

New Albany Planning Commission Agenda Monday, July 18, 2022 7:00pm

Members of the public must attend the meeting in-person to participate and provide comment at New Albany Village Hall at 99 West Main Street. The meeting will be streamed for viewing purposes only via the city website at https://newalbanyohio.org/answers/streaming-meetings/

- I. Call To Order
- II. Roll Call
- III. Action of Minutes: June 6, 2022 June 20, 2022

IV. Additions or Corrections to Agenda

Swear in All Witnesses/Applicants/Staff whom plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth".

V. Hearing of Visitors for Items Not on Tonight's Agenda

VII. Cases:

VAR-59-2022 Variance

Variance to West Nine 2 Subarea C zoning text section 4(d) to allow a covered porch to be setback approximately 21.5 +/- feet from the rear property line where the zoning text requires a 30-foot setback at 7210 Ebrington Round (PID: 222-004754-00). Applicant: **f5 Design/Architecture c/o Todd Parker**

Motion of Acceptance of staff reports and related documents into the record for VAR-59-2022.

Motion of approval for application VAR-59-2022 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VIII. Other Business

IX. Poll members for comment

X. Adjournment



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 7:00 p.m.

Those answering roll call:

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

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

City Council members present: Michael Durik and Chip Fellows.

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 PC on items not on tonight's Agenda. (No response.)

Other Business

Engage New Albany Strategic Plan Addendum Workshop Planning and Zoning Code Updates Workshop Design Guidelines and Requirements Update Workshop

Mr. Christian presented the workshop topics.

Ms. Sarah Lilly, Associate Planner, MKSK, presented the process used in the review conducted, the findings, and recommendations.

Mr. Christian presented a review of the proposed updates.

Mr. Kirby asked if in the PUD rezoning process the Architectural Review Board would review a rezoning application prior to the PC reviewing the plans.

Mr. Christian stated, yes, the order would be the Architectural Review Board first and then the PC.

Mr. Kirby asked if the PC would still review it.

Mr. Christian stated yes.

Mr. Schell stated there were lots of concerns the first time the hamlet concept was reviewed. Mr. Schell noted this was very similar to the original proposal.

Mr. Mayer stated that the NoNA project had issues as the City did not have Code ordinances in place at that time for the hamlets.

Mr. Jeff Pongonis, MKSK, stated MKSK had developed the capacity plan to meet the City's rules and guidelines based on the work staff had done on the Codes and ordinances. Mr. Pongonis stated this was similar to NoNA in part due to the size and features of the hamlet land.

Mr. Schell asked what the acreage was in this location.

Mr. Pongonis stated it was 33 acres.

Mr. Wallace asked how the hamlet density of six (6) per acre compared to that of Keswick.

Mr. Pongonis stated they had used Keswick as part of the study.

Ms. Lilly stated Keswick had a density of fifteen (15).

Mr. Wallace asked if the density was then just part of this conceptual plan.

Mr. Pongonis stated yes.

Mr. Mayer stated the building heights were also similar to those in Keswick.

Mr. Wallace asked how the heights of forty (40) feet and 55 feet here related to the heights seen in Keswick.

Mr. Pongonis stated the Keswick buildings peaked at about forty (40) feat and three (3) stories tall.

Ms. Lilly stated the recommendations were to have buildings of forty (40) feet within 250 feet of Central College Road and S.R. 605 as well as the commercial buildings fronting on Central College Road. Ms. Lilly stated the 55 foot buildings were more for the core of the development and for interest.

Mr. Wallace asked if the density would be less than that at the Village Center.

Mr. Pongonis stated yes.

Mr. Wallace stated thank you.

Mr. Schell asked how this kind of density would affect student numbers in the schools.

Mr. Mayer stated a school impact statement was required to be submitted as part of a rezoning process.

Mr. Kirby asked if there was a mathematical formula based on the number of units.

Mr. Kirk Smith, member of the public, stated 198 units.

Mr. Kirby asked if that would then be .8 times 198.

Mr. Mayer stated that was the number used for single family residences and noted it was lower in multi-family structures. Mr. Mayer noted it might not be a fair comparison.

Mr. Kirby stated it would provide an upper bound in that case if all those units were single family homes. Mr. Kirby stated the upper bound would be fifteen (15) to sixteen (16) added children for the schools if the units were all single family homes.

Mr. Mayer stated he could find additional details on these numbers and added that this was a one case scenario and could vary.

Mr. Kirby stated that as this checked all the boxes it could be used to run the numbers as if it were truly going to be built.

Mr. Mayer stated yes, but the number of single family and other uses would still need to be determined for those numbers.

Mr. Pongonis stated they could use this plan, with their unit types, to develop an example for the next presentation.

Mr. Kirby stated right, it could vary, but this was information the public wanted to know.

Mr. Wallace asked if more residential units would fit or could be added to this location or was this the maximum number expected.

Mr. Pongonis stated this was a forecast and could vary based on the types of units. Mr. Pongonis stated they were providing flexibility to the City based on its rules and regulations as well as offering something the market would want.

Mr. Schell asked if it would offer any age restricted units.

Mr. Pongonis stated there could be.

Mr. Schell stated that previous feedback about the hamlet included concerns about overloading schools and traffic and the communication about these issues needed to be strong.

Mr. Wallace stated prior feedback included concerns related to both traffic and schools even though the thought was there would not be large impacts to each. Mr. Wallace stated he agreed communication was important.

Mr. Pongonis stated they would keep that in mind. Mr. Pongonis stated that traffic was important and, based on this conceptual plan, there should not be traffic added at peak demand times.

Mr. Kirby asked how many feet from the intersection of S.R. 605 and Central College Road the two roads shown on the screen would be.

Mr. Pongonis stated one was about 350 feet and the other was about 600 feet, as best he could remember.

Mr. Kirby asked when the stacking lanes would start for the turn lanes.

Mr. Pongonis asked if that was in terms of the total car lengths.

Mr. Kirby asked to see an overlay with marks on it for reference points to see if a left turn could be made safely.

Mr. Pongonis said they could take a crack at that.

Mr. Wallace asked if the hamlet concept would take traffic circles into account.

Mr. Pongonis stated that would be part of the traffic planning to be completed on this.

Mr. Kirby asked if permission from the Ohio Department of Transportation (hereafter, "ODOT") would be needed on S.R. 605.

Mr. Mayer stated that would be reviewed as part of the re-zoning. Mr. Mayer stated there had been minimal traffic impact from the NoNA plan. Mr. Mayer stated that a lower speed limit had also been proposed for this development.

Mr. Kirby noted he wanted to have these types of questions answered for the public.

Mr. Mayer stated no widening had been needed for the NoNA plan.

Mr. Pongonis stated the assumption was that the current roads were suitable and only perhaps one or two turn lanes would be needed.

Mr. Kirby asked what Mr. Pongonis would be the top ten (10) types of uses in the hamlet.

Mr. Pongonis stated it would be the same as Market Square with offices, small cafes, office, restaurants, perhaps a dentist's office.

Mr. Kirby asked if there would be others.

Mr. Pongonis stated personal services, yoga studios, hair salons, nail boutiques, small retail, boutique offices, etc.

Mr. Kirby stated it would be good for all to have an idea of what could be there.

Mr. Pongonis stated those were the things they meant as well as smaller scale restaurants, ice cream, coffee, etc., things residents would find desirable.

Mr. Schell asked if underground parking would be available or if it was too expensive.

Mr. Pongonis stated that for a developer it would be more costly than surface or elevated parking but that would be for a developer to decide. Mr. Pongonis stated underground parking was mostly used in multi-family units. Mr. Pongonis stated this would be on-street parking.

Mr. Kirby asked how they would get the right mix of uses in the hamlet.

Mr. Mayer stated this had been discussed and they believed that the ratio of a minimum of 200 feet of mixed commercial development for each dwelling unit provided the right mix.

Mr. Kirby asked if this hamlet became the perfect location for small restaurants then how many of them would be too many.

Mr. Mayer stated he believed it would be the other development standards that would drive that, such as those for height maximums, parking requirements, density, traffic studies, etc.

Mr. Pongonis stated parking and other requirements would affect this issue per the New Albany standards.

Mr. Kirby stated that assumed the PC would review a potential use.

Mr. Wallace asked at what stage a use review would occur.

Mr. Kirby stated that any use already permitted would not go before the PC, so if both office or retail could be there then a retail space taken over by an office renter would not go before the PC.

