



**New Albany Planning Commission
Meeting Minutes - Approved
Monday, May 20, 2024**

I. Call to order

The New Albany Planning Commission held a regular meeting on Monday, May 20, 2024 in the New Albany Village Hall. Chair Kirby called the meeting to order at 7:02 p.m. and asked to hear the roll.

II. Roll call

Those answering roll call:

Mr. Kirby	present
Mr. Wallace	present
Mr. Schell	present
Ms. Briggs	present
Mr. Larsen	present
Council Member Wiltout	present

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

Staff members present: Law Director Albrecht, Development Engineer Albright, Planner II Christian, Planner Cratic-Smith, Planning Manager Mayer, Deputy Clerk Madriguera.

III. Action on minutes: April 15, 2024

Chair Kirby asked whether there were any edits to the April 15, 2024 meeting minutes.

Hearing none, Commissioner Schell moved to approve the April 15, 2024 meeting minutes. Commissioner Briggs seconded the motion.

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

Upon roll call: Mr. Schell yes, Ms. Briggs yes, Mr. Wallace yes, Mr. Larsen yes, Mr. Kirby yes. Having five yes votes, the motion passed and the April 15, 2024 meeting minutes were approved as submitted.

IV. Additions or corrections to the agenda

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

Hearing none, Chair Kirby administered the oath to all present who planned on addressing the commission. He further announced that now would be a good time to silence all cell phones.

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

Chair Kirby asked whether there were any visitors present who wished to address the commission on an item not on the agenda.

Hearing none, Chair Kirby announce the first case and asked to hear from staff.

VI. Cases:

FDM-08-2024 Final Development Plan Modification

Modification to the approved final development plan for the New Albany Links subdivision driving range (PID: 222-002263).

Applicant: New Albany Driving Range c/o Christopher Ingram, VORYS Law Firm.

Planner Cratic-Smith delivered the staff report.

Chair Kirby asked to review condition three in the staff report because he suspected there was a typographical error in the condition.

Planning Manager Mayer confirmed that there was an error and clarified that the condition should read that the black netting will be installed to be sure that golf balls should not land on 62.

Applicant Chris Ingram, 52 East Gay St., Vorys Law Firm, on behalf of the New Albany Links Driving Range. Mr. Ingram stated that he was joined by various members of the golf club professionals and operators of the golf club. Mr. Ingram explained that the issue before the commission was very narrow. The club has been closed, voluntarily since February and the golf ball dispensers have been removed. He presented the attached report. He explained that the applicant intends to make several enhancements including: to construct a main target green at approximately 150 yards; to define a new fairway to landing green for better targeting; to utilize aiming blocks to position golfers to hit down the middle of the range; to plant 50 10' and 12' trees of Red Maple, London Plane Tree, and Eastern White Pines species on six ft earthen mounding (he noted that the species selection was specific as those species were known to be good golf ball blockers); to add signage to warn golfers of personal liability for errant shots; to establish a communication protocol. He further noted that the applicant agrees with the four conditions in the staff report. Mr. Ingram continued that pursuant to C.O. 1159.09(e), development plan modifications governed by development bases for approval. The bases for approval include: (a) that the proposed development is consistent in all respects with the purpose, intent and applicable standards of the zoning code; (b) that the proposed development is in general conformity with the Strategic Plan or portion thereof as it may apply; and (c) that the proposed development advances the general welfare of the municipality. Mr. Ingram asserted that in this case there is no change to the zoning, no variances have been requested, this modification preserves significant natural open space, it adds 50 trees, and it maintains high-quality outdoor recreational amenity. This modification was a change to the landscaping. And further, that zoning caselaw requires the zoning code to be interpreted to permit the proposed use.

Chair Kirby asked whether the text was the zoning.

Mr. Ingram responded yes, the text is the zoning but the code enumerates the powers of city council and the criteria for amendments and changes to existing zoning. He explained that in this case there is no change to the use or the zoning, this is a proposed modification to the final development plan, which is why it does not rise to the level of city council review.

Chair Kirby asked Law Director Albrecht whether the conditions on the landscaping were for approval of the pud or the fdp.

Planning Manager Mayer responded that landscaping was part of the fdp. There were no specific landscaping requirements in the zoning text.

Commissioner Wallace asked whether there any limitations in the pud text regarding keeping golf balls on the property.

Planning Manager Mayer responded no, that the text provides that the driving range's design should comply with the National Golf Foundation Standards. The foundation is a membership organization and does not provide any standards.

Commissioner Wallace, speaking to the applicant, stated that he was not sure whether he agreed with the applicant's characterization of this application for modification of the final development plan as landscaping. The general purpose of landscaping is to add aesthetic value to the property. However, the purpose of the landscaping here is to assist the retention of golf balls on the property. He asked whether the pud was for the entire Links property.

Planning Manager Mayer responded that it was, the PUD covers the entire Links subdivision. It was rezoned in 1997. This is a C-PUD which is the same approval process as the I-PUD. Both have a site plan and a development plan.

Commissioner Wallace continued that when this was approved many years ago, the landscaping was different. Now it has been changed to such an extent that it is a code violation.

Planning Manager Mayer added that any sort of non-compliance with the approved final development plan would be a code violation. In this case, the applicant seeks an amendment to the final development plan in order resolve the code violation.

Commissioner Wallace thanked Planning Manager Mayer and continued that he wanted to clarify that the commission was not only considering a landscaping plan.

Chair Kirby asked Law Director Albrecht whether a fence is considered landscaping.

Planning Manager Mayer responded, no.

Chair Kirby stated that the commission was considering more than landscaping.

Mr. Ingram thanked the commission and stated that he was not trying to diminish the scope of the commission's review or authority.

Chair Kirby remarked to staff that it is important to be very careful about the language that is included into the actual text versus what makes it into the final development.

Mr. Ingram stated that based on the conversation he would like to provide additional documents. He distributed additional documents to the commission.

Commissioner Wallace asked whether the commission could accept a declaration or whether, as in a court of law, a sworn affidavit needed to be submitted.

Law Director Albrecht responded that generally they should be affidavits.

Chair Kirby confirmed the type of camera and lens used for the photos.

Mr. Ingram answered that the photos were taken with an iphone.

Mr. Ingram explained the three documents. One from the National Golf Foundation explaining that the foundation does not have golf course standards. The other two were photographs.

Chair Kirby confirmed with the applicant that the trees were removed by the prior owners.

Commissioner Schell asked how many trees were removed.

Mr. Ingram responded that he was not sure. They tried to review an aerial. They are recommending 10-12 trees to be planted. He noted that the taller the tree is when it is planted the harder it is to keep it alive.

Commissioner Schell stated that safety is the biggest factor in this case. Everyone loved the driving range and the Links. He remarked that it appeared as if the applicant was just checking the box to get compliance without really ensuring safety. He asked whether the applicants were really sure that members of the church could be outside without getting hit by golf balls.

Mr. Ingram responded that the applicants would not be before the commission if they thought there was a safety issue. He continued that this is a safe driving range design, and this ultimately is a zoning issue. The issues here are a neighbor dispute, not a zoning issue. The club is committed to a safe environment. If it turns out that after everything is planted that neighboring property is being hit, the club will resolve that issue.

Council Member Wiltout appreciated Mr. Ingram's comments regarding the standard of review. She asked Law Director Albrecht what the remedy would be if the trees were still there and the golf balls were coming over.

Law Director Albrecht responded that counsel, Mr. Ingram, was correct, it would not involve the city, it would be a neighbor dispute.

Council Member Wiltout continued and stated that, as it is, the trees are missing. She then asked what the commission was able to review. Is this fresh review?

Law Director Albrecht responded that it was all of the above, the commission is able to review the final development plan. The applicants are presenting the trees and the fence.

Chair Kirby stated that when the commission was finished, the property has to be in compliance.

Commissioner Wallace asked the applicant how they planned to handle errant shots, and penalties for the golfers.

Mr. Ingram responded that the club can suspend or terminate their membership.

Commissioner Wallace asked whether the club has developed standards around how to address members who purposely hit property, what would constitute a remedy, and what types of penalties could be assessed. What type of penalties would be assessed and was it contingent on intent.

Applicant Jim Reidl responded that the remedy would be expulsion. He also stated that when members hit property, the members are responsible for the damage. Typically their homeowners insurance would receive the claim.

Commissioner Briggs asked whether reporting damage was on the honor system.

Mr. Reidl responded yes but the club also has monitoring. The first hole is adjacent to the driving range

Commissioner Larsen observed that, regarding the 50 trees, the declaration does not include minimums and maximums. That information would be helpful and should be included

Mr. Ingram agreed that it should be included.

Planning Manager Mayer added that staff could consult with the city forester on the minimums and maximums.

Commissioner Larsen confirmed that the applicant would be amenable with a condition regarding minimums and maximums.

Commissioner Briggs, following up on the presentation, asked what the applicants planned if the church is having an outdoor picnic on a Sunday.

Mr. Ingram responded that they will plan around large events. Depending on the size of the event, the applicant might close the range or require the golfers to use shorter irons. He further stated that the applicant will commit to working with the church to resolve those issues. Their goal is to create a positive experience.

Commissioner Schell asked the applicant whether there have been discussions with the church relative to this plan.

Mr. Ingram responded yes, there have been discussions but at this point the parties are at an impasse because the church would like a taller net installed. He continued that the applicant has consulted with an international expert on the height of the net. Mr. Ingram continued that he does not believe that the safety component is before the commission. This design is part of an intentional design to provide a solution to prevent golf balls on neighboring property. The question before the commission is limited and it does not include safety. This is a significant investment by the club and this design as presented to the commission is reasonable and safe.

Commissioner Schell stated that the original design included trees, and that those trees have been removed. He challenged Mr. Ingram's assertion that safety is not an issue and noted that the property has changed from the property that was approved at final development. The commission has the authority to require the applicant to return the property to the condition it was in in 2009, when the final development plan was approved. Here, the commission was trying to be flexible. Safety is the primary concern here.

Mr. Ingram agreed that safety was the primary concern, the design as presented is safe, and if it is not, it will be fixed.

Commissioner Wallace noted that the staff report indicated the commission could consider factors under 1111.06, and asked Law Director Albrecht to confirm that was correct.

Law Director Albrecht responded that was correct, and noted that general welfare is included and that was for the planning commission to decide.

Chair Kirby confirmed with Law Director Albrecht that it would be a tort if they get it wrong. They would hire an attorney and resolve it in court. If the commission gets it wrong, they cannot come back. He asked whether it is possible to put a time limit for future review.

Commissioner Wallace remarked that whether the commission could impose it is one question, whether the applicant would agree to it is another question.

Law Director Albrecht responded that if the applicant does not agree to it, they are entitled to a decision.

Mr. Ingram responded that, as a zoning attorney, he believed there could be an equal protection problem.

Commissioner Wallace clarified that he was discussing an agreement to future review. The commission was attempting to get a sense of how to put something together to make everyone happy.

Law Director Albrecht added, to Mr. Ingram's point, kicking the can down the road could have unintended consequences. He advised approaching such a plan cautiously.

Chair Kirby asked Mr. Ingram what the golf club's success rate was. How many golf balls was too many.

Mr. Ingram said he could speculate, but he did not know.

Commissioner Wallace noted that the declaration states that only 2 balls out of a million would land outside the parameters of the driving range.

Council Member Wiltout noted that it also says that any balls will be prevented.

There was further discussion about whether which statement in the declaration was correct.

Mr. Ingram clarified that the 2 balls out of a million is an existing condition, and paragraph seven is a statement after installation of the trees.

Chair Kirby asked for further questions from the commission.

Hearing none, he opened the public hearing.

Adam Gatton, 423 Tipperary Loop, Delaware, Director of New Albany Football Club (NAFC). He explained that the NAFC was not able to rent the church's fields this season for safety reasons. They could not risk even one ball striking a child.

Commissioner Briggs asked how long NAFC has been using this facility.

Mr. Gatton responded since Spring of 2023 and reiterated that NAFC is not using it now. He explained that kids' fields are smaller and that there are two small fields on the property.

Commissioner Wallace asked whether it was fair to say that the range has been closed in 2024, or whether the range was opened in January and February but closed since February.

Mr. Ingram responded that the club has been closed since February, and that the applicants were flummoxed that the church continues to find golf balls.

Commissioner Wallace asked Mr. Ingram whether he reviewed the bucket of balls to determine whether they were regular or limited flight balls.

Mr. Ingram responded no, they have not had a chance to review the balls collected, but confirmed that the range has been closed.

Brandon Pauley, 250 Civic Center Drive. Attorney on behalf of neighbor Cross Point Christian Church. Mr. Pauley stated that this case presents a zoning issue, and this case is about safety.

The applicant's assertion that this case is outside of the commission's authority flies in the face of common sense. He presented the attached report and stated that the church is worried about full-swing slices coming on to the property and hitting children on the head. He noted that this was not an issue until the trees were removed. He did not want to be engaged in litigating a tort involving an injured child. In 2009, ample consideration was given to the barrier provided by the existing trees. The church has been deprived of a substantial amount of their property. The solution is higher barriers. The current height was 50 feet, and their position was that 75 feet was a reasonable solution.

Chair Kirby and the commission asked Mr. Pauley whether he had a proposed set of remedies and whether he had any evidence that a 75 foot fence would be effective.

Mr. Pauley responded that they would like a taller fence, a graduated fence would probably work best. He further explained that they trust the city's analysis and a member of the church submitted a recommendation for 75 feet.

Commissioner Schell asked Mr. Pauley whether he recalled how much the higher fence would cost.

George Stribick stated that he was the church member who gathered and submitted the recommendation and that \$500,000.00 was the price that was quoted.

