



New Albany Planning Commission
Monday, March 20, 2023

I. Call to order

The New Albany Planning Commission met on March 20, 2023 at the New Albany Village Hall. Vice Chair Wallace called the meeting to order at 7:03 p.m.

II. Roll call

Those answering roll call:

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

With 3 members present, the Planning Commission had a quorum to conduct business.

Staff present: Law Director Ben Albrecht; Public Service Director Mike Barker; Planner II Chris Christian; Planner Sierra Cratic-Smith; Administrative Director Adrienne Joly; Planning Manager Steve Mayer; Deputy Clerk Christina Madriguera.

III. Action on minutes: March 6, 2023

Vice Chair Wallace asked if the members had read the minutes of the March 6th meeting and whether there were any changes to the minutes as presented.

Commission Member Schell moved for approval of the minutes from the March 6th meeting. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Schell, yes; Ms. Briggs, yes; Mr. Wallace, yes. Having 3 votes in favor and 0 votes in opposition and 0 abstentions, the March 6, 2023 meeting minutes were approved as submitted.

IV. Additions or corrections to agenda

Vice Chair Wallace asked whether there were additions or corrections to the agenda.

Staff answered that there were not.

Vice Chair Wallace administered the oath to all who would be addressing the commission.

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

Vice Chair Wallace asked if there was anyone present who wished to address the commission on an item not on the agenda.

There was no response.

Vice Chair Wallace asked that everyone please silence any noise-making devices.

VI. Cases:

VAR-27-2023 Variance

Variance to the city floodplain ordinance for the development of a new building located at Taylor Farm park (PID: 222-005165).

Applicant: The city of New Albany

This application seeks a variance from Section 1155.04(e). Section 1155.04(e) sets forth the flood protection requirements for new construction and substantial improvements to existing nonresidential structures. The city seeks a variance from these code requirements in order to do 2 things. To construct a new restroom facility on fill placed above the 100-year flood elevation, but below the Flood Protection Elevation (FPE) (100-yr flood elevation + 2 feet) and without dry-proofing measures. And, to substantially improve the existing chicken house and barn. Both structures would be placed on fill to an elevation above the 100-year flood elevation, but below the FPE required by 1155.04, and without dry-proofing measures.

Planner Christian introduced Administrative Director Adrienne Joly and EMHT Consultant Miles Hebert both of whom would deliver the staff report and respond to questions from the commission.

Director Joly stated that in all of her experience presenting applications, this application was the most technical. Staff had worked through each of the *Duncan* and code factors when drafting this variance application. She explained that the Taylor Farm property is 98 acres in the western gateway of New Albany on Dublin-Granville Road. The city bought the property in 2021 to turn it into a park. The property includes of three areas of wetlands which are in various stages of forestation development. Phase I of the project included construction of trails and plantings and that over 22,000 trees have already been planted. Development of the restroom facility and improvements to the chicken house and barn as well as the development of additional paths are in Phase II of the project. She explained that 81% of the property is with the 100-year floodplain and that even after the park is developed the city will have added 53 acres of compensatory floodplain storage to the property. She further explained that in addition to limits imposed by the floodplain, there are many well-intentioned encumbrances, regulatory covenants and deed restrictions, on this site that limit what can and cannot be done to develop this property. She explained the layout of the homestead property and stated that in terms of this variance application, it was not practical to consider the floodplain code for the new restroom building without considering the code's application to the existing structures.

Mr. Hebert, a certified floodplain expert, explained the technical aspects of the variance request. He stated that use as a park is the highest and best use of this property. He stated that the encumbrances and the fact that most of the property is within a floodplain presented challenges. He presented an overview of the audit he undertook to understand what variances would be needed. The park itself, regardless of the amenities in it, is a permissible use under the regulatory and deed restrictions. He stated that there is a 105% compensatory floodplain storage requirement and a notarization requirement (documents attesting to the fact that the floodplain is maintained).

Vice Chair Wallace asked what the overall purpose of the code requirement was that the city was seeking a you are seeking a variance from.

Mr. Hebert stated that the purpose was protection of assets from flood.

Vice Chair Wallace asked what was meant by dry floodproofing.

Mr. Hebert stated that the term meant that structures beneath or partially below the FPE are water-tight.

Commission Member Schell confirmed that in this case the current structures do not currently meet that requirement and that fact necessitated the variance request.

Mr. Hebert responded, correct. Some meet the requirement but not all of them.

Vice Chair Wallace referenced page 3, subsection 5 of the staff report. That section said there would not be dry floodproofed, and then asked what the difference between the FPE standard (in 1155.04) and the 100-year flood elevation in conformance with the National Flood Insurance Program standard (NFIP).

Mr. Hebert explained that the city's FPE standard requires the floor to be 2 ft above the 100-year floor elevation or dry-proofed below. The 100-year flood elevation in conformance with the NFIP is the national standard.

Vice Chair Wallace then asked for a clarification of the language on page 3 in section 7, the language stating that additional fill would be required.

Mr. Hebert read the section and clarified that on line 2 the language should say, "...additional excavation must occur..." rather than "... additional fill must be placed..." He further stated that a slide later in his presentation would provide a helpful graphic and he would be sure to slow down and reference this point when that slide was reached.

Vice Chair Wallace responded that that would be great and invited Mr. Hebert to continue.

Vice Chair Wallace also asked whether the code could be viewed as a building protection code.

Mr. Hebert responded yes, but it also protects natural features.

Vice Chair Wallace stated, but for our purposes tonight it is to protect buildings and to get them above the 100-year flood elevation.

