

New Albany Planning Commission Meeting Minutes

Monday, May 1, 2023 7:00 p.m.

I. Call to order

The New Albany Planning Commission met in regular session on May 1, 2023 at the New Albany Village Hall. Chair Kirby called the meeting to order at 7:01 p.m.

II. Roll call

Those answering roll call:

Mr. Kirby	present
Mr. Wallace	present
Ms. Briggs	present
Mr. Larsen	present
Mr. Schell	present
Council Member Brisk	absent
Council Member Shull	absent

Staff present: Law Director Ben Albrecht; Planner Sierra Cratic-Smith; Planning Manager Steve Mayer; Deputy Clerk Christina Madriguera; Engineer Wil Walther.

III. Action on minutes:

April 17, 2023 Meeting Minutes

Chair Kirby requested a clarification on pages 4 and 5. On page 4 he stated that he clarified with Planning Manager Mayer that the distance from the edge of the pavement to the center line of the creek was at least 50 feet. And then to be more specific, on page 5 that clarification arose again in the condition. The condition that was agreed upon was the following: that the distance between the center line of the creek and the edge of the 25-foot easement at the periphery of the pavement is 50 feet or more. Chair Kirby further explained that in other words, half of the conservation zone was on this side of the creek.

Engineer Walther answered that Chair Kirby was correct and further stated that if there was a curve it would be [in] back of that curve.

Chair Kirby agreed and stated that with a 25-foot easement it gets easy to misconstrue what is 25 feet and what is 50 feet.

Chair Kirby asked if there were any other comments or corrections to the minutes.

There was no response.

Commissioner Wallace moved to approve the April 17, 2023 minutes with the clarifications as stated by Chair Kirby. Commissioner Larsen seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Larsen, yes; Mr. Schell, abstain; Ms. Briggs, yes; Mr. Kirby, yes. Having 4 yes votes; 0 no votes; and 1 abstention, the April 17, 2023 meeting minutes were approved as clarified.

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IV. Additions or corrections to agenda

Chair Kirby asked if there were any additions or corrections to the agenda.

Commissioner Wallace stated that proposed corrections to the April 3, 2023 meeting minutes had been submitted.

Chair Kirby stated those would be considered next and added to the agenda.

April 3, 2023 Meeting Minutes

Chair Kirby stated that corrections to the April 3, 2023 meeting minutes had been requested and asked for comments.

The proposed changes are indicated in underlined text or stricken through text as indicated below. Unaffected text is omitted to conserve space.

- On page 2, Commission Member Wallace confirmed that the applicant, New Albany Company, was the current owner of <u>some of</u> the residences in the Bermuda subdivision.
- On page 3, Mr. Rubey and Mr. Underhill responded that yes, the New Albany Company had purchased <u>some of</u> the homes in the Bermuda residential subdivision.
- On page 3, Mr. Rubey responded that <u>New Albany Company now owned at least 7</u> homes, some have the original owners as tenants, some do not. there are 32 homes in the subdivision and New Albany Company owns them all. He further stated that in some cases, the homes are rented by former owners.

Deputy Clerk Madriguera explained that the proposed amendments corrected her misinterpretation of what was said at the April 3, 2023 meeting.

Commissioner Wallace asked Deputy Clerk Madriguera whether the amendments were based upon her listening to the recording of the April 3, 2023 meeting and a determination that what she heard on the recording was more accurate than the minutes.

Deputy Clerk Madriguera responded that yes, she had listened to the April 3, 2023 meeting recording again and the amendments were requested in order to correct her misinterpretation of what was said at the meeting.

Commissioner Wallace stated that it was unusual for the commission to not catch a misinterpretation of that nature. He further remarked that when he saw the proposed corrections he kind of recalled that discussion at the April 3rd meeting and the minutes as she had drafted them reflected his recollection.

Commissioner Wallace continued that, nonetheless, given the statement from the clerk of the source of the proposed changes he would move to approve the submitted corrections to the April 3, 2023 meeting minutes. Commissioner Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Kirby, yes; Mr. Larsen, yes; Mr. Schell, yes. Having 5 yes votes; 0 no votes; and 0 abstentions, the corrections to the April 3, 2023 meeting minutes were approved.

Chair Kirby asked whether there were any other additions to the agenda.

Planning Manager Mayer answered that there were not.

Chair Kirby administered the oath to all present who wished to address the commission.

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Chair Kirby asked all present to be sure their phones were silent.

V. Hearing of visitors for items not on tonight's agenda

Chair Kirby asked whether there were any visitors present who wished to address the commission for items not on tonight's agenda.

There was no response.

VI. Cases:

ZC-11-2023 Rezoning

Request to rezone 1.765+/- acres located at 6A Hawksmoor from (I-PUD) Planned Unit Development to (I-PUD) Planned Unit Development for an area known as Hawksmoor North Amended (PIDs: 222-004874-00 and 222-005170-00). **Applicant: Rebecca Mott, Plank Law Firm**

Planner Cratic-Smith delivered the staff report for ZC-11-2023 Rezoning.

Planning Manager Mayer requested that the commission hear the re-platting application staff presentation at this time since it was directly related to the rezoning application.

The Commission agreed.

FPL-12-2023 Final Plat Modification

Final plat for the re-subdivision of lots 4 and 6A within the Hawksmoor subdivision generally located north of Hawksmoor Drive (PIDs: 222-003482-00, 222-004874-00, and 222-005170-00). **Applicant: Rebecca Mott, Plank Law Firm**

Planner Cratic-Smith delivered the staff report for FPL-12-2023 Final Plat Modification.

Commissioner Wallace asked to staff to demarcate lot 6A.

Planning Manager Mayer indicated 6A on the site plan as the flag-shaped lot.

Commissioner Wallace then asked about lot 6b.

Planning Manager Mayer explained that lot 6b would be the new designation of the newly combined parcel which would consist of lots 4 and 5 (previously combined) and lot 6A.

Planner Cratic-Smith continued the staff report.

Chair Kirby asked for comments from engineering.

Engineer Walther stated there were no comments on the rezoning. Engineer Walther further stated that as far as the replatting, any impacts on drainage will be reviewed with a comprehensive permit.

Commissioner Wallace clarified that we are going from 2 combined parcels 4 and 5 to a bigger parcel that will include lot 6.

Planning Manager Mayer responded that was correct, big parcel 6 + 4 and 5. The house sits on lot 4 and a pool is under construction on what was lot 5; the commission approved a variance [on lot 5] so that the pool can be located on the side of the house. The acquisition of lot 6 and

approval of the rezoning and plat modification will permit the property owner to construct accessory structures to serve the house on lot 4.

Chair Kirby noted that Google maps had a more current picture of the pool construction.

Commissioner Wallace stated that, when all is said and done, upon approval of these applications, there will be one big lot with a house sitting on what used to be lot 5 (combined with 4) and then there will be a pool with other accessory structures.

Planning Manager Mayer stated that was correct.

Commissioner Larsen noted the drainage and utility easements go along the back of lots 4 and 5 and through lot 6 and asked whether that would still be a drainage and utility easement.

Planning Manager Mayer explained that this application was similar to a 2015 platting application involving this property. In 2015 the commission approved very much the same request to move the tree preservation zone to the rear of the lot 4 with a 1 for 1 trade and no change to the location of the drainage and utility easements. Similarly, this application seeks to move the tree preservation zone from the rear of lot 4 to the rear of what will be 6b and the drainage and utility easements will remain in the same location.

Commissioner Larsen noted that similar to 2015, the reason for moving the tree preservation zone was to make the lot more buildable. However, if that area is a utility and drainage easement, it would not be buildable.

Planning Manager Mayer explained that it was not that the lot would become buildable but the tree preservation zone which currently exists in the center of the combined lots prevented any encroachment whatsoever. So, the thinking by staff was that it would be nice to move the tree preservation zone to put in a path or sidewalk which would promote cohesive development within the property, and direct access from lots 4 and 5 to the accessory structures on the northern portion of the property.

Commissioner Larsen continued that, from an engineering perspective, although he might be missing something, sidewalks would block the drainage as well.

Planning Manager Mayer responded that, as Engineer Walther mentioned, city staff will review construction permits that propose sidewalks and pavement in that area for positive drainage. The plat allows for engineering review of construction plans for drainage to be sure there are no negative impacts.

Commissioner Larsen asked whether the owner would be advised that the utility easement remains.

Planning Manager Mayer responded that this will be a notation on the title recorded with the Franklin County Auditor which runs with the property, so future buyers will know, if and when this property was sold.

Commissioner Schell asked whether moving the tree preservation zone was trying to relocate the healthy trees or whether new trees would be planted.

Planning Manager Mayer responded that the staff report recommended that there be additional trees planted, subject to staff approval, on the eastern portion of the new tree preservation zone. There was no requirement to move any trees, and trees in the existing zone could be removed at

the property owner's discretion. The new zone would extend the entire zone and buffer the property to the north.

Commissioner Schell asked whether there was a requirement that new trees be planted 1:1 for size.

Planning Manager Mayer responded that there are no requirements in the text other than it is subject to staff approval. He continued that landscaping would be part of the final development plan which would be reviewed by the commission.

Chair Kirby noted that the final development plan was not presently before the commission.

Planning Manager Mayer responded that it was not but staff did have a tree survey from 2019 which let them know what trees were planted in the area and the location of the trees.

Commissioner Schell referenced the earlier discussion regarding the ability to build unlimited accessory structures and asked whether there was a guarantee that there will be no single-family homes in this rezoned area.

Planning Manager Mayer responded that there was no guarantee but if that was proposed (noting that it was an entitlement of the I-PUD zoning), the property owner would have to split the properties to comply with the city code requirement of one house per lot. Nonetheless it was a vested right of the I-PUD rezoning.

Commissioner Larsen noted that he did not understand why the I-PUD zoning request was separate, and why the whole property would not be amended.

Chair Kirby stated that now would be a good time to hear from the applicant.

Applicant Rebecca Mott with the Plank Law firm, 411 E. Town Street, Floor 2, Columbus 43215, attorney on behalf of the applicant property owners who currently own lots 4 and 5.

Ms. Mott explained that the applicants did not want to change the zoning for lots 4 and 5 because they have a separate zoning text for the house and pool. The applicant wants these applications separate because they have been granted variances and land use entitlements for lots 4 and 5 and hope to establish a family compound or large estate property. She stated that .58 acres at the eastern portion of 6A is not yet part of Hawskmoor which is why they are seeking rezoning. These applications present complicated legal issues because there were 2 different properties involved in the zoning application versus the plat.

She explained that the western parcel and eastern parcel were rezoned in 2021, the western parcel will retain 2021 zoning of IPUD and any accessory structures constructed will maintain the higher residential aesthetic of Hawskmoor – these will include things like poolhouses, detached outbuildings, and detached garages. Current zoning code allows 2 accessory structures per residence and the applicant was seeking the flexibility to build more than 2, she stated that the property owners would not want to overbuild the property and were willing to consider a maximum amount of accessory structures. She noted the substantial size of this property and stated they were thinking that 4 would be a good amount of accessory structures.

She presented a map indicating the proposed setbacks for rezoning; and the no-build tree preservation zone/area. She stated that property to the north would be well-buffered and that the property owners would respect the existing agreement to maintain a 50-foot setback. She explained that other than permitting the construction of accessory structures without a primary residence on lot 6A, all of the other features were existing. She stated that the property owners

would work with the Hawksmoor subdivision, that they would comply with the homeowners association, and would comply with the design review board requirements which is a private entity contracted with by the homeowners. Ms. Mott stated that she was happy to discuss the final plat modification now or after consideration of the rezoning application.

Chair Kirby stated these two applications would be best explained as an integrated whole. After the presentation, the commission will vote on each application separately.

Chair Kirby asked whether the new property would be bound by the Hawksmoor covenants and restrictions.

Ms. Mott responded yes, the homeowners association would need to approve the addition and the replat.

Chair Kirby asked what the recourse would be if they did not.

Ms. Mott stated that if they did not approve the replat, it would fail but the property owners would still have the rezoning. In that case, the property owners would most likely return with a replat for lots 4 and 5.

Commissioner Schell asked whether any land had ever been added to Hawskmoor.

Ms. Mott responded that yes there had and she explained prior expansions of Hawksmoor. She also explained that this application was consistent with prior replat applications and their corresponding ordinances. The difference here was that there were 2 different zoning texts and ordinances that apply to this property and they wanted to keep it simple and let those entitlements stand.

Chair Kirby stated that this plan has two masters, one is a large lot and a future vision as 2 lots.

Ms. Mott stated she would not say that 2 lots is their vision.

Chair Kirby asked then how do we get around having a second house here without breaking the 1 house per lot rule.

Ms. Mott replied that the zoning text trumps the code unless the zoning text is silent then the code applies. Because they were asking for a change to the zoning text to allow accessory structures the prong permitting the construction of a single-family residence exists but they agreed to language in the text that would require a replat if they wanted to build a single-family residence, and the zoning enforcement interpretation was only applicable to the 1.726 acres.

Planning Manager Mayer added that there is also a provision in the text that requires that lot to be split again if and when a single-family dwelling unit to be constructed on what is now lot 6A.

Chair Kirby then stated that this text allows multiple accessory structures to be constructed and no residence and in the event an additional residence is sought, the lot must be split.

Planning Manager Mayer answered that was correct.

Ms. Mott answered that was correct, and further stated that if 6b is split for construction of a residential dwelling we will request a rezoning. The IPUD text does not apply to lots 4 and 5.

