

#### New Albany Planning Commission Agenda Monday, May 1, 2023 7:00pm

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

- I. Call to order
- II. Roll call
- **III.** Action on minutes: April 17, 2023
- IV. Additions or corrections to agenda Administration of the oath to all witnesses/applicants/staff who plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth."

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

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

Motion of Acceptance of staff reports and related documents into the record for ZC-11-2023.

Motion of approval for application ZC-11-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

#### **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

Motion of Acceptance of staff reports and related documents into the record for FPL-12-2023.

Motion of approval for application FPL-12-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

#### 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).

Motion of acceptance of staff reports and related documents into the record for VAR-46-2023.

Motion of approval for application VAR-46-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

- VII. Other business
- VIII. Poll members for comment
- IX. Adjournment



#### New Albany Planning Commission DRAFT Meeting Minutes Monday, April 17, 2023

#### I. Call to order

The New Albany Planning Commission met on Monday, April 17, 2023 in the New Albany Village Hall. Chair Kirby called the meeting to order at 7:01 p.m.

#### II. Roll call

Those answering roll call:

With 4 members present, the Planning Commission had a quorum to transact business.

Staff members present: Law Director Ben Albrecht, Planning Manager Steve Mayer, Planner Chelsea Nichols, Engineer Will Walther, Deputy Clerk Christina Madriguera.

#### **III.** Action on minutes: April 3, 2023

Chair Kirby noted one correction to the April 3, 2023 meeting minutes. The word "site" on page 4 should be "sight" as properly used to describe the sight lines of the proposed right of way.

Commissioner Wallace moved for approval of the April 3, 2023 meeting minutes as corrected. Commissioner Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Larsen, yes; Mr. Kirby, yes. Having 4 yes votes; 0 no votes; and 0 abstentions, the April 3, 2023 meeting minutes were approved as corrected.

#### IV. Additions or corrections to agenda

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

Planning Manager Mayer answered there were not.

Chair Kirby administered the oath to all present who planned to address the commission and further mentioned that now would be a good time for all present to silence any noisemaking devices.

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

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

There was no response.

#### VI. Cases:

#### VAR-42-2023 Variance

Variance to C.O. 1169.04 to allow digital menu board signs where code prohibits digital/electronic signs for a Wendy's development located generally near the southwest corner of US-62 and an unnamed private drive (PID: 222-005166-00). Applicant: The McIntosh Group, c/o Mark Lamzik

Chelsea Nichols delivered the staff report.

Chair Kirby asked for comments from engineering.

Engineer Walther stated that engineering had no comments.

Chair Kirby asked for comments from the applicant.

Mr. Simpson, on behalf of the applicant Wendy's, thanked Planner Nichols for her report. He thanked the commission for granting their prior variance request which allowed for the installation of a larger sign than permitted by code, and he explained that this sign met code requirements in terms of size but he sought another variance for use of a digital sign. He further stated that he agreed with the findings and conditions in the staff report.

Chair Kirby asked staff if there were hours of operations limits on the applicant.

Planning Manager Mayer answered no.

Kirby asked whether the applicant was willing to turn off the sign when the restaurant was closed.

Mr. Simpson responded that he was.

Chair Kirby asked whether he would agree to that as a condition.

Mr. Simpson answered that he would.

Commissioner Larsen asked the applicant why he reduced the size of the sign after he had received approval for larger sign.

Mr. Simpson explained that technology permitted them to make a smaller sign.

Council Member Brisk clarified that the size variance was no longer needed.

Planner Nichols stated that because a variance for the 48-square foot sign was granted previously, staff recommends that a condition of approval for this application explicitly state that the size of the proposed sign is not to exceed 32 square feet as stated in code.

Chair Kirby opened the public hearing.

Rick Wener, owner of the Dairy Queen on Johnstown Road stated that he welcomed the new Wendy's restaurant. He nonetheless requested that this variance be denied but that use of digital signs be made available outside of the variance process.

Chair Kirby addressed Council Member Brisk, stating that this was not the first time this issue had arisen before the commission in the variance process and that the commission had imposed similar conditions upon each variance granted. For those reasons it seemed appropriate for the city council to revisit the regulatory framework regarding digital signs to determine whether the variance process was the best means of addressing digital signs.

Council Member Brisk recalled that among the reasons for approval of the variance for the larger sign in this case was that the sign would face the private drive and that there was significant screening. She further remarked that she was unsure whether we wanted to remove all restrictions on the usage of digital signs.

Chair Kirby agreed and clarified that he was not advocating for lifting of all restrictions. He was concerned about the variance process itself, if multiple variances were granted with the same conditions then the variances ceased to become specific to the property. He continued that considering the increasing frequency of variance applications, perhaps a use or conditional use process rather than the variance process would be more appropriate.

Law Director Albrecht stated that he tended to agree with Chair Kirby's observation. If variances are routinely granted with the same conditions, it is questionable whether it is a variance at all.

Commissioner Larsen asked staff whether the approvals for all digital signs were facing a private drive.

Planner Nichols answered yes, so far.

Commissioner Wallace asked whether the commission was discussing menu boards or signs, and further observed that when the code was drafted, these types of signs were unusual. He noted the approval of an electronic sign for the carwash facing SR 62. He also pointed out that business owners are aware of the code restrictions when they decide to open their businesses in New Albany, that being said, there are circumstances where this has become a technology issue and changing the ordinances may be appropriate.

Chair Kirby stated that the code has categories for uses and conditional uses and wondered whether digital signs should be provided for in those categories.

Planning Manager Mayer stated that under the current code, the size of the sign and whether the sign is digital are all variances.

Council Member Brisk stated that if the Planning Commission recommends a change to the regulatory structure to address digital signs, Council will study that issue and the conditions necessary for usage of digital signs. She further cautioned that new code provisions should not be overly broad. Finally, she stated that review of this issue was timely.

Chair Kirby moved to accept the staff reports and related documents into the record for VAR-42-2023. Commissioner Larsen seconded the motion.

Upon roll call: Mr. Kirby, yes; Mr. Larsen, yes; Ms. Briggs, yes; Mr. Wallace, yes. Having 4 yes votes; 0 no votes; and 0 abstentions, the staff reports and related documents were accepted into the record.

Commissioner Briggs moved for approval of application VAR-42-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, and the following additional condition:

Condition 6. That the sign is off when the restaurant is closed.

Commissioner Larsen seconded the motion.

Upon roll call: Ms. Briggs, yes; Mr. Larsen, yes; Mr. Wallace, yes; Mr. Kirby, yes. Having 4 yes votes; 0 no votes; and 0 abstentions, the variance was approved.

Chair Kirby and the commission wished the applicant good luck and also thanked Mr. Wener for his testimony.

#### PPL-43-2023 Preliminary Plat

Preliminary Plat for the dedication of Horizon Court extension (PIDs: 095-111756-00.011, 095-111756-00.013, 095-111756-00.000, 095-111732-00.000, 037-112062-00.000).

#### **Applicant: City of New Albany**

Planner Nichols delivered the staff report.

Chair Kirby asked for comments from engineering.

Engineer Walther stated that engineering had no comments.

Chair Kirby asked what the distance was between the edge of the 25-foot easement and the center Blacklick Creek.

Planning Manager Mayer stated they were working with the property owner now for the city to accept the 25-foot conservation easement and he believed that it was between 50-75 feet from the center line of the stream, so it preserves the 25-foot conservation easement and is in compliance with the riparian corridor requirements. He continued that the development department was working with the property owner on language that would allow the city, in the future, to include some park-like amenities including benches, permeable pavements, and other amenities. Typical conservations do not permit park-like improvements but the city is working with the EPA to secure approval for the use of minimal improvements such as mulch and permeable pavements.

Chair Kirby responded that he was not thrilled with mulch in the floodplain because when flooding occurs, water transports the mulch to unintended locations. He further clarified with Planning Manager Mayer that the distance from the edge was at least 50 feet.

Commissioner Briggs noted the line of the road and wondered why the road was not directed further southward and farther away from the creek.

Planning Manager Mayer responded that it was the result of working with the property owners to maximize usable space and also to promote alignment with the creek and with existing roads.

Commissioner Briggs asked whether it was a two-lane road.

Planning Manager Mayer responded that it would be a two-lane road, the same as Horizon Ct. to the west.

Josh Ginnetti, with EHM&T, the city's design consultant, further explained that the road would be intentionally striped with two lanes but would be built wide enough for a third lane if needed.

Commissioner Briggs asked about the surrounding property owners.

Engineer Walther responded by stating Pharmavite, Axium, and MBJ/Lincoln Properties were among the property owners.

Commissioner Briggs confirmed the location of Clover Valley Road on the site plan.

Planner Nichols stated for context, the batch plant that was approved by the commission last month is located in the triangle area to the north and south of the new roadway.

Chair Kirby confirmed that the creek conservation zone was envisioned at 100 feet wide.

Planning Manager Mayer responded yes, it was a minimum of 25 feet always on one side with a total of 100 feet.

Chair Kirby moved for acceptance of staff reports and related documents into the record for PPL-43-2023. Commissioner Larsen seconded the motion.

Upon roll call: Mr. Kirby, yes; Mr. Larsen, yes; Mr. Wallace, yes; Ms. Briggs, yes. Having 4 yes votes; 0 no votes; and 0 abstentions, the staff reports and related documents were accepted into the record.

Chair Kirby made a motion for approval of application PPL-43-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, and the following condition:

That the road alignment on the northern edge maintains the 25-foot easement from the center line of Blacklick Creek.

Commissioner Briggs seconded the motion.

Upon roll call: Mr. Kirby, yes; Ms. Briggs, yes; Mr. Wallace, yes; Mr. Larsen, yes. Having 4 yes votes; 0 no votes; and 0 abstentions, the preliminary plat application was approved.

#### VII. Other business

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

Staff answered no.

#### VIII. Poll members for comment

Chair Kirby asked if there were comments from the members.

There was no response.

#### IX. Adjourn

Having no further business, the New Albany Planning Commission adjourned at 7:32 p.m.

Submitted by: Christina Madriguera, Esq., Deputy Clerk.

Appendix VAR-42-2023 Staff Report Record of Action PPL-43-2023 Staff Report Record of Action



# Planning Commission Staff Report April 17, 2023 Meeting

### WENDY'S DIGITAL MENU BOARD SIGN VARIANCES

LOCATION:	9920 Johnstown Road (PID: 222-005166)
APPLICANT:	The McIntosh Group, c/o Mark Lamzik
REQUEST:	(A) Variance to C.O. 1169.04 to allow digital menu board signs where
	code prohibits digital/electronic signs.
ZONING:	Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a
STRATEGIC PLAN:	Retail
APPLICATION:	VAR-42-2023

Review based on: Application materials received March 16, 2023.

Staff report prepared by Chelsea Nichols, Planner

#### I. REQUEST AND BACKGROUND

This application is for a variance request relating to signage for an approved final development plan (FDP-07-2023) for a Wendy's dine-in restaurant with a drive-thru on a 1.817-acre site.

The applicant requests the following variance:

(A) Variance to C.O. 1169.04 to allow digital menu board signs where code prohibits digital/electronic signs.

#### **II. SITE DESCRIPTION & USE**

The site is located on the southwest corner of US-62 and Private Drive within the Canini Trust Corp. The site is 1.817 acres and is currently undeveloped. The applicant proposes to install one digital pre-sell board and one digital menu board, both located at the drive-thru area to the rear of the Wendy's restaurant.

#### **III. EVALUATION**

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

#### Criteria

The standard for granting of an area variance is set forth in the case of Duncan v. Village of Middlefield, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the "practical difficulties" standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

- 1. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.
- 2. Whether the variance is substantial.
- 3. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment."
- 4. Whether the variance would adversely affect the delivery of government services.
- 5. Whether the property owner purchased the property with knowledge of the zoning restriction.
- 6. Whether the problem can be solved by some manner other than the granting of a variance.
- 7. Whether the variance preserves the "spirit and intent" of the zoning requirement and whether "substantial justice" would be done by granting the variance.