Pastor of Cross Point Church Cody Clark, 7866 New Albany Condit Road. Pastor Clark explained that they have made progress with the driving range. The range is closed now but at least weekly people will go on to the property to use the range. Church members have picked up 338 golf balls since February 20th. He admitted they are old golf balls. They sifted through the balls and just this year on the four days that the club was open, 34 limited flight balls were collected. He explained that since inception the church has received balls on their property. The trees did not prevent the balls, but they reduced them. They have received thousands of golf balls in one year. Pastor Clark asserted that he would also like the record to show that the members are only using irons now. Even with these concessions the church cannot use the back 50% of their property. If the Links is permitted to continue to use their property in this way, it will cost the church a substantial amount of money. The church understands that Kemper bought the property after it was deforested. The foolishness of the previous owner makes this a more difficult property to safely operate as a driving range. The proposal that the church should have to communicate to the range how they plan to use their property is unacceptable. The church is requesting that the applicant work with the planning commission to operate a safe driving range. We are asking the commission to deny this proposal.

Commissioner Wallace asked whether there are any pictures of the property with the trees that were removed, because what he thought he was hearing is that prior to the time the trees were removed there fewer balls.

Pastor Clark responded that they could probably come up with some.

Commissioner Briggs asked staff what would happen if this proposal is voted down this evening.

Planing Manager Mayer responded that the applicant can resubmit for reconsideration, or appeal this decision. If no action for compliance with the final development plan is taken the applicant can be fined.

Law Director Albrecht agreed with Planning Manager Mayer.

Commissioner Schell remarked that it sounds like people are still using the property without permission.

Council Member Wiltout asked whether the appeal would be to the Franklin County Common Pleas or to City Council.

Planning Manager Mayer responded that he would have to check that.

Chair Kirby noted for the record, that the trees appear too short because of the vantage point of the camera, but the trees are actually much taller.

Pastor Clark guesstimated that an acre and a half of trees were removed, he showed a picture on his phone. He further noted that removal of the trees was an enormous operation.

Chair Kirby asked Pastor Clark to email the photograph to staff.

Law Director Albrecht stated that if the application failed at the hearing. The applicant had the option of seeking reconsideration or appealing to city council under C.O. 1159.12.

Chair Kirby noted that the tees were originally straight and now they are shifted. He also asked whether it would be a hardship to take the angle out of it.

Mr. Ingram responded that the applicants had examined that, the teeing area of the prior owner was pushed much further back than where it exists today. He agreed that the teeing area was moved and the angle was added. He explained that their expert saw no utility in removing the angle.

Commissioner Wallace asked whether the teeing grounds are mat or grass.

Mr. Ingram answered that they are mats with a grassy area in front of it.

Commissar Wallace noted that dividers could be installed to assist the golfers in driving toward the center, and would simultaneously discourage golfers from aiming for points off of the property.

Mr. Ingram agreed and observed that had agreed to that in condition three.

Council Member Wiltout noted that it was baked into the applicant's plan.

Chair Kirby asked whether the organization of the site could be flipped.

Mr. Ingram explained that they considered it but it would be difficult to do safely. The golfers would have difficulty getting from the parking lot to the range. What we are most concerned with is amateur golfers. They want to work with the church but this is frustrating because it is a moving target. Last time the church asserted that said they wanted a 65-foot fence, now they want a 75-foot fence. The applicants were not pleased with trespassers, and they did not know how or when they were on the property. The club was considering implementing procedures to address them.

Commissioner Wallace remarked that he was most interested on the golf balls, he noted that Pastor Clark had brought another bucket of balls to the hearing, and asked how many were limited flight balls.

Pastor Cody responded that all 34 of them were limited flight golf balls.

Commissioner Wallace asked whether it was Pastor Cody's understanding that they were collected on church property.

Pastor Cody answered yes, church volunteers collected the balls on church property.

Mr. Ingram picked up two balls off the top of the bucket and noted that they were both covered in mud. He explained that they could have been plugging, that is they were stuck in the mud for some time and then emerged in the spring with the thawing of the earth.

Council Member Wiltout then observed that those particular limited flight balls were not used until August of 2023. So they must have been struck after August 2023.

Mr. Ingram agreed but then stated that they could not be sure where they had been struck from.

Council Member Wiltout and Commissioner Briggs wondered where they could have come from if not the driving range.

Commissioner Schell stated he agreed that the height of the fence was a moving target.

Thereafter Chair Kirby called a 10-minute recess at 8:56 p.m.

Chair Kirby called the meeting to order at 9:06 p.m.

Mr. Pauley returned to the lectern and explained that the changes in the height of the fence had followed the evolving discussions with the applicant. They were not viewing this as litigation.

Commissioner Wallace wanted to confirm that the applicant agreed with the conditions of the staff report as well as the seven enhancements proposed by the applicant.

Mr. Ingram responded absolutely yes.

Chair Kirby moved to admit the staff reports and related documents including the documents submitted by the applicant and by Cross Point Church into the record for FDM-08-2024. Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the documents motion. Hearing none, he asked to hear the roll. Upon roll call: Mr. Kirby yes, Ms. Briggs yes, Mr. Schell yes, Mr. Larsen yes, Mr. Wallace yes. Having five yes votes, the motion passed and the staff reports and related documents including the documents submitted by the applicant and by Cross Point Church were admitted into the record for FDM-08-2024.

Commissioner Wallace then let the applicant know that the next step was for the commission to vote on the merits of the application, and asked whether the applicant wanted that. He noted that he was only speaking for himself and asked whether there was further opportunity for discussion regarding the height of the trees and the fence.

Mr. Ingram stated that the applicants would be amenable to further negotiations with the church and would not oppose tabling the application.

Mr. Pauley confirmed with Mr. Ingram that the range would remain closed.

Chair Kirby stated that they were currently not in compliance with their zoning and could not operate without being subject to penalty.

Law Director Albrecht agreed that that the applicant could be subject to fines if they reopened and their non-compliance continued.

Mr. Ingram stated that the range has been closed voluntarily and that they had been working in good faith.

Commissioner Wallace remarked that the application had been before the commission twice and the issue is what has to happen to make this application acceptable. He stated that he did not have enough facts to make the application acceptable.

Chair Kirby added that it was to applicant's advantage to appear before the commission with happy neighbors. He asked how long the applicant would like the application tabled.

Mr. Ingram answered for one month and thanked the commission for their stewardship.

Chair Kirby moved to table FDM-08-2024 until the regularly scheduled June meeting, June 17, 2024. Commissioner Wallace seconded the motion.

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

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Ms. Briggs yes, Mr. Larsen yes, Mr. Schell yes. Having five yes votes, the motion passed and FDM-08-2024 was laid upon the table until the regularly scheduled June meeting, June 17, 2024.

The commission wished the parties good luck

Chair Kirby introduced the next case, pool in the sideyard, and asked to hear from staff.

VAR-19-2024 Variance

A variance to allow a pool to be located in a side yard where the Tidewater zoning text Section C(5)(a) prohibits pools outside the rear building line at 5370 Pamplin Court (PID: 222-003824).

Applicant: Ashley & Jon Attard

Planner Cratic-Smith delivered the staff report.

Commissioner Wallace asked about the dimensions of the back and sideyards and how the Tidewater text defined back and sideyards.

Planning Manager Mayer responded that the Tidewater text specifies that the backyard has to be in the rear yard behind the house, and that a pool, if any, should be in the backyard.

Chair Kirby stated that this pool did not meet the definition of where it should go.

Commissioner Larsen noted an area in the back yard and asked whether it could be built there.

Planning Manager Mayer explained that the area in the back yard referred to contains a drainage easement, and a pools and their appurtenances had to be at least 15-feet from a drainage easement.

Commissioner Larsen observed then that a portion of the pool could be in the backyard.

Planning Manager Mayer agreed, but also noted that there would be sidewalks.

Applicant Jon Attard and Applicant Matthew Rey, designer of the project, added that there are six feet per side of concrete for the sidewalks. This site plan does not include the landscaping. It is very tight, even without the setbacks.

Chair Kirby asked whether the property owner had the house built or whether he bought it after it was built.

Commissioner Schell confirmed that the applicants had examined all options for the layout of the pool.

Applicant and property owner Jon Attard answered that he bought the property after it was built.

Commissioner Larsen asked whether the homeowners' association has approved.

Commissioner Schell remarked that he appreciated Mr. Attard reaching out to the neighbors.

Chair Kirby agreed that reaching out to the hoa and the neighbors was a huge part of the application process.

Commissioner Larsen asked whether Mr. Attard would be open to more opaque screening, so the pool is not visible from the street.

Mr. Attard indicated he was.

Commissioner Larsen further remarked that the staff report refers to a latchable gate and asked whether the commission needed to consider that.

Planning Manager Mayer responded that staff will consider that upon permitting.

Chair Kirby asked whether anyone from the public was present who wanted to speak on the application.

Hearing none, Chair Kirby moved to accept the staff reports and related documents into the record for VAR-19-2024. Commissioner Larsen seconded the motion.

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

Upon roll call: Mr. Kirby yes, Mr. Larsen yes, Mr. Wallace yes, Mr. Schell yes, Ms. Briggs yes. Having five yes votes, the motion passed and the staff reports and related documents for VAR-19, 2024 were admitted to the record.

Commissioner Larsen moved for approval of application VAR-19-2024 based on the findings in the staff report with the conditions listed in the staff report and the additional condition listed below, subject to staff approval. Commissioner Schell seconded the motion.

1. Installation of full screening on the street side, to shield the pool.

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

Upon roll call: Mr. Larsen yes, Mr. Schell yes, Mr. Kirby no, Mr. Wallace no, Ms. Briggs yes. Having three yes votes and two no votes the motion passed and VAR-19-2024 was approved subject to the condition stated above.

Chair Kirby explained that although the application was perfect he voted no because it did not think this application met the *Duncan* criteria, and this is in Tidewater's zoning text.

Commissioner Wallace stated that he voted no for the same reasons as Chair Kirby.

Chair Kirby and the commission wished the applicant good luck.

Chair Kirby introduced the next case and asked to hear from staff.

FDP-20-2024 Final Development Plan

A final development plan to allow for the construction of a single residential home on 1.654 acres located at 4093 Reynoldsburg-New Albany Road (PID:222-000630).

Applicant: Todd Parker, F5 Design

Planner Cratic-Smith delivered the staff report, and explained that she would be presenting the final development plan and the variances in a single presentation.

Chair Kirby noted that the Hawksmoor zoning text specified that garage doors are a maximum of nine-feet wide, but the code says 10 feet and Planner Cratic-Smith said 10-feet, and he asked which width applied.

Planner Cratic Smith responded that the Hawksmoor zoning text would supercede the code, so in this case the nine-foot width would apply.

Chair Kirby noted that there were other garage doors, and they would need a variance as well.

Planner Cratic-Smith responded that staff agreed that a variance would be required for the other doors.

Commissioner Larsen asked about the square footage.

Applicant and designer Todd Parker of F5 Design answered that the 22-foot door will be eliminated, in lieu of the 10-foot doors will be used. Thus Variance A was being transferred in to six 10 foot doors. He further answered that the first floor was the garage and the second floor was only a portion of the first floor and was just under 1,000 square feet.

Commissioner Larsen asked whether this could still be considered a residence since it is mostly storage.

Planning Manager Mayer answered yes, it would still be a residence.

Chair Kirby asked why this was considered Hawksmoor.

Planning Manager Mayer responded that technically this is a different zoning text called Hawksmoor north. The zoning allows for two houses and the property can be accessed from 605 and from Hawksmoor. He continued that it is very similar to Hawksmoor architecturally and that it meets the character of Hawksmoor.

Chair Kirby remarked that he is uncomfortable as a variance but would be comfortable with this as a zoning, as an R-1 style property. He noted that Hawksmoor had a distinctive and specific feel. This application did not meet that distinctive feel.

Commissioner Wallace remarked that it does not even look like it is in Hawksmoor.

Mr. Parker responded that he collaborated with initial designers of Hawkmoor and further explained that the owners requested this very specific design, based on a barn in TN.

Commissioner Larsen remarked that there is a lot of room on this site and asked why the garage was positioned so far forward.

Mr. Parker responded it was positioned so far forward so it could be driven through. He further offered that the garage doors could be perceived as the main façade.

Commissioner Wallace asked whether someone was going to live there.

Mr. Parker responded yes. He thought that a family member would be living there soon.

Development Engineer Albright delivered the engineering report.

Chair Kirby asked Mr. Parker whether he had any conflict with the two conditions in the staff report.

Mr. Parker answered no.

Chair Kirby asked the commission whether a condition should be added that the final development plan should be contingent to the passage of the attendant variances.

The commission and Planning Manager Mayer agreed.

Chair Kirby noted that the Strategic Plan provides that the garage should not be the focus of the residence and that the garages should be set back from the house. He further stated that there were two other such houses along Reynoldsburg New Albany Road and he regretted approving the variances for those garage doors.

Commissioner Wallace noted that this was more akin to a garage with an attached house.

Chair Kirby moved to accept the staff reports and related documents into the record for FDP-20-2024. Commissioner Briggs seconded the motion.

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

Upon roll call: Mr. Kirby yes, Ms. Briggs yes, Mr. Wallace yes, Mr. Schell yes, Mr. Larsen yes. Having five yes votes, the motion passed and the staff reports and related documents for FDP-20-2024 were admitted into the record.

Chair Kirby moved to admit the staff reports and related documents into the record for VAR-31-2024. Commissioner Schell seconded the motion.

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

Upon roll call: Mr. Kirby yes, Mr. Schell yes, Mr. Wallace yes, Ms. Briggs yes, Mr. Larsen yes. Having five yes votes, the motion passed and the staff reports and related documents for VAR-31-2024 were admitted into the record.

Chair Kirby noted that variance A was changed to seven 10-foot doors, instead of a single 22-foot wide door.

Chair Kirby moved for approval of FDP-20-2024 based on the findings in the staff report with the conditions listed in the staff report and the additional condition that the final development plan should be contingent to the passage of the attendant variances, subject to staff approval. Commissioner Wallace seconded the motion.