Commissioner Wallace asked how that would align with the re-subdivision request where it says lots 4 and 5 are combined with lot 6A.

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Ms. Mott responded that the city would keep two separate maps on file, and further stated that a plat is totally different than a zoning district and that this lot would have 2 zoning classifications and texts.

Chair Kirby remarked that this was a case where one parcel had multiple zoning districts.

Ms. Mott confirmed Chair Kirby's statement and stated that it was totally legal and would work.

Planning Manager Mayer added that there are other properties in New Albany, in the Country Club Community, that have a two-zoning district classification. And when the city's zoning map is updated, both zoning classifications will appear on the updated map

Commissioner Larsen remarked that he understood the legality of it and the 2 rezoning districts but it was unclear why the replatting was needed.

Ms. Mott responded that it necessary was because the property owners wanted to add the .58 acres east of the property into Hawksmoor and into the lot.

Chair Kirby stated the replat is necessary to combine the $\frac{1}{2}$ acre with 6, but not necessarily with lots 4 and 5.

Ms. Mott responded that was correct and added that the replat included lots 4 and 5 because that would mean the property owners would have one tax bill and was in line with their property goals.

Chair Kirby confirmed that the replat is necessary to bring in the .5 acre of Hawksmoor, but it is not necessary to the combination of lots 4 and 5 with 6A. That was a matter of convenience for the property owners.

Ms. Mott answered that was correct and further explained that her client would be subject to all rules and regulations applicable to adding property to Hawksmoor.

Chair Kirby asked staff whether we had any other properties where secondary structures were as large as these were permitted to be.

Planning Manager Mayer provided the size limits relative to lot size and answered that for purposes of this property the code limited the number of accessory structures to 2 and imposed a size limit of 1600 square feet because the lot is 2 acres or more.

Chair Kirby whether there was a height limit.

Planning Manager Mayer answered that it was 25 feet.

Chair Kirby observed that the height limit proposed in this application was 45 feet which would mean that these accessory structures could be as tall as any of the houses in Hawskmoor.

Ms. Mott explained that they wanted to be as flexible as possible, that the language was permissive, and would maintain the high architectural standard of Hawskmoor. She also stated that no accessory structure plans were underway.

Chair Kirby stated that he was pleased with the architectural standards, his concern was the size of the accessory structures.

Ms. Mott asked whether his concern was with the height and the square footage.

Chair Kirby answered yes, and further stated that 45-feet was a lot and was possibly taller than the houses in Hawksmoor.

Ms. Mott mentioned the 2 $\frac{1}{2}$ story typical heights, and stated that if there was a compromise to be made, they would consider it.

Chair Kirby stated that he would like to hear from staff on that and further, on a related topic, he asked where the second residence would be located. Would it go in the classic lot 6, or to the north in the new portion.

Ms. Mott responded that current zoning text required homes to face the Hawksmoor right of way.

Commissioner Wallace recalled that last year the commission approved a variance for a pool in the side yard to accommodate a pool. He asked Law Director Albrecht how it works when the need for a variance gets mooted out by the same owner buying the adjacent property.

Law Director Albrecht stated that he did not think what happened subsequent made a difference, this application does not affect the prior variance at all. Variances are decided as they arise.

Commissioner Wallace asked whether the commission could impose a condition of approval of this application that the pool be removed from the side yard.

Ms. Mott stated that construction on the pool is almost finished and the use variance is a use entitlement.

Commissioner Wallace clarified that he was not suggesting revoking the prior variance; the commission would be requiring removal of the pool as a condition of approval of this application.

Law Director Albrecht recommended that the commission not go down that road because the pool variance has been approved.

Commissioner Larsen asked staff whether, when the commission approved an IPUD, does the commission need to have a preliminary layout of what is intended for the property because he recalled seeing that in the past.

Planning Manager Mayer responded that the applicant did not have to provide a preliminary layout with an IPUD rezoning application. A subdivision map and standards that usually take the form of IPUD text description were sufficient. He further stated that the commission will review a final development plan prior to construction.

Commissioner Larsen stated that he was of the opinion that the commission should limit the accessory structures to what is afforded in code currently and then possibly approve additional structures when the final development plan is presented. He continued that it was hard to approve an application like this without knowing what was intended for the property.

Ms. Mott added that this was a 1.726 acre lot without a home on it and had ample room for accessory structures as opposed to the standard sized lots that limit accessory structures to 2.

Chair Kirby stated that when there is the entitlement for the home, the commission must assume that a home will be constructed as well as the accessory structures.

Ms. Mott stated that the assumption could be made but clarified that it was not their intent. This application sought to increase the amount of accessory structures, there were no plans to build another primary residential dwelling. If a future owner wished to build a primary residence, they would need to replat the property. This situation deals with accessory structures which are unlimited in the application. She further stated that they are willing to consider a limit and 4 seamed legitimate given the size of the property - 1 in lot 6 body, 2 in the northwest and 1 to the northeast.

Commissioner Schell stated that his only concern with the 4 accessory structures was that there was still room for a large, estate-sized house and asked to confirm the size of the lot.

Ms. Mott responded that the lot size was 1.726 acres.

Commissioner Schell responded that there remains the potential for a large home, and 4 accessory structures and that a lot of that size would be consumed rather quickly.

Ms. Mott stated that if a primary dwelling was sought, a replat would be required and then a limit of 2 accessory structures would apply. She stated that she did not want to crowd or overdevelop the property and she thought 4 accessory structures with these setbacks was about right.

Commissioner Larsen asked whether under the current zoning is there a size limit for the accessory structures.

Ms. Mott answered that there was no size maximum or minimum, but envisioned them as poolhouse sized or garage sized. She further stated that a final development plan will be reviewed by the city and by the Hawksmoor association will review the accessory structures.

Chair Kirby confirmed that he heard Ms. Mott say that in the event a residence was built that the limit of 2 accessory structures would apply.

Ms. Mott stated that if her client builds a primary home, that becomes the primary use.

Chair Kirby asked whether, if more than 3 accessory structures are built, would the client be willing to agree to not build a primary residence. If the home was built first, 2 structures would be permitted. Would building 3 structures foreclose the need to build a primary residence.

Ms. Mott responded that that limitation does not accommodate the possibility that third party could buy the property and want to build a residence.

Chair Kirby stated that the commission has seen, even in the Country Club Community, situations owners try to put more things than will fit on the lot. Here, as written, this text permits an unlimited amount of accessory structures and then when all of that is done, a house could be put on it. He did not find that result palatable. If it was done in the other order it would have been a house + 2 accessory structures. He asked whether there was a point at which the commission could impose a condition that a home would not be built.

Ms. Mott responded that she would she would need to speak with her client, but suspected that her client could live with that. It would be a condition of 3 accessory structures total.

Chair Kirby noted he was still working through the logistics of what it would look like, that it seemed workable aside from the fact that a horrendous amount of trees would be removed.

Commissioner Briggs asked whether her client owned lot 6.

Ms. Mott responded that her clients owned lots 4 and 5 and were in the process of purchasing lot 6.

Commissioner Briggs continued, that the applicants were in contract for lot 6 and 6a and remarked that she was struggling with the plan for lot 6. She noted the location of the pool and the proximity of the adjacent Hawksmoor residences and remarked that lot 6 was distinguished from lot 6a.

Ms. Mott responded that her clients were purchasing lots 6 and 6A plus the .58 acre and that the plan for lot 6 was a pool house, outbuilding, accessory-type structure and that the primary home was on lot 4. She stated that the owners were also intending to build accessory structures on lot 6A and envisioned an estate or family compound.

Commissioner Briggs acknowledged that the property owners had been in discussions with the neighbors and asked what kind of preliminary feedback they were receiving regarding their plans.

Ms. Mott responded that there was a lot of work to be done with Hawksmoor regarding the replat and with the neighbors. She stated that the neighbors seemed generally supportive, and a meeting had been scheduled, there was an existing title issue that they were working through.

Commissioner Briggs asked Planning Manager Mayer whether there was any precedent for this type of application where an owner had a pool and then purchased an adjacent lot for accessory structures that would face the street.

Council Member Shull answered that the closest thing that came to his mind was last year in Ebrington. The property owner purchased an adjacent lot for the construction of an accessory structure pool-house which is currently under construction.

Chair Kirby asked whether an accessory structure required a final development plan.

Planning Manager Mayer answered that accessory structures required a final development plan. He confirmed that Council Member Shull's recollection of Ebrington was correct. Regarding neighbors, he mentioned that neighbor letters were sent out regarding the hearing for this application and that the neighbors will be notified prior to commission consideration of the final development plan.

Commissioner Briggs noted that would include some of the neighbors in Belmont.

Planning Manager Mayer stated that was correct, neighbors within 200 feet within the subject parcel would be notified, so neighbors within 200 feet of an accessory structure would be notified of the commission's consideration of a final development plan. And in this case, if the accessory structures were constructed separately, the final development plans would be presented and considered separately.

Chair Kirby remarked that the commission was considering the rezoning and final plat modification and would then review the final development plan for each accessory structure. And if construction was at separate times, the commission would review each final development plan separately. He asked whether the homeowners association would also consider the final development plans and observed that it would be nice to hear from the owners of lot 3 considering the removal of the trees in the lot 4 preservation zone.

Ms. Mott stated that the homeowners association would review the final development plans and stated that they would not be affecting lot 3's tree preservation zone, only their own.

Commissioner Wallace added that what Chair Kirby was referring to was the fact that if the trees in the current preservation zone behind lot 4 are chopped down then there would be a lot of trees that would that stop and then start again in a new location behind lot 3.

Ms. Mott responded that those neighbors have a 100% vested interest and would have to sign the replat.

Chair Kirby stated that he understood, but their input would be helpful to the commission's consideration because this application presents what is essentially a huge variance over the top of Hawksmoor. He liked that this was an integrated plan but the commission would benefit from input from the residents.

Ms. Mott responded that this was not an area variance or a use variance. The zoning classification is not changing and all of the existing limitations are being maintained. This would have no effect on governmental services, utility use, or traffic. The IPUD zoning for lot 6A and the .58 acres is currently in place. She continued that she was respectfully asking for approval of both applications.

Chair Kirby stated that he understood that this was not a variance and further stated that nonetheless the commission was required to consider criteria under plan review big 3(a) - (s) in order to approve these applications. Despite the fact that this is not a variance it does change the zoning.

Ms. Mott responded that all setbacks are being maintained.

Commissioner Schell asked how Ms. Mott felt about negotiating the maximum height and the maximum of three accessory structures.

Ms. Mott responded that she felt confident that she could agree to a maximum height of 35 - 40 feet. She further stated that she would have to speak with her client about the maximum of 3 structures and would be willing to table this request in order to confer with her client.

Commissioner Wallace asked about vehicular access. He noted that the text indicated a single driveway but it appeared that a second driveway to serve lot 6A was indicated on the site plan.

Planning Manager Mayer responded yes, a second driveway to serve lot 6A was indicated on the site plan.

Commissioner Wallace asked what distinguished an accessory structure from a residential structure and to what extent could an accessory structure accommodate people residing there.

Planning Manager Mayer responded that an accessory structure is a subordinate structure incidental to the principal structure. Staff has been working with the applicant to clarify the language of the IPUD text to be sure it does not go beyond the intent of an accessory structure. He continued that staff felt clear that the language was clear that the accessory structures proposed here could not be used as residences.

Chair Kirby asked about the definition of dwelling unit, how big was a guesthouse and to what extent can a person reside in a mother-in-law suite. What does it need to be missing in order to not become a dwelling-unit? He further commented that he came from campus.

Commissioner Wallace agreed and stated that when the term family compound was used he thought that accessory structures could be used as dwelling units.

Ms. Mott responded that there are no plans to use the accessory structures as dwelling units, a carriage house, or short-term rentals, and there were no plans to build a primary residence.

Commissioner Wallace then asked whether the applicant would be comfortable with language stating that any accessory structure would not be residential in nature, or something to that effect.

Ms. Mott responded that yes another sentence could be added stating that an accessory structure would not be a residence.

Chair Kirby added that this was about use. It was not about the appointments in the accessory structure. He asked for input from legal staff.

Planning Manager Mayer stated that the Chair was correct, there are many properties that have accessory structures with dwelling unit amenities but they are not used as residences.

Chair Kirby continued that there are more than 0 properties in the Country Club with dwelling unit amenities but are not used as residences.

Law Director Albrecht agreed and reiterated that it is about how the structure is used.

Ms. Mott stated that they would be willing to reference or incorporate the building code definition of a residence into this text.

Chair Kirby asked staff to recite the code's definition of a dwelling or residence.

Planning Manager Mayer then read the code definition of a residence used for dwelling.

Chair Kirby requested of staff that if the application got tabled, could the applicant work out what a reasonable size for maximums of large lot accessory structures would be, if they are different than what is provided by code.

Planning Manager Mayer responded yes, that staff had helpful data on that issue.

Chair Kirby continued that on that line, the building footprints for houses on Hawksmoor was crucial for providing perspective on the size of these accessory structures. He was not adverse to them being large-ish, but these accessory structures should maintain a size proportionate to the residential structure and the surrounding architecture.

Planning Manager Mayer stated that staff would research building footprint sizes to make sure these structures, upon completion, are appropriately designed and sized.

Chair Kirby stated that his goal is to bake them into the zoning text so the final development plan was easy to accomplish. The applicant and all parties interested will know what the boundaries are and that this was a workable set of issues.

