



**New Albany Planning Commission**

**Meeting Minutes**

**Wednesday, February 22, 2023 Regular Meeting**

**I. Call to order**

The New Albany Planning Commission met in regular session on February 22, 2023 in the Council Chambers at New Albany Village Hall, 99 W. Main Street. The meeting was called to order at 7:01 p.m. by Vice-Chair Wallace.

**II. Roll call**

Those answering roll call:

Mr. Kirby, Chair	absent
Mr. Wallace, Vice-Chair	present
Ms. Briggs	present
Mr. Larsen	present
Mr. Schell	present
Council Member Brisk	present

Council Member Brisk was present for roll call, however Deputy Clerk Madriguera inadvertently omitted calling her name.

With 4 members present a quorum was reached.

Staff members present: Chelsea Nichols, Planner; Steve Mayer, Planning Manager; Anna van der Zwaag, Planner; Will Walther, Engineer; Benjamin Albrecht, Law Director; Christina Madriguera, Deputy Clerk.

**III. Action on minutes**

Vice-Chair Wallace asked if there were any additions or corrections to the minutes from the December 19, 2022 meeting.

Hearing none, Vice-Chair Wallace asked if there was a motion on the minutes.

Commission Member Larsen moved for approval of the minutes. The motion was seconded by Commission Member Briggs.

Upon roll call: Mr. Larsen, yes; Ms. Briggs, yes; Mr. Wallace, yes; Mr. Schell, yes. Having 4 yes votes the minutes of the December 19, 2022 meeting were approved as submitted.

**IV. Additions or corrections to agenda**

Vice-Chair Wallace asked if there were any additions or corrections to the agenda.

Planner Nichols answered that there were not.

Vice-Chair Wallace administered the following oath to all present who wished to address the commission, "Do you swear to tell the truth and nothing but the truth."

Vice-Chair Wallace asked that everyone in the room silence their electronic devices.

- V. Hearing of visitors for items not on tonight's agenda  
Vice-Chair Wallace asked whether there were any visitors present who wished to address the commission on an item not on tonight's agenda.

There was no response.

- VI. Cases:

**ZC-08-2023 Rezoning**

Request to rezone 195.98 acres located on the west side of Beech Road in Licking County from Agricultural (AG) to Limited General Employment District (L-GE) for an area to be known as the Northeast Business Park Zoning District (PIDs: 037-111558-00.000, 037-111768-01.000, 037-111768-00.000, 037-111768-00.004, 037-111768-00.001, 037-111768-00.002, 037-112026-00.00, 037-111768-00.003).

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

Planner Nichols delivered the staff report.

Engineer Walther delivered the comments and recommendations from Engineering.

Aaron Underhill, 8000 Walton PKWY, attorney for the applicant, thanked Planner Nichols for her work on this application. He explained that this application is the same or similar to previous applications approved by the commission for properties in this area over the past 10-12 years. He further explained that the annexation was scheduled to be considered by Council on March 7<sup>th</sup>.

Vice-Chair Wallace asked, regarding the comments that this application is the same or similar to other zonings in this area, what was meant by "similar" in this application.

Mr. Underhill responded that because the subject property is adjacent to residential properties the height specifications were more restrictive and the setback requirements greater and the screening requirements were greater than required by the code.

Commission Member Schell stated that he read the school impact letter and confirmed with Mr. Underhill that the school district was Johnstown.

Commission Member Schell asked how many homes would be removed.

Vice-Chair Wallace answered that it said 5 homes would be removed.

Commission Member Schell followed by asking whether there would be any benefit to New Albany schools.

Mr. Underhill responded, no that this would benefit Johnstown and further explained that in accordance with the existing agreement between New Albany Plain Local Schools and Johnstown Schools, Johnstown would get 35% of the real property taxes.

Vice-Chair Wallace opened the public hearing. He explained that speakers would be called in the order that their speaker cards were submitted. He further stated that anyone could address the commission, regardless of whether they had submitted a speaker card.

Vice-Chair Wallace invited Catherine Saveson to the lecturn.

Catherine Saveson, 8383 Clouse Road, stated that she lives at the end of Clouse Road in the house closest to the property proposed for rezoning and she is unhappy about seeing a warehouse or commercial structure from her property. She explained that her mother lives on Clouse Road as well and that their properties are adjacent to a Federally protected conservation wetlands. Ms. Saveson stated that she is concerned about the flow of water from the property and the potential contamination of water and the conservation wetlands due to development. She stated that she would like to know what specific measures were being taken to preserve the conservation wetlands and to prevent contamination.

Vice-Chair Wallace asked the applicant to respond to Ms. Saveson's concerns. He also advised Ms. Saveson that the development is not permitted to affect the water on her property and he encouraged her to have a baseline test of her water conducted.

Tom Rubey, representing applicant New Albany Company, agreed. He encouraged Ms. Saveson have a baseline test of her well water conducted. He further stated that development is not permitted to affect Ms. Saveson's water or the adjacent wetlands. Any effect would need to be approved by the city.

Vice-Chair Wallace invited Richard Otten to the lecturn.

Richard Otten, 8383 Clouse Road, indicated on the map the wetland areas that have already been filled in by surrounding commercial developments. He explained that those wetlands were the headwaters for Blacklick Creek and that existing and continuing development of the business park is destroying this native Ohio swamp ecosystem. He pointed out the Federally protected wetland and that it is one of the largest patches of woods and one of the largest collections of privately held collections of native plants. He stated that if the wetlands are dried up we will be left with a clay desert. We need the water and the animals need the water to preserve pollinators and native plants. He hoped that this area would not be completely dried out because this was one of the last little pieces of this habitat we have left.

Mr. Rubey stated that he was sorry Chair Kirby was not at the meeting because this is a topic of great interest to him. Mr. Rubey responded to Mr. Otten that wetland at the end of Clouse Rd was within the Federally protected wetland and as such the wetland preservation falls under the Army Corps of Engineers and the Ohio Environmental Protection Agency (EPA). Those agencies will be part of the review process with the City of New Albany for this development and their role will be to ensure that the Federally protected wetlands are preserved. He encouraged Mr. Otten to coordinate with the city to stay involved. He acknowledged that wetlands have mitigated and eliminated and that there are real concerns with drying them out for construction in the business park but explained that those processes come at great expense. Any wetland mitigation must go through public comment.

Vice-Chair Wallace asked about whether there was public comment process conducted by the EPA.

Planning Manager Mayer added that when an application to mitigate and eliminate a wetland is filed with the EPA there is a public comment period with neighbor notification and an opportunity for neighbors to be heard. Further, those agencies would be monitoring water runoff quantity and quality.

Commission Member Larsen asked whether there would be notices posted on the property.

Planning Manager Mayer said no, letters from the EPA sent to neighbors are the only form of notification.

Planning Manager Mayer further explained that the city would inspect and ensure that off-site wetlands are protected by proper fencing and barriers.

Vice-Chair Wallace reiterated that anyone who wished to speak, regardless of whether they had submitted a speaker card, should feel free to do so.

Vice-Chair Wallace invited James Ziminski to the lecturn.

James Ziminski, 8200 Clouse Road, stated that he owns 50 acres adjacent to the subject property. He explained that he has twin daughters and that he and his family love nature and the wildlife on their property and on the adjacent property. He stated that the existing residents on Clouse Road knew that everyone's intentions were good but needed assurances because it was unclear what type of business and corporate citizen would be on the subject property. He stated that he knew Intel would be a good neighbor but questioned how he would know whether existing residents would be safe with this usage. He explained that his neighbor was the attorney of record for the residents in East Palenstine and had informed him that the federal and state government could not be relied upon. He reiterated his need for assurances and stated that he was not against progress and development, however the existing residents wanted more than letters, they wanted a seat at the table.

Vice-Chair Wallace asked Mr. Underhill if he could give Mr. Ziminski a sense of what type of business would be on the subject property.

Mr. Underhill responded that, in accordance with the zoning code (if the application was granted) use of the property could include data centers, offices, warehouse distribution, light manufacturing. He further stated that there are zoning code protections against nuisances, noise, and light pollution. He further explained that the type of rezoning requested in this application, L-GE, contained greater limitations than allowed by other types of zoning they could have requested such as I-PUD planned unit development allowed, and confirmed that they were not asking for any deviations for code.

Mr. Ziminski asked whether it would be possible to have a special council of neighbors to be at the table.

Vice-Chair Wallace asked Planning Manager Mayer to give Mr. Ziminski a sense of what would happen next in the process.

Planning Manager Mayer replied that this meeting was the opportunity for residents to come in and testify, which was why the signs were posted and the letters were sent. He further stated that this usage would be bound by code requirements. He explained that if the commission approved the application, it would then be considered by the city council. Following approval by city council, the development will be subject to the city's permitting process which is an administrative process that includes many stages of review.

Mr. Ziminski stated that he would like to have a bigger seat at the table, that the trust was not there, and that he wanted assurances.

Planning Manager Mayer responded that all documentation and records are public and can be reviewed any time.

Mr. Ziminski stated that this is New Albany and as such, that all development should be done in a proper manner.

Vice Chair Wallace asked whether the commission had the authority to place language in the text for increased citizen involvement into further development.

Law Director Albrecht responded no, that we are bound by the standards and precedent as set forth previously.

Mr. Rubey stated that he and the other applicant parties are willing to work with residents on screening and preservation, and they are willing to sit down and clear up ambiguities.

Mr. Otten noted that an existing perfume research and development facility that periodically released overwhelming perfume smells into the air.

Vice-Chair Wallace stated that such releases could constitute zoning code violations and should be raised with the city so it can be investigated.

Vice-Chair Wallace invited Becky Burgess to the lecturn.

Becky Burgess, 8065 Clouse Road, stated that she was concerned about the environment. She told the commission that the natural environment and surrounding wetlands were getting smaller and further that the natural habitat was disappearing. Ms. Burgess explained that the Savesons and the residents on Clouse Road were instrumental in developing the wetlands and they have worked together to contribute to and develop the natural environment in that area and that they did not want that to disappear. She asked what would be developed on the subject property.

Vice-Chair Wallace responded that Mr. Rubey had indicated that they (the applicants) did not know yet. And stated that she could stay apprised of what would be developed by staying in contact with the city.

Planning Manager Mayer added that any tenant would have to comply with Federal and state regulations.

Ms. Burgess responded that she recalled when Abercrombie was developed, they were required to have a nice buffer of trees on Central College Rd., and she likewise wanted all development with this property to be done right.

Vice-Chair Wallace agreed and stated that all property owners are accountable to develop their property in accordance with legal and regulatory requirements and further that neighboring property owners had recourse through reporting wrongdoing.

Vice-Chair Wallace invited Mark Lucas to the lecturn.

Mark Lucas, 3715 Beech Road, indicated the location of his residence on the map. He indicated that as a result of this rezoning his residence would be surrounded by industrial property. He was concerned that the fencing on the subject property would surround his property and he was concerned about his water well.

Vice-Chair Wallace asked Mr. Underhill to explain the screening requirements of the subject property.

Mr. Underhill responded that where residential or agricultural property is abuts the subject property, the applicant is required to maintain a 100 ft perimeter and are inquired

to install mounding and landscaping on top of the mounding heavy screening to block the residents' view. More specifically the text requires a 75% opacity within 5 years up to a height of 10ft.

Planning Manager Mayer clarified that the 75% opacity requirement was concurrent with development and the 10ft height of the trees was required within 5 years.

Council Member Brisk asked whether the 75% opacity requirement could be met with plantings that are 2ft high at the time of installation.

Planning Manager Mayer responded that the plantings were required to be a minimum of 6 ft at the time of installation.

Mr. Lucas then asked about water runoff.

Planning Manager Mayer stated that the subject property owners and tenants would have to comply with the zoning text and that the developer's plan for runoff water would be reviewed in the final development plan.

Vice-Chair Wallace invited Jeff Ruff to the lectern.

Jeff Ruff, 8231 Clouse Road, stated that he is a realtor in Columbus. He said that he drives through this development often and that there are numerous residential parcels that have become isolated. He stated that he is concerned about the traffic that increased commercial development will bring. He stated that the environmental concerns raised by the prior witnesses are real. He further advised the commission that rezoning this property would negatively impact the residential property values on this road. A large warehouse will bring traffic and noise. He pointed out that New Albany has taken Walker Woods on SR 161 for use as a park but there is no concurrent consideration for these residents. He stated that this would be a significant change for these residents and he is unsure whether the residents were approached for the sale of their property. He stated that he has sold properties in Saveson Acres and the development of the subject property would result in loss of value of the very expensive homes in Saveson Acres.

Ms. Burgess then asked the commission whether they could approve the rezoning application without knowing what type of business would be developed on the property.

Vice-Chair Wallace answered yes, subject to the limitation text.

Mr. Underhill agreed and stated that there is a list of several limitations in the text. He further stated that the applicants for the subject property here were not asking for anything more than other property owners have been permitted in this area. He further stated that the applicants have agreed to a reduced maximum height of 65ft and a greater setback than surrounding properties.

Vice-Chair Wallace asked whether there was anyone else present who wished to address the commission regarding this application.

There was no response.

Vice-Chair Wallace asked for comments from the commission.