Plus, the following criteria as established in the zoning code (Section 1113.06):

- 8. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.
- 9. That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
- 10. That the special conditions and circumstances do not result from the action of the applicant.
- 11. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
- 12. That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

# III. RECOMMENDATION

#### Considerations and Basis for Decision

# (A) Variance to C.O. 1169.04 to allow digital menu board signs where code prohibits digital/electronic signs.

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

- 1. C.O. 1169.04 states that digital/electronic signs are a prohibited sign type. The applicant proposes to allow digital menu board signs to be used on the site, therefore a variance is required.
- 2. The Planning Commission approved the same variance request for other restaurants with drive-thrus such as Popeyes and Dunkin Donuts which are located in the same general vicinity. Both approvals include common conditions:
  - a. The electronic menu-board signs do not display any flashing graphics, nor may animated or moving graphics take up more than 33% of the menu board sign area;
  - b. The menu must be static so it not be used as a reader board with scrolling or frequent display changes; and
  - c. Wherever possible, additional landscape screening for the menu board must be added, subject to staff approval.
- 3. The Popeyes variance approval also includes a condition that an automatic brightness dimmer is installed to ensure the menu sign is not overly bright.
- 4. As part of the current request, the applicant commits to the content on the menu board sign to be static, no video or continuous movement, and the light level of the digital menu board sign is dimmable and contains a built-in sensor to automatically adjust to ambient

lighting. The digital pre-sell board features and content also abide by these same commitments.

- 5. The placement of the digital menu board signs are directed away from public roads and the heavy landscape buffer requirements provides additional screening from off-site view. At the time of final development plan approval, the planning commission reviewed and approved several variances related to signage under application VAR-15-2023. Approval of that application required additional landscape screening for the menu board sign due to its size. That same requirement shall be carried forward with the new proposed sign and the city staff recommends a condition of approval that wherever possible, additional landscape screening for the menu board must be added, subject to staff approval.
- 6. The menu board sign approved under application VAR-15-2023 is 48 square feet (code permits 32 square feet). The proposed digital menu board sign would be installed in-lieu of that sign and is only 29.78 square feet. The proposed digital menu board sign is a reduction in size in order to meet code requirements. To ensure this is carried forward at the time of permitting and installation, the city staff recommends a condition of approval that the digital menu board sign not exceed the maximum 32 square feet allowable by code unless another variance is reviewed and approved by the planning commission.
- 7. The pre-sell board sign that was approved under application FDP-09-2023 is compliant with code at 11 square feet. The digital pre-sell board that is proposed in-lieu of the non-digital sign is also a reduction in size at 9.9 square feet.
- 8. The signs meet all other menu board sign requirements in city code which requires the following:
  - a. The sign is located on the property to which it refers;
  - b. The sign is not visible from the public right-of-way;
  - c. The sign is single-face only and does not exceed thirty-two (32) square feet in size; and,
  - d. The sign is not placed in front of the building setback line.
- 9. The city sign code states the purpose of the sign regulations are intended to provide design regulations for sign types so that they may fit harmoniously with structures and their surroundings. It is the intent of these regulations to prevent signs from becoming a distraction or obstruction to the safe flow of pedestrian and vehicular traffic, to prevent signs from becoming a nuisance factor to adjacent properties or uses, to protect and encourage a healthful economic and business environment in the community, and thereby protect the general health, safety, and welfare of the community. Accordingly, the city sign code Codified Ordinance Chapter 1169.04 lists flashing, animated, and electronic signs as prohibited sign types. The city staff recommends a condition of approval requiring that the menu board sign does not employ any animated or flashing features on the sign.
- 10. Additionally, in order to abide by the spirit and intent of a typical menu sign, as stated above, the applicant commits to the menu be static so it is not used as a reader board with scrolling or frequent display changes. The city staff recommends this be a condition of approval.
- 11. To prevent the sign from becoming a nuisance factor to adjacent properties or uses at night, as stated above, the applicant commits that an automatic brightness dimmer be installed to ensure the sign is not overly bright. The city staff recommends a condition of approval.
- 12. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

# II. SUMMARY

The electronic menu board sign may be appropriate if there are parameters in place to ensure the sign is unobtrusive as possible to ensure it doesn't become a nuisance or distraction. The Planning

Commission approved the same variance request for multiple sites within the Canini Trust Corp and Walton-62 zoning districts for Popeyes and Dunkin Donuts. The variances were approved with additional restrictions and regulations regarding the display and brightness of the sign to ensure it meets the purpose of the sign code regulations and is unobtrusive as possible. The variances were also approved with consideration on where the sign is oriented, additional landscaping be added, and that the signs meet all other code requirements. Given the fact that this application commits to the same consistent standards, the request does not appear to be substantial.

## V. ACTION

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

#### Move to approve application VAR-42-2023, subject to the following conditions:

- 1. The electronic menu-board signs do not display any flashing, moving or animated graphics;
- 2. The menu-board signs must be static so they are not used as a reader board with scrolling or frequent display changes;
- 3. An automatic brightness dimmer is installed to ensure the menu sign is not overly bright;
- 4. Wherever possible, additional landscape screening for the menu board must be added, subject to staff approval; and
- 5. The digital menu board sign shall not exceed the maximum 32 square feet allowable by code unless another variance is reviewed and approved by the planning commission.



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

Source: Google Earth



# **Community Development Department**

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

Dear Mark Lamzik - The McIntosh Group,

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, April 18, 2023

The New Albany Planning Commission took the following action on 04/17/2023 .

# Variance

Location: 9920 Johnstown Road (PID: 222-005166) Applicant: Mark Lamzik - The McIntosh Group,

Application: PLVARI20230042
 Request: Variance to C.O. 1169.04 to allow digital menu board signs where code prohibits digital/electronic signs.
 Motion: To approve with conditions.

**Commission Vote:** Approved with Conditions, 4-0

**Result:** Variance, PLVARI20230042 was Approved, by a vote of 4-0.

Recorded in the Official Journal this April 18, 2023

#### **Condition(s) of Approval:**

- The electronic menu-board signs do not display any flashing, moving or animated graphics;
   The menu-board signs must be static so they are not used as a reader board with scrolling or frequent display changes;
  - 3. An automatic brightness dimmer is installed to ensure the menu sign is not overly bright;
  - 4. Wherever possible, additional landscape screening for the menu board must be added, subject to staff approval;

5. The digital menu board sign shall not exceed the maximum 32 square feet allowable by code unless another variance is reviewed and approved by the planning commission; and

6. That the digital men board sign and digital pre-sell sign be turned off and not be on when the restaurant is closed.

Staff Certification:

Chelsea Nichols

Chelsea Nichols

Planner



Planning Commission Staff Report April 17, 2023 Meeting

#### HORIZON COURT EXTENSION PRELIMINARY PLAT

LOCATION:	Generally between Horizon Court, Harrison Road and Clover Valley Road in Licking County (PIDs: 095-111756-00.011, 095-111756-00.013, 095-111756-00.000, 095-111732-00.000, 037-112062-00.000).
APPLICANT:	City of New Albany
REQUEST:	Preliminary Plat
ZONING:	Limited General Employment (L-GE) and Technology Manufacturing
	District (TMD)
STRATEGIC PLAN:	Employment Center
APPLICATION:	PP-43-2023

Review based on: Application materials received March 30, 2022.

*Staff report completed by Chelsea Nichols, Planner.* 

#### I. REQUEST AND BACKGROUND

The application is for a preliminary plat to dedicate right-of-way which accommodates the construction of a new public roadway. The extension and connection provide access to existing and new development sites within the New Albany International Business Park.

The applicant must return to the Planning Commission at a later date for review and approval of a final plat application prior to the right-of-way being accepted by City Council.

#### **II. SITE DESCRIPTION & USE**

The proposed right-of-way dedication extends eastward from the existing portion of Horizon Court, intersects with the existing Harrison Road and then continues eastward until it intersects with Clover Valley Road. The properties are zoned L-GE and TMD and are currently vacant.

#### III. PLAN REVIEW

Planning Commission's review authority of the preliminary plat is found under C.O. Section 1187. Staff's review is based on city plans and studies, zoning text, zoning regulations.

- This preliminary plat dedicates right-of-way to the city of New Albany which accommodates the construction of a new public roadway. The dedication extension consists of approximately 6,168.80 linear feet of new right-of-way for a total of 8.412+/- acres. There are no reserves being platted or lots being created within this new right-of-way extension.
- The plat dedicates 60' of right-of-way. The street extends through the Jug Street North zoning district, the proposed Harrison Road Triangle zoning district, and Technology Manufacturing zoning district. The plat includes new utility, drainage and streetscape easements. The width of the new easements on each side of the right-of-way is 25 feet. The necessary easements have been established and are to be recorded via separate instruments as part of the public street construction project. Existing easements are reflected on the plat.
- Based on the roadway typologies in the immediate area, this proposed roadway is best classified as a Business Park road character classification as described in the Engage New Albany Strategic Plan. The new road should be designed in order to accommodate heavier traffic traveling into the business park. The 60 feet of right-of-way, coupled with the proposed

25' wide easements on each side is consistent with a 67-foot to 115-foot range recommendation in the Engage New Albany Strategic Plan. The city is supportive of the 60 feet of right-of-way and additional easement since these meet the zoning requirements.

• The proposed drainage, streetscape and utility easements on both sides of the street are to be recorded via separate instruments to ensure all of the desired street improvements can be accommodated.

#### **IV. ENGINEER'S COMMENTS**

The city engineer has reviewed the referenced plan in accordance with the engineering related requirements of Code Section 1159.07(b)(3) and has no comments.

#### V. SUMMARY

#### **Basis for Approval:**

The proposed road plat is consistent with the goals and objectives found in the Engage New Albany strategic plan for this area. One of the mobility goals within the Engage New Albany strategic plan is to maximize connectivity and safety of New Albany's network. It is a priority of the plan to distribute traffic throughout the roadway network. This road will serve as additional connection within the New Albany Business Park and provide access for existing and new development sites in the future. This connection results in Horizon Court no longer being a cul-de-sac and connects that portion of the business park to the supplier park.

#### VI. ACTION

#### Suggested Motion for PP-43-2023 (conditions may be added):

Move to approve PP-43-2023.

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



Source: ArcGIS



# **Community Development Department**

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

Dear EMH&T c/o Josh Ginnetti,

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, April 18, 2023

The New Albany Planning Commission took the following action on 04/17/2023 .

# **Preliminary Plat**

Location:Generally between Horizon Court, Harrison Road and Clover Valley Road in Licking County (PIDs: 095-111756-00.011, 095-111756-00.013, 095-111756-00.000, 095-111732-00.000, 037-112062-00.000). Applicant: EMH&T c/o Josh Ginnetti, Application: PLPP20230043 Request: Review and approval of a preliminary plat. Motion: To approve with one condition.

Commission Vote:Motion Approved, 4-0Result:Preliminary Plat, PLPP20230043 was Approved, by a vote of 4-0.Recorded in the Official Journal this April 18, 2023

#### **Condition(s) of Approval:**

1. That the road alignment be such that the 25' easement be 50' from center line of Blacklick creek.

Staff Certification:

Chelsea Nichols

Chelsea Nichols Planner



#### 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.

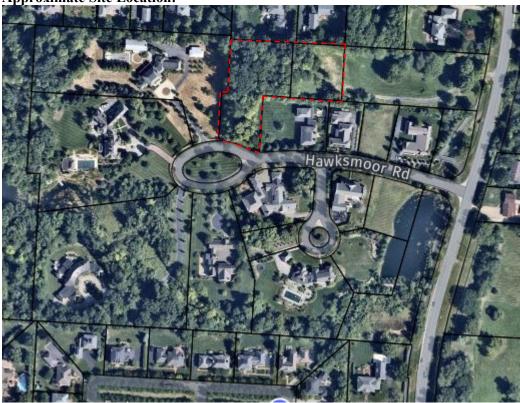
The PUD text requires a final development plan must be submitted for review and approval by the Planning Commission prior to the construction of any principle dwelling unit or accessory structures. This secondary review requires neighbor notification and the Planning Commission can ensure the design 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 Per lot <sup>4</sup>	45 feet <sup>3</sup>	No minimum or maximum <sup>2</sup>	<ul> <li>South<sup>1</sup>: 40 feet</li> <li>West<sup>1</sup>: 10 or 50 feet (based on orientation)</li> <li>North<sup>1</sup>: 20 feet</li> <li>East<sup>1</sup>: 10 and 50 feet</li> </ul>	Principle Dwelling (dwelling)	
20% of the parcel	Unlimited <sup>4</sup>	45 feet <sup>3</sup>	No minimum or maximum <sup>2</sup>	<ul> <li>40 feet from Hawksmoor Dr.</li> <li>10 feet from west if building facing west, east or north</li> <li>Northeast<sup>1</sup>: 20 feet except shared boundary with PID 222-001872</li> <li>Northwest<sup>1</sup>: 50 feet extending southward from 222-001872</li> <li>South<sup>1</sup>: 20 feet</li> <li>East<sup>1</sup>: 50 feet</li> </ul>	Detached Structures without a dwelling	
20% of the parcel	Unlimited <sup>4</sup>	45 feet <sup>3</sup>	No minimum or maximum <sup>2</sup>	• 10 feet from any rear lot line <sup>2</sup>	Recreational Amenities <b>without</b> a dwelling	Proposed
20% of the parcel	$2 \text{ max}^5$	45 feet <sup>3</sup>	No minimum or maximum <sup>2</sup>	<ul> <li>10 feet from primary structure</li> <li>Side lot line: 10 feet from</li> <li>Rear lot line: 30 feet <sup>5</sup></li> </ul>	Detached Structures <b>with</b> a dwelling	
20% of the parcel	Unlimited <sup>5</sup>	45 feet <sup>3</sup>	No minimum or maximum <sup>2</sup>	• 10 feet from any side or rear lot line <sup>5</sup>	Recreational Amenities <b>with</b> a dwelling	
20% of the parcel	$2 \text{ max}^5$	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,	<ul> <li>10 feet from primary structure</li> <li>Side lot line: 10 feet</li> <li>Rear lot line: 30 feet</li> </ul>	Detached Structures CO 1165(a)	Typical Coc
20% of the parcel	Unlimited	15 feet max	<ul> <li>No minimum or maximum<sup>2</sup></li> </ul>	<ul> <li>Front lot line: 14 feet</li> <li>Rear lot line: 10 feet</li> <li>Side lot line: 5 feet</li> </ul>	Recreational Amenities CO 1165(b)	Typical Code Standards

### Appendix A

<sup>1</sup> Hawksmoor North Amended PUD section III per (B)(3)(b) <sup>2</sup> Hawksmoor North Amended PUD section III per (B)(5)

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

\* This chart does not include the tree preservation zones.

