

  
**New Albany Planning Commission**  
**December 20, 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 7:05 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Andrea Wiltrout	Present
Ms. Sarah Briggs	Present
Ms. Colleen Briscoe (Council liaison)	Present

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

Mr. Kirby asked if the comment in the minutes regarding the 75 degree number had been accurately reflected.

Ms. Wiltrout stated a discussion regarding that issue had occurred and that number may have been used, however, the intent of the number, rather than the exact number had been clear.

Moved by Ms. Wiltrout, seconded by Ms. Briggs to approve the November 15, 2021 meeting minutes. Upon roll call: Ms. Wiltrout, yea; Ms. Briggs, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

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

Mr. Christian stated none from staff.

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

**VAR-120-2021 Variance**

**Variance to Nottingham Trace zoning text section II(H)(6)(b) to allow a spa to be located above ground at 6164 Nottingham Loop (PID: 222-005088).**

**Applicant: John and Michele Morgan**

Mr. Christian presented the staff report.

Mr. Kirby asked if there was no Engineering available.

Mr. Christian stated correct.

Mr. Kirby asked if the applicant wanted to provide any comments.

Mr. John Morgan, applicant, discussed the project.

Mr. Wallace asked staff what the purpose of the ordinance was and whether it specifically included spas or did it only speak of swimming pools.

Mr. Christian stated pools were not permitted in the Nottingham Trace area and spas should be constructed as part of the house and be flush, at the top of grade, which had been interpreted to mean they needed to be in the ground.

Mr. Wallace asked if the term spa was defined.

Mr. Christian stated it was not a defined term but the ordinance used the word spa.

Mr. Wallace asked what constituted a spa.

Mr. Mayer stated the term spas had always been interpreted to mean hot tubs and similar devices.

Mr. Wallace asked what the purpose of the language requiring spas to be buried was.

Mr. Mayer stated it was typical language and was probably due to aesthetics and it also created value over time.

Mr. Kirby asked if the zoning had been wrong on this.

Mr. Mayer stated it was a variance to the PUD text.

Mr. Kirby asked if the developer had approved and selected the text.

Mr. Mayer stated that was correct.

Mr. Kirby asked if the language was similar to that used in other neighborhoods other houses built in Nottingham Trace.

Mr. Mayer stated yes.

Mr. Kirby asked if there were other houses built in this portion of Nottingham Trace.

Mr. Mayer stated he believed it was 25% built out and maybe thirty (30) to forty (40) homes or so. Mr. Mayer stated this was the first property to request this type of variance. Mr. Mayer stated he believed the developer was currently in Phase 2 of 5 and said this was the first variance request that had been received.

Mr. Kirby asked if Mr. Morgan had any neighbors adjacent to him.

Mr. Morgan said there were two (2) homes built close to him and one of the lots next to his home was under construction but the lots behind him had not been built yet. Mr. Morgan stated this was a two (2) seat spa.

Mr. Kirby stated thank you.

Ms. Wiltrout asked if Mr. Morgan had explored the possibility of an in-ground spa option and, if so, then why not add an in-ground spa unit.

Mr. Morgan stated they had purchased the current spa unit prior to closing but the builder, Pulte Homes, had indicated they could do so and the HOA had given approval.

Ms. Wiltrout asked if they had inquired about obtaining a refund for the unit so they could install an in-ground spa.

Mr. Morgan stated they did not know.

Mr. Kirby asked if Mr. Morgan had spoken with his neighbors about the spa.

Mr. Morgan stated no.

Mr. Wallace asked if the ground around the home would make it difficult to bury a spa there.

Mr. Morgan stated no.

Mr. Schell asked if Mr. Morgan had discussed this issue with Pulte Homes

Mr. Morgan stated the salesperson had contacted a Pulte vice president for the region.

Mr. Mayer stated Pulte Homes had reached out to confirm the language and staff had let Pulte Homes know about the process to remove the requirement if that was wanted.