Commissioner Larsen agreed recommended that it should be gauged in terms of the foot print rather than square footage, and that the accessory structures should be smaller than the residence.

Chair Kirby asked if anyone from the public was present who wished to speak on the application.

There was no response.

Commissioner Larsen asked whether doing the final plat application was more or less complicated from the city's perspective.

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Planning Manager Mayer responded that it was not more or less complicated for the city, and it was not required. The applicant had every right to submit this final plat application and if anything it was more complicated for the applicant.

Chair Kirby confirmed that moving the tree preservation zone on lot 4 was part of the final platting application. He further asked when the tree planting requirements would be imposed.

Planning Manager Mayer answered that was correct, the tree protection zone would be recorded with the final plat. It was mentioned in the rezoning application as well for a belt and suspenders approach. He further recommended that the tree planting be part of the final development plan package.

Chair Kirby requested modestly enforceable language regarding tree planting be added. He further remarked that if there were more trees he would wait until final development but as it was there were relatively few there now. The trees could be removed right away and the final development plan could be years away.

Planning Manager Mayer stated that was true. He added that the new preservation zone on the northern zone would become effective immediately.

Chair Kirby confirmed with Planning Manager Mayer that the establishment of the new tree preservation zone allowed the planting of native species and did not prevent an increase in forestation. He added that he wanted to make sure that a gotcha was not built into the plan.

Commissioner Larsen stated that the commission could require preservation of existing trees and further require that any trees removed must be replaced.

Ms. Mott stated that her client had no plans to remove the trees, and her clients did not want to impact drainage or stormwater.

Chair Kirby stated that on the text, it is identical to the existing text for Hawksmoor North.

Planning Manager Mayer stated that this is all the same text and the setback standards had been increased slightly from the eastern property line.

Chair Kirby remarked that what he looked for and did not find in his packet was diff-marked text, the inclusion of which would have been appreciated as it eases comparison.

Ms. Mott stated that she could provide that, and there were many iterations of red-line text.

Planning Manager Mayer stated that staff had worked closely with the applicant and felt with 100% assurity that all existing requirements were met.

Council Member Shull asked Planning Manager Mayer when this becomes one parcel, in recalling the Ebrington discussions about side yards versus front, lot 4 is currently established as the frontline of this parcel, will that change if anything is built on lot 6?

Planning Manager Mayer answered that it would not change the frontline but it would change the internal property lines. The side lot and front lot lines would remain the same but the internal setbacks would be removed to allow for more cohesive design on lot 6.

Chair Kirby confirmed with Ms. Mott that development of accessory structures could preclude a future split because then the property would not meet the one house, one parcel requirement.

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Ms. Mott stated that the zoning text would require that the property be re-platted if a residence is proposed for the 1.76 acres. She further interjected that the setbacks on the highlighted diagram would control for lot 6 but do not change the setbacks for lots 4 and 5. Lots 4 and 5 are one lot and lot 6 is another lot.

Chair Kirby responded that it was more common for the commission to hear that the internal lot lines go away and then the re-split is a real deal because the commission cannot create non-conforming lots.

Ms. Mott clarified that her engineer may have created confusion when labelling the new area 6b because 6b consisted of the entire new parcel.

Chair Kirby noted that a new designation was needed to describe the combined area before platting, the intermediate step. The new and combined area were really 6c.

Ms. Mott agreed and added that her zoning text describes the land by acreage and by metes and bounds, not by lot designations. Thus, 6b should probably come off of her zoning map.

Commissioner Wallace requested that Ms. Mott's diagrams become part of the record because it seemed likely that these applications would be tabled and these diagrams would be helpful.

Ms. Mott asked Law Director Albrecht whether she could adjust the title headings of the diagrams.

Law Director Albrecht responded, sure. He continued that it was probably easier that way.

Ms. Mott then indicated that the diagram for the zoning, with the colored highlighting, would be Exhibit A.

Chair Kirby noted it was the last diagram in the packet.

Ms. Mott then indicated that the 2021 map would be Exhibit A1.

Chair Kirby then asked whether staff was able to record this information.

Planning Manager Mayer responded that if it was okay with the applicant, the maps would be scanned and would become a permanent part of the minutes.

Ms. Mott agreed and indicated that the map with the re-subdivision of lot 6 to lot 6A would be Exhibit B.

Ms. Mott then indicated that Exhibit C would be the new lot, the proposed final replat, which would be lot 6b, 2.456 acres.

Ms. Mott then requested a recapitulation of her homework.

Chair Kirby stated that his list for Ms. Mott included to check with her client about the following: the 3 accessory structure maximum; the height and size limit of the accessory structures, with the concurrence of staff; and tree language on the north side of lot 4, the removal and replanting to new location on the north side of the property.

Commissioner Larsen confirmed that the list included the limitation on the size of the structures.

Planning Manager Mayer stated that the list of action items for the staff included the following: research accessory structure size limits in past cases; research the size of the existing homes in Hawksmoor.

Commissioner Wallace stated there was also discussion of a change of language in section 2b regarding residences.

Chair Kirby added that commentary from the owners of lot 3 would be helpful. Input from lot 7 would be helpful as well, but particularly helpful from lot 3.

Planning Manager Mayer stated that staff recommended the addition of a provision to the text, for a belt and suspenders approach, that the setbacks in the zoning exhibit apply even after combination. This added provision would provide further clarity for the record.

Chair Kirby asked if there were any other questions from the commission.

There was no response.

Documents motion for ZC-11-2023

Chair Kirby moved to accept the staff reports and related documents into the record for ZC-11-2023, and noted the clarification on some of the exhibits as well. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion.

There was no response.

Upon roll call: Mr. Kirby, yes; Mr. Wallace, yes; Ms. Briggs, yes; Mr. Larsen, yes; Mr. Schell, yes. Having 5 yes votes; 0 no votes; and 0 abstentions, the staff reports and related documents with the clarification on the exhibits, were accepted into the record.

Documents motion for FPL-12-2023

Chair Kirby moved to accept the staff reports and related documents into the record for FPL-12-2023. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion.

There was no response.

Upon roll call: Mr. Kirby, yes; Mr. Wallace, yes; Mr. Schell, yes; Mr. Larsen, yes; Ms. Briggs, yes. Having 5 yes votes; 0 no votes; and 0 abstentions, the staff reports and related documents were accepted into the record.

Motion to table ZC-11-2023

Chair Kirby moved to table ZC-11-2023 to the next regular meeting that meets notification requirements. Commissioner Schell seconded the motion.

Chair Kirby asked whether there was any discussion on the motion.

There was no response.

Upon roll call: Mr. Kirby, yes; Mr. Schell, yes; Mr. Larsen, yes; Ms. Briggs, yes; Mr. Wallace, yes. Having 5 yes votes; 0 no votes; and 0 abstentions, the application was tabled to the next regular meeting that meets notification requirements.

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Motion to table FPL 12-2023

Chair Kirby moved to table FPL-12-2023 to the next regular meeting that meets notification requirements. Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the motion.

There was no response.

Upon roll call: Mr. Kirby, yes; Ms. Briggs, yes; Mr. Wallace, yes; Mr. Larsen, yes; Mr. Schell, yes. Having 5 yes votes; 0 no votes; and 0 abstention, the application was tabled to the next regular meeting that meets notification requirements.

The commission thanked the applicant and stated that they looked forward to seeing her again soon.

Thereby, at 8:50 p.m., Chair Kirby ordered a 5-minute recess.

Chair Kirby called the meeting to order at 8:55 p.m.

VAR-46-2023 Variance

Variance request to allow a deck to be constructed within a platted drainage easement located at 7831 Straits Lane (PID: 222-004613).

Planner Cratic-Smith delivered the staff report.

Chair Kirby asked for comments from engineering.

Engineer Walther delivered the engineering report noting that in the event maintenance needs to be performed, the proposed deck encroaches on the manhole.

Chair Kirby asked for comments from the applicant.

Jim Knox, Suncraft 122 W. Johnstown Road, applicant appearing on behalf of the property owner. Mr. Knox acknowledged the encroachment and stated that he was unaware of the encroachment upon the manhole at the time of design. The homeowners would still like to construct the deck there and do not feel that the encroachment is substantial.

Chair Kirby asked whether construction had begun.

Mr. Knox stated that it had not because they were waiting for approval.

Chair Kirby thanked Mr. Knox for conducting this transaction in that order.

Commissioner Wallace noted that page 3 of 5 of the staff report showed the manhole cover in different locations.

Mr. Knox confirmed his measurement was correct.

Planning Manager Mayer explained that within the staff report figures 1 and 2 were provided to the city at submittal. The exhibit presented at the meeting was provided after submittal and after the staff report was issued.

Commissioner Wallace requested that the new slide be included in the record.

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Commissioner Larsen confirmed with engineering that this was part of a drainage easement that served the entire community.

Engineer Walther answered correct, the easement extends to the neighboring properties on both sides and properties to the side and to the rear.

Commissioner Wallace asked Mr. Knox whether he could redesign a deck that would not interfere with the easement and that would comply with requirements. A deck that would be smaller.

Mr. Knox responded in the affirmative and that he could discuss it with the homeowner, but the homeowner would prefer the current design.

Chair Kirby asked if there was anyone from the public who wished to speak on the application.

Shelly Gupta, 4530 Ackerly Farm Road. She stated hers was the first home in the community and that she lived to the rear of the subject property. The subject property is a lot higher than her property and that she has had drainage issues. She asked whether this cutout was for a catch basin or whether it was just for access/entry.

Chair Kirby added that there appeared to be a swale there.

Engineer Walther stated that this was just for access and for port entry, not a catch basin and would not be for drainage. He further noted that the manhole had a closed lid, which would indicate access as opposed to an open lid.

Chair Kirby stated that the short form is that you are not allowed to change your neighbors' drainage. It appeared to be a drainage swale to the catch basins and that in the event of a large rain there would be sheet-flow of water toward the catch basin. He further confirmed that swale was the correct term.

Engineer Walther confirmed that was correct.

Chair Kirby stated that the Village is very careful to not interfere with drainage swales and drainage easements because they serve a functional purpose for sheet-flow of water.

Ms. Gupta asked whether other structures could be built around the deck.

Chair Kirby stated it depends on how the language of the plat is drafted.

Planning Manager Mayer responded that the drainage easement plat for the subject property stated that there can be no additional construction.

Chair Kirby moved for acceptance of staff reports and related documents into the record including the drawing submitted by the applicant for VAR-46-2023. Commissioner Larsen seconded the motion.

Chair Kirby asked whether there was any discussion on the motion.

There was no response.

Upon roll call: Mr. Kirby, yes; Mr. Larsen, yes; Mr. Schell, yes; Ms. Briggs, yes; Mr. Wallace, yes. Having 5 yes votes; 0 no votes; and 0 abstentions, the staff reports and related documents including the drawing submitted by the applicant, were accepted into the record.

Chair Kirby moved for approval of application VAR-46-2023 based on the findings in the staff report with the condition listed in the staff report, subject to staff approval. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion.

There was no response.

Upon roll call: Mr. Kirby, no; Mr. Wallace, no; Ms. Briggs, no; Mr. Larsen, no; Mr. Schell, no. Having 0 yes votes; 5 no votes; and 0 abstentions, the motion failed.

Chair Kirby stated the following rationale for his no vote: that this was a substantial variance; there were city services; there was no evidence in the record that this property was purchased without knowledge of the drainage easement; this can be solved with a smaller deck; granting the variance would set a precedent the commission does not want to set; and the commission should not interfere with drainage swales.

Commissioner Wallace agreed with Chair Kirby and further stated that the commission had recently denied similar variances in Ebrington and needed to adhere to the precedent set in those cases.

Commissioner Larsen agreed with Chair Kirby and Commissioner Wallace and further stated that the commission needs to remain consistent and that the community needs to be protected.

Commissioner Briggs concurred with Chair Kirby and Commissioners Wallace and Larsen and further stated that this variance would result in disruption of city infrastructure, and would set a precedent.

Commissioner Schell agreed with Chair Kirby and Commissioners Wallace, Larsen, and Briggs and further stated that approval would set a precedent and that the applicant had an easy solution of shrinking the deck.

VII. Other business

Chair Kirby asked if there was other business before the commission.

There was no response.

VIII. Poll members for comment

Chair Kirby polled the members for comment.

Each member expressed thanks to the commission and staff.

IX. Adjournment

Chair Kirby, noting no further business before the commission, adjourned the meeting at 9:05 p.m.

Submitted by Christina Madriguera, Esq., Deputy Clerk.

Appendix ZC-11-2023: Staff report Exhibits A, A1, B, C Record of action FPL-12-2023: Staff report Record of action VAR-46-2023 Staff reports Applicant Slide – Slide 10 of PC meeting presentation Record of action



HAWKSMOOR NORTH AMENDMENT I-PUD REZONING APPLICATION

LOCATION: APPLICANT: REQUEST:	6A Hawksmoor Drive (PIDs: 222-003484 and 222-005170) Plank Law LLC c/o Rebecca Mott Request to rezone 1.765+/- acres located at 6A Hawksmoor from (I- PUD) Planned Unit Development to (I-PUD) Planned Unit Development for an area known as Hawksmoor North Amended (PIDs: 222-004874- 00 and 222-005170-00).
ZONING:	Hawksmoor North Amend PUD
STRATEGIC PLAN:	Residential
APPLICATION:	ZC-11-2023

Review based on: Application materials received on April 11, 2023

Staff report prepared by Sierra Cratic-Smith, Planner.