Mr. Hebert agreed and reiterated that the buildings involved in this application, both existing and proposed, would then be above the 100-year floodplain and the compensatory storage location would be lower than it is currently.

Vice Chair Wallace asked, regarding the term compensatory storage, what was being compensated for.

Mr. Hebert responded that what was being compensated for was the amount of fill that was used. The code requires developers to return to the floodplain 105% for the fill used.

Council Member Shull asked whether the dirt would be used from the site and further remarked that there was a lot of dirt across the street that could be used to supplement the compensatory storage.

Mr. Hebert stated that the dirt used was depended on the quality of the dirt.

Director Joly stated that the plan was to use fill from within the site.

Vice Chair Wallace stated that he might be getting ahead of the presentation but it seemed like the objective was to raise the construction line.

Mr. Hebert stated that compensatory storage is adding floodplain to an area that wants to be floodplain. This property has a very broad floodplain, although parts of it will be filled in there will still be more floodplain than is there now and that the 100-year flood elevation would be set at 957, which was their standard.

Vice Chair Wallace asked what was meant by the term “cut” as used on the No-Rise Requirement slide.

Mr. Hebert responded that it meant digging/excavation. He further explained that some excavation would occur in the Stream Corridor Protection Zone.

Vice Chair Wallace asked whether it made a difference that there was historical significance to the buildings, such as the chicken coop and barn.

Vice Chair Wallace asked why the floor height could not be increased 2 more feet and whether the buildings would be on the ground (the site plan drawings depicted the buildings on piers with no ground apparent).

Mr. Hebert stated that the hardship with raising it 2 more feet was that more fill would be required. He confirmed that the buildings were on the ground, but the earth was transparent in the site plan for ease of explanation.

Council Member Shull noted that there was a discrepancy between numbers used on the slides and sought clarification.

Mr. Hebert clarified the Restroom Facilities slide contained a typographical error and the correct numbers were 957 and 959.

Vice Chair Wallace clarified for the record that there was a typographical error on the Restroom Facilities slide. The correct numbers were used on the previous slide (No-Rise Requirement slide).

Mr. Hebert further stated that the proposal includes the usage of flood resistant materials such as stone and the usage of vents to decrease hydrostatic pressure. He explained that was because the structures were not dry-proofed and because the proposal does not include a flood-proofed door. He further explained that dry, flood-proofed doors require maintenance.

Vice Chair Wallace observed that what was missing was the water-proof door and usage of a water-proof door would obviate the need for vents.

Mr. Hebert agreed.

Commission Member Briggs recalled that Mr. Hebert said the chicken coop would be refurbished and asked whether there were elements of the chicken coop in this structure.

Mr. Hebert said that there were.

Commission Member Briggs asked whether the storage shed would have a door and whether it would be a storage shed for the community.

Commission Member Schell confirmed that the chicken coop would also have hydrostatic vents.

Director Joly said that the shed would have a door and would be a storage shed for community and that it would have water and electricity, but it would only serve as a storage space. She stated that essentially the chicken coop will need to be raised 2 feet and the new buildings will need to be constructed 2 feet above where the ground currently sits. She explained that the city was trying to balance between creating a usable and safe space for the public with maintaining the natural environment.

Mr. Hebert stated that the presentation did not include a slide for the barn, but the barn required similar treatment and the variance request included the barn.

Council Member Shull asked how confident the applicant was that the barn could be raised 2 feet.

Public Service Director Barker stated that he had met onsite with the contractor and the contractor did not indicate any concern.

Vice Chair Wallace observed that the label of garden shed also referred to the chicken house and asked whether it was the existing chicken house.

Director Joly responded in the affirmative, the existing chicken house will become the storage shed.

Commission Member Schell stated that he dealt with Federal regulatory agencies frequently in his professional life and wondered what would happen with the main house.

Director Joly replied that a full audit of the main house has not yet been conducted but she suspected that such an audit would expose regulatory challenges.

Commission Member Schell stated that much of the information presented tonight would assist the commission with future decisions.

Director Joly agreed and added that there were many variables to consider.

Commission Member Briggs asked whether the timeline for making decisions about the house would be about 3 years.

Director Joly responded in the affirmative and explained that staff would begin exploring the possibilities for the house this year but the funding and final decisions are 2 to 3 years out.

Vice Chair Wallace asked about the flood door and the feasibility of installing the door.

Mr. Hebert summarized the hardships involved and explained that the flood door was not a traditional door, that it needed to be closed manually which necessitated consistent monitoring, and that it required regular maintenance.

Vice Chair Wallace confirmed that, in Mr. Hebert's professional opinion, the flood door was not the best option.

Vice Chair Wallace asked Law Director Albrecht whether there were additional code factors that needed to be met in addition to the *Duncan* factors.

Law Director Albrecht responded that he did not know that the code factors needed to be met, but that they needed to be considered along the way.

Commission Member Schell stated that this application was well done.

Commission Member Briggs agreed.

Vice Chair Wallace asked whether there were other questions.

There was no response.

Vice Chair Wallace made a motion to accept the staff report, noting that one of the slides had a typographical error, and related documents into the record for VAR-27-2023. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Schell, yes. Having 3 votes in favor; 0 votes in opposition; and 0 abstentions, the documents were accepted into the record.

Vice Chair Wallace made a motion for approval of application VAR-27-2023 based on the findings in the staff report, subject to staff approval. Vice Chair Wallace noted that there were no conditions listed in the staff report. Commission Member Schell seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Schell, yes; Ms. Briggs, yes. Having 3 votes in favor; 0 votes in opposition; and 0 abstentions, the variance application was approved.

