


New Albany Planning Commission
February 23, 2022 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 7:04 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Sarah Briggs	Present
Mr. Matt Shull (Council liaison)	Present

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

Moved by Mr. Wallace to approve the December 6, 2021 and January 19, 2022 meeting minutes, seconded by Mr. Kirby. Upon roll call: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea; Ms. Briggs, 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. 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 to the Planning Commission (hereafter, "PC") on items not on tonight's Agenda. (No response.)

TM-12-2022 Zoning Text Amendment

Amendment to the Nottingham Trace subdivision PUD zoning text to allow spas to be constructed above ground.

Applicant: Pulte Homes, c/o Matthew Callahan

Mr. Christian presented the staff report and discussed a condition of approval that should be added to the text amendment.

Mr. Kirby noted he believed there was not any Engineering on this application.

Mr. Christian confirmed there was not.

Mr. Kirby asked if the applicant wished to speak.

Mr. Joe Lamparyk, Division Director of Land Development, Pulte Homes, discussed the purpose of this text amendment and said he was happy to answer any questions.

Mr. Kirby asked how many lots had been sold in the subdivision.

Mr. Lamparyk said a significant number had been sold at this time.

Mr. Kirby asked if there were any neighbors close by and asked if they had any input on this application.

Mr. Lamparyk stated there had only been one (1) request for a spa at this time.

Mr. Kirby asked if the rest of the owners in the subdivision had been consulted.

Mr. Lamparyk said he had not and that contact would have been done by the City .

Mr, Kirby stated it was best to be sure all would be happy with the requested text modification and to have their input at this time.

Mr. Lamparyk stated the current text did permit hot tubs as long as they were in ground and were screened, the only change was to permit above ground spas.

Mr. Wallace asked if there were currently any in-ground spas in the community.

Mr. Lamparyk stated no.

Mr. Wallace asked if no one had then gone to the extra expense of having an in-ground spa.

Mr. Lamparyk stated no.

Mr. Wallace asked if there was any idea what the screening would look like.

Mr. Lamparyk stated the Home Owners Association (hereafter, "HOA") in the community as well as City staff would need to provide approval for the screening.

Mr. Wallace if that meant both the HOA and staff would need to approve, a two-layer approval.

Mr. Schell asked what caused the cost difference between above ground and in-ground spas.

Mr. Lamparyk stated access to the controls in in-ground units was the number one cost issue.

Mr. Schell asked what that cost difference amount was.

Mr. Lamparyk stated he believed it could be significant due to the need for a solid base needed at the bottom of the unit, the cost of burial, etc., perhaps \$10,000.

Mr. Schell asked so about \$10,000.

Mr. Lamparyk stated and a barrier, screening.

Mr. Schell asked if the only difference then was the cost.

Mr. Lamparyk yes, it was much easier to drop off a spa and just plug it in then to bury it in the ground.

Mr. Schell asked if the look would differ and after perhaps five (5) years might appear outdated.

Mr. Lamparyk stated it was their own guidance and they could decide differently.

Mr. Shull stated accessibility was the key issue as were the colors used on the shell of the unit. Mr. Shull stated the shell did need to be maintained but normally continued to look good.

Mr. Kirby asked if the applicant was okay with the condition on this.

Mr. Lamparyk stated yes.

Moved by Mr. Kirby to accept the staff reports and related documents into the record for TM-12-2022, seconded by Ms. Briggs. Upon roll call: Mr. Kirby, yea; Ms. Briggs, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Kirby asked if any members of the public wanted to comment. (No response).

Moved by Mr. Wallace to approve TM-12-2022 with the findings in the staff report with the following condition:

1. Spas shall be located in the rear yard within the building line of the site and shall be completely enclosed by fencing and screened from adjoining properties. Spas may be constructed as part of the house and may be installed above ground.

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

CU-15-2022 Conditional Use

Conditional use to allow a model home to be located in the Nottingham Trace subdivision(PIDs: 222-004904, 222-004905 and 222-004906).

Applicant: Pulte Homes, c/o Dawn Hargus

Mr. Christian presented the staff report and background on this application.

Mr. Kirby asked if the applicant wished to speak.

Mr. Lamparyk said he was happy to answer any questions.

Mr. Kirby asked if the applicant was in agreement with the conditions on this.

Mr. Lamparyk stated yes.

Mr. Kirby asked if any other issues had changed on this.

Mr. Lamparyk stated no.

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

Moved by Mr. Kirby to accept the staff reports and related documents into the record for CU-15-2022, seconded by Mr. Schell. Upon roll call: Mr. Kirby, yea; Mr. Schell, yea; Ms. Briggs, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Mr. Schell to approve CU-15-2022 with the findings in the staff report with the conditions listed in the staff report, seconded by Ms. Briggs. Upon roll call: Mr. Schell, yea; Ms. Briggs, 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.