Mr. Schell stated he was nervous about granting this type of variance and feared many more would come afterwards.

Mr. Morgan stated sure.

Mr. Wallace stated he wanted to know whether the purchased spa could be returned or refunded to obtain an in-ground spa due to the potential precedent this variance might present. Mr. Wallace asked Mr. Morgan if he could see if he could obtain an in-ground spa. Mr. Wallace stated his preference for this would be to have it tabled for thirty (30) days to provide Mr. Morgan that opportunity.

Mr. Kirby stated that would be Mr. Morgan's call, to request a vote on the variance or to table it.

Mr. Morgan stated he would see if they could do something.

Mr. Kirby asked if that meant Mr. Morgan would prefer to table this.

Mr. Morgan stated yes.

Mr. Kirby stated that might be the wisest choice as it could be a close vote. Mr. Kirby asked if any members of the public had any comments or questions. (No response.)

Mr. Wallace stated this was not the first time an owner had sought a variance from the PC due to a developer having provided wrong information.

Moved by Ms. Wiltout to accept the staff reports and related documents into the record for VAR-120-2021, seconded by Mr. Kirby. Upon roll call: Ms. Wiltout, yea; Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Briggs, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Wallace to table VAR-120-2021 until the next regularly scheduled PC meeting, seconded by Ms. Wiltout. Upon roll call: Mr. Wallace, yea; Ms. Wiltout, yea; Ms. Briggs, yea; Mr. Schell, yea; Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Ms. Briscoe stated there was a big difference between a variance for a small spa like this and a larger one.

Mr. Kirby stated thank you.

### **CU-125-2021 Conditional Use**

**Conditional use to allow chickens to be housed on a residential property located at 7145 Central College Road (PID: 222-000892-00).**

**Applicant: Robert Beatty and Mary Ann Akin**

Mr. Christian presented the staff report.

Mr. Kirby asked if the applicant wanted to provide comments.

Mr. Robert Beatty, applicant, discussed the property, coop, and how the hens were kept and maintained.

Mr. Kirby asked if the property was zoned R-1.

Mr. Beatty stated yes, he believed so.

Ms. Kirby asked if the requirement that there be no rooster and only six (6) hens would be a hardship.

Mr. Beatty stated no rooster, all hens.

Ms. Wiltout asked if there was a rooster on the property now.

Mr. Beatty stated no.

Mr. Schell asked if there were any homes around the property.

Mr. Beatty stated there was a church, not homes.

Mr. Schell asked if the cages could be seen by others with the privacy fence in place.

Mr. Beatty stated no. Mr. Beatty stated one neighbor, the Moores, might be able to see but there was not an issue with them. Mr. Beatty stated he had not spoken with homeowners in the subdivision near his home, but they were quite a distance away.

Mr. Kirby stated the minimum zoning was 125 feet frontage and 150 feet common and noted they were wide lots.

Mr. Wallace asked if the neighbors to the west had no issue with chickens.

Mr. Beatty stated correct.

Mr. Wallace asked whether the initial violation had been brought by a complainant or by a zoning officer.

Mr. Mayer stated he believed the original complaint was prior to the fencing when some of the hens had gotten out and a person saw them and complained.

Mr. Beatty stated the hens had gotten out and he believed a church member had seen them and complained.

Ms. Briscoe stated it might have been someone walking a dog not a neighbor.

Mr. Mayer stated it was a passer-by.

Mr. Kirby stated Mr. Beatty might want to trim the birds' flight feathers on one (1) side

Mr. Beatty stated okay.

Mr. Bob Dean, 7206 Central College, stated he had no issues with the chickens on the property. Mr. Dean stated even prior to the fencing being installed he had not heard or seen the chickens and he was in full support of them, they were not a problem.

Moved by Mr. Kirby to accept the staff reports and related documents into the record for CU-125-2021, seconded by Ms. Wiltrout. Upon roll call: Mr. Kirby, yea; Ms. Wiltrout, yea; Ms. Briggs, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Mr. Kirby to approve CU-125-2021 based on the findings in the staff report, noting that there was a requirement for there to be no rooster, seconded by Ms. Briggs.