Permit #	
Board	
Mtg. Date	



# **Community Development Planning Application**

1	Site Address 1.141+/- acres known as Lot 6a of Hawksmoor and 0.585 acres on Reynoldsburg-New Albany Rd.				
	Parcel Numbers_ 222-004874-00 and 222-005170-00 (Re-Zoning)				
	Acres 1.726 +/- # of lots created After Re-Plat - One Lot to be Created				
				uding Lots 4-5, see be	
	Choose Application Type		Circle a	ll Details that Apply	
Project Information	<ul> <li>Certificate of Appropriateness</li> <li>Conditional Use</li> <li>Development Plan</li> <li>XaPlat</li> <li>Lot Changes</li> <li>Minor Commercial Subdivision</li> <li>Vacation</li> </ul>	Preliminary Preliminary Combination Easement	Final Final Split	Comprehensive Adjustment	Amendment
et		Easement		Street	
Projec	□□ Variance □□Extension Request X又oning	Amendment (re	ezoning)	Text Modification	
	Description of Request: <u>Re-zoning</u> to expand the Permitted Uses section, b <u>Also, a re-plat application to expand Lo</u> <u>make the additional property a part of I</u> re-zoning of the Property, under the I-I	ut retaining the e t 6a in Hawksmo ot 6a of Hawksr	xisting zonin or, to add pu noor in keer	roperty that is not in I bing with the spirit and	lawksmoor, and intent of the original
	application). *In addition, the re-plat				
Contacts	Property Owner's Name: Jeffrey I Address: <u>1988 Woodlands Place</u> City, State, Zip: <u>Powell, Ohio 4306</u> Phone number: <u>Attn: Nicklaus Reis</u> Email: jhpeters5@gmail.com; n	H. Peters 5 5 <del>3, Attorney - 614</del>	464.5409		
nts	Applicant's Name: Rebecca	I Mott Attorne	v for Andrey	w and Lisa Rumpke	
ů	Address: Plank Law Firm, LF				
	City, State, Zip: <u>Columbus, Ohio</u>		in oucer, i i		
	Phone number: <u>614-947-8600</u>			Fax: 614-22	8-1790
Sec.	Email: <u>rjm@planklaw.com</u>				
Signature	Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.				
01	Signature of Owner			Date	e:
	Signature of Applicant	meer G	Mot	t, a Home Date	e: 02/17/2023
		/		. 0	

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# **Community Development Planning Application**

	Site Address 1.141+/- acres known as Lot 6a of Hawksmoor and 0.585 acres on Reynoldsburg-New Albany Rd.				
	Parcel Numbers       222-004874-00 and 222-005170-00 (Re-Zoning)         Acres       1.726 +/-         # of lots created       After Re-Plat - One Lot to be Created         (*including Lots 4-5, see below)    Choose Application Type Circle all Details that Apply				
1.4					
Project Information	<ul> <li>Appeal</li> <li>Certificate of Appropriateness</li> <li>Conditional Use</li> <li>Development Plan</li> <li>APlat</li> <li>Lot Changes</li> <li>Minor Commercial Subdivision</li> <li>Vacation</li> <li>Variance</li> <li>Extension Request</li> <li>XZoning</li> </ul>	Preliminary Preliminary Combination Easement Amendment (r	Final Final Split	Comprehensive Adjustment Street Text Modification	Amendment
	to expand the Permitted Uses section, H Also, a re-plat application to expand L make the additional property a part of re-zoning of the Property, under the I- application). *In addition, the re-plat Property Owner's Name: Jeffrey	out retaining the e ot 6a in Hawksmo Lot 6a of Hawks PUD zoning that	xisting zon oor, to add <u>j</u> noor in kee was approv	property that is not in ping with the spirit an yed in 2020 (See mater	Hawksmoor, and d intent of the original rials attached to this
Contacts	Address:       1988 Woodlands Place         City, State, Zip:       Powell, Ohio 43065         Phone number:       Attn: Nicklaus Reis, Attorney - 614.464.5409         Fax:				
Cor	Applicant's Name:RebeccaAddress:Plank Law Firm, LCity, State, Zip:Columbus, OhioPhone number:614-947-8600Email:rjm@planklaw.com	PA, 411 East Toy		ew and Lisa Rumpke loor 2 Fax: <u>614-22</u>	8-1790
Signature	Site visits to the property by City of N The Owner/Applicant, as signed below employees and appointed and elected described in this application. I certify true, correct and complete.	v, hereby authoriz officials to visit, p	es Village	of New Albany repres and post a notice on the	ter $\frac{1}{2}$ ter $\frac{1}{2}$

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# LEGAL DESCRIPTION

File No.: 1905973

NEW LEGAL TO BE PROVIDED BY OHIO REGISTERED SURVEYOR, AND TO BE PART OF THE FOLLOWING.

Situated in the State of Ohio, County of Franklin, City of New Albany, Quarter Townships 3 and 4, Township 2, Range 16, United States Military Lands, being a 1.726 acre tract of land and being part of the remainder of the Original 3.153 acre tract of land conveyed to D&H Hawksmoor Properties Ltd. Of record in Instrument Number 201412310173119, being all of Lot 6A as numbered and delineated upon the plat "Resubdivision of Lot 6 of Hawksmoor" of record in Plat Book 119, Page 95, comprised of a 0.669 acre portion of said Original 3.153 acre tract conveyed to D&H Hawksmoor Properties Ltd. of record in Instrument Number 201412310173119 and Lot 6 as numbered and delineated upon the plat "Hawksmoor" of record in Plat Book 106. Page 10 as conveyed to D&H Hawksmoor Properties Ltd. Of record in Instrument Number 201212310201283, said 1.726 acres being more particularly described as follows:

Beginning for Reference at a pk nail found at a point in a curve at the current southeasterly corner of said remainder tract of Original 3.153 acre tract, being the southwesterly corner of a 0.234 acre tract, of land described as Parcel No. 40WD and conveyed to the Franklin County Commissioners of record in Official Record 4245E18, being the northwesterly corner of a 0.577 acre tract of land described as Parcel No. 35WD and conveyed to the Franklin County Commissioners of record 4547F04, being the northeasterly corner of Reserve "A" as numbered and delineated upon said "Hawksmoor" plat and being in the westerly right of way line of Reynoldsburg-New Albany Road;

Thence N 85° 41' 30" W, along the southerly line of said Original 3.153 acre tract and along a northerly line of said "Hawksmoor" plat, 406.70' feet to an iron pin set in the northerly line of Lot 3 as numbered and delineated upon said "Hawksmoor" plat (passing an iron pipe found at 100.4'), the True Point of Beginning;

Thence N 85° 41' 30" W. continuing along the southerly line of said Original 3.153 acre tract, along the southerly line of said "Re-subdivision" plat and along the northerly line of said "Hawksmoor" plat, 235.48 feet to an iron pipe found with a plastic cap inscribed "Advanced 7661" being in the southerly line of Lot 6A, being the southeasterly corner of said "Re-subdivision plat and at the northwesterly corner of Lot 5 as numbered and delineated upon said "Hawksmoor" plat (passing an iron pipe found with a plastic cap inscribed "Advanced 7661" at 154.8');

Thence S 04° 18 ' 30" W, along the easterly line of said Lot 6A of said "Re-Subdivision" plat and along the westerly line of said Lot 5, 169.56 feet to an iron pin found in a curve with a plastic cap inscribed "Advanced 7661" at a southeasterly corner of said Lot 6A of said "Re-Subdivision" plat, the southwesterly corner of said Lot 5 and being in the northerly right of way line of Hawksmoor Drive (R/W-50) as dedicated on said "Hawksmoor" plat;

Thence along the southerly lines of said Lot 6A of said "Re-Subdivision" plat and along said northerly right of way line, the following two (2) courses;

with a curve to the right, having a central angle of 25° 25' 10" and a radius of 87.00 feet, an arc length of 38.60 feet, a chord bearing and chord distance of N 73° 27' 41" W, 38.28 feet to an iron pipe found with a plastic cap inscribed "Advanced 7661" at a point of reverse curvature;

with a curve to the left, having a central angle of 27° 58' 56" and a radius of 183.00 feet, an arc length of 89.37 feet, a chord bearing and chord distance of N 74° 44' 34" W, 88.49 feet to a <sup>3</sup>/<sub>4</sub>-inch iron pipe found at the southwesterly corner of said Lot 6A of said "Re-Subdivision" plat and being the southeasterly corner of Lot 7 as numbered and delineated upon said "Hawksmoor" plat;

Thence along the common lines of said Lot 6A said "Re-Subdivision" plat and said Lot 7, the following two (2) courses;

N 04° 18' 30" E, 144.64 feet to a <sup>3</sup>/<sub>4</sub>-inch iron pipe found at a common corner thereof;

S 85° 41' 30" E, 17.38 feet to a <sup>3</sup>/<sub>4</sub>-inch iron pipe found at a southeasterly corner of said Lot 7, to a southwesterly corner of Lot 6A tract and a northwesterly corner of said "Re-Subdivision" plat;

Thence N 03° 33' 00" E, along the westerly line of said Lot 6A and along the easterly line of said Lot 7, 161.11 feet to an iron pin set at the northwesterly corner of said Lot 6A of said "Re-Subdivision" plat and being the southwesterly corner of Lot 26 as numbered and delineated upon "The New Albany Country Club Section 5A" of record in Plat Book 84, Page 63;

Thence S 86° 28' 00" E, along the northerly line of said Lot 6A of said "Re-Subdivision" plat, along the southerly line of said Lot 26 and along the southerly line of Lot 4 as numbered and delineated upon "The New Albany Country Club Section 5C" of record in Plat Book 87, Page 34, 342.36 feet to a ¾-inch iron pin found at the southeasterly corner of said Lot 4 and the southwesterly corner of Lot 5 as numbered and delineated upon said "Section 5C" plat (passing an iron pipe found with a plastic cap inscribed "Advanced 7661" at 187.6');

Thence S 03° 33' 00" W, across said Original 3.153 acre tract, 165.75 feet to the True Point of Beginning. Containing 1.726 acres, more or less of which 1.141 acres being out of APN: 222-004874 and 0.585 being out of APN: 222-000630. Subject to all legal restrictions and/or rights of ways.

The above description was prepared by Advanced Civil Design Inc. on June 4, 2021 and is based on existing Franklin County Auditor's records and Franklin County Recorder's records and information obtained from an actual field survey conducted in November of 2020.

All iron pins set are 5/8" diameter rebar, 30" long with a plastic cap inscribed "Advanced 7661".

The basis of bearings used for this exhibit are based on the NAD83 Ohio State Plane Coordinate System South Zone (NSRS 2007) which determines the bearing for the centerline of Kensington Court to be N04° 18' 30" E.

All references used in the description can be found at the Recorder's Office, Franklin County, Ohio.

Parcels Nos. 222-004874-00 and 222-005170-00

# Project Narrative for Re-Zoning Application

[This Project Narrative is Submitted to Address Items as Outlined in Section 1111.03 of the Zoning Code for the City of New Albany as Re-Zoning Application Submittal Requirements]

The real property subject to this application for a re-zoning to the I-PUD zoning district, which is the existing zoning district for the real property, is to modify the zoning text (set of zoning regulations approved for the real property) to add to, and modify, the Permitted Uses section is comprised of the following parcels of land: (i) The real property containing 1.141 +/- acres, located at 6 Hawksmoor Drive, New Albany, Ohio 43054, depicted as Re-subdivision of Lot 6 of Hawksmoor, commonly known as Franklin County Auditor Tax Parcel Id. No.: 222-004874-00 ("Lot 6a") and (ii) the real property containing 0.585 +/- acres, located at Reynoldsburg-New Albany Road, New Albany, Ohio 43054, commonly known as Franklin County Auditor Tax Parcel Id. No.: 222-005170-00 ("Lots 35-36") (collectively, the 1.726 +/- acres of real property is defined as the "Property").