Poll Members for Comment

None.

Mr. Kirby adjourned the meeting at 7:21 p.m.

Submitted by Josie Taylor.

APPENDIX



Planning Commission Staff Report February 23, 2022 Meeting

NOTTINGHAM TRACE I-PUD ZONING TEXT AMENDMENT

LOCATION: Nottingham Trace Subdivision
APPLICANT: Pulte Homes, c/o Matthew Callahan
REQUEST: PUD Text Amendment
ZONING: I-PUD Infill Planned Unit Development (Nottingham Trace)
STRATEGIC PLAN: Residential
APPLICATION: TM-12-2022

Review based on: Application materials received January 27, 2022.

Staff report completed by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a modification to the Nottingham Trace I-PUD zoning text to allow spas to be constructed above ground. The zoning text currently states that spas may be constructed as part of the house and must be flush with the top of the paving.

On December 20, 2021, the Planning Commission tabled a variance application to allow a spa to be constructed above ground at 6164 Nottingham Loop located in this zoning district (VAR-120-2021).

II. SITE DESCRIPTION & USE

The Nottingham Trace subdivision contains 240 age-restricted lots and 69 of the lots have been developed or are currently under construction. The subdivision is approximately 89.6+/- acres.

The final development plan was approved on June 19, 2017 (FDP-31-2017). Phase 1 of this development was approved by the Planning Commission on September 18, 2017 and phases 2, 3 and 4 were approved on March 18, 2019.

III. NEW ALBANY STRATEGIC PLAN

The site is located within the Residential District land use district. The Engage New Albany Strategic Plan lists the following development standards for the Residential District:

- Organically shaped stormwater management ponds and areas should be incorporated into the overall design as natural features and assets to the community.
- Houses should front onto public open spaces and not back onto public parks or roads.
- All or adequate amounts of open space and parkland is strongly encouraged to be provided on-site.

- A hierarchy of open spaces is encouraged. Each development should have at least one open space located near the center of the development. Typically, neighborhood parks range from a half an acre to 5 acres. Multiple greens may be necessary in large developments to provide centrally located greens.
- Adequate amounts of open space and parkland are encouraged to be provided on site.
- Rear or side loaded garages are encouraged. When a garage faces the street, the front façade of the garage should be set back from the front facade of the house.
- Any proposed residential development outside of the Village Center shall have a base density of 1 dwelling unit per gross acre in order to preserve and protect the community's natural resources and support the overall land conservation goals of the community. A transfer of residential density can be used to achieve a gross density of 1 dwelling unit per acre.
- Private streets are at odds with many of the community's planning principles such as: interconnectivity, a hierarchy of street typologies and a connected community. To achieve these principles, streets within residential developments must be public.

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:

- That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;*
- That the proposed development is in general conformity with the Strategic Plan or portion thereof as it may apply;*
- That the proposed development advances the general welfare of the Municipality;*
- That the benefits, improved arrangement and design of the proposed development justify the deviation from standard development requirements included in the Zoning Ordinance;*
- Various types of land or building proposed in the project;*
- 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;*
- Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area;*
- Building heights of all structures with regard to their visual impact on adjacent facilities;*
- Front, side and rear yard definitions and uses where they occur at the development periphery;*
- Gross commercial building area;*
- Area ratios and designation of the land surfaces to which they apply;*
- Spaces between buildings and open areas;*
- Width of streets in the project;*
- Setbacks from streets;*
- Off-street parking and loading standards;*
- The order in which development will likely proceed in complex, multi-use, multi- phase developments;*
- The potential impact of the proposed plan on the student population of the local school district(s);*
- The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required);*
- 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 Nottingham Trace I-PUD zoning text allow spas to be constructed above ground in the subdivision. The zoning text currently states that spas may be constructed as part of the house and must be flush with the top of the paving. Historically, city staff has interpreted this requirement to apply to hot tubs as well. Swimming pools are not permitted to be constructed in this subdivision.
2. Requiring swimming pools and spas to be of in ground construction is present in many older residential PUD texts in the city and has been carried over to newer I-PUD, residential zoning texts.
3. The intent of in-ground regulation is generally for aesthetic purposes and allows for the spa to be blend in with the backyard surroundings through the use of similar material of the pavement and patio.
4. The city pool and spa code does not require these items to be of in ground construction or screened from adjacent properties. While the proposed text modification would allow spas to be installed above ground, the text contains additional visual buffering requirements that exceed the city’s standard regulations for spas which will not be changed. The text states that spas are required to be located in the rear yard, enclosed by fencing and screening from adjoining properties. Staff recommends a condition of approval that the text be revised to state that spas have to be “completely screened with fencing, landscaping or a combination of the two”, subject to staff approval. With this condition, adequate screening of spas from adjacent properties will still be accomplished with the proposed modifications which is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code.
5. Allowing above ground spas and hot tubs in this zoning district will not have an impact on public health, safety or general welfare.
6. There are no other proposed changes to the permitted uses or development standards within the district.