Commission Member Larsen commented that this application was consistent with the surrounding properties and took the surrounding neighborhood into consideration.

Vice-Chair Wallace moved to accept the staff reports and related documents into the record for ZC-08-2023. Commission Member Schell seconded the motion.

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

Vice-Chair Wallace moved for approval of application ZC-08-2023 based on the findings in the staff report and subject to the conditions listed in the staff report, subject to staff approval. Commission Member Larsen seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Larsen, yes; Mr. Schell, yes; Ms. Briggs, yes. Having 4 yes votes, 0 abstentions, and 0 no votes, the motion passed and application ZC-08-2023 was approved.

Vice-Chair Wallace thanked the residents who came out to address the commission on this rezoning. He further encouraged them to remain in touch with the city.

#### **FDP-09-2023 Final Development Plan**

Final development plan modification to allow for construction of a 2,050 square foot Wendy's restaurant with drive-through on 1.20 acres located generally near the southwest corner of US-62 and an unnamed private drive (PID: 222-005166-00).

**Applicant: The McIntosh Group, c/o Mark Lamzik**

Vice-Chair Wallace noted that FDP-09-2023, CU-10-2023, and VAR-15-2023, were applications involving the same property.

Planner Nichols stated for that reason she planned to offer a single presentation for all of the applications if that was okay with the commission.

Vice-Chair Wallace agreed.

Planner Nichols delivered the staff report. She stated that condition 8 regarding lot coverage is no longer needed because the applicant's site plan meets requirements, so staff would like to withdraw that condition.

Vice-Chair Wallace asked for clarification of the location where the applicant was requesting a reduction in the maneuvering lane width.

Planner Nichols indicated the location on the site plan and confirmed that the reduction was not in an area where there would be two-way traffic. Cars would be travelling parallel to the drive-through in the area where the reduction in width was requested.

Vice-Chair Wallace noticed in the staff report, a reduction in the curb cut radii was recommended by the landscape architect and asked whether staff would like that included as a condition.

Planner Nichols answered yes, staff would like that and all of the landscape architect's comments addressed as conditions.

Vice-Chair Wallace also noted, the relief requirement for the wall signs is not being met and it is not a variances request. He asked if those should be conditions as well.

Planner Nichols responded that the applicant has agreed to amend the signage plan to comply with that requirement, but staff would be comfortable including that as a condition if the commission wishes to do so.

Commission Member Larsen noted that the tightest setback approved by the commission was 8 ft but the proposed setback on this site along Woodcrest Way was 7ft.

Planner Nichols agreed.

Planning Manager Mayer added that the 8ft setback was approved for the Turkey Hill site and they have a different set of requirements because the lack of a sidewalk.

Commission Member Larsen followed that in this case a sidewalk is required.

Planning Manager Mayer agreed and indicated the location of the sidewalk along Woodcrest Way.

Commission Member Schell noted the size of the sign in the variance request and asked whether the commission had approved a variance for a larger sign for any other restaurants in that immediate area.

Planner Nichols responded that she thought a larger sign had been approved for Popeyes but was not sure. She would check the record and let the commission know.

Commission Member Schell stated that the variance requested for the size of the sign was significant and was seeking local precedent.

Planning Manager Mayer pointed out that this also permits multiple signs, including a pre-order sign.

Planner Nichols added that that pre-order sign met code requirements.

Vice-Chair Wallace asked for comments from Engineer Walther.

Engineer Walther delivered the engineering report and noted that the conditions recommended in the report were included in the staff report. He further stated that stormwater management and other details would be included during development.

Planner Nichols clarified for the record that the variance for the Popeye's restaurant was not for the size of the menu board sign, it was for the usage of a digital menu board sign.

Commission Member Larsen asked, regarding the signage lettering height variance, whether the commission had ever approved a higher variance.

Planning Manager stated that the hotels had received lettering height variances but acknowledged that those were larger buildings. He further stated that Turkey Hill had received a variance for individual letters on their sign.

Vice-Chair Wallace asked to hear from the applicant.

Stacey Simpson, applicant, began by thanking the staff. He stated that he was grateful for the partnership with the city. He further stated that this restaurant will be a company-owned next-generation Wendy's. He said that it has been designed to reduce staff hours and to improve the staff's work experience. He also said that this restaurant will have a dedicated driver pick-up window.



Commission Member Schell said he was concerned about cars stacking up and backing up on to the private drive.

Mr. Simpson responded that this drive through was designed to eliminate stacking up, and particularly so that cars would not back up on to 62.

Commission Member Schell asked what the worst-case scenario was.

Mr. Simpson responded that it would vary but it during the busiest time there could be 75-86 cars per hour, and noted that the drive through was designed to wrap around the building in those instances.

Commission Member Briggs asked, relatedly how many cars would fit in the drive through.

Mr. Simpson responded that 7 cars would fit from the point of order.

Steven Derwood, 1 Dave Thomas BLVD, applicant, stated that speed of service was Wendy's focus and that the pickup window was positioned further away from the order window to ensure ample time to prepare the order. He acknowledged that the commission was most concerned about the stack up prior to the point of order, but explained that the design had been adjusted to address that issue.

Commission Member Briggs acknowledged that 7 cars would fit from order to pick up and asked how many cars would fit before the order window.

Mr. Derwood answered 7, and continued that if there were more cars than that, they could loop around the building.

Commission Member Briggs stated that she was seeking a greater understanding of the traffic flow and asked whether there would be signage to direct the traffic.

Mr. Derwood responded that this method has been tested in other restaurants and customers understand this.

Commission Member Briggs stated that she was concerned about the traffic flow and the signage. She acknowledged Mr. Derwood's explanation that their method had been tested but she remained concerned.

Vice-Chair Wallace asked whether it seemed likely that the majority of customers would enter from Woodcrest Way rather than the private drive.

Mr. Derwood and Mr. Simpson responded in the affirmative.

Planning Manager Mayer added that signage prohibiting a left turn into the restaurant property from the private drive would be posted.

Mr. Simpson agreed and stated that entrance and exit signage would be posted.

Council Member Brisk stated that, as the mother of a teenager, she is concerned that when teenagers see that the line of cars is wrapped around the restaurant they will wait at the private drive in an attempt to cut the line.

Planning Manager Mayer responded that the development team considered that and concluded that placement of entrance on the private drive was preferential to placing the entrance on 62. The other benefit of the private drive was that it was a three-lane section.

Commission Member Briggs confirmed that the adjacent property was vacant and owned by the Canini Trust.

Planner Nichols answered in the affirmative.

Vice-Chair Wallace observed, relatedly, that the whole of the lot does not seem to be split in half and inquired whether the adjacent vacant lot would be too small for development. He stated that one of his main concerns was whether they were creating a problem.

Planning Manager Mayer said that that is a valid concern and would present a challenge to the developer, but the commission would review and approve future development of that space.

Mr. Rubey responded that New Albany Company has continued to market that property and that a number of other uses, for example a dry cleaner, would fit in that space.

Commission Member Larsen noted that the drive on Woodcrest would be shared.

Mr. Rubey agreed and noted that the parking lot would be shared as well.

Vice-Chair Wallace asked whether the handicapped parking spaces would be blocked if the cars were looped around the building.

Planning Manager Mayer answered that they would not.

Vice-Chair Wallace asked the applicant whether they had any objections to the conditions listed in the staff reports.

Mr. Simpson stated that they had no objections and further commented that the square footage for the sign is below the maximum only the height of the sign exceeds code standards.

Vice-Chair Wallace stated that the radii condition would be subject to staff approval so the applicant would need to have a dialogue with staff, but the applicant would find that that would not be a difficult process.

Vice-Chair Wallace confirmed that the applicant supported the tree-lawn condition in the staff report.

Mr. Simpson responded yes, and that they liked the large tree line.

Board Member Larsen stated that he had a problem with the 42" inch lettering variance request because it is substantially larger than the code permits which was 24". No other commercial tenants, except those with large buildings, had that size and as a result of the inconsistency he would not support such a usage here.

Mr. Simpson stated that the only solution would be to reduce the size of the sign.

Board Member Larsen reiterated that the size of the menu board proposed sign is a substantial increase and that it is over-scaled for what the aesthetic should be. He stated that he was certain that Wendy's had confronted similar requirements having 7000 stores.

He also objected to the encroachment on the sidewalk.

Mr. Derwood asked whether screening of the sign would alleviate the problem.

Commission Member Larsen stated that even with screening, the sign would still be visible from the hotel. He further noted that it and would create visual pollution and if signs of this size were used throughout this area it would compromise the aesthetic of New Albany.

Vice-Chair Wallace asked how high off the ground the sign would be.

Mr. Simpson answered 7 ft.

Vice-Chair Wallace asked whether screening could be imposed.

Planner Nichols answered that there will be trees along Woodcrest Way to help with screening; and there is a hedge row to screen the parking lot which would be about 3 ½ feet.

Board Member Larsen stated that because this is 50% bigger, this is an extreme variance.

Vice-Chair Wallace asked, if the proposed sign conformed with code requirements how high could it be?

Planning Manager Mayer answered that there are no height requirements, just a maximum square footage provision.

Mr. Derwood stated that Wendy's had a digital sign design option and usage of that sign would not require a variance. He stated that the digital sign would produce more light and would be more expensive to Wendy's. He asked whether the digital sign would be acceptable.

Vice-Chair Wallace stated that the commission had approved the usage of digital signs for other applicants but the emission of light from those signs was an issue of concern and deliberation for the commission.

Board Member Larsen stated that the digital sign would be acceptable.

Planning Manager Mayer stated that with those digital signs more landscaping was required, and similarly in this case more landscaping could be added to screen the sign. He also noted the situation of the sign on the lot, and the presence of other barriers such as the dumpster, which would provide screening.

Board Member Larsen stated that the current proposed sign was 50% bigger than the maximum.

Mr. Derwood stated that the proposed sign is about 72 additional inches in size.

Vice-Chair Wallace asked whether the applicants would be amenable to a condition requiring additional screening, subject to staff approval.

Mr. Simpson indicated he would be amenable.

Vice-Chair Wallace asked staff whether a digital sign would require a variance.

Planner Nichols answered that it would.

Vice-Chair Wallace asked Law Director Albrecht whether the commission could add conditions requiring either usage of a digital sign or greater screening, subject to staff approval

Law Director Albrecht answered that it was unclear whether an either/or condition could be imposed and that it would be cleaner to vote on what was presented.

Vice-Chair Wallace stated that he would add a condition for additional screening of the menu board sign from Woodcrest Way subject to staff approval.

Board Member Larsen asked whether the building was moved as far forward toward 62 as it could be.

Mr. Simpson answered that he thought it could be moved forward to satisfy the condition of the larger tree line.

Commission Member Larsen recommended that it be moved forward.

Planner Nichols stated they could recommend it be moved forward but staff will need to be sure that everything still aligns with developments to the east.

Law Director Albrecht stated that the board should stick with what was presented and cautioned the commission from heading down a slippery slope.

Planning Manager Mayer stated that the commission has given staff the leeway in conditions to make these minor modifications and adjustments to final development plans.

Vice Chair Wallace asked whether there was sufficient latitude in this condition as it is written now.

Planning Manager Mayer responded, yes, the language of the condition was sufficiently broad to allow for this modification. He also noted that the explicit statement that satisfaction of the condition is subject to staff approval.

Law Director Albrecht indicated that he was satisfied that this condition would permit this modification.

Vice-Chair Wallace asked whether there was anyone from the public present who wished to speak on the applications.

There was no response.

FDP-09-2023

Vice-Chair Wallace made a motion for acceptance of staff reports and related documents into the record for application FDP-09-2023. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Larsen, yes; Mr. Schell, yes. Having 4 yes votes, 0 abstentions, and 0 no votes, the staff reports and related documents for application FDP-09-2023 were accepted into the record.

Vice-Chair Wallace made a motion for approval for application FDP-09-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval, with the omission of condition 8 which has been satisfied, and the addition of the following additional conditions:

- That the curb cut radii will be reduced where possible consistent with the diagram by the city's landscape architect subject to staff approval;
- That the  $\frac{3}{4}$  relief requirement be met for the signs facing the private drive, US-62, and Woodcrest Way; and
- That the additional screening of the menu board sign from Woodcrest Way be provided subject to staff approval.

Commission Member Schell inquired whether the additional screening requirement should be added as a condition to the final development or as a condition to the variance.

Planning Manager Mayer answered that either way is fine, but that it makes sense for it to be a part of the final development plan.

Commission Member Schell seconded the motion.