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

Upon roll call: Mr. Kirby no, Mr. Wallace no, Mr. Schell no, Ms. Briggs yes, Mr. Larsen no. Having one yes vote and four no votes, the motion failed and FDP-20-2024 was not approved.

Chair Kirby explained that he voted no because this was in disagreement with the Hawkmoor zoning and with the Strategic Plan because the garage was forward of the house. This would be better heard as a rezoning.

Commissioners Wallace, Schell, and Larsen concurred with Chair Kirby.

VAR-31-2024 Variances

Variances to the Hawkmoor North zoning text allow a garage door to be 22 feet in width and not be setback 10 feet behind the primary façade of the home, and to allow a stone water table at 4093 Reynoldsburg New Albany Road (PID: 222-000630). where the

Applicant: Todd Parker, F5 Design

Chair Kirby moved for approval of application VAR-31-2024 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. There was discussion on whether a vote needed to be taken on each variances and whether a vote was needed at all. Chair Kirby asked to hear the roll.

Upon roll call: Mr. Kirby no, Mr. Wallace no, Mr. Schell no, Ms. Briggs no, Mr. Larsen no. Having 0 yes votes, and five no votes, VAR-31-2024 failed.

The commission stated that they voted no for the same reasons supporting the no votes on FDP-20-2024.

VII. Other business

- 1. City Code Amendment: C.O. 1187 Subdivision Regulations**
- 2. Urban Center Code Amendment: Parkland and Open Space Requirements**

Commissioner Wallace, noting the hour and length of the meeting, moved to table the Other business which includes the city code amendment and the urban center code amendment until the June 3, 2024 meeting. Commissioner Schell seconded the motion.

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

Upon roll call: Mr. Wallace yes, Mr. Schell yes, Ms. Briggs yes, Mr. Larsen yes, Mr. Kirby yes. Having five yes votes, the other business was laid upon the table until the June 3, 2024 meeting.

VIII. Poll members for comment

Chair Kirby polled the members for comment.

Commissioner Wallace referenced the driving range application. The attorney for the church mentioned that he would present evidence down the road. Commissioner Wallace asked whether that was proper. He also asked whether it would be proper to credit a declaration without an affidavit.

Law Director Albrecht explained that it is the commission's responsibility and obligation to make a decision based upon the evidence before it as the time, it would be tough to submit evidence afterward. He further remarked the declaration should be accompanied by an affidavit. He added that absent an objection, the commission could give the document some consideration.

IX. Adjournment

Having no further business, Chair Kirby adjourned the May 20, 2024 meeting of the New Albany Planning at 9:58 p.m.

Submitted by Deputy Clerk Madriguera, Esq.

Appendix

FDM-08-2024

Staff Report
Applicant Documents
Cross Point Church Documents
Record of Action

VAR-19-2024

Staff Report
Record of Action

FDP-20-2024

Staff Report
Record of Action

VAR-31-2024

Staff Report
Record of Action



**Planning Commission Staff Report
May 20, 2024 Meeting**

**NEW ALBANY LINKS DRIVING RANGE
FINAL DEVELOPMENT PLAN MODIFICATION**

LOCATION: 7100 New Albany Links Drive (PID: 222-002263)
REQUEST: Final Development Plan Modification
ZONING: Infilled Planned Unit Development (I-PUD)
STRATEGIC PLAN: Parks & Green Space
APPLICATION: FDM-08-2024
APPLICANT: New Albany Links Golf Club, Lucas Bowersock

Review based on: Application materials received April 19, 2024.

Staff report completed by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a review and approval for the alterations made to the New Albany Links Driving Range final development plan.

The Planning Commission first heard the final development plan modification on February 21, 2024. The application was tabled on February 21 and April 15, 2024 to allow the applicant to meet with their neighbor to the south, address their concerns and try to come to a compromise. The driving range has since updated the final development plan with additional information after discussions with neighboring property owners.

The owner has changed the site landscaping approved in 2009 by removing trees from the north and south property lines. Since the existing conditions do not match the approved 2009 final development plan, and the property requests changes to the landscaping, a final development plan modification is required.

II. SITE DESCRIPTION & USE

The final development plan area includes just the portion of the existing golf course site that contains the driving range. It is located within the New Albany Links subdivision. The property has been developed with a driving range and is located east of the golf club on about 10 acres.

The site is located west along US State Route 62 (Johnstown Road). There is a church on the south side and a residential home on the north side of the driving range.

III. PLAN REVIEW

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

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

- (a) Adjacent land use.

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

Per Codified Ordinance Chapter 1159.08 the basis for approval of a final development plan in an I-PUD shall be:

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

A. Engage New Albany Strategic Plan

The 2020 Engage New Albany strategic plan designates the area as the Parks & Green Space future land use category. The strategic plan lists the following development standards for the Parks & Green Space land use category:

1. Protect and improve the existing network of parks, natural open spaces, and stream corridors.
2. Provide for a high quality and diversified park system to meet the recreational needs and enhance the quality of life for all residents.
3. Engage with partners to create a regional park, open space, and trail system that benefits New Albany residents and businesses.
4. Create a continuous network of linear parks, paths, walks, and trails, and thereby enabling the public to travel by non-motorized modes throughout the New Albany community.
5. Create year-round recreational opportunities.

B. Use, Site and Layout

1. The site is located within the Engage New Albany strategic plan's park and green space future land use district.
2. The driving range currently has an existing cart parking area with 5 range targets. The site also has two fences, one along the east that is parallel to US State Route 62 (Johnstown Road). The second is a taller section of net at the southwest corner of the property. There is also a 30-foot no-mow area along the southern border of the property.
3. The New Albany Links I-PUD zoning texts states that the driving range's design shall be based on the National Golf Foundation standards.
 - a) The city staff researched the National Golf Foundation website but could not find any development standards. The National Golf Foundation is a membership organization and marketing services provider in golf. Its website states it does track any information on golf courses that are part of an HOA.

C. Access, Loading, Parking

1. There are no changes to the access, loading or parking of the site.

D. Architectural Standards

1. There are no changes to the architecture or buildings on the site.

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

1. In early November, a neighbor reported to the city staff that golf balls were appearing in the side and rear of their property. During a code enforcement inspection, city staff found that the landscape on the property had been removed. Because there were significant changes to the approved final development plans from 2009, it needs to be re-evaluated by the Planning Commission.
2. In July 2009, the planning commission tabled the original final development plan for the golf course and driving range due to concerns of golf ball control. Neighbors spoke of concerns for golf ball retention in the gaps of the landscape along the north, south, and east property lines.
3. In August 2009, the applicant returned to meet the above concerns by adding additional landscape along the north and south property line. In addition, a net does span the east property line along Johnstown Road (US-62). The applicant and city staff noted there was significant buffering because of the existing landscape and trees along both the north and south property line. It was approved during the meeting because the commission found the amount of landscape buffer would be sufficient for golf ball control.
4. There are significant changes to the site and landscape (See Figures 1 & 2) from 2009. Most of the landscape along the southern and eastern property lines was removed. To prevent golf balls from leaving the property, the applicant is proposing the following:
 - a. Continue to limit golf ball use on the driving range to limited flight range balls. The city staff recommends this be a condition of approval (condition #1).
 - b. A 200-foot-long, 50-foot-high net is installed along the 800 +/-foot-long southern property line. The city staff approved the net in January 2023. The applicant proposed mounding and landscaping along the southern property line (see table below for a comparison of past and current site improvements).
 - i. The applicant states in their narrative that they will plant fifty (50) 10' and 12' trees of Red Maple, London Plane Tree, and Eastern White Pines species on six ft (6') mounding. These species were intentionally selected for their ability to provide buffering from errant shots.
 - ii. The city staff recommends a condition of approval requiring the owner must maintain and replace the landscaping if found dead or dying (condition #4).
 - c. Centering the range targets so they are equally spaced between the north and south property lines. The city staff recommends this be a condition of approval (condition #2).
 - d. A defined fairway to landing green for better targeting.

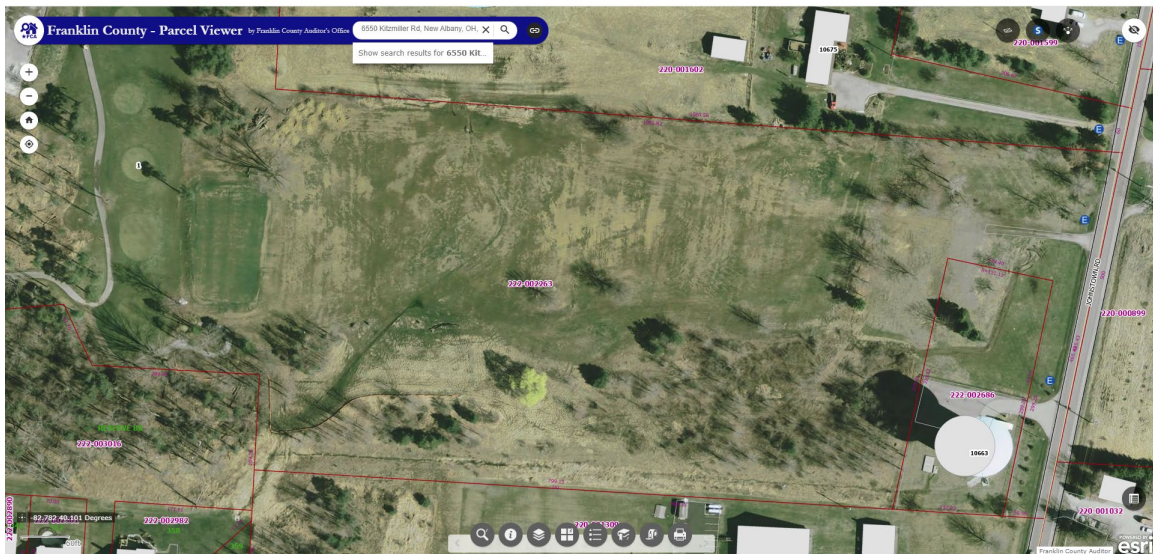
- e. The addition of a large main target colored green at approximately 150 yards to deter the golfers from aiming at the net.
- f. The addition of aiming blocks to position golfers to hit the middle of the range(s).
- g. The addition of liability signs to warn golfers that errant shots shall be penalized.
- h. Establish a communication protocol from Church to Club concerning the Church's schedule of upcoming events so that the Club can manage the range as may be appropriate.

Property line	2009 Approval Requirements	February 2024 Proposal	May 2024 Proposal
Northern Property line (860 feet in length)	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier. Add staggered deciduous trees within two gaps along tree line. Add black netting to existing horse rail fence (approx. 860 feet in length). 	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier. 	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier.
Southern Property line (800 feet in length to water tower)	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier. Add staggered deciduous trees within one gap of the tree line. 30-foot-wide no-mow zone along property line. 	<ul style="list-style-type: none"> 30-foot-wide no-mow zone along property line. 200 ft long, 50 ft tall black net. 2 mounds (one on each side of the netting). One being 72 feet in length with a max height of 5 feet. The second is 95 feet in length with a max height of 6 feet. Both have evergreen trees on top. 	<ul style="list-style-type: none"> 30-foot-wide no-mow zone along property line. 200 ft long, 50 ft tall black net. The addition of 50 trees. 3 mounds (one immediately on each side of the netting, with a third further east). <ul style="list-style-type: none"> First mound west of the net being 72 feet in length with a max height of 5 feet. Second mound east of the net being 95 feet in length with a max height of 6 feet. Both have evergreen trees on top. Third mound on the southern property line being 273 feet in length with a max height of 6 feet and evergreen trees on top. Define a new fairway to landing green for better targeting. Utilize aiming blocks to position golfers to hit down the middle of the range.
Eastern Property line (465 feet in length)	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier. Add black four rail fence with black netting. <u>(The city staff recommends this be a condition of approval (Condition #3))</u> 	<ul style="list-style-type: none"> No landscaping or trees along the fence line. Fence (plans don't indicate if there is netting) 	<ul style="list-style-type: none"> No landscaping or trees along the fence line. Fence <u>(plans don't indicate if there is netting)</u>

The images below show the existing conditions when the final development plan was approved in 2009 (Figure 2) and current 2023/2024 conditions (Figure 1).



August 2023 (Figure 1)



2009 (Figure 2)

F. Lighting & Signage

1. The application proposes to add liability signs to warn golfers that errant shots shall be penalized. The size is not indicated on the narrative.

IV. ENGINEER'S COMMENTS

There are no comments from engineering.

IV. SUMMARY

The final development plan modification is required because there is a change in the landscaping and the site conditions that the Planning Commission reviewed and approved in 2009. The Planning Commission originally approved this development because they found there was enough existing vegetation when supplemented with additional trees to provide an acceptable buffer to keep golf balls from leaving the property. To ensure golf balls didn't hit vehicles on the US 62, they required a fence with netting. Since then there have been significant changes to the landscaping which necessitates the Planning Commission's review of the new site plan that includes landscaping and buffers.

Since the landscaping buffer has substantially been removed, the applicant proposes alternate means of keeping golf balls on the range through a combination of changes. These modifications include ways to encourage golfers to focus on the centered targets through different colored targets, aim assistant blocks, and the centralization of the targets. In addition, new landscaping and mounding have been provided to prevent errant shots from encroaching on neighboring properties. Also, according to the applicant, the use of limited flight golf balls will reduce the number of golf balls leaving the property. Furthermore, the applicant commits to establishing a communication protocol so the golf course is made aware of church special events and can manage the range as may be appropriate.

V. ACTION

Suggested Motion for FDM-008-2024:

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

Move to approve application FDM-008-2024 based on the findings in the staff report subject to the following conditions:

1. The owner uses limited-flight golf balls.
2. The range targets are located so they are generally centered between the north and south property lines.
3. The owner must add black four rail fence with black netting to the entire eastern property line to ensure golf balls to land on city property or public streets.
4. The owner must maintain and replace the landscaping if found dead or dying.

