Parking**

1. The proposed plan include three access points. One full access point along Johnstown Road that aligns with an existing signalized intersection, one right in-right out access point along Johnstown Road and one right in-right out access point along Walton Parkway. The proposed access points are permitted per section III(B)(3) of the zoning text.
2. Section III(B)(5) of the zoning text states that 5 feet of additional right-of-way shall be dedicated to the city along a portion of Johnstown Road in order to accommodate a future right turn lane onto Walton Parkway. The proposed plan meets this requirement.
3. The applicant is proposing 24 foot wide pavement sections for the streets, with a slight widening at the full access intersection to allow for multiple traffic lanes.
4. The final development plan shows a future road extension along the access road segment that runs perpendicular to Johnstown Road. This future road extension will ensure connectivity between sites. Since this road segment that runs perpendicular to Johnstown Road will connect to future developments, staff recommends a condition of approval that it be built to public street standards.
5. Zoning text section III(B)(4) states that a sidewalk shall be installed along the east side of the proposed north-south street and on both sides of the street that extends from Johnstown Road. The proposed plan is meeting these requirements and the sidewalk will be installed on a per site basis as development occurs.

■ **Architectural Standards**

1. There are no proposed building improvements as part of this final development.

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

1. Zoning text section III(D)(1)(a) requires a double row of street trees to be installed on both sides of the proposed road that extends from Johnstown Road. These street trees will be installed on a per site basis as development occurs. The intent of this requirement was to ensure that there is a row of street trees on both sides of the sidewalk along this road. The proposed plans show all of the required street trees being installed on one side of the sidewalk. Staff recommends a condition of approval that the plans be revised to show street trees on both sides of the sidewalk.
2. The applicant is showing street trees being installed on both sides of the proposed north-south road. While not required by the zoning text, staff believes that this is appropriate to achieve the

desired streetscape on all streets within the zoning district. These street trees will be installed on a per site basis as development occurs.

3. The applicant is proposing to install two temporary stormwater basins within the zoning district in order to serve future development, one along Walton Parkway and one along Johnstown Road. Staff recommends that the stormwater basin along Johnstown Road be oriented to be parallel with Johnstown Road and be located behind the future horse fence alignment that has been established by the Sheetz site.
4. The final development plan shows two temporary basins. While the basins are temporary in nature, in order to ensure the stormwater basins meet city standards for design and landscaping, staff recommends a condition of approval that these stormwater basins are designed to meet the requirements of C.O. 1171.08 and are reviewed as part of a private site's future final development plan when the site develops.

▪ Lighting & Signage

1. No lighting or signage improvements were submitted as part of this final development plan.

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

The City Engineer reviewed the final development plan application and provided the following comments. Staff recommends a condition of approval that all of the comments of the City Engineer are addressed, subject to staff approval.

1. Please refer to Exhibit A. Provide a cover sheet with a signature block and note blocks in accordance with this exhibit and Code Section 1159.07(3)(V).
2. We recommend that the Trust Corps Traffic Study developed in 2006 be updated.
3. Additional R/W may be required along the development parcel's US 62 frontage.
4. Specifications regarding roadway construction, stormwater water management and sanitary sewer service will be determined during final engineering.
5. We recommend that a cross access easement be provided from Subarea A to Subarea B and the signalized intersection at US62.
6. In accordance with Code Sections 1159.07(3) Z. and AA., provide evidence showing that there are no Ohio EPA or Army Corps of Engineers permit requirements.
7. The Site Data Table on Sheet C-002 shows the site area as 87,365 SF. The zoning exhibit shows a Subarea A and B totaling 12.47 acres. Please revise the Site Data Table.
8. Some of the General Notes and Keyed Notes (see Sheets C-002 and C-003) do not appear to be applicable to a FDP and may be deleted.

#### **V. RECOMMENDATION**

Staff recommends approval of the final development application. The applicant is going beyond the requirements of the zoning text by showing street trees on both sides of the north-south road in order to achieve the appropriate streetscape design. The proposed access point locations are consistent with the approved circulation exhibit found within the zoning text. Additionally, the creation of the private access roads allow for beginning of a road network for vehicles and pedestrians similar to what is accomplished across the street at the Trust Corp site thereby accomplishing an important goal of the 2014 New Albany Strategic Plan. While these roads are private, the access road perpendicular to Johnstown Road is shown as extending in the future in order to connect to a future public street network as envisioned and recommended by the city's Strategic Plan.

#### **V. ACTION**

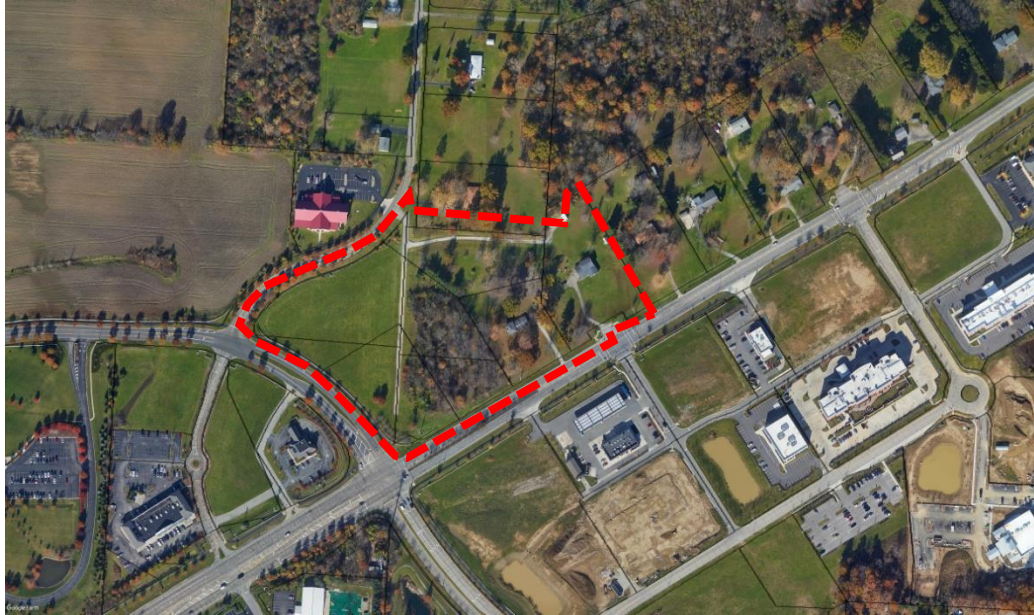
Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate:

Move to approve final development plan application **FDP-15-2020**, subject to the following conditions:



1. The access road extending from and perpendicular to Johnstown Road is built to public standards, subject to staff approval.
2. The plans must be revised to show street trees on both sides of the sidewalk along the road extending from and perpendicular to Johnstown Road, subject to staff approval.
3. The stormwater basin along Johnstown Road be oriented to be parallel with Johnstown Road and be located behind the future horse fence alignment that has been established by the Sheetz site.
4. The stormwater basins must be designed to meet the requirements of C.O. 1171.08 and be reviewed as part of future private site final development plan applications.
5. All the comments of the City Engineer must be addressed, subject to staff approval.