The Property, with the inclusion of Lots 4-5 of Hawksmoor, is also subject to the filing of a re-plat application, filed on the same date herewith, of Lot 6a of Hawksmoor to incorporate and include the entirety of the Property (and Lots 4-5) within the Hawksmoor subdivision. In addition, the Applicant and Applicant's legal counsel are working with the Hawksmoor subdivision lot owners and HOA to include this additional 0.585 +/- acres into Hawksmoor as a new Lot 6a (as the 1.141 +/- acres is already known as Lot 6a of Hawksmoor). This re-plat may create a new Lot number.

Applicant currently owns Lot 4 and Lot 5 within the Hawksmoor Subdivision, and Applicant desires to purchase this Property to create a continuation of the custom "estate home" and real property, as a family compound, and as contemplated by the original zoning text for Hawksmoor and the zoning text for the Western Parcel and the Eastern Parcel (with the Western Parcel, now, known as the Property and subject of the re-zoning application). The changes to the re-zoning to modify the zoning text to expand upon the Permitted Uses is to permit – just on this new Lot 6a of Hawksmoor – the construction of the types of structures outlined below.

This item, and the narrative above, addresses Sections 1111.03(c), (d), and (g) of the Zoning Code: (The proposed re-zoning will not affect any neighboring property owners in any material or substantial way, as the Property is already fully zoned to the I-PUD zoning district, last revised under Ordinance No.: 0-01-2021, and Applicant is retaining that same zoning classification. Applicant will fully comply with all standards, limitations, conditions, and restrictions concerning the Property, including but not limited to, exterior building materials and architectural styles and features, landscaping, and buffer areas, as detailed in the zoning text (as existing), except to add a provision for the following Permitted Uses, as listed below. [Note: Applicant and Applicant's legal counsel are committed to discussing and working with any and all neighboring property owners – whether those neighboring property owners are a part of Hawksmoor subdivision or own residences and real property north of the Property.]

- Detached garages, outbuildings, sheds, and/or pool house (and any other structures similar in nature) uses and structures that are accessory and incidental to a primary residential dwelling unit, whether the primary residential dwelling unit is located on the Property or on adjacent Property owned by Applicant, or Applicant's successor and assigns. A primary residential dwelling unit shall not be required to be constructed on the Property, so long as Applicant, or their successors and assigns, own adjacent real property that contains a primary residential dwelling unit. The detached garages, outbuildings, sheds, and/or pool house structures (and any other structures similar in nature) shall be deemed Principal and Primary Uses and Structures on the Property for all purposes of the zoning text and the Codified Ordinances of the City of New Albany.

Under the requirements of Section 1111.03(e), a vicinity map has been provided for the Property to be re-zoned.

Under the requirements of Section 1111.03(f), an affidavit and buffer report spreadsheet has been submitted with the re-zoning application listing all property owners within two hundred (200) feet of the Property.

This statement is given, as required under Section 1111.03(h) of the Zoning Code: There will be no impact on the school district, as there will be no plans to construct a primary residential dwelling unit on the Property as the primary residence of a person, persons, or family.

Applicant's newer configuration of Lot 6a (to include Lots 4-5), as a part of Hawksmoor, will be subject to any and all deed restrictions, easements, covenants, and encumbrances that are recorded and are currently a part of the land records of the Franklin County Recorder's Office. This item address requirements listed under Section 1111.03(i) of the Zoning Code.

In addition, Lot 6a, as expanded to include the 0.585 +/- acres that is currently not a part of Hawksmoor subdivision, may require an amendment to the current Declarations for Hawksmoor subdivision and any master declarations that bind the existing Lot 6a to add the additional real property (or the expansion property) to the Hawksmoor subdivision. Applicant and Applicant's legal counsel shall assess this matter and separately prepare any necessary instruments and work with the Hawksmoor lot owners and HOA to accomplish this addition, if required and necessary. Seller and Seller's legal counsel agree with this approach.

There shall be no material, measurable impacts to any governmental services or delivery of those services (sanitary sewer, electricity, water, natural gas, fire responders, access, USPS) or to any traffic generation, as the traffic impact study or access study would have been completed with the original re-zoning of the Property to the I-PUD zoning district if any such traffic study was required at that time for this 1.726 +/- acres (the Property) which was subject to the formerly approved re-zoning application and this re-zoning application. The access to the Property, to be re-zoned, will be from current Lot 6a to and from Hawksmoor Drive. The access to Lots 4-5 (although not subject to the re-zoning application) will require no change to existing access to those lots. There shall be no change visible or material measurable to any neighboring property owner or to the delivery of governmental services.

Per 1159.07(2)(j) Verification that an application, if required, has been submitted to the Ohio Environmental Protection Agency in compliance with Section 401 of the Clean Water Act in which anyone who wishes to discharge, dredge or fill material into waters of the United States must obtain a Water Quality Certification Permit from the Ohio Environmental Protection Agency. In the case of an isolated wetland either a general state or individual state isolated wetland permit must be obtained from the Ohio Environmental Protection Agency (Sections 6111.021 – 6111.024 of House Bill 231). Applicant states this is not applicable during this re-platting or re-zoning process because we have no construction drawings, and there has been no engineering performed on the Property, at this time. This will be determined at a future time when the Applicant conducts engineering review and submits for construction drawings approval and building permit application. However, Applicant will comply with any and all governmental rules, regulations, and laws affecting construction on, and development of, the Property.

Per 1159.07(2)(k) Verification that an application, if required, has been submitted to the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act in which anyone who wishes to discharge, dredge, or fill material into waters of the United States must obtain either a nationwide or individual permit from the U.S. Army Corps of Engineers. *Applicant states this is not applicable during this re-platting or re-zoning process because we have no construction drawings, and there has been no engineering performed on the Property, at this time. This will be determined at a future time when the Applicant conducts engineering review and submits for construction drawings approval and building permit application. However, Applicant will comply with any and all governmental rules, regulations, and laws affecting construction on, and development of, the Property.* 

The Applicant does not have a phasing or development schedule at this time.

Sections 1111.03(a) and (b) of the Zoning Code have been satisfied by the submittal of materials (including application form and zoning text) in the original application, as filed, and as part of the revised set of materials, including the re-zoning text and application form, as submitted with the re-zoning application, original and as revised.

# NEW ALBANY

#### **COMMUNITY CONNECTS US**

ORDINANCE 0-01-2021,	
AS AMENDED on	,
by ORDINANCE	

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEW ALBANY BY AMENDING THE ZONING MAP TO REZONE 1.726 +/- ACRES OF THE ORIGINAL 3.35 +/-ACRES OF LAND LOCATED REYNOLDSBURG NEW ALBANY ROAD (CONTAINING 1.14 +/- ACRES) AND 6 HAWKSMOOR DRIVE (LOT 6a) (CONTAINING 0.585 +/- ACRES) FROM ITS CURRENT ZONING OF INFILL **PLANNED** UNIT **DEVELOPMENT** (I-PUD) TO INFILL PLANNED UNIT **DEVELOPMENT (I-PUD) AS REQUESTED BY APPLICANT AND** ATTORNEY FOR APPLICANT, c/o REBECCA J. MOTT, ESQ.

**WHEREAS,** Council of the City of New Albany ("City Council") has determined that it is necessary to rezone certain property located in the city to promote orderly growth and development of lands; and

**WHEREAS**, the Planning Commission and City Council on separate occasions have held public hearings and received public input into the amendment of the zoning ordinance; and

**WHEREAS,** pursuant to the application by Andrew and Lisa Rumpke (collectively, "Applicant") c/o Rebecca J. Mott, Attorney for Applicant, the Planning Commission has reviewed the proposed ordinance amendment and recommended its approval.

**NOW, THEREFORE, BE IT ORDAINED** by City Council for the City of New Albany, Counties of Franklin, State of Ohio, that:

**Section 1.** City Council hereby amends the Zoning Ordinance Map of the City of New Albany to change the zoning classification of the following described site:

- A. A 1.14 +/- acre area of land located at Reynoldsburg New Albany Road (PID: 222-005170-00) and Lot 6a of Hawksmoor (PID: 222-004874-00) from its current zoning of Infill Planned Unit Development (I-PUD) to Infill Planned Unit Development (I-PUD).
- B. The zoning district's text are hereby attached and marked as Exhibit A.

**Section 2.** It is hereby found and determined that all formal actions of this City Council concerning and relating to the adoption of this legislation were adopted in an open meeting of City Council, and that all deliberations of the City Council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 - House Bill 404 effective November 22, 2020.

**Section 3.** Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

# HAWKSMOOR NORTH AMENDED

#### (1.726 +/- Acres)

#### INFILL PLANNED UNIT DEVELOPMENT (I-PUD) TEXT

#### March 27, 2023

#### I. Introduction and Summary:

The real property that is the subject of this zoning text consists of 1.726 +/- acres configured in an "L" shape with frontage on Hawksmoor Drive. The southwestern portion of the real property consists of Lot 6a of the Hawksmoor subdivision (1.141 +/- acres), while the balance of the property (0.585 +/- acres) northeast of Lot 6a consists of a separate parcel of vacant land extending toward, but not to, Reynoldsburg-New Albany Road (collectively, referred to as "Property"), and as more particularly described in the legal description provided with this re-zoning application. The intent of this amended zoning text is to re-zone the Property (which was also known as the "western parcel" containing 1.72 +/- acres in the original zoning text, as amended). For the avoidance of all doubt, this zoning text and the re-zoning application do not include the real property currently known as Lots 4 and 5 of Hawksmoor, and commonly known as Franklin County Auditor Tax Parcel Id. No.: 222-003483-00 ("Lots 4 and 5"), which Lots 4 and 5 are subject to the separate I-PUD zoning text, approved on the date of April 20, 2004, by the City of New Albany (the "City") by Ordinance O-02-2004. Any use and area variances obtained for Lots 4 and 5 subsequent to that rezoning shall remain, and shall be valid binding and run with the land until re-zoned.

**II.** <u>Permitted Uses</u>: Permitted uses in this zoning district will include:

**A.** The permitted uses contained in the Codified Ordinances of the City of New Albany, R-1 Single-Family Residential District, Section1131.02, and the accessory uses contained in Section 1131.03. At the request of the City, it should be noted that, if the Applicant, Applicant's successors and assigns, or any third party buyer, desires to construct a residential dwelling unit on the Property in the future, then the Applicant, or Applicant's successors and assigns, or any third party buyer, creating two or more lots (since the original platted Lot 4 of Hawksmoor already contains a residential dwelling unit and Lots 4 and 5 and this Property will become one platted lot in Hawksmoor under the re-plat application filed concurrently with this re-zoning application). No conditional uses will apply to this Property.

**B.** Detached garages, outbuildings, sheds, and/or pool house uses and structures (and any other structures similar in nature), including patio and paved areas, without a residential dwelling unit or home located on the Property. A primary residential dwelling unit or home shall not be required to be constructed on the Property. If no residential dwelling unit or home is located on the Property, and, if any one or more of structures referenced under this Section II(B) are constructed on the Property, then said structures shall be deemed primary and principal uses and structures for all purposes hereunder and under the Codified Ordinances. If at any time, that a residential dwelling unit or home is located on the Property as permitted under Section II(A) above, then, any existing

Hawksmoor North Amended I-PUD Page 1 of 9 (or future constructed) structures as referenced and permitted under this Section II(B) located on (or to be located on) the Property shall be automatically deemed accessory uses and structures for all purposes under the Codified Ordinances; provided, however, the preceding sentence does not operate to impair in any way or manner the lot development standards that applied to any existing structures (provided those structures conformed to any and all of the lot development standards that applied, as set forth below in Section III herein, including, but not limited to, density, setbacks, height, square footage, and architectural standards, when those structures were actually constructed as principal and primary uses and structures).

# III. <u>Development Standards</u>

Unless otherwise specified in the submitted drawings or in this written zoning text, the development standards of Part Eleven of the Codified Ordinances of the City shall apply to the Property. In the event that any development standard which is set forth in this text conflicts with a provision of the Codified Ordinances, then the development standard contained in this zoning text shall govern. When this zoning text is silent as to a particular development standard, then the development standard contained in the Codified Ordinances shall govern.