Approximate Site Location:



Source: Near Map

The Club intends to implement the following enhancements to its driving range:

1. Continue to limit golf ball use on the driving range to limited flight range balls.
2. In addition to the range targets, the Club will construct a main target green at approximately 150 yards.
3. Define a new fairway to landing green for better targeting.
4. Utilize aiming blocks to position golfers to hit down the middle of the range.
5. Plant fifty (50) 10' and 12' trees of Red Maple, London Plane Tree, and Eastern White Pines species on six ft (6') mounding. These species were intentionally selected for their ability to provide buffering from errant shots.
6. Signage will be added to the range area warning golfers of their personal liability for errant shots. Exemplar sign:



7. Establish a communication protocol from Church to Club concerning the Church's schedule of upcoming events so that the Club can manage the range as may be appropriate.

I:\CADD\DATA\Projects\1\17192009\10-31-11-AM\PlotterBy: 5/22/23/11:17:23/11:17:23



NEW ALBANY LINKS SECTION 9
P.B. 101, PG. 35

**NEW ALBANY LINKS
SHORT GAME PRACTICE AREA**

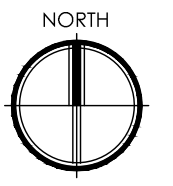
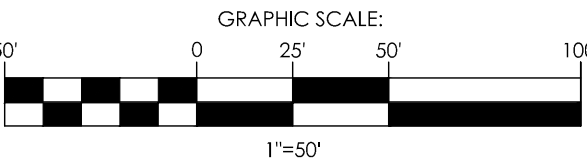
LOCATED IN:
SECTIONS 9 & 10, TOWNSHIP 2, RANGE 16
UNITED STATES MILITARY LANDS
CITY OF NEW ALBANY, COUNTY OF FRANKLIN, STATE OF OHIO

**FINAL
DEVELOPMENT
PLAN UPDATE**

PREPARED FOR:
New Albany Links Golf
Course Co. Ltd.
7100 New Albany Links Dr
New Albany, OH 43054

PREPARED BY:
EMHT
Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5800 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Fax: 614.775.3648
emht.com

DATE:	JUNE 11, 2009
REVISED:	NOVEMBER 18, 2009
REVISED:	OCTOBER 15, 2021
REVISED:	JANUARY 11, 2024
REVISED:	MARCH 14, 2024
REVISED:	APRIL 9, 2024
REVISED:	APRIL 15, 2024



NEW ALBANY LINKS
DRIVING RANGE

20211105



Community Development Department

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

Dear Luke Bowersock, Kemper Sports,

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

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

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

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

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, May 21, 2024

The New Albany Planning Commission took the following action on 5/20/2024 .

Final Development Plan Modification

Location: 7100 NEW ALBANY LINKS DR

Applicant: Luke Bowersock, Kemper Sports,

Application: PLFDM20240008

Request: To table until the next regularly scheduled Planning Commission

Meeting. Motion: To table

Commission Vote: Motion Tabled, 4-0

Result: Final Development Plan Modification, PLFDM20240008 was Tabled to the next regularly schedule planning commission meeting, by a vote of 5-0.

Recorded in the Official Journal this May 21, 2024

Condition(s) of Approval: N/A

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith
Planner

(h)

**BEFORE THE NEW ALBANY, OHIO
PLANNING COMMISSION**

New Albany Driving Range,
C/O Christopher L. Ingram

Applicant

:
:
: **FDM-08-2024**
: **FINAL DEVELOPMENT PLAN**
: **MODIFICATION**

DECLARATION OF KEN TANNAR

I, Ken Tannar, declare:

1. I am over eighteen years of age.
2. I am the founder and owner of Probably Golf Instruction. I graduated from the University of British Columbia in 1982 with majors in physics and mathematics. I have more than 28 years of experience researching the physics and mathematics of golf. I am an international expert in golf ball trajectories. I have provided expert services in over seventy (70) cases involving errant golf balls in cases in the United States, Canada, Australia, Britain, Spain, and Hong Kong. I have served as an expert witness in courts in California, Colorado, New York, Canada, and Australia.
3. I routinely provide expert analysis on the design and safety features for driving ranges. My analysis provides recommended safety fence heights that account for errant golf balls that escape the boundaries of the range. Generally, the height of safety fencing along a driving range depends on: the length and wide of the range, topographical elevation changes of the land, type of range ball used, positioning and alignment of the tee bays, wind direction(s), adequate targets to direct golf balls to the center of the range, and use of tee bay dividers.
4. I have been asked to offer my professional opinions as an expert on the trajectory and incidence rate of errant golf balls impacting the property adjacent the southern edge of the

New Albany Links Golf Course Driving Range (the “Adjacent Property”) and the likely effectiveness of the existing fifty (50) foot high safety fence.

5. Attached hereto as Exhibit A, and incorporated herein, is a true and accurate copy of my “Golf Expert Report” that describes the methodology and conclusions I have reached in this matter.

6. It is my opinion that given the driving range’s existing size, layout, topography, tee bay orientation, typical wind direction, and use of limited flight golf balls, approximately two out of one million (2 of 1,000,000) shots could result in a golf ball’s resting position on the Adjacent Property absent the existing safety fence.

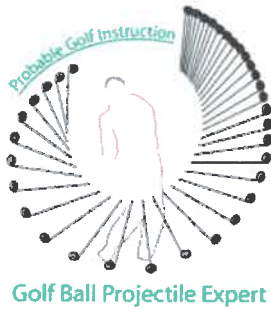
7. It is my opinion that the existing safety fence, the addition of targets along the center of the driving range, earthen mounding, and fifty (50) new trees along the property line as set forth in the attached site plan (Exhibit B), will prevent unintentional, errant shots of limited flight golf balls from travelling to the Adjacent Property.

I declare under the penalty of perjury that the foregoing is true and correct and that this Declaration is executed this 20th day of May, 2024.

DocuSigned by:

8B1B1BDBF68E408...
Ken Tannar

Exhibit A



Probable Golf Instruction

- Errant Golf Ball Trajectories
- Golf Netting Safety Height
- Topographic Errant Ball Analysis
- Adjoining Property Errant Golf Ball Safety Determination

www.probablegolfinstruction.com
probablegolf@yahoo.ca

Phone: 604-309-7030
Owner/Creator: Ken Tannar

Golf Expert Report

May 19, 2024

Golf Expert Analysis

RE: Determining the likely percentage incidence of errant golf balls impacting the property south of New Albany Links Golf Course Driving Range and the likely effectiveness of an existing 50 foot high fence.

Golf Expert Analysis by Ken Tannar, Probable Golf Instruction

1. I am the founder and owner of Probable Golf Instruction. I have spent the last 28 years researching the literature on the topic of Physics & Mathematics of golf and am an expert in the analysis of golf ball trajectories. I have advised on golf course design safety in a multitude of cases in the United States, Canada, Australia, Britain, Spain and Hong Kong, and have been recognized as a golf expert witness in the courts of California, Colorado, New York, Canada and Australia.
2. Diagram 1 below is a Google Earth image of the New Albany Links GC Driving Range and the property on the south side (“subject property”) identified on Google Earth as Cross Point Christian Church. The yellow line in the diagram represents the likely target line from the middle Tee Bay; this yellow line is 265 yards long. The Driving Range is about 340 yards long and about 140 yards wide.
3. Diagram 2 is an image sent to me by Dana Cimorell, Regional General Manager of Kemper Sports. The image view is from behind the Tee Bays looking east towards the end of the Driving Range. Golfers hit Callaway Limited Flight Golf Balls from artificial turn that is divided into sections with each section being divided by directional white boards. As viewed in Diagram 2, the directional boards are aligned with the large trees at the middle/end of the Range which is to the left of the large, white silo. Each stall appears to be aligned with these large trees.

Diagram 1: New Albany Links GC Driving Range & Subject Property



Diagram 2: View Towards East from Tee Bays



4. The renowned American golf course architect, Dr. Michael Hurdzan (reference book *Golf Course Architecture: Design, Construction & Restoration*, 1996), did an extensive study to determine where golfers hit the golf ball from the tee in relation to their target line of play. He found that 92% of golf shots fall within 15 degrees either side of their apparent target line. He and other golf course architects have used this standard for many years in designing golf course setback distances. Hurdzan's statistics are also corroborated by research conducted by the R&A (Royal and Ancient Golf Club of St. Andrews) during 1996 and 2018.

5. Dr. Mark Broadie of Columbia University has expanded on this with research and analysis to create a database named Golf Metrics. The database currently has over 55,000 shots from over 160 players. Golfer ages in the database range from 9 to 70 years and the scores range from 64 to 120. PGA and LPGA tour pros, club professionals, and amateur golfers are included (he grouped the golfers into a Pro Group and three amateur groups, Am1, Am2 and Am3. Broadie's research concluded that low handicap golfers (better golfers) hit the ball farther with less lateral dispersion than higher handicap golfers (poorer golfers). Broadie's research statistics indicate that 99.2% of golf shots fall within 15 degrees either side of their target line and 99.9% fall within 20 degrees. Note that for a course averaging 40 000 rounds per year, 0.8% outside of 15 degrees would equate to 320 balls.
6. Diagram 3 is a merge of Broadie's research findings (scatter plot of golf ball end positions for higher handicap golfers, Am3) with Diagram 1 using the yellow target line; note a few golf balls end near the subject property (note that shots finishing less than 125 yards from the tee are not shown). From Broadie's large database, he identified the percentage of tee shots that will finish left or right of the target line for each group. Using Broadie's statistics, I estimate that at least 0.002% of Driver Tee shots from the middle Tee Bay hit using the YELLOW target line would threaten the subject property if using standard range golf balls. For every 100 000 balls hit, at least 2 balls would threaten the property.
7. I site "at least 0.002%" in my estimate because the Broadie data is for golfers playing a regular golf course where accuracy is paramount to achieving a low score. On a Driving Range, golfers are not as concerned with accuracy thus I'd expect the resulting scatter of golf balls would be wider and thus more golf balls threatening the subject property.

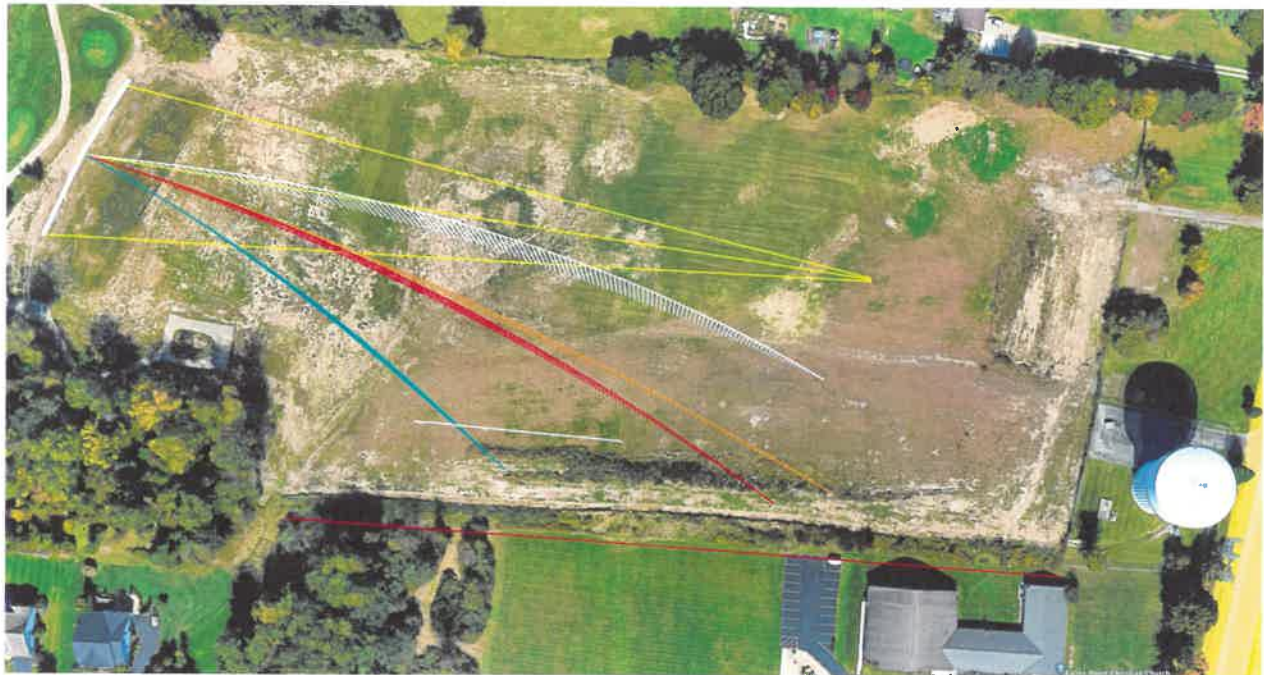
Diagram 3: New Albany Links GC Driving Range with Broadie Scatter Plot



8. I was informed by Dana Cimorell that New Albany Links Driving Range uses Callaway Limited Flight Golf Balls. Limited Flight Golf Balls, LFGB, carry less distance due to the balls having less speed or more aerodynamic drag. Typically, LFGBs offer between 85% to 95% of the carry distance of regular range balls. Without being tested with a golf ball monitor, such as a TrackMan, one cannot verify the amount of limited distance. I've assumed standard range balls are in use.
9. If the golf ball used by New Albany Links Driving Range resulted in a 90% carry distance (10% reduction), I would estimate that at least 0.0002% of balls would threaten the subject property, or at least 2 balls for each million hit.