Mr. Pongonis stated the market would evolve over time and the plan would need to inform what could be on the site.

Mr. Christian stated staff expected to have the text contain a review of the parking model as new uses occurred.

Mr. Kirby asked what would happen if it was not.

Mr. Christian stated it would become a Code enforcement issue.

Mr. Mayer stated he believed in those cases a variance would be needed.

Mr. Kirby stated parking was a shared resource and each renter, based on use, should have a number of parking spots available based on that use.

Mr. Mayer stated he believed the zoning text could contain a provision for City review of parking when tenants changed.

Mr. Kirby stated that in addition to floor space then the new tenant would need to also obtain parking for their new use.

Mr. Pongonis stated these developments would have a scorecard and tenants would need to meet or not exceed a set of expectations.

Mr. Wallace asked where that type of concept would need to be reflected.

Mr. Mayer stated he believed that would be in the PUD text.

Mr. Wallace stated the issue was that when the PC approved something like this it would not know what type of commercial use would go in.

Mr. Pongonis stated that as part of the users' parking model they could review parking needs.

Mr. Wallace stated that while there may be expectations at the start the market could eventually drive the preferred types of commercial uses.

Mr. Pongonis stated the scorecard model would help with that.

Mr. Mayer stated if potential users would not be meeting the model standards they would not be able to conduct that use on the location or they would need to request a variance.

Mr. Wallace asked how it would be controlled once approved by the PC.

Mr. Mayer stated staff would review each time a tenant change occurred.

Mr. Kirby asked if the DGRs could include a mention of this issue.

Mr. Mayer stated they could look into doing that.

Mr. Kirby stated it was being done with storm water and other shared resources.

Mr. Mayer stated they could look into the parking code or DGRs to see where it may be best.

Mr. Kirby asked if any members of the public wanted to provide any comments.

Mr. Kirk Smith, 6830 Central College Road, stated he lived very close to the proposed townhomes and asked if there was already a developer working on this location.

Mr. Mayer stated he was not sure if this had changed hands since the last proposal.

Mr. Smith asked if it was still Steiner.

Mr. Mayer stated he was not sure.

Mr. Smith stated that would be seen on public records, so it had not changed hands. Mr. Smith asked if MKSK had worked with Steiner.

Mr. Pongonis stated no, MKSK worked directly with the City.

A member of the audience made a comment.

Mr. Kirby requested the comment be stated for the record at the microphone.

Mr. Smith stated the question had been whether MKSK had worked with the developer and that had been answered as a 'no.'

Mr. Kirby asked if the question was whether any developer had hired MKSK and noted that he believed only the City had hired MKSK.

Mr. Pongonis stated only the City had hired MKSK.

Mr. Smith stated the concerns from the prior proposal were about density, schools, and a preference for no multi-family housing units. Mr. Smith stated the density in this plan of six (6) units per acre was too high and asked how many acres were in Keswick.

Mr. Mayer stated he did not know.

Mr. Smith asked if the six (6) units could be decreased to three (3) units and that would still be a lot of cars and people.

Mr. Pongonis stated the density was a question of comparisons. Mr. Pongonis stated that in the Windsor single-family community the density was six (6) units per acre and that could be used to look at apples to apples.

Mr. Smith asked what the ownership percentage would be in the flats and townhomes and would there be any rentals.

Mr. Mayer stated those types of assignments had not been made.

Mr. Smith asked if it would be up to the developer to do that.

Mr. Mayer stated yes.

Mr. Kirby stated Ohio law allowed any homeowner to rent his or her house.

Mr. Smith stated he wanted to know the intent and asked if there would be a homeowners association here.

Mr. Kirby stated this was not a proposal, this was just a review of what a hamlet would look like.

Mr. Albrecht stated he wanted to affirm that any homeowner could rent his or her home and that could not be regulated.

Mr. Smith asked if a review would not occur until a proposal was made.

Mr. Mayer stated it was a two-step process with the PUD text first reviewed by the PC and City Council. Mr. Mayer stated if that was approved then the developer would need to return to the PC and the Architectural Review Board for approvals.

Mr. Smith asked if it would still need to go back to the PC.

Mr. Mayer stated that was correct.

Mr. Smith stated he felt that 198 units were a lot for such a small site.

Ms. Caroline Salt, 5430 Snyder Loop in the Enclave community, said she wanted more definition and to have more things set in stone, such as the 40 foot height limits, as time passed.

Mr. Kirby asked if others wished to speak.

Ms. Trisha Segnini, 7267 New Albany Links Drive, HOA president and real estate agent, stated the residents of New Albany Links needed to pass this one thirty (30) acre corner to get almost anywhere. Ms. Segnini stated they still did not know what the hamlet would be and wanted more details regarding density, school numbers, park space, what could be there, and what

could not be put in the hamlet. Ms. Segnini stated they were not against development but wanted more details about it.

Mr. Kirby stated that paymen-in-lieu of for park space would need to be agreed to by the PC and City Council and was not automatic.

Ms. Segnini stated developers could trade then.

Mr. Kirby said they could ask, but it might not pass, developers did not have a right to it.

Mr. Mayer stated the Code already allowed payment-in-lieu of for all areas of the City, not just the hamlet.

Mr. Kirby noted that New Albany Links existed because the park land could be moved around.

Ms. Segnini stated open land next to her house had been traded and now there was a house there. Ms. Segnini said she was concerned there was not enough park land and, if it could be traded for residential units to achieve profitability for a developer, then she did not support that.

Mr. Kirby stated the public could return when there was a concrete proposal for this and also mentioned that the earlier they could work with the developer on any development the easier it would be to make any changes.

Mr. Smith asked if a hamlet had to be there.

Mr. Mayer stated it was part of the Engage New Albany plan and noted there was an underlying commercial use there.

Mr. Kirby asked if the by-right zoning was commercial.

Mr. Mayer stated it was residential by-right but the underlying recommended use was commercial. Mr. Mayer stated there was no requirement for a hamlet here, but based on resident feedback the hamlet provided many of the things residents wanted.

Mr. Smith asked if the impetus was from the Strategic New Albany then the top wish was for single-family homes.

Ms. Lilly stated the slide Mr. Smith was speaking about provided a summary of feedback received and there were also other reasons for the hamlet concept, including lack of retail north of S.R. 161.

Mr. Kirby stated the rule was usually that people would walk a distance of 900 feet and asked what the distance was for biking.

Mr. Pongonis stated people would normally walk or bike for about five (5) to ten (10) minutes.

Mr. Kirby stated he would like to know what this hamlet location was close to, which communities, which residents, etc. would be close to this location.

Mr. Pongonis stated that a ten (10) minute walk or bike ride would serve lots of residents.

Mr. Kirby stated the residential lots were mostly on an east/west location and asked if this was the best location.

Mr. Mayer stated they had looked at alternative hamlet locations originally but felt this location was the best opportunity for a hamlet.

Mr. Kirby asked if it this was more developable or if this was the best location.

Mr. Mayer stated it was the best location based on what was around it.

Mr. Kirby stated this needed to be defendable to other developers who might then also want to develop a hamlet elsewhere.

Mr. Mayer stated hamlets could not be moved and were for specific locations.

Ms. Segnini asked if the second hamlet had been replaced.

Mr. Mayer stated there was only one (1) hamlet.

Ms. Segnini asked if this was only for this location or for all hamlets.

Mr. Mayer stated the development standards presented today were for this geographic site.

Ms. Segnini stated this would demolish homes and asked if those residents would be helped with relocation.

Mr. Mayer stated sellers would need to work that out with developers.

Ms. Segnini asked if a new hamlet could be put in and what would the parameters for that be.

Mr. Mayer stated the Strategic Plan would need to support the development of a location for it to move forward.

Mr. Kirby stated there were few abilities to tell a developer 'no."

Ms. Segnini stated traffic reviews and investigation should be conducted.

Mr. Schell stated traffic studies would be needed prior to approval.

Ms. Segnini stated traffic studies should be done during school hours.

Mr. Schell stated that would normally be a requirement for the PC.

Mr. Kirby stated ODOT controlled S.R. 605 so that was also part of the review.

Mr. Mayer stated those were good questions but they did not yet have those answers but they would.

Ms. Segnini stated okay, thank you.

Mr. Smith stated a hamlet was not required or needed here and the PC could stop it.

Mr. Kirby stated that a lot of text from 1187 had been moved and asked if any of the applicability of the chapter had changed.

