



New Albany Planning Commission
Meeting Minutes - Approved
Monday, August 21, 2023

I. Call to order

The New Albany Planning Commission held a regular meeting on August 21, 2023 at the New Albany Village Hall. Chair Kirby called the meeting to order at 7:01 p.m.

II. Roll call

Those answering roll call:

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

Having four voting members present, the commission had a quorum to transact business.

Staff members present: Law Director Ben Albrecht; Engineer Josh Albright; Planner II Chris Christian; Planner Sierra Cratic-Smith; Engineering Manager Cara Denny; Deputy Clerk Christina Madriguera; Planner Chelsea Nichols.

III. Action on minutes: July 17, 2023

Chair Kirby requested that future pdf documents include bookmarks or chapters, noting that the staff reports for the cases for consideration on tonight's agenda were about 90 pages into the pdf. Bookmarks would allow for greater facility in navigating the pdf.

Chair Kirby asked whether there were any corrections to the minutes from the July 17, 2023 meeting.

Hearing none, Commissioner Briggs moved for approval of the minutes. Commissioner Larsen seconded the motion.

Upon roll call: Ms. Briggs yes; Mr. Larsen yes; Mr. Schell yes; Mr. Kirby yes. Having four votes in favor, the July 17, 2023 meeting minutes were approved as submitted.

IV. Additions or corrections to agenda

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

Planning Manager Mayer introduced Engineer Josh Albright. He explained that Josh is the newest member of the community development team and would be taking over the staffing of Planning Commission meetings for Engineering Manager Denny.

Chair Kirby administered the oath to everyone present who wished to address the commission. He further asked that everyone silence their cell phones.

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

Chair Kirby asked whether there were any visitors present who wished to address the commission for an item that was not on tonight's agenda. Hearing none, Chair Kirby called the first case for consideration.

VI. Cases:

FDP-69-2023 Final Development Plan

Final development plan to allow the construction of a 2,247 square foot Taco Bell restaurant with drive-through on 1.37 acres located at 8511 Smith's Mill Road in Licking County (PID: 093-016512).

Applicant: Kimley-Horn, c/o Evan Salyers

With Chair Kirby's permission, Planner Nichols delivered the staff report for the final development plan, FDP-69-2023, and the staff report for the two variance requests, VAR-70-2023, in the same meeting presentation.

Chair Kirby asked whether the variance request for the digital menu board sign would meet the new code standards (referring to code updates to NA C.O. Ch. 1169 permitting drive-through electronic signs which had been approved by the commission and recommended to council; council had adopted the updates to the code but they were not yet effective).

Planner Nichols answered that they would.

Chair Kirby asked for comments from engineering.

Engineering Denny delivered the engineering report.

Planner Nichols reviewed the two variances, a request to install a digital menu board and a request that the Beech Crossing side of the building not have an active and operable door.

Chair Kirby asked to hear from the applicant.

Applicant Evan Salyers representing MAS Restaurant Groups. He stated that the main thing he would add was that he felt strongly that an access drive was not necessary for this development. He noted that although the property to the west was zoned for retail use it was currently occupied by a wet-basin. The connection would serve the property to the south and he believed that connectivity could be established by other means than going through his property. He stated that the applicants would like to move forward with the site plan as submitted.

Chair Kirby asked whether Mr. Salyers had any conflict with any of the other conditions in the staff report.

Mr. Salyers answered that he did not.

Commissioner Schell asked Mr. Salyers what the applicants' hesitation was regarding the access drive.

Mr. Salyers responded that they believed that the access drive would dead-end into a wet-basin. He recounted a recent accident at Franklin Park Conservatory that resulted in a fatality after a car drove into a pond. He was concerned about safety in that area at the end of the access drive and did not want to be responsible in the event a car drove into a puddle of water.

Chair Kirby asked for other questions or comments from the commission.

Commissioner Briggs confirmed with staff the location of the wet-basin that Mr. Salyers discussed.

Commissioner Larsen asked whether that area was a wetland.

Planning Manager Mayer answered that it was not a wetland. It was a temporary stormwater basin on an adjacent property. He stated that he was not sure how the road aligned with the southern edge of the pond. The pond was temporary and could and likely would be redesigned as development continued west. The current site plan indicated the phase I master roadway and landscape plan, and at the time the phase I plan was developed staff did not know what retail would exist, but the intent was to increase road connectivity concurrent with and in preparation for development.

Commissioner Larsen asked whether this was necessary for the current development or for future development.

Planning Manager Mayer responded that the city has tried to be reasonable and compromise. He explained that the condition requires the applicant to construct part (about 2/3), but not all of the access drive (with sidewalk, curb, and drive lane), the end of which will be marked with future road signs. Regarding the end (the remaining 1/3 of the access drive not required for construction), the condition requires the applicant to grant a cross-access easement for construction if and when there is future development to the west. This plan will allow for more flexibility.

Commissioner Schell asked staff whether, coming off Smith's Mill Road was an entry or an exit.

Planner Nichols responded that it was right-in only.

Commissioner Schell continued and asked whether it was a pretty good distance, coming off of Smith's Mill Road.

Planner Nichols responded that she was not sure what the distance was but the traffic engineer reviewed it and was okay with what Taco Bell is proposing. She explained that the development standards text allows for two access points off of Beech Crossing, and under some circumstances requires a traffic analysis. This application included two access points [both along Beech Crossing], and in this case the traffic engineer determined that a traffic analysis was not necessary.

Commissioner Schell asked staff to review the traffic flow.

Planner Nichols explained the traffic flow from the right-in. As currently proposed, two loops would be required in order to proceed through the drive-through and exit.

Commissioner Schell questioned whether that was the best design for traffic flow.

Planner Nichols explained that originally the applicant proposed a plan that positioned the drive-through menu board and the start of the queuing at the front of the building. Staff worked with the applicant to redesign the site plan so that the menu board sign and queuing would be at the back of the building.

Chair Kirby asked staff to review their recommendation for the condition requiring the extension of the access road and the easement.

Planning Manager Mayer confirmed that it was indicated by the arrows on the site plan, and that the diagonal lines indicated the location of the easement (for future extension) and that the dumpsters would need to be relocated.

Chair Kirby confirmed that the private road would serve properties to the west and south.

Planning Manager Mayer answered that was correct.

Chair Kirby asked who would be on the hook for bearing the cost.

Planning Manager Mayer answered that Taco Bell would bear the cost of the extension of the access drive either now or, by agreement, later. Development of the easement portion of the access drive would be borne by either Taco Bell or the future retail developer.

Commissioner Briggs asked who owned the private road.

Planner Nichols answered that it is owned by the property owners of the adjacent lots.

Commissioner Briggs then reviewed the route that cars would take to access the drive-through and followed up on Commissioner Schell's earlier question regarding whether there were traffic back-up concerns about the left out.

Planner Nichols answered that the traffic engineer did not have concerns.

Planning Manager Mayer agreed and added that based on the distance between the two intersections, there would be concerns if this [the right-in only] was left out because of the number of lanes and the proximity to Smith's Mill Road.

Commissioner Larsen asked whether there was any change to the studies that had been done, and whether firetruck access would still work.

Planner Nichols responded that the applicant will need to submit a new turning radius exhibit at the time of permitting.

Commissioner Larsen stated it should be an additional condition since it was not shown to the commission; that firetruck turning radius must be approved.

Chair Kirby asked whether that was automatic.

Planner Nichols answered that it was typically required during the permitting process.

Planning Manager Mayer said that the city facilitates the fire department's review as part of the engineering building phases and permitting process, but it would not hurt to add it as a condition.

Commissioner Schell asked the applicant if he was willing to put in the easement.

Mr. Salyers answered yes, if required by staff.

Chair Kirby asked whether anyone from the public had any question or comment on this application.

Commissioner Larsen referenced code updates that the commission had approved and recommended to council and confirmed that the variance for the menu board was only needed because the code change had not yet taken effect.

Planner Nichols and Planning Manager Mayer confirmed that the updated code provisions had not yet taken effect, so the variance for this electronic menu board was required.

Commissioner Larsen added that the only thing missing was the language stating that wherever possible additional landscaping for screening of the menu board should be added subject to staff

approval. He stated that he would like that added as a condition and asked the applicant whether he would agree.

Mr. Salyers responded that it would be acceptable.

Chair Kirby moved for acceptance of staff reports and related documents into the record for FDP-69-2023. Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the documents motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Kirby yes; Ms. Briggs yes; Mr. Larsen yes; Mr. Schell. Having four yes votes, the staff reports and related documents were admitted into the record.

Commissioner Larsen moved for approval of application FDP-69-2023, based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, and with the following additional condition:

5. Firetruck access circulation is subject to staff approval.

Commissioner Schell seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Larsen yes; Mr. Schell yes; Mr. Kirby yes; Ms. Briggs yes. Having four yes votes the application was approved subject to staff conditions and the additional condition imposed by the commission.

VAR-70-2023 Variances

Variances to C.O. 1169.04 to allow digital drive-thru menu board signs and to Beech Crossing zoning text section II.B.1(c) to allow a second access point on a private road for Taco Bell located at 8511 Smiths Mill Road in Licking County (PID: 093-016512).

Applicant: Kimley-Horn, c/o Evan Salyers

Chair Kirby noted that the variances application accompanied the application for final development plan that was just approved and asked whether any additional discussion was needed. Hearing none, Chair Kirby moved to accept the staff reports and related documents into the record for VAR-70-2023. Commissioner Larsen seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes; Mr. Larsen yes; Mr. Schell yes; Ms. Briggs yes. Having four yes votes, the staff reports and related documents for VAR-70-2023 were admitted into the record.

Commissioner Larsen moved for approval of application VAR-70-2023, based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval and the additional condition:

4. Wherever possible landscaping screening for the menu board must be added, subject to staff approval.

Commissioner Schell confirmed with the applicant that he was okay with the conditions.

Mr. Salyers stated that he was.

Chair Kirby seconded the motion and asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Larsen yes; Mr. Kirby yes; Ms. Briggs yes; Mr. Schell yes. Having four votes in favor, the variances were approved subject to staff conditions and the additional condition imposed by the commission.

The commission wished the applicant good luck.

ZC-80-2023 Rezoning

Request to rezone 5.916 acres located at 6455 West Campus Oval in Franklin County from Office Campus District (OCD) to Infill Planned Development (I-PUD) for an area to be known as the Central College Office Zoning District (PID: 222-003104).

Applicant: Underhill & Hodge LLC, c/o Aaron Underhill Esq.

Planner Nichols delivered the staff report.

Chair Kirby asked if there were any comments from engineering.

Engineering Manager Denny responded that there were no comments.

Chair Kirby asked to hear from the applicant.