10. The percentages in 8 above assume no wind, the subject property is at the same elevation as the tees, no balls are deflected by any existing trees and all golfers hit a Driver club from the tee. Given the location of the golf course, prevailing winds are likely from the west (tail wind), which would increase the likely carry distance of the golf balls but decrease the maximum height reached by the golf balls. Trees would decrease the likely percentage but is dependent upon their location, height and foliage density.
11. Diagram 4 below consists of 4 sample trajectories originating from the middle Tee Bay assuming standard range balls. My assumption is that all Tee Bays are aligned towards the same point thus all yellow target lines are aligned with the large middle tree at the end of the Range. All trajectories result from a 100 mph swing speed with a Driver of a right swinger. The WHITE trajectory is a slice with an initial direction along the yellow target line. The RED trajectory is the same slice but with an initial direction 10 degrees right of the yellow target line. The ORANGE trajectory is the same as the RED trajectory except with a 20 mph tailwind (note the lower trajectory due to the tailwind). The BLUE trajectory is a severe mishit off the toe of the Driver face that starts out 20 degrees right of the yellow target line (note that typical lower trajectory due to the mishit).
12. Note that according to TrackMan statistics, only about 20% of male golfers have swing speeds greater than 100 mph (female golfers have slower swing speeds than male golfers). Left swinging golfers (about 10% of the golfing population) could have similar curved trajectories except with lower trajectories due to being hooks.

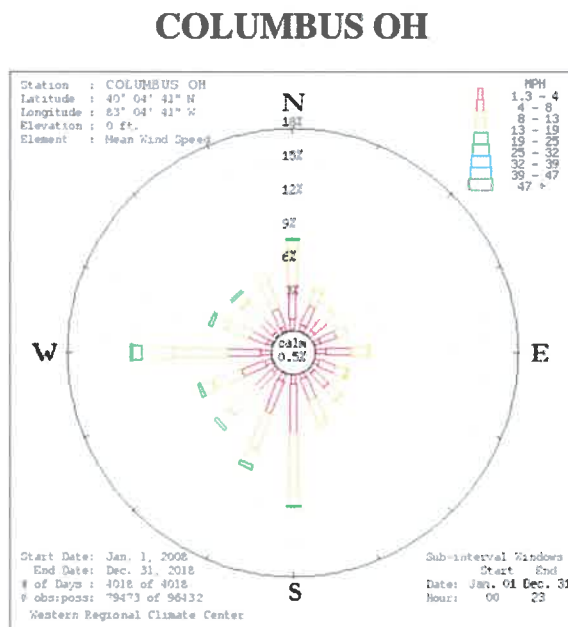
Diagram 4: Possible Trajectories





13. All trajectories would land short of the red property line. It's my understanding that the RED and ORANGE trajectories would land near a 6 foot high mound with planted trees. The blue trajectory would be blocked by the existing 50 foot high fence that has been installed.
14. Diagram 5 below contains the wind rose for Columbus, OH which is nearby. The prevailing wind is from the West and South, so either a tailwind, crosswind or tailwind/crossing. A tailwind reduces the height of the trajectories, and a crosswind would reduce the frequency of golf balls threatening the subject property.

Diagram 5: Wind Rose for Columbus, Ohio (Source: *Western Regional Climate Center, wrc@dr.edu*)



15. The RED and ORANGE trajectories land closest to the property line and represent the white dots in Diagram 3 right of the yellow target line. Such trajectories tend to have lower maximum heights than trajectories that land near the target line as they result from mishits. Golf balls that land in this region would represent a very small percentage of possible trajectories.
16. The existing 50 foot high fence should be adequate for blocking golf balls that are hit severely to the right side of the Range. Such trajectories tend to have lower trajectories and I'd expect them

to be hit by high handicap (Broadie Am3) or novice golfers. In general, lower handicap golfers hit the ball higher due to higher swing speeds, but also with less lateral dispersion (greater accuracy).

17. Given the low percentage predictions for golf balls threatening the subject property, the prevailing wind conditions and the current/planned mitigation strategies, I would conclude that any golf balls threatening the subject property would likely result from intentional acts. Another possibility would be intentionally trying to hit the large, white silo and thus aiming too far. Given that the silo is over 360 yards from the Tee Bays, only the very longest hitters in the world would realistically be able to achieve this.
18. The trajectory examples in Diagrams 4, that have been merged onto Google Earth images, were generated using a computer spreadsheet that I created. The software simulates the path a golf ball travels through the air as well as the collision between the various golf clubs and the golf ball. My model takes into account variables such as clubhead speed, loft, ball speed, initial trajectory angle, open, square or closed clubface, backspin, sidespin, air temperature, humidity, density, etc. My model takes into account the same variables as other researchers, with comparable results, and agrees well with empirical data collected by golf ball trajectory radar launch monitors such as TrackMan, Flightscope, Foresight, etc.
19. Have utilized the research data of average golfers provided by Trackman Radar (<https://blog.trackmangolf.com/performance-of-the-average-male-amateur/>) as well as that of professional golfers (<https://www.pgatour.com/stats.html>) as golf ball trajectory data is collected throughout the golf season.

Exhibit B

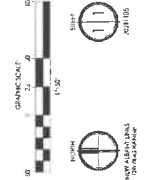
NEW ALBANY LINKS
SHORT GAME PRACTICE AREA
 LOCATED IN:
 SECTIONS 9 & 10, TOWNSHIP 2, RANGE 16
 UNITED STATES MILITARY LANDS
 CITY OF NEW ALBANY, COUNTY OF FRANKLIN, STATE OF OHIO

**FINAL
 DEVELOPMENT
 PLAN UPDATE**

PREPARED BY:
**New Albany Links Golf
 Course Co., Ltd.**
 7100 New Albany Road
 New Albany, OH 43054

DESIGNED BY:
EMHT
 10000 North State Road, Suite 100
 Columbus, OH 43240
 614.497.8800
 www.emht.com

DATE:	JUNE 11, 2016
REVISED:	NOVEMBER 18, 2016
REVISED:	NOVEMBER 18, 2016
REVISED:	NOVEMBER 18, 2016
REVISED:	NOVEMBER 18, 2016
REVISED:	NOVEMBER 18, 2016
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REVISED:	NOVEMBER 18, 2016



**NEW ALBANY LINKS SECTION 9
 P.B. 101, PG. 35**



B



VORYS

New Albany Links Golf Club

FDM-08-024 Final Development Plan
Modification

New Albany Planning Commission
May 20, 2024

Subject Driving Range

Zoned:

Infill Planned Unit Development (I-PUD)

Applicant seeks to modify the Final Development Plan to reflect existing conditions



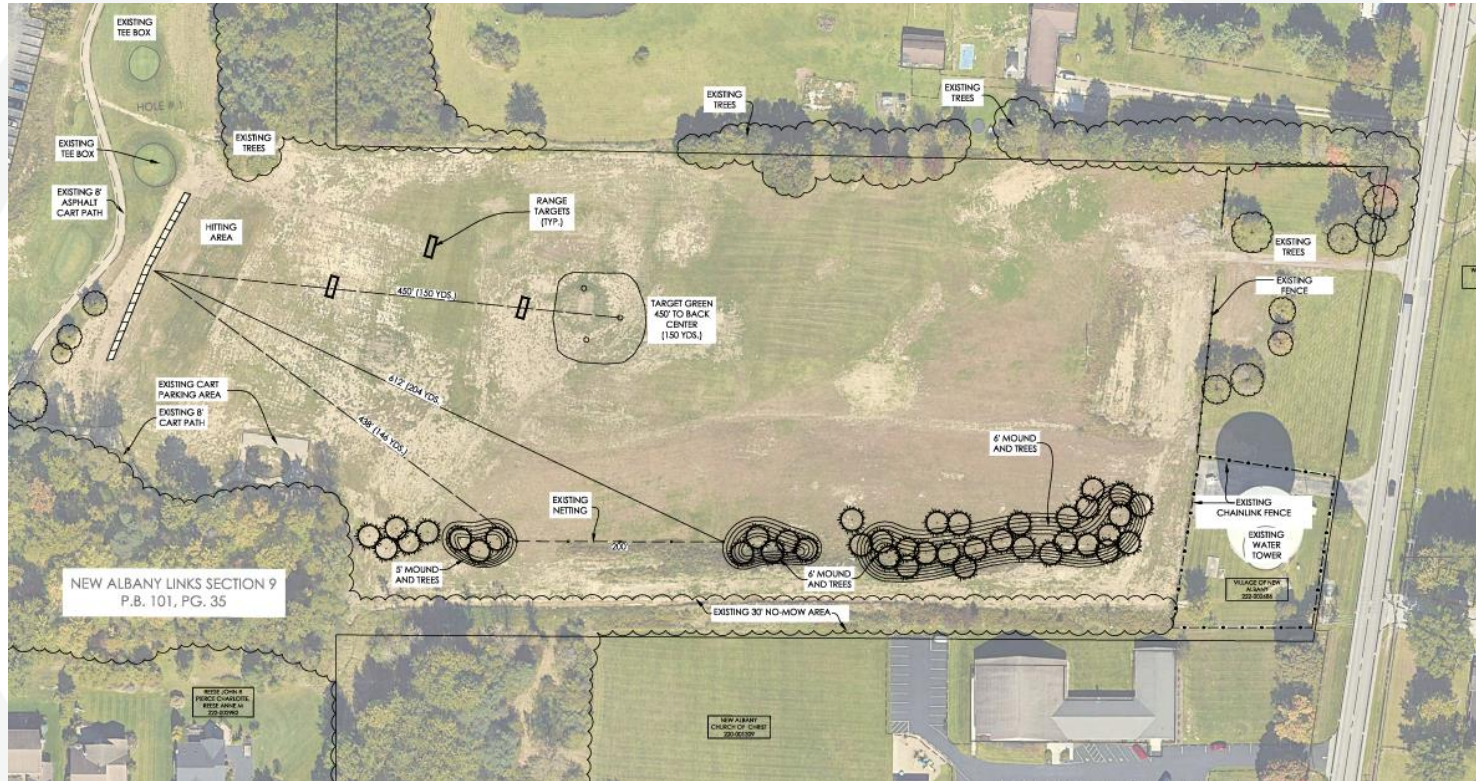
Final Development Plan Modifications

Applicant Intends to Make the Following Enhancements

1. Construct a main target green at approximately 150 yards
2. Define a new fairway to landing green for better targeting
3. Utilize aiming blocks to position golfers to hit down the middle of the range
4. Plant fifty (50) 10' and 12' trees of Red Maple, London Plane Tree, and Eastern White Pines species on six ft (6') earthen mounding
5. Add signage to warn golfers of personal liability for errant shots
6. Establish a communication protocol with the Church

Applicant also Agrees to Implement Staff's 4 Proposed Conditions

Final Development Plan Modifications



Modifications to Development Plan Governed by Zoning Code Chapter § 1159

Development Plan modifications governed by development plan bases for approval (Zoning Code § 1159.09(e))

Bases for development plan approval set forth in § 1159.08, such as:

- (a) That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;
- (b) That the proposed development is in general conformity with the Strategic Plan or portion thereof as it may apply;
- (c) That the proposed development advances the general welfare of the Municipality;

Modifications Are Consistent with the Zoning Code and Strategic Plan

- No change in zoning
- No variances
- Preserves significant natural open space
- Adds 50 trees
- Maintains high-quality outdoor recreational amenity

Ohio Zoning Law Requires the Zoning Code Be Interpreted to Permit the Proposed Use

- “[Zoning] resolutions are ordinarily construed in favor of the property owner. Restrictions on the use of real property by ordinance, resolution or statute must be strictly construed, and the scope of the restrictions cannot be extended to include limitations not clearly prescribed.”

Terry v. Sperry, 130 Ohio St. 3d 125, 2011-Ohio-3365, 956 N.E.2d 276, ¶ 19.

- “All doubt is to be resolved in favor of the free use of land by the landowner.”

DeRosa v. Parker, 198 Ohio App. 3d 332, 2011-Ohio-6024, ¶ 62 (7th Dist.).

- “Ambiguities in zoning provisions which restrict the use of one’s land must be construed against the zoning resolution because the enforcement of such a provision is an exercise of police power that constricts property rights.”

BP Oil Co. v. City of Dayton Bd. of Zoning Appeals, 109 Ohio App. 3d 423, 432 (2d. Dist. 1996).



B





LISTEN. SOLVE. EMPOWER.

FDM-08-2024 Final Development Plan Modification

May 20, 2024

**Brandon Pauley on behalf of Cross Point
Christian Church**

bmdllc.com

Legal Counselors + Business Advisors

Review Considerations - Codified Ordinance Ch. 1111.06

- (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).