Upon roll call vote: Mr. Wallace, yes; Mr. Schell, yes; Mr. Larsen, yes; Ms. Briggs, yes. Having 4 yes votes, 0 abstentions, and 0 no votes, the application FDP-09-2023 was approved subject to the following conditions:

1. The landscape plan shall be updated to meet all code requirements;
  - a. Amend the landscape plan to include 2 additional trees on site for a total of 9 trees.
  - b. Amend the landscape plan to include 1 more additional tree for a total of 12 throughout the setback areas along US-62.
  - c. Amend the landscape plan to include a second row of street trees on the inside of the 5' sidewalk along the unnamed private drive to match the Woodcrest Way final development plan.
  - d. Amend the landscape plan to include red sunset maple as the street trees along Woodcrest Way and the unnamed private drive.
  - e. Amend the landscape plan to include a 5' wide tree lawn on the outside of the 5' wide sidewalk along both Woodcrest Way and the unnamed private drive.
2. The City Landscape Architect's comments must be addressed, subject to staff approval;
  - a. Perimeter landscape trees should be randomized in spacing and in species. Trees should be planted in groups of 3 to 9. See diagrams.
  - b. According to City of New Albany, the number of trees proposed for perimeter landscaping is not meeting requirements. Please provide additional trees.
  - c. If using more than one evergreen shrub for parking lot screening is desired, there should be consistency of species and sizes. Evergreen hedges should be a consistent height of 3.5' ht. for all species. In order to provide a uniform look, one continuous species should be used along one road. See diagram.
3. That the architectural plan be revised to clearly show the windows will not be tinted glass;
4. The applicant has applied for several variances related to signage under application VAR-15-2023. 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-15-2023, will be heard by the Planning Commission at a later date in the future;

5. That the applicant provide the “alternate composite gate” shown on the plan sheet (as opposed to the other option labeled “trash enclosure front elevation”).
6. That all parking lot and private driveway light poles be cut-off and downcast, not to exceed 20 feet in height, painted New Albany Green and the use the same fixture that has been used at Dairy Queen and throughout the Canini Trust Corp.
7. That the proposed directional signs are revised at the time of permitting to be 3 feet tall.
8. That the plan be revised to reduce curb cut radii where possible;
9. That the signage be revised at the time of permitting to provide a minimum of 1-inch relief;
10. That the landscape plan be updated to include additional screening of the menu board sign from Woodcrest Way, subject to staff approval; and
11. The City Engineer’s comments must be addressed, subject to staff approval;
  - a. Refer to Exhibit A. Revise the referenced FDP to include the signature block provided with Exhibit A and add the Monumentation note block and other note blocks highlighted on this exhibit.
  - b. Identify cross access easement requirements with the parcel located to the east.
  - c. Refer to Exhibit B. Add this fire truck template to sheet C3.1 and revise the turning radius analysis accordingly.
  - d. Add a site distance triangle at the Woodcrest Way curb cut and adjust all landscape features so as not to obstruct motorist view.
  - e. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

#### **CU-10-2023 Conditional Use**

Request for a conditional use permit to operate a drive-through use associated with a Wendy’s restaurant located generally near the southwest corner of US-62 and an unnamed private drive (PID: 222-005166-00).

**Applicant: The McIntosh Group, c/o Mark Lamzik**

Vice-Chair Wallace made a motion for acceptance of staff reports and related documents into the record for conditional use CU-10-2023. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Larsen, yes; Mr. Schell, yes. Having 4 yes votes; 0 abstentions, and 0 no votes, the staff reports and related documents for application CU-10-2023 were accepted into the record.

Commission Member Schell moved for approval of CU-10-2023 based on the findings and conditions in the staff report, subject to staff approval. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Schell, yes; Ms. Briggs, yes; Mr. Larsen, yes; Mr. Wallace, yes. Having 4 yes votes; 0 abstentions, and 0 no votes, application CU-10-2023 was approved subject to the following condition:

1. The conditional use permit will become void if or a different kind of business, other than a restaurant, occupies this space.

#### **VAR-15-2023 Variances**

Variances to the number of active and operable doors, maneuvering lane width requirements, signage requirements, and setback requirements associated with a final development plan application for a Wendy’s development generally located generally near the southwest corner of US-62 and an unnamed private drive (PID: 222-005166-00).

**Applicant: The McIntosh Group, c/o Mark Lamzik**

Vice-Chair Wallace made a motion to accept staff reports and related documents into the record for application for VAR-15-2023. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Schell, yes; Mr. Larsen, yes. Having 4 yes votes; 0 abstentions; and 0 no votes, the staff reports and related documents for application VAR-15-2023 were accepted into the record.

Vice-Chair observed that it seemed likely that the votes on the variances would not be unanimous and he inquired whether it would be preferable to vote on each of the variances one by one.

Law Director Albrecht stated that it would be cleaner if each variance was voted on individually.

#### VAR-15-2023(A)

Vice-Chair Wallace made a motion for approval of VAR-15-2023 (A) seeking a variance to eliminate the requirement that there be active and operable doors on the US-62 and rear, private road building elevations. Commission Member Larsen seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Larsen, yes; Ms. Briggs, yes; Mr. Schell, yes. Having 4 yes votes, 0 abstentions, and 0 no votes, division (A) of VAR-15-2023 was approved.

#### VAR-15-2023(B)

Vice-Chair Wallace made a motion for approval of VAR-15-2023 (B) seeking a variance to allow for maneuvering lane widths to be as narrow as 15' when code requires 22'. Commission Member Schell seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Schell, yes; Mr. Larsen, yes; Ms. Briggs, yes. Having 4 yes votes; 0 abstentions; and 0 no votes, division (B) of VAR-15-2023 was approved.

#### VAR-15-2023(C)

Vice-Chair Wallace made a motion for approval of VAR-15-2023 (C) to allow for an encroachment into the 20' pavement setback along Woodcrest Way based on the condition in the staff report. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Larsen, no; Mr. Schell, yes. Having 3 yes votes; 0 abstentions; and 1 no vote, division (C) of VAR-15-2023 was approved.

Commission Member Larsen stated that his no vote was due to the fact that this is the tightest setback and it creates a safety issue.

#### VAR-15-2023(D)

Vice-Chair Wallace made a motion for approval of VAR-15-2023 (D) seeking a variance to allow for a drive-through menu board sign to be up to 48 sq. ft. when code permits 32 sq. ft. based on the conditions in the staff report, subject to staff approval. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Larsen, no; Mr. Schell, yes. Having 3 yes votes; 0 abstentions; and 1 no vote, division (D) of VAR-15-2023 was approved.

Commission Member Larsen stated that his no vote was due to the fact other tenants are meeting the current standard and that he did not want to establish precedent with such an extreme variance.

Commission Member Schell added that he did not like this type of variance but was approving this variance because they (other tenants) could have another sign and because the sign is not facing a major road.

VAR-15-2023(E)

Vice-Chair Wallace made a motion for approval of VAR-15-2023 (E) to allow for maximum lettering height of a wall sign to be 42" when code permits a maximum lettering height of 24". Commission Member Larsen seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Larsen, no; Ms. Briggs, yes; Mr. Schell, yes. Having 3 yes votes; 0 abstentions; and 1 no vote, division (E) of VAR-15-2023 was approved.

Commission Member Larsen stated that his no vote was due to the fact that this is inconsistent with other tenants that have signage that meet the code and is an extreme variance when compared with the standard.

VAR-15-2023(F)

Vice-Chair Wallace made a motion for approval of VAR-15-2023(F) to allow up to five (5) colors on two wall signs when code permits up to four (4) based on the conditions in the staff report, subject to staff approval. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Schell, yes; Mr. Larsen, yes. Having 4 yes votes; 0 abstentions; and 0 no votes, division (F) of VAR-15-2023 was approved.

Planning Manager Mayer confirmed that the condition was attached to VAR-15-2023(C).

Mr. Derwood complimented the New Albany city staff on their excellent work regarding the many facets of this application.

Commission Member Briggs agreed and thanked Mr. Derwood for his recognition of the staff.

Vice-Chair Wallace noted that Chair Kirby's absence and that his review and comment on the New Albany Solar Initiative Best Practices Report would be very helpful. For that reason, Vice Chair Wallace asked Planner van der Zwaag if she would mind if that item was continued until the next meeting.

Planner van der Zwaag indicated that she did not mind and was happy to return.

Vice-Chair Wallace recognized that Planner van der Zwaag had waited patiently through a robust agenda, and thanked her for her patience.

Vice-Chair called a recess at 9:20 p.m.

Vice-Chair called the commission to order at 9:27 p.m.

#### **FPL-50-2014 Condition of Approval Modification**

Modifications to a condition of approval for the Innovation Campus Way final plat located east of Innovation Campus Court and west of Harrison Road, and north of State Route 161, and right-of-way dedication along the west side of Harrison Road.

**Applicant: City of New Albany**

Planning Manager Mayer delivered the staff report. He explained the history of this case and the application and that it sought removal of a condition of approval in FPL-50-2014, prohibited a left turn from Innovation Campus Way on to Harrison Rd. and imposed a



truck prohibition. Removal of the condition will allow Harrison Rd to be a full access road. He stated that this is consistent with the goals and objectives found in the Engage New Albany Strategic Plan for this area. He indicated an 84 acre section of property that is undergoing annexation proceedings. This road will serve as a critical connection within the New Albany Business Park and provide access for existing and new development in the future.

Commission Member Briggs asked whether the surrounding privately-owned property was owned by a single owner.

Planning Manager Mayer responded in the affirmative and stated that it consists of 84 acres.

Vice Chair Wallace asked whether the concerns raised by residents in 2014, when the original application was approved, have been addressed.

Planning Manager Mayer answered in the affirmative and stated that those properties had been bought by a single developer.

Vice-Chair Wallace asked whether people were living in the adjacent properties.

Planning Manager Mayer responded that he was unsure but he was sure the properties had been sold.

Commission Member Larsen stated that that was where the concern arose.

Planning Manager Mayer stated that a condition could be added to retain the truck prohibition until the houses are vacant.

Commission Member Larsen added that he would prefer that the condition remain in place until rezoning occurs because then the properties would be vacant.

Planning Manager Mayer responded that he thought that condition was reasonable.

Vice-Chair Wallace stated for clarity, that the commission would vote on it at tonight's meeting but it would not take effect until rezoning for that application is approved or filed.

Planning Manager agreed that tying it to the rezoning or annexation was reasonable condition.

Vice-Chair Wallace asked if there were any additional questions.

There was no response.

Vice-Chair Wallace made a motion for acceptance of staff reports and related documents into the record for FPL-50-2014. Commission Member Larsen seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Larsen, yes; Mr. Schell, yes; Ms. Briggs, yes. Having 4 yes votes, 0 abstentions, and 0 no votes, the staff reports and related documents for FPL-50-2014 were accepted into the record.

Vice-Chair Wallace made a motion for approval for application FPL-50-2014 based on the findings in the staff report subject to the condition below, subject to staff approval. Commission Member Larsen seconded the motion.

1. That the condition of approval modification will not go into effect until the rezoning application is approved by the commission.

Upon roll call: Mr. Wallace, yes; Mr. Larsen, yes; Mr. Schell, yes; Ms. Briggs, yes. Having 4 yes votes; 0 abstentions; and 0 no votes, the condition of approval modification was approved.

## **VII. Other Business:**

- New Albany Solar Energy Initiative Best Practices Report  
Vice-Chair Wallace moved to table the discussion New Albany Solar Initiative Best Practices Report until the March 6, 2023 informal commission meeting. Commission Member Schell seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Schell, yes; Ms. Briggs, yes; Mr. Larsen, yes. Having 4 yes votes; 0 abstentions; and 0 no votes the report was tabled.

- Beech Road North Landscape Plan  
Planning Manager Mayer delivered the presentation for the plan.

Vice-Chair Wallace asked whether this was the type of landscaping that would be used on the application on tonight's agenda.

Planning Manager Mayer responded that this plan would be used on Beech Rd. to ensure the streetscape.

Commission Member Larsen observed that the plan showed fencing and asked whether the fencing would be white.

Planning Manager Mayer responded that page 20 of the report indicates that the fencing would be painted and will be constructed using untreated wood.

Vice-Chair Wallace asked whether staff was requesting any action on the plan.

Planning Manager Mayer responded that staff is requesting that the commission formally adopt the plan.

Commission Member Schell asked whether documents needed to be moved into the record.

Planning Manager Mayer stated that they did not.

Commission Member Schell moved to adopt the Beech Road North Landscape Plan. Commission Member Larsen seconded the motion.

Upon roll call: Mr. Schell, yes; Mr. Larsen, yes; Ms. Briggs, yes; Mr. Wallace, yes. Having 4 yes votes; 0 abstentions; and 0 no votes, the Beech Road North Landscape Plan was formally adopted by the commission.

Vice-Chair Wallace asked there were any further comments from the commission or from staff.

There was no response.

**IX. Adjournment**

Without objection Vice-Chair Wallace adjourned the meeting at 9:50 p.m.

**Appendix**

**ZC-08-2023 Rezoning  
Staff Report  
Record of Action**

**FDP-09-2023 Final Development Plan, CU-10-2023 Conditional Use, VAR-15-2023  
Staff Reports  
Records of Action**

**FPL-50-2014 Condition of Approval Modification  
Staff Report  
Record of Action**



**Planning Commission Staff Report  
February 22, 2023 Meeting**

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**NORTHEAST BUSINESS PARK ZONING DISTRICT  
ZONING AMENDMENT**

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**LOCATION:** Located on the west side of Beech Road (PIDs: 037-111558-00.000, 037-111768-01.000, 037-111768-00.000, 037-111768-00.004, 037-111768-00.001, 037-111768-00.002, 037-112026-00.00, 037-111768-00.003)

**REQUEST:** Zoning Amendment

**ZONING:** AG Agricultural to L-GE Limited General Employment District

**STRATEGIC PLAN:** Employment Center

**APPLICATION:** ZC-08-2023

**APPLICANT:** MBJ Holdings LLC, c/o Aaron Underhill, Esq.

Review based on: Application materials received January 20, 2023 and February 6, 2023.