Aaron Underhill, 8000 Walton Parkway, attorney on behalf of the applicant. He stated that although he could not share the name of the end user, negotiations were underway with an end user who wanted to operate a state-of-the-art animal hospital. There were only a handful of similar facilities in the United States. He explained that the property was currently zoned as OCD and the building was new and fully constructed as a medical facility for humans, but the OCD classification did not permit usage as a medical facility for animals and for that reason they were requesting a rezoning to I- PUD. The animal hospital would have imaging, testing, and research and development. There would be no outdoor activities, and no overnight stays unless required due to surgery. He anticipated that there would be 30 – 35 veterinarian jobs and 100 employees total.

Chair Kirby remarked that it was unusual to see a 2-page I-PUD text. And he confirmed that this application proposed an OCD plus veterinary and nothing else.

Mr. Underhill responded that was correct.

Chair Kirby asked whether the commission would be reviewing a final development plan.

Mr. Underhill responded no, because there would be no exterior modifications to the building.

Chair Kirby stated that the development standard, DGR, is inherited from the OCD which matched everything around it.

Mr. Underhill responded that was correct.

Commissioner Larsen asked what the hours of operation would be.

Mr. Underhill responded that they would be typical professional office hours which maybe extended to 7:00 p.m., but there would be no 24-hour emergency care.

Commissioner Larsen asked what types of animals would be treated.

Mr. Underhill small animals, smaller pets and household animals; this would not be an equine facility.

Commissioner Larsen said, so no lions or tigers.

Mr. Underhill agreed and stated no.

Commissioner Larsen asked whether he would agree to a small animal condition, limited by weight.

Chair Kirby added or a condition specifying that no large animals would be treated.

Mr. Underhill responded that he would like the language to be general and subject to staff approval and noted that some household pets are of a substantial weight.

Council Member Brisk agreed and noted that her cat might not qualify.

Commissioner Schell asked what kind of signage was anticipated.

Mr. Underhill responded that although signage had not been discussed he thought signage would conform with whatever code would allow.

Commissioner Schell asked what the timing of the build-out would be.

Matt Robinson, contractor on behalf of the developer approached the lectern. He stated that the end-user's purchase of the property was underway and that the build-out would be completed in seven to nine months, likely in the third quarter of 2024. He continued that no exterior modifications were needed because the building was originally constructed as a medical facility.

Commissioner Briggs asked about parking, traffic flow, and the access drive.

Mr. Robinson indicated the curb cut that was added on Central College Road. He also pointed out the parking field, connectivity, the entrances, the common drive aisles, and exits. He reiterated that it was designed as a 45,000 square-foot medical facility for humans with ample parking and suitable ingress and egress to accommodate that use, so use as a veterinary medical facility would not exceed the capacity of the current design.

Chair Kirby asked whether there was anyone from the public who had any question or comment.

Commissioner Schell confirmed the condition mentioned earlier regarding the size of the animals to be treated.

Chair Kirby noted that "large animals" was a term of art.

Commissioner Larsen and Chair Kirby agreed it would be no large animals.

Planning Manager Mayer agreed and stated no large animals, subject to staff approval.

Chair Kirby moved for acceptance of staff reports and related documents into the record for VAR-73-2023. Commissioner Schell seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Kirby yes; Mr. Schell yes; Ms. Briggs yes; Mr. Larsen yes. Having four yes votes, the staff reports and related documents were admitted into the record.

Commissioner Schell moved for approval of application ZC-80-2023 based on the findings in the staff report and subject to one condition:

That there be no large animals as patients.

Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Schell yes; Ms. Briggs yes; Mr. Larsen yes; Mr. Kirby yes. Having four yes votes, the application was approved subject to the condition.

The commission wished the applicant good luck.

VAR-73-2023 Variance

Variance to C.O. 1165.04(b)(1) to allow a pergola to be aluminum metal at 9160 McClellan Drive (PID: 222-003776-00).

Applicant: Natasha Jones

Planner Cratic-Smith delivered the staff report.

Chair Kirby asked for the reason that the city does not permit metal to be used for the columns, or was this baked into the zoning text.

Planning Manager Mayer responded that the general development standards contain a prohibition on the use of metal accessory structures, except for use of metal for roofs. At the time the standard was drafted it was uncommon to see structures with metal columns. There has been a recent uptick in requests for use of metal columns such as this. He continued that, candidly when the recent code update was proposed staff did not consider these metal columns but moving forward staff will consider these for inclusion in a future code update.

Chair Kirby asked whether a code update would apply to the neighbors.

Planning Manager Mayer said yes, a code update would apply to the whole City of New Albany, unless superseded by a PUD text.

Kirby continued that that was the point he was trying to reach whether Tidewater had a PUD text that prohibited this use, because in that case a code update would not apply to Tidewater residences.

Planning Manager Mayer responded that Tidewater had a PUD text and he believed that the text was silent on the use of materials for pergolas, and when the text is silent the city code [by default] would apply.

Chair Kirby added that this sounds like an area where the code needed a modest tweak in the code, it seemed as if it was really metal-sided structures were the object of the prohibition, and asked whether the city was contemplating a code update.

Council Member Brisk stated that this was the first case she had heard about and that the council was not contemplating this issue as of yet.

Planning Manager Mayer stated that staff will take the lead on gathering information and crafting a language for review by the commission at a future meeting.

Chair Kirby encouraged this and noted that this variance did not meet criteria required – that it would grant one landowner something that others do not have, and the special circumstances do not result from the actions of the applicant. He asked whether the applicant was available.

Planning Manager Mayer reiterated that a code update would apply to the whole city unless there was a superseding HOA, or PUD text.

Chair Kirby agreed and noted that NACO ARC text is particularly tight. He then asked the applicant whether she would agree that the variance would go away if the code was updated to permit this.

Applicant, Natasha Jones, stated that she would agree. She stated that the Tidewater HOA approved the visuals for the pergola it was just an oversight once the pool was in place to do the permit. They just wanted it to be aesthetically pleasing

Council Member Brisk asked the applicant to confirm that the HOA was supportive of keeping the pergola up once approved.

Ms. Jones stated that they were.

A member of the audience stated that that was not true.

Council Member Brisk stated that if there was someone else, they needed to come to the microphone.

Anupreet Kumar applicant and the property owner, approached the lectern. She stated she did not know she needed to submit a separate application for it. The pergola was submitted with the landscaping plan. She stated that when the pergola was constructed she did not know that metal was prohibited. She stated that there were many emails with the HOA about the pergola, the location of the pergola, but there was no discussion on the prohibition of the use of metal.

Commissioner Schell asked whether there was a contractor that built this pergola.

Ms. Kumar said no, that the pergola was purchased from Sam's Club and installed by an installer.

Council Member Brisk asked whether the HOA had taken a position on it since.

Ms. Kumar answered no, they have not.

Council Member Brisk asked Planning Manager Mayer whether he had looked at the HOA regulations.

Planning Manager Mayer answered that city staff had not and it was not staff's practice.

Council Member Brisk said, ok we don't know whether this is a violation of HOA regulations. We don't take a position on that.

Chair Kirby asked if there was anyone present who wished to speak on this application.

Samantha Rufo, 9175 Lee Hall Court, President of the Tidewater HOA. She stated that this variance should not be approved. It is in violation of the HOA rules, which are available on the HOA website. She stated that the pergola was denied by the HOA due to lack of documentation, and she had the documents indicating the denial. She asked whether the commission would like a copy of the documents.

Chair Kirby answered yes, the commission would like the documents for inclusion in the record and staff could copy the documents.

Ms. Rufo continued that when the permit request was filed it showed an umbrella. At no time has this structure been approved. She recounted each of the applications that had been filed by this property owner and restated that the HOA has not approved any metal-post pergolas. HOA rules state that pergolas must be wooden posts the same as the house and must not have full-roof coverage.

Commission Member Briggs confirmed the location of the basketball hoop.

Ms. Rufo said that it was a corner house so technically it was on the side of the house but was visible from the street. Pergolas had been approved in Tidewater but they complied with the HOA guidelines which required the columns to be wood which is the same color as the house and that they should not have a full-coverage roof. She continued that at no time was this structure approved. The goals of the HOA are to promote consistency and to protect property values.

Commission Member Schell stated that pergolas were allowed in the Tidewater community but they had to follow the HOA guidelines.

Ms. Rufo stated that was correct, pergolas are allowed but the posts must be wood the same color as the house and they must not have a full-coverage roof. The HOA pergola rules mirrored the city's rules. The HOA considers this structure a gazebo.

Council Member Brisk clarified that it would not matter what the commission does, the HOA opposes this construction.

Planning Manager Mayer agreed, and noted that as part of the city permitting process they advise applicants that relevant HOA limitation text would supersede the city's approval.

Commissioner Schell then remarked to Ms. Kumar that the commission's approval of this variance would not help her.

Ms. Kumar apologized and remarked that she was surprised because she has not been contacted. She stated that the pool was completed in May, that it has been in use for three months and this is the first time she has heard from the HOA. She thought she was seeking city approval. She apologized and also questioned the usefulness of process.

Council Member Brisk acknowledged Ms. Kumar's frustration. She stated that Ms. Kumar was correct, she was seeking city approval. Unfortunately, city approval would not help her in this situation with the HOA. The commission's authority was limited to deciding about a variance from a city rule.

Chair Kirby asked whether the structure was bolted down or whether it had a foundation.

Ms. Kumar answered that it was just bolted down and was not on a foundation.

Ms. Rufo added that part of the reason for the delay was that a modification document for the pergola was not submitted. If that was submitted, the HOA would have guided them.

Commission Member Schell confirmed that in the event an application for the pergola had been submitted, it would have been denied.

Ms. Rufo answered yes.

Council Member Brisk remarked to staff, putting the HOA issues aside, that it sounded like staff was heading down the road of asking council to change the city code to permit these metal posts.

Planning Manager Mayer remarked the city did not know all of the HOA rules, but when staff begins to see an uptick in variance requests they will typically investigate and workshop an issue to determine whether to recommend a code change to commission and then to council.

Chair Kirby stated that if staff does request code changes, please consider tree spacing that is tighter. Tighter tree spacing was consistently on his list of ideas for improvement of our code. He recalled that the commission had recently imposed a condition for tighter tree spacing on an application, and further noted that New Albany has a better practice than most areas.

Commissioner Larsen asked whether a denial by the commission at this meeting would prevent the applicant from asking for this in the future.

Planning Manager Mayer responded that the code permits reconsideration within 60-days and there are criteria for reconsideration or a new variance.

Law Director Albrecht agreed and added that beyond the reconsideration period, if an applicant was able to secure HOA approval and file a new application the commission could consider it.