Vice Chair Wallace stated that this is a variance request, and he generally looks askance at them and rarely votes in favor of variance requests. This variance request, however, is unique. He found that the *Duncan* factors have been met, and the usage of the property would diminish greatly if this variance was denied and the case has been made this variance should be approved.

Director Joly thanked the commission.

The commission thanked her and wished her luck.

Vice Chair Wallace further stated that it was his hope that usage of the chicken house as a storage shed did not take away from the historical value of the structure.

VAR-29-2023 Variance

Variance to Section 5(A) of the Edgemont Subarea 1B zoning text to allow a private swimming pool to be located in the side yard at 6984 Lambton Park (PID: 222-004129-00).

Applicant: Hidden Creek Landscaping

Planner Cratic-Smith delivered the staff report.

Vice Chair Wallace asked how many lots were included in the Edgemont subdivision.

Planning Manager Mayer stated that it includes the three lots north of Lambton Park Road and all of the lots in Waterston.

Vice Chair Wallace asked whether it was possible that additional lots across Lambton Park could be sold.

Planning Manager Mayer said yes. New Albany Company owns those lots and noted that the lots are estate sized.

Vice Chair Wallace asked whether the rear yard requirement/side yard restriction has greater applicability to smaller lots and is not necessarily for the estate-sized lots.

Planning Manager Mayer responded that was fair to say.

Commission Member Schell asked whether there was a pool in the neighboring house and whether a variance was required.

Planning Manager Mayer responded that it was but it was located in the rear lot so it did not need a variance, but they did need a variance for the fence.

Vice Chair Wallace asked to hear from the applicant.

Mike Crommes, applicant and landscape architect with Hidden Creek Pools, thanked Planner Cratic-Smith for her report. He explained that he had installed the pool at the adjacent property and also that he built the wall along SR 62. He explained the topography of the subject property and the need for this application for variance.

Vice Chair Wallace asked whether there was anything in the packet to show what the 6-ft brick wall surrounding the pool would look like.

Mr. Crommes indicated that there was.

Planning Manager Mayer stated that it would be similar in height and design to the brick wall that is along SR 62.

Vice Chair Wallace asked whether, based on the grading behind the house and zoning code requirements, the pool could be installed behind the house.

Mr. Crommes answered yes with the addition of a retaining wall toward the golf course and stairs toward the house.

Vice Chair Wallace asked whether that would incur additional costs.

Mr. Crommes answered yes, the construction of any kind of wall would incur additional costs.

Commission Member Schell asked how well screened with trees the bottom portion of the house was.

Mr. Crommes responded that the screening, with the fencing and landscaping, will essentially cover it from view.

Commission Member Schell then asked whether it would be screened if it was placed in the rear yard.

Mr. Crommes responded that there were not, there were a few straggly things.

Vice Chair Wallace asked whether the applicant had spoken to the neighbors to the west. Vice Chair Wallace administered the oath to the property owner.

Mr. Bevis, applicant and property owner, responded that he has spoken to the neighbors and they support this installation. He also responded that, regarding the back installation, that his property is very close to the first tee on the east side of the golf course. As a result, his property is in a frequent slice landing area and he anticipates that golf balls will frequently land in the rear yard. We respect golfers and we do not want golf balls in our pool and we do not want to annoy the golfers. He further stated that the side yard location was a safer location for his family, considering the steepness of the north and west sides of the property.

Commission Member Schell asked whether the neighbors notified and whether any calls had been received.

Planning Manager Mayer stated yes, neighbor letters were sent out. He further stated that no calls had been received.

Commission Member Briggs asked whether there was a total of 5 neighbors.

Planning Manager Mayer stated yes, there were 5 neighbors.

Vice Chair Wallace made a motion to accept the staff reports and related documents into the record for VAR-29-2023. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Schell, yes. Having 3 votes in favor; 0 votes in opposition; and 0 abstentions, the staff reports and related documents were accepted into the record.

Vice Chair Wallace made a motion to approve application VAR-29-2023 based on the findings in the staff report, subject to staff approval. Vice Chair Wallace noted that there were no conditions listed in the staff report. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Ms. Briggs, yes; Mr. Schell, yes. Having 3 votes in favor; 0 votes in opposition; and 0 abstentions, the application was approved.

Vice Chair Wallace stated that he voted yes because the size of the estate makes it unique, the adjacent landowner support, and because of the testimony of the applicant architect and the applicant property owner. He further explained that his yes vote was due to the fact that the pool would be completely screened, and that positioning the pool in the side yard was a better location than in the rear yard which faced the golf course. He further stated that this application was unique and did not set a precedent.

Commission Member Schell stated that he concurred with Vice-Chair Wallace's reasoning, and further remarked that this property and application were unique, the pool would be completely screened if positioned in the side yard, and the commission's approval of this variance did not set a precedent.

FPL-30-2023 Preliminary and Final Plat

Preliminary and Final plat for the dedication of Third Street, Main Street, Market Street, Granville Street and High Street (222-000329, 222-000312, 222-000563, 222-000300, 222-000572, 222-000167, 222-000224, 222-000169, 222-000316, 222-000770, 222-000153, 222-000055, 222-000225, 222-000015, 222-000096, 222-000003, 222-001670, 222-000016, 222-000012, 222-000035, 222-000063, 222-000036).

Applicant: The city of New Albany

Planner Christian delivered the staff report and stated that he and Public Service Director Barker were available to answer any questions.

Commission Member Schell asked for an explanation of the plan for the intersection of Market St. and SR 605.