**Approximate Site Location:**



Source: Google Earth



**Planning Commission Staff Report  
March 16, 2020 Meeting**

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**SHEETZ  
FINAL DEVELOPMENT PLAN**

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LOCATION: Generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road (PIDs: 222-000616 and 222-000615).  
APPLICANT: Morse Road Development LLC  
REQUEST: Final Development Plan  
ZONING: Walton-62 Commerce District I-PUD  
STRATEGIC PLAN: Retail Commercial  
APPLICATION: FDP-16-2020

Review based on: Application materials received February 13<sup>th</sup> and 28<sup>th</sup>, 2020

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*Staff report prepared by Chris Christian, Planner*

**IV. REQUEST AND BACKGROUND**

The application is for a final development plan for a proposed Sheetz development generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road. This development includes a gas station and convenience store on a 2.91 acre site.

The applicant is also applying for several variances related to this final development plan under application V-18-2020. Information and evaluation of the variance requests are under a separate staff report.

This site is located within the Walton-62 Commerce zoning district which was reviewed and approved by the Planning Commission on March 18, 2019 (ZC-6-2019).

**V. SITE DESCRIPTION & USE**

The site is generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road. The site is 2.91 acres and is currently undeveloped. The applicant is proposing to build a one story gas station and store. Neighboring uses include commercial to the south, east and west as well as residential to the north.

**III. EVALUATION**

Staff's review is based on New Albany 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. 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:

- m. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- n. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- o. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*
- p. *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;*
- q. *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;*
- r. *Foster the safe, efficient and economic use of land, transportation, public facilities and services;*
- s. *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;*
- t. *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;*
- u. *Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;*

- v. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- w. *Provide an environment of stable character compatible with surrounding areas; and*
- x. *Provide for innovations in land development, especially for affordable housing and infill development.*

### **New Albany Strategic Plan Recommendations**

The 2014 New Albany Strategic Plan lists the following development standards for the Neighborhood Retail future land use category:

1. Retail buildings should have footprints no larger than 80,000 square feet, individual users should be no greater than 60,000 square feet.
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. Structures must use high quality building materials and incorporate detailed, four sided architecture.
6. 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.
7. Entrances to sites should respect existing road character and not disrupt the Green Corridors strategy objectives.
8. Walkways at least 8 feet in width should run the length of the building.
9. Green building and site design practices are encouraged.
10. Large retail building entrances should connect with pedestrian network and promote connectivity through the site.

#### **■ Use, Site and Layout**

3. The applicant proposes to develop a gas station with 14 fuel pumps with a fuel canopy and a 6,077 square foot convenience store with a drive thru. The site is generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road. The zoning text permits a maximum of one gas station within this zoning district. The proposed development is in an appropriate location given its proximity to the New Albany Business Park, State Route 161 and surrounding retail uses.
4. The development site is approximately 2.91 acres and will be accessed by a new private, access road which is on the March 16, 2020 Planning Commission agenda under application FDP-15-2020 and is evaluated under a separate staff report.
5. The zoning text requires that the total lot coverage, which includes all areas of pavement and building, to not exceed 80% of the total area. The proposed development is at 57.7% lot coverage thereby meeting this requirement.
6. The PUD zoning text requires the following setbacks from these perimeter boundaries for the convenience and gasoline canopy:
  - a. Johnstown Road (US-62):  
Required—50 foot building and pavement  
Proposed— 65 foot pavement and 189 foot building setback [requirement met]
  - b. Eastern Boundary:  
Required—10 foot pavement and 30 foot building  
Proposed— 108 foot building and 10 foot pavement [requirement met]

7. The PUD zoning text also requires the following setback for the locations of gasoline service station pumps:

Required—75 foot setback from the northern property line

50 feet from US-62

10 feet from eastern interior parcel line

10 feet from western interior parcel line

Proposed—276 feet from the northern property line

90 +/- feet from US-62

76 feet from the eastern interior parcel line

50 feet from the western interior parcel line [all requirements met]

8. The applicant indicates that the development will utilize an underground stormwater detention basin.

■ **Access, Loading, Parking**

1. The applicant proposes to install a right-in access drive for this site on Johnstown Road. This right-in curb-cut is not is not permitted per the zoning text and the applicant is requesting a variance to allow this improvement. This variance is evaluated under a separate staff report (V-18-2020).
2. According to zoning text section III(B)(4) the applicant is required to install an 8 foot wide, asphalt leisure trail along Johnstown Road. The applicant is meeting this requirement.
3. Per zoning text section III(B)(4) the applicant is required and proposes to install a 5 foot wide, concrete sidewalk along the east side of the private access road that extends north from Johnstown Road. The text also requires, and the applicant is providing a striped pedestrian connection from the building to the sidewalk through the parking lot.
4. The site is accessed by two curb-cuts off a proposed new private access road. The proposed northern curb-cut does not align with the proposed internal private road aisle that is being developed within the overall zoning district. The city engineer recommends the curb cut for this site be shifted to align with the internal private access road to ensure the safe flow of traffic entering and exiting the site. Staff recommends a condition of approval that the northern curb cut to this site be revised so that it aligns with the private access road.
5. The city parking code does not have parking standards for convenience stores associated with a gasoline station use. According to zoning text section III(B)(1) the Planning Commission shall review and approve the amount of parking provided when a particular use does not have a parking requirement defined in the city parking code.
  - a. The applicant is providing 54 parking spaces on site. The applicant states that for this user, between 40-45 parking spaces are typically provided for customers and 8-10 additional spaces for employees. Staff is supportive of the number of parking spaces provided on site.
  - b. Per Codified Ordinance 1167.05(d)(8) gasoline service stations require 2 for each service bay plus 1 for each 2 gasoline dispensing units, plus 1 for each employee during main shift. This site has 14 gasoline pumps and could have up to 10 employees during the main shift resulting in 17 parking spaces being required.
  - c. City code does not have specific parking space requirements for convenience stores associated with a gasoline station use. The closest use within the city parking code is retail shopping centers which require one parking space for each 200 square feet of gross floor area. The convenience store is 6,077 square feet which would require 30 parking spaces. The applicant is providing 54 parking spaces which appears to accommodate both the gasoline pump and convenience store uses.
  - d. City code requires restaurants with drive-thru facilities to provide additional spaces in the drive thru lanes equal to 25% of their required number of parking. While this is not