Chair Kirby remarked however, that if the applicant filed the same application, with nothing new, it would not be considered. It would not make the agenda.

Law Director Albrecht agreed, if a new application is filed with no new facts, it could not be considered.

Chair Kirby asked whether there were any other questions or comments on the application.

Chair Kirby made a motion to accept the staff reports and related documents including the documents submitted by Ms. Rufo into the record for VAR-73-2023. Commissioner Schell seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes; Mr. Schell yes; Ms. Briggs yes; Mr. Larsen yes. Having four yes votes, the documents including the documents submitted by Ms. Rufo were admitted into the record.

Chair Kirby moved for approval of VAR-73-2023 based on the findings in the staff report. Commissioner Schell seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby no; Mr. Schell no; Ms. Briggs no; Mr. Larsen no. Having four no votes, the application VAR-73-2023 failed.

The commissioners provided the following rationales for their no votes:

Chair Kirby explained that a better fix would be a code update which would make this moot; in the criteria, after hearing the testimony of the HOA he could not find #10 because this was the result of the action of the applicant, and he could not find # 3, regarding the character of the neighborhood. The HOA is the best representation of the neighborhood. He further concluded that this could be solved by other means, like using a wood pergola.

Commissioner Schell explained that stated there is no permit to allow the pergola, the pergola was constructed using the wrong material, and he did not want to set this kind of precedent.

Commissioner Larsen agreed and further explained that this application conflicted with criteria # 10 because this was the result of an action of the applicant; and based on the testimony of the HOA, granting this variance would conflict with #11, because it would grant the owner a special benefit not granted to others.

Chair Kirby added that he agreed that he agreed with Commissioner Larsen regarding #11.

Commissioner Briggs concurred with all of the reasons stated by the other commissioners.

VII. Other business

Chair Kirby asked if there was any further business before the commission.

Staff answered there was not.

VIII. Poll members for comment

Chair Kirby asked if the members had any comments.

Hearing none, Chair Kirby adjourned the meeting.

IX. Adjournment

The August 21, 2023 Planning Commission meeting was adjourned at 8:07 p.m.

Submitted by: Deputy Clerk Christina Madriguera, Esq.

Record of Action
VAR-70-2023
Staff Report
Record of Action
ZC-80-2023
Staff Report
Record of Action
VAR-73-2023
Staff Report
Documents submitted by Ms. Rufo, President of Tidewater HOA
Record of Action



**Planning Commission Staff Report
August 21, 2023 Meeting**

**TACO BELL
FINAL DEVELOPMENT PLAN**

LOCATION: 8511 Smiths Mill Road (PID: 093-016512)
APPLICANT: Kimley-Horn, c/o Evan Salyers
REQUEST: Final Development Plan
ZONING: Beech Crossing I-PUD
STRATEGIC PLAN: Retail
APPLICATION: FDP-69-2023

Review based on: Application materials received July 27, 2023.

Staff report prepared by Chelsea Nichols, Planner

I. REQUEST AND BACKGROUND

The application is for a final development plan for a proposed Taco Bell located at the southwest corner of Smith's Mill Road and Beech Crossing. The development includes a dine in restaurant with a drive-thru.

The property in question is zoned I-PUD and is located within the Beech Crossing Zoning District. The proposed use (Taco Bell with drive-thru) is permitted as a carry-out food and beverage establishment with drive-through facility.

The applicant is also applying for two variances related to this final development plan under application VAR-70-2023. Information and evaluation of the variance requests are under a separate staff report.

This site is located within the Beech Crossing zoning district which was reviewed and approved by the Planning Commission on January 22, 2020 (ZC-102-2019).

II. SITE DESCRIPTION & USE

The site is generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road. The site is 1.37 acres and is currently undeveloped. This is the third proposed development for this zoning district. The Planning Commission approved a final development plan application for Duke and Ditches in this zoning district on October 20, 2020 and an application for Holiday Inn Express in this zoning district on February 19, 2020.

III. EVALUATION

Staff's review is based on New Albany plans and studies, zoning text, and zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text. Planning Commission's review authority is found under Chapter 1159.

The Commission should consider, at a minimum, the following (per Section 1159.08):

- 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/Rocky Fork-Blacklick Accord 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 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).*

It is also important to evaluate the PUD portion based on the purpose and intent. Per Section 1159.02, PUD's are intended to:

- a. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- b. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- c. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*
- d. *Result in a desirable environment with more amenities than would be possible through the strict application of the minimum commitment to standards of a standard zoning district;*
- e. *Provide for an efficient use of land, and public resources, resulting in co-location of harmonious uses to share facilities and services and a logical network of utilities and streets, thereby lowering public and private development costs;*
- f. *Foster the safe, efficient and economic use of land, transportation, public facilities and services;*
- g. *Encourage concentrated land use patterns which decrease the length of automobile travel, encourage public transportation, allow trip consolidation and encourage pedestrian circulation between land uses;*
- h. *Enhance the appearance of the land through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space in excess of existing standards;*
- i. *Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;*
- j. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- k. *Provide an environment of stable character compatible with surrounding areas; and*

1. *Provide for innovations in land development, especially for affordable housing and infill development.*

Engage New Albany Strategic Plan Recommendations

The Engage New Albany strategic plan recommends the following development standards for the Retail future land use category:

1. Parking areas should promote pedestrians by including walkways and landscaping to enhance visual aspects of the development.
2. Combined curb cuts and cross access easements are encouraged.
3. Curb cuts on primary streets should be minimized and well-organized connections should be created within and between all retail establishments.
4. Combined curb cuts and cross-access easements between parking areas are preferred between individual buildings.
5. Retail building entrances should connect with the pedestrian network and promote connectivity through the site.
6. Integrate outdoor spaces for food related businesses.

A. Use, Site and Layout

1. The applicant proposes to develop a 2,247 sq. ft. Taco Bell restaurant with a drive-thru. The existing total site size is 1.37-acres. The proposed development is in an appropriate location given its proximity to the New Albany Business Park and State Route 161.
2. The Beech Crossing I-PUD zoning text places a limitation on total acreage that can be utilized for retail uses in the Beech Road / Smith's Mill Road area. The intent is to limit retail development to a maximum of 92 acres in this general area. Once 92 acres have been developed with retail uses found in the C-3 and GE zoning districts, the remainder of the land from all of these subareas can only allow non-retail General Employment (GE) zoning district uses listed in their respective zoning texts. This 1.37-acre development is subject to this overall 92-acre retail limitation.
3. The development site is accessed by a private road which was reviewed and approved by the Planning Commission on October 21, 2019 (FDP-72-2019). This private road, Beech Crossing, was constructed by another private developer and includes street trees and a sidewalk along the road.
4. According to zoning text section C(1), the applicant is required to install leisure trail along Smiths Mill Road. The site plan meets this standard by providing an 8' wide leisure trail within the front yard of the lot along Smiths Mill Road
5. Per zoning text section C(4,) the applicant is required to connect into the existing pedestrian circulation system. The applicant is meeting this requirement by providing a direct connection into the sidewalk along the outparcel access road, Beech Crossing.
6. The zoning text requires that the total lot coverage, which includes all areas of pavement and building, to not exceed 80% of the total area. The proposed development is at 48.9% lot coverage thereby meeting this requirement.
7. The PUD zoning text requires the following setbacks from these perimeter boundaries:
 - a. Smiths Mill Road:
 - i. Required minimum: 75-foot building and 55-foot pavement
 - ii. Proposed: 60+/- foot pavement and 99.8+/- foot building setback [requirement met]
 - b. Internal Parcel Boundaries (western and southern property lines):
 - i. Required minimum: 10-foot building and pavement setback
 - ii. Proposed (western property line): 27.5-foot pavement and 97.5-foot building setback [requirement met]
 - iii. Proposed (southern property line): 22+/- feet pavement and 109.7-foot building setback [requirement met]
 - c. Outparcel Access Road (Beech Crossing):
 - i. Required minimum: 15-foot building and pavement setback
 - ii. Proposed: 26.4+/- foot pavement and 81.4+/- foot building setback [requirement met]

B. Access, Loading, Parking

1. The site is proposed to be accessed from two curb cuts along Beech Crossing.
 - a. The applicant proposes one full access point near the southeast corner of the property and one right-in only near that northeast corner of the property.
 - b. Per Beech Crossing zoning text requirement II.B.1(c) states that as part of a final development plan approval, two vehicular access points along the Outparcel Access Road/Beech Crossing may be permitted for any outparcel with side and rear boundary lines that are contiguous to the Outparcel Access Road, subject to approval of the City Engineer and if supported by a traffic analysis provided by the applicant. The City Engineer may waive the obligation for this traffic analysis. The city's traffic engineer has reviewed the request for a second access point. They are supportive of allowing the second right-in only access point and has waived the obligation of the traffic analysis.
2. Codified Ordinance 1167.05(d)(4) requires a minimum of one parking space for every 75 square feet of restaurant floor area space. The building is 2,247 square feet in size therefore 30 parking spaces are required. The applicant is providing 30 parking spaces.
3. Additionally, the city parking code requires a minimum number of stacking spaces in the drive thru lane must be provided. The required number of drive-thru stacking spaces must equal 25% of the total required parking spaces for the drive-through tenant space. Based on this calculation, 8 stacking spaces must be provided and the applicant is meeting this requirement by providing 8.
4. Per C.O. 1167.03(a), the minimum parking space dimensions required are 9 feet wide and 19 feet long. The applicant is meeting this requirement.
5. Per C.O. 1167.03(a), the minimum maneuvering lane width size is 22 feet for this development type. The applicant is meeting this requirement.
6. The city's design consultant reviewed the proposal and provided the following comments. Staff recommends a condition of approval that the design consultant's comments are addressed, subject to staff approval.
 - a. One of the comments is to revise the site plan to provide a partial private street extension and cross access easement along the remainder of the rear of the property to allow for a future road connection if and when future develop to the west occurs.
 - i. The Engage New Albany strategic plan recommends combined curb cuts and cross access easements as development standards for retail uses. The strategic plan also recommends curb cuts on primary streets be minimized and well-organized connections be created within and between all retail establishments.
 - ii. The property to the west is zoned to allow for additional retail uses. Historically, retail users have extended the private street within this area in conformance with the strategic plan recommendations. An example is the Holiday Inn Express which had to extend the road at the time of their development.
 - iii. Staff recommends a condition of approval that the site plan be revised to accommodate and include an extension of the 24-foot-wide private drive, adjusting the location of the curb cut to it aligns with the existing private road, relocating the dumpster, proving sidewalk, and providing a cross access easement. The city staff recommends the final design be subject to staff approval.