I. REQUEST AND BACKGROUND

The applicant requests to rezone lot 6A at 1.726+/- acres to Infill Planned Unit Development (I-PUD) from to Infill Planned Unit Development (I-PUD). The purpose of the rezoning is to allow the owners of lot 4 to develop the property with accessory structures while retaining the entitlements to construct a single-family residence in the future. In addition, the rezoning would allow accessory structure standards to be constructed without a primary structure and to modify the development standards for accessory structures including:

- Increasing the maximum height for accessory structures
- Removing the maximum number of accessory structures
- Removing the maximum square feet for each accessory structure
- Increase the setbacks for accessory structures
- Relocates tree preservation zone from lot 4 to this parcel.

A final plat has been submitted on the agenda to relocate the existing tree preservation zone on lot 4 to the north side of this parcel.

In 2020, lot 6 was rezoned to Infill Planned Unit Development (I-PUD) from R-1 and Infill Planned Unit Development (I-PUD). It was approved with development standards that establishes enhanced setbacks and requires the tree preservation zone be relocated to a new location on the north side of the parcel.

II. SITE DESCRIPTION & USE

The property is 1.765 acres in size and located on along the north side of Hawksmoor Drive. The lot is currently undeveloped. It is located west of Reynoldsburg-New Albany Road and south of Belmont Place. The immediate neighboring zoning districts include the Hawksmoor I-PUD zoning district located south of and encompassing some portions of the district, Section 5 of the New Albany County Club and other residentially zoned and used properties to the east, west and north of this site.

III. PLAN REVIEW

Planning Commission's review authority of the zoning amendment application is found under C.O. Chapters 1107.02 and 1159.09. Upon review of the proposed amendment to the zoning map, the Commission is to make recommendation to City Council. Staff's review is based on city plans and studies, proposed zoning text, and the codified ordinances. Primary concerns and issues have been indicated below, with needed action or recommended action in <u>underlined text</u>.

Planning Commission's review authority of the zoning amendment application is found under C.O. Sections 1107.02 and 1159.09. Upon review of the proposed amendment to the zoning map, the Commission is to make recommendation to City Council. Staff's review is based on City plans and studies, zoning text, and zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in <u>underlined text</u>.

<u>Per Codified Ordinance Chapter 1159.08</u> the basis for approval of a Preliminary Development Plan in an I-PUD shall be:

- (a) That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;
- (b) That the proposed development is in general conformity with the Strategic Plan or portion thereof as it may apply;
- (c) That the proposed development advances the general welfare of the Municipality;
- (d) That the benefits, improved arrangement and design of the proposed development justify the deviation from standard development requirements included in the Zoning Ordinance;
- (e) Various types of land or building proposed in the project;
- (f) Where applicable, the relationship of buildings and structures to each other and to such other facilities as are appropriate with regard to land area; proposed density of dwelling units may not violate any contractual agreement contained in any utility contract then in effect;
- (g) Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area;
- (h) Building heights of all structures with regard to their visual impact on adjacent facilities;
- (i) Front, side and rear yard definitions and uses where they occur at the development periphery;
- (j) Gross commercial building area;
- (k) Area ratios and designation of the land surfaces to which they apply;
- (l) Spaces between buildings and open areas;
- (m) Width of streets in the project;
- (n) Setbacks from streets;
- (o) Off-street parking and loading standards;
- (p) The order in which development will likely proceed in complex, multi-use, multi-phase developments;
- (q) The potential impact of the proposed plan on the student population of the local school district(s);
- (r) The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required);
- (s) The U.S. Army Corps of Engineers 404 permit, or nationwide permit (if required).

A. New Albany Strategic Plan

The 2020 New Albany Strategic Plan lists the following development standards for the Neighborhood Residential District:

- 1. Houses should front onto public open spaces and not back onto public parks or roads.
- 2. Rear and side loaded garages are encouraged. When a garage faces the street, the front façade of the garage must be setback from the front façade of the house.
- 3. Streets should have five-foot wide sidewalks on both sides of the street, other than in locations approved for eight-foot leisure trails.
- 4. Cul-de-sacs are discouraged in all developments and a multiplicity of connections should be made.

- 5. All or adequate amounts of open space and parkland is strongly encouraged to be provided on-site.
- 6. A hierarchy of open spaces is encouraged. Each development should have at least one open space located near the center of development. Typically, neighborhood parks range from a half acre to 5 acres. Multiple greens may be necessary in large developments to provide centrally located greens.
- 7. Private streets are at odds with many of the community's planning principals, such as interconnectivity, a hierarchy of street typologies, and a connected community. Therefore, the streets within residential developments should be public.

B. Use, Site and Layout

- 1. The zoning district currently contains two residentially zoned parcels, the further west parcel in an "L" shape which is undeveloped and one east of Hawksmoor North which is undeveloped.
- 2. The applicant uses the existing Hawksmoor North zoning district development standards to create the proposed text. Due to the proposed I-PUD zoning classification the applicant must return to the Planning Commission for review and approval of a final development plan application for all primary and accessory structures.
- 3. The proposed rezoning modifies the development standards of accessory structures as a primary use of the lot and exempts the property from codified ordinance chapter 1165.04(a)(7) which states accessory structures cannot be constructed before a primary residential dwelling unit. The purpose of this exemption is to provide additional buildable space to construct more amenities for the owner(s) of lot 4.
- 4. One, future residential dwelling unit is still addressed within the text. This residential home is a potential future use and the property is required to be replatted before construction to ensure there is one home per lot.
- 5. The text retains the 50-foot minimum building setback from a line extending southward from the western-facing façade of the garage that exists on an adjacent parcel to the north. The proposed I-PUD text allows for accessory structures to have a 10 foot setback from the western property line when the building themselves are oriented to the west. The city staff recommends a condition of approval to requires accessory structures have the same 50 foot building setback if and when they are oriented to the west.
- 6. The I-PUD text establishes larger setbacks for accessory structures when there isn't a single home on the property. <u>The proposed setback standards for accessory structures are compared in Appendix A at the end of the staff report.</u>
- 7. The I-PUD text allows there be no maximum number of detached garages, outbuildings, patios/paved areas, sheds and/or pool houses uses and structures (and any other structures similar in nature).
- 8. The I-PUD text states there be no maximum area or square footage requirements for a residential dwelling unit and accessory structures.
- 9. The text adds a new 50-foot setback to the eastern boundary line of lot 6B and west of Reynoldsburg-New Albany Road.

C. Access, Loading, Parking

- 1. Parking will be provided per code requirements (Chapter 1167) and will be evaluated at the time of development of the site.
- 2. According to the text, the driveway will be connected to Hawksmoor Drive.
- 3. There is an existing sidewalk along Hawksmoor Drive and a leisure trail along 605 therefore there are no additional pedestrian connectivity requirements in the text or are required by the city's codified ordinances.

D. Architectural Standards

1. Due to the site being zoned I-PUD, the applicant must return to the Planning Commission for review and approval of a final development plan where final architectural details, in addition to other items will be reviewed in detail.

- 2. The text proposes to allow accessory structures to have a maximum height of 45 feet since these structures will be the primary use of the lot. Also, the text retains the maximum 45-foot building height for the primary residential home found in the existing Hawksmoor zoning text.
- 3. The text retains the development standards in the Hawksmoor North I-PUD and allows for homes to be oriented towards the south or west.
- 4. The proposed text permits the front façade of accessory structures to be oriented towards the western property line or towards the front of the property (Hawksmoor Drive) as well.
- 5. The proposed text retains and applies all the architectural standards for the design, materials and style from the Hawksmoor North rezoning text to accessory structures in addition to single family homes.

E. Parkland, Buffering, Landscaping, Open Space, Screening

- 1. In order to prevent conflicting code requirements and establish a comprehensive planned redevelopment: the drainage easement, no build zone, and tree preservation zone north of lot 4 will be moved to the north of lot 6A. Therefore, about 5,976.30 +/- square feet of drainage easement, no build zone, and tree preservation zone will be located at the rear of the existing Hawksmoor parcel.
- 2. The text also retains the 20-foot wide tree preservation zone along a portion of the western boundary line of the western parcel.

F. Lighting and Utilities

- 1. The proposed text retains the lighting provisions of the existing Hawksmoor zoning text.
- 2. All new utilities are required to be installed underground which is consistent with the existing Hawksmoor zoning text.

IV. ENGINEERING'S COMMENTS

There are no engineering comments.

V. SUMMARY

The city codified ordinances define "accessory structure" as a subordinate structure or surface, located on the same lot as a principal building/structure, which is incidental to the use of the principal building/structure. The applicant has submitted a plat modification application that will combine lots 4 and 6A so there will be a principle dwelling unit (house) on the property with the larger accessory structures so the use will still be incidental to the use of the single family residence on lot 4.

Even though the proposed PUD text allows for larger and greater quantity of accessory structures then the city code allows, there are also enhanced setbacks and buffers from neighboring properties to the north. The accessory structures cannot encroach with the tree preservation zones and must follow the same setbacks as the principle dwelling unit (house) thereby increasing the setbacks. Additionally, due to the shape of lot 6A being a flag lot, the larger accessory structures will be positioned behind the existing home so they will be less visible from the public streets and will appear subordinate since they are appropriately located to the rear of the principle dwelling unit. The accessory structures have enhanced architectural requirements since they must be designed in the same manner as principle dwelling units.

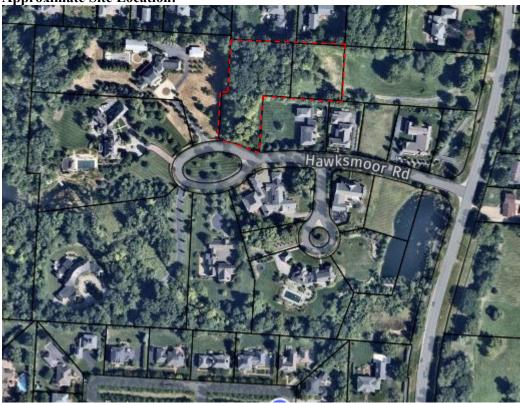
The PUD text requires a final development plan must be submitted for review and approval by the Planning Commission prior to the construction of any principle dwelling unit or accessory structures. This secondary review requires neighbor notification and the Planning Commission can ensure the design it is appropriate. The Hawksmoor subdivision is community consisting of large lots with large estate homes so having large buildings, used for accessory uses, does not appear to be out of character for this immediate area.

VI. ACTION

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

Move to recommend approval of application ZC-11-2023 based on the findings in the staff report with the following conditions, subject to staff approval.

1. There is a 50 foot building setback from the western property line when any primary or accessory structure's façade (the uses listed in Section II(B)) is facing west.



Approximate Site Location:

Source: NearMap

Lot Coverage	Quantity	Height	Size (Area/Sq Footage)	Setbacks		
20% of the parcel	$1 \text{ Per } \text{lot}^4$	45 feet ³	No minimum or maximum ²	 South¹: 40 feet West¹: 10 or 50 feet (based on orientation) North¹: 20 feet East¹: 10 and 50 feet 	Principle Dwelling (dwelling)	
20% of the parcel	Unlimited ⁴	45 feet ³	No minimum or maximum ²	 40 feet from Hawksmoor Dr. 10 feet from west if building facing west, east or north Northeast¹: 20 feet except shared boundary with PID 222-001872 Northwest¹: 50 feet extending southward from 222-001872 South¹: 20 feet East¹: 50 feet 	Detached Structures without a dwelling	
20% of the parcel	$Unlimited^4$	45 feet ³	No minimum or maximum ²	• 10 feet from any rear lot line ²	Recreational Amenities without a dwelling	Proposed
20% of the parcel	2 max^5	45 feet ³	No minimum or maximum ²	 10 feet from primary structure Side lot line: 10 feet from Rear lot line: 30 feet ⁵ 	Detached Structures with a dwelling	
20% of the parcel	Unlimited ⁵	45 feet ³	No minimum or maximum ²	• 10 feet from any side or rear lot line ⁵	Recreational Amenities with a dwelling	
20% of the parcel	2 max^5	25 feet max	For lots between one (1) acre and two (2) acres, a structure may have an area up to one thousand two hundred 1,200 square feet,	 10 feet from primary structure Side lot line: 10 feet Rear lot line: 30 feet 	Detached Structures CO 1165(a)	Typical Coc
20% of the parcel	Unlimited	15 feet max	 No minimum or maximum² 	 Front lot line: 14 feet Rear lot line: 10 feet Side lot line: 5 feet 	Recreational Amenities CO 1165(b)	Typical Code Standards

Appendix A

¹ Hawksmoor North Amended PUD section III per (B)(3)(b) ² Hawksmoor North Amended PUD section III per (B)(5)

³ Hawksmoor North Amended PUD section III per (D)(1)
 ⁴ Hawksmoor North Amended PUD section III per (A)
 ⁵ City Codified Ordinance Chapter 1165 since PUD is silent in this scenario.

* This chart does not include the tree preservation zones.