considered a restaurant and the Planning Commission must determine the appropriate amount of spaces, if this calculation is applied to the site the applicant would be required to provide nine (9) spaces for stacking in the drive thru lane. It appears to be being met. Staff recommends that the Planning Commission confirm with the applicant that nine (9) vehicles are able to be parked within the drive thru lane based on the proposed parking amount.

6. Per C.O. 1167.03(a) the minimum parking space dimensions required are 9 feet wide and 19 feet long. The applicant is proposing to install parking spaces that are 10 feet wide and 20 feet long. The 9x19 spaces have been installed and sufficiently met other gas stations within New Albany such as the Englefield Oil site which is a similar use. Staff recommends a condition of approval that the parking space dimensions are reduced to 9'x19' in order to reduce the amount of pavement on the site.
7. Per C.O. 1167.03(a) the minimum maneuvering lane width size is 22 feet for this development type. The applicant is proposing maneuvering lanes with varying widths throughout the site that are between 32 and 50 feet. The applicant has submitted a truck turning analysis to justify the wide drive aisles. While the turning study shows a need for wider drive aisles than the city's typical 22 foot, it appears the aisles on the east and west sides (that run perpendicular to Johnstown Road) can be slightly reduced and still allow trucks to safely travel through the site. The proposed maneuvering lanes are wider than what was approved for both the Englefield Oil site and the Turkey Hill site. Reducing the lanes widths to 30 feet on the east and west sides of the site will result in less paved area on the site and having more consistency with other gas stations in the community. Staff recommends a condition of approval that the maneuvering lane widths on the east and west sides of the site be reduced to 30 feet.
8. The applicant is also installing an 18 foot wide drive thru lane on the east side of the property. The drive lane appears to be overly wide. Reducing the drive thru lane to 14 feet will still allow safe travel and be able to accommodate larger personal vehicles. Staff recommends a condition of approval that the drive thru lane width be reduced to 14 feet.
9. The zoning text requires a 10 foot pavement buffer and that the developer install landscaping that achieves 75% opacity screening (within 5 years of planting) in this buffer area next to the residentially zoned and used property to the east. While the applicant is meeting both of these requirements, there appears to be excess pavement on the site that could be reduced. Additionally, while not required, the typical residential buffer zone is 25 feet wide. Staff has recommended conditions of approval that would require the applicant to reduce parking space dimensions, maneuvering lane widths and the width of the drive thru lane. Staff recommends the extra green space from those pavement reductions be applied to this eastern buffer area. These pavement reductions result in a total of 22 feet of separation along this property line. This additional space will allow for a more naturalized planting design which is more appropriate for the neighboring residential use. Staff recommends a condition of approval that these reductions in overall pavement area are made in a way that provides more separation between this site and the adjacent residential property to the east.
10. According to C.O. 1167.06(b)(2) the applicant is required to provide one off street loading space. The applicant is meeting this requirement by providing one loading space on the northern portion of the site.
11. Per zoning text section III(B)(2) the applicant is required to install 3 bicycle parking spaces on site. The applicant is meeting this requirement.

■ **Architectural Standards**

1. The purpose of the New Albany Design Guidelines and Requirements is to help ensure that the New Albany community enjoys the highest possible quality of architectural design.
2. The zoning text contains architectural standards and regulated by Section 6 of the Design Guidelines and Requirements (Commercial outside the Village Center).

3. The zoning text states that the maximum building height within this zoning district shall not exceed 35 feet. The proposed building height is approximately 27 +/- feet therefore this requirement is being met. The canopy height is 20 feet and is also meeting this requirement.
4. The applicant is proposing to use two different colors of brick, metal and hardie board as building materials. The zoning text permits the use of these materials such as brick, pre-cast stone, wood, glass and other synthetic materials are permitted as long as they are used appropriately. The city architect has reviewed the application and is supportive of the overall design, stating that the use of the same building materials on both the building and the gas station are appropriate and help establish an architectural relationship between the two structures.
5. Zoning text section III(C)(4)(6) states that all visible elevations of a building shall receive similar treatment in style, materials and design so that no visible side is of a lesser visual character than any other. The applicant is accomplishing this requirement by utilizing four sided architecture.
6. DGR Section 6(I)(A)(12) states that buildings shall have operable and active front doors along all public and private roads. The applicant is meeting this requirement.
7. C.O. 1171.05(b) states that all trash and garbage container systems must be screened. The applicant proposes to install a dumpster enclosure thereby meeting this requirement.