*Staff report completed by Chelsea Nichols, Planner*

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**I. REQUEST AND BACKGROUND**

The applicant requests review for the rezoning of 195.98+/- acres. The request proposes to create a new limitation text for the area known as the “Northeast Business Park Zoning District” by zoning the area to Limited General Employment (L-GE). The proposed rezoning serves as an expansion of the New Albany International Business Park.

The proposed zoning district meets the recommended use and development standards found in the Engage New Albany strategic plan Northeast Area addendum Employment Center land use category. The text contains the same list of permitted, conditional, and prohibited uses as other similar zoning districts that are also zoned Limited General Employment (L-GE). This rezoning serves to extend the same or similar zoning and development standards to property being annexed to the City as currently apply to much of the developed and undeveloped land in its general vicinity.

**II. SITE DESCRIPTION & USE**

The overall site consists of eight parcels and is located within Licking County. The site is located on the west side of Beech Road. The subject parcels are currently being annexed into the city. The annexation petition was submitted on December 30, 2022 and is scheduled for its first reading at City Council on March 7, 2023.

The site is comprised of farm fields and residential homes. The neighboring uses and zoning districts include L-GE and unincorporated agricultural and residential.

**III. PLAN REVIEW**

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

The zoning district is located within the 2018 Western Licking County Accord Rural Residential/Agricultural future land use districts. The accord's land use map is a point in time until any given area begins to develop or change. The subject parcels are also located within the New Albany Planning Area. The 2022 Engage New Albany strategic plan lists the following development standards for the Employment Center future land use district:

- 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 landscape in an appealing manner.
- 8. Any periphery security should integrate with the existing 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 proposed zoning text is a limitation text. A limitation text can only establish more restrictive requirements than the zoning code.
- 2. The site is located in the Engage New Albany strategic plan Northeast Area addendum Employment Center land use.
- 3. Due to the proximity of this site to State Route 62 and Beech Road, and its location adjacent to other Limited General Employment (L-GE) zoned land in the existing New Albany International Business Park to the north and east, the site appears to be most appropriate for the proposed type of development.
- 4. The limitation text allows for manufacturing & production, general office activities, warehouse & distribution, data centers, and research & production uses. Personal service and retail product sales and services are only allowed as accessory uses to a permitted use in this subarea.
- 5. Conditional uses include industrial manufacturing & assembly, car fleet and truck fleet parking, and limited educational industries.
- 6. Prohibited uses include industrial product sales and services, mini-warehouses, vehicle services, radio/television broadcast facilities, off-premise signs and sexually oriented business.
- 7. The text contains the same list of permitted, conditional, and prohibited uses as other similar zoning districts that are also zoned L-GE, which includes the recently approved Business and Technology Zoning District (ZC-102-2022).

8. The limitation text establishes more restrictive setback requirements than the development standards from surrounding L-GE limitation texts in the immediate vicinity. Zoning text section III.B. proposes the following setbacks:
  - Beech Road: minimum 185-foot building and pavement setback from centerline.
    - Meets the New Albany Strategic Plan recommendation of a 185-foot setback from centerline.
  - Perimeter Boundaries: minimum pavement and building setback of 25 feet from all perimeter boundaries for which another setback requirement is not provided in this text, except that the minimum pavement and building setback shall be 100 feet from any such perimeter boundary that is adjacent to property where residential uses are permitted.
    - This is consistent with surrounding zoning districts.

#### **C. Access, Loading, Parking**

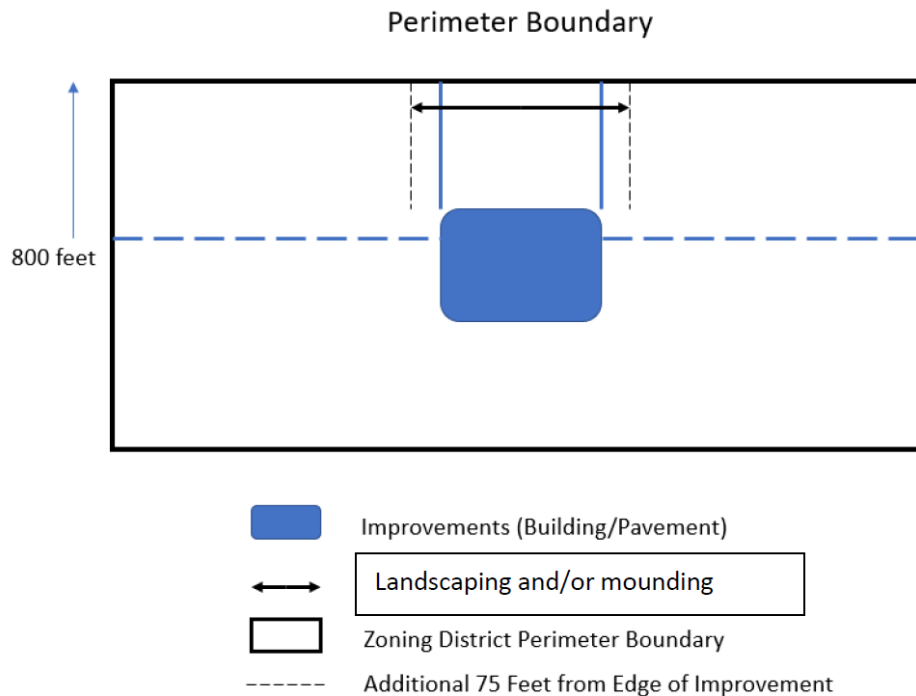
1. The text states the developer shall work with the city manager, or their designee, to determine the need for appropriate timing and phasing of street improvements to serve this zoning district. Subject to other provisions in this text, on public rights-of-way which exist on the date of this text the number, locations, and spacing of curb cuts shall be determined and approved by the City Manager, or their designee, in consultation with the developer at the time that a certificate of appropriateness is issued for a project in this Zoning District.
2. Parking will be provided per code requirements (Chapter 1167) and will be evaluated at the time of development for each individual site.
3. Zoning text section V.C proposes to dedicate the following right-of-way below.
  - The total right-of-way for Beech Road shall be 100 feet. The developer shall dedicate right-of-way for Beech Road to the City at a distance of 50 feet as measured from the existing centerline of Beech Road.

#### **D. Architectural Standards**

1. The proposed rezoning implements many of the same standards and limitations set forth in the New Albany Architectural Design Guidelines and Requirements and neighboring commercial zoning districts.
2. The same architectural requirements as the existing Business and Technology Zoning District located directly to the north are proposed.
3. The zoning text section IV.A. permits 65-foot-tall buildings, subject to Section 1165.03 of the Codified Ordinances. The General Employment district does not typically have a height limitation. In fact, L-GE districts, like the Business and Technology Zoning District located directly to the north, that do implement a height restriction usually allow up to 85-foot tall buildings. By creating a height requirement of 65 feet, the text is still being more restrictive than the standard district requirements and proves to be sensitive to the existing adjacent residential uses.
4. The city Design Guidelines and Requirements do not provide architectural standards for warehouse and distribution type facilities. Due to the inherent size and nature of these facilities, careful attention must be paid to their design to ensure they are appropriately integrated into the rest of the business park. The limitation text includes the same specific design requirements for uses not governed by the DGRs as those in the other subareas of the Licking County business park, which ensures the quality and consistent design of these buildings throughout this portion of the business park.
5. Section IV.E.6 of the zoning text requires complete screening of all roof-mounted equipment on all four sides of the building using materials that are consistent and harmonious with the building's façade and character. The text indicates that the screening is provided to screen equipment from off-site view but also to buffer sound generated by the equipment.

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

1. Maximum lot coverage for this subarea is 75%, which is the same requirement as the surrounding L-GE zoning districts.
2. The following landscaping requirements apply to this Zoning District:
  - Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.
  - For those perimeter boundaries which abut residentially zoned and used properties (if two contiguous properties have an intervening public street right-of-way between them, they shall still be considered to be abutting) that are not owned by the developer, then the required landscaping and/or mounding (or some combination thereof) within minimum required pavement setback areas shall be enhanced to provide an opacity of 75% on the date that is five (5) years after planting to a total height of 10 feet above ground level when viewed from off-site. Existing trees may be utilized to meet this opacity requirement.
  - A street tree row shall be established along Beech Road and shall contain one (1) tree for every thirty (30) feet of road frontage. Trees may be grouped or regularly spaced. Street trees shall be located within the right-of-way. Minimum street tree size at installation shall be three (3) caliper inches. This requirement may be waived in areas where existing vegetation occurs or in areas subject to overhead electric transmission lines, subject to approval of the City Landscape Architect.
  - There shall be no less than one (1) tree planted for every ten (10) parking spaces located therein. At least five percent (5%) of the vehicular use area shall be landscaped or green space (or treed areas). Parking lots shall be designed to accommodate parking lot islands with tree(s) at the end of parking aisles.
  - An 8-foot-wide asphalt leisure trail is required to be installed along the Beech Road frontage of the site.
  - Minimum tree size at installation shall be no less than two and one half (2 ½) inches in caliper for shade trees, six (6) feet in height for evergreen trees, two (2) inches in caliper for ornamental trees, and thirty (30) inches in height for shrubs. Caliper shall be measured six (6) inches above grade.
  - In recognition of the significant amount of land area and the lengths of the perimeter boundaries contained within this Zoning District, for all portions of the Zoning District where there is required landscaping as contemplated in Section VI.B above, it may be installed in phases. For each phase of development in the Zoning District, such required landscaping and/or mounding shall be installed when it is anticipated (as provided in plans associated with relevant permits) that buildings, paved parking areas, or aboveground equipment or utility infrastructure, once constructed within that phase, will be located within 800 feet of the relevant perimeter boundary line. At a minimum for each phase, this landscaping shall be installed along the portion of the relevant perimeter boundary line of the Zoning District between two points which are determined by extending two straight lines from the perimeter boundary line of the Zoning District to the furthest distance on each side where planned improvements are to be constructed in that phase, and then adjusting those lines so that they are an additional distance of 150 apart. The following illustration is being provided as an example of this requirement:



- Master Landscape Standards Plan:
  - Unless a landscape and signage standards plan is developed for this specific area and approved by the Planning Commission, the City of New Albany Business Campus South – Beech Road South Landscape Standards Master Plan which was previously created for the Beech Road corridor and approved by the Planning Commission on June 5, 2017 shall apply to the Beech Road frontage in this Zoning District.
  - The Beech Road North Landscape Plan is to be heard by the Planning Commission at tonight's meeting under other business.
  - New landscaping and mounding installed within the pavement setback along Beech Road shall be coordinated and consistent throughout the length of the Zoning District's frontage and surrounding areas on that street.
- Beech Road:
  - Landscaping and mounding within the minimum required pavement setback along Beech Road shall be coordinated and consistent throughout this Zoning District and surrounding areas and shall be designed/maintained as contemplated in the District Framework & Landscape Design Standards for the Beech Road North District.

#### **E. Lighting & Signage**

1. No signage is proposed at this time. Per the text all signage shall conform to the standards set forth in the District Framework & Landscape Design Standards for the Beech Road North District as adopted by the City and Chapter 1169 of the Codified Ordinances of the City of New Albany.
2. All lighting shall be cut-off type fixtures and down cast. Parking lot lighting shall be from a controlled source in order to minimize light spilling beyond the boundaries of the site.
3. The maximum height of light poles is 30 feet.
4. The zoning text requires lighting details to be included in the landscape plan which is subject to review and approval by the City Landscape Architect.

#### **F. Other Considerations**

1. The property owner has submitted a school impact statement which states the proposed L-GE zoning results in fewer children in the Johnstown Monroe Local School District



and add significant value to the land resulting in a substantial financial benefit to the school district.

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

The city Engineer has reviewed the referenced plan in accordance with the engineering related requirements of Code Section 1159.07(b)(3) and provided the following comments. Staff recommends a condition of approval that the city engineer comments be addressed at the time of engineering permits, subject to staff approval.

- When available, provide verification that all Ohio EPA and Army Corps of Engineers permitting requirements have been met.
- We recommend that all proposed private roads be constructed in accordance with public road standards.
- We concur with sheet 5 of 8 of the text regarding the proposed 100' total r/w dedication (50' as measured from each centerline). This is consistent with the City's strategic planning for the Beech Road corridor.

#### **IV. SUMMARY**

The limitation text provides for stricter limitations in use and design than the straight General Employment zoning districts and retains or improves upon many of the requirements found in adjacent existing zoning texts. Due to the proximity of this site to the State Route 62 and Beech Road, and its location adjacent to commercially zoned land in the existing New Albany Business Park to the north and east, the site appears to be most appropriate for commercial development.

It appears that the proposed zoning text meets or exceeds a majority of the development standards found in both the Western Licking County Accord Plan and the Engage New Albany Strategic Plan. The requirements of the zoning text consider the existing residential nature of the surrounding area and include different landscape restrictions to remain sensitive to those existing uses.