VI. RECOMMENDATION

Basis for Approval:

Staff recommends approval of the zoning text modification application. The city codified ordinances do not require spas to be in-ground so the text modification is consistent with city standards. While the applicant proposes to allow spas to be constructed above ground in the zoning district, there are additional visual buffering requirements built into the text that will provide screening from adjacent properties.

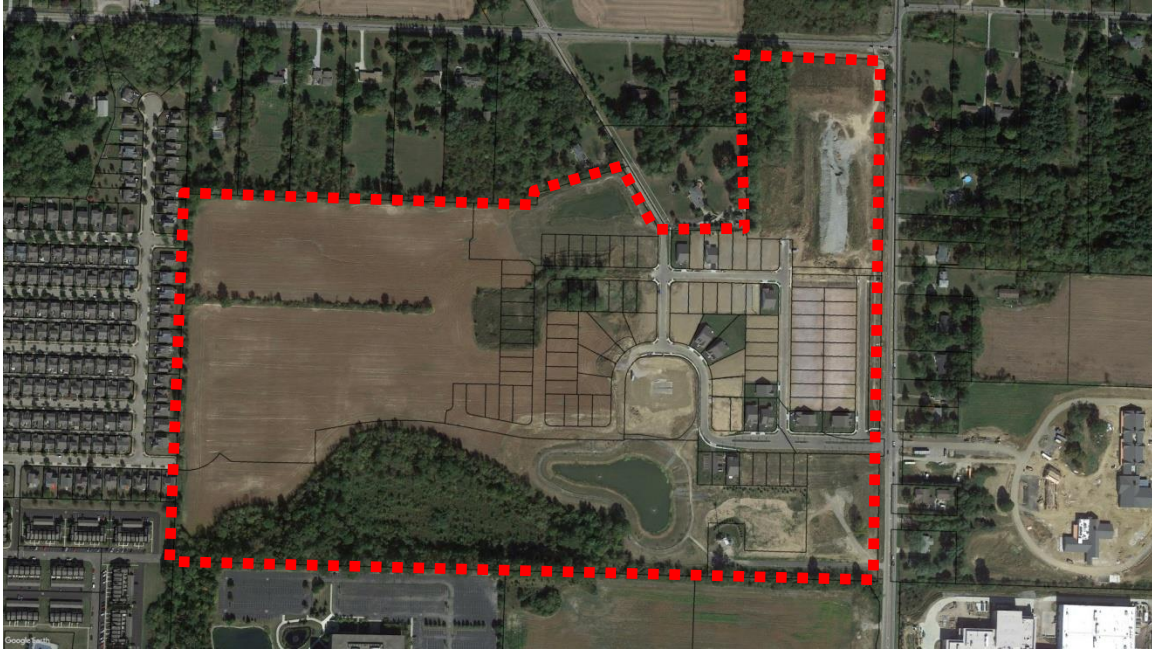
In-lieu of individual variances, the developer has taken the initiative to coordinate with staff this text modification in order for the Planning Commission to consider above ground spas comprehensively. Historically the Planning Commission and Board of Zoning Appeals have approved individual variances to allow above ground spas in other subdivisions where the same provision exists when additional screening is provided. This request is consistent with those approvals but allows for a holistic approach since the subdivision has very consistent lot sizing and pre-approved home elevations and layouts.

VII. ACTION

Suggested Motion for TM-12-2022:

Move to approve zoning text modification application TM-12-2022 (conditions of approval may be added).

Approximate site location:



Source: Google Earth



**Planning Commission Staff Report
February 23, 2022 Meeting**

**NOTTINGHAM TRACE
MODEL HOME CONDITIONAL USE**

LOCATION: Nottingham Trace Subdivision
APPLICANT: Pulte Homes, c/o Dawn Hargus
REQUEST: Model Home Conditional Use
ZONING: I-PUD Infill Planned Unit Development (Nottingham Trace)
STRATEGIC PLAN: Residential
APPLICATION: CU-15-2022

Review based on: Application materials received January 27, 2022.

Staff report completed by Chris Christian, Planner.