Ms. Briscoe asked if the conditional use would go with the land and move to a new owner.

Mr. Banchevsky stated it would run with the land but a condition could be added so that it was made only to the current applicant.

Ms. Wiltrout asked if this was a code enforcement issue.

Mr. Banchevsky stated it could be a code enforcement issue or a nuisance.

Ms. Wiltrout stated the conditional use should go with the owner, not the land.

Mr. Kirby stated Mr. Beatty should, if he sold the property, be prepared to tell the buyer that the buyer would need a variance if he or she wanted to keep chickens.

Mr. Beatty stated he preferred to have the variance only for him.

Moved by Mr. Kirby to modify the prior motion to approve CU-125-2021 with the findings in the staff report, with the conditions in the staff report and with the added condition that the variance is granted to the applicant and does not run with the land and noting that there was a requirement for there to be no rooster, seconded by Ms. Briggs. Upon roll call: Mr. Kirby, yea; Ms. Briggs, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

**ARB-127-2021 Height Adjustment**

**Certificate of Appropriateness for a height adjustment review to allow buildings to be 85 feet tall for the Facebook development site generally located south of Worthington Road and west of Harrison Road. (PID: 094-106782-00.00).**

**Applicant: EMH&T c/o Kevin Grader**

Mr. Christian presented the staff report.

Mr. Kirby asked if the applicant wished to speak.

Mr. Kevin Grader, EMH&T, discussed the project.

Mr. Kirby asked if a letter from the fire department would be needed now or was that already baked in.

Mr. Christian stated it was a part of the permit review process.

Mr. Kirby asked if Licking County would say no, then the project would be cancelled.

Mr. Grader stated he had an email from the fire department that stated it was okay.

Ms. Wiltout asked if it was in the packet.

Mr. Kirby asked if it had been verified.

Mr. Grader stated it was verified.

Mr. Kirby asked if FAA regulations on lights were okay at a 65 foot level and noted those regulations should be considered.

Mr. Christian stated got it.

Mr. Wallace asked why the request for this was needed.

Mr. Grader stated it was an effort to reduce the footprint and the height clearance was needed for operations.

Mr. Wallace asked what the operational needs were.

Mr. Grader stated he was a civil engineer and did not want to misspeak on this issue.

Mr. Kirby asked if the engineering need was not Mr. Grader's?

Mr. Grader stated correct, mechanical and electrical engineering were also involved and he could follow up.

Mr. Mayer stated that would be part of the building review process and there were trade secrets involved.

Mr. Kirby stated it was proprietary and asked staff if proprietary information would normally be redacted or would there be a non-disclosure agreement (hereafter, "NDA").

Mr. Mayer stated an NDA and they would keep redacted copies.

Mr. Wallace asked if they had not seen them yet.

Mr. Mayer stated not yet, they were part of the construction permit review process.

Mr. Wallace stated he was uncomfortable with this.

Mr. Mayer stated he agreed but it had been expressed to staff that this was needed for this new building.

Mr. Kirby asked if it would be burdensome for the applicant to require the information.

Mr. Grader stated he did not believe it would be burdensome.

Mr. Schell asked if the Amazon site had unlimited height.

Mr. Christian stated yes, the Board of Zoning Appeals had approved a variance to remove the height requirement.

Mr. Schell stated it was unlimited then.

Mr. Mayer stated yes, the base Code had no height restrictions at all.

Mr. Kirby stated the 65 foot number had come from that being the height to which the fire department could access the building in an emergency.