1. The large scale of the rezoning will result in a more comprehensive planned redevelopment of the area and will ensure compatibility between uses (1111.06(a)).
2. The L-GE rezoning application is an appropriate application for the request (1111.06(e)).
3. The overall effect of the development advances and benefits the general welfare of the community (1111.06(f)).
4. The proposed rezoning will allow for the development of businesses that will generate revenue for the school district while eliminating residential units having a positive impact on the school district (1111.06(h)).

#### **V. ACTION**

##### **Suggested Motions for ZC-08-2023:**

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

**Move to approve application ZC-08-2023 based on the findings in the staff report with the following condition:**

1. That the city engineer's comments be addressed at the time of engineering permits, subject to staff approval.

*Approximate Site Location:*





## **Community Development Department**

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

Dear MJB HOLDINGS LLC, 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

Monday, February 27, 2023

The New Albany Planning Commission took the following action on 02/22/2023.

#### Zoning Amendment

**Location:** West side of Beech Road

**Applicant:** MBJ HOLDINGS LLC, Aaron Underhill,

**Application:** PLZC20230008

**Request:** Request to rezone 195.98 acres located on the west side of Beech Road in Licking County from Agricultural (AG) to Limited General Employment District (L-GE) for an area to be known as the Northeast Business Park Zoning District

**Motion:** To recommend approval of ZC-08-2023 with one condition.

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

**Result:** Zoning Amendment, PLZC20230008 was Approved with Conditions, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2023

#### Condition(s) of Approval:

1. That the city engineer's comments be addressed at the time of engineering permits, subject to staff approval.

Staff Certification:

*Chelsea Nichols*

Chelsea Nichols  
Planner



**Planning Commission Staff Report  
February 22, 2023 Meeting**

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**WENDY'S  
FINAL DEVELOPMENT PLAN**

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LOCATION: Located at the southwest corner of US-62 and a private drive  
(PID: 222-005166)  
APPLICANT: The McIntosh Group, c/o Mark Lamzik  
REQUEST: Final Development Plan  
ZONING: Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a  
STRATEGIC PLAN: Retail  
APPLICATION: FDP-09-2023

Review based on: Application materials received January 24, 2023, February 8, 2023, and February 13, 2023.

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*Staff report prepared by Chelsea Nichols, Planner*

**I. REQUEST AND BACKGROUND**

The application is for a final development plan for a proposed Wendy's located at the southwest corner of US-62 and a private drive within the Canini Trust Corp. The development includes a dine in restaurant with a drive-thru on a 1.817-acre site.

The zoning text allows Office buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, OCD Office Campus District, Section 1144.02 and C-2, Commercial District, Section 1147.02, and the conditional uses contained in Section 1147.02, which includes restaurants with drive-thru facilities. The applicant has applied for a conditional use to be heard by the Planning Commission at tonight's meeting under case CU-10-2023.

The applicant is also applying for several variances related to this final development plan under application VAR-15-2023. Information and evaluation of the variance requests are under a separate staff report.

**II. SITE DESCRIPTION & USE**

The site is located on the southwest corner of US-62 and a private drive within the Canini Trust Corp site. The site is 1.817 acres and is currently undeveloped. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-thru facility.

**III. EVALUATION**

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in 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 Neighborhood 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. Retail building entrances should connect with the pedestrian network and promote connectivity through the site.
5. Integrate outdoor spaces for food related businesses.

### **A. Use, Site and Layout**

1. The applicant proposes to develop a 2,050 sq. ft. Wendy's restaurant with a drive-thru. The existing total site size is 1.817-acres. The proposed Wendy's would occupy 1.12 acres on the west side of the site; leaving the remaining east side of the site for a future development.
2. Restaurants with drive-thru facilities are a conditional use within this zoning district and the applicant has applied for this conditional use to be heard by the Planning Commission at tonight's meeting under case CU-10-2023.
3. The proposed use is appropriate given the proximity of this site to State Route 161 and the surrounding commercial development surrounding this site. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-thru facility.
4. Zoning text section 8a.01(7) requires that the total lot coverage, which includes areas of pavement and building, to not exceed 80% and the development is not meeting this requirement with 82% total lot coverage. The applicant has not requested a variance related to this and commits to meeting this code requirement at time of permitting. The city staff recommends a condition of approval that the site plan be revised to accommodate this code requirement of 80% lot coverage maximum.
5. The zoning text section 8a.01 requires the following setbacks:

<b>Road</b>	<b>Requirement</b>	<b>Proposed</b>
US-62	50-foot building and pavement setback	50-foot pavement [meets code] <u>120.6+/- building [meets code]</u>
Side yard setback from western private drive	20-foot building and pavement setback	20+/- foot pavement [meets code] 84+/- foot building [meets code]
Side yard setback from future eastern property line	0-foot building and pavement setback	0-foot pavement [meets code] 27.8+/- foot building [meets code]
Woodcrest Way	20-foot building and pavement	7+/- foot pavement <u>[a variance has been requested under application VAR-15-2023]</u> 80+/- foot building [meets code]

6. The city landscape architect has reviewed the site plan in accordance with the New Albany Codified Ordinances and zoning text and provides the following comments. Staff

recommends all the City Landscape Architect's comments are met at the time of engineering permits, subject to staff approval.

- Reduce curb cut radii where possible. See separate diagram under the city landscape architect letterhead.

## **B. Access, Loading, Parking**

1. The site will be accessed from two curb cuts; one right-in/right-out only along the private drive to the west and one full access curb cut along Woodcrest Way, which is also a private road. There is also a proposed parking lot drive aisle connection between this site and the future site to the east.
2. The zoning text encourages shared access drives between sites by allowing for zero pavement setbacks and by including a provision stating that where appropriate shared access and joint parking agreements between adjacent parcels maybe required by the Village Development Director. Historically, the city staff and Planning Commission have encouraged shared curb cuts and connecting drive aisles between sites. The proposed Wendy's site does establish a drive aisle for shared access to the future development site to the east. This will eventually tie into the connection and shared access to the Dairy Queen, Valvoline, and Popeye's sites so that this pattern of development can be continued to and from this subject site.
3. The building is surrounded by the parking lot, a drive-thru lane and internal drive aisles. The drive-through appears to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.
4. Per 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 2,050 square feet in size therefore 28 parking spaces are required. The applicant is providing 29 parking spaces. 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, 7 stacking spaces must be provided and the applicant is exceeding this requirement by providing 12.
5. Per C.O. 1167.03(a), the minimum parking space dimensions required are 9 feet wide and 19 feet long. The application meets this requirement.
6. Per C.O. 1167.03(a) the minimum maneuvering lane width size is 22 feet for this development type. The applicant has requested a variance related to this under application VAR-15-2023. Information and evaluation of the variance request is under a separate staff report.
7. Per the approved final development plan for the Canini Trust Corp's Woodcrest Way private road network, the applicant is required to install a 5-foot sidewalk along the eastern private drive and Woodcrest Way. The application meets this requirement.

## **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.
2. The zoning text contains architectural standards and regulated by Section 6 of the Design Guidelines and Requirements (Commercial outside the Village Center).
3. The zoning text states that the maximum building height within this zoning district shall not exceed 35 feet. The proposed building height is approximately 21 +/- feet therefore this requirement is being met.
4. The applicant is proposing to use brick, fiber cement panels, metal and EIFS as building materials. The zoning text permits the use of these materials such as brick, pre-cast stone, wood, glass and other synthetic materials are permitted as long as they are used appropriately. The design of the building and use of materials is appropriate and consistent with other buildings in the immediate area.



5. Zoning text section 8a.03(1) states that all visible elevations of a building shall receive similar treatment in style, materials and design so that no visible side is of a lesser visual character than any other. The applicant is accomplishing this requirement by utilizing four-sided architecture.
6. DGR Section 6(I)(A)(12) states that buildings shall have operable and active front doors along all public and private roads. The applicant is not providing an active and operable door along the rear building elevations and a variance has been requested related to this under application VAR-15-2023. Information and evaluation of the variance request is under a separate staff report.
7. Zoning text section 8a.05(3) requires that trash receptacles and exterior storage areas be fully screened from public roads. The applicant is meeting this requirement by providing a dumpster enclosure and landscaping around three sides of the enclosure.
8. C.O. 1171.05(b) also states that all trash and garbage container systems must be screened. The applicant proposes to install a dumpster enclosure thereby meeting this requirement. While the plan includes two options, the applicant is required to provide the “alternate composite gate” shown on the plan sheet (as opposed to the other option labeled “trash enclosure front elevation”) in order to meet code requirements. This “alternate composite gate” is not permitted to be vinyl. While the plans do not state the exact material, the applicant indicated it will be Trek. The city staff recommends a condition of approval requiring applicant provide the “alternate composite gate” shown on the plan sheet (as opposed to the other option labeled “trash enclosure front elevation”).
9. A roof plan was submitted and all rooftop mechanical equipment will be fully screened from all public roads.
10. Zoning text section 8a.03(3)(b) states that if a flat roof is used, strong cornice lines must be integrated and the applicant is meeting this.
11. The architectural plan appears to show the window as tinted glass. This is not consistent with the surrounding area. However, the applicant indicated the design intent is to not tint the windows. The city staff recommends a condition of approval that this be revised at the time of permitting to clearly demonstrate the windows will not be tinted.

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

1. Parking Lot Landscaping Requirement:
  - Codified Ordinance 1171.06(a)(3) requires one tree per 10 parking spaces. The applicant is providing 29 parking spaces thereby requiring 3 trees and the applicant is meeting this requirement.
  - Per zoning text 8a.04(4)(a), parking lots shall be screened from rights-of-way with a minimum 36-inch-high evergreen landscape hedge or wall. The landscape plan meets this requirement by showing shrubs to screen the parking lot from US-62, from Woodcrest Way, and the western private drive.
2. General Site Landscaping Requirement:
  - Codified Ordinance 1171(5)(e) requires parking lots over 20,000 square feet to have a minimum of one tree per 5,000 square feet of ground coverage and a total tree planting equal to 10.5 in tree trunk size for every 2,000 square feet of ground coverage. Based on this, the applicant is required to provide 9 trees. The plan currently shows 7 trees. Landscaping shown on the site to the east for the future development cannot be counted towards the requirements for the subject site. The city staff recommends a condition of approval requiring the applicant to amend the landscape plan to include 2 additional trees on site for a total of 9 trees.
3. Street Tree Landscaping Requirement:
  - The zoning text section 8a.04(2) requires that street trees must be planted along US-62 at a rate of one tree for every 30 feet thereby requiring 4 street trees. There are two existing street tree along US-62 and the applicant proposes to install 2 additional trees for a total of 4 trees.
  - The applicant is required to install 4 trees along Woodcrest Way per the approved Woodcrest Way final development plan (FDP-69-2014). The plan currently shows 4 trees along Woodcrest Way.

- The applicant is also required to install a double row of street trees along the unnamed private drive to the west of the site to match the Woodcrest Way final development plan. The plan currently shows a single row of street trees along the private drive. The city staff recommends a condition of approval requiring the applicant to amend the landscape plan to include a second row of street trees on the inside of the 5' sidewalk along the unnamed private drive to match the Woodcrest Way final development plan.
  - The Woodcrest Way final development plan requires the trees along private drives to be red sunset maple. The city staff recommends a condition of approval requiring the applicant to amend the landscape plan to include red sunset maple as the street trees along Woodcrest Way and the unnamed private drive.
4. The Woodcrest Way final development plan requires the site plan and landscape plan to include a 5' wide tree lawn on the outside of the 5' wide sidewalk along both Woodcrest Way and the unnamed private drive. The current plans do not meet this requirement. The city staff recommends a condition of approval requiring the applicant to amend the site plan to include a 5' wide tree lawn (the area between the roads and sidewalks) along both Woodcrest Way and the unnamed private drive. US 62/Johnstown Road Buffer Landscaping Requirement:
- Zoning text section 8a.04(5) requires that there be a minimum of eight (8) deciduous or ornamental trees per 100 lineal feet planted throughout the setback areas along US-62. The proposed site has approximately 143 feet of frontage along US-62, requiring 12 trees to be installed. The plan currently provides 11 trees. Trees shown on the plan for the future development to the east cannot be counted towards the requirements for the subject site. The city staff recommends a condition of approval requiring the applicant to amend the landscape plan to include 1 more additional tree for a total of 12 throughout the setback areas along US-62.
5. The zoning text requires a minimum of 8% interior parking lot landscaping on the site. The application meets this requirement.
6. The City Landscape Architect has reviewed the referenced plan in accordance with the landscaping requirements found in the New Albany Codified Ordinances and zoning text and provides the following comments. Staff recommends all the City Landscape Architect's comments are met at the time of engineering permits, subject to staff approval.
- Perimeter landscape trees should be randomized in spacing and in species. Trees should be planted in groups of 3 to 9. See diagrams.
  - According to City of New Albany, the number of trees proposed for perimeter landscaping is not meeting requirements. Please provide additional trees.
  - If using more than one evergreen shrub for parking lot screening is desired, there should be consistency of species and sizes. Evergreen hedges should be a consistent height of 3.5' ht. for all species. In order to provide a uniform look, one continuous species should be used along one road. See diagram.

