


New Albany Planning Commission
May 17, 2021 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 7:06 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. Brad Shockey	Absent
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Andrea Wiltrout	Present
Mr. Matt Shull (Council liaison)	Present

(Mr. Kirby, Mr. Wallace, Mr. Schell, Ms. Wiltrout, and Mr. Shull present via Zoom.com).

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

Moved by Mr. Wallace, seconded by Mr. Kirby to approve the April 19, 2021 meeting minutes. Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Wiltrout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

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

Mr. Christian stated none from staff.

Mr. Wallace noted two applications from the prior month's meeting had been tabled until this evening's meeting but he did not see them on the Agenda.

Mr. Christian noted the applicant had withdrawn the previously tabled applications for CU-7-2021 and CU-9-2021.

Mr. Kirby swore all who would be speaking before the Planning Commission (hereafter, PC) this evening to tell the truth and nothing but the truth.

Mr. Underhill stated he swore to tell the truth and nothing but the truth.

Mr. Kirby asked if there were any persons wishing to speak on items not on tonight's Agenda. (No response.)

Mr. Christian reviewed the process on how to speak on the Zoom meeting if anyone wanted to participate.

TM-44-2021 Text Modification

Text modification to the Walton-62 Commerce District I-PUD zoning district to add standard provisions relating to the variance and appeals(PIDs: 222-000616and 222-000617).

Applicant: New Albany Company LLC, c/o Aaron Underhill, Esq.

Mr. Christian presented the staff report.

Mr. Kirby asked for confirmation there were no Engineering comments.

Mr. Christian stated there were not.

Mr. Kirby asked to hear from the applicant.

Mr. Aaron Underhill, attorney for the applicant, discussed the application.

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

Mr. Wallace stated he had noticed a wording issue in Section 3 and was glad Mr. Christian had mentioned it in his presentation. Mr. Wallace stated he believed that Section 1B should use more gender neutral pronouns.

Mr. Underhill stated that was fine.

Mr. Wallace asked if this was standard language that would be in other PUD zoning text.

Mr. Christian stated yes.

Mr. Wallace asked if these types of variances were decided under the Duncan factors.

Mr. Christian stated they would be evaluated against the Duncan factors.

Mr. Banchefsky stated that was correct.

Mr. Wallace asked Mr. Banchefsky if the language in Section 2 changed the standard due from the Duncan factors.

Mr. Mayer stated it was boilerplate language from the city's codified ordinances and that the Duncan factors will continue to be used. Mr. Mayer stated the only change would be procedural in that now the PC, not the Board of Zoning Appeals, would hear the variances but the evaluation of variances would be under the Duncan factors.

Mr. Kirby asked if that answered the question.

Mr. Wallace asked if Section 2 was necessary.

Mr. Underhill stated he believed the language was from 1998 and had been used since then. Mr. Underhill said it had been interpreted as a recitation of code and there were numerous examples where the Duncan factors had been applied, as Mr. Mayer stated.

Mr. Wallace stated okay.

Mr. Schell stated that if the City was comfortable with the verbiage then he was too.

Moved by Mr. Kirby to accept the staff reports and related documents into the record for TM-44-2021, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Kirby, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Ms. Wiltrout to approve application TM-44-2021 based on the findings in the staff report, with the conditions listed in the staff report, subject to staff approval, seconded by Mr. Schell. Upon roll call: Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Other Business

Mr. Kirby asked if there was any other business.

Mr. Christian stated no.

Mr. Mayer stated that another application for formal review would occur on June 7, 2021 and asked PC members to let staff know if they would be available for the meeting.

Ms. Wiltrout, Mr. Schell, Mr. Kirby, and Mr. Wallace stated they would be available.

Mr. Schell asked if the development would be age restricted.

Mr. Mayer stated some of it would be.

Poll Members for Comment

None.

Mr. Kirby adjourned the meeting at 7:23 p.m.

Submitted by Josie Taylor.

APPENDIX



Planning Commission Staff Report May 17, 2021 Meeting

WALTON-62 COMMERCE I-PUD ZONING TEXT AMENDMENT

LOCATION: Walton-62 Commerce District I-PUD zoning district at 9999 Johnstown Road and 9887 Johnstown Road (PIDs: 222-000616 and 222-000617).
APPLICANT: New Albany Company LLC, c/o Aaron Underhill, Esq.
REQUEST: PUD Text Amendment
ZONING: I-PUD Infill Planned Unit Development (Walton-62 Commerce District)
STRATEGIC PLAN: Retail
APPLICATION: TM-44-2021

Review based on: Application materials received April 23, 2021.