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

1. Zoning text section III(D)(1)(a) states that street trees are required to be installed along Johnstown Road and the applicant is meeting this requirement. The zoning text also requires a double row of street trees to be installed along the private road that extends north from Johnstown Road and the applicant is meeting this requirement.
2. Per zoning text section III(D)(1)(b) a four board horse fence is required to be installed along Johnstown Road and the applicant is meeting this requirement.
3. Per zoning text requirement III(D)(1)(c) a minimum 30 inch tall landscape hedge must be provided along the perimeter of the parking lot to provide screening from public-rights-of-way and the applicant is meeting this requirement.
4. Per zoning text requirement III(D)(1)(d) 8 trees per 100 lineal feet must be provided throughout the setback area along Johnstown Road. The applicant is meeting this requirement by providing 26 trees along Johnstown Road.
5. Zoning text requirement III(D)(4)(c) states that a minimum of 8% of the total parking lot area shall be landscaped. The applicant is meeting this requirement as 8.6% of the total parking lot area is landscaped.
6. Per C.O. 1171.06(3) parking areas should contain a minimum of one tree for every 10 parking spaces. The applicant is providing 54 parking spaces and is therefore required to install 5 trees. The applicant is exceeding this requirement by providing 9 trees within the parking area.
7. The city landscape architect has reviewed the application and provided the following comments. These comments can also be found in a separate memo attached to this staff report. Staff recommends a condition of approval that the city landscape architect comments are addressed, subject to staff approval.
  - Align curb cut/drive along northwestern site with proposed road alignment on adjacent property. See diagram.
  - Reduce parking space typical size to the City of New Albany standard 9'x19' to reduce impervious paving footprint. See diagram.
  - Reduce drive thru order lane to 14' to match drive thru lane along building. See diagram.
  - Reduce 32' wide drive lanes to 30'. 35' wide lanes may remain for truck maneuverability. See diagram.
  - The culmination of pavement reduction of comments 1-4 should be accrued along the northeaster property line creating a +/- 22' wide planting buffer between the edge of

pavement of the drive thru lane and the property line adjacent to existing residential. See diagram.

- Confirm color of composite planks on the dumpster enclosure doors.
- Remove plant material around monument sign and install only turf to match existing precedent signage along Johnstown Road. Relocate sign between street trees (see comment h). See diagram.
- Street trees should be relocated to the tree lawn between the leisure trail and the four-rail horse fence to avoid overhead power lines and match the existing Johnstown Road streetscape along the Trust Corp site. Selected species should be large deciduous street trees at 3" minimum caliper and should be 30' O.C. per City of New Albany standard. See diagram.
- The single-stem ornamental trees shown as street trees should, instead, be used at random plantings under the overhead power lines. This matches the existing Johnstown Road streetscape, but is accommodating to the overhead power line condition. See diagram.
- Add 20-25' wide planting buffer along northeastern and northwestern property lines to screen site from adjacent residential lots per City code. This buffer should reach 75% opacity within 5 years and should be a mix of evergreen trees and deciduous trees and placed in random massings. See diagram.
- The total required tree count along Johnstown Road including both trees per linear foot and street trees per 30' should remain the same; however, the additional trees not shown in the diagram along the Johnstown Road frontage may be relocated to the northeastern and northwestern property lines for the required residential buffer.
- Confirm Sea Green Juniper is the selected species. Botanical name on plans is not Sea Green Juniper. Pfitzer Juniper is not an acceptable parking screening species, but Sea Green Juniper is acceptable.

#### ■ *Lighting & Signage*

1. A detailed photometric plan has been submitted that has zero foot candle intensity along all parcel boundaries.
2. The proposed site lighting is down cast. The zoning text also requires site lighting to be cut off. The applicant is proposing to use all cut off light fixtures on site therefore this requirement is being met.
3. As part of this final development plan application, the applicant has submitted a sign plan for the site. Several variances are required to allow this signage to be installed and those variances are identified below. The variances are evaluated in a separate staff report.

#### **Wall Signs**

The zoning text and C.O. 1169.15(d) permits a wall sign on each building frontage, with 1 square foot in area per linear square foot of building frontage, not to exceed 75 square feet. The applicant proposes three identical wall signs to be installed on the northern and southern building elevations with the following dimensions:

- a. Lettering Height: Less than 24 inches [meets code]
- b. Area: 25.94 square feet [meets code]
- c. Location: One on the southern elevation, one on the northern elevation and one on the eastern elevation. The applicant requests a variance to exceed the number of permitted wall signs.
- d. Lighting: Downcast gooseneck [meets code].
- e. Relief: Not provided. Staff recommends a condition of approval that the proposed wall signs have a minimum of 1 inch relief
- f. Colors: Red, yellow and white (total of 3) [meets code].

- g. Material: The material for all of the proposed signs was not indicated on the plans Staff recommends a condition of approval that the material used for the signs must meet city sign code requirements.
- All three signs will feature the company logo and read “Fresh Food, Made to Order”

#### **Ground Mounted Sign**

The zoning text states that all ground mounted signage shall be consistent with the specifications found in the 2013 Trust Corp Signage Recommendations Plan. The applicant is requesting to install one ground mounted sign with the specifications listed below. The applicant is meeting a majority of the recommendations of the sign plan however there are some revisions needed, such as adding the 4 inch white tube around the edge of the sign and modifying the gas station product pricing to match the plan recommendations. Staff recommends a condition of approval that the sign design and materials must match the recommendations of the 2013 Trust Corp Signage Recommendations Plan.

- a. Area: 27.81 square feet [meet code]
- b. Location: One perpendicular to Johnstown Road [meets code]
- c. Lighting: None [meets code].
- d. Relief: 12.8 feet [meets code]
- e. Colors: Black, green and white (total of 3) [meets code].
- f. Materials: Brick with a precast cap [meets code]
- The sign will feature the company logo and provide gas pricing information.

#### **Window Signs**

C.O. 1169.15(e) allows a window sign on up to three first floor windows and each sign may take up a maximum of 25% of the window area. The applicant is requesting a variance to install seven window signs. This request is evaluated under a separate staff report.

- a. Area: 1.60 square feet (12% of the window area) [meets code]
  - b. Lighting: None [meets code].
  - c. Colors: Red, yellow and white (total of 3) [meets code]
  - d. Material: Vinyl [meets code]
  - All seven signs will feature the company logo and read “Fresh Food, Made to Order”
4. The applicant is proposing to install a 25 square foot menu board sign, located on the eastern side of the site which is permitted per C.O. 1169.11(c). This sign is meeting all code requirements.
  5. The applicant is also proposing to install signs on the gas station pumps which is permitted per C.O. 1169.11(b). These signs are meeting all code requirements.

#### **IV. ENGINEER’S COMMENTS**

The City Engineer has reviewed the application and provided the following comments. These comments can also be found in a separate memo attached to this staff report. Staff recommends a condition of approval that the comments of the city engineer are addressed, subject to staff approval.

9. Please refer to Exhibit A. Provide a cover sheet with a signature block and note blocks in accordance with this exhibit and Code Section 1159.07(3) V.
10. Revise the plans so that the northern curb cut aligns with the private drive on the east.