Review Considerations - 2009 Requirements

Property line	2009 Approval Requirements	2024 Proposal
Northern Property line (860 feet in length)	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier. Add staggered deciduous trees within two gaps along tree line. Add black netting to existing horse rail fence (approx. 860 feet in length). 	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier.
Southern Property line (800 feet in length to water tower)	<ul style="list-style-type: none"> Utilize existing trees and landscaping as a barrier. Add staggered deciduous trees within one gap of the tree line. 30-foot-wide no-mow zone along property line. 	<ul style="list-style-type: none"> 30-foot-wide no-mow zone along property line. 150 ft long, 50 ft tall black net. Two mounds (one on each side of the netting). One being 72 feet in length with a max height of 5 feet. The second is 95 feet in length with a max height of 6 feet. Both

24 0221 New Albany Links Golf Club FDM-008-2024

3 of 6

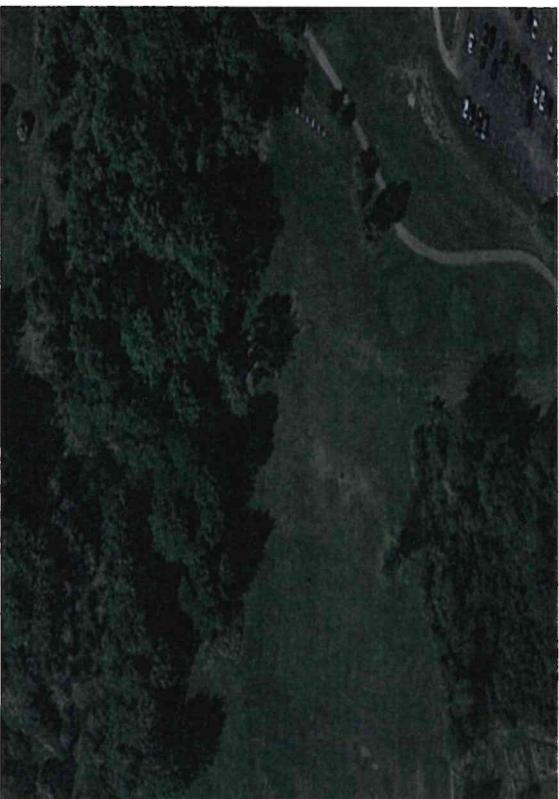
Teeing Ground - Past



AKRON CANTON CLEVELAND COLUMBUS BONITA SPRINGS JACKSONVILLE

bmdllc.com

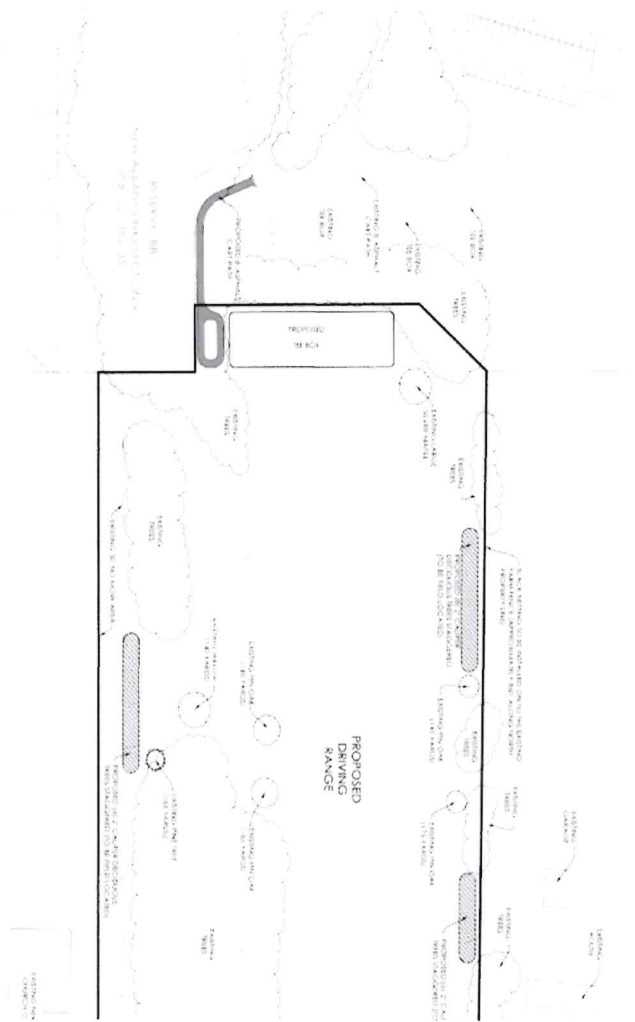
Teeing Ground Past



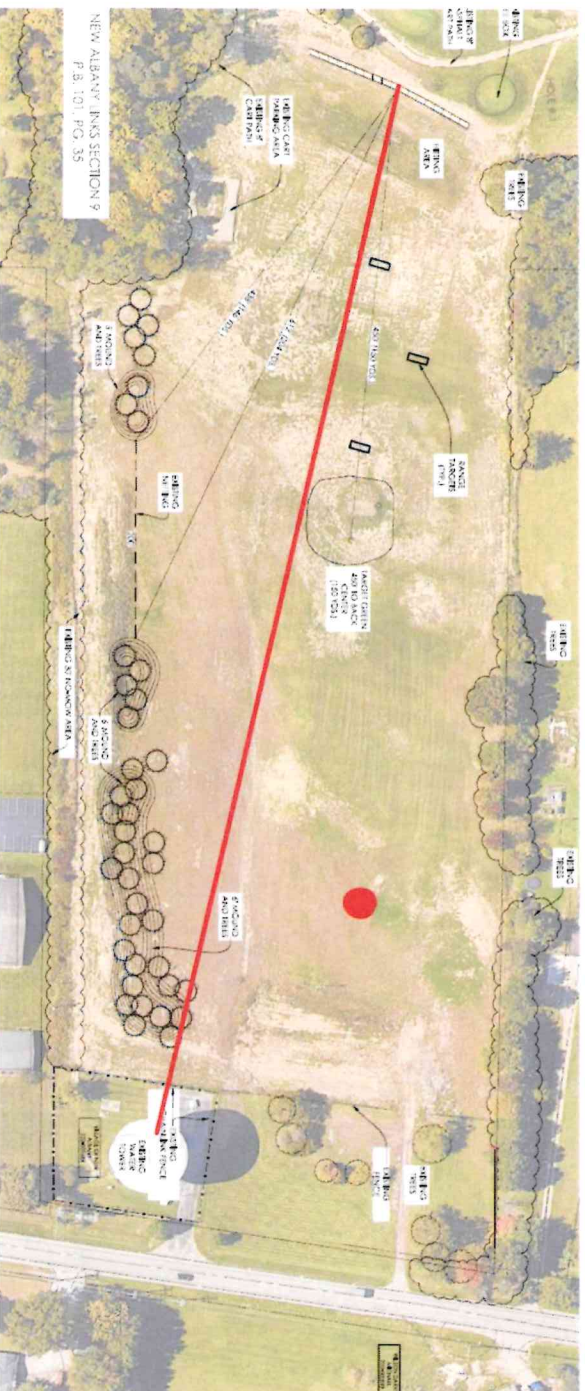
AKRON CANTON CLEVELAND COLUMBUS BONITA SPRINGS JACKSONVILLE

brndlic.com

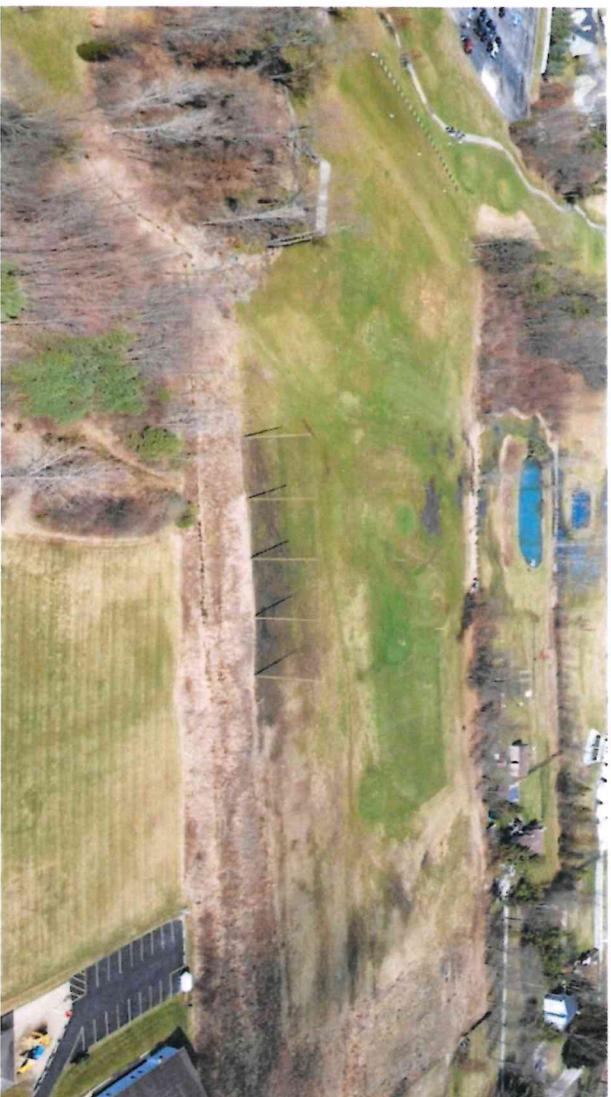
Teeing Ground - Original Plan 2009



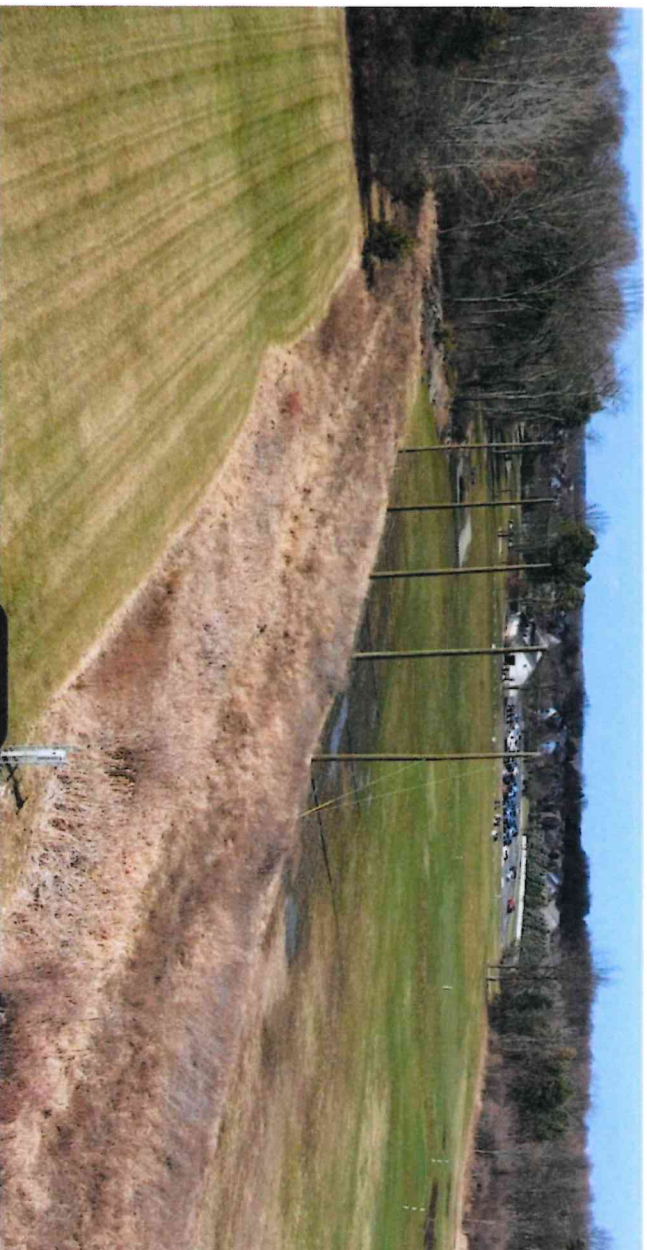
Teeing Ground - Present Plan



Teeing Ground - Present



View from Church



AKRON CANTON CLEVELAND COLUMBUS BONITA SPRINGS JACKSONVILLE

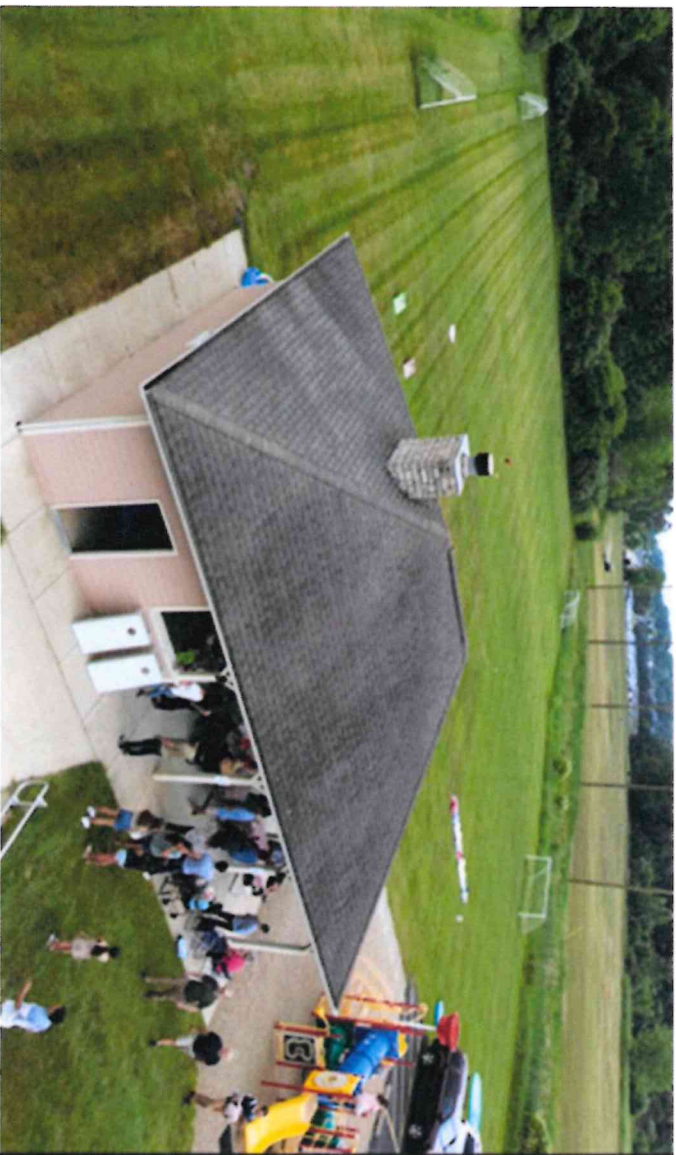
brmdllc.com

Examples of Fellowship/Community Activity



AKRON CANTON CLEVELAND COLUMBUS BONITA SPRINGS JACKSONVILLE

Examples of Fellowship/Community Activity



AKRON CANTON CLEVELAND COLUMBUS BONITA SPRINGS JACKSONVILLE



**Planning Commission Staff Report
May 20, 2024 Meeting**

**5370 PAMPLIN COURT
POOL VARIANCE**

LOCATION: 5370 Pamplin Court (PID: 222-003824)
APPLICANT: Ben & Charlotte Attard
REQUEST: Variance to allow a pool to be located in a side yard where the Tidewater zoning text Section C(5)(a) prohibits pools outside the rear building line.
ZONING: Tidewater I-PUD (Planned Unit Development District)
STRATEGIC PLAN: Residential
APPLICATION: VAR-19-2024

Review based on: Application materials received on April 19, 2024.