Mr. Mayer stated they believed it should all still be applicable.

Mr. Kirby stated right.

Mr. Mayer stated park and open space requirements in subdivisions were also now part of the hamlet requirements.

Mr. Kirby asked if text in DGR section 5 had changed.

Mr. Christian stated it was only one (1) sentence on page 8, and was shown in red, and applied only to non-single family detached.

Mr. Kirby asked what the negation applied to.

Mr. Christian stated that if it was not single-family detached, residential development then those standards would apply.

Mr. Kirby stated the text as written might be misread.

Mr. Christian stated they could review the wording on that.

Mr. Mayer stated they were trying to say that if it was not the typical suburban detached residential neighborhood and was outside the Village Center, then it would apply, as in the case of townhomes and anything other than a single-family detached home.

Mr. Kirby stated so anything other than single-family detached was likely the intent.

Mr. Christian stated they would look at that.

Mr. Kirby asked if this applied outside the Village Center and to R1.

Mr. Mayer stated the DGRs were an overlay on top of any district and could apply depending on what was the proposed development type in that zoning district.

Mr. Kirby stated the document applied to any R1 outside of the Village Center.

Mr. Mayer stated it would not need to be an R1 and it applied to any ...

Mr. Kirby stated that would include things like the New Albany Farms and it read like it was meant for tighter suburban development. Mr. Kirby asked if the text that had not changed was up for review.

Mr. Mayer stated they reviewed and felt comfortable with the current DGR and development standards and wanted to focus only on the hamlet standards but could do other updates later.

Mr. Wallace stated that multi-family should be Roman numberal III and not Roman numberal II.

Mr. Mayer stated thank you.

Mr. Christian stated that for the next meeting the PC members would have more information on this and there would also be more public information available.

Mr. Albrecht stated that if members were to abstain in the future they should do so before they participated and noted that if they participated, then their only options would be to approve or disapprove in some form.

Mr. Mayer said anyone with feedback or questions could contact staff.

Poll Members for Comment

Mr. Kirby adjourned the meeting at 8:40 p.m.

Submitted by Josie Taylor.

APPENDIX



Planning Commission Staff Report July 18, 2022 Meeting

7210 EBRINGTON ROUND REAR YARD SETBACK VARIANCE

LOCATION: APPLICANT:	7210 Ebrington Round (PID: 222-004754-00). Todd Parker, F5 Design/Architecture Inc.
REQUEST:	Variance to West Nine 2 Subarea C zoning text section 4(d) to allow a covered porch to be setback approximately 21.5 +/- feet from the rear property line where the zoning text requires a 30-foot setback.
ZONING:	West Nine I-PUD Zoning District
STRATEGIC PLAN:	Residential
APPLICATION:	VAR-59-2022

Review based on: Application materials received on May 18, 2022

Staff report prepared by Chris Christian, Planner

I. REQUEST AND BACKGROUND

This application was tabled by the Planning Commission during their June 20th meeting at the request of the applicant. No new, additional information has been submitted for staff review by the applicant. City staff received several emails from surrounding neighbors regarding the project which are included in the meeting packet.

The applicant requests a variance to construct an attached covered porch which would be setback approximately 21.5 feet away from the rear property line where the zoning text requires a 30 foot setback.

II. SITE DESCRIPTION & USE

The property is .51 acres in size and contains a single-family home. The lot is located in the Ebrington subdivision. The surrounding properties are located within the same subdivision and contain residential uses.

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.

PC 22 0718 7210 Ebrington Round Rear Yard Setback Variance VAR-59-2022

- 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 West Nine 2 Subarea C zoning text section 4(d) to allow a covered porch to be setback approximately 21.5 +/- feet from the rear property line where the zoning text requires a 30-foot setback.

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

- 1. As part of the construction of a new home, the applicant proposes to construct an attached, covered porch at the rear of the home. Due to the angle of the house to the rear property line, a portion of the covered patio encroaches into the rear setback area. At its closest, the porch will be setback approximately 21.5 feet from the rear lot line therefore, a variance is required.
- 2. It appears the 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. C.O. 1165.04(b)(3)(c) states that covered porches are permitted to be located 10 feet away from rear property lines. Since this covered porch is attached the primary home, it is considered part of the house and must follow the 30-foot year yard setback of the house. If the roof of the porch were simply not attached to the rear of the home, a variance would not be required.
- 3. There are special circumstances and conditions which are peculiar to the land that justify the variance request. The lot shape is triangular which has an implication on how the rear property line and associated setback line are determined for this property as outlined below.

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- The property has three frontages (along Hanby Loop, Ebrington Round, and Ebrington Road) based on C.O. 1105.02(u) which defines "frontage" or "lot frontage" as that portion of the lot that directly abuts the street, and has direct access thereto.
- C.O. 1105.02(dd)(3) "Rear lot line" means "that lot line which is opposite and furthest removed from the front lot line. In such a lot where the side lot lines meet to the rear of the lot, or where the rear lot line is less than ten (10) feet, the minimum rear yard shall be computed from the point of intersection of the side lot lines on an imaginary line that is at equal angles from each side lot line. In the case of a corner lot, the rear lot line is opposite and furthest removed from the front lot line of least dimension." Based on this definition, the lot line that connects the two side lot lines and is also opposite to the front lot line of least dimension (Hanby Loop).
- The lot is triangular and based on the above code definitions, the rear yard setback is measured as a 30 radius off of each portion of the rear lot line. This interpretation is based on staff's historical interpretation of code from the definition of "rear yard." C.O. 1105.02(ccc)(2) states rear yard means "that portion of a lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear of the building or structure." Staff has interpreted this to mean the rear yard is between and connects the side lot lots. The large angle and shape of the lot results in the radial component of the rear setback. If the lot was a perfect square, it would just be straight lines and a variance would not be required.
- 4. It does not appear that the variance request is substantial. While the porch encroaches into the required rear yard setback, only 19% of the total porch area is located within the required 30-foot setback which equates to about 71 sq. ft.
- 5. It does not appear that the essential character of the neighborhood would be altered if the variance is granted. The Planning Commission approved a zoning text modification on May 16, 2016 (TM-19-2016) to allow the rear yard setbacks for lots 42 thru 55 in the same subdivision to be reduced from 30 feet to 15 feet. This reduction was permitted to allow for greater flexibility in design for the homes and associated recreational amenities and reduce the number of future variances within the subdivision. This smaller setback allows homes and recreational amenities to be located closer to the rear property lines compared to other lots in the subdivision. Lots 48 and 49, located immediately to the west and northwest of this subject property both have rear yard setbacks of 15 feet as a result of this approval. In order to provide screening and buffer lot 3, staff recommends that landscaping be added along the side and rear lot line where the encroachment into the setback is proposed, subject to staff approval.
- 6. While the applicant needs a variance to construct the desired porch, the plan accomplishes good design which is a hallmark of residential development in New Albany and will not alter the character of the surrounding area.
- 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. Due to the unique triangular shape of the lot, the large angle of the rear lot line and the front and rear yard definitions of city code; a radial component is added when measuring the rear lot setback for this property which results in the proposed encroachment. If the lot were of a normal shape, the setback would be straight lines, and a variance may not be required.

PC 22 0718 7210 Ebrington Round Rear Yard Setback Variance VAR-59-2022

While the applicant proposes to encroach into the required rear yard setback it is a minimal encroachment, a total of 71 sq. ft. or 19% of the total area of the proposed patio which is not substantial. Additionally, it does not appear that the essential character of the surrounding area or Ebrington subdivision would be altered if the variance request is granted. If the proposed covered porch were simply not attached to the home, it could be located as close as 10 feet away from the rear property line and a variance would not be required. An adjacent neighboring property owner could construct a recreational amenity as described above in their own rear yard, closer to this site and a variance would not be required.

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-59-2022 based on the findings in the staff report with the following condition of approval (conditions of approval may be added).

1. Landscaping must be added along the rear and side property line abutting lot 3 where setback encroachment is proposed, subject to staff approval.



Approximate Site Location:

Source: NearMap

Christopher Christian

From:
Sent:
To:
Cc:
Subject:

Zuika, Erik <EZuika@MGFSourcing.com> Thursday, June 16, 2022 10:35 AM Christopher Christian Zuika, Cara [EXT]7210 Ebrington Round

WARNING: This email originated from outside the City of New Albany. Please validate the sender's email address before clicking on links or attachments as they may not be safe.