Moved by Mr. Kirby to accept the staff reports and related documents into the record for ARB-127-2021, seconded by Ms. Wilttrout. Upon roll call: Mr. Kirby, yea; Ms. Wilttrout, yea; Ms. Briggs, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Ms. Wilttrout to approve ARB-127-2021 based on the findings in the staff report, with the conditions listed in the staff report and the additional condition that staff approval would be required for items that cannot be shared publicly due to the NDA, seconded by Mr. Schell. Upon roll call: Ms. Wilttrout, yea; Mr. Schell, yea; Ms. Briggs, yea; Mr. Wallace, no; Mr. Kirby, yea. Yea, 4; Nay, 1; Abstain, 0. Motion passed by a 4-1 vote.

Mr. Wallace stated that he was very uncomfortable approving this as the information regarding this was not before the PC and staff had not seen it.

### **Other Business**

Mr. Christian provided a review of the applications and actions taken by the PC this year. Mr. Christian thanked the members of the PC for their work this year. Mr. Christian noted that beginning in 2022 all submissions would be electronic and asked PC members if they used electronic or paper packets for the PC meetings.

Mr. Kirby stated he annotated the paper copy but read from the electronic copy as he could adjust the text size.

Ms. Briggs stated she did the same as Mr. Kirby.

Mr. Wallace stated he liked paper.

Mr. Christian noted that Mr. Banchefsky would be retiring at the end of 2021 and Ms. Briscoe would also be retiring from City Council. Mr. Christian stated Ms. Wiltout would be moving to City Council and this would be her last PC meeting.

**Poll Members for Comment**

Mr. Kirby stated it had been good working with both Ms. Briscoe and Ms. Wiltout and thanked Mr. Banchefsky.

Mr. Wallace thanked Mr. Banchefsky and stated he would be missed.

Ms. Wiltout thanked everyone for all she had learned from them and for their guidance.

Ms. Briggs stated she concurred and wished Happy Holidays to all.

Mr. Kirby adjourned the meeting at 8:02 p.m.

Submitted by Josie Taylor.



# APPENDIX



COMMUNITY CONNECTS US

Planning Commission Staff Report  
December 20, 2021 Meeting

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## 6164 NOTTINGHAM LOOP SPA VARIANCE

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LOCATION: 6164 Nottingham Loop (PIDs: 222-005088).  
APPLICANT: John and Michelle Morgan  
REQUEST: (A) Variance to Nottingham Trace zoning text section II(H)(6)(b) to allow a spa to be installed above ground.  
ZONING: Nottingham Trace I-PUD Zoning District  
STRATEGIC PLAN: Residential  
APPLICATION: VAR-120-2020

Review based on: Application materials received November 19, 2021.

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*Staff report prepared by Chris Christian, Planner*

### I. REQUEST AND BACKGROUND

The applicant requests a variance to Nottingham Trace zoning text section II(H)(6)(b) to allow a spa to be installed above ground.

### II. SITE DESCRIPTION & USE

The property is .22 acres in size, contains a newly built single-family home and is located in the Nottingham Trace subdivision.

### III. EVALUATION

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

#### *Criteria*

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The 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.

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.*

### **III. RECOMMENDATION**

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

#### **(A) Variance to Nottingham Trace zoning text section II(H)(6)(b) to allow a spa to be installed above ground.**

The following should be considered in the commission’s decision:

1. The Nottingham Trace zoning text states “spas shall be located in the rear yard within the building of line the site and shall be completely enclosed by fencing and screened from adjoining properties. Spas may be constructed as part of the house and shall be flush with the top of the paving.”
2. The applicant proposes to install a spa above ground where the zoning text requires all spas to be installed in ground therefore a variance is required.
3. The proposed spa will be installed on top of a new patio at the rear of the home. The applicant states that the 39 sq. ft. spa will be enclosed with a code compliant fence and arborvitae will be installed around the spa area to provide screening from adjacent properties. The property is located in the Nottingham Trace age-restricted subdivision and is surrounded by residentially zoned and used properties.
4. It does not appear that the essential character of the neighborhood would be altered if the variance request is granted. The applicant states that they will install arborvitae around the proposed spa area to provide screening for adjacent properties. The applicant did not provide a planting plan as part of the variance application and staff recommends a condition of approval that the proposed number, location and species of the arborvitae screening be subject to staff approval.
5. The variance does not appear to be substantial and meets the spirit and intent of the zoning text requirement which is to ensure that there is visual separation and screening from adjacent properties. While the proposed spa will not be installed below ground, the applicant proposes to provide visual screening from adjacent properties with arborvitae plantings.
6. In addition to the plantings, the proposed spa maintains larger setbacks from adjacent properties than what is required by code. City code only requires spas to be setback 15 feet from adjacent property lines. The applicant is providing a 27-foot setback from the northern property line, 33