C. Architectural Standards

1. The purpose of the New Albany Design Guidelines and Requirements is to help ensure that the New Albany community enjoys the highest possible quality of architectural design. The zoning text contains architectural standards and the site also falls under the Section 6 of the Design Guidelines and Requirements: Commercial Outside Village Center.

2. The zoning text states that buildings with this use shall be a minimum of one story and a maximum of two stories in height and this requirement is being met as the restaurant is a one-story building.
3. The primary building material for the restaurant is brick, which is a permitted building material in the zoning text.
4. Zoning text section E.4(b) states that all rooftop mechanical units must be screened to limit off site visibility and sound. The applicant meets this requirement through the use of a parapet wall on all four sides of the building.
5. DGR Section 6(I)(A)(4) states that the number, location, spacing and shapes of window openings shall be carefully considered, particularly for buildings in retail use and shall impart a sense of human scale. The applicant meets this requirement.
6. DGR Section 6(I)(A)(6) states that all visible elevations of a building must receive similar treatments in style, materials and design so that no visible side is of a lesser character than any other. The applicant is meeting this requirement by using the same materials on all building elevations.
7. DGR Section 6(I)(A)(12) states that buildings shall have active and operable front doors along all public and private streets. The restaurant fronts onto Smiths Mill Road and to the north and Beech Crossing to the east. The building is designed with an active and operable front door along Smiths Mill Road but there is no door on the east facing Beech Crossing. The second active and operable front door is along the west facing side, which is an internal parcel boundary. The building has been designed with the drive-thru window on the east side/private road side in order to allow for the menu board and stacking for the drive-thru to happen to the rear of the building as opposed to the front of the building. The applicant requests a variance, under application VAR-70-2-23, to eliminate this requirement for the east elevation of the building. This variance request is evaluated under a separate staff report.
8. C.O. 1171.05(b) states that all trash and garbage container systems must be screened, not be located in front yards, and meet the minimum required pavement setbacks. All of these requirements are met as the applicant proposes to install a dumpster enclosure in the rear of the lot. It meets the minimum pavement setback and is completely screened with a dumpster enclosure and landscaping.

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

1. Per Beech Crossing zoning text requirements G(a) and G(3)(a), a four-board horse fence is required to be installed along Smiths Mill Road. This requirement is met.
2. Per zoning text requirement (G)(3)(b)(i), a minimum of 6 trees per 100 lineal feet must be installed within the required setback area along Smiths Mill. The applicant is exceeding this requirement by providing 13 trees along their 182+/- feet of frontage along Beech Road.
3. Per zoning text requirement G(3)(c), a minimum 3.5-foot-tall landscape buffer must be provided to screen parking areas along all public rights of way. The proposed landscape plan shows that a 3.5-foot-tall landscape buffer installed along the parking areas that are along public rights of way, therefore this requirement is being met.
4. Per zoning text requirement G(3)(d), a landscape buffer is required to be installed within the required setback of any interior side parcel line and shall consist of a ten-foot landscape buffer with grass and landscaping and deciduous trees planted at a rate of 4 trees for every 100 feet of side property line and deciduous shrubs must be planted under the trees. The applicant is required and proposes to install these 11 trees and shrubs along the west side within the 10-foot setback. Therefore, this requirement is being met.
5. Per zoning text requirement G(7), a minimum of one tree for every 10 parking spaces is required and at least 5 percent of the vehicular use area shall be landscaped. The applicant is providing 30 parking spaces, and exceeding this requirement by providing 6 trees. 5% of the total parking area is landscaped. This requirement is being met.
6. Per zoning text requirement G(8), a master landscape plan shall be completed as part of the first final development plan that is submitted for a property located west of the previously approved "Outparcel Access Road"/the existing Beech Crossing. This

landscape plan is subject to the review and approval of the city landscape architect. The current property owner, the New Albany Company, has submitted the plan and it has been approved by the city landscape architect. The landscape standards established along the south side of Smiths Mill in front of the outlots and the east side of the access road continues west in front of Taco Bell. If additional outlots are developed west of Taco Bell, the same landscape standard must be continued.

E. Lighting & Signage

1. Section II(H)(1) of the zoning text requires all parking lot light poles to be downcast and use cut-off type fixtures in order to minimize light spilling beyond the boundaries of the site. Site lighting proposed of the site matches the existing Duke and Duchess site with the development and meets the requirements. In addition, a detailed photometric plan was submitted showing that there will be no light spillage from this site.
2. Section II(H)(3) states that all parking lot poles within the entire zoning district shall be black or New Albany Green, be constructed of metal and not exceed 30 feet in height. The applicant is proposing to use the same black metal poles that are installed at the existing Duke and Duchess site within the development. However, it is not clear at this time what the proposed height of the light poles are to be. Staff recommends a condition of approval that all parking lot light poles not exceed 30 feet in height and are subject to staff approval at the time of permitting.
3. As part of this final development plan application, the applicant has submitted a sign plan for the site. As part of that sign plan, the applicant proposes to install a drive-thru menu board signs at the rear of the site which is permitted per C.O. 1169.11(c). However, the menu board sign is proposed to be digital. Currently, C.O. 1169.04 prohibits digital menu board signs. The applicant has applied for variance to allow the digital menu board signage under application VAR-70-2023. Information and evaluation of the variance request is under a separate staff report. However, staff recommends a condition of approval that all other sign details be subject to staff approval and must meet code requirements. Any additional variances needed, other than what is included in application VAR-70-2023, must be heard by the Planning Commission at a later date in the future.
4. The applicant proposes to install two wall signs, one on the eastern building elevation and one on the north elevation.
5. The applicant proposes to install one monument sign at the northeast corner of the site along Smiths Mill Road.

Wall Signs

The zoning text and C.O. 1169.15(d) permits a wall sign on each building frontage either on a public or private road, with 1 square foot in area per linear square foot of building frontage, not to exceed 50 square feet. The applicant proposes two wall signs to be installed on the northern and eastern building elevations each with the following dimensions:

Smiths Mill Northern Elevation Wall Sign:

- a. Lettering Height: 14 inches [meets code]
- b. Area: 25 square feet [meets code]
- c. Location: northern elevation facing Smiths Mill Road
- d. Lighting: external lighting [meets code]
- e. Relief: 1 inch [meets code]
- f. Colors: white (total of 1 color) [meets code]
- g. Material: aluminum [meets code]

The wall sign reads “Taco Bell” with the two words stacked and feature the company logo on top.

Beech Crossing Eastern Elevation Wall Sign:

- h.* Lettering Height: No Letter, Logo only [meets code]
- i.* Area: 22 square feet [meets code]
- j.* Location: eastern elevation facing Beech Crossing
- k.* Lighting: external lighting [meets code]
- l.* Relief: 1 inch [meets code]
- m.* Colors: white (total of 1 color) [meets code]
- n.* Material: aluminum [meets code]

The wall sign features the company logo.

- DGR Section 6(II)(A)(8) states that signage for this building type shall be as simple and unobtrusive as possible and shall avoid overly bright or jarring colors. The applicant is proposing two wall signs that are appropriately scaled for the building and are appropriate for this area given the desired development type.

Ground Mounted Signs

The applicant proposes to install one monument sign at the northeast corner of the site along Smiths Mill Road. Monument signage along Smiths Mill Road is intended to match the existing sign plan for the retail within the neighbor Canini Trust Corp development along US-62. The proposed sign meets those standards as proposed. The signs feature the company logo and read “Taco Bell.”

IV. ENGINEER’S COMMENTS

The City Engineer has reviewed the application and provided the following comments. These comments can also be found in a separate memo attached to this staff report. Staff recommends a condition of approval that the comments of the city engineer are addressed, subject to staff approval.

1. Engineering staff will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

V. SUMMARY

The proposal meets many of the goals of the Engage New Albany Strategic Plan such as providing pedestrian access along roadways and into the site, as well as utilizing high quality building materials that are consistent with other buildings in the immediate area. The proposed development is in an appropriate location given the context of the surrounding area and serves as an amenity for the New Albany Business Park.

V. ACTION

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

Move to approve final development plan application FDP-60-2020, subject to the following conditions:

1. The city’s design consultant’s comment shall be addressed as part of permitted, subject to staff approval:
 - a. Provide an access easement along the rear of the property that allows for a potential road connection if and when future develop to the west occurs. Adjust the entry drive and dumper location to accommodate.
 - b. The site plan is revised to accommodate recommended development standards from the Engage New Albany Strategic Plan. Revisions must include an extension of the 24-foot-wide private drive, adjusting curb cut location to align

with existing road, relocating the dumpster, providing sidewalk, and providing a cross access easement. The final drive design is subject to staff approval

2. All parking lot light poles shall not exceed 30 feet in height and are subject to staff approval at the time of permitting.
3. The applicant has applied for variances related to signage under application VAR-70-2023. All other sign details are subject to staff approval at the time of permitting and must meet code requirements. Any additional variances needed, other than what is included in application VAR-70-2023, must be heard by the Planning Commission at a later date in the future; and
4. The city engineer comments must be addressed, subject to staff approval.

Approximate Site Location



Source: ArcGIS



Community Development Department

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

Dear Kimley-Horn,

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

Wednesday, August 23, 2023

The New Albany Planning Commission took the following action on 08/21/2023 .

Final Development Plan

Location: 8511 Smiths Mill Road

Applicant: Kimley-Horn, c/o Evan Salyers

Application: PLFDP20230069

Request: Final development plan to allow the construction of a 2,247 square foot Taco Bell restaurant with drive-through on 1.37 acres located at 8511 Smiths Mill Road in Licking County.

Motion: Motion of approval for application FDP-69-2023 based on the findings in the staff report with conditions, subject to staff approval.

Commission Vote: Motion Approved with Conditions, 4-0

Result: Final Development Plan, PLFDP20230069 was Approval with Conditions, by a vote of 4-0.

Recorded in the Official Journal this August 23, 2023

Condition(s) of Approval: See attached - page 3 of this document.

Staff Certification:

Chelsea Nichols
Planner

1. The city's design consultant's comment shall be addressed as part of permitted, subject to staff approval:
 - a. Provide an access easement along the rear of the property that allows for a potential road connection if and when future develop to the west occurs. Adjust the entry drive and dumper location to accommodate.
 - b. The site plan is revised to accommodate recommended development standards from the Engage New Albany Strategic Plan. Revisions must include an extension of the 24-foot-wide private drive, adjusting curb cut location to align with existing road, relocating the dumpster, providing sidewalk, and providing a cross access easement. The final drive design is subject to staff approval
2. All parking lot light poles shall not exceed 30 feet in height and are subject to staff approval at the time of permitting.
3. The applicant has applied for variances related to signage under application VAR-70-2023. All other sign details are subject to staff approval at the time of permitting and must meet code requirements. Any additional variances needed, other than what is included in application VAR-70-2023, must be heard by the Planning Commission at a later date in the future;
4. The city engineer comments must be addressed, subject to staff approval; and
5. The applicant shall submit an updated fire truck turning radius at the time of permitting.