Good Morning,

I'm writing in response to the recent letter that was received in relation to the zoning request made by the owners of 7210 Ebrington Round. After discussions with our neighbors and assessing the situation, although it may be minimally impactful for our home (7025 Hanby's Loop), it will be an unfortunate intrusion into the overall appearance and space for the homes directly behind and next to their location if they were to extend the covered patio as intended by the construction plans.

The inner lots on Hanby's Loop & Ebrington Rd. are already relatively small and with the size of homes being built create minimal space between and behind each home. 30ft to the lot line is already quite minimal and to encroach on that with any sort of structure will continue to reduce green space & overall openness/visual appeal of the area.

I would hate for the homeowner's of 7210 not to get what they want, as I know this is a difficult & expensive process being in the homebuilding stage myself, but I do feel we need to be respectful to the neighboring homes and the impact that broaching zoning guidelines may cause.

Thank you,

Erik

Erik Zuika Director – FP&A MGF Sourcing Office: 614.904.3255 Cell: 847.912.6456 EZuika@mgfsourcing.com

DISCLAIMER:

E-mails and attachments from MGF Sourcing are confidential.

If you are not the intended recipient, please notify the sender immediately by replying to the e-mail, and delete it without making copies or using it in any way. No representation is made that this email or any attachments are free of viruses. Virus scanning is recommended and is the responsibility of the recipient.

Christopher Christian

From:Martha Orrantia <marty_orrantia@hotmail.com>Sent:Friday, July 1, 2022 4:00 PMTo:Christopher ChristianCc:EZuika@gmail.com; Ryan Deal; tyskiewicz.am@gmail.com; Jose A. PlazaSubject:[EXT]Re: [EXT]Refrence: 7210 Ebrington Round

Hello Chris,

Thanks for your email, I appreciate you keeping us informed. Since our last call, I have reached out to a few real estate agents and a real estate investor. I value the information they provided considering this is what they do for a living. In their expert opinion this variant request is not aesthetically ideal for our property but also, it may substantially affect the market value of our property which is the equity of my kids. We are going to say No to the variant request.

We will be out of the country for summer vacation for the month of July but you can always reach me by email or phone. For the July 18th hearing if you need more than this email from us let us know.

Thank you Jose & Martha Plaza 7029 Hanbys Loop New Albany, Oh 43054

From: Christopher Christian <cchristian@newalbanyohio.org> Sent: Monday, June 20, 2022 3:26 PM To: 'Martha Orrantia' <marty_orrantia@hotmail.com> Cc: Jose A. Plaza <jplaza1@hotmail.com> Subject: RE: [EXT]Refrence: 7210 Ebrington Round

Hi there---

Thank you so much for sending this. I will be sure that it gets to Planning Commission members. I would like to let you know that the applicant has asked that the application be tabled at tonight's meeting for one month. Based on this request, the Planning Commission will not take action tonight and move the hearing to July 18th. I believe the applicant is going to use this extra time to reach out to you and other homeowners.

Let me know if you have any questions.

Thank you,

Chris Christian Planner II he/him/his



phone 614.939.2254 direct 614.939.2253



newalbanyohio.org

From: Martha Orrantia <marty_orrantia@hotmail.com>
Sent: Friday, June 17, 2022 4:43 PM
To: Christopher Christian <cchristian@newalbanyohio.org>
Cc: Jose A. Plaza <jplaza1@hotmail.com>
Subject: [EXT]Refrence: 7210 Ebrington Round

WARNING: This email originated from outside the City of New Albany. Please validate the sender's email address before clicking on links or attachments as they may not be safe.

New Albany Planning Commision

We received a letter signed by Christopher Christian representing The Community Development Department. The letter is to inform us homeowners located 200 ft from 7210 Ebrington Round (PID:222-004754-00). that a variance has been requested by Todd Parker at F5 Design/Architecture Inc. The variance which will affect our rear property line where the zoning text requires a 30-foot setback. We walked the property with a few of my neighbors, and we also looked at the blueprints. This lot (7210) is narrow at the back and short. The blueprints show a full construction with little to no backyard. We do not agree on them going over the 30-foot set back, there is no reason why their cover porch should be so close to our property.

The letter explains that members of the public must attend meeting in person on June 20th at 7pm to provide comment, I had a phone conversation with Chris Christian on Tuesday and Thursday and his recommendation is that an email will have the same effect as the in-person participation.

Jose and Martha Plaza 7029 Hanby's Loop New Albany, Oh 43054 4146888174

Permit #	
Board	
Mtg. Date	



Community Development Planning Application

	Site Address 7210 Ebrington Rou	nd	
	Parcel Numbers 222-004754-00		
	Acres	# of lots created	
	Choose Application Type	Circl	e all Details that Apply
Project Information	Due to the "triangular" shape of the l planning and zoning staff impacts the would be a maximum of 6'8" and a tr area.	ot and the other site constrai approved (by NACCC ARC iangular portion of the porch	Comprehensive Amendment Adjustment Street Text Modification ek encroachment of an attached covered porch hts, the rear yard setback as intepreted by the c) design of the home. The encroachment which amounts to 71 s.f. (19% of the porch
Contacts	Address:8413 Kiernan DriveCity, State, Zip:New Albany, OPhone number:630.649.4912Email:gary.niederpruem	@vertiv.com dd Parker, F5 Design/Archit OH 43054	Fax:
Signature	The Owner/Applicant, as signed belo employees and appointed and elected described in this application. I certify true, correct and complete.	ow, hereby authorizes Villag l officials to visit, photograp	

Applicant – Todd Parker, F5 Design/Architecture Inc.
 On behalf of Gary and Mollie Niederpruem
 Address of subject Property: 7210 Ebrington Round
 Type of Request: Variance for Rear porch encroachment into 30' Rear Yard Setback.

Applicant seeks the following variance to permit construction of an attached covered rear porch that would encroach into the rear yard setback on Lot 2 in the Ebrington Subdivision, 7210 Ebrington Round, New Albany, OH 43054.

The request is for a rear yard setback encroachment of an attached covered porch. Due to the "triangular" shape of the lot and other site constraints, the rear yard setback as interpreted by the planning and zoning staff impacts the approved (by NACCC ARC) design of the home. The encroachment would be a maximum of 6'-8" and a triangular portion of the porch with amounts to 71 s.f. (19% of the porch area).

The definition of the rear yard setback is as follows:

"Rear Yard" means that portion of ta lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear of the building or structure.

Due to the triangular nature of the shape of the lot the City Staff has presented the following information on the rear yard determination:

- The Lot has three frontages (along Hanby Loop, Ebrington Round, and Ebrington Road) based on C.O. 1105.02(u) which defines "frontage" or "lot frontage" as that portion of the lot that directly abuts the street, and has direct access thereto. "Lot frontage" shall be measured along the minimum building setback line for the district within which such lot is located.
- C.O. 1105.02(dd)(4) states "side lot line" means "the lot line running from the front lot line to the rear lot line. This line is also the line dividing two (2) interior lots." So these are the two lot lines running from Hanby Loop and Ebrington Road.
- C.O. 1105.02(dd)(3) "Rear lot line" means "that lot line which is opposite and furthest removed from the front lot line. In such a lot where the side lot lines meet to the rear of the lot, or where the rear lot line is less than ten (10) feet, the minimum rear yard shall be computed from the point of intersection of the side lot lines on an imaginary line that is at equal angles from each side lot line. In the case of a corner lot, the rear lot line is opposite and furthest removed from the front lot line of least dimension." Based on this definition, the lot line that connects the two side lot lines and is also opposite to the front lot line of least dimension (Hanby Loop).
- The radial setback is based on staff's historical interpretation of code from the definition of "rear yard." C.O. 1105.02(ccc)(2) states rear yard means "that portion of a lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear of the building or structure." We've interpreted this to mean the rear yard is between and connects the side

lot lines. The large angle and shape of the lot results in the radial component of the rear setback. If the lot was a perfect square, it would just be straight lines.

According to C.O. 1113.03 (e) A narrative/justification statement is needed explaining the following:

• (1)The use for which variance or appeal is sought.

The variance is being sought to allow the encroachment of the proposed covered rear porch into the 30 foot rear yard setback. The porch will encroach at its furthest point 6'-8" and the total area of this triangular shaped encroachment is 71 s.f.