feet from the east and 43 feet from the south. These larger setbacks, in addition to providing arborvitae screening meet the spirit and intent of the requirement of providing visual separation and screening between spas and adjacent properties and therefore is not substantial.

7. 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.

#### **IV. RECOMMENDATION**

Staff recommends approval of the requested variance should the Planning Commission find that the application has sufficient basis for approval. While the applicant proposes to install a spa above ground, they are proposing to install arborvitae around the spa area to provide screening as well as maintaining larger setbacks from adjacent properties, greater than what is required by code. In addition, the proposed spa will be enclosed by a code compliant fence and is meeting all other code requirements.

#### **V. ACTION**

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

**Move to approve application VAR-120-2021 based on the findings in the staff report with the following conditions (additional conditions of approval may be added).**

1. A code compliant fence must be added around the spa area.
2. The spa is completely screened and surrounded on all sides by arborvitae. The number, location and species of the proposed arborvitae screening is subject to staff approval.

#### **Approximate Site Location:**



Source: Google Earth



**7145 CENTRAL COLLEGE POULTRY  
CONDITIONAL USE**

LOCATION: 7145 Central College Road (PID: 222-000892-00)  
 APPLICANT: Robert Beatty and Mary Ann Akins  
 REQUEST: Conditional Use  
 ZONING: R-1  
 STRATEGIC PLAN: Residential  
 APPLICATION: CU-125-2021

Review based on: Application materials received November 29, 2021

*Staff report completed by Chris Christian, Planner*

**II. REQUEST AND BACKGROUND**

The applicant requests approval to allow the feeding, grazing or sheltering of poultry in a confined area as a conditional use at 7145 Central College Road under the R-1 zoning district. The applicant has six (6) existing chickens (hens) on their property in a coop and seek a conditional use approval in order to allow them to remain on the property.

On June 7, 2021, the Planning Commission recommended to City Council that the feeding, grazing or sheltering of poultry be added as a conditional use in the R-1 zoning district. City Council adopted this code update on July 6, 2021(O-24-2021).

**II. SITE DESCRIPTION & USE**

The .97-acre property is zoned R-1 and currently contains a 1,963 sq.ft. single family home that was built in 1990. There are residentially zoned and used properties to the north, west and south of the site and an institutional use to the east.

**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.

In addition, C.O. 1131.04(e)(1) states that the Planning Commission shall consider and may set conditions on the following as part of its decision to allow the feeding, gracing or sheltering of poultry: type of poultry , location/distance from property lines, limiting the number of animals, enclosures/structure requirements, fence requirements, noise conditions, sanitary standards, prohibition of specific animals such as rooster(s), sale of animal products and the killing/slaughter of animals on a site.

- (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 applicant submitted a site plan demonstrating these setbacks for the home and the existing chicken coop on the property. The applicant has six (6) chickens (hens) in the chicken coop on the rear yard of the site which maintains large setbacks from adjacent properties. In addition, the entire backyard is enclosed by a 6-foot-tall privacy fence and there is an established evergreen tree row along the rear property line. All of these site characteristics ensure that the proposed use will be harmonious with the objectives of the zoning ordinance and provide additional screening and buffering from neighboring properties.
  