Planner Christian explained that a roundabout would be constructed at Market St and SR 605.

Public Service Director Barker further explained that the intersection of Main St. and High St. (SR 62 and Dublin Granville Road) is a primary source of congestion but the surrounding property precludes widening the road. The application proposes to establish an alternate route – creating a bypass and reducing the volume of traffic that reaches the intersection of Main and High. The area will be redesigned so the through movement will be via Third which will be extended all the way to Market St. This proposal was derived from the Engage New Albany study.

Vice Chair Wallace stated that the new intersection appeared to look like a T-shaped intersection and further asked what will the feel of the extended road would be.

Public Service Director Barker agreed, he further stated that staff was very proud of the feel of Third Street, but the brick that is there today will not hold up under the increased traffic conditions that would result from this project.

Vice Chair Wallace confirmed that it would not be a boulevard.

Public Service Director Barker stated no, that it would be a 2-lane road, it will be more of a Fodor Rd type of road with a parallel parking on either side, a tree median, and stormwater basin.

Vice Chair Wallace asked whether Village Hall Road would be extended.

Public Service Director Barker stated there were no plans to extend Village Hall Road.

Commission Member Briggs noted the red indications on the site map and asked whether there would be changes to Reynoldsburg New Albany Road.

Public Service Director Barker responded that that was a great question. He continued that there would be a slight jog installed as would typically happen prior to a roundabout.

Commission Member Briggs thanked Public Service Director Barker. She further noted that Neil was not present to comment and it seemed like the intersection would be tight considering the existing properties, however she acknowledged that staff were the experts and she was confident they would figure it all out. She further clarified that it would remain possible to make a left turn from Third Street on to SR 62.

Public Service Director Barker stated that yes, it would still be possible to make a left turn, but with the timing of the lights, it would not be in the motorists' interest to make a left at that location.

Vice Chair Wallace wanted to clarify there was enough right of way to accomplish the objectives stated in this application.

Public Service Director Barker responded that this plat does not represent everything that would be needed. Staff is working with the Methodist church and private property owners in order to acquire the needed space.

Commission Member Briggs confirmed that the intersection was a 2-way stop, and further asked about the timeline.

Public Service Director Barker responded that yes, it was a 2-way stop. He further responded that bidding will occur in the next one to two months. The project needed to be timed around the Indiana bat restriction on felling trees in the summer. He also explained that the project would proceed in phases.

Vice Chair Wallace asked whether staff had an estimate on whether travel on the new or existing road would be faster from south of the Village Center.

Public Service Director Barker responded that he did not have specific timing but he thought the new road would be faster. The existing roundabout working in conjunction with the new roundabout at Market and SR 605 will make all traffic move more quickly.

Commission Member Briggs asked about the residences on Third Street.

Public Service Director Barker stated that they are rentals owned by the New Albany Company and temporary accommodations would be made for residents that would be impacted by this project.

Vice Chair Wallace confirmed that Public Service Director Barker's report constituted the engineering report for this application. He noted there was no one present in the audience to speak on this application, and asked if the commission had any other questions.

There was no response.

Vice Chair Wallace made a motion for acceptance of staff reports and related documents into the record for FPL-30-2023. Commission Member Schell seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Schell, yes; Ms. Briggs, yes. Having 3 votes in favor; 0 votes in opposition; and 0 abstentions, the staff reports and related documents were accepted into the record.

Commission Member Briggs made a motion for approval of application FPL-30-2023 based on the findings in the staff report, subject to staff approval. Commission Member Briggs noted that there were no conditions listed in the staff report. Commission Member Wallace seconded the motion.

Upon roll call: Ms. Briggs, yes; Mr. Wallace, yes; Mr. Schell, yes. Having 3 votes in favor; 0 votes in opposition; and 0 abstentions, the application was approved.

VII. Other business

1. Annual Organizational Meeting

- Swear in new members
- Elect Chairperson
- Elect Vice-Chairperson
- Elect Secretary
- Appointment of Board of Zoning Appeals Representative

- Establish date, time, and location for 2023 regular meetings

**Attendance is defined as in-person presence during the hearing and consideration of applications without a conflict of interest before that commission/board at that meeting. Attendance of all current serving members of the commission/board is encouraged, and three (3) consecutive absences by any member or four (4) absences in any 12-month period shall be considered a forfeiture of the membership to the commission/board. The forfeiture would occur regardless of the reason for the absences. The applicable department designee would then notify the clerk of council so that they can inform council that a new appointment needs to be made.*

Vice Chair Wallace noted that only 3 of the 5 commission members were present and stated that the organizational meeting would be more appropriately conducted when more commission members were present.

Planning Manager Mayer stated that the organization meeting could be held at the April 3, 2023 meeting.

Vice Chair Wallace made a motion to table the annual organizational meeting until the April 3, 2023 meeting. Commission Member Briggs seconded the motion.

Upon roll call: Mr. Wallace, yes; Mr. Schell, yes; Ms. Briggs, yes. Having 3 votes in favor; 0 votes in opposition; and 0 abstentions, the annual organization meeting was tabled until the April 3, 2023 commission meeting.

VIII. Poll members for comment

Vice Chair Wallace asked if there were comments from the commission members.

There was no response.

IX. Adjourn

Without objection the meeting adjourned at 8:57 p.m.

Submitted by Christina Madriguera, Deputy Clerk.