• (2) Details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

The variance should be approved as the nature of the structure is appropriately designed for the Community and approved by the NACCCARC. Additionally, the zoning text for Ebrington was revised so that two of the three adjacent lots have a 15 foot rear yard setback (lots 48 and 49). The shape of the lot and the Development setback of 45' Building to line on the Ebrington Road side exacerbate the restrictions of this lot, amongst other site factors such as, lack of street parking, numerous easements on the lot and other Architectural Requirements.

(3) The Specific Reasons why the variance is justified according to this chapter.

The variance should be approved as the nature of the structure is appropriately designed for the Community and approved by the NACCCARC. The shape of the lot and orientation of the proposed home is unique that the rear yard convergence of several lots creates a more open feel that typical subdivision layouts. Additionally, the non conforming lot shape as platted and the definitions could create multiple interpretations of what a rear yard could be.

Other Factors to this variance:

1. 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 proposed use is harmonious with the overall community and will have a negligible effect on any general objective.

(b)

2. 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 porch structure will be harmonious with the main house and it will be similar to many other porch structures within the area.

3 . *The use will not be hazardous to existing or future neighboring uses.* The proposed use will not be hazardous in any way to the existing or future neighboring uses.

4. 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 Proposed use will not have any adverse effect on any public facilities or services.

5. The proposed use will not be detrimental to the economic welfare of the community.

The proposed use will not have any adverse effect on the economic welfare of the community.

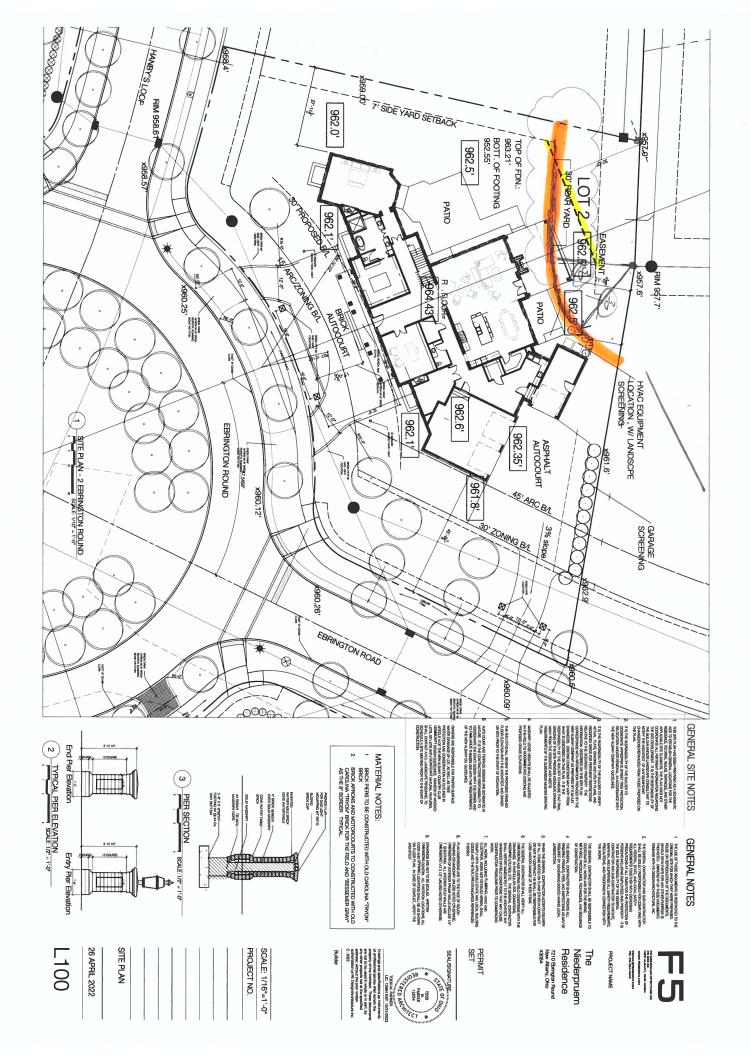
6. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

The proposed use will not involve any excessive traffic, noise, smoke, fumes, glare or odors.

7. 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.

DUNCAN FACTORS -7210 Ebrington Round

- 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.
 - The shape of the lot and development requirements create peculiar setback conditions compared to other homes in the area.
- 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.
 - The literal interpretation of the zoning code would indeed deprive the Homeowner from executing this project and there is precedent in the same zoning district for 15' rear yard setbacks. In this case the corner of the porch in question would create roughly a 21'-6" setback.
- That the special conditions and circumstances do not result from the action of the applicant.
 - The special conditions and circumstances did not result from any actions of the homeowner.
- 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.
 - It is not apparent that the granting of this variance will confer any special privilege that is denied by the zoning ordinance to other lands or structures in the same zoning district as there are numerous accessory structures within the district that have had variances.
- 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.
 - The granting of the variance will not have any effect of the health and safety or materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity whatsoever.



Buffer search results

Results 1 - 20 of 20

	Alt ID	Site Address	Owner 1	Owner 2
222N052GII 00100	222-004788-00	SOUTHFIELD RD	NEW ALBANY CO LLC	
222N052GII 00200	222-004785-00	EBRINGTON ROUND	CITY OF NEW ALBANY	
222N052GII 00300	222-004753-00	EBRINGTON RD	GLOYNE MICHAEL L	GLOYNE CINDY F
222N052GII 00400	222-004754-00	EBRINGTON RD	NIEDERPRUEM GARY J II	NIEDERPRUEM MOLLIE E
222N052GII 00500	222-004755-00	EBRINGTON RD	GRAND CONSTRUCTION LLC	
222N052GII 00600	222-004756-00	EBRINGTON RD	TUCKERMAN DEVELOPMENT COMPANY	
222N052GII 03300	222-004781-00	EBRINGTON RD	ISAACS MICHAEL A	ISAACS DANA
222N052GII 03400	222-004782-00	EBRINGTON RD	PETROFF RONALD R	PETROFF NATASHA
222N052GII 03500	222-004783-00	SOUTHFIELD RD	SNYDER DAN	
222N052GII 03600	222-004784-00	7230 SOUTHFIELD DR	SNYDER JENELLE D	
222N052GII 03700	222-004823-00	6991 HANBYS LP	BIDWELL DAN	BIDWELL ELIZABETH
222N052GII 03800	222-004824-00	6987 HANBYS LP	SINGER JAN E	SINGER DAVID M
222N052GII 06100	222-004837-00	7029 HANBYS LP	PLAZA JOSE ANTONIO	ORRANTIA MARTHA M
222N052GII 06200	222-004838-00	7025 HANBYS LP	ZUIKA ERIKS JANIS PAULS	ZUIKA ERIKS JANIS PAULS,
222N052GII 06300	222-004839-00	7021 HANBYS LP	STANLEY JOELLEN	STANLEY MARK WILLARD
222N052GII 07200	222-004834-00	6980 HANBYS LP	SACCO GEORGE	SACCO ERICA
222N052GII 07300	222-004835-00	6984 HANBYS LP	GIRARDI DANIEL	GIRARDI SHANNON
222N052GII 07400	222-004836-00	6988 HANBYS LP	DEAL RYAN	DEAL ASHELY
2220075E 00101	222-002952-00	1 CLUB LN	NEW ALBANY CO LLC	
2220075H 02500	222-000479-00	5700 THOMPSON RD	NEW ALBANY CO LLC	

DO NOT DETACH

Instrument Number: 202108110141515 Recorded Date: 08/11/2021 10:56:53 AM		Return To (Mail Envelope):	
Daniel J. O'Connor Jr.		STEWART TITLE AGENCY OF COLS LTD	
		STEWART THLE AGENCT OF COLS LID	
Franklin County Recorder			
373 South High Street, 18th Floor			
Columbus, OH 43215			
(614) 525-3930			
http://Recorder.FranklinCountyOhio.gov			
Recorder@FranklinCountyOhio.gov			Mail Envelope
Transaction Number: T20210099624		· · · · · · · · · · · · · · · · · · ·	
Document Type: DEED			
Document Page Count: 4			
Submitted Dr. (Maril)			
Submitted By (Mail):	i		
STEWART TITLE AGENCY OF COLS LTD			
	6 A _ !!		
First Grantor:	Mail	First Grantee:	
NEW ALBANY CO LLC		GARY J NIEDERPRUEM , II	
Fees:		Instrument Number: 202108110141515	
Document Recording Fee:	\$34.00	Recorded Date: 08/11/2021 10:56:53 AM	
Additional Pages Fee:	\$16.00		
Total Fees:	\$50.00		
Amount Paid:	\$50.00 \$50.00		
Amount Due:	\$0.00		
Amount Duc.			