III. REQUEST

The applicant requests a renewed conditional use approval for a residential model home to be located on lot 6, 7, and 8 within the Nottingham Trace subdivision. The Planning Commission originally approved the conditional use on April 16, 2018 (CU-24-2018). A condition of approval was placed on the application stating that the conditional use expires after three years and that any extension of the use is subject to the review and approval of the board. The original conditional use approval has expired so the applicant has submitted a new application to allow for the continued use of the model home.

This unit serves as the model home and sales office for Pulte Homes of Ohio, LLC, for the homes within this subdivision. Two lots are used for a temporary parking lot to serve the model home and sales office. There are no proposed site or building modifications compared to what was originally approved in 2018 and all original conditions of approval have been met.

The requested duration of this conditional use is until all lots within the community have been sold or for a period of time to be no less two (2) years.

IV. LOCATION

The proposed model home is located at lot 6, 7, and 8 of the subdivision. The Nottingham Trace subdivision contains 240 age-restricted lots and 69 of the lots have been developed or are currently under construction. The subdivision is approximately 89.6+/- acres.

The final development plan was approved on June 19, 2017 (FDP-31-2017). Phase 1 of this development was approved by the Planning Commission on September 18, 2017 and phases 2, 3 and 4 were approved on March 18, 2019.

V. EVALUATION

General Standards for Conditional Uses (C.O. 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 shall meet 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.*
- (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.*
- (c) *The use will not be hazardous to existing or future neighboring uses.*
- (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.*
- (e) *The proposed use will not be detrimental to the economic welfare of the community.*
- (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.*
- (g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*

Residential model homes. Per Code, these are newly constructed homes or temporary structures placed in a newly constructed subdivision and used by a homebuilder or developer to display home styles and lot availability in a subdivision to promote the sale of new housing units. The model home may be staffed and furnished. (C.O. 1165.11)

The criteria and the applicability of this application are detailed below (Section 1165.11(a)):

1. *Appropriate location within the community.*
The model home location is not changing as part of this request. It is located on lot 6 and the temporary parking lot is located on lots 7 and 8. The model home is located close to the subdivision entrance along the primary drive when entering from New Albany-Condit Road on Nottingham Boulevard. There have been no complaints about the model home during the duration of the original conditional use.
2. *It is integrated in the existing community with customary exterior residential lighting.*
The home will continue to utilize coach lighting fixtures consistent with the style and architectural features present on the other homes planned within the subdivision. This lighting was approved by the Planning Commission with the original conditional use application.
3. *The use is approved with limited duration.*
The applicant has stated that they would like to utilize the conditional use until all lots within the community have been sold or for a period of time no less than 2 years. Historically, the Planning Commission has approved conditional uses for other model homes within the community for 1-3 years depending on the size of the subdivision. Since this model is utilized for the entire 240 lot subdivision and only 69 homes have been built, staff recommends the model home approval is permitted for three (3) years and that any extension in time is subject to review and approval by the Planning Commission.
4. *One sign is permitted.*
The previously approved sign will remain at the site.
5. *Shall not be used as a general real estate brokerage office.*

The applicant has stated that the model home will not be used as a general real estate brokerage office.

The Planning Commission is also to consider the following (1165.11 (b)):

1. *Hours of operation*

The previously approved hours of operation are not proposed to be changed. The model home operates Monday through Friday, from 11:00am to 6:00pm and 12:00pm to 5:00pm on Sunday.

2. *Number of employees and maximum number of employees at the site at one time.*

The applicant states that there will be no more than 2 sales representatives staffing the house during its hours of operation which is the same as the original approval.

3. *Provisions for parking for employees and customers*

There are no changes to the previously approved parking area and there are 11 parking spaces on site. Staff recommends a condition of approval that the temporary parking lot, parking lot lighting, and landscaping are removed at the expiration of the permit.

4. *Size, lighting, content and location of signage*

There are no proposed changes to the previously approved site lighting or signage.

5. *Landscaping and screening*

There are no proposed changes to the previously approved site landscaping.

VI. RECOMMENDATION

Staff recommends approval of the conditional use renewal request. There are no proposed changes to what was originally approved by the Planning Commission, all previous conditions of approval have been complied with and no complaints have been made about the site. The operational aspects of the model home are consistent with successfully operating model homes in other New Albany neighborhoods.

VII. ACTION

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

Move to approve application CU-15-2022 with the following conditions, subject to staff approval:

1. The temporary parking lot, parking lot lighting, and landscaping are removed at the time that the permit expires.
2. The Conditional Use Permit is permitted for three (3) years and that any extension in time is subject to review and approval by the Planning Commission.
3. The sign associated with this application is removed at the time that the permit expires.

Approximate site location:



Source: Google Earth