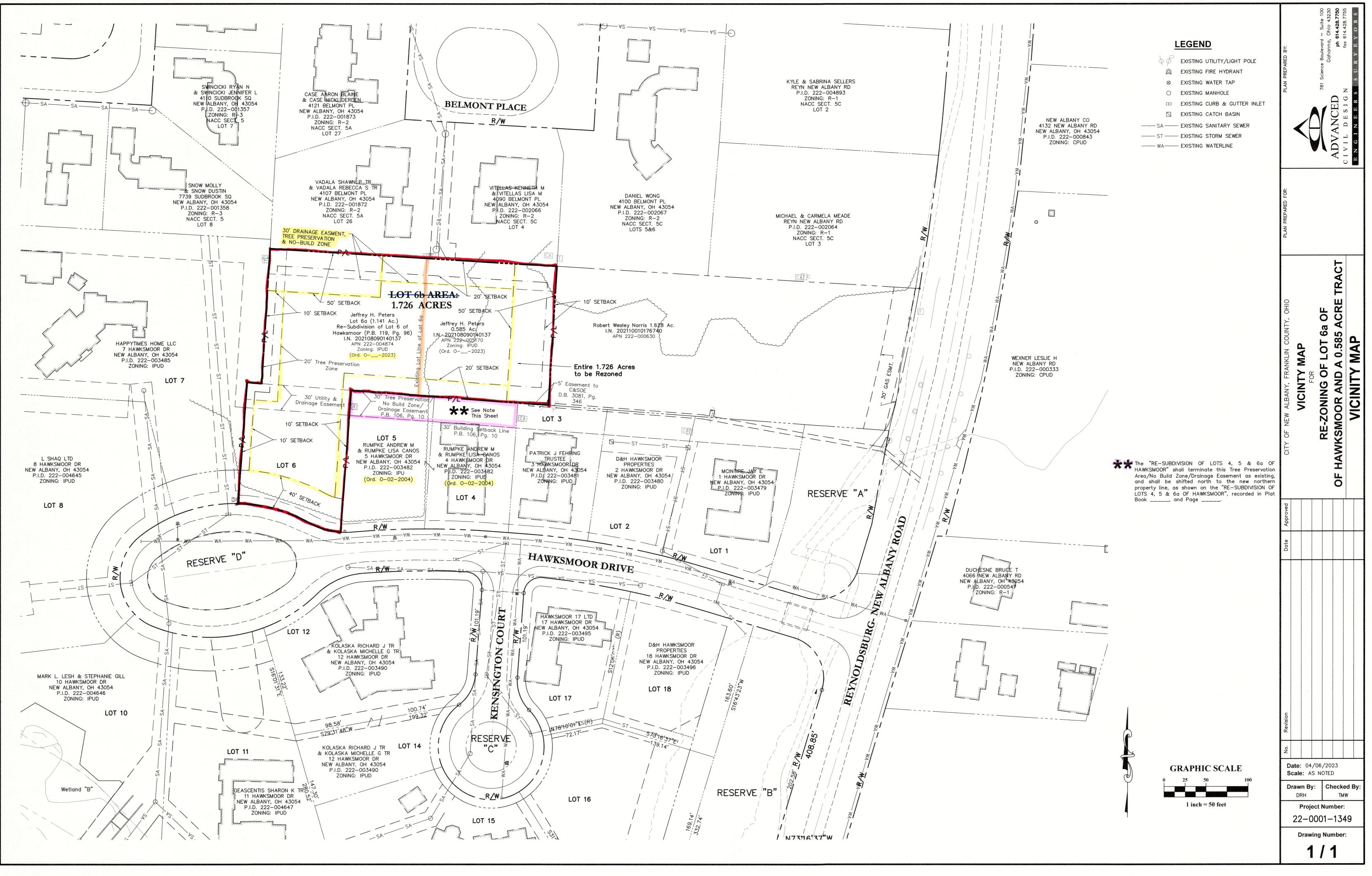


Exhibit A

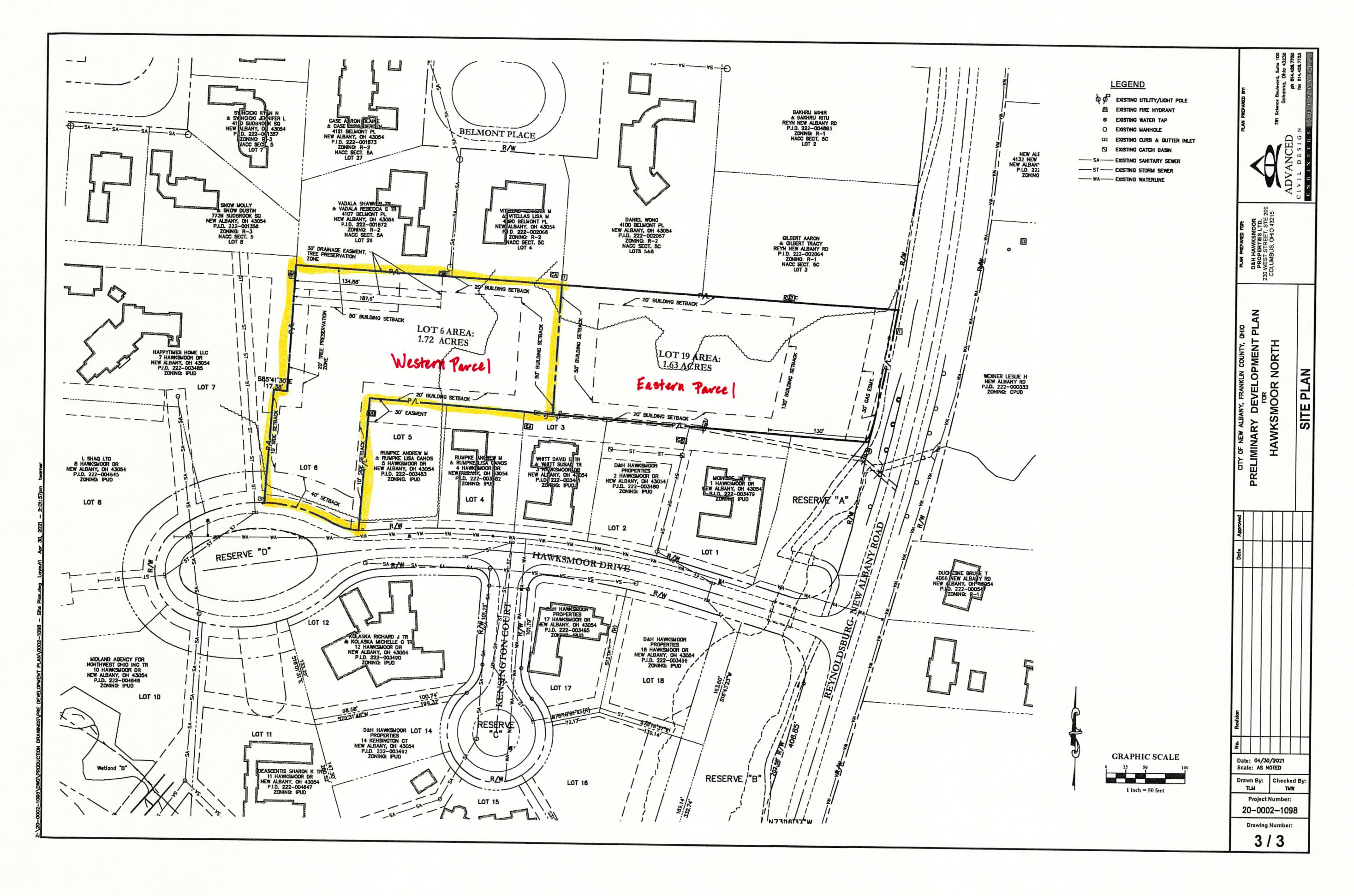


Exhibit A-1

Situated in State of Ohio, County of Franklin, Village of New Albany, located in Quarter Townships 3 and 4, Township 2, Range 16, United States Military Lands, containing 1.141 acres of land, more or less, said 1.141 acres being a resubdivision of all of Lot 6 as numbered and delineated upon the record plat of "HAWKSMOOR", of record in Plat Book 106, Page 10, which contains 0.441 acre and standing in the name of D&H Hawksmoor Properties, Ltd. of record in Instrument Number 201212310201283, and a 0.699 acre portion of an Original 3.153 acre tract, less exception, as conveyed to D&H Hawksmoor Properties, Ltd. of record in Instrument Number 201412310173119, both being of record in Recorder's Office, Franklin County, Ohio.

The undersigned, Michael J. DeAscentis II, authorized signature for D&H Hawksmoor Properties, Ltd. owner of the land platted herein, does hereby certify that this plat correctly represents its "Re-Subdivision of Lot 6 of Hawksmoor", containing Lot 6a, and does hereby accept this plat of the same.

Easements are hereby reserved in, over and under areas hereby platted, and designated on this plat as "Easement" or "Drainage Easement" for the construction, operation and maintenance of all public and quasi public utilities above and beneath the surface of the ground and, where necessary, for the construction, operation and maintenance of service connections to all adjacent lots and lands and for storm water drainage. Within those areas designated "Drainage Easement" on this plat, an additional easement is hereby reserved for the purpose of constructing, operating, and maintaining major storm water drainage swales and or other storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within the Drainage Easement areas as delineated on this plat unless approved by the Director of Public Service, Village of New Albany.

All easements within the building setback lines for general utility and drainage purposes shall be landscaped per the Hawksmoor Landscape Plan and maintained by the Hawksmoor Homeowners Association, Inc.

In Witness Whereof, Michael J. DeAscentis II, Authorized Signature for D&H HAWKSMOOR PROPERTIES, Ltd., has hereunto set their hand this _____ day of Scolenter, 2015.

Signed and acknowledged In the presence of:

D&H HAWKSMOOR PROPERTIES, Ltd.

Witness

Blandy MAL

By Anthonized Signed Title

Witness

STATE OF OHIO COUNTY OF FRANKLIN ss:

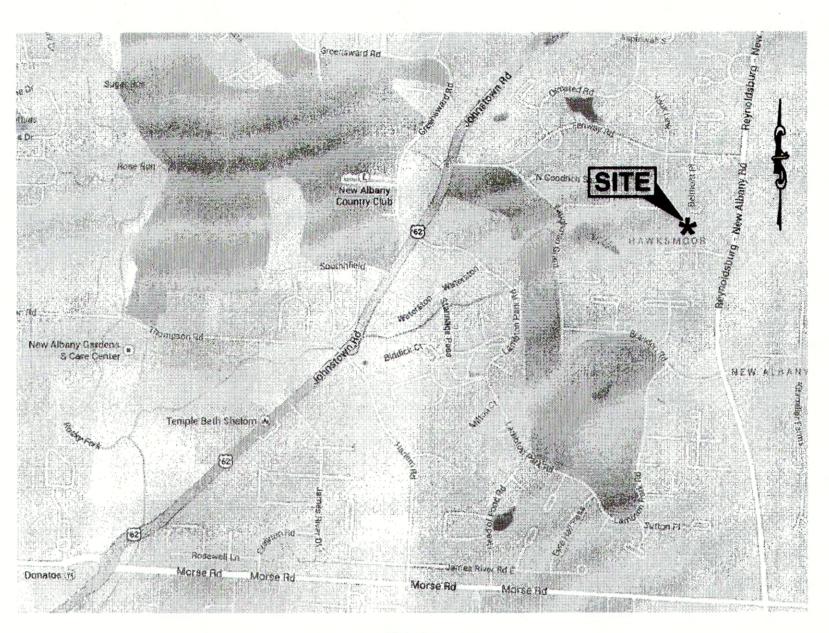
Before me, a Notary Public in and for said State, personally appeared Michael > authorized signer of D&H HAWKSMOOR PROPERTIES, LTD., who acknowledged the signing the foregoing instrument to be their free and voluntary act and deed and the free voluntary act and deed of D&H HAWKSMOOR, LTD. for the uses and purposes expressed therein.

Witness Thereof, I have hereunto set my hand and affixed my official seal this _____ day of _____, 2015.

My Commission expires

Notary Public, State of Ohio

exhibit B **RE-SUBDIVISION OF** LOT 6 OF HAWKSMOOR



LOCATION MAP NO SCALE

SURVEY DATA:

BASIS OF BEARINGS: The bearings shown on this plat were transferred from a GPS survey of Franklin County Monuments "FCGS 9913-B" and "FCGS 9914-B" performed by the Franklin County Engineer's Office, which was based on the Ohio State Plane Coordinate System, Ohio South Zone, NAD83 (1986 adjustment) and determines the bearing between said monuments as N 10° 32' 24" E.

SOURCE OF DATA: The sources of recorded survey data are the records of the Franklin County, Ohio, Recorder, referenced in the plan and text of this plat.