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	16808	
TRANSFERRED	Conveyance Mandatory: 325, W	
AUG 1 0 2021	Permissive: USV. WLS	
MICHAEL STINZIANO AUDITOR FRANKLIN COUNTY, OHIO	MICHAEL STINZIANO FRANKLIN COUNTY AUDITOR	

SURVIVORSHIP DEED

:1.0

THE NEW ALBANY COMPANY LLC, a Delaware limited liability company (the "<u>Grantor</u>"), with its principal office located in Franklin County, Ohio, for valuable consideration paid, grants, with general warranty covenants, to GARY J. NIEDERPRUEM II AND MOLLIE E. NIEDERPRUEM, husband and wife, (collectively, the "<u>Grantee</u>"), whose tax mailing address is $\underbrace{\$ 413}_{1} \underbrace{! ernan D!}_{1} \underbrace{! Missing}_{1} \underbrace{! ernan D!}_{1} \underbrace{! ernan D!}_{1} \underbrace{! missing}_{1} \underbrace{! ernan D!}_{1} \underbrace{! ernan D!$

Situated in the State of Ohio, County of Franklin and in the City of New Albany:

Being Lot Number Two (2) of New Albany Country Club Section 28, Part 1, (including a Resubdivision of all of Lot 14 of New Albany Country Club Section 25, Part 2, P.B. 114, Pages 96 and 97), as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 119, Pages 10-14, Recorder's Office, Franklin County, Ohio.

Auditor's Parcel Number:222-004754-00Property Address:0 Ebrington Road, New Albany, Ohio 43054

Prior Instrument References: Official Record Volume 14554, Page B14, Official Record Volume 21256, Page E01, Affidavit in Aid of Title recorded in 1300779 Stewart Title Company Instrument No. 199811120289607, Instrument No. 201008260110402, 200210180263224. Instrument No. 259 W. Schrock Road 200210180263222, Instrument No. Instrument No. Westerville, OH 43081 200210180263228 and Instrument No. 201008260110397, all of the Recorder's Office, Franklin County, Ohio 1021

Subject to covenants, easements, conditions and restrictions of record which do not unreasonably interfere with the use of the Premises as a single family residence, road rights-of-way, encroachments, overlaps, boundary line disputes and any matters which would be disclosed by an accurate survey and inspection of the Premises, all applicable zoning ordinances and regulations and all other restrictions and regulations imposed by governmental authorities, taxes for the year of closing and subsequent years, utility, drainage, cable television and similar easements, restrictions and reservations common to THE NEW ALBANY COUNTRY CLUB SECTION 28, PART 1, and all terms, covenants, conditions, restrictions, encumbrances, liens, obligations to pay assessments, fees and charges, rights and easements set forth in the Master CC&Rs (as hereinafter defined), in the Country Club Community CC&Rs (as hereinafter defined), and in the New Albany Community Authority Declaration (as hereinafter defined).

SECTION 1. COVENANTS AND RESTRICTIONS.

Grantee, by acceptance of this conveyance, covenants and agrees and shall be deemed to have covenanted and agreed, for Grantee and Grantee' successors, assigns, heirs and legal representatives: (i) to accept the conveyance of the Premises subject to the covenants, conditions, restrictions, easements, encumbrances, rights and all other matters set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for The New Albany Communities, of record at Official Record 16185A01, Recorder's Office, Franklin County, Ohio, as the same may be amended from time to time (the "<u>Master CC&Rs</u>"); in the Declaration of Covenants, Conditions, Restrictions and Easements for The New Albany Country Club Community, of record at Official Record 16185C14, Recorder's Office, Franklin County, Ohio, as the same may be amended from time to time (the "<u>Country Club Community CC&Rs</u>"); and the Declaration of Covenants and Restrictions for The New Albany Community Authority, of record at Official Record 16999C04, Recorder's Office, Franklin County, Ohio, as the same may be amended from time to time (the "<u>New Albany Community Authority Declaration</u>"); and (ii) to be bound by and comply with the terms of the Master CC&Rs, the Country Club Community CC&Rs and the New Albany Community Authority Declaration. The Master CC&Rs, the Country Club Community CC&Rs, and the

New Albany Community Authority Declaration are incorporated herein by reference as if fully set forth herein in their entirety.

SECTION 2. BUILD REQUIREMENT.

(a) Grantee, by acceptance of this conveyance, covenants and agrees and shall be deemed to have covenanted and agreed for Grantee and Grantee's successors, assigns, heirs and legal representatives to commence construction of a single-family residence on the Premises in accordance with plans and specifications approved by Grantor under the terms of the Country Club Community CC&Rs on or before two (2) years following the execution date of this deed (the "<u>Build Requirement Date</u>"). Construction shall be deemed to have commenced upon the substantial completion of the foundation of the single-family residence. If construction of a single-family residence on the Premises has not commenced on or before the Build Requirement Date, Grantor shall have the irrevocable option to repurchase the Premises from the then current owner of the Premises for a purchase price equal to the purchase price paid by Grantor to Grantee for the Premises in conjunction with the conveyance of this deed. The option contained in this Section 2 may be exercised at any time following the second (2nd) anniversary of the execution date of this deed by delivery of written notice of exercise to the owner of the Premises. If Grantor exercises this option to repurchase, the closing of Grantor's repurchase shall take place within thirty (30) days after Grantor's exercise of this option at such location as Grantor shall designate.

(b) At such closing, Grantee or the then-current owner shall convey to Grantor good and marketable title in fee simple to the Premises by appropriate general warranty deed with release of dower, free and clear of all liens and encumbrances except those which affected title to the Premises when originally conveyed to Grantee. Taxes and association assessments shall be prorated as of the date of resale and possession shall pass to Grantor at such closing. The covenants and agreements of Grantee and the rights of Grantor described in this Section 2 shall run with the land and shall be binding upon the heirs, personal representatives, successors and assigns of Grantee.

SECTION 3. RIGHT OF REPURCHASE.

Grantee, by acceptance of this conveyance, covenants and agrees and shall be deemed to have covenanted and agreed that prior to listing the Premises with any broker or otherwise offering or agreeing to sell any direct or indirect interest in all or any portion of the Premises to any person or entity, Grantee shall notify Grantor in writing of Grantee's intention to market or sell such interest. Within a period of thirty (30) days from Grantor's receipt of such written notice, Grantor shall have the option to repurchase the Premises for an amount equal to the purchase price paid by Grantee to Grantor in consideration for the sale and conveyance of the Premises. If Grantor fails to exercise the option to repurchase within said thirty (30) day period by sending written notice thereof to Grantee, then Grantee shall be entitled to market and sell the Premises subject to all other matters set forth herein. If Grantor exercises the option to repurchase, the closing shall take place within thirty (30) days after Grantor's exercise of the option at such location as Grantor shall designate. The rights of Grantor and the obligations of Grantee under this Section 3 shall extinguish, terminate and be null and void upon the earlier of (i) the date that construction of a single-family residence on the Premises is commenced; (ii) any transfer or conveyance of title to the Premises in fee simple after full compliance with the terms of this Section 3, provided, however, that in the event of any conveyance of a portion of the Premises, or any conveyance of less than fee simple, Grantor's rights shall remain in effect as to remaining interest in and to the Premises; or (iii) Grantor's express written waiver of its rights contained in this Section 3.

[Remainder of this page intentionally left blank; Signature page to follow.]

.

IN WITNESS WHEREOF Grantor has caused the execution and delivery hereof so as to be effective as of the <u>day of</u> <u>July</u>, 2021.

GRANTOR:

THE NEW ALBANY COMPANY LLC, a Delaware limited liability company

656 B Brent B. Bradbury, Treasurer

STATE OF OHIO COUNTY OF FRANKLIN, ss:

The foregoing instrument was acknowledged before me this 6^{++} day of 32021, by Brent B. Bradbury, the Treasurer of THE NEW ALBANY COMPANY LLC, a Delaware limited liability company, on behalf of said limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public



MARY PATRICIA IAMS Attorney At Law Notary Public, State of Ohio Ay commission has no expiration date Sec. 147.03 R.C.

[Signatures continue on following page.]