Staff report completed by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a modification to the Walton-62 Commerce District I-PUD zoning text to add standard provisions relating to the variance and appeals process within the zoning district. The entitlement process for properties within I-PUD zoning districts require a final development plan application to be reviewed and approved by the Planning Commission in most cases. Due to this, an additional provision is typically included in an I-PUD zoning text that allows the Planning Commission to review variance applications. This provision is currently absent in the text therefore variance applications are required to be heard by the Board of Zoning Appeals.

In order to create a streamlined entitlement process, the applicant and city staff propose to add the requirement in this text stating that variances and appeals are to be heard by the Planning Commission. There are no proposed changes to the permitted uses within the district or development standards.

The Planning Commission reviewed and recommended approval of the rezoning of this zoning district on April 24, 2019 (ZC-6-2019) and City Council approved the rezoning on May 7, 2019 (O-09-2019).

II. SITE DESCRIPTION & USE

The 12.47-acre zoning district is largely undeveloped currently. On March 16, 2020, the Planning Commission reviewed and approved a final development plan application for a Sheetz gas station and convenience store which is currently under construction in the zoning district (FDP-15-2020).

III. NEW ALBANY STRATEGIC PLAN

The zoning district is located within the Retail future land use district and the Engage New Albany Strategic Plan lists the following development standards for this land use:

- a) Parking areas should promote pedestrians by including walkways and landscaping to enhance visual aspects of the development.
- b) Combined curb cuts and cross-access easements are encouraged.
- c) Curb cuts on primary streets should be minimized and well-organized connections should be created within and between individual buildings.
- d) Retail building entrances should connect with pedestrian network and promote connectivity through the site.
- e) Integrate outdoor spaces for food related businesses.

IV. ASSESSMENT

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

Per Codified Ordinance Chapter 1159.08 the basis for approval of an I-PUD shall be:

- 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 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 of dwelling units 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).*

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

- (a) *Adjacent land use.*
- (b) *The relationship of topography to the use intended or to its implications.*
- (c) *Access, traffic flow.*
- (d) *Adjacent zoning.*
- (e) *The correctness of the application for the type of change requested.*
- (f) *The relationship of the use requested to the public health, safety, or general welfare.*

- (g) *The relationship of the area requested to the area to be used.*
- (h) *The impact of the proposed use on the local school district(s).*

V. EVALUATION

1. The applicant requests a modification to the Walton-62 Commerce District I-PUD zoning text to add standard provisions relating to the variance and appeals process for the district. City codified ordinance 1113 establishes that the Board of Zoning Appeals shall hear variances to the development standards contained in the city's zoning ordinance. The modifications allow variances within this specific zoning district to be heard by the Planning Commission. This is the typical I-PUD language present in the majority of PUD texts.
2. City staff and the applicant recently became aware of this standard language is missing. City staff believes the appeals and variance language was meant to be included during the original rezoning but was unintendedly left out.
3. There are no proposed changes to the permitted uses or development standards within the district.
4. The proposed appeals language is consistent with what already exists in city code. The modification clarifies appeals to the interpretation or administration of the zoning text will be heard by the Board of Zoning Appeals. Adding these requirements directly in the zoning text ensures that developers have all relevant information readily available in one zoning text document.
5. The entitlement process for properties within I-PUD zoning districts require a final development plan application to be reviewed and approved by the Planning Commission. Knowing speed to market is desirable by developers, the city and applicant historically have included language allowing variances to be heard by the Planning Commission as an economic development incentive. This provision is currently absent in the text therefore variance applications are required to be heard by the Board of Zoning Appeals by default, creating a longer entitlement process.
6. In order to create a streamlined entitlement process, the applicant proposes to add the requirement in this text stating that variances and appeals are to be heard by the Planning Commission. Through rezoning and final development plan applications, the Planning Commission becomes intimately familiar with the development standards established both in the strategic plan and zoning texts. For this reason, staff and the applicant believe that the Planning Commission is the most appropriate board to evaluate variance applications in this and other I-PUD zoning districts.

VI. RECOMMENDATION

Basis for Approval:

Staff recommends approval of the zoning text modification application. The applicant is not proposing to modify or add any new permitted uses or change any of the development standards. The application simplifies the entitlement process for new developers in this area and matches other approved PUD zoning texts. Due to the Planning Commissions intimate involvement in reviewing zoning change and final development plan applications within PUD zoning districts, staff believes that it is the most appropriate board to evaluate variance requests within this zoning district. This allows the Planning Commission to evaluate final development plans and variance comprehensively. Additionally, adding these provisions provides a streamlined entitlement process for new development by ensuring that one board meeting is necessary.

VII. ACTION

Suggested Motion for TM-44-2021:

Move to approve zoning text modification application TM-44-2021 (conditions of approval may be added).

Approximate site location:



Source: Google Earth