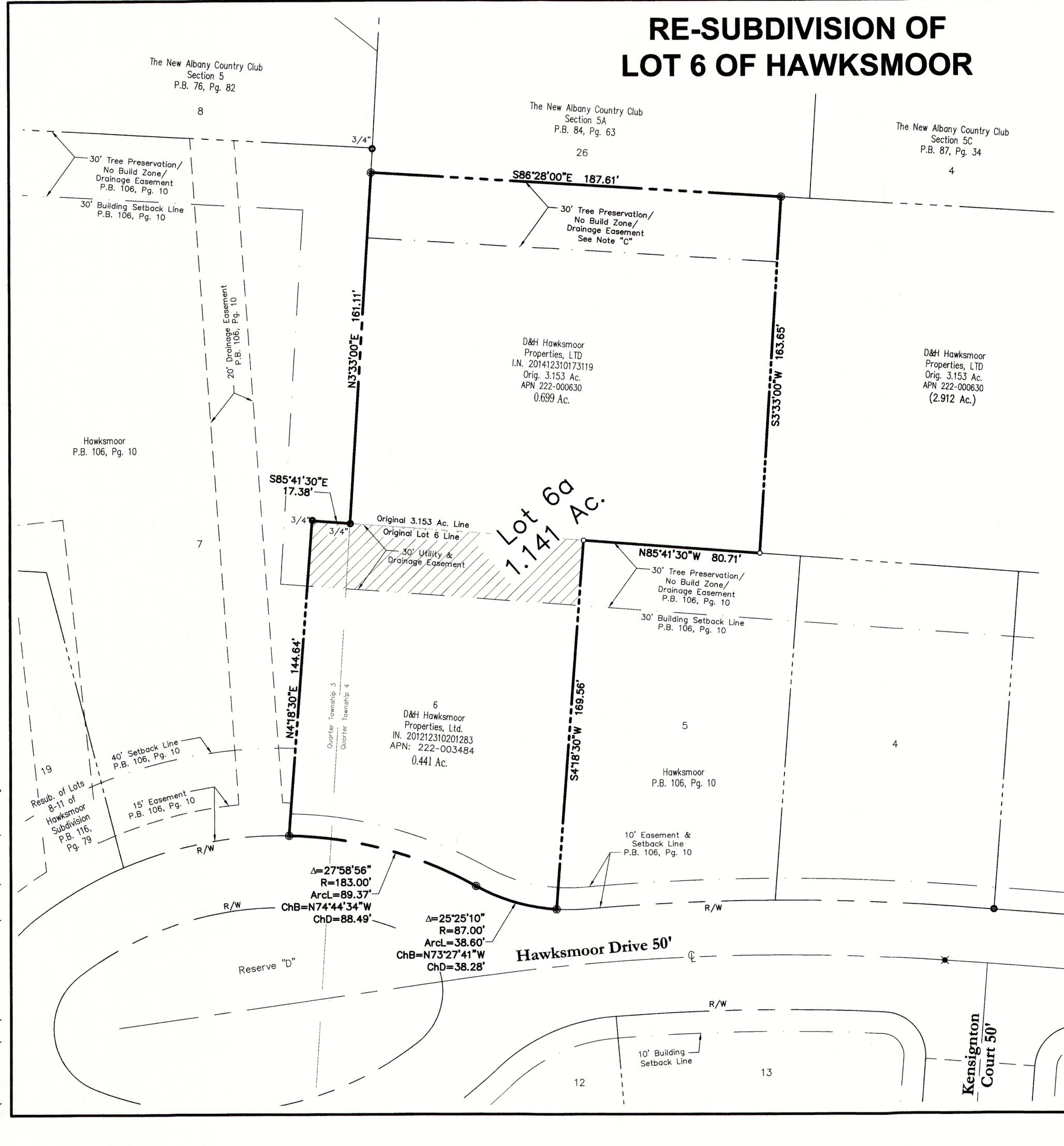
IRON PINS, where indicated, unless otherwise noted, are to be set and are iron pipes, thirteen-sixteenths inch inside diameter, thirty inches long with a plastic cap placed in the top bearing the inscription "ADVANCED". These markers shall be set following the completion of the construction/installation of the street pavement and utilities and prior to the Village of New Albany, Ohio's acceptance of these subdivision improvements. The New Albany, Ohio, Municipal Engineer shall be notified in writing by the surveyor when the markers are in place.

PERMANENT MARKERS: Permanent markers, where indicated hereon, are to be one-inch diameter, thirty-inch long, solid iron pins, are to be set with the top end flush with the surface of the ground and then capped with an aluminum cap stamped "ADVANCED". Once installed, the top of the cap shall be marked (punched) to record the actual location of the point. These markers shall be set following the completion of the construction/installation of the street pavement and utilities and prior to the Village of New Albany, Ohio's acceptance of these subdivision improvements. The New Albany, Ohio, Municipal Engineer shall be notified in writing by the surveyor when the markers are in place.

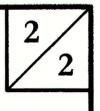
PLAT BOOK 119 PG 96 Approved this 21 day of 3 Clerk on behalf of Mayor Approved this 10^{9} day of JAH, 2016 Approved this 15^{20} day of 3^{2016} **Council Representative to Planning** Commission, New Albany, Ohio Approved this day of 2016 Chairperson, Planning Commission Approved this <u>15</u> day of **Jan**, 2016 New Albany, Ohio New Albany, Ohio Finance Director. Approved and accepted by Resolution No. <u>R-23-2015</u>, passed <u>5-13</u>, 2015, by the Council for the Village of New Albany, Ohio. Approval of this plat shall become null and void unless recorded prior to May 13th, 2016. Transferred this _____ day of _____, Franklin County, Ohio Auditor. **Deputy Auditor, Franklin County, Ohio** Filed for record this day of _______ day of _______. 2016 at ______.M. Q. Brown ME Fee \$ \$6.40 File No. 201601280011096 Recorded this 20 day of <u>JAN</u>, 2016 Deputy Recorder, Franklin County Plat Book 119, Pages 95-97 We do hereby certify that we have surveyed the above premises, prepared the attached plat, and that said plat is correct. All dimensions are in feet and decimal parts thereof. O = Iron Pin Set © = Permanent Marker • = Iron Pin Found ■ = PK Nail Found 8/27/14 By Reg. Surveyor 422 Beecher Road Gahanna, Ohio 43230 ADVANCED ph 614.428.7750 CIVIL DESIGN fax 614.428.7755 ENGINEERS SURVEYORS

FRANKLIN COUNTY, OH

Recorded: 01/28/2016 11:34:38 AM



PLAT BOOK 119 PG 97



NOTE "A": All of the area hereby platted is within Zone X (area determined to be outside 500-year floodplain) as shown on Federal Emergency Management Agency Flood Insurance Rate Map for Franklin County, Ohio and Incorporated Areas, map numbered 39049C0204K with effective date of June 17, 2008.

NOTE "B": The Hawksmoor Homeowners Association, Inc. and all of the area being platted, hereby, shall be subject to Declarations of Covenants, Conditions, Restrictions and Easements for Hawksmoor as recorded with the Franklin County, Ohio Recorder in Instrument Number 200506030107847 and Instrument Number 200707100120698 and Instrument Number 201505080060071.

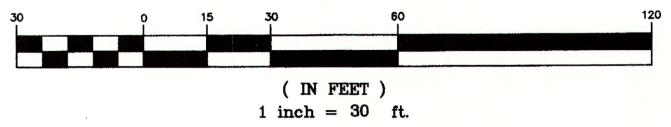
NOTE "C" - TREE PRESERVATION/NO BUILD ZONE/DRAINAGE EASEMENT:

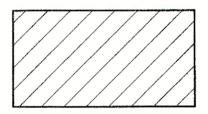
Within those areas designated hereon as "Tree Preservation/No Build Zone/Drainage Easement", no accessory buildings, fences, walks, steps or improvements of any kind shall be constructed with the exception of seeding and limited grading to allow proper drainage in order to preserve trees. No tree shall be removed without the approval of the City Manager or their designee. Dead plant material, and noxious plant material such as poison ivy and trees may be removed. This zone shall be maintained by the owners of the lot."

NOTE "D" - PRESERVATION ZONE MARKERS:

Preservation area markers are to be installed at the edge of the preservation areas along the north property line of lot 6a and the lot 5 common property line's preservation zone area. Preservation zone markers will be maintained by the homeowner's association. Markers shall be obtained from the City of New Albany.

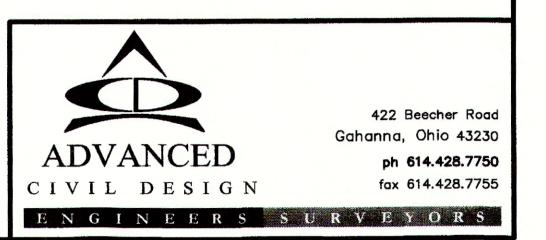
GRAPHIC SCALE





Area of Ex. Tree Preservation/No Build Zone, per P.B. 106, Pg. 10, to be Vacated by the recording of this plat. Existing 30' drainage easement is to remain. Existing electric utility is known to be located within this easement area.

Acreage breakdown: APN: 222-000630 = 0.699 Ac. APN: 222-003484 = 0.441 Ac.



17

Situated in State of Ohio, County of Franklin, Village of New Albany, located in Quarter Townships 3 and 4, Township 2, Range 16, United States Military Lands, containing 2.456 acres of land, more or less, said 2.456 acres being a resubdivision of all of Lot 6a as numbered and delineated upon the record plat of "RE-SUBDIVISION OF LOT 6a OF HAWKSMOOR", of record in Plat Book 119, Page 95, which contains 1.141 acres, all of said Lot 6a standing in the name of Jeffrey H. Peters of record in Instrument Number 202108090140137, a 0.585 acre tract, as conveyed to Jeffrey H. Peters also of record in Instrument Number 202108090140137, and all of Lots 4 & 5 of "HAWKSMOOR", of record in Plat Book 106, Page 10, all of said Lots 4 & 5 standing in the name of Andrew M. and Lisa Cantos Rumpke of record in Instrument Numbers 201109010109415 & 201110120129966, all being of record in Recorder's Office, Franklin County, Ohio.

The undersigned, Jeffrey H. Peters, authorized signature, and Andrew M. Rumpke, authorized signature, do hereby certify that this plat correctly represents its "Re-Subdivision of Lots 4, 5 & 6a of Hawksmoor", containing Lot 6b, and does hereby accept this plat of the same.

Easements are hereby reserved in, over and under areas hereby platted, and designated on this plat as "Easement" or "Drainage Easement" for the construction, operation and maintenance of all public and quasi public utilities above and beneath the surface of the ground and, where necessary, for the construction, operation and maintenance of service connections to all adjacent lots and lands and for storm water drainage. Within those areas designated "Drainage Easement" on this plat, an additional easement is hereby reserved for the purpose of constructing, operating, and maintaining major storm water drainage swales and or other storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within the Drainage Easement areas as delineated on this plat unless approved by the City Engineer, City of New Albany.

All easements within the building setback lines for general utility and drainage purposes shall be landscaped per the Hawksmoor Landscape Plan and maintained by the Hawksmoor Homeowners Association, Inc.

In Witness Whereof, Jeffrey H. Peters, Authorized Signature, has hereunto set their 2023. day of hand this

Signed and acknowledged In the presence of:

Jeffrey H. Peters

Title

Witness

Witness

STATE OF OHIO COUNTY OF FRANKLIN ss:

Before me, a Notary Public in and for said State, personally appeared , authorized signer, who acknowledged the signing the foregoing instrument to be their free and voluntary act and deed for the uses and purposes expressed therein.

Witness Thereof, I have hereunto set my hand and affixed my official seal this ___ day of _____, 2023.

My Commission expires _

Notary Public, State of Ohio

In Witness Whereof, Andrew M. Rumpke, Authorized Signature, has hereunto set their hand this _____ day of _____ , 2023.

Signed and acknowledged In the presence of:

By

Title

Witness

Title

Witness

STATE OF OHIO COUNTY OF FRANKLIN ss:

Before me, a Notary Public in and for said State, personally appeared , authorized signer, who acknowledged the signing the foregoing instrument to be their free and voluntary act and deed for the uses and purposes expressed therein.

Witness Thereof, I have hereunto set my hand and affixed my official seal this

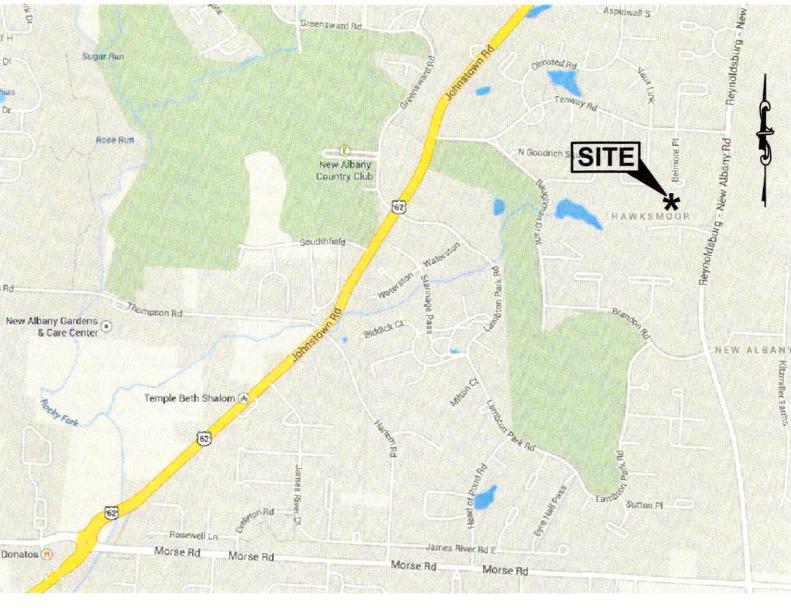
day of _____, 2023.

My Commission expires

Notary Public, State of Ohio

Andrew M. Rumpke & Lisa Cano Rumpke

RE-SUBDIVISION OF LOTS 4, 5 & 6a OF HAWKSMOOR



LOCATION MAP NO SCALE

SURVEY DATA:

BASIS OF BEARINGS: The bearings shown on this plat were transferred from a GPS survey of Franklin County Monuments "FCGS 9913-B" and "FCGS 9914-B" performed by the Franklin County Engineer's Office, which was based on the Ohio State Plane Coordinate System, Ohio South Zone, NAD83 (1986 adjustment) and determines the bearing between said monuments as N 10° 32' 24" E.