**Planning Commission Staff Report
August 21, 2023 Meeting**

**TACO BELL
VARIANCES**

LOCATION: 8511 Smiths Mill Road (PID: 093-016512)
APPLICANT: Kimley-Horn, c/o Evan Salyers
REQUEST: (A) Variance to C.O. 1169.04 to allow a digital menu board sign where code prohibits digital/electronic signs.
(B) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Beech Crossing private road building elevation.

ZONING: Beech Crossing I-PUD
STRATEGIC PLAN: Retail
APPLICATION: VAR-70-2023

Review based on: Application materials received August 10, 2023.

Staff report prepared by Chelsea Nichols, Planner

I. REQUEST AND BACKGROUND

This application is for variances related to a final development plan for a proposed Taco Bell located at the southwest corner of Smith's Mill Road and Beech Crossing within the Beech Crossing development. The development includes a dine in restaurant with a drive-thru.

The applicant requests the following variances:

- (A) Variance to C.O. 1169.04 to allow digital menu board sign where code prohibits digital/electronic signs.
(B) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Beech Crossing private road building elevation.

II. SITE DESCRIPTION & USE

The site is generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road. The site is 1.37 acres and is currently undeveloped. This is the third proposed development for this zoning district. The Planning Commission approved a final development plan application for Duke and Duchess in this zoning district on October 20, 2020 and an application for Holiday Inn Express in this zoning district on February 19, 2020.

III. EVALUATION

The application complies with the 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 sign 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 a digital menu board sign to be used on the site, therefore a variance is required.
2. An update to C.O. Chapter 1169 (Display Signs and Outdoor Advertising) to permit and establish regulations for electronic drive-thru menu board signs was approved by New Albany City Council on August 15, 2023. The city staff prepared these changes at the direction of the Planning Commission and City Council, as multiple variances have been requested and approved to allow the installation of electronic drive-thru menu board signs. The proposed code amendment permits the use of electronic menu board signs and includes additional regulations that are consistent with those approved by the Planning Commission. The proposed code changes were reviewed and recommended for approval by the Planning Commission by a vote of 5-0 at their July 17, 2023 meeting. This code

update will not be in effective until September 15, 2023. Therefore, any current requests for an electronic menu board sign still require a variance.

3. The Planning Commission approved the same variance request for other restaurants with drive-thrus such as Popeyes, Dunkin Donuts, and Wendy's. These restaurants are located in a similar nearby development, Canini Trust Corp. All three 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.
4. The Popeyes and Wendy's variance approvals also includes a condition that an automatic brightness dimmer is installed to ensure the menu sign is not overly bright.
5. The placement of the digital menu board sign is directed away from public roads and the heavy landscape buffer requirements provides additional screening from off-site view.
6. The proposed menu board sign is 25 square feet (code permits 32 square feet).
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.

(B) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that buildings have operable and active front doors along all public and private roads.

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

1. The applicant is requesting a variance to eliminate the requirement that buildings have operable and active front doors along all public and private roads. The building has two frontages, one along Beech Crossing and one along Smiths Mill. As proposed, the commercial building will have an entrance along the Smiths Mill elevation and along the

west facing side elevation facing an internal parcel boundary (1/2 elevations are meeting the requirement). The elevation with no active door is along the side of the building and is adjacent to Beech Crossing, which is a private drive and referred to as the Outparcel Access Drive in the zoning text.

2. As required by the zoning text, the building is designed with the same caliber of finish on all sides of the building using the same building materials.
3. The variance appears to preserve the “spirit and intent” of the zoning requirement. The intent of this requirement is to ensure that buildings maintain a presence on the street and not contain blank or “empty” building elevations so there is architectural vibrancy and interest on all sides of a building which is crucial in pedestrian oriented development. This site and the overall Beech Crossing developments are auto-oriented by design, therefore it does not appear that maintaining an entrance on every street is as important in this development scenario along a private, secondary road. All sides of the building are designed with the same caliber of finish using the same building materials so none of the elevations appear as a “lesser” side of the building.
4. The building has been designed with the drive-thru window on the east side/Beech Crossing (private road side) in order to allow for the menu board and stacking for the drive-thru to happen to the rear of the building as opposed to the front of the building.
5. While there isn’t an active and operable door along the private road elevation, the applicant is providing strong architectural features and materials so the building adequately addresses the primary street (Smiths Mill) architecturally. The building is designed so the front door architectural elements such as the awning and retail storefront windows front Smiths Mill. The Smiths Mill elevation of this building makes the entrance to the building easily identifiable.
6. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted. This same variance request has been granted for other developments including the nearby Canini Trust Corp development.
7. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

II. SUMMARY

Due to the auto-oriented nature of this zoning district, providing active and operable front doors on every elevation does not appear to be necessary, and the applicant is still providing a high-quality designed building. 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 nearby Canini Trust Corp and Walton-62 zoning districts for Popeyes, Dunkin Donuts and Wendy’s. 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, which are listed as recommended conditions of approval, 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 (The Planning Commission can make one motion for all variances or separate motions for each variance request):

Move to approve application VAR-70-2023 with 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; and
3. An automatic brightness dimmer is installed to ensure the menu sign is not overly bright;

Approximate Site Location:



Source: ArcGIS



Community Development Department

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

Dear Kimley-Horn,

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

Wednesday, August 23, 2023

The New Albany Planning Commission took the following action on 08/21/2023 .

Variance

Location: 8511 Smiths Mill Road

Applicant: Kimley-Horn, c/o Evan Salyers

Application: PLVARI20230070

Request: Variances to C.O. 1169.04 to allow digital drive-thru menu board signs and to Beech Crossing zoning text section II.B.1(c) to allow a second access point on a private road for Taco Bell located at 8511 Smiths Mill Road in Licking County.

Motion: Motion of approval for application VAR-70-2023, based on the findings in the staff report, with conditions, subject to staff approval.

Commission Vote: Motion Approved with Conditions

Result: Variance, PLVARI20230070 was Approved with Conditions, by a vote of 4-0.

Recorded in the Official Journal this August 23, 2023

Condition(s) of Approval:

See attached, page 3 of this document.

Staff Certification:

Chelsea Nichols
Planner

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; and
4. Wherever possible, additional landscape screening for the menu board must be added, subject to staff approval.



**Planning Commission Staff Report
August 21, 2023 Meeting**

**CENTRAL COLLEGE OFFICE ZONING DISTRICT
ZONING AMENDMENT**

LOCATION: Located at 6455 West Campus Oval for an area to be known as Central College Office Zoning District (PID: 222-003104).
REQUEST: Zoning Amendment
ZONING: OCD (Office Campus District)
STRATEGIC PLAN: Employment Center
APPLICATION: ZC-80-2023
APPLICANT: NDA Ohio LLC, c/o Aaron Underhill, Esq.

Review based on: Application materials received July 17, 2023 and August 3, 2023.

Staff report completed by Chelsea Nichols, Planner

I. REQUEST AND BACKGROUND

The applicant requests review for the rezoning of 5.916+/- acres. The request proposes to create a new zoning text for the area known as the “Central College Office Zoning District” by zoning the area to Infill Planned Unit Development (I-PUD) from Office Campus District (OCD). The Rocky Fork-Blacklick Accord is scheduled to reviewed the application on August 17, 2023. The application is solely for adding uses the property. The site is already developed and there are no proposed changes to the development standards.

The proposed zoning districts allows for the existing uses found in the City of New Albany’s general Office Campus District (OCD) and it also allows for veterinary offices, veterinary hospitals, and research & development uses associated with veterinary office and/or veterinary hospital uses. Unless otherwise specified in the zoning text, the standards and requirements of Chapter 1144, OCD (Office Campus District) shall apply to this proposed zoning district. Therefore, it is consistent with surrounding zoning requirements.

II. SITE DESCRIPTION & USE

The site is currently located within an existing office development known as The Business Campus at New Albany. The site is one of five lots within the office development located within Franklin County. The site is located at the northwest corner of Central College Road and New Albany Road E.

The property is developed with an office building consisting of 46,080+/- gross square feet of floor area, which is currently unoccupied. The property owner has received interest from a company that would bring a state-of-the-art veterinary hospital as the sole occupant of the recently constructed office building. The neighboring uses and zoning districts include OCD zoned land in the existing business park to the north, east and west. Properties across the street (Central College Road) to south are located within the city of Columbus.

III. PLAN REVIEW

The Planning Commission’s review authority of the zoning amendment application is found under C.O. Chapters 1107.02. Upon review of the proposed amendment to the zoning map, the Commission is to make recommendation to city council. The 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 underlined text.

Per Codified Ordinance Chapter 1111.06 in deciding on the change, the Planning Commission shall consider, among other things, the following elements of the case:

- (a) Adjacent land use.
- (b) The relationship of topography to the use intended or to its implications.
- (c) Access, traffic flow.
- (d) Adjacent zoning.
- (e) The correctness of the application for the type of change requested.
- (f) The relationship of the use requested to the public health, safety, or general welfare.
- (g) The relationship of the area requested to the area to be used.
- (h) The impact of the proposed use on the local school district(s).

A. Engage New Albany Strategic Plan

The 2020 Engage New Albany strategic plan designates the area as the Employment Center future land use category. The strategic plan lists the following development standards for the Employment Center land use category:

- 1. No freeway/pole signs are allowed.
- 2. Heavy landscaping is necessary to buffer these uses from adjacent residential areas.
- 3. Plan office buildings within context of the area, not just the site, including building heights within development parcels.
- 4. Sites with multiple buildings should be well organized and clustered if possible.
- 5. All office developments are encouraged to employ shared parking or be designed to accommodate it.
- 6. All office developments should plan for regional stormwater management.
- 7. All associated mechanical operations should be concealed from the public right-of-way and screened architecturally or with landscaping in an appealing manner.
- 8. Any periphery security should integrate with the landscape and maintain and enhance the character of road corridor.
- 9. Combined curb cuts and cross-access easements are encouraged.
- 10. The use of materials, colors, and texture to break up large-scale facades is required.