A. <u>Density</u>: There shall be a maximum of one residential dwelling unit or home permitted on the Property, if applicable. There shall be no maximum number of detached garages, outbuildings, sheds, and/or pool house uses and structures (and any other structures similar in nature), including patio and paved areas in the event that the permitted uses contained in Section II(B) (and listed immediately above) are constructed on the Property <u>without</u> the construction of a residential dwelling unit.

# B. <u>Setbacks and Lot Commitments</u>:

1. <u>Street Frontages</u>: The Property shall have a minimum of 120 feet of frontage on Hawksmoor Drive.

2. <u>Home Orientation</u>: The Property shall be developed with any of the Permitted Uses contained herein. If the Property is ever constructed with a residential dwelling unit or a home, it shall be oriented in one of two ways: With its front façade oriented toward Hawksmoor Drive in a similar manner as existing homes located to the east on the same street, or alternatively, with its front façade oriented to the west, provided that the latter circumstance (of front façade orientation) shall be permitted only if the residential dwelling unit or home is located to the north of the shared property line between the Property and Lots 4-5.

3. <u>Property Setbacks</u>: The following setback requirements shall apply to (i) any residential dwelling unit or home, and (ii) any and all detached garages, outbuildings, sheds, and/or pool house structures and any other structures similar in nature that are constructed without a residential dwelling unit or home on the Property, except as otherwise provided:

a. <u>Southern Property Line</u>: The minimum building setback shall be 40 feet

### Hawksmoor North Amended I-PUD Page 2 of 9

as measured from the right-of-way of Hawksmoor Drive.

b. <u>Western Property Line</u>: There shall be a minimum building setback of 10 feet from the western boundary of the Property in the circumstance where any residential dwelling unit or home constructed on the Property is oriented to face Hawksmoor Drive, subject to any larger setbacks resulting from the tree preservation areas (addressed later in this zoning text). There shall be a minimum building setback of 10 feet from the western boundary of the Property in the circumstance where the front façade of any detached garages, outbuildings, sheds, and/or pool house structures and any other structures similar in nature that are located on the Property (without a residential dwelling unit or home being constructed) are oriented to face the west, oriented to face the east, or oriented to face Hawksmoor Drive, as the case may be, subject to any larger setbacks resulting from the tree preservation areas. However, there shall be a minimum building setback of 50 feet from the western boundary of the Property in the circumstance where any residential dwelling unit or home being tree preservation areas. However, there shall be a minimum building setback of 50 feet from the western boundary of the Property in the circumstance where any residential dwelling unit or home constructed on the Property is oriented to face the west.

c. <u>Northern and Southern Property Lines</u>: There shall be a minimum building setback of 20 feet for any structure constructed from each of the northern and southern boundaries of the Property, except that along the shared boundary line between the Property and the adjacent parcel to the north (Franklin County Auditor Tax Parcel Id. No.: 222-001872-00), there shall be a 50-foot minimum building separation from a line extending southward from the western-facing façade of the garage that exists on said adjacent parcel to the north (Franklin County Auditor Tax Parcel Id. No.: 222-001872-00) to and any structures constructed on the Property on the date of this text.

d. <u>Eastern Property Line</u>: There shall be a minimum building setback of 10 feet from the property line of Franklin County Auditor Tax Parcel Id. No.: 222-003482-00 and a minimum building setback of 50 feet from the property line of Franklin County Auditor Tax Parcel Id. No.: 222-000630-00.

4. <u>Other Setbacks</u>: Setbacks for (i) a permitted residential dwelling unit or home (with or without accessory structures), and (ii) permitted detached garages, outbuildings, sheds, and/or pool house uses and structures (and any other structures similar in nature) that are constructed without a residential dwelling unit, in both events under (i) or (ii) as contemplated by Sections II(A) or (B) herein for Permitted Uses, shall be as stated in Section III(B)(3) hereinabove, unless there is no such standard provided, and then, the setback standard that shall apply shall be as required and stated in accordance with applicable provisions of the Codified Ordinances.

5. <u>Property Area (Square Footage) Requirements</u>: There shall be no minimum or maximum area or square footage requirements for a residential dwelling unit or home as permitted in Section II(A) and the structures or uses as contemplated under Section II(B) herein.

## C. <u>Access, Parking and Traffic-Related Commitments</u>:

1. <u>Parking</u>: A garage attached to each primary residential dwelling unit or home, if applicable, shall be provided with a minimum of two vehicular parking spaces.

2. <u>Vehicular Access</u>: The primary vehicular access to and from the Property shall be provided using a driveway connecting to Hawksmoor Drive.

3. <u>Pedestrian Access</u>: An existing sidewalk is located along the Property frontage on Hawksmoor Drive. No additional pedestrian access improvements shall be required along the street.

4. <u>Public Street Rights-of-Way; Street Improvements</u>: No additional street rights-ofway shall be required to be dedicated to the City as it relates to this Property. No street improvements shall be required as a result of the development of the Property.

## D. <u>Architectural Standards</u>:

1. <u>Maximum building heights</u>: The maximum building height for the permitted principal and primary residential dwelling unit or home or the permitted principal and primary structures, including detached garages, outbuildings, sheds, and/or pool house uses and structures (and any other structures similar in nature) shall be forty-five (45) feet as measured per the Codified Ordinances.

## 2. <u>Exterior Materials</u>:

a. <u>Wall finish materials</u>: Brick, stone, wood siding, and composite siding materials (Hardi-plank, its equivalent, or of higher quality) shall be permitted as primary exterior façade materials. Exterior wall finish materials must be used to complete massing elements. The application of brick to a single building facade is prohibited.

b. <u>Brick</u>: Brick shall be of a "handmade appearance". Traditional brick detailing is required, such as, but not limited to, traditional bonds, water table caps,sills, jack arches, segmental arches, and soldier courses.

c. <u>Siding</u>: Siding shall be cedar shiplap wood siding or composite material with a natural appearance. Wood or composite siding shall have brick chimneys and brick plinths to the height of the water table.

d. <u>Roof</u>: Pitched roofs shall be required to have a minimum 6:12 rise over run. Roof pitches with rise over run of less than 6:12 are permitted on minor roofs (i.e. entry porches, dormers, etc.). Flat roofs shall be permitted but must integrate strong cornice lines. Roofs may be of natural slate, wood shake or wood shingle, metal standing seam, or an architectural grade fiberglass asphalt shingle.

e. <u>Windows</u>: Windows shall be of traditional themes. Simulated or true Hawksmoor North Amended I-PUD Page **4** of **9**  divided lite windows shall be required.

f. <u>Shutters</u>: Where used, shutters shall be sized to cover the adjacent window and appear operable. Shutters shall be mounted on appropriate shutter hardware (hinges and shutter dogs).

g. <u>Gutters and downspouts</u>: Traditional half round gutters and/or ogee gutters with downspouts shall be used.

h. <u>Skylights</u>: Skylights in the roof shall be permitted. Cupolas, dormers, lanterns, belvederes, or window bays shall be permitted, provided they are consistent with the architectural theme.

i. Design Approval: The design of a residential dwelling unit or home and any permitted primary or principal structures shall be reviewed as part of a final development plan. Architectural designs for any residential dwelling unit or home and any permitted primary or principal structures shall meet the requirements of this text, unless a deviation or variance therefrom is expressly requested and approved as part of a final development plan. It is anticipated that, due to the nature of the proposed homes as "estate homes" and related primary or principal structures as custom, architectural designs may continue to evolve beyond the date of final development plan approval, and the property owner should be afforded flexibility in this regard in the same manner as would apply to a home being constructed in the City in a subdivision with numerous homes. To this end, architecture approved as part of a final development plan may be modified after the approval of final development plan without further review by the Planning Commission and with the approval of City staff if (a) the modifications are permitted under the City's Design Guidelines and Requirements or by a variance granted therefrom which has been previously approved by the Planning Commission, (b) do not otherwise cause the need for a variance from this text or other relevant provisions of the Codified Ordinances, and (c) will not cause a substantial deviation from the massing or design of the home or other structure when compared to that which was approved by the Planning Commission. The intent is not to provide an overly stringent design review procedure in this zoning district when compared to homes in other areas of the City, but rather to provide the Planning Commission with oversight over major components of design while leaving more minor components to the review and approval of City staff in the same manner as other homes in the City.

#### 3. <u>Vehicular and Pedestrian Standards</u>:

a. <u>Garages</u>:

i. <u>Garage Doors (Vehicular)</u>: Individual bay doors are required; double wide garage doors are prohibited. The width of garage doors shall not exceed nine (9) feet. All garage doors shall be solid paneled. No glazing shall be permitted on garage doors unless they are consistent with

> Hawksmoor North Amended I-PUD Page 5 of 9

the architectural theme.

ii. <u>Garage Doors (Pedestrian)</u>: All pedestrian garage doors shall be solid paneled.

b. <u>Driveways and Entry Courts</u>: Driveways shall be made of a durable material. Appropriate materials are brick, dark color concrete pavers, asphalt with controlled edges, and rolled-in stone topping. Concrete driveways are prohibited where visible from off-site.

4. <u>Screened Porches</u>: Screened porches are permitted on the rear or side of the residential dwelling unit or home or any primary or principal structure. Detailing shall be traditional wood with a break in screening at rail height. Columns or full height vertical wood members shall be at least 6" x 6". All screened porch trim shall be painted. Roof lines of screened porches shall conform to the architectural style of the home or any primary or principal structure for which it appertains, and blend into the massing of the residential dwelling unit or home or any primary or principal structure.

5. <u>Service Areas</u>: Air conditioners/heat pumps, garbage cans and carts, irrigation controllers, pumps, generators, and meters which are visible from any point outside of the Property shall be entirely enclosed by a privacy wall, a fence, and/or landscaping that is a minimum of four (4) feet high.

#### 6. <u>Swimming Pools/Spas</u>:

a. All swimming pools/spas shall be located to meet the minimum building setback requirements on the Property and shall be completely enclosed and adequately screened from adjoining properties in accordance with the City's Codified Ordinances. Screening and enclosure of swimming pools/spas may be accomplished by installing and maintaining fencing that terminates at a structure so that the combination of fencing and walls of structures provides for complete enclosure of the pool or spa. For purposes of clarification, the foregoing provision is intended to allow complete enclosure of a pool/spa using a combination of fencing and structure walls and is not intended to allow for any gaps between fencing and walls that are large enough to allow a person to enter and exit the pool/spa area through such a gap and the requirements of Codified Ordinances Chapter 1173 must still be met.

b. All swimming pools/spas shall be in-ground construction. The swimming pool/spa equipment shall be within the enclosure and completely screened from adjoining properties.

c. Spas may be constructed provided that they shall be flush with the top of the paving. Spas shall be completely screened from off-site view by fencing or landscaping.

#### 7. <u>Storage:</u>

a. <u>Equipment Storage</u>: Storage of all maintenance equipment shall be within garages or permitted storage structures or screened from off-site view. Such items should not be visible from streets and adjacent lots or developments.

b. <u>Vehicle Storage</u>: All campers, off-road vehicles, and boats must be parked within an enclosed garage. No inoperable vehicles or parts of vehicles may be stored outside.

#### E. <u>Buffering, Landscaping, Open Space and Screening Commitments</u>:

#### 1. <u>Tree Preservation Zone</u>:

a. Within tree preservation areas, no structures or pavement shall be permitted, and healthy mature trees shall be preserved unless they present a danger to persons or property or are of a noxious or invasive species. A 30-footwide tree preservation area/no build zone/drainage easement exists pursuant to the Hawksmoor plat [(as it also relates to Lots 4-5), as modified by the Re-Subdivision of Lot 6 (to Lot 6a), which is further modified by the re-plat for Lots 4-5 and the Property (filed concurrently with this re-zoning application for the Property], and as it relates to the Property, is generally, as shown along the northern most property line totaling  $342.36 \pm -1$  linear feet. This tree preservation area/no build zone/drainage easement shall remain, as shown on the concurrently filed replat.

b. In addition, a 20-foot wide tree preservation zone was created along a portion of the western boundary line of the Property by the re-zoning and preliminary development plan approved in 2020. This 20-foot wide tree preservation zone will remain, as it exists, along a portion of the western boundary line of the Property, as shown on the accompanying vicinity map and the concurrently filed re-plat.

c. For the avoidance of all doubt, the 30-foot wide modified tree preservation area/no build zone/drainage easement, as shown on the re-plat (which includes former Lots 4-5) concurrently filed with this re-zoning application for the Property shall supersede and replace the tree preservation area/no build zone/drainage easement, as shown on the preliminary development plan approved as part of the I-PUD zoning text for Hawksmoor, approved on the date of April 20, 2004, by Ordinance O-02-2004, as it relates to and affects Lots 4-5. This zoning text for the Property, as defined herein, and the re-plat (the re-plat involving the Property and Lots 4-5) concurrently filed with this re-zoning application, together, shall control the modified tree preservation area.