3

FRANKLIN COUNTY, OH

Accepted by Grantee:

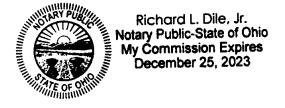
iederpruend

Mollie E Niederpru

STATE OF Tanklin ss: COUNTY OF

The foregoing instrument was acknowledged before me this $\frac{7^{44}}{2}$ day of $\frac{1}{2021}$, by Gary J. Niederpruem II, who affirmed the foregoing signature to be his voluntary act and deed. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public



STATE OF COUNTY OF

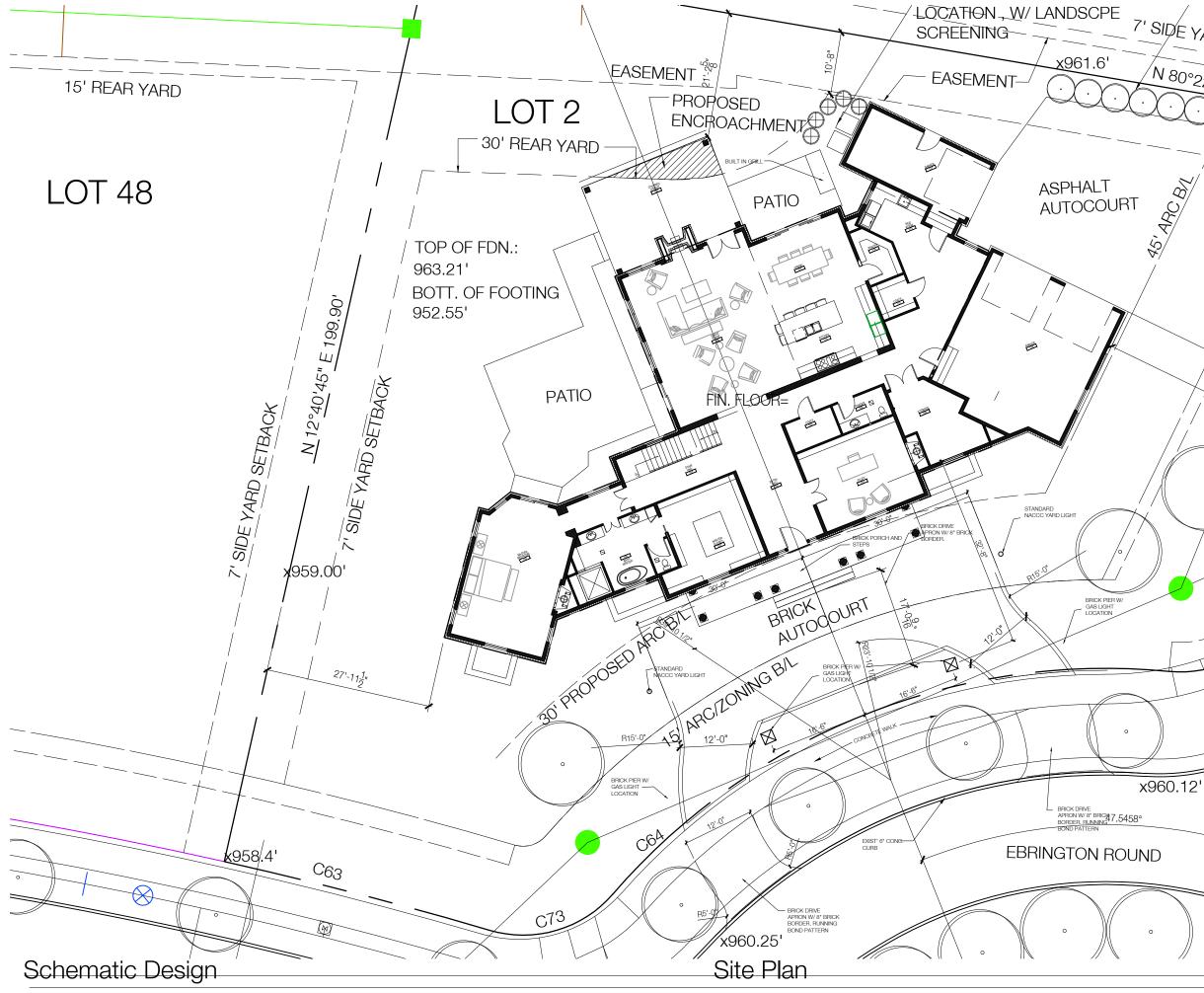
The foregoing instrument was acknowledged before me this 75 day of 100, 2021, by Mollie E. Niederpruem, who affirmed the foregoing signature to be her voluntary act and deed. No oath or affirmation was administered to the signer with regard to the notarial act.



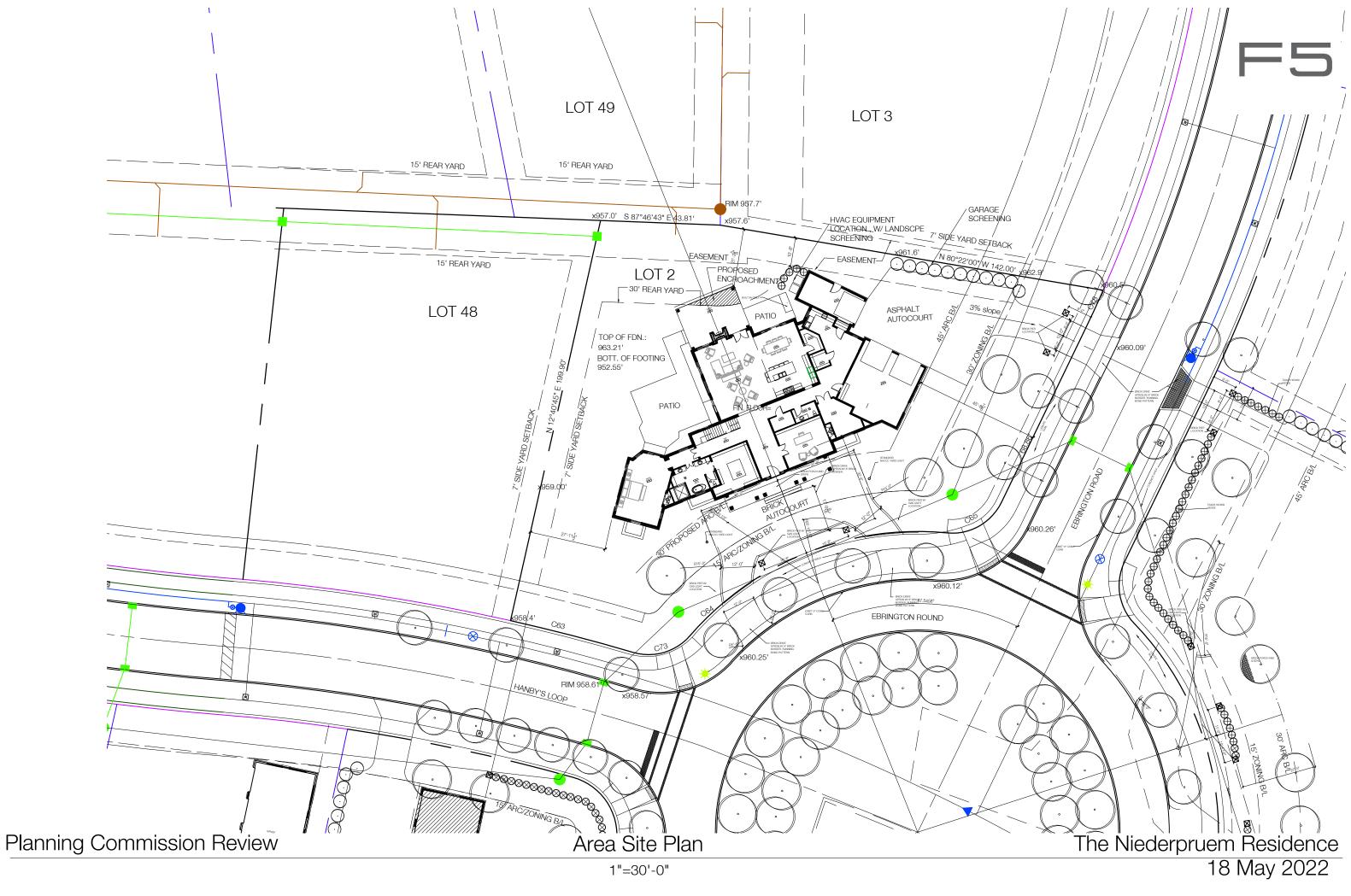
Richard L. Dile, Jr. Islany Public-State of Ohio My Commission Expires December 25, 2023