#### **E. Lighting & Signage**

1. The applicant has submitted a photometric plan that meets code.
2. The plans do not include information on external building lighting, which are limited to wall mounted scones. This will be required to meet code at the time of permitting.
3. Zoning text section 8a.05(e) and (f) requires all parking lot and private driveway light poles to be cut-off and downcast, not exceed 20 feet in height, painted New Albany Green and the use the same fixture that has been used at Dairy Queen and throughout the Canini Trust Corp. The application commits to meeting these requirements. The city staff recommends this be a condition of approval.
4. As part of this final development plan application, the applicant has submitted a preliminary sign plan for the site. The applicant has applied for several variances related to signage under application VAR-15-2023. Information and evaluation of the variance requests are 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-15-2023, will be heard by the Planning Commission at a later date in the future.

### **Wall Signs**

Zoning text section 8a.06(3)(i) permits one wall mounted sign per retail tenant on each elevation of the building that fronts or sides on a public or private road. The proposed building faces three public streets or private drives, therefore permitting a maximum of three wall signs on the building. One square foot of sign face is permitted per each lineal foot of the building, not to exceed 80 square feet in size. The applicant proposes the following wall signs.

#### **US-62 North Elevation Wall Sign**

- a. Area: 29.53 sq. ft. [meets code, max of 36 sq. ft. based on frontage]
  - b. Lettering height: 42 inches [24-inch maximum, variance requested under application VAR-15-2023]
  - c. Location: one on the US-62 north building elevation [meets code]
  - d. Lighting: non-illuminated [meets code, external and halo permitted]
  - e. Relief: 3/4" [code minimum of 1-inch relief required, a variance was not request. Staff recommends a condition of approval that this meet code at the time of permitting]
  - f. Color: white (total 1) [meets code]
  - g. Materials: PVC [meets requirements of C.O. 1169.12(g)]
- The sign will read "Wendy's"

#### **Private Drive West Elevation Wall Sign**

- a. Area: 20.31 sq. ft. [max of 67 sq. ft. based on frontage]
  - b. Lettering height: No lettering within sign.
  - c. Location: one on the private drive west elevation [meets code]
  - d. Lighting: non-illuminated [meets code, external and halo permitted]
  - e. Relief: 3/4" [code minimum of 1-inch relief required, a variance was not request. Staff recommends a condition of approval that this meet code at the time of permitting]
  - f. Color: white, red/maroon, blue, pink, and brown (total 5) [does not meet code as only 4 colors permitted, variance requested under application VAR-15-2023]
  - g. Materials: PVC [meets requirements of C.O. 1169.12(g)]
- The sign will feature the company logo.

#### **East Elevation Wall Sign**

- a. Area: 20.31 sq. ft. [max of 67 sq. ft. based on frontage]
- b. Lettering height: 52 inches [24-inch maximum, variance requested under application VAR-15-2023]
- c. Location: one on the eastern building elevation [meets code as there is no signage on the fourth building elevation along Woodcrest Way]
- d. Lighting: non-illuminated [meets code, external and halo permitted]
- e. Relief: 3/4" [code minimum of 1-inch relief required, a variance was not request. Staff recommends a condition of approval that this meet code at the time of permitting]
- f. Color: white, red/maroon, blue, pink, and brown (total 5) [does not meet code as only 4 colors permitted, variance requested under application VAR-15-2023]
- g. Materials: PVC [meets requirements of C.O. 1169.12(g)]

- The sign will feature the company logo.
5. The applicant proposes to install two drive-thru menu board signs at the rear of the site which is permitted per C.O. 1169.11(c). One of the signs is 50 sq. ft. and the other is 11 sq. ft. The maximum size permitted is 32 sq. ft. A variance has been requested for the 50 sq. ft. sign as part of VAR-15-2023.
  6. The applicant proposes to install one 10' tall "clearance" bar near the drive-thru. The clearance bar does not contain any signage or a company logo.
  7. The applicant proposes three directional ground mounted signs on site that will read "enter" on one side and "exit" on the other side. They do not contain any signage or a company logo. The zoning text permits entry and exit signs on site but shall be limited to 3' in height and a maximum area of 3 sq. ft. The proposed directional signs are less than 3 sq. ft. but are 4' feet tall. A variance was not requested for the height of the directional signs. Staff recommends a condition of approve that the sign height be revised to meet the text standards.

#### 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. Refer to Exhibit A. Revise the referenced FDP to include the signature block provided with Exhibit A and add the Monumentation note block and other note blocks highlighted on this exhibit.
2. Identify cross access easement requirements with the parcel located to the east.
3. Modify the full access drive off of the north-south private road to a right-in/right-out drive. (This has been addressed)
4. Refer to Exhibit B. Add this fire truck template to sheet C3.1 and revise the turning radius analysis accordingly.
5. Add a site distance triangle at the Woodcrest Way curb cut and adjust all landscape features so as not to obstruct motorist view.
6. We 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 will serve 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-09-2023**, subject to the following conditions:

1. The landscape plan shall be updated to meet all code requirements;
  - a. Amend the landscape plan to include 2 additional trees on site for a total of 9 trees.
  - b. Amend the landscape plan to include 1 more additional tree for a total of 12 throughout the setback areas along US-62.
  - c. Amend the landscape plan to include a second row of street trees on the inside of the 5' sidewalk along the unnamed private drive to match the Woodcrest Way final development plan.
  - d. Amend the landscape plan to include red sunset maple as the street trees along Woodcrest Way and the unnamed private drive.

Amend the landscape plan to include a 5' wide tree lawn on the outside of the 5' wide sidewalk along both Woodcrest Way and the unnamed private drive.

2. The City Landscape Architect's comments must be addressed, subject to staff approval;
  - a. Perimeter landscape trees should be randomized in spacing and in species. Trees should be planted in groups of 3 to 9. See diagrams.
  - b. According to City of New Albany, the number of trees proposed for perimeter landscaping is not meeting requirements. Please provide additional trees.
  - c. If using more than one evergreen shrub for parking lot screening is desired, there should be consistency of species and sizes. Evergreen hedges should be a consistent height of 3.5' ht. for all species. In order to provide a uniform look, one continuous species should be used along one road. See diagram.
3. That the architectural plan be revised to clearly show the windows will not be tinted glass;
4. The applicant has applied for several variances related to signage under application VAR-15-2023. 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-15-2023, will be heard by the Planning Commission at a later date in the future;
5. That the applicant provide the "alternate composite gate" shown on the plan sheet (as opposed to the other option labeled "trash enclosure front elevation").
6. That all parking lot and private driveway light poles be cut-off and downcast, not to exceed 20 feet in height, painted New Albany Green and the use the same fixture that has been used at Dairy Queen and throughout the Canini Trust Corp.
7. That the proposed directional signs are revised at the time of permitted to be 3 feet tall.
8. That the site plan be revised to accommodate this code requirement of 80% lot coverage maximum; and
9. The City Engineer's comments must be addressed, subject to staff approval;
  - a. Refer to Exhibit A. Revise the referenced FDP to include the signature block provided with Exhibit A and add the Monumentation note block and other note blocks highlighted on this exhibit.
  - b. Identify cross access easement requirements with the parcel located to the east.
  - c. Refer to Exhibit B. Add this fire truck template to sheet C3.1 and revise the turning radius analysis accordingly.
  - d. Add a site distance triangle at the Woodcrest Way curb cut and adjust all landscape features so as not to obstruct motorist view.
  - e. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

Approximate Site Location:



Source: Google Earth



## **Community Development Department**

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

Dear Mark Lamzik,

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

Monday, February 27, 2023

The New Albany Planning Commission took the following action on 02/22/2023.

#### **Final Development Plan**

**Location:** Generally near the southwest corner of US-62 and Private Drive

**Applicant:** The McIntosh Group, c/o Mark Lamzik

**Application:** PLFDP20230009

**Request:** Final development plan to allow for construction of 2,050 square foot Wendy's restaurant with drive-through on 1.20 acres.

**Motion:** To recommend approval of FDP-09-2023 with conditions.

**Commission VVote:** Motion Approved with Conditions, 4-0

**Result:** Final Development Plan, PLFDP20230009 was Approved with Conditions, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2023

**Condition(s) of approval:** See next page, page three (3)

Staff Certification:

*Chelsea Nichols*

Chelsea Nichols  
Planner



1. The landscape plan shall be updated to meet all code requirements;
  - a. Amend the landscape plan to include 2 additional trees on site for a total of 9 trees.
  - b. Amend the landscape plan to include 1 more additional tree for a total of 12 throughout the setback areas along US-62.
  - c. Amend the landscape plan to include a second row of street trees on the inside of the 5' sidewalk along the unnamed private drive to match the Woodcrest Way final development plan.
  - d. Amend the landscape plan to include red sunset maple as the street trees along Woodcrest Way and the unnamed private drive.

Amend the landscape plan to include a 5' wide tree lawn on the outside of the 5' wide sidewalk along both Woodcrest Way and the unnamed private drive.
2. The City Landscape Architect's comments must be addressed, subject to staff approval;
  - a. Perimeter landscape trees should be randomized in spacing and in species. Trees should be planted in groups of 3 to 9. See diagrams.
  - b. According to City of New Albany, the number of trees proposed for perimeter landscaping is not meeting requirements. Please provide additional trees.
  - c. If using more than one evergreen shrub for parking lot screening is desired, there should be consistency of species and sizes. Evergreen hedges should be a consistent height of 3.5' ht. for all species. In order to provide a uniform look, one continuous species should be used along one road. See diagram.
3. That the architectural plan be revised to clearly show the windows will not be tinted glass;
4. The applicant has applied for several variances related to signage under application VAR-15-2023. 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-15-2023, will be heard by the Planning Commission at a later date in the future;
5. That the applicant provide the "alternate composite gate" shown on the plan sheet (as opposed to the other option labeled "trash enclosure front elevation").
6. That all parking lot and private driveway light poles be cut-off and downcast, not to exceed 20 feet in height, painted New Albany Green and the use the same fixture that has been used at Dairy Queen and throughout the Canini Trust Corp.
7. That the proposed directional signs are revised at the time of permitted to be 3 feet tall.
8. That the plan be revised to reduce curb cut radii where possible;
9. That the signage be revised at the time of permitting to provide a minimum of 1-inch relief;
10. That the landscape plan be updated to include additional screening of the menu board sign from Woodcrest Way, subject to staff approval; and
11. The City Engineer's comments must be addressed, subject to staff approval;
  - a. Refer to Exhibit A. Revise the referenced FDP to include the signature block provided with Exhibit A and add the Monumentation note block and other note blocks highlighted on this exhibit.
  - b. Identify cross access easement requirements with the parcel located to the east.
  - c. Refer to Exhibit B. Add this fire truck template to sheet C3.1 and revise the turning radius analysis accordingly.
  - d. Add a site distance triangle at the Woodcrest Way curb cut and adjust all landscape features so as not to obstruct motorist view.
  - e. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.



## Planning Commission Staff Report February 22, 2023 Meeting

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### WENDY'S DRIVE-THRU CONDITIONAL USE

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LOCATION: Located at the southwest corner of US-62 and a private drive  
(PID: 222-005166)  
APPLICANT: The McIntosh Group, c/o Mark Lamzik  
REQUEST: Conditional Use  
ZONING: Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a  
STRATEGIC PLAN: Retail  
APPLICATION: CU-10-2023

Review based on: Application materials received January 24, 2023, February 8, 2023, and February 13, 2023.

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*Staff report prepared by Chelsea Nichols, Planner*

#### I. REQUEST AND BACKGROUND

The applicant requests approval of a conditional use to allow a drive-thru to be developed as part of a Wendy's restaurant use. The Canini Trust Corp (I-PUD) zoning text allows the C-2 General Business (Commercial) District which permits restaurant uses. Drive-thru facilities associated with a permitted use are conditional uses.

This request is in conjunction with a final development plan (FDP-09-2023) and associated variances (VAR-15-2023) for the Wendy's restaurant.

#### II. SITE DESCRIPTION & USE

The site is located on the southwest corner of US-62 and a private drive within the Canini Trust Corp site. The site is 1.817 acres and is currently undeveloped. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-thru facility.

#### III. EVALUATION

The general standards for conditional uses are contained in Codified Ordinance Section 1115.03. The Planning Commission shall not approve a conditional use unless it shall in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use at the proposed location meets all of the following requirements:

- (a) *The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Ordinance.*

##### Uses:

- The applicant proposes to develop a 2,050 sq. ft. Wendy's restaurant with a drive-thru. The existing total site size is 1.817-acres. The proposed Wendy's would occupy 1.12 acres on the west side of the site; leaving the remaining east side of the site for a future development.

- The site will be accessed from two curb cuts; one right-in/right-out only along the private drive to the west and one full access curb cut along Woodcrest Way, which is also a private road. There is also a proposed parking lot drive aisle connection between this site and the future site to the east.
- The Engage New Albany Strategic Plan identifies this area as the retail future land use area. The proposed use is appropriate based on its proximity to State Route 161, the New Albany Business Park and the surrounding uses. The site is located within the Canini Trust Corp which envisions this type of use.
- It does not appear that the proposed use will alter the character of the surrounding area. This area is zoned to allow restaurant users. Additionally, the Planning Commission recently approved the Popeyes development which included a drive-thru facility and will be located a couple lots down from this proposed development. This subarea of the Canini Trust Corp also contains a gas station and the Dairy Queen restaurant with a drive-thru.