2. <u>Street Trees</u>: Street trees exist within the rights-of-way of Hawksmoor Drive just outside of the boundaries of this zoning district. These trees shall remain, and no additional street tree plantings shall be required in these locations. Any street trees which are damaged by construction traffic serving this zoning district shall be replaced by the

> Hawksmoor North Amended I-PUD Page 7 of 9

property owner at its expense.

# 3. <u>Fencing and Walls</u>:

a. <u>Temporary Fencing</u>: Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line. All temporary fences must be removed prior to the issuance of a certificate of occupancy.

b. <u>Hawksmoor Drive</u>: The landscaping hedge that exists along the zoning district's frontage on Hawksmoor Drive shall remain, except that limited portions may be removed to install a driveway and decorative brick piers on each side of the driveway, so as to be consistent with similar features for other parcels on Hawksmoor Drive.

# F. <u>Miscellaneous Commitments</u>:

1. <u>Prohibited Storage Buildings</u>: Pre-fabricated storage buildings are prohibited.

2. <u>Sport and Recreational Equipment</u>: Basketball backboards and supports, swing sets and other children's play facilities shall be permitted, provided they are screened from adjoining properties.

3. <u>Utilities</u>: All proposed utilities shall be placed underground. Utility easement locations and widths shall be determined in the final development plan.

4. <u>Lighting</u>: Lighting shall be permitted in accordance with the requirements of the Codified Ordinances. One yard light shall be required to be located in the portion of the yard near Hawksmoor Drive to the east of the driveway providing access to and from this street, with a location, size, color, and fixtures which are consistent with those located on other lots within the Hawksmoor subdivision. The yard light shall have a photocell light sensor.

5. <u>Garbage Cans</u>: All garbage cans and other waste containers shall be kept in a garage, within buildings, or within other screened areas so that they cannot be viewed from off-site.

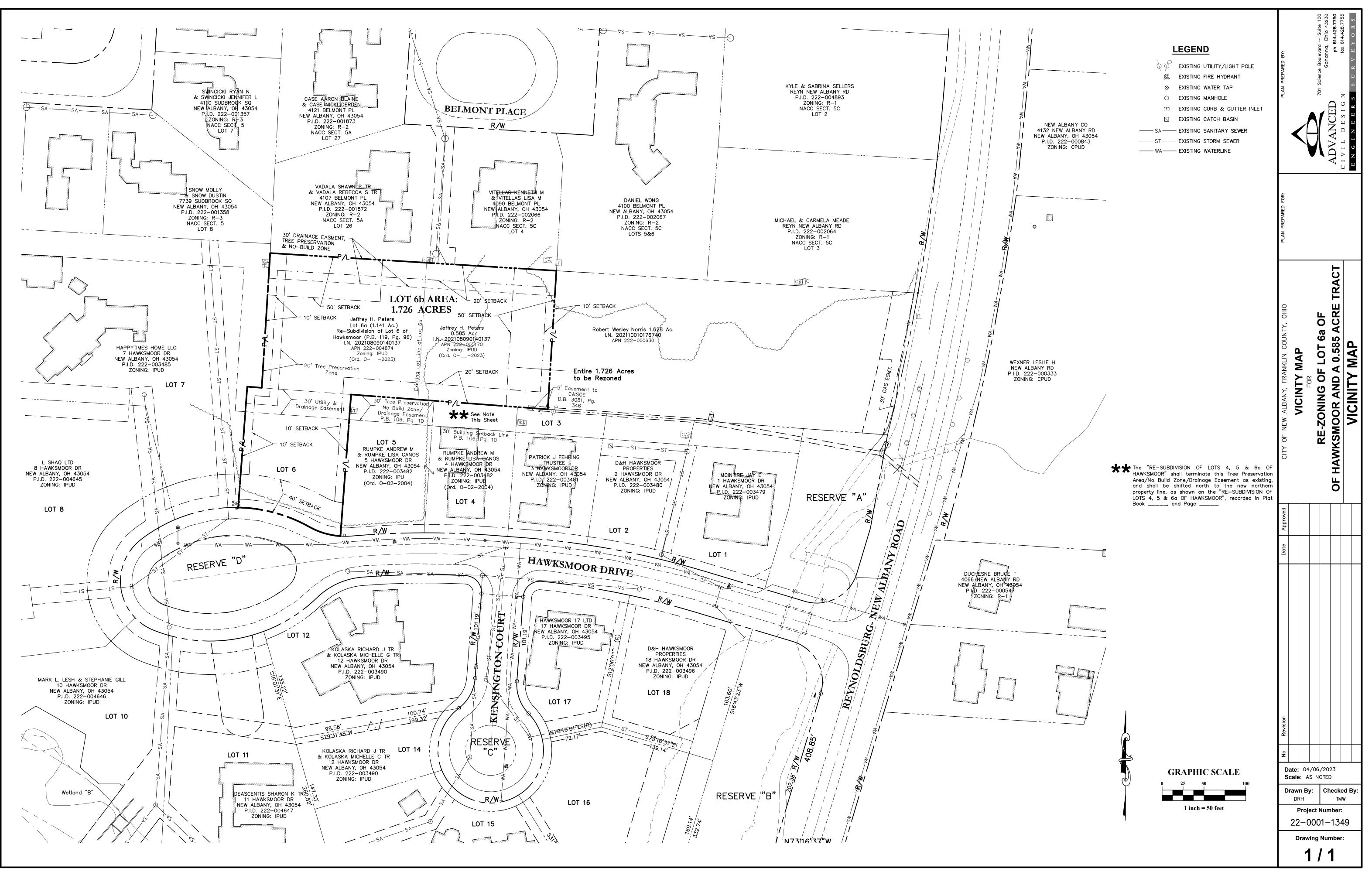
6. <u>Stormwater Structures Within the Drainage Easement Areas</u>: Above grade structures, dams, or other obstructions to the flow of stormwater runoff are permitted within the drainage easement areas, as delineated on the re-plat, with the approval of the City Engineer.

# G. <u>Variances and Appeals</u>:

1. <u>Nature of Variance</u>: On this Property, extraordinary circumstances may exist making a strict enforcement of the applicable development standards of this I-PUD zoning

Hawksmoor North Amended I-PUD Page 8 of 9 text or the Zoning Ordinance unreasonable, and, therefore, the procedure for variance from development standards is provided to allow the flexibility necessary to adapt to changed or unusual conditions, both foreseen and unforeseen, under circumstances which do not ordinarily involve a change of the primary use of the land or structure permitted.

2. <u>Variance and Appeals Process</u>: The procedures and requirements of Chapter 1113, Appeal and Variances, of the Codified Ordinances of the City shall be followed in cases of appeals. Requests for variances shall be heard by the Planning Commission.





#### 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

Permit #	
Board	
Mtg. Date	



#### **Community Development Planning Application**

1	Site Address <u>1.141+/- acres known as Lot 6a of Hawksmoor and 0.585 acres on Reynoldsburg-New Albany</u> Rd.					
	Parcel Numbers 222-004874-00 and 222-005170-00 (Re-Zoning)					
	Acres 1.726 +/- # of lots created After Re-Plat - One Lot to be Created					
	(*including Lots 4-5, see below) Choose Application Type Circle all Details that Apply					
	Choose Application Type		Circle a	II Details that Apply		
Project Information	<ul> <li>Certificate of Appropriateness</li> <li>Conditional Use</li> <li>Development Plan</li> <li>XaPlat</li> <li>Lot Changes</li> <li>Minor Commercial Subdivision</li> <li>Vacation</li> </ul>	Preliminary Preliminary Combination Easement	Final Final Split	Comprehensive Adjustment	Amendment	
et		Easement		Street		
Projec	□□Extension Request x又oning	Amendment (re	ezoning)	Text Modification		
	Description of Request: <u>Re-zoning</u> to expand the Permitted Uses section, b <u>Also, a re-plat application to expand Lo</u> <u>make the additional property a part of I</u> re-zoning of the Property, under the I-I	ut retaining the e t 6a in Hawksmo ot 6a of Hawksr	xisting zonin or, to add pu noor in keer	roperty that is not in I bing with the spirit and	lawksmoor, and intent of the original	
	application). *In addition, the re-plat					
Contacts	Property Owner's Name: Jeffrey I Address: <u>1988 Woodlands Place</u> City, State, Zip: <u>Powell, Ohio 4306</u> Phone number: <u>Attn: Nicklaus Reis</u> Email: jhpeters5@gmail.com; n	H. Peters 5 5 <del>3, Attorney - 614</del>	464.5409			
nts	Applicant's Name: Rebecca	I Mott Attorne	v for Andrey	w and Lisa Rumpke		
ů	Address: Plank Law Firm, LF					
	City, State, Zip: <u>Columbus, Ohio</u>		in oucer, i i			
	Phone number: <u>614-947-8600</u>			Fax: 614-22	8-1790	
Sec.	Email: <u>rjm@planklaw.com</u>					
Signature	Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.					
01	Signature of Owner			Date	e:	
	Signature of Applicant	meer G	Mot	t, a Home Date	e: 02/17/2023	
		/		. 0		

99 West Main Street • P.O. Box 188 • New Albany, Ohio 43054 • Phone 614.939.2254 • Fax 614.939.2234



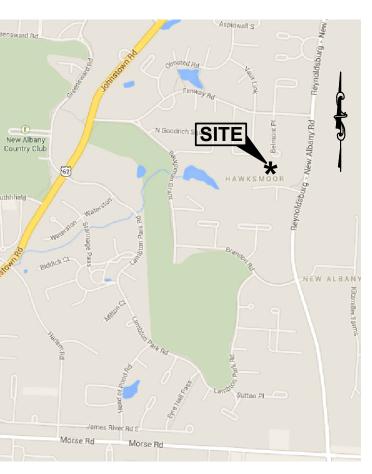
# **Community Development Planning Application**

	Site Address <u>1.141+/- acres known as Lot 6a of Hawksmoor and 0.585 acres on Reynoldsburg-New Alba</u>					
	Parcel Numbers       222-004874-00 and 222-005170-00 (Re-Zoning)         Acres       1.726 +/-       # of lots created After Re-Plat - One Lot to be Created					
	Acres	# 01 1015 CI		(*including Lots 4-5, see below)		
1.4	Choose Application Type	and the second		all Details that Apply		
Project Information	<ul> <li>Appeal</li> <li>Certificate of Appropriateness</li> <li>Conditional Use</li> <li>Development Plan</li> <li>APlat</li> <li>Lot Changes</li> <li>Minor Commercial Subdivision</li> <li>Vacation</li> <li>Variance</li> <li>Extension Request</li> <li>XZoning</li> </ul>	Preliminary Preliminary Combination Easement Amendment (r	Final Final Split	Comprehensive Adjustment Street Text Modification	Amendment	
	to expand the Permitted Uses section, H Also, a re-plat application to expand L make the additional property a part of re-zoning of the Property, under the I- application). *In addition, the re-plat Property Owner's Name: Jeffrey	out retaining the e ot 6a in Hawksmo Lot 6a of Hawks PUD zoning that	xisting zon oor, to add <u>j</u> noor in kee was approv	property that is not in ping with the spirit an yed in 2020 (See mater	Hawksmoor, and d intent of the original rials attached to this	
Contacts	Address: <u>1988 Woodlands Place</u> City, State, Zip: <u>Powell, Ohio 4306</u> Phone number: <u>Attn: Nicklaus Rei</u> Email: <u>jhpeters5@gmail.com; r</u>	is, Attorney - 614 1jreis@vorys.com		Fax:		
Cor	Applicant's Name:RebeccaAddress:Plank Law Firm, LCity, State, Zip:Columbus, OhioPhone number:614-947-8600Email:rjm@planklaw.com	PA, 411 East Toy		ew and Lisa Rumpke loor 2 Fax: <u>614-22</u>	8-1790	
Signature	Site visits to the property by City of N The Owner/Applicant, as signed below employees and appointed and elected described in this application. I certify true, correct and complete.	v, hereby authoriz officials to visit, p	es Village	of New Albany repres and post a notice on the	ter $\frac{1}{2}$ ter $\frac{1}{2}$	