SOURCE OF DATA: The sources of recorded survey data are the records of the Franklin County, Ohio, Recorder, referenced in the plan and text of this plat.

IRON PINS, where indicated, unless otherwise noted, are to be set and are iron pipes, thirteen-sixteenths inch inside diameter, thirty inches long with a plastic cap placed in the top bearing the inscription "ADVANCED". These markers shall be set following the completion of the construction/installation of the street pavement and utilities and prior to the Village of New Albany, Ohio's acceptance of these subdivision improvements. The New Albany, Ohio, Municipal Engineer shall be notified in writing by the surveyor when the markers are in place.

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Approved this day of, 2023	Mayor, New Albany, Ohio
Approved this day of, 2023	Municipal Engineer, New Albany, Ohio
Approved this day of, 2023	Council Representative to Planning Commission, New Albany, Ohio
Approved this day of, 2023	Chairperson, Planning Commission New Albany, Ohio
Approved this day of, 2023	Finance Director, New Albany, Ohio
	No, passed, 2023, Albany, Ohio. Approval of this plat shall rior to, 2023.
Transferred this day of,	Auditor, Franklin County, Ohio Deputy Auditor, Franklin County, Ohio
Filed for record this day of , 2023 atM. Fee \$	Recorder, Franklin County, Ohio
File No	
Recorded this day of, 2023	Deputy Recorder, Franklin County, Ohio
Plat Book, Pages	
	urveyed the above premises, prepared the rect. All dimensions are in feet and decimal
 ○ = Iron Pin Set ◎ = Permanent Marker ● = Iron Pin Found ♥ = PK Nail Found 	
By Reg. Surveyor	
	781 Science Boulevard ~ Suite 1

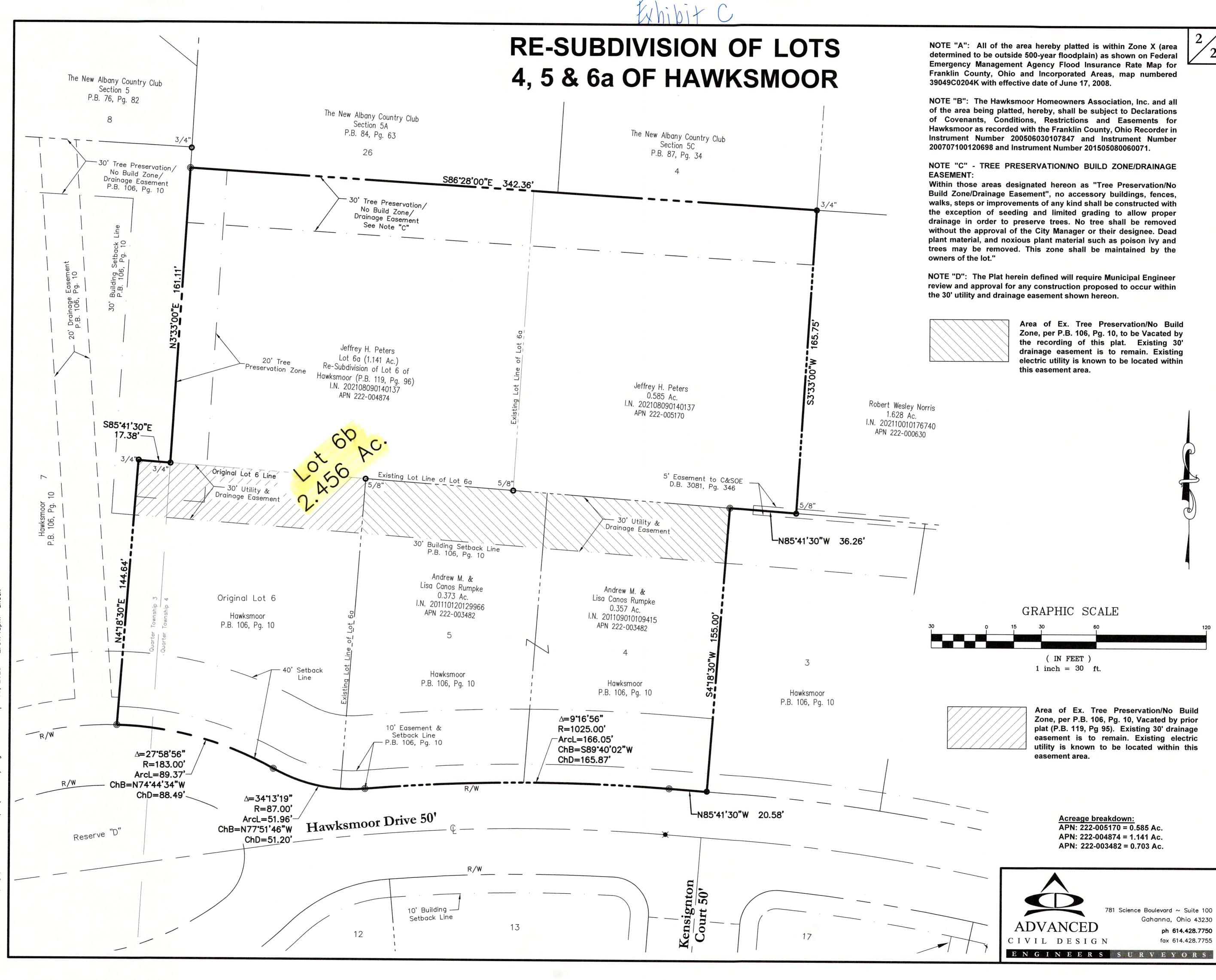
ADVANCED

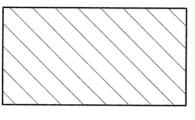
CIVIL DESIGN

ENGINEERS SURVEYORS

ph 614.428.7750

fax 614.428.7755







Community Development Department

RE: City of New Albany Board and Commission Record of Action

Dear Rebecca J Mott, Plank Law Firm LLC,

Attached is the Record of Action for your recent application that was heard by one of the City of New Albany Boards and Commissions. Please retain this document for your records.

This Record of Action does not constitute a permit or license to construct, demolish, occupy or make alterations to any land area or building. A building and/or zoning permit is required before any work can be performed. For more information on the permitting process, please contact the Community Development Department.

Additionally, if the Record of Action lists conditions of approval these conditions must be met prior to issuance of any zoning or building permits.

Please contact our office at (614) 939-2254 with any questions.

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, May 02, 2023

The New Albany Planning Commission took the following action on 05/01/2023 .

Zoning Amendment

Location: 6 HAWKSMOOR DR Applicant: Rebecca J Mott, Plank Law Firm LLC,

Application: PLZC20230011

Request: Request to rezone 1.765+/- acres located at 6A Hawksmoor from (I-PUD) Planned Unit Development to (I-PUD) Planned Unit Development for an area known as Hawksmoor North Amended (PIDs: 222-004874-00 and 222-005170-00).
 Motion: to table ZC-11-2023 to the next regular meeting that meets notification requirements.

Commission Vote: Motion to Table, 5-0

Result: Zoning Amendment, PLZC20230011 was Tabled, by a vote of 5-0.

Recorded in the Official Journal this May 02, 2023

Condition(s) of Approval:

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith Planner



RESUBDIVISION OF LOTS 4 & 6A WITHIN THE HAWKSMOOR SUBDIVISION FINAL PLAT APPLICATION

LOCATION:	4 & 6A Hawksmoor Drive (PID: 222-004874, 222-005170 and 222-003482)
APPLICANT:	Plank Law LLC, Rebecca Mott
REQUEST:	Final Plat
ZONING:	Hawksmoor North I-PUD and Hawksmoor I-PUD
STRATEGIC PLAN:	Residential
APPLICATION:	FPL-12-2023

Review based on: Application materials received on April 11, 2023

Staff report prepared by Sierra Cratic-Smith, Planner.

I. REQUEST AND BACKGROUND

The applicant requests review of a final plat for the resubdivision of lots 4 and 6 within the Hawksmoor subdivision, generally located along the north side of Hawksmoor Drive. In 2015, lot 6 was re-platted to add a 0.699-acre portion of the existing Fulton Parcel to lot 6 making it 1.141 acres (now known as lot 6A in the Hawksmoor North PUD). The applicant proposes to:

- Combine lots 4 and 6A into a single parcel.
- Relocate the tree preservation zone and easements on lot 4 to the northern boundary of lot 6.

A similar application was heard in 2015 for the expansion of lot 6 in Hawksmoor from 0.442 acres to 1.141 acres. Another related application was heard in 2020 as part of a rezoning to create the Hawksmoor North PUD to adjust the parcel boundaries to create equal sized lots and establish the same zoning development standards found in the existing Hawksmoor (I-PUD) zoning text. In addition, a variance application was heard in 2022 to allow a pool to be located in the side yard. It was approved by planning commission with conditions such as combining lot 4 and 5 of Hawksmoor to ensure setbacks were met.

II. SITE DESCRIPTION & USE

Lot 6A is 1.765 acres in size and located on along the north side of Hawksmoor Drive and is currently undeveloped. Lot 4 is 0.73 acres and located within the Hawksmoor subdivision and contains a single-family home.

The Hawksmoor subdivision is located west of Reynoldsburg-New Albany Road and consists of 17 single family lots. The immediate neighboring zoning districts include the Hawksmoor I-PUD zoning district located south of and encompassing some portions of the district, Section 5 of the New Albany County Club and other residentially zoned and used properties to the east, west and north of this site.

III. EVALUATION

Planning Commission's review authority of the final plat is found under C.O. Section 1187. Upon review of the final plat the Commission is to make recommendation to City Council. Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary

concerns and issues have been indicated below, with needed action or recommended action in <u>underlined text</u>.

- 1. The approval of this final plat will increase the size of one lot that and allow more accessory structures built on the lot 6A property since lot 4 is developed with a home. There is a reduction in the number of lots, but the zoning permits the lot to be split again in the future for a single-family home.
- 2. The Planning Commission and city council established building setbacks and tree preservation zones adjacent to the properties to the north of this site. The applicant is retaining and keeping all previous front setback and tree preservation commitments, and applying the commitments to the new platted area. Other modifications to rear yard setbacks are evaluated as part of a rezoning application on tonight's agenda.
- 3. The zoning runs with the property. Therefore, this proposed 2.456-acre parcel will be zoned Hawksmoor North Amended I-PUD and Hawksmoor I-PUD. The setbacks are set by the zoning district.
- 4. The existing lot 4 has a 30-foot drainage easement, no build zone, and tree preservation zone along the rear and it will be removed/vacated. The new parcel area from the Fulton parcel is proposed to have a similar 30-foot-wide tree preservation, drainage easement, no build zone, and setback line. The plat keeps and expands the tree preservation zone on the northern property line. It has the same note and restrictions that exist today.
 - A note on the plat states, Tree preservation zone/No Build Zone/ Drainage Easement to read: "Within those areas designated hereon as "tree preservation/no build zone", no accessory buildings, fences, walks, steps or improvements of any kind shall be constructed with the exception of seeding and limited grading to allow proper drainage in order to preserve trees. No tree shall be removed without the approval of the City Manager or their designee. Dead plant material, and noxious plant material such as poison ivy and trees may be removed. This zone shall be maintained by the owners of the lot."
- 5. As required by previous plats, staff recommends a note is added to the plat requiring that tree preservation zone markers are to be installed at the edge of the tree preservation zone. These markers will help to delineate the edge of this zone and avoid additional encroachment. The design of the markers will be provided by the applicant and must be approved by the city. Preservation zone markers are installed on site prior to the issuance of a building permit. The plat notes and locations are submitted and subject to staff approval.
- 6. A tree survey was submitted in 2015 as part of the application for previous plat for lot 6.
 - The survey showed the proposed tree preservation zone on lot 6A has approximately 16 trees that are 6 inches DBH or larger. There are four ash trees, two in fair condition, and ten in good condition.
 - The survey only includes a portion of lot 4. There are at least eight trees that are 6 inches DBH or larger. There are two poor, two fair, and four good trees.
- 7. The existing tree preservation zone on lot 4 is 5,976.30 +/- square feet. The proposed new tree preservation zone is 6,221+/- square feet.
- 8. <u>The tree survey shows there are a substantial number of mature trees in the western</u> portion of the newly proposed tree preservation zone. The city staff recommends requiring the applicant to supplement the tree preservation with additional trees in the eastern portion to re-establish vegetation.
- 9. The previous application for Lot 6 in 2014 submitted an environmental statement letter indicating there are no wetlands or other environmental conditions that would require permits from the OEPA or US Army Corps of Engineers.
- 10. The plat appears to follow the zoning text's development standards. The zoning text allows a maximum of 17 lots. The applicant is proposing to increase the size of one parcel for a total of 15 lots within the Hawksmoor North Amended and Hawksmoor zoning districts.
- 11. There are no reserves or open space areas being modified.

IV. ENGINEERING COMMENTS

PC 23 0501 Hawksmoor North Amended Final Plat FPL-12-2023

The city engineer has reviewed the referenced plan in accordance with the engineering related requirements of Code Section 1187.06 and provided the following comment(s):

- 1. The applicant provide written letters from private utility companies (e.g., gas, electric, telecommunications, etc.) identifying what utilities have been installed in the 30' utility and drainage easement and if it is acceptable to construct driveways through this area.
- 2. In accordance with code section 1187.06 section (c)(1) and (c)(2), that the applicant provide evidence that OEPA and ACOE permits are not required to allow construction within the expanded Lot 6 area with a building permit.
- 3. The applicant have the area to be re-platted reviewed by the Franklin County Engineer's office and a summary of the County Engineer review comments and the applicant's comment responses be provided for the city engineer's records.