B. Use, Site and Layout

- 1. The site is located within the Engage New Albany Strategic Plan's Employment Center future land use district. The site is currently zoned Office Campus District (OCD). Veterinary hospitals are not listed as permitted or conditional uses in the OCD. The purpose of this rezoning of the property to an I-PUD classification is to allow for this use, in addition to those in the OCD classification, The change in use for the area enables the continued success of the New Albany International Business Park.
- 2. The proposed use is consistent with the zoning in the surrounding area. Due to the proximity of this to State Route 161, and its location adjacent to OCD zoned land in the existing business park (to the north, and east and west), the site is appropriate for office and commercial development.
- 3. The proposed zoning text permits the following uses (new uses in *italics*):
 - Office
 - *Veterinary offices*
 - *Veterinary hospitals (not including facilities for outside boarding or exercising of animals),*
 - *Research and development use associated with veterinary office and/or veterinary hospitals*
 - Religious exercise facilities
 - Temporary parking lots
 - Park-and-ride facility
 - Data centers.

- Other uses permitted in the building where the primary use in the building is an office, when such use is clearly incidental to and located within the same building as the primary permitted use, including:
 - Drug store
 - Deli/restaurant/food service
 - Office supply service
 - Travel agent personal services
 - Newsstand
 - Health and fitness center
 - Training facility
 - Storage facilities
 - Day care facilities.

All of these non-veterinary uses are already permitted on this site with the current zoning classification. The rezoning only introduces veterinary offices, veterinary hospitals (not including facilities for outside boarding or exercising of animals), and research and development uses associated with veterinary office and/or veterinary hospitals as new uses.

4. The proposed zoning text includes limitations on veterinary office and animal hospital uses. The following limitations shall apply to veterinary and animal hospital uses:
 - No outdoor activities: No exercising of animals shall be permitted outside of a fully enclosed primary (not accessory) structure.
 - No boarding: No overnight boarding of animals of any animal daycare uses shall be permitted, except that overnight boarding of animals within a fully enclosed structure shall be permitted for the sole purpose of allowing an animal to recover from medical procedure or to undergo treatment of a health condition.
5. Conditional uses include those listed in C.O. 1144.03 (OCD). This is not a change from the existing zoning designation. Such conditional uses include drive-through facilities to be developed in association with a permitted use, research and development, hotels, limited educational institutions, and miscellaneous accessory uses when the primary use of the building is permitted.

C. Access, Loading, Parking

1. Parking and loading must be provided per code requirements (Chapter 1167) and will be evaluated at the time of development for each individual site.
2. The rezoning proposal is solely for adding uses to the site and does not modify any exterior development standards.

D. Architectural Standards

1. The rezoning proposal is solely for adding uses to the site and does not modify any exterior development standards.

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

1. The rezoning proposal is solely for rezoning the site adding uses to the site and does not modify any exterior development standards.

F. Lighting & Signage

1. No signage is proposed at this time. All signage shall conform to the standards set forth in Chapter 1169 of the Codified Ordinances of the City of New Albany.
2. The rezoning proposal is solely for adding uses to the site and does not modify any exterior development standards.

D. Other Considerations

1. The property owner has submitted a school impact statement which indicates the rezoning merely provides a change in use for the existing building and does allow for

residential development. By permitting the zoning change, it results in no new financial burdens on New Albany Plain Local School District and continues to provide an opportunity for new revenue sources.

2. Should the property owner propose any exterior changes in the future, for anything to the building or parking lot, the applicant will need to apply to modify the final development plan and it would be reviewed by the Planning Commission at that time.

IV. ENGINEER'S COMMENTS

The City Engineer has no comments on this submittal.

IV. SUMMARY

It appears that the proposed zoning text meets the use recommendations found in the Engage New Albany Strategic Plan. The application is solely for rezoning the site. No exterior site development standard modifications result from the proposed rezoning. The property has recently been developed within an office building, which is currently unoccupied. The existing zoning does not allow for exterior facilities for outside boarding or exercising of animals in order to ensure it continues to look and feel like a traditional office building in the business park.

Due to the proximity of this to State Route 161, and its location adjacent to OCD zoned land in the existing business park (to the north, and east and west), the site is appropriate for office and commercial development.

V. ACTION

Suggested Motion for ZC-80-2023:

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 ZC-80-2023 based on the findings in the staff report.

Approximate Site Location:



Source: ArcGIS



**Planning Commission Staff Report
August 21, 2023 Meeting**

**9160 MCCLELLAN DRIVE
PERGOLA MATERIAL VARIANCE**

LOCATION: 9160 McClellan Drive (PID: 222-003776)
APPLICANT: Natasha Jones
REQUEST: Variance to allow a pergola to be constructed of metal material.
ZONING: I-PUD (Planned Unit Development District)
STRATEGIC PLAN: Residential
APPLICATION: VAR-73-2023

Review based on: Application materials received on July 7, 2023.

Staff report prepared by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to allow a pergola material to be an aluminum metal where city code ordinance Chapter 1165.04(b)(1) prohibits metal material for recreational amenities.

II. SITE DESCRIPTION & USE

The property measures at 0.35 acres in size and contains a single-family home. This property is located within the Tidewater subdivision and is zoned residential I-PUD. The Tidewater subdivision is located east of US Route 62 (Johnstown Road) and north of Central College Road.

III. ASSESMENT

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. In accordance with C.O. 1113.05(b), all property owners within 200 feet of the subject property in question have been notified of the request via mail.

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

A variance to allow a pergola material to be an aluminum metal where codified ordinance chapter 1165.04(b)(1) prohibits metal material for recreational amenities.

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

1. The applicant requests a variance to allow the pergola column material to be aluminum metal where city code prohibits metal material for recreational amenities except on roofs. The applicant requests to use a black aluminum for the pergola’s columns.
2. The pergola is fully constructed. The variance request is to allow the pergola to remain in its existing form and location. During a zoning final inspection for a pool, it was discovered that the pergola was built without a permit.
3. The variance does not appear to alter the character of the neighborhood considering the surrounding landscape and general area of the lot. The home is generally located in a corner of the subdivision with the pergola located in the rear yard so there is no visibility from the public street. In addition, there is currently arborvitae landscape along all sides of the pergola. This buffer prevents any visibility of the pergola and pool. Also, a reserve is located behind the arborvitae which provides additional buffering.
4. The variance does not appear to be substantial since the proposed black aluminum is a very popular material in New Albany for fencing material. In addition, the metal is a matte finish and is not the typical metallic shiny color so it appears to be appropriate in design. Also, the columns will be covered by a fabric curtain leaving the roof as the only visible material. Otherwise, this pergola meets all other code requirements.
5. Granting the variances 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.
6. Approving the variances will not adversely affect the delivery of government services.

IV. SUMMARY

This variance is not significant because it is not visible to the public and has limited visibility from neighbors because of the layers of screening including: landscaping, a reserve, and the addition of
PC 23 0821 9160 McClellan Drive Pergola Material Staff Report V-73-2023

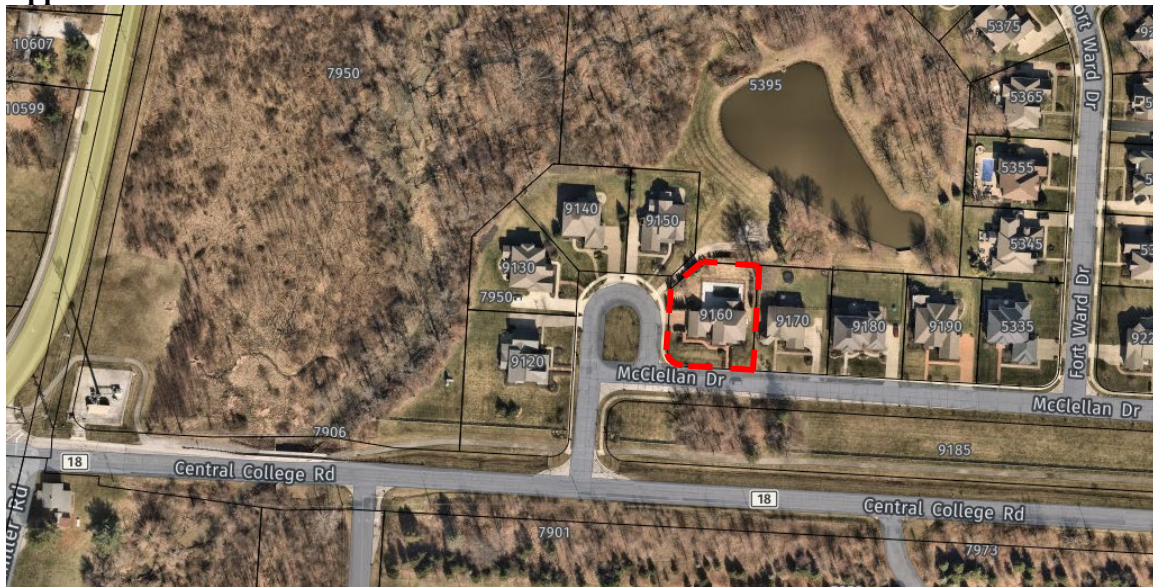
fabric curtains. In addition, the black aluminum material is a very popular material used in New Albany because it lacks shine and blends/fades into the background. The spirit and intent of the material regulation is to ensure metallic and shiny metals are not utilized since it they would clash with the character of the community and materials used on the primary structure. This pergola material and color is extensively used for fencing in this subdivision and throughout New Albany. Therefore, the proposed pergola material appears suitable for the home without disrupting the character of the neighborhood.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for disapproval, finding the following motion is appropriate.

Move to approve application VAR-73-2023 based on the findings in the staff report (conditions of approval may be added).

Approximate Site Location:



Source: NearMap



Community Development Department

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

Dear Mr & Mrs Kumar

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

Thursday, August 24, 2023

The New Albany Planning Commission took the following action on 07/17/2023 .

Variance

Location: 9160 MCCLELLAN DR

Applicant: Natasha Jones

Application: PLVARI20230073

Request: To allow a pergola material to be an aluminum metal where city code ordinance Chapter 1165.04(b)(1) prohibits metal material for recreational amenities.

Motion: To approve

Commission Vote: Motion Denied, 0, 5

Result: Variance, PLVARI20230073 was Denied, by a vote of 0, 5.

Recorded in the Official Journal this August 24, 2023

Condition(s) of Approval: N/A

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith
Planner

TIDEWATER ARCHITECTURAL REVIEW COMMITTEE

APPLICATION FOR ALTERATION/MODIFICATION

Your Alteration/Modification application must be submitted and APPROVED before you begin your project. Please check your Tidewater Governing Documents for specifics and note that any alterations/modifications must be approved by your Association. This review and approval process applies to all exterior modifications, alterations, or enhancements to the existing home or property.