99 West Main Street • P.O. Box 188 • New Albany, Ohio 43054 • Phone 614.939.2254 • Fax 614.939.2234

-	f Franklin, Village of New Albany, located in hip 2, Range 16, United States Military Lands, more or less, said 2.456 acres being a	RE-SU
"RE-SUBDIVISION OF LOT 6a OF HAV 95, which contains 1.141 acres, all of Peters of record in Instrument Num conveyed to Jeffrey H. Peters 202108090140137, and all of Lots 4 & 106, Page 10, all of said Lots 4 & 5 Cantos Rumpke of record in	hbered and delineated upon the record plat of WKSMOOR", of record in Plat Book 119, Page said Lot 6a standing in the name of Jeffrey H. hber 202108090140137, a 0.585 acre tract, as also of record in Instrument Number & 5 of "HAWKSMOOR", of record in Plat Book standing in the name of Andrew M. and Lisa Instrument Numbers 201109010109415 & in Recorder's Office, Franklin County, Ohio.	4, 5 &
authorized signature, do hereby certi	uthorized signature, and Andrew M. Rumpke, fy that this plat correctly represents its lawksmoor", containing Lot 6b, and does	RTH Sugar Run
designated on this plat as "East construction, operation and mainter above and beneath the surface of construction, operation and mainter lots and lands and for storm wate "Drainage Easement" on this plat, and the purpose of constructing, oper drainage swales and or other storm structures, dams or other obstruct	over and under areas hereby platted, and sement" or "Drainage Easement" for the nance of all public and quasi public utilities the ground and, where necessary, for the nance of service connections to all adjacent er drainage. Within those areas designated n additional easement is hereby reserved for rating, and maintaining major storm water m water drainage facilities. No above grade tions to the flow of storm water runoff are ment areas as delineated on this plat unless of New Albany.	n Rd New Albany Gardens & Care Center
	etback lines for general utility and drainage e Hawksmoor Landscape Plan and maintained ociation, Inc.	Body Fork
In Witness Whereof, Jeffrey H. Peter hand this day of	rs, Authorized Signature, has hereunto set their , 2023.	63
Signed and acknowledged In the presence of:	Jeffrey H. Peters	Donatos 🛞 M
	Ву	
Witness	Title	
Witness		
STATE OF OHIO		
COUNTY OF FRANKLIN ss		
COUNTY OF FRANKLIN ss:	r said State, personally appeared	SURVEY DATA:
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# BDIVISION OF LOTS a OF HAWKSMOOR



LOCATION MAP NO SCALE

forse Rd

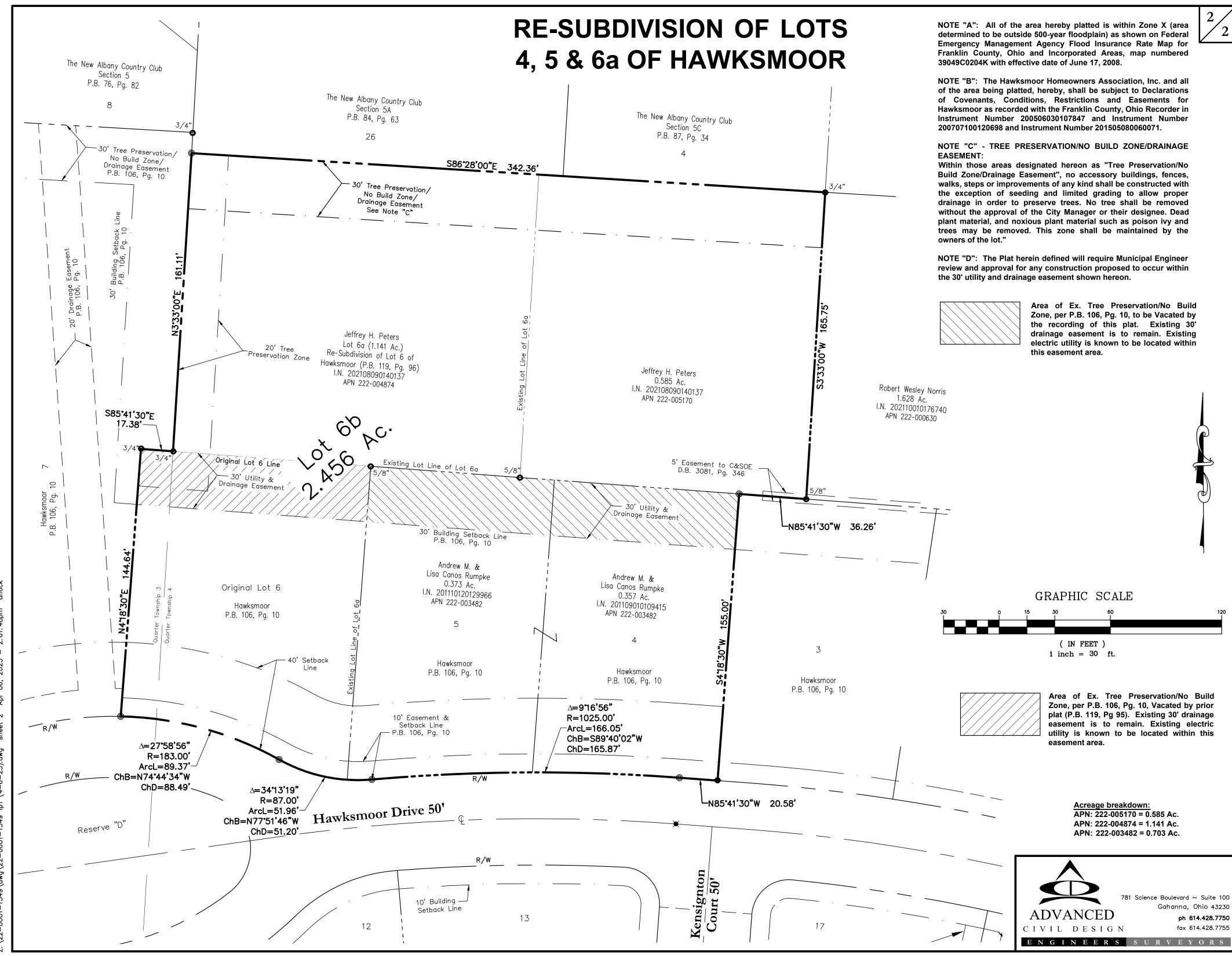
S: The bearings shown on this plat were transferred from a klin County Monuments "FCGS 9913-B" and "FCGS 9914-B" nklin County Engineer's Office, which was based on the Ohio ate System, Ohio South Zone, NAD83 (1986 adjustment) and ng between said monuments as N 10° 32' 24" E.

he sources of recorded survey data are the records of the , Recorder, referenced in the plan and text of this plat.

dicated, unless otherwise noted, are to be set and are iron oths inch inside diameter, thirty inches long with a plastic cap ring the inscription "ADVANCED". These markers shall be set ion of the construction/installation of the street pavement and the Village of New Albany, Ohio's acceptance of these ments. The New Albany, Ohio, Municipal Engineer shall be the surveyor when the markers are in place.

RS: Permanent markers, where indicated hereon, are to be irty-inch long, solid iron pins, are to be set with the top end ce of the ground and then capped with an aluminum cap D". Once installed, the top of the cap shall be marked the actual location of the point. These markers shall be set ion of the construction/installation of the street pavement and the Village of New Albany, Ohio's acceptance of these ments. The New Albany, Ohio, Municipal Engineer shall be the surveyor when the markers are in place.

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 \$ File No	Recorder, Franklin County, Ohio
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 decima
<ul> <li>○ = Iron Pin Set</li> <li>◎ = Permanent Marker</li> <li>● = Iron Pin Found</li> <li>♥ = PK Nail Found</li> </ul>	
By Reg. Surveyor	



)23



#### 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):

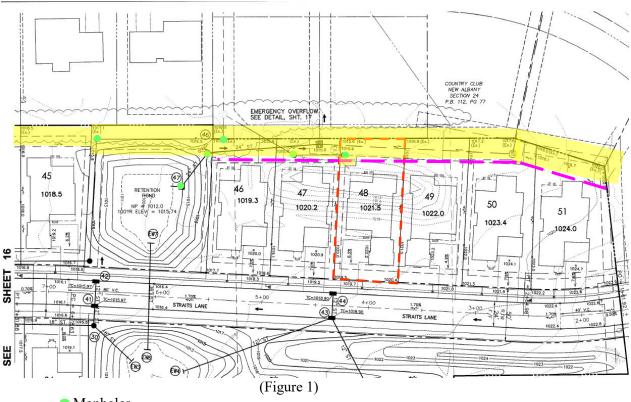
- 8. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.
- 9. That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of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

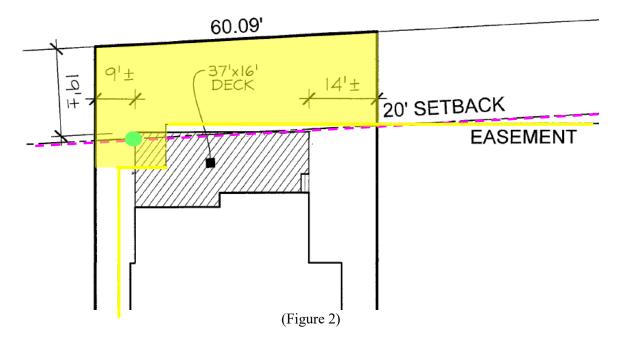
The following should be considered in the commission's decision:

- 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

DE GE I VE MAR 2 8.2023		Permit # Board Mtg. Date
By	ALBANY	

## **Community Development Planning Application**

	Site Address 7831 St	- 004613			
	Parcel Numbers 626 - Acres 18ac	# of lots created			
Ĩ		Circle all Details that Apply			
	Appeal     Certificate of Appropriat     Conditional Use     Development Plan     Development Plan     Deltot Changes     Minor Commercial Subo     CVacation     XZWariance     DExtension Request	Preliminary Final Comprehensive Amendment Preliminary Final Combination Split Adjustment			
	an Zoning	Amendment (rezoning) Text Modification			
	Description of Request: deck encroaches into rear yard setback and easement area				
	deck	c encroaches into rear yard setDack and easement area			
	Property Owner's Name: Address: City, State, Zip: Phone number: Email:	Amy & Curtis Cignetti 7831 Straits Lane New Albany, OH 43054 (812)459-7625 Fax: amycignetti@gmail.com			
	Property Owner's Name: Address: City, State, Zip: Phone number: Email: Applicant's Name:	Amy & Curtis Cignetti 7831 Straits Lane New Albany, OH 43054 (812)459-7625 Fax:			
	Property Owner's Name: Address: City, State, Zip: Phone number: Email: Applicant's Name: Address: City, State, Zip:	Amy & Curtis Cignetti 7831 Straits Lane New Albany, OH 43054 (812)459-7625 Fax: amycignetti@gmail.com Suncraft Corporation, Inc James Knox 122 W. Johnstown Road Gahanna, OH 43230			
	Property Owner's Name: Address: City, State, Zip: Phone number: Email: Applicant's Name: Address: City, State, Zip:	Amy & Curtis Cignetti         7831 Straits Lane         New Albany, OH 43054         (812)459-7625         Fax:         amycignetti@gmail.com         Suncraft Corporation, Inc James Knox         122 W. Johnstown Road         Gahanna, OH 43230         (614)475-0000         Fax:			
	Property Owner's Name: Address: City, State, Zip: Phone number: Email: Applicant's Name: Address: City, State, Zip: Phone number: Email: Im@sum Site visits to the property b The Owner/Applicant, as a employees and amointed a	Amy & Curtis Cignetti         7831 Straits Lane         New Albany, OH 43054         (812)459-7625         Fax:         amycignetti@gmail.com         Suncraft Corporation, Inc James Knox         T22 W. Johnstown Road         Gahanna, OH 43230         (614)475-0000         Fax:         (614)475-0986         craftdesignbuild.com         by City of New Albany representatives are essential to process this application.         signed helow, hereby authorizes Village of New Albany representatives, and elected officials to visit, photograph and post a notice on the property         on. I certify that the information here within and attached to this application is			

Scanned with CamScanner

March 23, 2023

# VARIANCE STATEMENT 7831 Straits Lane

We hereby request a variance to construct a deck where one corner encroaches into the rear yard setback and easement. The property is located in the subdivision of New Albany Country Club Section 27.

The zoning for this neighborhood is IPUD.

Per zoning code section 1113.03 (e) statements

- 1. The variance is sought to allow the homeowner to construct a deck at the rear of the house.
- 2. The rear property line is angled and the drainage easement has a notch that cuts into the usable rear yard causing a hardship to the property owners. Only one corner of the proposed deck encroaches into the drainage easement and setback. Granting of this variance will enable the property owners the ability to add an outdoor living area similar in size to their neighbors.
- 3. This variance request is justified because of the hardship presented by the angled setback and shape of the drainage easement and how it notches into the buildable rear yard.
- 4. Please see the attached site plan indicating the location of the proposed deck and the locations of the setback and drainage easement for consideration in approving the variance application.
- 5. The proposed deck will not alter or affect the drainage of the property.