Appendix

VAR-27-2023

Staff Report

Record of Action

VAR-29-2023

Staff Report

Record of Action

FPL-30-2023

Staff Report

Record of Action



**Planning Commission Staff Report
March 20, 2023 Meeting**

**TAYLOR FARM PARK
FLOODPLAIN VARIANCE**

LOCATION: Taylor Farm Park (PID: 222-005165)
APPLICANT: City of New Albany
REQUEST: (A) Variance to C.O. 1154.04(e)(2) to allow a new restroom facility, existing barn and chicken house to be placed at an elevation that is not 2 feet above the “base flood elevation” and not include dry flood proofing measures as required by city code.
ZONING: Agricultural (AG)
STRATEGIC PLAN: Parks and Green Space
APPLICATION: VAR-27-2023

Review based on: Application materials received on February 23, 2023.

Staff report prepared by Chris Christian, Planner II.

I. REQUEST AND BACKGROUND

The applicant requests the following variance as part of the Taylor Farm Park improvement project.

(A) Variance to C.O. 1154.04(e)(2) to allow a new restroom facility, existing barn and chicken house to be placed at an elevation that is not 2 feet above the “base flood elevation” and not include dry flood proofing measures as required by city code.

II. SITE DESCRIPTION & USE

Taylor Farm Park is located on the far western corporate boundary that is shared with the city of Columbus along Dublin Granville Road. The site contains an existing historic home, summer kitchen, garage, chicken house, barn and parking lot. The Rocky Fork Creek runs along the western property line of the site.

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.*

Considerations and Basis for Decision

(A) Variance to C.O. 1154.04(e)(2) to allow a new restroom facility, existing barn and chicken house to be placed at an elevation that is not 2 feet above the “base flood elevation” and not include dry flood proofing measures as required by city code.

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

1. The proposed and existing buildings are located on a nearly 100-acre tract of land being developed as the Taylor Farm Park. Historically, the site had been used as a farm dating back to the 1800s and contains several existing buildings. The Rocky Fork Creek runs along the western boundary of the site. The 100-year floodplain of the creek takes up a large amount of ground on the site, limiting the type and intensity of development that may occur. There are several layers of regulations related to the floodplain on the site including those found in the Flood Damage Reduction section of New Albany city code (C.O. 1155).
2. The city’s intent for the property is to preserve the existing character of the site, paying homage to the rural character of New Albany while adding amenities to the site so it can be used as a city park. The city hired consultants to evaluate the state of the existing structures and to study the existing character of the creek corridor to accomplish the intent of the project while protecting and preserving these integral elements of the site. The city wishes to restore the existing barn and chicken house as well as add a new restroom facility to support the park. In order to accomplish this, a variance is necessary and further described below. EMH&T, the city floodplain consultant for the project, submitted a floodplain model, report and additional supporting documents for the variance request. This information is included in the staff report evaluation and the meeting packet.

3. C.O. 1154.04(e)(2) requires nonresidential structures to be elevated to or above the flood protection elevation. C.O. 1155 defines the flood protection elevation (FPE) as the base flood elevation plus two feet of freeboard. The base flood elevation means the area having a one percent chance of being equaled or exceeded in any given year. The base flood elevation may also be referred to as the one percent chance annual flood or one-hundred (100) year flood.
4. In addition, the code requires nonresidential structures to be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water. The applicant is requesting a variance to eliminate these requirements for the new restroom facility, existing barn and chicken house.
5. The variance request does not appear to be substantial. While the new and existing buildings will not be elevated to the FPE nor contain dry proofing measures, the structures will be elevated to be above the 100-year flood elevation in conformance with the National Flood Insurance Program (NFIP), consistent with federal regulations. In addition, the proposed and existing buildings are meeting all other regulations and requirements of the city flood plain code and will not increase the Rocky Fork flood elevation levels.
6. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted. The intent of this city project is to preserve the character of the property, paying homage to the rural character of New Albany while allowing the site to serve as a city park. The restoration of these existing structures and addition of the restroom facility contribute to this goal.
7. If the variance is not granted and the buildings are required to be raised to the FPE, additional fill must be placed within the floodplain for compensatory storage. As demonstrated in the submittal materials, there is little additional area adjacent to the creek to provide such storage. Additional area could be provided however it would require additional disturbance to the creek corridor including removing existing vegetation. These efforts would compromise the existing character of the area and not meet the intent of the project.
8. It appears that there are special conditions and circumstances that do not result from action of the applicant and justify the variance request. The existing code regulations do not consider historic buildings which are desired to be restored or ancillary restroom facilities designed to complement and support a public park. The existing and proposed buildings are considered to be “nonresidential structures” which may also include more substantial development such as office buildings, retail buildings or another commercial use.
9. The regulations within this section only appear to consider buildings where there may be a larger number of people using them, on a more frequent basis, and are meant to provide additional protection in these circumstances. The existing and proposed buildings on the site are ancillary in nature and will not be used for frequent or regular human habitation. In addition, if a 100-year flood even occurs on the property the city has control to close the buildings if necessary.
10. 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.O. 1155.05(c) states that in addition to the criteria for granting variances set forth in C.O. 1113, a variance to the city’s floodplain regulations shall only be issued upon:

1. *A showing of good and sufficient cause.*
The proposed and existing buildings meet all other requirements of the city floodplain code with the exception of this variance request. The buildings will be elevated to meet the minimum NFIP regulations, above the 100-year flood elevation as demonstrated below:

- a. 100-year flood elevation at proposed building location: EL 957.0
 - b. Lowest adjacent grade to proposed building: EL 957.02
 - c. Finished floor elevation of proposed building: EL 957.50
2. *A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.*
 - a. Elevating the new and existing buildings to be a minimum of 2 feet above the 100-year floodplain elevation could require up to 1,750 additional cubic yards of fill within the floodplain, requiring additional excavation of 1,837.50 cubic yards for compensatory storage. The current grading plan indicated there is little additional area adjacent to the Rocky Fork Creek to provide excavation for additional compensatory storage, within the project limits.
 - b. Elevating the proposed buildings to the FPE by utilizing ramps and/or stairs in-lieu of additional fill would impact the ability to provide equal, intuitive, and convenient access to and between the proposed building, existing buildings, and the community gardens. Along with impacts to accessibility, additional ramps and stairs would be incompatible with the characteristics of the existing rural character and agrarian aesthetic of the buildings and site.
 - c. Dry flood proofing the proposed restroom building and the existing structures would require the use of a flood gate closure of doors to these buildings. A typical flood gate door closure would require mobilization and installation of the closure in advance of a flood event, then removal of the closure to reestablish use of the facility. In addition, these materials would need to be stored nearby and periodic test closures would be required. The door gate closures would eventually need to be replaced. The additional flood damage reduction benefits to the buildings beyond what is currently proposed and described under item is minimal.
3. *A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.*
 - a. A detailed floodplain model has been prepared to represent the proposed grading associated with the project, including the fill and excavation for compensatory storage. Attached is a separate report documenting the outcome of that modeling, which has determined the proposed project will not increase 100-year flood elevations along Rocky Fork Creek. This information is included in the meeting packet.
4. *A determination that the structure or other development is protected by methods to minimize flood damages.*
 - a. The exterior walls of the restroom facility and the existing buildings will be constructed from Concrete Masonry Units, or similar, to an elevation above the FPE. These walls will be designed to withstand hydrostatic and hydrodynamic loading in the rare instance there is a flood exceeding a 100-year event.
 - b. Water and sewer services located within the restroom facility will be elevated above the FPE or will be sealed to be water-tight where below the FPE.
 - c. The termination of electrical services within the restroom facility will be elevated above the FPE.
 - d. Flood vents will be provided in the walls of the restroom facility and the existing structures to allow for the free movement of flood waters into and out of the building and reduce the hydrostatic and hydrodynamic loading to the buildings. The flood

vents will be designed in accordance with Code Section 1155.04 (d)(7) C., or otherwise meet minimum NFIP standards.

5. *A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
 - a. The proposed improvements will be designed and constructed in compliance with the city flood code, with the only exception of the proposed restroom facility and the substantial improvement of the chicken house and barn structure not meeting the FPE requirement. These buildings will be flood protected in conformance with minimum NFIP requirements and additional flood resistance measures will be applied above the 100-year flood elevation. As such, the requested variance is the minimum necessary given the documented hardships.

Plus these other conditions for variances found in C.O. 1155.05(d):

1. *Variances shall not be issued within any designated floodway if any increase in flood levels during the case flood discharge would result.*
 - a. The proposed project will not increase 100-year flood elevations along Rocky Fork Creek as demonstrated in a model and associated report which are included in the meeting packet.
2. *Generally, variances may be issued for substantial improvements to be erected on a lot of one-half (1.5) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half (1.5) acre, the technical justification required for issuing the variance increases.*
 - a. A substantial, 263 page report has been completed for the project which and used as the basis for justification of the variance request. This report is included in the meeting packet and concludes that the project will not increase the Rocky Fork flood elevation levels.
3. *Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.*
 - a. While the existing and proposed buildings will not be placed at or above the flood protection elevation, they are to be placed above the 100-year flood elevation meeting the minimum National Flood Insurance Program requirements and federal regulations.

III. SUMMARY

The intent of Taylor Farm Park is to preserve and protect the existing character of the nearly 100-acre tract of land while allowing the site to be used as a public park, providing a benefit to the community. The city is meeting the goals of the project by hiring outside consultants to evaluate the condition of the existing buildings on the site, restoring them and adding a small restroom facility to support the park while being sensitive to the large floodplain on the property.

The variance request meets the intent of the project. While the existing and proposed buildings will not be elevated to the FPE or include dry proofing measures, the improvements meet all other city flood code regulations, are not to be used for regular human habitation and will not increase the flood elevation, therefore the variance is not substantial. Elevating the structures to meet this requirement would necessitate additional fill to be placed along the Rocky Fork Creek. In order to provide this fill, additional area around the creek would need to be excavated and disturb the existing natural, heavily vegetated stream corridor compromising the intent of the project.

IV. 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-27-2023.

Approximate Site Location:



Source: NearMap



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

Tuesday, March 21, 2023

The New Albany Planning Commission took the following action on 03/20/2023 .

Variance

Location: PID: 222-005165

Applicant: City of New Albany

Application: PLVARI20230027

Request: Variance to C.O. 1154.04(e)(2) to allow a new restroom facility, existing barn and chicken house to be placed at an elevation that is not 2 feet above the “base flood elevation” and not include dry flood proofing measures as required by city code.

Motion: Move to approve

Commission Vote: Motion Approved, 3-0

Result: Variance, PLVARI20230027 was Approved, by a vote of 3-0.

Recorded in the Official Journal this March 21, 2023

Condition(s) of Approval: None.