Staff report prepared by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to allow a pool to be located in a side yard where the Tidewater zoning text Section C(5)(a) prohibits pools outside the rear building line.

II. SITE DESCRIPTION & USE

The property is 0.55 acres in size and contains a single-family home. This property is located within the Tidewater subdivision and is zoned residential I-PUD. The surrounding properties are residential on all sides.

III. ASSESSMENT

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

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

1. The applicant requests a variance to allow a pool to be located in a side yard where the Tidewater zoning text Section C(5)(a) requires “all swimming pools/spas shall be located in the rear yard within the building line of sight and shall be completely enclosed by fencing and screened from adjoining properties.”
2. The variance does not appear to be substantial due to the size of the pool. The pool is 8’ 6” by 17’ making the square footage is about 144.5 square feet. The property is 23,958 square feet. Therefore, the pool makes up less than 1% of the entire lot.
3. The variance does not appear to alter the character of the neighborhood considering the surrounding landscape existing on the lot. The lot currently has large arborvitae trees that surround the property lines. Thus, it limits visibility from the public street and adjoining neighboring properties.
4. The variance preserves the “spirit and intent” of the zoning requirement and “substantial justice” because it meets all the city codified ordinance standards. All other code requirements including setbacks from adjacent properties and pool fencing are being met. In addition, the base city code requirements for pools do not state that pools cannot be located in a side yard therefore the applicant is still meeting the base pool location zoning requirements found in city code.
5. There are special conditions and circumstances existing that are peculiar to the land. The property is an oblong shaped lot since it is on a cul-de-sac area. The average residential lot in Tidewater has a depth of 140 +/- feet. This lot has a depth of 120 +/- feet. As a result, there is less buildable space in the rear. The rear yard behind the building measures between 30 to 35 +/- feet. The small rear yard behind the building limits the pool and its appurtenances from fitting.
6. 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.
7. Approving the variance will not adversely affect the delivery of government services.

IV. SUMMARY

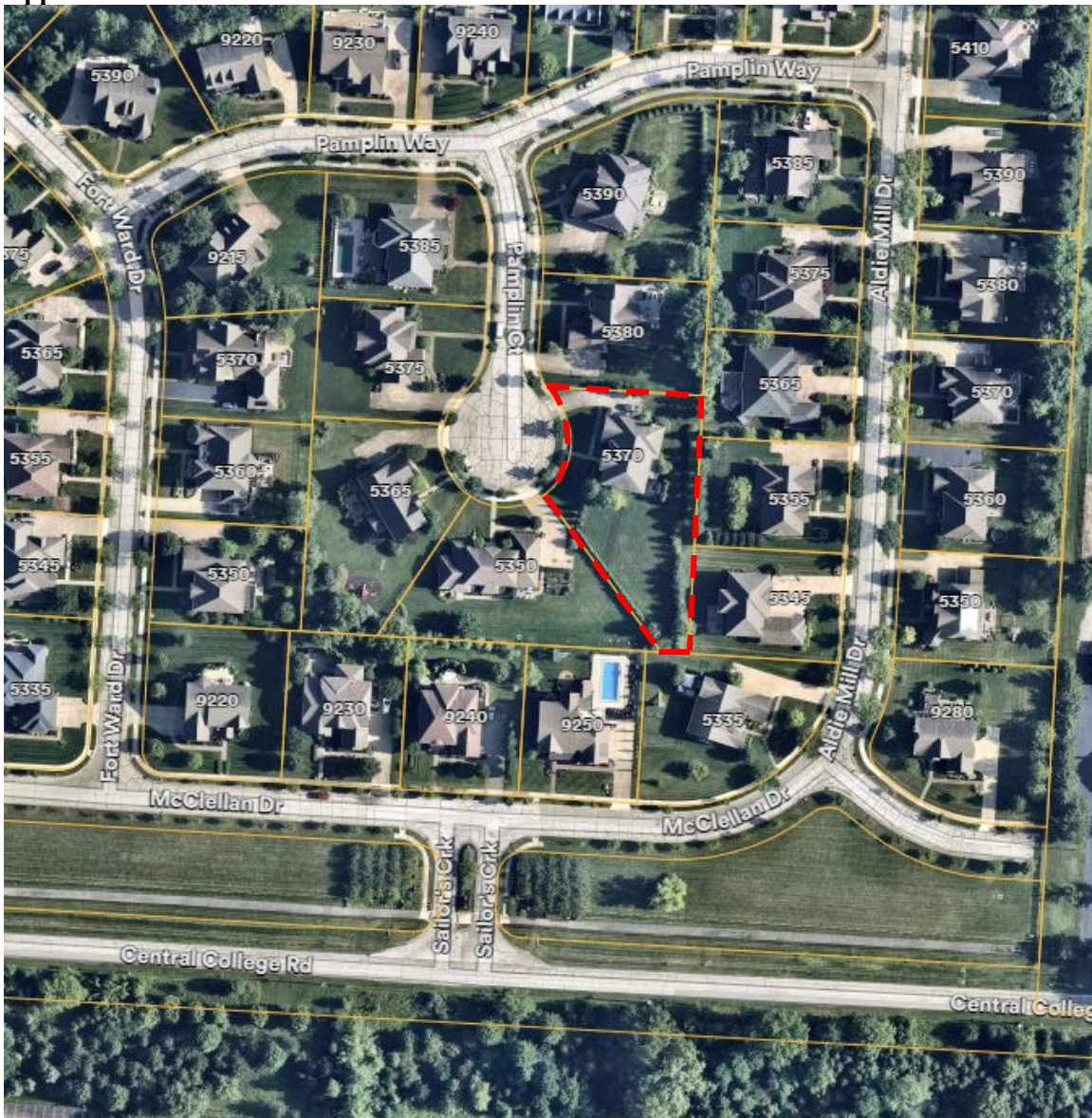
This variance is to allow a pool to be located in a side yard where the Tidewater zoning text prohibits pools outside the rear building line. This variance is not significant because the pool is not visible to the public and has limited visibility from neighbors due to landscaping. The pool is located in the side yard due to its unique shape in caused from the bend in the cul-de-sac along the street. The proposed pool is enclosed by a code compliant fence and is meeting all other code requirements.

V. ACTION

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

Move to approve application VAR-19-2024 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 Ashley & Jon Attard

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

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

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

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

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, May 21, 2024

The New Albany Planning Commission took the following action on 05/20/2024 .

Variance

Location: 5370 PAMPLIN CT

Applicant: Ashley & Jon Attard

Application: PLVARI20240019

Request: Variance to allow a pool to be located in a side yard where the Tidewater zoning text Section C(5)(a) prohibits pools outside the rear building line.

Motion: To approve

Commission Vote: Motion Approval with Conditions, 3-2

Result: Variance, PLVARI20240019 was Approval with Conditions, by a vote of 3-2.

Recorded in the Official Journal this May 21, 2024

Condition(s) of Approval:

1. The applicant must fully screen the street side to shield view of the pool.

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith
Planner

Variance Request for 5370 Pamplin Ct

Legal Description: 5370 Pamplin Court Tidewater at New Albany, Lot 53

The applicant is requesting approval to install and use a small inground plunge pool for personal and private use at their home. The pool and needed equipment would both be located in what is technically the side yard of the forementioned property. The lot is of adequate size and space from other lots to accommodate the improvement without impacting others or creating a public or private nuisance.

The lot in question is located in a cul-de-sac and as a result of surrounding lot designs, is irregularly shaped. The home is located on the rear building line leaving no space behind the home. This irregular lot shape has forced the usable yard and green space to be on the side of the home. The home was designed and built with this 'side backyard' in mind. The home flows and make design sense in relation to this 'side backyard.' A pool would be a natural fit in the space.

The pool will be 8-6' x17', it will be used as a large spa and or a small pool depending on the time of year. The equipment will consume a 4x8 area and will be directly against the homes side exterior wall. The equipment will not be auditable to surrounding homes and is similar in noise level as small air conditioning unit. The equipment will be placed out of view from the front of the house by existing vegetation.

The homeowner's association has reviewed the lot's unique circumstance, pool and equipment location, and has approved the proposed improvement.

The applicants have contacted all adjacent property owners individually and have received those owners approvals via phone text messages. See attached printed screen shots.

No change of use will exist. Landscaping will be replaced to create screening of pool space and equipment area from the front of the property. Side and rear vegetative screening already exists and will serve the pool space.

The pool and surrounding space will be designed and constructed with a flavor and quality level consistent and similar to the development and community. The pool structure will be a fiberglass shell making construction time minimal, and having modest impact on the adjacent homes on the street.

See attached list of property owners within 200 feet.



**Planning Commission Staff Report
May 20, 2024 Meeting**

**4093 REYNOLDSBURG NEW ALBANY ROAD
FINAL DEVELOPMENT PLAN**

LOCATION: 4093 Reynoldsburg New Albany Road (PID: 222-000630)
APPLICANT: F5 Design
REQUEST: Final Development Plan
ZONING: Hawksmoor North I-PUD
STRATEGIC PLAN: Residential District
APPLICATION: FDP-20-2024

Review based on: Application materials received April 19, 2024

Staff report completed by Sierra Cratic-Smith, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a review of a final development plan to allow for the construction of a single residential home on 1.654 acres located at 4093 Reynoldsburg-New Albany Road (PID:222-000630).

Due to the specific development standards in the I-PUD zoning text the Planning Commission must review and approve a final development plan application for all residential homes and accessory structures on this property.

In addition to the final development plan, the applicant has requested three variances associated with the final development plan. The variances are referred to in a separate staff report.

II. SITE DESCRIPTION & USE

The property is 1.654 acres and is located along the west side of Reynoldsburg-New Albany Road. It is north of the Hawksmoor subdivision and south of Belmont Place. The lot is currently undeveloped. However, there are single family residential homes located to the south of this lot in the Hawksmoor subdivision and north within the New Albany Country Club.

III. PLAN REVIEW

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

The Commission should consider, at a minimum, the following (per Section 1159.08):
That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;

- (a) That the proposed development is in general conformity with the Strategic Plan/Rocky Fork-Blacklick Accord or portion thereof as it may apply;*
- (b) That the proposed development advances the general welfare of the Municipality;*
- (c) That the benefits, improved arrangement and design of the proposed development justify the deviation from standard development requirements included in the Zoning Ordinance;*
- (d) Various types of land or building proposed in the project;*

- (e) *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;*
- (f) *Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area;*
- (g) *Building heights of all structures with regard to their visual impact on adjacent facilities;*
- (h) *Front, side and rear yard definitions and uses where they occur at the development periphery;*
- (i) *Gross commercial building area;*
- (j) *Area ratios and designation of the land surfaces to which they apply;*
- (k) *Spaces between buildings and open areas;*
- (l) *Width of streets in the project;*
- (m) *Setbacks from streets;*
- (n) *Off-street parking and loading standards;*
- (o) *The order in which development will likely proceed in complex, multi-use, multi- phase developments;*
- (p) *The potential impact of the proposed plan on the student population of the local school district(s);*
- (q) *The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required);*
- (r) *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*
- l. *Provide for innovations in land development, especially for affordable housing and infill development.*

A. Engage New Albany Strategic Plan

The site is located within the Residential District future land use district. The Engage New Albany Strategic Plan lists the following development standards for the Residential District:

- Houses should front onto public open spaces and not back onto public parks or streets.

- All or adequate amounts of open space and parkland is strongly encouraged to be provided on-site.
- Rear or side loaded garages are encouraged. When a garage faces the street, the front façade of the garage should be set back from the front facade of the house.
- Any proposed residential development outside of the Village Center shall have a base density of 1 dwelling unit per gross acre in order to preserve and protect the community’s natural resources and support the overall land conservation goals of the community. A transfer of residential density can be used to achieve a gross density of 1 dwelling unit per acre.
- Private streets are at odds with many of the community’s planning principles such as: interconnectivity, a hierarchy of street typologies and a connected community. To achieve these principles, streets within residential developments must be public.

B. Use, Site and Layout

1. The applicant proposes to create a new two story single residential family home on the property. The proposed home is 3,680+/- square feet.
2. The home meets all setback standards for the lot according to the Hawksmoor North zoning text:

Development Standard	Required	Proposed
Front yard setback	130 feet from right-of-way	251 feet
Rear yard setback	50 feet	82.5 feet
Side yard (northern lot line) setback	20 feet	39 feet
Side yard (Southern lot line) setback	20 feet	45 feet
Building Height	45 feet	25 feet 5 inches
Maximum lot coverage	None	3.8%

3. The front façade faces Reynoldsburg-New Albany Road as required by the Hawksmoor North PUD text.

C. Access, Loading, Parking

1. The property has an existing driveway currently on the property from a demolished house. The existing asphalt driveway is extended and leads to the house.

D. Architectural Standards

1. According to the Hawksmoor North zoning text section (D) the follow materials and design are required:

Development Standard	Required	Proposed
Primary exterior façade materials	Brick, stone, wood siding, and composite siding materials (Hardi-plank, its equivalent, or of higher quality).	Wood siding [meets code].
Siding	Composite or cedar shiplap wood siding	Wood siding [meets code].
Roof pitch	<ul style="list-style-type: none"> • 6:12 for major roofing (minimum). • Less than 6:12 for minor roofing permitted. • Flat roof for with cornice lines permitted. 	<ul style="list-style-type: none"> • 8:12 major roof [meets code]. • 4:12 minor roof [meets code]
Gutters	Half round with downspouts.	Half round with downspouts [meets code].