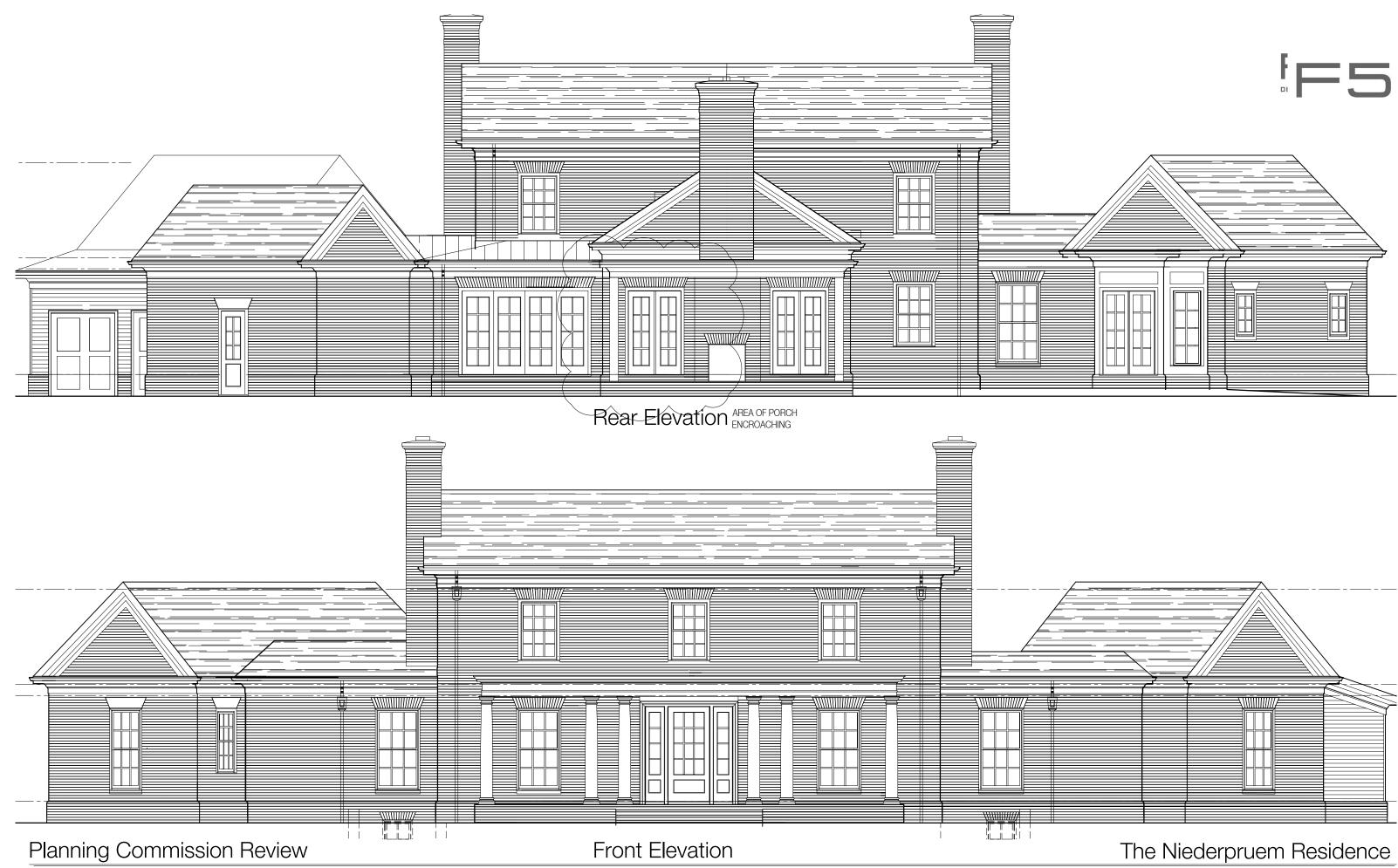
Notary Public

This instrument prepared by: The New Albany Company LLC 8000 Walton Parkway, Suite 120 New Albany, Ohio 43054 (614) 939-8000



7' SIDE YARD SETBACK N 80°22'00"/W 142.00' x962.9/ /**x**/960 3% slope_/ Ð. 30'ZOMING BI BRICK PIER LOCATION x960 $\langle a \rangle$ 45'-87" to to EBRINGTON ROAD 665 **x**960.26' 0 The Niederpruem Residence 18 May 2022

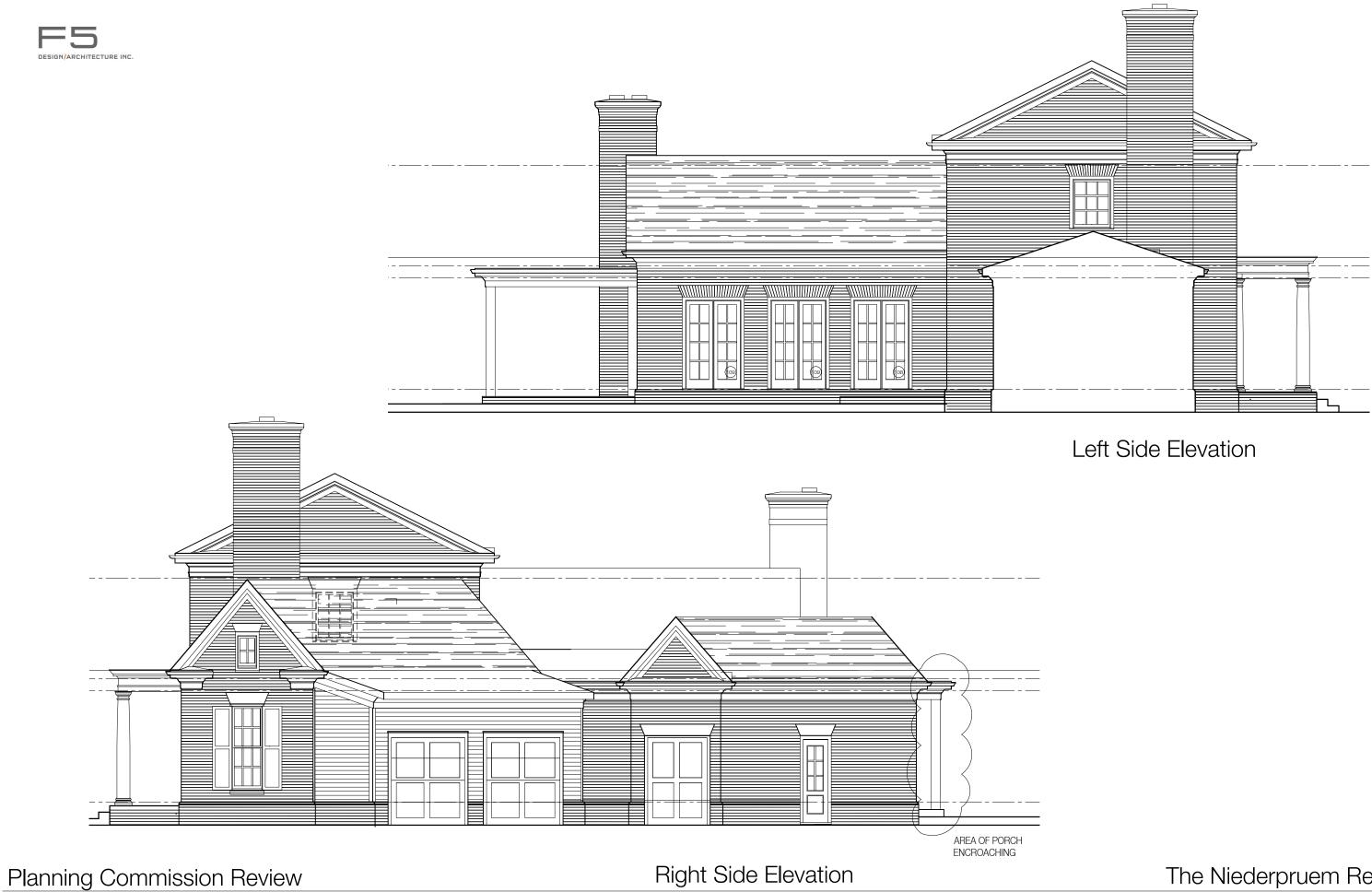






18 May 2022





1/8"=1'-0"

The Niederpruem Residence

Jan. 2020