#### **Architecture:**

- The design of the commercial building and use of materials is appropriate and consistent with other buildings in the immediate area.
- The drive through window is located on the east elevation of the building and is appropriately designed using the same building materials that are used on other elevations of the building.
- The overall height of the building is 21 feet which meets the 35-foot maximum height allowed by the zoning text.
- All of the mechanical equipment is located on the roof of the building and will be fully screened from the public rights-of-way as well as private roads.

#### **Parking & Circulation:**

- Per 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 2,050 square feet in size therefore 28 parking spaces are required. The applicant is providing 29 parking spaces.
- 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, 7 stacking spaces must be provided and the applicant is exceeding this requirement by providing 12.
- The building is surrounded by the parking lot, a drive-thru lane and internal drive aisles. The drive-through appears to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.
- The Trust Corp site has a strong internal roadway network that supports car-oriented developments. The lot is surround by private roads on two sides that allows traffic to and from the site to be dispersed. The private road network consisting of Woodcrest Way and another private drive provides multiple connections to public streets.

#### **Landscaping:**

- A landscape plan has been submitted with the final development plan application for this site. The City Landscape Architect's comments can be found in the final development plan staff report.

*(b) The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*

- The proposed use is harmonious with the existing and intended character for the general vicinity and will not change the essential character of the area.

- The proposed use is appropriate due to its proximity to the State Route 161 interchange and the New Albany Business Park.
  - This site is located within the Canini Trust Corp which envisions this type of use. There is an existing restaurant with a drive-thru facility that is developed in this zoning district. Additionally, the Planning Commission recently approved a final development plan for Popeyes which included a restaurant drive-thru facility and is located a couple lots away from this proposed development.
- (c) *The use will not be hazardous to existing or future neighboring uses.*
- The use does not appear it will be hazardous to the existing or future neighboring uses. It appears that this an appropriate location for drive-thru facility.
- (d) *The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
- Sewer and water service are available in this location.
  - There is a planned city project for roadway improvements along US-62. These improvements include extending the leisure trail from the Windsor subdivision under the State Route 161 overpass all the way to the Smith's Mill Road and US-62 intersection which will encourage multi-modal transportation at this site.
  - The proposed commercial development will produce no new students for the school district.
- (e) *The proposed use will not be detrimental to the economic welfare of the community.*
- The proposed use will likely not be detrimental to the economic welfare in the city due to creation of jobs which generate income taxes and provide amenities for the business park.
- (f) *The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*
- It does not appear the site will involve operation that will be detrimental to adjacent uses. This area of the city is auto-oriented and is in close proximity to the State Route 161. US-62 is currently heavily traveled therefore it is reasonable to assume that this development will be frequently visited and serve as an important asset to those in the surrounding area.
- (g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*
- The site is proposed to be accessed via two new curb cuts; one along an unnamed private drive and one long Woodcrest Way, which is also a private road.
  - The building is surrounded by the parking lot and internal drive aisle. The proposed drive through lane appears to be properly positioned on the site so that the drive through traffic does not interfere with the traffic circulation on the rest of the site and will not cause traffic to back up onto public roads.

### III. SUMMARY

The overall proposal is consistent with the code requirements for conditional uses. The proposed use is appropriate for the site based on the current zoning and the Engage New Albany Strategic Plan. Retail has historically been approached in a thoughtful and prescribed way that promotes a planned amount of land being dedicated to this use. Due to the close proximity of this site to State Route 161 and this portion of the business park, the drive-thru is an appropriate use in this location. This application of retail is appropriate and is strategically located to provide auto oriented services/retail uses due to its proximity to the interchange and to serve this end of the business park. The proposed use will not change the character of the US-62 corridor as there is an

existing restaurant with a drive-thru facility within the Canini Trust Corp site and the other drive-thru developments located along the street. The drive-thru lane is in an appropriate location as it is oriented away from public roads and it will not interfere with traffic circulation on the rest of the site. Additionally, staff recommends a condition of approval that the conditional use permit will become void if type of use, other than a restaurant, occupies this tenant space.

#### IV. ACTION

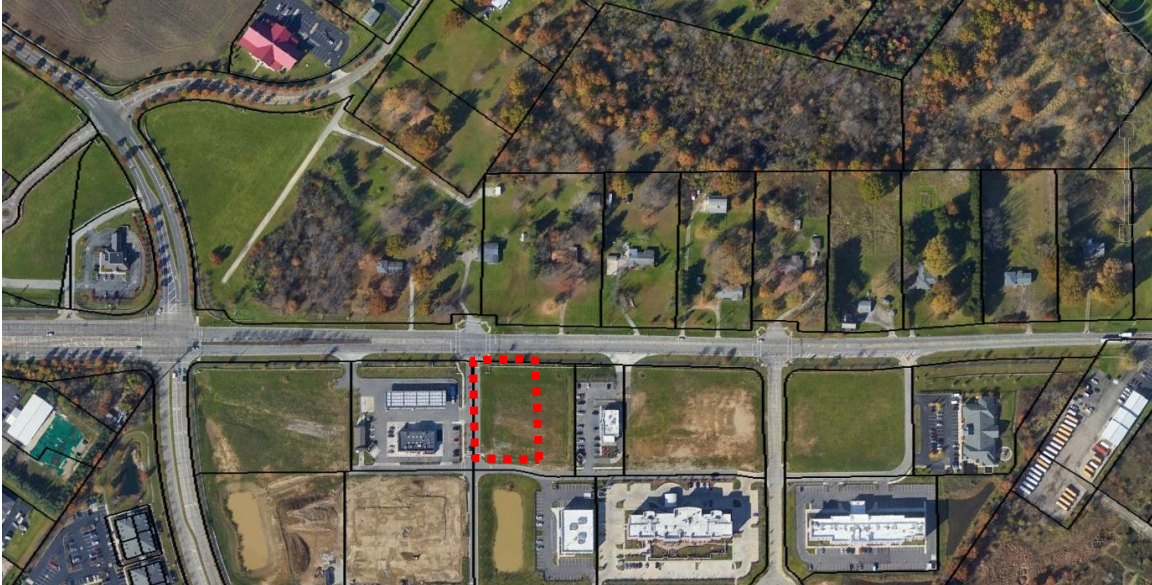
The Commission shall approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved with supplementary conditions, the Planning Commission shall direct staff to issue a zoning permit listing the specific conditions listed by the Planning Commission for approval.

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

**Move to approve application CU-10-2023 with the following conditions:**

1. The conditional use permit will become void if or a different kind of business, other than a restaurant, occupies this tenant space.

Approximate Site Location:



Source: Google Earth



## **Community Development Department**

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

Dear The McIntosh Group,

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

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

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

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

Thank you.



## Community Development Department

### Decision and Record of Action

Tuesday, February 28, 2023

The New Albany took the following action on 2/22/23.

#### Conditional Use

**Location:** Southwest corner of US-62 and Private Drive

**Applicant:** The McIntosh Group,

**Application:** PLCU20230010

**Request:** Conditional Use to allow a drive-through to be developed as part of a Wendy's restaurant.

**Motion:** Motion to approve CU-10-2023 with one condition.

**Commission Vote:** Motion to approve with one condition, 4-0

**Result:** Conditional Use, PLCU20230010 was approved with a condition, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2023

#### Condition(s) of Approval:

The conditional use permit will become void if a different kind of business, other than a restaurant, occupies this tenant space.

Staff Certification:

Chelsea Nichols  
Planner



**Planning Commission Staff Report  
February 22, 2023 Meeting**

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**WENDY'S  
VARIANCES**

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**LOCATION:** Located at the southwest corner of US-62 and a private drive  
(PID: 222-005166)

**APPLICANT:** The McIntosh Group, c/o Mark Lamzik

**REQUEST:**

- (A) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the US-62 and rear, private road building elevations.
- (B) Variance to 1167.03(a) to allow for maneuvering lane widths to be as narrow as 15' when code requires 22'.
- (C) Variance to Canini Trust Corp, I-PUD Text 8a.01(4) to allow for an encroachment into the 20' pavement setback along Woodcrest Way.
- (D) Variance to C.O. 1169.11(c)(3) to allow for a drive-through menu board sign to be up to 48 sq. ft. when code permits 32 sq. ft.
- (E) Variance to C.O. 1169.16(d)(2) to allow for maximum lettering height of a wall sign to be 42" tall when code permits a maximum lettering height of 24".
- (F) Variance to 1169.12(f) to allow up to five (5) colors on two wall signs when code permits up to four (4).

**ZONING:** Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a

**STRATEGIC PLAN:** Retail

**APPLICATION:** VAR-15-2023

Review based on: Application materials received January 24, 2023, February 8, 2023, and February 13, 2023.

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*Staff report prepared by Chelsea Nichols, Planner*

**I. REQUEST AND BACKGROUND**

This application is for various variances related to a final development plan for a proposed Wendy's located at the southwest corner of US-62 and a private drive within the Canini Trust Corp. The development includes a dine in restaurant with a drive-thru on a 1.817-acre site.

The applicant requests the following variances:

- (A) 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.
- (B) Variance to 1167.03(a) to allow for maneuvering lane widths to be as narrow as 15' when code requires 22'.
- (C) Variance to Canini Trust Corp, I-PUD Text 8a.01(4) to allow for an encroachment into the 20' pavement setback along Woodcrest Way.
- (D) Variance to C.O. 1169.11(c)(3) to allow for a drive-through menu board sign to be up to 48 sq. ft. when code permits 32 sq. ft.



- (E) Variance to C.O. 1169.16(d)(2) to allow for maximum lettering height of a wall sign to be 42" tall when code permits a maximum lettering height of 24".
- (F) Variance to 1169.12(f) to allow up to five (5) colors on two wall signs when code permits up to four (4).

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

The site is located on the southwest corner of US-62 and a private drive within the Canini Trust Corp site. The site is 1.817 acres and is currently undeveloped. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-thru facility.

## **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 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 three frontages, two along private roads and one along US 62. As proposed, the commercial building will have an entrance along the US 62 elevation and the unnamed private drive elevation (2/3 elevations are meeting the requirement). The elevation with no active door is along the rear of the building and is adjacent to Woodcrest Way.
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 their architectural vibrancy and interest on all sides of a building which is crucial in pedestrian oriented development. This site and the overall Canini Trust Corp 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. 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. While there isn't an active and operable door along the all private road elevations, the applicant is providing strong architectural features and materials so the building adequately addresses the primary street (US 62) architecturally. The building is designed so the front door architectural elements such as the architectural canopy and retail storefront windows front US 62. The US 62 elevation of this building makes the entrance to the building easily identifiable.
5. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted. As stated, this same variance request has been granted for other developments within the Canini Trust Corp.
6. 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 1167.03(a) to allow for maneuvering lane widths to be as narrow as 15' when code requires 22'.**

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

1. The requested variance will allow for maneuvering lane width on site to be as narrow as 15' wide when code requires 22'.
2. The site plan does show 22' wide maneuvering lanes in areas where two-way traffic is allowed. The reduction happens when the lanes go from two-way to a one-way 18' wide maneuvering lane. That one-way lane then tapers down to as narrow as 15' just before the lane reaches the drive-through entrance. Parking code (1167.03) contemplates and permits drive lanes to be a minimum of 15' for one-way traffic for 30-53 degree angle parking. There are no parking spaces along the 15' wide drive aisle but there are stacking spaces for the drive-through along the drive aisle, which necessitates the need for the variance. Given that the only area of maneuvering lanes that will be narrower than 22' wide is for one-way traffic, the request does not appear to be substantial.
3. The city engineer has reviewed the proposed site and has no concerns with the proposed maneuvering lanes.

4. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment” by approving this variance. The design is unobtrusive.
5. 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.

**(C) Variance to Canini Trust Corp, I-PUD Text 8a.01(4) to allow for an encroachment of 13 feet into the 20’ pavement setback along Woodcrest Way.**

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

1. The requested variance will reduce the required minimum pavement setback adjacent to the private road (Woodcrest Way) on the south side of the property from 20 feet to 7 feet.
2. This road serves as a private access drive to other properties within the Canini Trust Corp.
3. The variance request does not appear to be substantial. The appropriate streetscape improvements can still be accomplished with the smaller setback. The applicant is installing street trees and shrubs to provide screening of the parking lot. In addition to the tree lawn for the street trees, which is at least 2 feet wide, there is a 5-foot-wide sidewalk proposed along Woodcrest Way.
4. While the installation of the street trees, shrubs, and 5-foot-wide sidewalk are positive attributes of the plan, the 2-foot-wide tree lawn does not match the requirements of the Woodcrest Way final development plan. It is important to keep the pedestrian realm consistent between sites. In addition, historically, the Planning Commission has only approved encroachments into the pavement setbacks when all of the required streetscape amenities, such as sidewalk and tree lawn, can still be accommodated. The site plan does need to be amended to accommodate the 5-foot-wide tree lawn and sidewalk along both private drives. The city staff recommends this as a condition of approval.
5. The variance request meets the spirit and intent of the zoning text. The Planning Commission previously approved a final development plan for Woodcrest Way which established the desired streetscape for the area. The applicant is providing the approved streetscape at this site.
6. The proposed variance appears to be appropriate for this private road. The applicant has demonstrated that the reduced setback still allows for installation of appropriate landscape to create the streetscape and prevent this road from appearing to be a parking lot drive aisle. Greater setbacks are located adjacent to the public roads within this development, which is appropriate.
7. It does not appear that the essential character of the neighborhood would be altered if the variance request is granted. The Planning Commission approved a variance request for Turkey Hill to allow an 8-foot pavement setback.
8. 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.