We cannot approve any application submitted without adequate information and it will be returned without review and approval. Please complete the following information with checklist and submit this form in PDF or other electronic format by email to tidewaterhoa@gmail.com or mail to Tidewater HOA, PO Box 340, New Albany, OH 43054

NAME ASHISH KUMAR DAYTIME PHONE 203 917 9821 / 203 715 1541
 ADDRESS 9160 McClellan Dr, New Albany, OH 43054
 EMAIL anupreetkaur1@yahoo.com PLAT# 5

TYPE OF ALTERATION/MODIFICATION (S) REQUESTED:

In ground pool installation in backyard with concrete patio + Driveway repair and basketball hoop install.
 Estimated completion date for project(s): SEPTEMBER 2022

Date Request Received <u>July 26, 2022</u> - <u>Completed paperwork</u>	
Date Request Approved / Denied: <u>July 26, 2022</u>	
Alteration/Modification (has) [has not] been approved (as submitted) [subject to conditions noted below].	
Note(s): <u>Approved - Pool & Patio & driveway repair with the City of New Albany approval.</u>	
<u>Basketball hoop denied - no documentation - resubmit separately</u>	
Signature of Association Director, Agent, or Committee Officer	<u>[Signature]</u>
Title: <u>President</u>	Date: <u>7/26/22</u>

Be sure to read the governing documents for Tidewater and complete the attached checklist before you submit your application for approval. Any application that deviates from the approved plans will be inspected by the Association for compliance. Please allow at least 30 days for reviews to be completed.

Upon approval, an official notice will be sent to you for your records and a copy will be kept in our files. If your plan is not approved, you will be notified in writing and what conditions, if any, must be met to obtain approval. After you have received your approval from the Association, contact the appropriate New Albany agency receive any permitting required. New Albany may require an approval letter from the Association and a site plan depicting your improvement on your lot/home.

Coordinating with Neighbors - Before submitting your information, the Architectural Review Board requests that you carefully consider any potential impacts that your improvements will have on your neighbors.

Compliance & Violations - Failing to make a submission for approval or starting any project prior to obtaining approval could result in fines and fees along with the requirement to submit the required documents.

- A \$500 compliance violation fee may be assessed to any structural improvement that increases the footprint of the dwelling, including, but not limited to, home additions, patios, and outdoor kitchens without prior approval.
- A \$500 compliance violation fee may also be assessed for roof, siding, window or other structural replacements without prior approval.
- A \$50 compliance violation fee may be assessed to any other type of improvement without prior approval.

TIDEWATER ARCHITECTURAL REVIEW COMMITTEE

APPLICATION FOR ALTERATION/MODIFICATION

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We cannot approve any application submitted without adequate information and it will be returned without review and approval. Please complete the following information with checklist and submit this form in PDF or other electronic format by email to tidewaterhoa@gmail.com or mail to Tidewater HOA, PO Box 340, New Albany, OH 43054

NAME ASHISH KUMAR DAYTIME PHONE 203 715 1541
ADDRESS 9160 McClellan Dr
EMAIL Ashishvkumare@yahoo.com PLAT# 5

TYPE OF ALTERATION/MODIFICATION (S) REQUESTED:

Installing inground basketball hoop in the driveway. Details are attached.

Estimated completion date for project(s): 09/30/22

Date Request Received	<u>8/15/22</u>
Date Request <u>Approved</u> / Denied:	
Alteration/Modification <u>(has)</u> [has not] been approved [as submitted] [subject to conditions noted below].	
Note(s):	<u>City of New Albany permits/approval</u>
Signature of Association Director, Agent, or Committee Officer <u>[Signature]</u>	
Title: <u>President</u>	Date: <u>8/24/22</u>

Be sure to read the governing documents for Tidewater and complete the attached checklist before you submit your application for approval. Any application that deviates from the approved plans will be inspected by the Association for compliance. **Please allow at least 30 days for reviews to be completed.**

Upon approval, an official notice will be sent to you for your records and a copy will be kept in our files. If your plan is not approved, you will be notified in writing and what conditions, if any, must be met to obtain approval. After you have received your approval from the Association, contact the appropriate New Albany agency receive any permitting required. New Albany may require an approval letter from the Association and a site plan depicting your improvement on your lot/home.

Coordinating with Neighbors - Before submitting your information, the Architectural Review Board requests that you carefully consider any potential impacts that your improvements will have on your neighbors.

Compliance & Violations - Failing to make a submission for approval or starting any project prior to obtaining approval could result in fines and fees along with the requirement to submit the required documents.

- A \$500 compliance violation fee may be assessed to any structural improvement that increases the footprint of the dwelling, including, but not limited to, home additions, patios, and outdoor kitchens without prior approval.
- A \$500 compliance violation fee may also be assessed for roof, siding, window or other structural replacements without prior approval.
- A \$50 compliance violation fee may be assessed to any other type of improvement without prior approval.



TIDEWATER ARCHITECTURAL REVIEW COMMITTEE

APPLICATION FOR ALTERATION/MODIFICATION

Your Alteration/Modification application must be submitted and APPROVED before you begin your project. Please check your Tidewater Governing Documents for specifics and note that any alterations/modifications must be approved by your Association. This review and approval process applies to all exterior modifications, alterations, or enhancements to the existing home or property.

We cannot approve any application submitted without adequate information and it will be returned without review and approval. Please complete the following information with checklist and submit this form in PDF or other electronic format by email to tidewaterhoa@gmail.com or mail to Tidewater HOA, PO Box 340, New Albany, OH 43054

NAME Ashish Kumar DAYTIME PHONE 203 7151541
ADDRESS 9160 Mocklley Dr, New Albany, OH 43054
EMAIL Ashishvkumar@yahoo.com PLAT# 5

TYPE OF ALTERATION/MODIFICATION (S) REQUESTED:

Request for modification: Fence to be installed 2 feet inside the
boundaryline instead of around the poles shown in the drawing. updated brick
Estimated completion date for project(s): 01/30/23 Pattern on the
driveway.

Date Request Received	<u>Dec 12, 2022</u>
Date Request Approved / Denied:	<u>Jan 3, 2023</u>
Alteration/Modification [has] [has not] been approved [as submitted] [subject to conditions noted below].	
Note(s):	<u>Per Declaration of Covenants (see additional info)</u> <u>The fence is too close to the street.</u> <u>No images submitted for driveway, needed to approve.</u>
Signature of Association Director, Agent, or Committee Officer	<u>[Signature]</u>
Title:	<u>President</u>
Date	<u>1/3/23</u>

Be sure to read the governing documents for Tidewater and complete the attached checklist before you submit your application for approval. Any application that deviates from the approved plans will be inspected by the Association for compliance. Please allow at least 30 days for reviews to be completed.

Upon approval, an official notice will be sent to you for your records and a copy will be kept in our files. If your plan is not approved, you will be notified in writing and what conditions, if any, must be met to obtain approval. After you have received your approval from the Association, contact the appropriate New Albany agency receive any permitting required. New Albany may require an approval letter from the Association and a site plan depicting your improvement on your lot/home.

Coordinating with Neighbors - Before submitting your information, the Architectural Review Board requests that you carefully consider any potential impacts that your improvements will have on your neighbors.

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- A \$500 compliance violation fee may be assessed to any structural improvement that increases the footprint of the dwelling, including, but not limited to, home additions, patios, and outdoor kitchens without prior approval.
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- A \$50 compliance violation fee may be assessed to any other type of improvement without prior approval.

TIDEWATER ARCHITECTURAL REVIEW COMMITTEE

APPLICATION FOR ALTERATION/MODIFICATION

Your Alteration/Modification application must be submitted and APPROVED before you begin your project. Please check your Tidewater Governing Documents for specifics and note that any alterations/modifications must be approved by your Association. This review and approval process applies to all exterior modifications, alterations, or enhancements to the existing home or property.

We cannot approve any application submitted without adequate information and it will be returned without review and approval. Please complete the following information with checklist and submit this form in PDF or other electronic format by email to tidewaterhoa@gmail.com or mail to Tidewater HOA, PO Box 340, New Albany, OH 43054

NAME LORI FRANCISCO BOTKINS DAYTIME PHONE 614.402.1775
ADDRESS 9160 MCCLELLAN DR. NEW ALBANY
EMAIL LBOTKINS@OAKLAND PLAT# 108
NURGERT.COM

TYPE OF ALTERATION/MODIFICATION (S) REQUESTED:

REPLACEMENT OF EXISTING TREES, ADDITION OF TREES AND
SHRUBS FOR SCREENING

Estimated completion date for project(s): SPRING 2023

Date Request Received	<u>12/1/22</u>
Date Request Approved / Denied:	<u>2/15/23</u>
Alteration/Modification <u>[has]</u> <u>[has not]</u> been approved <u>[as submitted]</u> [subject to conditions noted below].	
Note(s): <u>Approved to replace and/or enhance the landscaping disrupted by the pool install.</u>	
Signature of Association Director, Agent, or Committee Officer <u>Samantha Rufo</u> <i>Sam Rufo</i>	
Title: <u>President</u>	Date <u>2/15/23</u>

Be sure to read the governing documents for Tidewater and complete the attached checklist before you submit your application for approval. Any application that deviates from the approved plans will be inspected by the Association for compliance. **Please allow at least 30 days for reviews to be completed.**

Upon approval, an official notice will be sent to you for your records and a copy will be kept in our files. If your plan is not approved, you will be notified in writing and what conditions, if any, must be met to obtain approval. After you have received your approval from the Association, contact the appropriate New Albany agency receive any permitting required. New Albany may require an approval letter from the Association and a site plan depicting your improvement on your lot/home.

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Compliance & Violations - Failing to make a submission for approval or starting any project prior to obtaining approval could result in fines and fees along with the requirement to submit the required documents.

- A \$500 compliance violation fee may be assessed to any structural improvement that increases the footprint of the dwelling, including, but not limited to, home additions, patios, and outdoor kitchens without prior approval.
- A \$500 compliance violation fee may also be assessed for roof, siding, window or other structural replacements without prior approval.
- A \$50 compliance violation fee may be assessed to any other type of improvement without prior approval.

NONSTRUCTURAL IMPROVEMENTS

Prior Tidewater Architectural Review Committee (TARC) approval must be obtained for any and all proposed exterior nonstructural improvements to your home and/or property, including but not limited to the items below.

Fencing

No fences or walls may be constructed on any part of a Lot unless prior written approval is obtained by the TARC. Details of fence restrictions are available in our **TIDEWATER AT NEW ALBANY DECLARATION OF COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS, ASSESSMENT LIENS AND TIDEWATER HOMEOWNER'S ASSOCIATION** document on page 7. Also, an Amendment to the same, recorded February 8, 2018.

1. No fence shall be constructed in excess of sixty (60") above finished grade.
2. Fencing is required for pools.
3. Dog runs and animal enclosures are not permitted.

Trellises

/ Pergola - Sunlight thru wood slatted roof

1. Trellises must be approved for materials, paint colors, design, and location.
2. The TARC retains the right to determine whether maintenance is needed due to significant discoloration, fading, peeling or flaking.