11. In accordance with the Traffic Impact Study, revise the plans to show a 245' right turn lane where the temporary RI/RO curb cut is shown.
12. Specifications for constructing internal roadways, drive aisle widths and sanitary sewer service will be determined when final engineering plans are submitted.
13. Please revise the bar scale shown on sheet C-111 to 1" = 20'.
14. In accordance with Code Sections 1159.07(3) Z. and AA., provide evidence showing that there are no Ohio EPA or Army Corps of Engineers permit requirements.

## **V. RECOMMENDATION**

Staff recommends approval of the Sheetz final development plan provided that the Planning Commission finds the proposal meets sufficient basis for approval. The proposal is meeting many of the goals of the 2014 New Albany Strategic Plan such as providing pedestrian access along roadways and into the site and utilizing high quality building materials by incorporating four-sided architecture. The proposed development is in an appropriate location given the context of the surrounding area and will serve as an amenity for the New Albany Business Park. The proposed building and fuel canopy are very well designed and the use is appropriate given the surrounding commercially zoned area. Additionally, the streetscape matches what is established across the street at the Canini Trust Corp development site in order to achieve a uniform street design along this primary corridor of the city.

Although the site is auto-oriented and must adequately serve large fueling trucks, it appears there is opportunity to reduce the pavement within certain sections of the site without negatively affecting trucks ability to safely navigate the site. With staff's recommended pavement reductions, a larger buffer can be accomplished between this commercial use and the existing residentially used property to the east. This will ensure the site meets the 2014 New Albany Strategic Plan recommendation that landscaping be high quality, enhance the site and contribute to the natural, pastoral setting of New Albany. And that heavy, but appropriate landscaping is necessary to buffer these uses from any adjacent residential areas.

## **V. ACTION**

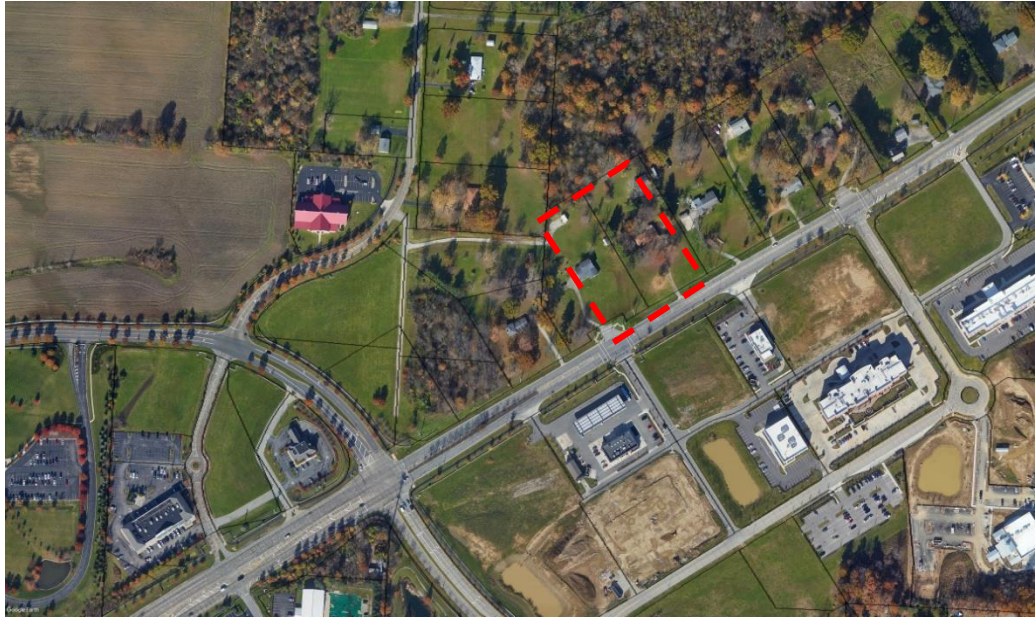
Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate:

### **Move to approve final development plan application FDP-16-2020, subject to the following conditions:**

1. The northern curb cut to this site must be revised so that it aligns with the private drive aisle that is being proposed for the overall zoning district and the final design of the re-alignment be subject to staff approval.
2. On-site parking space dimensions be reduced to 9x19.
3. The maneuvering lane widths on the east and west sides of the site must be reduced to 30 feet.
4. The drive thru lane width be reduced to 14 feet in width.
5. The reductions in overall pavement area provide more separation between this site and the adjacent residential property to the east.
6. The comments of the City Landscape Architect must be met, subject to staff approval.
7. The proposed wall sign material meet city sign code requirements.
8. The proposed wall signs must have a minimum of 1 inch of relief.
9. The ground mounted sign design and materials match the recommendations of the 2013 Trust Corp Signage Recommendation Plan.
10. The City Engineer's comments must be addressed subject to staff approval.

## **Approximate Site Location**





Source: Google Maps



**Planning Commission Staff Report  
March 16, 2020 Meeting**

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**SHEETZ  
VARIANCES**

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LOCATION: Generally located north of US-62, east of Walton Parkway and south of Bevelhymmer Road (PIDs: 222-000616 and 222-000615).

APPLICANT: Morse Road Development LLC

REQUEST:

- (A) Variance to C.O. 1169.16(e) to allow seven (7) window signs to be installed on the building where code allows a maximum of three (3).
- (B) Variance to C.O. 1169.16(d) to allow two wall signs to be installed building elevations that do not front onto public roads.
- (C) Variance to C.O. 1169.18(b) to allow two directional signs to be greater than 4 feet in height.
- (D) Variance to zoning text section III(E)(2) to allow propane tanks and an ice box to stored and located outside of the building where the zoning text prohibits the exterior storage of products.
- (E) Variance to zoning text section (III)(B)(3) to allow a temporary right in only vehicular access point to be constructed along Johnstown Road where the zoning text prohibits the curb cut.

ZONING: Walton-62 Commerce District I-PUD

STRATEGIC PLAN: Retail Commercial

APPLICATION: V-18-2020

Review based on: Application materials received February 28, 2020

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*Staff report prepared by Chris Christian, Planner*

**VI. REQUEST AND BACKGROUND**

The applicant requests variances in conjunction with the final development plan for a Sheetz gas station and convenience store located north of US-62, east of Walton Parkway and south of Bevelhymmer Road.