Staff Certification:

Chris Christian

Chris Christian
Planner II



**Planning Commission Staff Report
March 20, 2023 Meeting**

**6984 LAMBTON PARK ROAD
POOL LOCATION VARIANCE**

LOCATION: 6984 Lambton Park (PID: 222-004129)
APPLICANT: Hidden Creek Landscape, Michael L Crommes
REQUEST: Variance
ZONING: Comprehensive Planned Unit Development: Edgemont
STRATEGIC PLAN: Residential
APPLICATION: VAR-29-2023

Review based on: Application materials received on February 17, 2023

Staff report prepared by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to section 5(A) of the Edgemont Subarea 1-B(5)(a) zoning text to allow a private swimming pool to be located in the side yard at 6984 Lambton Park. The text states “all swimming pools/spas shall be located in the rear yard, within the building line of the site, completely enclosed by fencing and screened from adjoining properties.”

II. SITE DESCRIPTION & USE

The property is 6.172 acres in size and contains a single-family home. The lot is located in the New Albany Country Club Edgemont subdivision. The house is one of three large lots along the north side of Lambton Park Road. The neighboring properties consist of the golf course to the north and single-family homes surrounding the rest of the property.

III. ASSESMENT

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

Criteria

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

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

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*

3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

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

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

IV. EVALUATION

A variance to Section 5(A) of the Edgemont Subarea 1-B zoning text to allow a private swimming pool to be located in the side yard.

1. Section 1-B(5)(a) of the zoning text requires “all swimming pools/spas shall be located in the rear yard, within the building line of the site, and completely enclosed by fencing and screened from adjoining properties.” This variance requests to allow a private swimming pool to be located in the side yard.
2. The city codified ordinance permits pools to be located in the side yard. However, the Edgemont zoning text is more restrictive than the city typical standards. Therefore, the variance preserves the spirit and intent of the city pool regulations of locating pools in the same area as other accessory structures in the side and rear of principle structures.
3. This variance does not appear substantial considering the large size of the lot and its location in conjunction to the home. The lot is 6.172 acres large making this parcel one of the largest in the Country Club subdivision. Compared to the pool which is 20 feet by 50 feet in size which covers less than one percent of the lot. The pool is located 200 +/- feet from the northern property line and 152 +/- feet from the west property line. As a result, the pool is located at a much greater distance from the parcel lines and roads.
4. The character of the neighborhood would not be substantially alter considering the pool will be surrounded by a brick and mortar wall spanning of 6 feet in height to provide significant screening. Additionally, there is a double row of evergreen shrubs along the west property line providing screening.
5. There are special conditions that apply to this specific property due to the shape and topography of the lot. According to the site plan, this lot is shaped like a flag which creates a greater abundance of side yard space and less rear yard compared to a typical rectangular shaped lot. In addition, the rear yard contour lines are steeper on the north and northeast side of the property where the zoning requires the pool to be located. This steep geography

complicates construction of and access to the pool. However, the relocation of the pool allows for access and construction to connect easier to the home.

6. This variance would not adversely affect the delivery of government services.
7. The granting of this variance will not adversely affect the health and safety of persons residing or working in the vicinity.

V. SUMMARY

This variance is not substantial considering the size of the property at 6.172 acres which shows the pool being located over 200 feet from the northern property line and 152 feet from the west property line. Additionally, other conditions of the property like the topography prevents ease of accessibility and construction of the pool in the rear. This is because behind the home, the topography is significantly steeper north than it is on the west side of the property. Furthermore, the addition of the 6-foot brick wall to be constructed around the pool allows for significant screening and privacy. Therefore, the pool's proposed location seems to be reasonable due to the relative isolated location because of the screening and size of the lot.

VI. ACTION

Should the Board of Zoning Appeals find that the application has sufficient basis for disapproval, finding the following motion is appropriate.

Move to approve application VAR-29-2023 based on the findings in the staff report (conditions of approval may be added)

Approximate Site Location:



Source: NearMap



Community Development Department

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

Dear Harold & Natalie Bevis

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

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

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

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, March 21, 2023

The New Albany took the following action on .

Variance

Location: 6984 LAMBTON PARK RD

Applicant: Hidden Creek Landscape, Michael Crommes

Application: PLVARI20230029

Request: To section 5(A) of the Edgemont Subarea 1-B(5)(a) zoning text to allow a private swimming pool to be located in the side yard at 6984 Lambton Park.

Motion: Approved

Commission Vote: Motion To Approve VAR20230029

Result: Variance, PLVARI20230029 was approved, by a vote of 3-0 .

Recorded in the Official Journal this March 20, 2023

Condition(s) of Approval: N/A

Staff Certification:

Sierra Cratic-Smith
Planner



**Planning Commission Staff Report
March 20, 2023 Meeting**

**MARKET STREET EAST EXTENSION
PRELIMINARY AND FINAL PLAT**

LOCATION: Generally located southeast of the East Granville Street and South High Street Intersection
APPLICANT: City of New Albany
REQUEST: Preliminary and Final Plat
ZONING: 1998 Comprehensive Planned Unit Development (C-PUD) Subareas 2A (North Farms) and 2B (North Farms Cluster), Urban Center District (UCD), Community Facilities District (CF), Residential Estate District (R-1)
STRATEGIC PLAN: Parks and Green Space within the Village Center Boundary
APPLICATION: FPL-30-2023

Review based on: Application materials received February 9, 2023.

Staff report completed by Chris Christian, Planner II.

I. REQUEST AND BACKGROUND

The application is for a combined preliminary and final plat to dedicate right-of-way for the extension of Market Street to Third Street in the Village Center. This new public street extension is envisioned in the Engage New Albany Strategic Plan as a critical connection in the Village Center in order to disperse and convey traffic in the area, alleviating travel times and reducing congestion. In order to fully accommodate this new public street, right-of-way is also proposed to be dedicated along East Granville Street, South High Street, Third Street and Main Street.