Gazebos

Gazebos in yards are not permitted.

*Roof offers full complete cover
(Full coverage from the sun)*

Auxiliary Buildings & Storage

Auxiliary buildings including, but not limited to, storage sheds, doghouses and greenhouses, are not permitted.

Equipment Storage

Storage of all maintenance equipment shall be within garages or storage structures. Such items should not be visible from streets, common open space, adjacent lots, or adjacent developments.

Storage Standards

Ancillary Structures: All exterior structures shall be attached to the main structure of the home or its garage by walls, fences or hedges. Structures will be one story and shall be constructed of the same materials of the home. Architectural Approval by the Association Board is required.

Fuel Storage

No fuel storage facility or tank shall be allowed on any part of a Lot unless located below the surface of the ground or within the confines of the dwelling.

Clothes Lines

No clothes lines or clothes hanging devices shall be permitted.

Temporary Residence

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence or storage unit, either temporarily or permanently.

Vehicle Storage/Parking

No trucks, trailers, commercial vehicles, boats, campers, recreational vehicle or similar type vehicles shall be parked or stored for a period of more than 48 hours in a 30-day period on any Lot unless the same are in a garage or other vehicle enclosure and out of view. No un-drivable vehicles or parts of vehicles may be stored outside.

Antennas

No radio antenna, television antenna, or other antenna shall be attached or affixed in any way to the exterior of any house, or garage, any part of any fence, pole or structure, or any tree, bush or other living thing. One satellite dish receptor not exceeding two (2) feet in diameter and placed only behind the Lot's building set back line may be affixed to house or garage; if located on the Lot and not attached to the house or garage, it must be shielded and landscaped from public view and view of neighboring homes and yards.

Front Post Lights

All exterior front post lights are required to be working and illuminated each day from dusk to dawn on each lot located in the Tidewater at New Albany subdivision. This rule will be enforced with routine inspections and penalties assessed in line with current Enforcement Policies that can be modified from time to time. It is the responsibility of the homeowner to maintain all posts, fixtures and light bulbs.

Signs

No sign of any kind shall be displayed to public view on any Lot except one professional sign which conforms with the existing Zoning Regulations of the Village of New Albany, Franklin County, Ohio and is approved by the Committee. The TARC retains the right to determine what signs are of appropriate size, condition, and location, as well as what constitutes a reasonable period of time for displaying a sign, on a case by case basis.

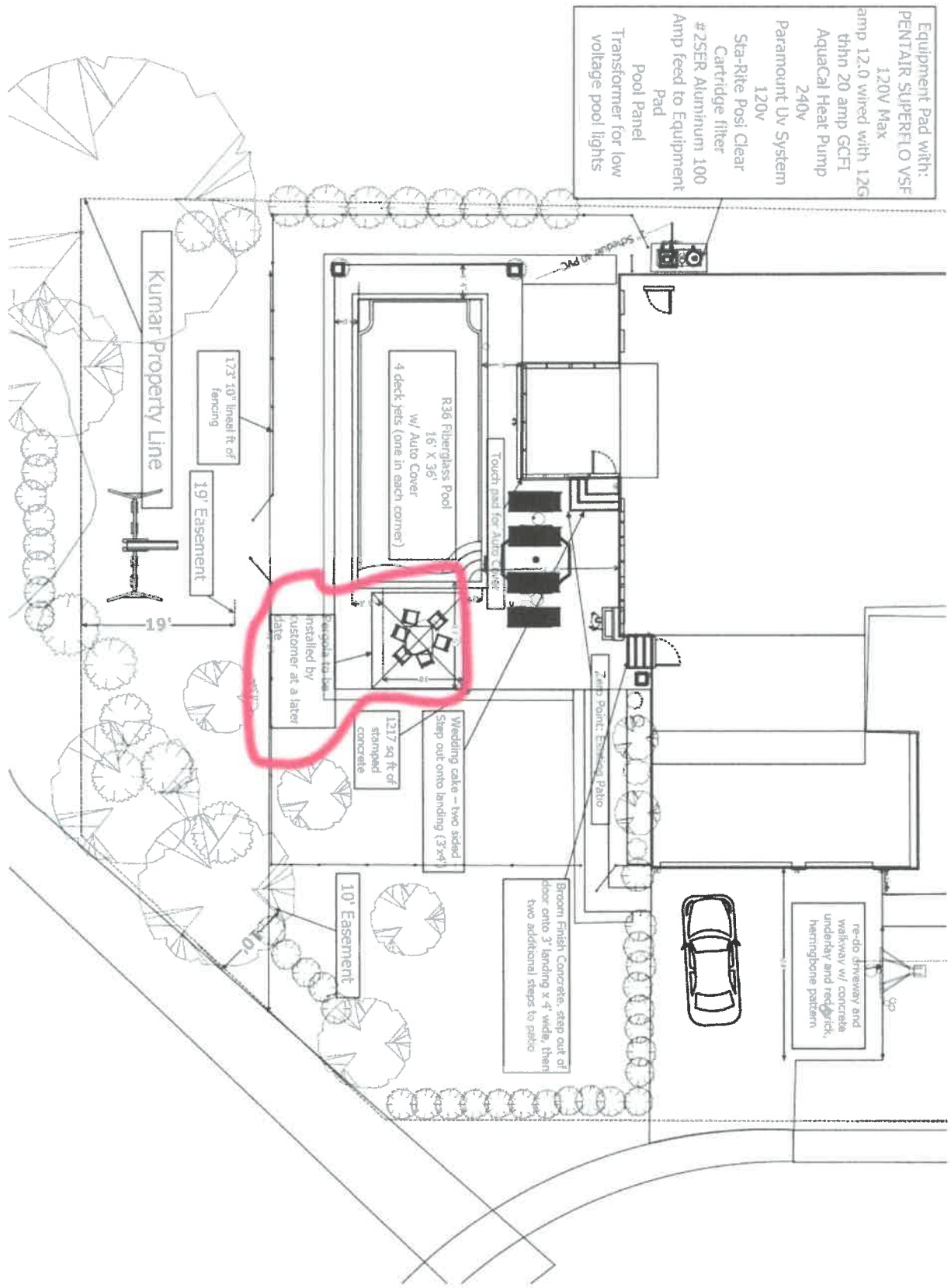
Installation of real estate and for sale by owner signage must adhere to the following:

1. One sign regulated by the City of New Albany, advertising the property for sale shall be displayed to the public view on any lot. The standard color treatment for all builder and realtor signs is New Albany Blue with White lettering.
 1. Main Sign Panel Size: 30" x 40"
 2. Riders (small panels) Size: 30" x 9"
 3. Post with Finial Size: 4" x 96"
2. Not be leaning or crooked

Enforcement Policy

- A. Notwithstanding anything contained in these Rules, the Board has the right to proceed, immediately or otherwise, with legal action for any violation of the Declaration, Bylaws, or Rules ("Governing Documents") as the HOA Board, in its sole discretion may determine. The entire cost of effectuating a legal remedy to impose compliance, including court costs and attorneys' fees, will be assessed to the account of the responsible owner.
- B. The owner is responsible for any violation of the Governing Documents by the owner, or the guests, or occupants, including tenants, of the owner's home.
- C. All costs, stemming from any violation, including enforcement assessments, cleaning, repairs, or removal, will be charged to the responsible owner's account.
- D. In addition to any other action and if applicable, in accordance with the procedure adopted by the Board, the Board may: a) levy an enforcement for damages and/or cleaning of the common elements or other property, or b) levy an enforcement assessment per occurrence or if the violation is continuous and ongoing in nature, levy an enforcement per day, or c) levy an enforcement assessment for the approximate cost to physically remove the violation. For any violation of the Governing Documents that is continuous and uninterrupted for a period of more than 24 hours, each calendar day that the violation continues without interruption constitutes a new and separate violation.
- E. Prior to the imposition of an enforcement assessment for a violation, the following procedure will be followed.
 - 1. Written notice(s) will be served upon the alleged responsible owner specifying:
 - a. A description of the property damage or violation; and
 - b. The amount of the proposed charge (or, if unknown, a reasonable estimate of the proposed charge) or enforcement assessment; and
 - c. A statement that the owner has a right to, and the procedures to request a hearing before the Board to contest the proposed charge or enforcement assessment; and
 - d. If applicable, a reasonable date by which the owner must cure the violation to avoid the proposed charge or assessment.
 - 2. To request a hearing, the owner must mail or deliver a written "Request for Hearing" notice, which must be received by the Board not later than the tenth day after receiving the notice required by Item 1 above. Notices can be emailed to tidewaterhoa@gmail.com.
 - a. If an owner timely requests a hearing, at least seven days prior to the hearing the Board will provide the owner with a written notice that includes the date, time, and location of the hearing. If the owner fails to make a timely request for a hearing, the right to that hearing is waived, and the enforcement assessment will be immediately imposed; and
 - b. At the hearing, the Board and alleged responsible owner have the right to present any evidence. This hearing will be held in Executive Session and proof of hearing, evidence of written notice to the owner to abate action, and intent to impose an enforcement assessment will become a part of the hearing minutes. Within 30 calendar days of the hearing, the owner will be sent written notice of the Board's decision.
 - c. In the event of an enforcement assessment hearing, or court hearing, copies of complaints and the complaining part identity will be made available to the alleged violator.
 - 3. The Association may file a lien for any enforcement that remains unpaid for more than 10 days.

Equipment Pad with:
PENTAIR SUPERFLO VSF
120V Max
amp 12.0 wired with 12G
thin 20 amp GCFI
AquaCal Heat Pump
240v
Paramount UV System
120v
Sta-Rite Posi Clear
Cartridge filter
#25ER Aluminum 100
Amp feed to Equipment
Pad
Pool Panel
Transformer for low
voltage pool lights





Community Development Department

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

Dear Aaron Underhill,

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, August 22, 2023

The New Albany Planning Commission took the following action on 08/21/2023 .

Zoning Amendment

Location: 6455 West Campus Oval

Applicant: Aaron Underhill, Eqs.

Application: PLZC20230080

Request: Request to rezone 5.916 acres located at 6455 West Campus Oval in Franklin County from OCD to I-PUD for an area to be known as the Central College Office Zoning District

Motion: To recommend approval of ZC-80-2023 based on the finds in the staff report with one condition, subject to staff approval.

Commission Vote: Motion Approval Recommended, 4-0

Result: Zoning Amendment, PLZC20230080 was Approved, by a vote of 4-0.

Recorded in the Official Journal this Tuesday, August 22, 2023.

Condition(s) of Approval:

1. There shall be no large animals as patients.

Staff Certification:

Chelsea Nichols

Chelsea Nichols
Planner