Staff recommends all the City Engineer's comments are complied with and subject to staff approval.

V. SUMMARY

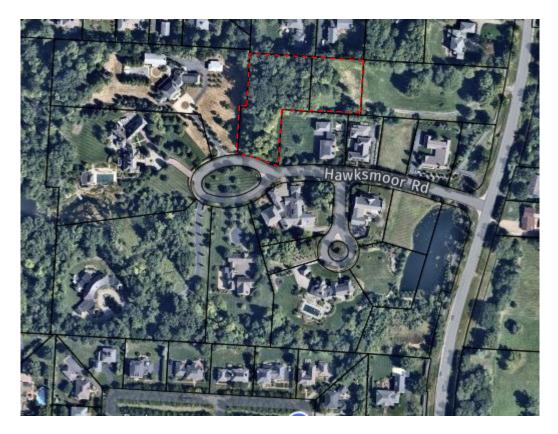
Similar to the 2015 expansion of lot 6's plat, the goal of this final plat is to relocate the tree preservation zone and easements to the northern boundary of the lot. Relocating the preservation zone and easements would allow for more cohesive development within the platted area. Currently, lot 4 has the tree preservation zone and easements located in the center of the platted properties (lots 4 and 6A) which splits the properties. The platted tree preservation restricts development and construction of any kind within it. Therefore, relocating the tree preservation zone and easements allows for sidewalks and pedestrian connections to be constructed between the future accessory structures and the existing residential home on lot 4. As part of the permitting process, the city engineer will review all improvements to ensure there are no negative impacts to the remaining drainage easement running through the property.

VI. ACTION

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

Move to approve application FPL-12-2023 with the following conditions (conditions of approval may be added).

- 1. A note requiring preservation zone markers be installed at the edge of the preservation zone is included on the plat. The design of the markers will be provided by the applicant and must be approved by the city. Preservation zone markers are installed on site prior to the issuance of a building permit. The plat notes and locations are submitted and subject to staff approval.
- 2. The applicant must supplement the tree preservation with additional trees in the eastern portion to re-establish vegetation.
- 3. The City Engineer's comments are complied with and subject to staff approval.



Source: NearMap



Community Development Department

RE: City of New Albany Board and Commission Record of Action

Dear Rebecca J Mott, Plank Law Firm LLC,

Attached is the Record of Action for your recent application that was heard by one of the City of New Albany Boards and Commissions. Please retain this document for your records.

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Additionally, if the Record of Action lists conditions of approval these conditions must be met prior to issuance of any zoning or building permits.

Please contact our office at (614) 939-2254 with any questions.

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, May 02, 2023

The New Albany Planning Commission took the following action on 05/01/2023 .

Final Plat

Location: 6 HAWKSMOOR DR **Applicant:** Rebecca J Mott, Plank Law Firm LLC,

Application: PLFP20230012
 Request: Final plat for the re-subdivision of lots 4 and 6A within the Hawksmoor subdivision generally located north of Hawksmoor Drive (PIDs: 222-003482-00, 222-004874-00, and 222-005170-00).
 Motion: to table FPL-12-2023 to the next regular meeting that meets notification requirements.

Commission Vote: Motion to Table, 5-0

Result: Final Plat, PLFP20230012 was Tabled, by a vote of 5-0.

Recorded in the Official Journal this May 02, 2023

Condition(s) of Approval:

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith Planner



7831 STRAITS LANE DECK VARIANCE

LOCATION:7831 Straits Lane - Lot 48 (PID: 222-004613)APPLICANT:Suncraft Corporation Inc.REQUEST:Variance to allow a deck to encroach a recorded easementZONING:Infilled Planned Unit Development: Maplewood NeighborhoodSTRATEGIC PLAN:ResidentialAPPLICATION:VAR-46-2023

Review based on: Application materials received on March 31, 2023 Staff report prepared by Sierra Cratic-Smith, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a variance to allow a deck to be constructed within a platted drainage easement. The subdivision plat established a drainage easement along the rear property for the collection and conveyance of stormwater.

The Straits Farm subdivision recorded plat states:

"Within those areas designated, "Drainage Easement" on this plat, an additional easement is hereby reserved for the purpose of constructing, operating, and maintaining major storm water drainage swales and/or other above ground storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas as delineated on this plat unless approved by the New Albany Municipal Engineer. No building shall be constructed in any area over which easements are hereby reserved."

The city (municipal) engineer has review the request and is not supportive of the easement encroachment. Since the city engineer did not approve the request, the homeowner is seeking a variance.

II. SITE DESCRIPTION & USE

The 0.18-acre property is located in the New Albany Country Club Section 27 Straits Farm residential subdivision. The property is surrounded by single family residential homes. North of the property is the Maplewood Cemetery and Reynoldsburg-New Albany Road is to the east.

III. ASSESSMENT

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

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):

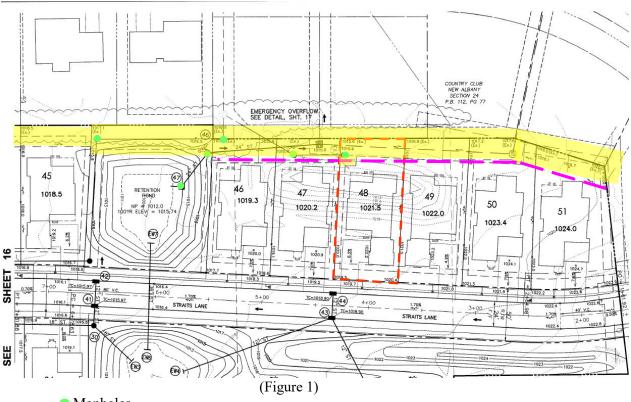
- 8. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.
- 9. That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of 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.

IV. EVALUATION

Variance to allow a deck to be constructed within a platted drainage easement.

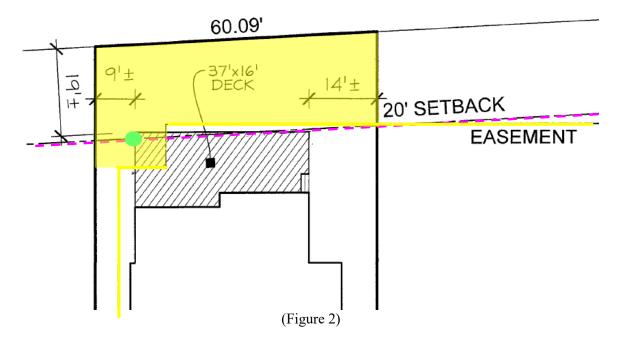
The following should be considered in the commission's decision:

- 1. According to the application the proposed deck is 37 feet wide and 16 feet deep from the rear of the house (lot 48). The deck proposes to encroach between 1 to 7.5 feet into a drainage easement.
- 2. The rear of the property has a drainage easement that ranges from 17 to 21 feet, 20-foot building setback, and 10-foot deck setback from the rear property line. There is also a 5 foot easement located in the side yard.
- 3. This drainage easement serves multiple properties and connects to the stormwater basin to the south of the property. This infrastructure serves homes in the immediate area and seven homes south of the property as well. According to the engineering plans, this easement contains a buried stormwater sewer pipe to allow water into a stormwater basin "B" and from Straits Farm and the Fenway subdivision (As Seen in Figure 1).
- 4. The drainage easement contains a manhole and stormwater pipe. This manhole structure is used to access and maintain the stormwater sewer system beneath the ground (as seen in Figure 2).



z

- Manholes
- 20 +/- foot Drainage Easement Location
- – 20 foot building Setback
- - Property Location The parcel is lot 48 shown in the illustrations above and below.



5. This variance appears to be substantial due to the location of the deck in an area where city infrastructure is constructed. There are public utilities consisting of a manhole and underground storm piping within the drainage easement located in the rear of the property. This underground stormwater pipe distributes water to the neighboring

stormwater basin. This underground sewer has two underground stormwater sewer bypasses that allow rain water from the north and south end of the neighborhood to disperse between the Straits Farm subdivision and Fenway subdivision. Additionally, drainage easements are designed to convey surface water to multiple properties in the neighborhood.

- 6. In order to maintain this city infrastructure, multiple manholes are located along the rear of these properties. The deck as proposed is obstructing one of the manholes in the rear of the property since the deck is in the drainage easement.
- 7. The drainage easement is sized to ensure city staff and other utilities have sufficient space to access if maintenance is required. Covering the easement with private improvements could prevent or slow the city staff if the decking must be removed out of the easement.
- 8. Granting the variance requested will confer on the applicant special privileges that is denied by the Zoning Ordinance to other lands or structures in the same zoning district. Historically, the Planning Commission and Board of Zoning Appeals have only approved partial encroachments when there are no city utilities within the easement.
- 9. Granting the variance may adversely affect the delivery of government services. The city engineering staff reviewed the application and denied the request to stall the deck in the drainage easement. Therefore, the applicant is requesting a variance.
- 10. The problem can be solved by other means by decreasing the deck size. The stormwater manhole is a vital part of the design for the drainage easement. To avoid any disruption or hinderance for maintenance or repair access, it is important that the manhole is completely unobscured.

V. SUMMARY

The request is substantial and could adversely affect the delivery of government services since the applicant proposes to construct a deck within a platted drainage easement that contains city infrastructure. The proposed deck is located in close proximity to a manhole that is used to access the city infrastructure constructed underground. The manhole is located at a critical inspection point. Most importantly, the drainage easement is sized to allow for sufficient access if construction equipment is needed to dig down to the pipe and repair it.

It appears the problem could be solved by decreasing the size of the deck so it is constructed completely outside of the easement. However, if the planning commission finds basis for approval, a hold harmless agreement should be entered into to ensure that the applicant is aware that the city is not responsible for any damages to the deck in the event that the easement area has to be accessed in the future.

VI. 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 VAR-46-2023 with the following conditions (conditions of approval may be added).

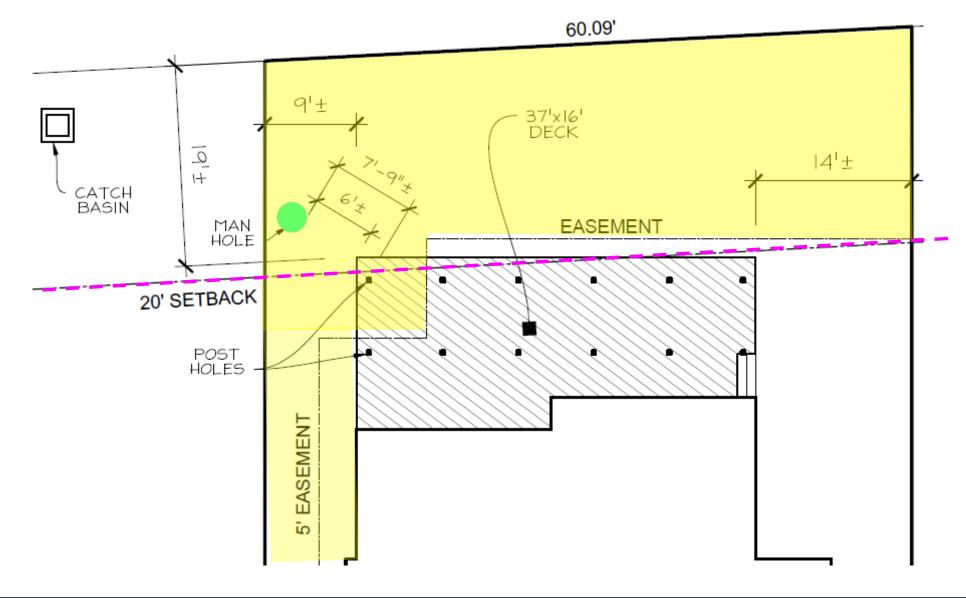
1. The homeowner enters into a hold harmless agreement (or similar legal mechanism to be determined by the city engineer and/or attorney) specifying that the property owner, and not the city, is responsible for any damages to the deck in the event that a public or private utility provider needs to access the easement area prior to the issuance of a building permit and any impacts to neighboring surface drainage must is the responsibility of the homeowner to address.

Approximate Site Location:



Source: NearMap

■NEWALBANY■



Deck Plan



Community Development Department

RE: City of New Albany Board and Commission Record of Action

Dear

Attached is the Record of Action for your recent application that was heard by one of the City of New Albany Boards and Commissions. Please retain this document for your records.

This Record of Action does not constitute a permit or license to construct, demolish, occupy or make alterations to any land area or building. A building and/or zoning permit is required before any work can be performed. For more information on the permitting process, please contact the Community Development Department.

Additionally, if the Record of Action lists conditions of approval these conditions must be met prior to issuance of any zoning or building permits.

Please contact our office at (614) 939-2254 with any questions.

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, May 02, 2023

The New Albany Planning Commission took the following action on 05/01/2023 .

Variance

Location: 7831 Straits Lane Applicant: Suncraft Construction Co

Application: PLVARI20230046
 Request: Variance request to allow a deck to be constructed within a platted drainage easement located at 7831 Straits Lane (PID: 222-004613).
 Motion: Denied

Commission Vote: Motion Denied, 0-5

Result: Variance, PLVARI20230046 was Denied, by a vote of 0-5.

Recorded in the Official Journal this May 02, 2023

Condition(s) of Approval:

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith Planner