The applicant requests the following variances:

- (A) Variance to C.O. 1169.16(e) to allow seven (7) window signs to be installed on the building where code allows a maximum of three (3).
- (B) Variance to C.O. 1169.16(d) to allow two wall signs to be installed on building elevations that do not front public roads.
- (C) Variance to C.O. 1169.18(b) to allow two directional signs to be greater than four (4) feet in height.
- (D) Variance to zoning text section III(E)(2) to allow propane tanks and an ice box to be located outside of the building where the zoning text prohibits the exterior storage of products.

- (E) Variance to zoning text section (III)(B)(3) to allow a temporary, right in only vehicular access point to be constructed along Johnstown Road where the zoning text prohibits the curb cut.

#### **IV. SITE DESCRIPTION & USE**

The site is generally located north of US-62, east of Walton Parkway and south of Bevelhymer Road. The site is 2.91 acres and is currently undeveloped. The applicant is proposing to build a one story gas station and store. Neighboring uses include commercial to the south, east and west as well as residential to the north.

#### **V. 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 Board 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.

- 13. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
- 14. Whether the variance is substantial.*
- 15. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
- 16. Whether the variance would adversely affect the delivery of government services.*
- 17. Whether the property owner purchased the property with knowledge of the zoning restriction.*
- 18. Whether the problem can be solved by some manner other than the granting of a variance.*
- 19. 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*):

- 20. 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.*
- 21. 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.*
- 22. That the special conditions and circumstances do not result from the action of the applicant.*
- 23. 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.*
- 24. 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.*

#### **III. RECOMMENDATION**

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

**(A) Variance to C.O. 1169.16(e) to allow seven (7) window signs to be installed on the building where code allows a maximum of three (3).**

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

1. The applicant proposes to install seven identical window signs on the building where city code permits a maximum of three.
2. The applicant states that these signs are installed on every glass door that is used as customer entrances in order to help customers identify the closest entry-way into the building.
3. The variance does not appear to be substantial. The site is large with parking on all four sides of the building. The applicant states that the window signs are utilized on every door in order to help customers locate a building entrance which is appropriate in this case.
4. The variance request meets the spirit and intent of the city sign code which is to ensure appropriate sign design. The window signs are 1.6 square feet in size and are appropriately scaled to the overall window area. City sign code permits window signs to take up a maximum of 25% of the window area. The applicant proposes signs that cover 12% of each door's window space.
5. It does not appear that the essential character of the neighborhood would be altered if the variance request is granted. While the applicant is proposing to install four more window signs than what is permitted, the proposed window signs are appropriately scaled in relation to the door windows that they are on and do not appear to add any visual clutter to this site.
6. It does not appear that the variance would adversely affect the delivery of government services, 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.

**(B) Variance to C.O. 1169.16(d) to allow two (2) wall signs to be installed on building elevations that do not front public roads.**

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

1. The city sign code permits one wall sign for each building frontage. Frontage is defined in code as a portion of a lot that directly abuts a street. Furthermore, streets are defined as a road that is within the right-of-way. The building only abuts a public right-of-way in one location, along Johnstown Road and therefore is permitted to install one wall sign along this elevation.
2. The applicant proposes to install two wall signs on building elevations that do not front onto a public road. A total of three wall signs are proposed by the applicant. The wall sign along Johnstown Road is permitted by code. This variance is to allow one sign to be on the northern elevation and one on the southern elevation which abuts a private access road.
3. The variance does not appear to be substantial. The Canini Trust Corp zoning text as well as the Beech Crossing text, both of which allow for this type of use, permit signs to be installed on building elevations that front onto both public and private roads. The southern building elevation fronts onto a private access road. Further expansion of this use type of use is envisioned going north in the future along with a future road directly north of this site. Given the private access road to the south and planned future commercial development to the north, the signs appear to be appropriately located on the building.
4. The request does not appear to be substantial since they are all appropriately placed on the building. All three signs have the same design and are placed above customer entrances.
5. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted. The adjacent, Canini Trust Corp permits signage to be installed on building elevations that do not front onto a public street. The Marriot, Hampton Inn, Home2 Suites and the New Albany Ballet Company all have signage installed on building elevations that do not front onto a public street as permitted in the zoning text.
6. It does not appear that the variance would adversely affect the delivery of government services, 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.

**(C) Variance to C.O. 1169.18(b) to allow two directional signs to be greater than 4 feet in height.**

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

1. The applicant requests a variance to allow a 12 foot tall "Drive Thru Enter Here" and clearance bar directional sign as well as a 13 foot tall "Order Here 24/7" directional sign where codes permits a maximum height of 4 feet for these sign types. These signs will be used to provide direction for drive-thru customers. These signs will be located generally on the eastern side of the site along with a menu board which meets code requirements.
2. The city sign code refines a directional sign as "a sign which locates features within a lot or indicates points of ingress or egress for automobile traffic." The sign code does appear to have contemplated a directions sign for this type of use which appears to be necessary due to the nature of the business.
3. The variance does not appear to be substantial. The signs clearly serve a functional purpose by providing better direction for customers on site. Additionally, while these signs will be taller than what is permitted by code, they will be set back far into the site which will lessen their visual impact from Johnstown Road. These signs will be screened by the required landscape buffer along this property line that achieves 10 feet in height and 75 opacity within 5 years planting.
4. It does not appear that the variance would adversely affect the delivery of government services, 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.

**(D) Variance to zoning text section III(E)(2) to allow propane tanks and an ice box to be located outside of the building where the zoning text prohibits the exterior storage of products.**

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

1. The applicant is requesting a variance to allow an ice box and propane storage station on the outside of the building. The zoning text does not allow any products to be stored outside of the building.
2. The intent of this requirement is likely to ensure there is not an abundance of "clutter" on the outside of buildings.
3. The variance does not appear to be substantial as the applicant is only proposing to store two products outside the permitted building. Similar variances were granted for both Turkey Hill and Englefield Oil, both of which are similar uses. The variance will not impact existing development, as the ice box and propane storage station will likely generate very little extra visitors compared to the main function of the Sheetz convenience store.
4. It does not appear that the essential character of the neighborhood since they will be screened from Johnstown Road by a wall on both sides. The brick is the same material that is used on the rest of the building so it will not appear out of place. Additionally, it is likely that the required setback landscaping will provide additional screening from Johnstown Road.
5. The variance preserves the "spirit and intent" of the zoning requirement since the product area will be appropriately screened from the primary street (Johnstown Road) and neighboring properties with the screening walls.
6. It does not appear that the variance would adversely affect the delivery of government services, 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.