- (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.*
  - There are residentially zoned and used properties to the north, west and south of the site and an institutional use to the east.
  - This property is a historic township property along Central College Road. These lots are typically larger, rural lots which differ from the typical subdivision lot in the city. This lot is .97 acres in size and the home and chicken coop maintain significant setbacks from adjacent properties. The chicken coop is located towards the center of the lot but closer to the institutionally used property to the east. While the coop is located closer to this property line, the drive aisle for the church adds additional separation along this property line.
  
- (c) *The use will not be hazardous to existing or future neighboring uses.*
  - The applicant states that they currently have 6 chickens (hens) on the property as pets and does not sell their eggs. It does not appear that the use of chickens will be hazardous to existing or future neighboring uses. Staff recommends a condition of approval that a maximum of 6 chickens are permitted. If any additional chickens are kept on the property, a new conditional application must be reviewed and approved by the Planning Commission.
  
- (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.*
  - The use of feeding, grazing and/or sheltering chickens on this property will not have an impact on the delivery of essential public facilities and services.
  
- (e) *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.*
  - It does not appear that the proposed use will involve activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare.
  - The applicant has six (6) chickens (hens) on the site that are used as pets in a chicken coop, their eggs are not sold, and the entire rear yard area is enclosed in a six (6) foot tall privacy fence which was installed by the property owner this year.
  
- (f) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*
  - The proposed use will not create any interference with traffic on surrounding public streets or roads.

## V. RECOMMENDATION

***Basis for Approval:***

The proposal appears to be consistent with the code requirements for conditional uses and meets the development standards for the site. The property is an older township property which are larger than the typical subdivision lot in the city. This allows for larger setbacks for the home and chicken coop from adjacent properties and is enclosed entirely by a privacy fence. Since it is just hens – and not a rooster – it does appear there will be any potentially objectionable noise conditions.

The applicant maintains a small number of chickens on the property as pets and does not intend to sell their eggs. It appears that the proposed use is generally harmonious for the site on which it is located, will not alter the character of the surrounding area or create any negative off-site impacts on the general public, infrastructure or the delivery of essential services.

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

**VI. ACTION**

**Suggested Motion for CU-125-2021:**

**To approve conditional use application CU-125-2021 based on the findings in the staff report with following condition of approval (conditions may be added)**

1. A maximum of six chickens (hens) are kept on the site.

**Approximate Site Location:**





**SIDECAT LLC  
HEIGHT ADJUSTMENT**

LOCATION: South of Worthington Road, north of Morse Road, and west of Harrison Road SW. (PID: 094-106782-00.000).

APPLICANT: EMH&T c/o Kevin Gradert

REQUEST: Height adjustment to allow buildings to be 85 feet tall

ZONING: L-GE (Limited General Employment), Harrison South Zoning District

STRATEGIC PLAN: Employment Center District

APPLICATION: ARB-127-2021

Review based on: Application materials received November 19, 2021.

*Staff report prepared by Chris Christian, Planner.*

**III. REQUEST AND BACKGROUND**

The applicant requests Planning Commission review to allow the height of a new building on the Sidecat LLC development site to be a maximum of 85 feet tall in accordance with the height adjustment standards found in Harrison South L-GE zoning text section F.

**IV. SITE DESCRIPTION & USE**

The site is located on 279.62+/- acres in Licking County and is generally located south of Worthington Road, east of Beech Road, north of Morse Road and west of Harrison Road. The neighboring uses and zoning districts include L-GE and unincorporated agricultural/residential.

This parcel is currently undeveloped, zoned Limited General Employment (L-GE) and is owned by Sidecat LLC who has developed data center uses on adjacent parcels in the immediate area.

**V. ASSESSMENT & EVALUATION**

Harrison South zoning text section J states that it is anticipated that technology-oriented companies such as Sidecat LLC, may have certain operational and design requirements necessitating the development of buildings in excess of 65 feet in height. The applicant is requesting approval of a height adjustment by the Planning Commission due to operational, design and technological requirements.

This section of the zoning text gives the Planning Commission the authority to increase the allowable height for a building to a maximum of 85 feet within this zoning district and provides the following procedure and basis of approval for these application types.