II. SITE DESCRIPTION & USE

The majority of the proposed right-of-way dedication extends east from Market Street, which currently dead-ends at South High Street. The right-of-way continues east from New Albany Condit Road until it curves towards the north, and eventually intersects with East Granville Street. The property is located within multiple different zoning district and is currently vacant.

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 Commission is to make recommendation to City Council. Staff's review is based on city plans and studies, zoning text, zoning regulations.

- This plat dedicates right-of-way to the City of New Albany for the extension of Market Street. The dedication extension consists of approximately 1,246+/- linear feet for a total of approximately 3.17+/- acres. There are no reserves being platted or lots being created within this new right-of-way extension.
- The plat dedicates 70' of right-of-way. The street extends through several zoning districts on land that is currently vacant. There are several proposed utility and drainage easements shown on the plat which vary in size.
- This new public street is identified as a minor arterial road typology in the Engage New Albany strategic plan. According the plan, this new road should be designed at a Village Center scale in order to accommodate traffic while maintaining the pedestrian oriented nature

of the Village Center. The proposed 70 feet of right-of-way is consistent with the 62-91 foot width recommendation in the Engage New Albany strategic plan.

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 no comments.

V. SUMMARY

Basis for Approval:

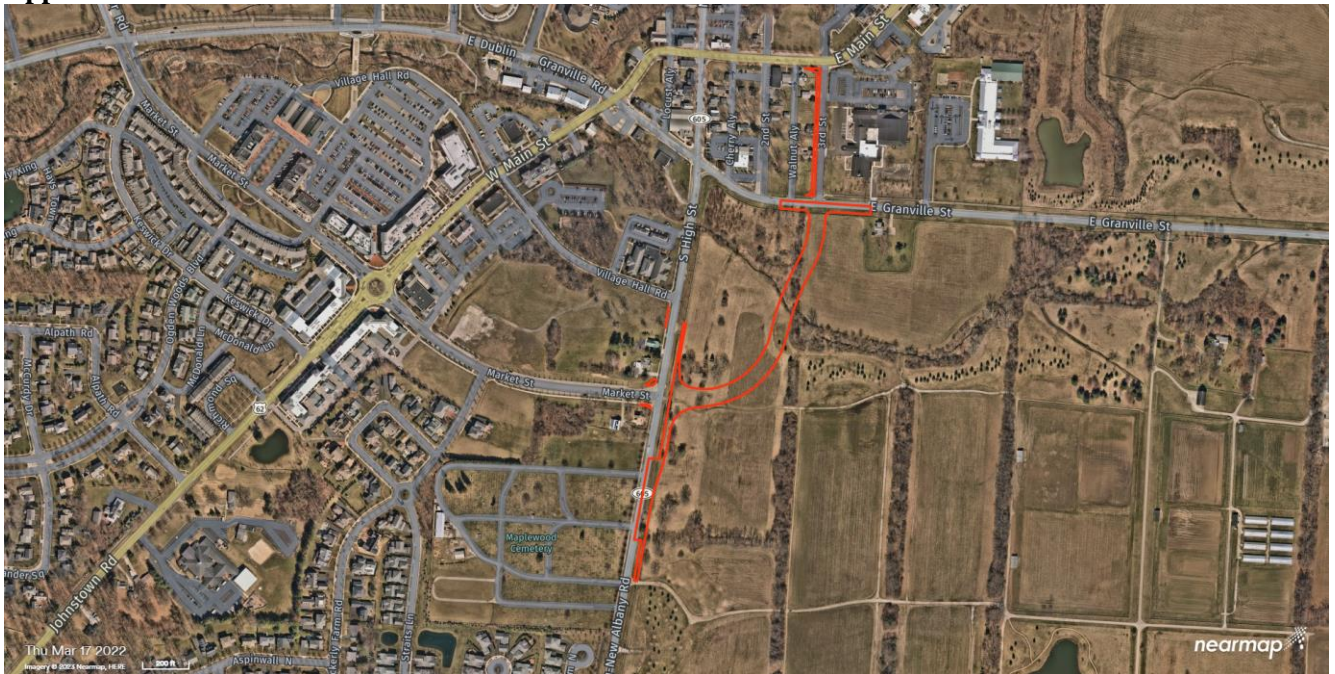
The proposed road plat is consistent with the goals and objectives found in the Engage New Albany strategic plan for this area. This road will serve as a critical connection within Village Center by assisting with the dispersal of traffic and alleviation of congestion.

VI. ACTION

Suggested Motion for FPL-30-2023 (additional conditions may be added):

Move to approve FPL-30-2023.

Approximate Site Location:



Source: NearMap



Community Development Department

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

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

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, March 21, 2023

The New Albany Planning Commission took the following action on 03/20/2023 .

Final Plat

Location: Generally located southeast of the East Granville Street and South High Street intersection.

Applicant: City of New Albany,

Application: PLFPL20230030

Request: Preliminary and Final plat for the dedication of Third Street, Main Street, Market Street, Granville Street and High Street (222-000329, 222-000312, 222-000563, 222-000300, 222-000572, 222-000167, 222-000224, 222-000169, 222-000316, 222-000770, 222-000153, 222-000055, 222-000225, 222-000015, 222-000096, 222-000003, 222-001670, 222-000016, 222-000012, 222-000035, 222-000063, 222-000036).

Motion: Move to approve

Commission Vote: Motion Approved, 3-0

Result: Final Plat, PLFPL20230030 was Approved, by a vote of 3-0.

Recorded in the Official Journal this March 21, 2023

Condition(s) of Approval: None.

Staff Certification:

Chris Christian

Chris Christian
Planner II