**(D) Variance to C.O. 1169.11(c)(3) to allow for a drive-through menu board sign to be up to 48 sq. ft. when code permits 32 sq. ft.**

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

1. The applicant is requesting a variance to allow for a drive-through menu board sign to be up to 48 sq. ft. when code permits 32 sq. ft.
2. The final development plan also includes the installation of a pre-sell board that meets code. This sign is also located in the drive-through lane before reaching the menu board sign.
3. The requested sign would be located to the rear of the building behind the elevation facing the private road (Woodcrest Way) on the south side of the property. This road serves as a private access drive to other properties within the Canini Trust Corp. The sign

would not be visible from US 62.

4. The variance request does not appear to be substantial and it does not appear that the essential character of the neighborhood would be altered if the variance request is granted. The variance appears to preserve the “spirit and intent” of the zoning requirement. While this site and the overall Canini Trust Corp developments are auto-oriented, the applicant is installing street trees and shrubs to provide screening of the parking lot.
5. 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.

**6. Variance to C.O. 1169.16(d)(2) to allow for maximum lettering height of a wall sign to be 42” tall when code permits a maximum lettering height of 24”.**

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

1. The applicant requests to allow one Wendy’s wall sign with maximum lettering height up to 42” when code allows a maximum lettering height of 24”.
2. The applicant proposes to install the sign on the north elevation facing US 62.
3. The city sign code (C.O. 1169.16(d)(2)) also permits a maximum area of a wall sign to be 1 sq. ft. per linear s.f. of building frontage, not to exceed 50 s.f. The area of the proposed wall sign is 29.53 sq. ft. which meets code as the maximum permitted on this elevation is 36 sq. ft. based on frontage. While the maximum lettering size exceeds code standards, the area of the sign is well below what is permitted by code. Therefore, the request does not appear to be substantial.
4. The variance appears to meet the spirit and intent of the zoning code. The proposed wall sign is appropriately integrated onto the building and the size of the sign is proportional to the building.
5. The city architect has reviewed the proposed signage for the building and has no concerns with the applicant’s proposal.
6. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment” by approving this variance. The design is unobtrusive.
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.

**7. Variance to 1169.12(f) to allow up to five (5) colors on two wall signs when code permits up to four (4).**

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

1. The applicant requests to allow two identical wall signs with the company logo featuring 5 colors where zoning code allows up to 4 colors.
2. The applicant proposes to install one of the signs on the west elevation facing the unnamed private drive and one on the east elevation facing elevation.
3. The city sign code (C.O. 1169.08) states signs with color shall be limited to four (4) colors. Gradation from different shades of one color is considered to be one color. Color gradation to a different color is considered to be two (2) colors. The applicant proposes white, red/burgundy, pink, blue, and brown. This would be one additional color over what code permits. The color pink is perhaps a gradation shade of red. Therefore, the request does not appear to be substantial.
4. The variance appears to meet the spirit and intent of the zoning code. The proposed wall signs are appropriately integrated into the building which will make these signs feel more like a part of overall building design.
5. The city architect has reviewed the proposed signage for the building and has no concerns with the applicant’s proposal.

6. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment” by approving this variance. While the signs contain one more color than permitted, the design is unobtrusive. Additionally, there are no overly bright or jarring colors.
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 variances regarding the drive lanes, menu sign board, sign lettering height, and number of sign colors do not appear to be substantial based on their limited use and the design of building and site. However, ensuring consistent streetscape between sites along corridors is an important aspect of the New Albany community. It appears the appropriate streetscape improvements can still be accomplished with the smaller setback along the south side of the site. The site plan does need to accommodate the required 5-foot tree lawn and 5-foot sidewalk in order to match the approved Woodcrest Way final development plan and match the surrounding sites. Historically the city boards and commissions have only approved encroachments into the pavement setbacks as long as there are no impacts to the streetscape elements (i.e. sidewalk, tree lawn, etc.).

## **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-15-2023 with the following conditions:**

- 1) That the site plan be amended to accommodate the required 5-foot wide tree lawn and 5-foot wide sidewalk along both private roads.

Approximate Site Location:



Source: Google Earth



## **Community Development Department**

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

Dear The McIntosh Group, c/o Mark Lamzik

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, February 28, 2023

The New Albany took the following action on 2/22/23.

#### Variances

**Location:** Southwest corner of US-62 and Private Drive

**Applicant:** The McIntosh Group, c/o Mark Lamzik

**Application:** PLVARI20230015

**Request:** Variances to the number of active and operable doors, maneuvering lane width requirements, signage requirements, and setback requirements associated with a final development plan application for a Wendy's development.

**Motion:** To approve VAR-15-2023 with one condition associated with Variance (c)

**Commission Vote:** Motion to Approve

**Result:** Variance, PLVARI20230015 (A), (B), (F) were approved, by a vote of 4-0.  
Variance, PLVARI20230015 (C), (D), (E) were approved, by a vote of 3-1.

Recorded in the Official Journal this February 22, 2023

#### Condition(s) of Approval:

Variance (C): That the site plan be amended to accommodate the required 5-foot-wide tree lawn and 5-foot-wide sidewalk along both private roads.

Staff Certification:

Chelsea Nichols  
Planner





**Planning Commission Staff Report  
February 22, 2023 Meeting**

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**INNOVATION CAMPUS WAY –FINAL ROAD PLAT  
CONDITION OF APPROVAL MODIFICATION**

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LOCATION: Harrison Road located north of Innovation Campus Way and south of Jug Street  
APPLICANT: City of New Albany  
REQUEST: **Condition of Approval Modification**  
ZONING: Limited General Employment (L-GE) and township properties  
STRATEGIC PLAN: Employment Center  
APPLICATION: **FPL-50-2014**

Review based on: Application materials received August 18, 2014.

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*Staff report completed by Stephen Mayer, Planning Manager*

**I. REQUEST AND BACKGROUND**

On August 18, 2014 the Planning Commission approved the final plat for the Innovation Campus Way street extension from Innovation Campus Court to Harrison Road. To address concerns from residents living on Harrison Road, north of the proposed street extension, the Planning Commission placed a condition of approval on the plat requiring “no left turns by trucks onto Harrison Road from Innovation Campus Way and trucks are prohibited on Harrison Road north of Innovation Campus Way.”

Recently the remaining residential parcels sold to a commercial developer. In order to accommodate future commercial redevelopment of the parcels, the city staff requests the Planning Commission remove this condition that prohibits truck traffic on this section of the public street.

Allowing full access facilitates additional connections within the New Albany International Business Park. The street provides access to existing and new development sites in the future.

**II. SITE DESCRIPTION & USE**

Truck traffic is prohibited on Harrison Road between Innovation Campus Way and Jug Street. The properties located on the east side of this section of Harrison Road are zone limited General Employment district (L-GE). The properties on the west side of this section of Harrison Road were recently sold. The city (via R-29-2022 and R-41-2022) and township (via resolution #23-02-06-03) have entered into annexation and street maintenance agreements in anticipation of an annexation petition submittal by the new property owner.

**III. PLAN REVIEW**

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

- The 2014 plat for Innovation Campus Way consists of 3,880 +/- feet of new public right-of-way. This plat transformed Innovation Campus Court into Innovation Campus Way and extended it east to Smith’s Mill Road Loop and then to Harrison Road.

- This public street was and is designed and intended to accommodate current and future traffic to serve the business park and provide a secondary access point to the business campus from a street other than Beech Road.
- In 2014, at the time of the street plat, Harrison Road was the furthest extent of the New Albany city boundaries and the business park. At the time, the properties to the north were in the township and primarily residential in nature. The Innovation Campus Way plat created a new public street that connected the business park to township roads. To address concerns from residents living on Harrison Road, north of the Innovation Campus Way street extension, the Planning Commission approved the plat with a condition of approval requiring “no left turns by trucks onto Harrison Road from Innovation Campus Way and trucks are prohibited on Harrison Road north of Innovation Campus Way.”
- This 2,605 foot long section of Harrison Road is identified as a minor collector road typology in the Engage New Albany strategic plan. This street is intended to be designed at a larger scale in order to accommodate heavier traffic traveling into the business park. Removing this truck access prohibition implements the Engage New Albany strategic plan objective to maximize connectivity. The strategic plan recommends providing multiple connections to distribute traffic throughout the roadway network.
- It is standard for public streets in New Albany to not contain any prohibitions on the type of vehicles. Public streets are intended to be used by all modes of transportation. This section of Harrison Road is the only public street in the city with this type of prohibition. Allowing truck traffic full access to this section of Harrison Road permits the street to function as intended and is consistent with all other public streets in the city.
- Since this section of Harrison Road is encumbered with a highway easement and an existing township roadway, it does not need to be platted. The city code requires the property owner to dedicate right-of-way at the time of development in accordance with the New Albany strategic plan.

#### **IV. ENGINEER’S COMMENTS**

The city engineer has no comments.

#### **V. SUMMARY**

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

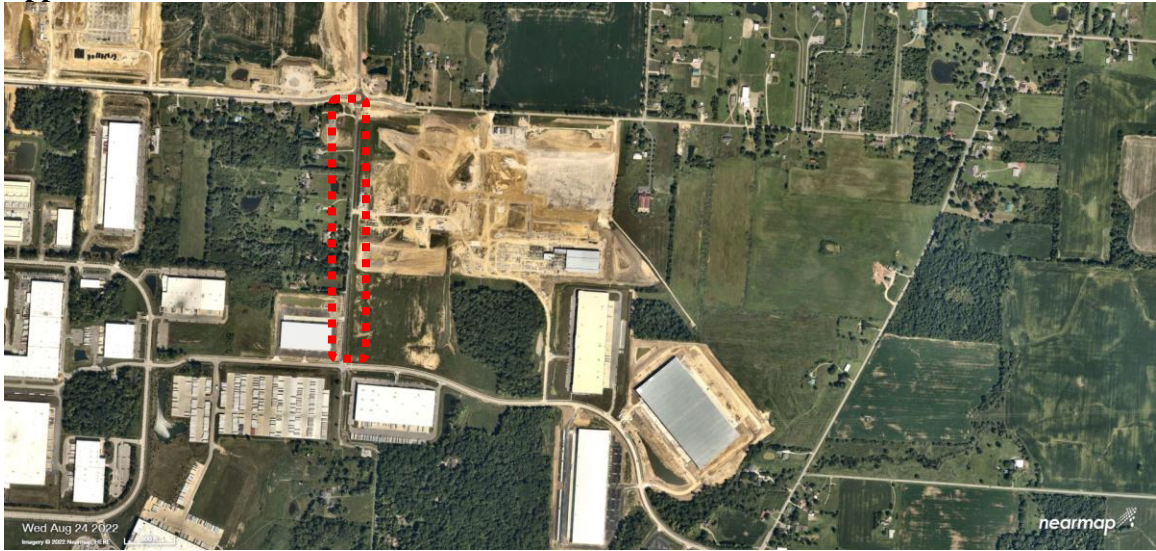
The removal of the truck prohibition on this street is consistent with the goals and objectives found in the Engage New Albany strategic plan for this area. This road will serve as a critical connection within the New Albany Business Park and provide access for existing and new development sites in the future.

#### **VI. ACTION**

##### **Suggested Motion for FPL-50-2014 (conditions may be added):**

- Move to allow truck traffic full access and remove FPL-50-2014 condition of approval that requires no left turns by trucks onto Harrison Road from Innovation Campus Way and trucks are prohibited on Harrison Road north of Innovation Campus Way.

**Approximate Site Location:**





## **Community Development Department**

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

Dear city of New Albany,

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, March 1, 2023

The New Albany Planning Commission took the following action on 02/22/2023.

#### **Zoning Amendment**

**Location:** North of Innovation Campus Way and south of Jug Street

**Applicant:** The city of New Albany

**Application:** PLFPL20140050

**Request:** To allow truck traffic full access and remove FPL-50-2024 condition of approval that requires no left turns by trucks onto Harrison Road from Innovation Campus Way and trucks are prohibited on Harrison Road north of Innovation Campus Way.

**Motion:** To recommend approval with one condition.

**Commission Vote:** Motion Approved with a Condition, 4-0

**Result:** Condition of Approval Modification, PLFPL20140050 was Approved with a Condition, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2023

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

1. That the condition of approval modification will not go into effect until the rezoning application is approved by the commission.

Staff Certification:

*Chelsea Nichols*

Chelsea Nichols  
Planner