**J.1. Procedure for Approval:** A property owner or other applicant seeking an increase in building height as contemplated in this Section J shall request the Planning Commission’s review by filing an application with the City on a form that is prescribed by its zoning staff. Such an application and any decisions made thereon by the Planning Commission shall not be considered to be a variance, but instead shall be considered to be administrative in nature in that the Planning Commission’s function will be to apply and administer the requirements of Section J.2 below to any application made pursuant hereto. The Planning Commission shall hold a public hearing on the application at its first meeting following

the date that is 30 days after the application is filed in a manner that is deemed to be complete by the City’s zoning staff or on such later date as may be agreed by the applicant. The Planning Commission may vote on the application at any time following such public hearing, provided that in no circumstance shall such a vote occur later than the next meeting of the Planning Commission which immediately follows the meeting when the public hearing occurred (unless the applicant otherwise consents).

The Planning Commission’s decision to approve or disapprove the application shall be based upon its consideration of the matters contemplated in Section J.2, and a decision to approve the application may be issued with conditions that are not inconsistent with the requirements set forth in Section J.2.

**J.2 Basis for Approval:** Harrison South L-GE zoning text section J.2 provides the following requirements that the Planning Commission ensures are met prior to approving the height adjustment request:

<b>Requirement</b>	<b>Proposed</b>	<b>Requirement Met?</b>
Minimum 300 ft building setback from Harrison and Worthington Road.	Worthington Road: 4754 ft Harrison Road: 900 ft	Yes.
Minimum 250 ft setback from any residentially zoned parcel.	Southern residential parcel: 1199 ft. Eastern residential parcel: 732 ft	Yes.
The applicant must demonstrate a need for the increase in building height is either (a) the result of a technological or operational need or other function that cannot be accommodated with a 65-foot-tall building or (b) reflects the best and favored industry practices.	The applicant states that the need for the increased building height is a result of both technological and operational needs. To the meet the business capacity needs with the current 65-foot height limitation, the proposed building would need to have an untenably large footprint that would compromise business operations. Technically, the building is comprised of two, tall stories with a third mechanical story above. The applicant states that this technical arrangement and tall floor to floor heights are critical to the optimal building performance of mechanical systems and energy efficiency.	Yes.
Roof mounted equipment must be screened to limit view from Worthington Road and Harrison Road.	The applicant states that they will meet these requirements and this will be verified during the construction permit review process for the project.	Staff will verify that these requirements are met during the construction permit review process.
No lights or signage are permitted to be installed higher than 65 feet on the building.	The applicant states that they will meet these requirements and this will be verified during the sign permit review process for the project.	Staff will verify that these requirements are met during the sign permit review process.
No blank wall facades are permitted and the building must be designed in a way to reduce or eliminate a monolithic building form.	The applicant states that they will meet these requirements and this will be verified during the construction permit review process for the project.	Staff will verify that these requirements are met during the construction permit review process.
A sprinkler system must be used.	The applicant states that a sprinkler system will be used which will be verified during the construction permit review process for the project.	Staff will verify that this requirement is met during the construction permit review process.
The applicant must confirm that a taller	The applicant states that West Licking	Yes.



building can be serviced by the relevant fire department.

Fire Department has confirmed that they will be able to provide fire suppression services for an 85-foot-tall building.

**VI. RECOMMENDATION**

Staff recommends approval of the height adjustment application. The applicant has provided sufficient information to ensure that the additional requirements of the zoning text will be met with a taller building height. A second layer review of these requirements will also occur during the construction permit review process for the project by city and fire department staff. Additionally, variances have been approved by the Board of Zoning Appeals in the immediate area to remove height limitations for similarly zoned properties so the 85-foot building height is consistent with surrounding zoning requirements.

**V. ACTION**

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate (conditions may be added):

**Move to approve application ARB-127-2021 (conditions of approval may be added).**

**Approximate Site Location:**



Source: Google Earth