**(E) Variance to zoning text section (III)(B)(3) to allow a temporary, right in only vehicular access point to be constructed on Johnstown Road where the zoning text prohibits the curb cut.**

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

1. The applicant is requesting a variance to allow a temporary, right in only access point to be constructed off of Johnstown Road.
2. The zoning text permits a maximum of four vehicular access points within the entire zoning district at certain prescribed areas. The proposed access point at the Sheetz site is not permitted in the text so a variance is required in order for it to be constructed.
3. The variance request does not appear to be substantial since the curb cut is temporary in nature. Overall, access to the entire zoning district is planned to match the curb cuts across the street at the Trust Corp site. The Trust Corp site has shared right-in, right-out access points located mid-way between signalized intersections. A future right-in, right-out vehicular access point is planned to be installed along Johnstown Road, just north of this site if and when it redevelops to a commercial use. The Sheetz plans contain a cross access easement to permit access to and from the future right-in, right-out. The applicant has submitted a right-of-way removal agreement that will be recorded with the county. It requires the Sheetz property owner to remove it once the future right in, right out access point is built to the north. Staff recommends a condition of approval that the right of way removal agreement is executed and recorded prior to a permit being issued for the construction of the temporary curb cut.
4. It does not appear that the essential character of the neighborhood will be altered by granting this variance request. The city envisions a future right in, right out access point just north of this site. This temporary right in access point has been reviewed and approved by the city engineer. The applicant is providing a drop lane that will allow turning traffic to slow down before making the turn into the site which will lessen the impact on through traffic along Johnstown Road. Based on existing traffic studies of the Johnstown Road corridor, this drop lane will remain and be re-utilized as a through-lane after the right-in is removed.
5. It does not appear that the variance would adversely affect the delivery of government services, 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.

## **VI. RECOMMENDATION**

Staff recommends approval of the requested variances should the Planning Commission find that the application has sufficient basis for approval. It appears that the variances are appropriate based on the proposed use of the site as a gas station and convenience store. While the applicant will be permitted to install more signage than what is permitted, the signage is designed and scaled appropriately in the relation to the building and the site overall. Therefore it does not appear to be substantial or change the essential character of the area since it does not add any visual clutter to the site. Given the future plans for this area, allowing two wall signs to be installed on elevations that do not abut public right-of-way is appropriate due to the fact that the site is surrounded by existing and future commercial areas. Additionally the same variances have been approved across the street at the Canini Trust Corp. Staff believes that the request to install the temporary curb cut is not substantial due to the fact that it is temporary and must be removed in the future. Lastly, it does not appear that the granting of the variances will 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.

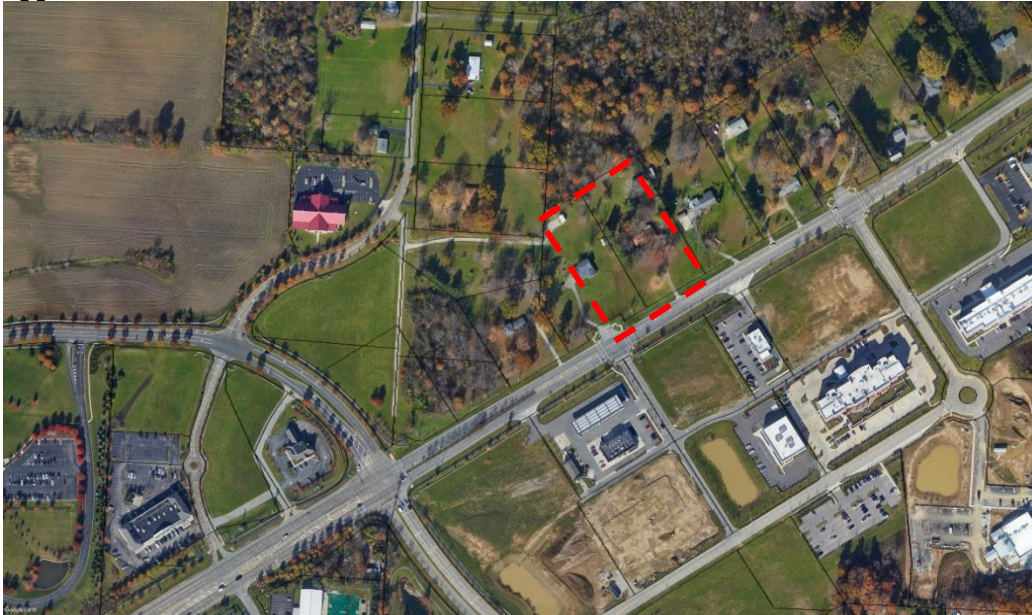
## **V. ACTION**

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (The Planning Commission can make one motion for all variances or separate motions for each variance request):

### **Move to approve application V-18-2020.**

1. The right of way removal agreement must be executed and recorded prior to a permit being issued for the construction of the temporary curb cut.

### **Approximate Site Location:**



Source: Google Maps





**Planning Commission Staff Report  
March 16, 2020 Meeting**

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**JUG ROAD AND INNOVATION CAMPUS WAY WEST  
CONDITIONAL USE**

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LOCATION: Generally located north of and adjacent to Innovation Campus Way West (PIDs: 222-005107 and 222-002133)  
APPLICANT: The New Albany Company LLC c/o Aaron Underhill, Esq.  
REQUEST: Conditional Use for Manufacturing and Production  
ZONING: L-GE Limited General Employment District  
STRATEGIC PLAN: Office District  
APPLICATION: CU-19-2020

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Review based on: Application materials February 18, 2020

*Staff report completed by Chris Christian, Planner*

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**VII. REQUEST AND BACKGROUND**

The applicant requests approval for manufacturing and production as a conditional use for 34.4+/- acres within a portion of the Jug Road and Innovation Campus Way West. The subject property is zoned L-GE and the proposed conditional use will allow for the manufacturing, processing, fabrication, packaging, or assembly of goods. If approved, the conditional use will apply to 34.4+/- acres within the overall 170.18+/- acre zoning district.