The angled rear property line and easement lines give this particular property zoning and easement challenges. The proposed deck only minimally encroaches in to the rear yard setback and easement. Without this variance, one side of the deck will have to be narrow and not as useable.

The variance is requested so that the homeowners can enjoy outdoor space on their property.

Submitted by:

James Knox Permit Coordinator Suncraft Corporation, Inc. 122 W. Johnstown Road Columbus, OH 43230 (614) 475-0000 jim@suncraftdesignbuild.com

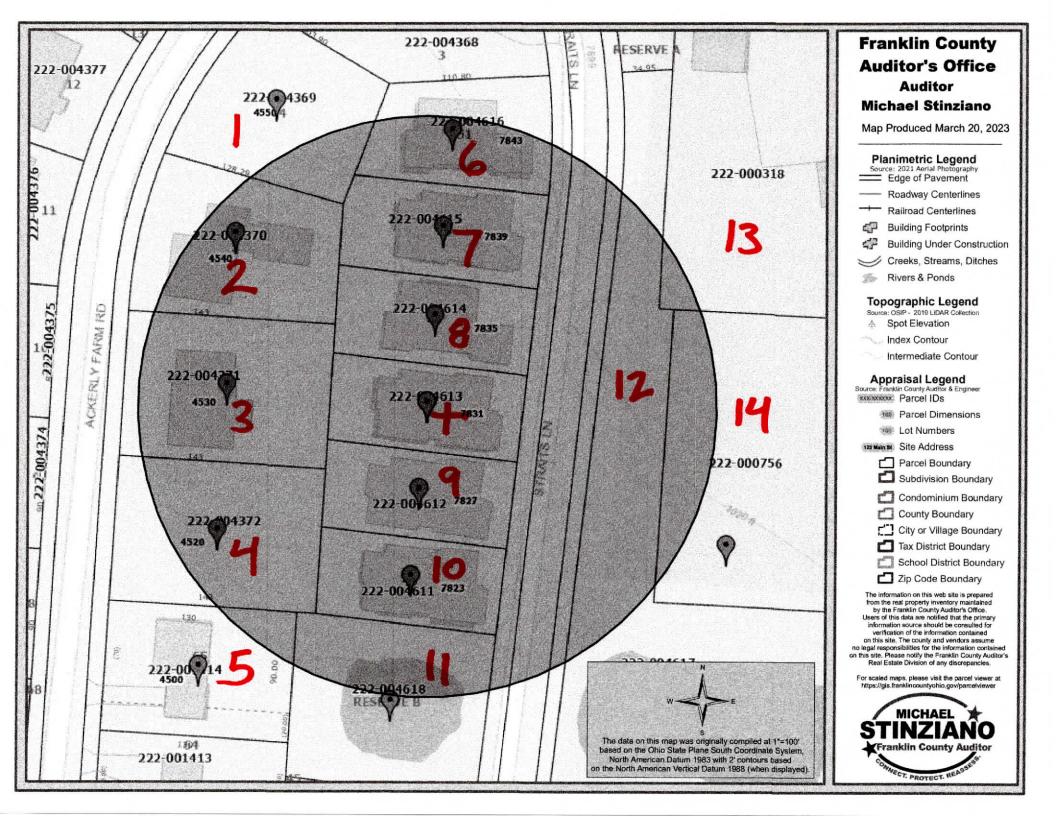
Cignetti, Amy / Curtis

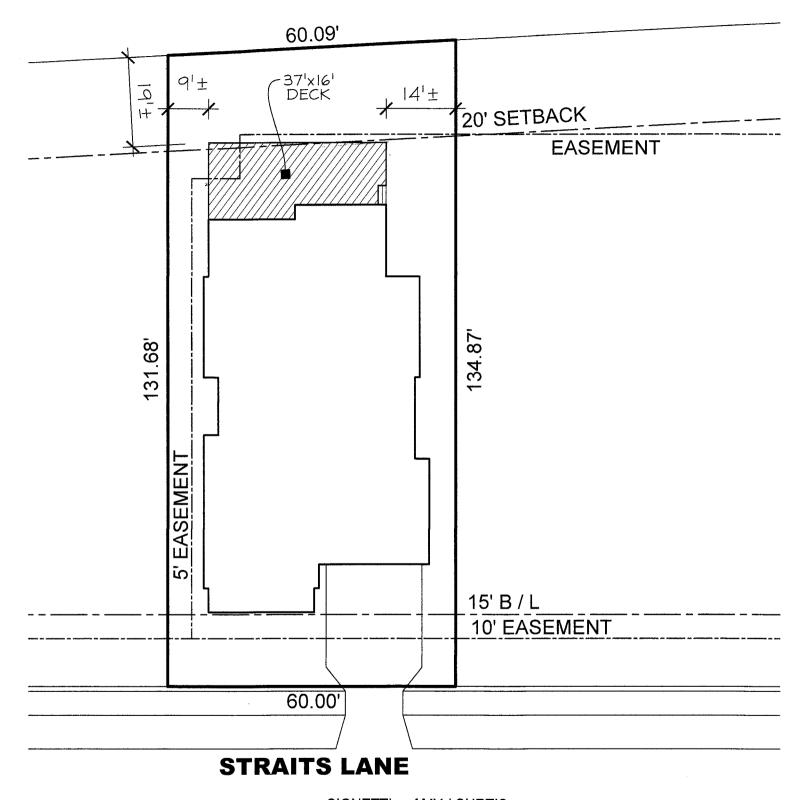
7831 Straits Lane

New Albany, OH 43054

1

1	Ronnie / Valerie Robinson	4550 Ackerly Farm Road	New Albany, OH 43054
2	Justin / Stephanie Clarey	4540 Ackerly Farm Road	New Albany, OH 43054
3	Mohit Gupta	4530 Ackerly Farm Road	New Albany, OH 43054
4	James / Kendra Tyo Mailing Address: 7345 \$	4520 Ackerly Farm Road Southfield Road New Alban	New Albany, OH 43054 y, OH 43054
5	Andrew / Laurie Erkis	4500 Ackerly Farm Road	New Albany, OH 43054
6	Donald / Barbara Siegfried	7843 Straits Lane	New Albany, OH 43054
7	Shaun / Cheryl Lajeunesse	7839 Straits Lane	New Albany, OH 43054
8	Robert Kamps	7835 Straits Lane	New Albany, OH 43054
9	Carl / Gloria Pambianco	7827 Straits Lane	New Albany, OH 43054
10	David / Semra Love	7823 Straits Lane	New Albany, OH 43054
11 12	City of New Albany New Albany Country Club	99 W. Main Street Section 27 - Reserve "A" & R	New Albany, OH 43054 eserve "B"
13 14	Board of Trustees Plain Township	4585 Reynoldsburg New Albany, OH 43	-
	Maplewood Cemetary		

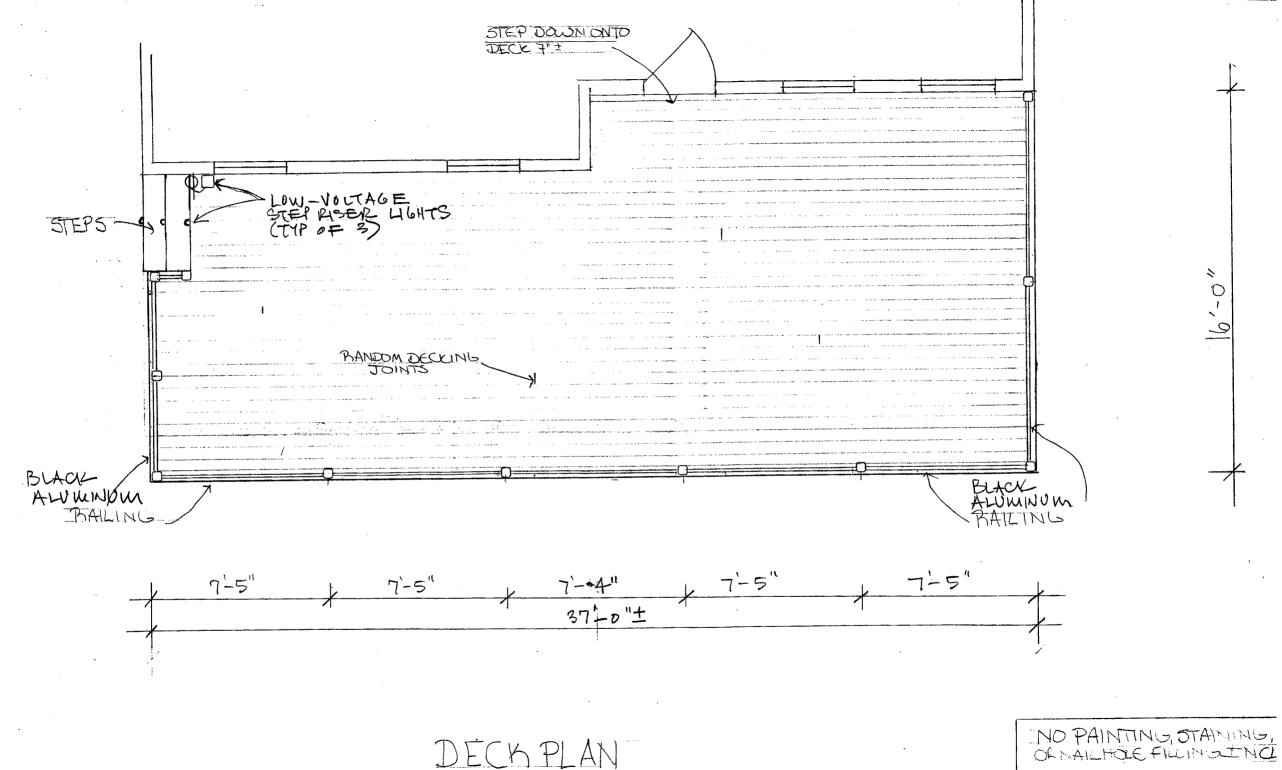


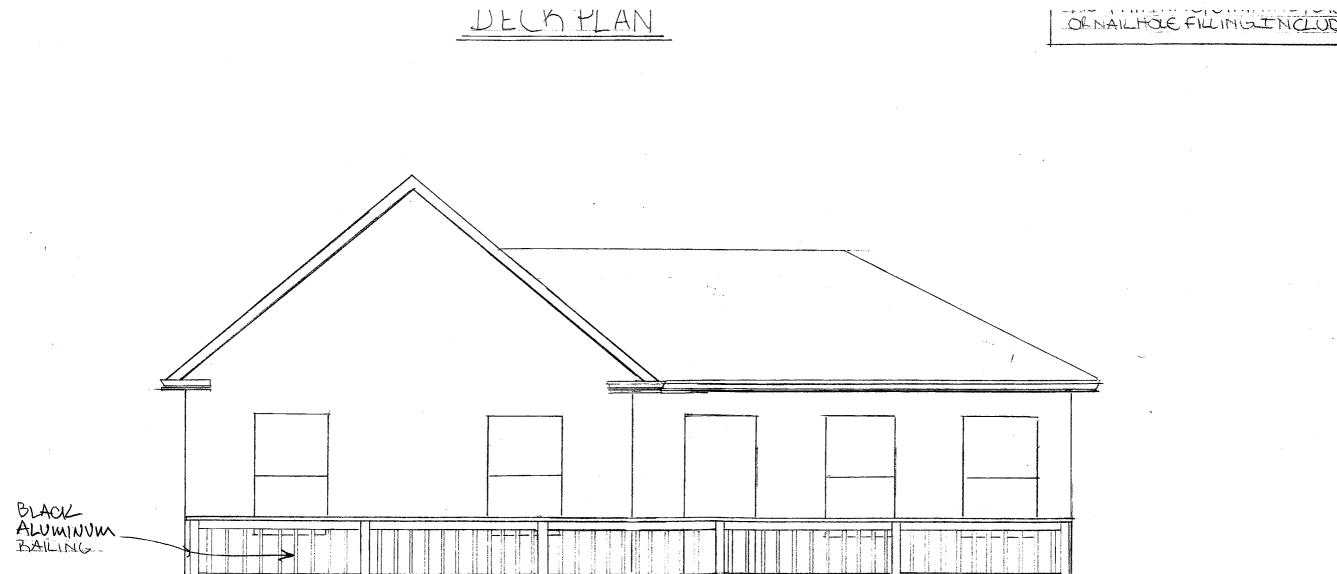


# **N** 1" = 20'

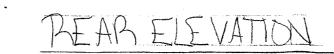
CIGNETTI, AMY / CURTIS 7831 STRAITS LANE NEW ALBANY, OH 43054 PARCEL# 222 - 004613

> SUNCRAFT CIGNETTI 23014





TXO VEBTICAL CEMENT SURTING"NO SPACES



TEP5-