**II. SITE DESCRIPTION & USE**

This site is located within the Jug Road and Innovation Campus Way West district which was rezoned on August 3, 2018 via Ordinance O-12-2018. The site is located north of and adjacent to Innovation Campus Way West. Current permitted uses at this site include: warehouse and distribution, research and production, data center and office uses. The neighboring uses and zoning districts include L-GE to the east, west and south and residential uses to the north. The site is currently undeveloped.

**III. EVALUATION**

The general standards for Conditional Uses are contained in Codified Ordinance Section 1115.03. The Planning Commission shall not approve a conditional use unless it shall in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use at the proposed location meets all of the following requirements:

- (a) *The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Ordinance.*
  - The limitation text associated with the rezoning of the property places additional requirements above the General Employment District requirements on the development of the property. These requirements further ensure that the character of the area is preserved and enhanced by future development.



- The Planning Commission has approved the same request for numerous other zoning districts on the north side of State Route 161. Manufacturing and production uses are permitted use in the following zoning districts: Harrison East, Harrison West, the Winding Hollow zoning districts as well as Beech Road West and Innovation District Subarea A, both of which are just east of this property.
- The limitation text establishes setbacks that are more stringent than the minimum GE requirements.
  - The text requires a minimum pavement and building setback of 100 feet from Jug Street right-of-way and a minimum pavement and building setback of 25 feet from the Innovation Campus Way right-of-way.
  - There shall be a minimum pavement setback and 100 foot building setback from all perimeter boundaries of this zoning district that are adjacent to a property where residential uses are permitted.
  - The property is directly adjacent to three residentially used properties where the setbacks are increased even further. The zoning text states that for these properties, there shall be a minimum 60 foot pavement setback and a building setback of 125 feet.
- The text also establishes screening for adjacent residential uses. A developer is required to install a minimum 6 foot high mound along any property line that is adjacent to a residentially zoned property and be planted with a landscape buffer that provides 75% opacity within five years after planning to a total height of 10 feet above ground level. The property is directly adjacent to three residentially used properties where the mound must be a minimum of 8 feet in height and the required landscape screening must also be provided.
- A private site improvement plan that establishes grading and underground utilities for the site has been submitted to the city and meets all of the mounding requirements. A building permit has not been submitted and there is no known end user(s) for the site at this time. Site and building plans for proposed developments within this subarea will be approved on a user by user basis. Approval of these individual site plans should be subject to staff approval, as part of the approval of individual zoning & building permits.
- The Planning Commission has approved similar conditional use applications for manufacturing and production uses in other zoning districts within the New Albany Business Park. This has enabled the city to land several economic development projects with quick construction timelines. To maintain a competitive advantage over other locations, upon approval of the conditional use application it will be exempt from time limitations of C.O. 1115.07. Because speed to market is one of the most important factors when a company is undertaking site selections, having the conditional use previously approved has a positive benefit to the city's economic development goals and fiscal strength.

*(b) The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*

- The proposed use will complement the office and distribution uses which are permitted uses within the overall area. The New Albany Business Park contains of five industry clusters. This portion of the business park is planned for manufacturing, warehousing, and distribution uses. New Albany's Personal Care and Beauty Campus is the first of its kind in the country, and has attracted global industry leaders as a result of its ability to seamlessly integrate product manufacturing, labeling, packaging and distribution within a single campus.
- Additional design guidelines for warehouse type manufacturing facilities contained in the zoning text further ensure their compatibility with the character of the area. The same architectural requirements as the surrounding commercial areas are required.
- 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. Jug Road and Innovation Campus Way West text includes specific design requirements for uses not governed by the DGRs, which ensures the quality design of these buildings.

(c) *The use will not be hazardous to existing or future neighboring uses.*

- The use will be subject to Codified Ordinance Section 1153.06 which requires that no land or structure within the GE District shall be used or occupied in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable impact on any land which is located in any other zoning district.

(d) *The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*

- This site is located north of and adjacent to Innovation Campus Way West. This conditional use will not have any more impact on public facilities and services than will the uses that are permitted in the underlying zoning. Sewer and water service is available for the extension in this location.
- The proposed manufacturing and production use will produce no new students for the school district.

(e) *The proposed use will not be detrimental to the economic welfare of the community.*

- The proposed manufacturing and production uses will generate income tax for the City by the creation of new jobs.

(f) *The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*

- The use will be subject to Codified Ordinance Section 1153.06 which requires that no land or structure within the GE District shall be used or occupied in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable impact on any land which is located in any other zoning district.
- The zoning text requires the complete screening of roof-mounted equipment on all four sides of the building with materials that are consistent and harmonious with the building's façade and character for sound and views. This will provide additional noise abatement to neighboring properties in addition to improved aesthetics.

(g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*

- The infrastructure in this portion of the city is being designed to accommodate the traffic associated with commercial uses.
- There is no reason to believe that that traffic generated by the manufacturing and production uses will have any greater impact than traffic for permitted users in the GE district. The limitation text commits to provide additional right-of-way along major corridors to ensure there is adequate service.
- Due to the proximity of this site to the State Route 161 interchange and its location adjacent to commercially zoned land in the existing business park to the east, south and west, the site appears to be most appropriate for manufacturing and production uses.

## **V. RECOMMENDATION**

***Basis for Approval:***

The overall proposal appears to be consistent with the code requirements for conditional uses and meets the development standards and recommendations contained in the 2014 New Albany Strategic Plan and the New Albany Economic Development Strategic Plan. The proposed manufacturing and production use will likely compliment the permitted uses within the subarea. The New Albany Business Park contains infrastructure designed to accommodate the traffic associated with manufacturing and production uses and is strategically located close to State Route 161. The zoning text requires greater separation and landscape screening requirement from residentially zoned properties than what would normally be required in a General Employment (GE) zoning district. This conditional use meets the recommendations in the New Albany Economic Development Strategic Plan by providing additional business type diversity, and attracting supply-chain and technology industries and technology.

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

**VI. ACTION**

**Suggested Motion for CU-19-2020:**

**To approve conditional use application CU-19-2020 based on the findings in the staff report with following condition of approval (conditions may be added)**

1. Approval of individual site plans for manufacturing and production users are subject to staff approval to confirm compliance with all applicable zoning requirements.

**Approximate Site Location:**