Roof Materials	Roofs may be of natural slate, wood shake or wood shingle, metal standing seam, or an architectural grade fiberglass asphalt shingle.	Metal standing seam [meets code].
Windows	Simulated or true divided light; vinyl or aluminum clad	Aluminum clad, true divided light [meets code].
Water Table / Plinth	Brick plinth when utilizing wood siding.	Natural stone is proposed. <u>This does not meet code. The applicant has requested a variance to allow the stone. The variance is evaluated under the separate staff report VAR-31-2024.</u>

2. Garages: There are seven garage bays proposed for the home. Two face the front yard, four face the rear yard, and there is a wide single door facing to the south (side yard).
 - a. The applicant proposes to install 2 garages on the front of the home project 24 feet in front of the building’s principle façade. The Design Guidelines and Requirements Section 5(II)(B)(4) requires all garage doors that face the primary street to be set back a minimum of ten feet in front all portions of the principal façade of the primary building. This does not meet the code. The applicant has requested a variance to allow the garage to project 24 feet in front of the primary façade. The variance is evaluated under the separate staff report VAR-31-2024.
 - b. The 4 garages on the rear meet all code requirements and setbacks.
 - c. The applicant proposes to install a 22 foot single swing hydraulic door on the southern façade. According to the Design Guidelines and Requirements Section 5(II)(B)(3) requires all garage doors to be single bay garage doors that are no greater than 10 feet in width. This does not meet code. The applicant has requested a variance to allow the garage to be 22 feet instead of 10. The variance is evaluated under the separate staff report VAR-31-2024.
3. The text states that it is anticipated that, due to the nature of the proposed homes and related structures as custom “estate homes”, architectural designs may continue to evolve beyond the date of final development plan approval and the property owner should be afforded flexibility in this regard in the same manner as would apply to a home being constructed in the City in a subdivision with numerous homes. To this end, architecture approved as part of a final development plan may be modified after its approval without further review by the Planning Commission with the approval of city staff if:
 - a. (a) The modifications are permitted under the City’s Design Guidelines and Requirements or by a variance granted therefrom which has been previously approved by the Planning Commission,
 - b. (b) Do not otherwise cause the need for a variance from this text or other relevant provisions of the Codified Ordinances, and
 - c. (c) Will not cause a substantial deviation from the massing or design of the home or other structure when compared to that which was approved by the Planning Commission.

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

1. There will be a significant amount of landscaping planted on the property including:
 - 6 trees surrounding the garages.
 - 11 trees and shrubs along the auto court and paver walk.
 - 64 shrubs surrounding the garages.
 - 8 trees in the rear yard.
 - 6 shrubs surrounding the utilities and mechanical equipment.
2. The PUD text states air conditioners/heat pumps, garbage cans and carts, irrigation controllers, pumps, generators, and meters which are visible from any point outside of the zoning district shall be entirely enclosed by a privacy wall, a fence, and/or landscaping that is a minimum of four feet high. The city staff recommends a condition of approval

requiring that these are screened, per code requirements and be subject to staff approval (Condition #1).

F. Lighting & Signage

1. There shall be one traditional lamppost at the beginning of the driveway entry and one exterior gas lantern above the door entryway. This is consistent with other properties in the New Albany Country Club.
2. All new utilities are required to be installed underground which is consistent with the existing Hawksmoor North zoning text.

G. Other Considerations

1. None.

IV. ENGINEER'S COMMENTS

The city engineer has reviewed the referenced plan in accordance with the engineering related requirements of Code Section 1159 and provided the following comment(s):

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. Refer to Exhibit B. Revise sheet C100 to show public water mains and public sanitary sewers designed to serve this parcel.
3. Verify that 40' of public r/w as measured from the road centerline is provided along the parcels frontage.
4. A master landscape plan (see Exhibit C) was included with the submittal. Modify this sheet to show site distance triangles and ensure that proposed landscaping does not impede motorist view as vehicles exit the site drive onto RNA Rd.

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

V. SUMMARY

The proposed residential home is a small rural addition to the Hawksmoor North subdivision. The design intent is a barn form for the new structure given the large size of the property. The rural architectural vocabulary is the most appropriate style for this project given the surrounding architecture along State Route 605 and the New Albany Farms. The new residential home meets the quality design and material standards of the city of New Albany with its barn-style architecture.

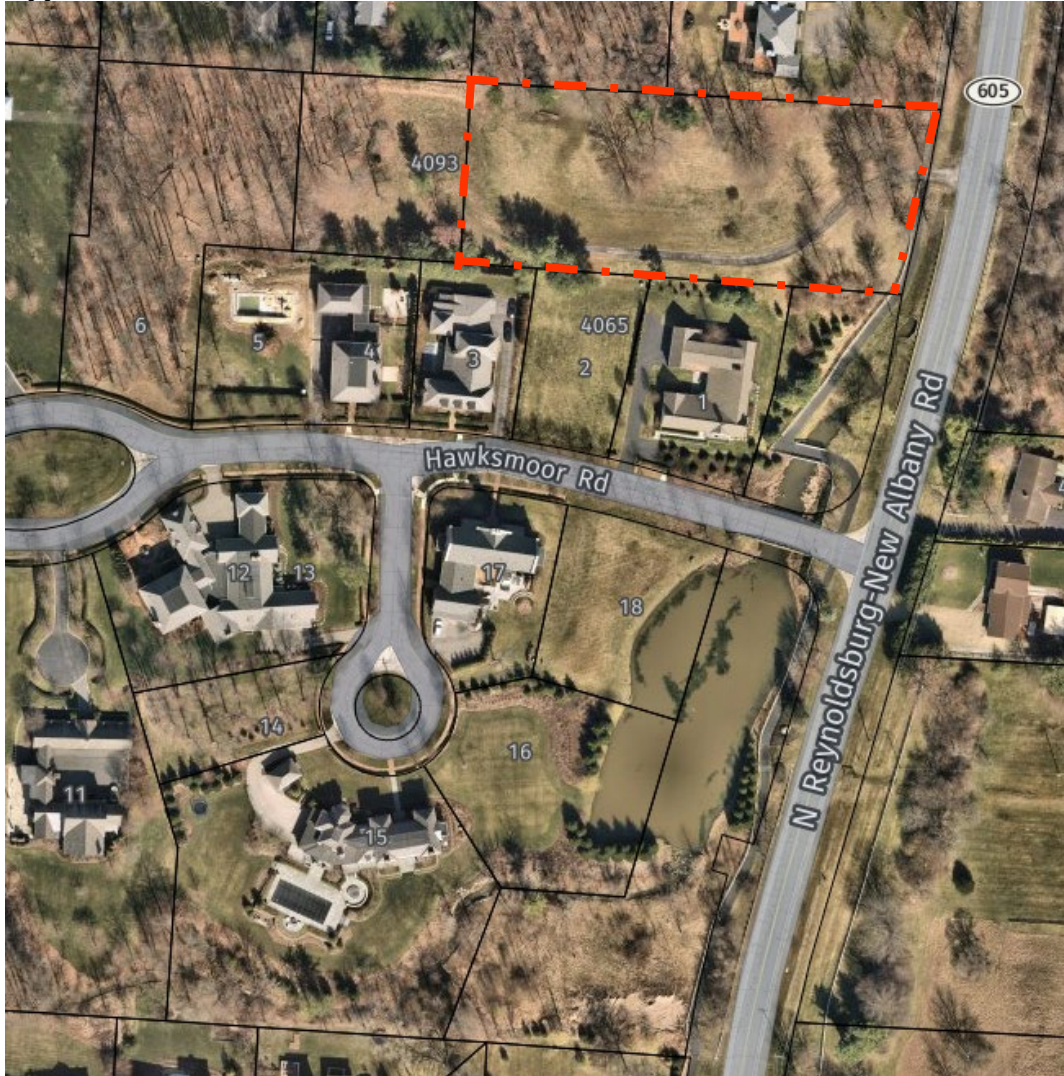
VI. ACTION

Suggested Motion for FDP-20-2024:

Move to approve final development plan application FDP-20-2024 based on the findings in the staff report with the following conditions.

1. Air conditioners/heat pumps, garbage cans and carts, irrigation controllers, pumps, generators, and meters which are visible from any point outside of the zoning district shall be entirely enclosed by a privacy wall, a fence, and/or landscaping that is a minimum of four feet high.
2. The City Engineer's comments are complied with and subject to staff approval.

Approximate Site Location:



Source: Nearmap



**Planning Commission Staff Report
May 20, 2024 Meeting**

**4093 REYNOLDSBURG NEW ALBANY ROAD
VARIANCES**

LOCATION: 4093 Reynoldsburg New Albany Road (PID: 222-000630)
APPLICANT: F5 Design
REQUEST: Variances
ZONING: Hawksmoor North I-PUD
STRATEGIC PLAN: Residential District
APPLICATION: VAR-31 -2024

Review based on: Application materials received April 19 and May 13, 2024

Staff report completed by Sierra Cratic-Smith, Planner.

I. REQUEST AND BACKGROUND

The applicant requests the following variances related to final development plan application FDP-20-2024 for a new single-family residence:

- A. Variance to allow a garage door to be 22feet in width where the Hawksmoor North zoning text permits a maximum width of nine (9) feet.
- B. Variance to allow a garage to project 24 feet beyond the front façade of a house whereas the city Design Guidelines and Requirement section 5(II)(B)(4) requires that if garage doors face the primary street, the facade of the garage shall be set back a minimum of ten feet from all portions of the principal facade of the primary building.
- C. Variance to allow a stone water table where the Hawksmoor North zoning text section D(2)(c) requires a brick plinth if wood or hardi-board siding is used.

II. SITE DESCRIPTION & USE

The property is 1.654 acres and located along the west side of Reynoldsburg-New Albany Road. It is north of the Hawksmoor subdivision and south of Belmont Place. The lot is currently undeveloped. However, there are single family residential homes located to the south of this lot in the Hawksmoor subdivision and north within the New Albany Country Club.

II. ASSESSMENT

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

Criteria

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

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

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

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

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

IV. EVALUATION

A. Variance to allow a garage door to be 22 feet in width where the Hawksmoor North zoning text permits a maximum width of nine (9) feet.

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

1. The variance does not appear to be substantial because there is limited visibility. The applicant proposes a mix of trees and shrubs on both ends of the façade preventing the hydraulic garage door from being seen. In addition, there are several existing trees on the vacant lot south of the property that also provide screening.
2. The variance preserves the spirit and intent of the zoning requirement because of the design. The applicant states the design of the home is of a rural barn design. The addition of the wide garage is similar to a carriage door in association with a barn. Therefore, the design is cohesive with the typical rural barn design.
3. It does not appear the essential character of the neighborhood would be altered. The building is designed in the barn vernacular. There are several other large structures with the barn design along State Route 605 within the New Albany Farms subdivision and at 3915 New Albany-Conduit Road.
4. The variance will not adversely affect the delivery of government services.
5. The variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development.

B. Variance to allow a garage to project 24 feet beyond the front façade of a house whereas the city Design Guidelines and Requirement section 5(II)(B)(4) requires that if garage doors face the primary street, the facade of the garage shall be set

back a minimum of ten feet from all portions of the principal facade of the primary building.

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

1. The variance does not appear to be substantial because the significant layers of buffering. The first layer is the significant setback from the primary street. The home is 251 +/- feet from the public street right-of-way. The second layer is the existing mature landscaping along State Route 605. It appears the visibility of the garage is reduced due to this natural buffer along the street.
2. The applicant proposes the design of the new residential home is of a barn style. The applicant states that projected garages are cohesive with the typical design of the barn. The design intent is that the building appears to be a barn with a modest living quarters attached.
3. The variance will not adversely affect the delivery of government services.
4. The variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development.

C. Variance to allow a stone water table where the Hawksmoor North zoning text section D(2)(c) requires a brick plinth if wood or hardi-board siding is used.

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

1. The variance does not appear to be substantial. The table is less than 2 feet tall. The wooden wall siding is 25½ foot tall on the residential building.
2. The New Albany Design Guidelines and Requirements Section 5 – Residential Outside Village Center – Part II(F)(1) states the materials of which new buildings are constructed shall be appropriate for and typical of the materials used in the architectural style in which the building is constructed. In general, wood siding and brick are preferred exterior materials. The use of alternate materials may be appropriate when they are used in the same way as traditional materials would have used. This means the shape, size, profile, and surface texture of alternate materials must exactly match historical practice. The City Architect has reviewed the proposed home and supports its use as the exterior wall material.
3. The variance preserves the spirit and intent of the zoning requirement because of the design. The rural barn house design incorporates a stone design to make the overall appearance more natural. In addition, the applicant states the natural stone material used is the same material found on other homes in the neighborhood. In addition to the stone base, it has many other typical materials used in rural barn structures throughout central Ohio, such as a metal standing seam roof, aluminum clad casement windows, and horizontal wood siding.
4. The Board of Zoning Appeals has previously approved the use of stone as the primary exterior material for other homes in the Hawksmoor subdivision such as:
 - i. October 2013 at 1 Hawksmoor Drive.
 - ii. August 2014 at 15 Kensington Court.
 - iii. The City Architect has previously reviewed these homes with natural stone material and supported its use of the stone exterior wall material.
5. One of the guiding principles for design in the Design Guidelines and Requirements is New Albany development will utilize authentic and high quality building materials. Wood and brick are preferred, however the use of natural stone for this residence appears to be appropriate based upon its design intent and location within the community.
6. The variance will not adversely affect the delivery of government services.
7. The variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development.

V. SUMMARY

The proposed new residential home is a small rural addition to the Hawksmoor subdivision. The Hawksmoor North zoning area is meant to be a continuation of the Hawksmoor subdivision which also contains stone. The design and material are similar in nature to other neighboring

residential home designs in the Hawksmoor subdivision and the New Albany Farms. In addition, because of the home's location and setback the improvements appear to have reduced visibility from the public street.

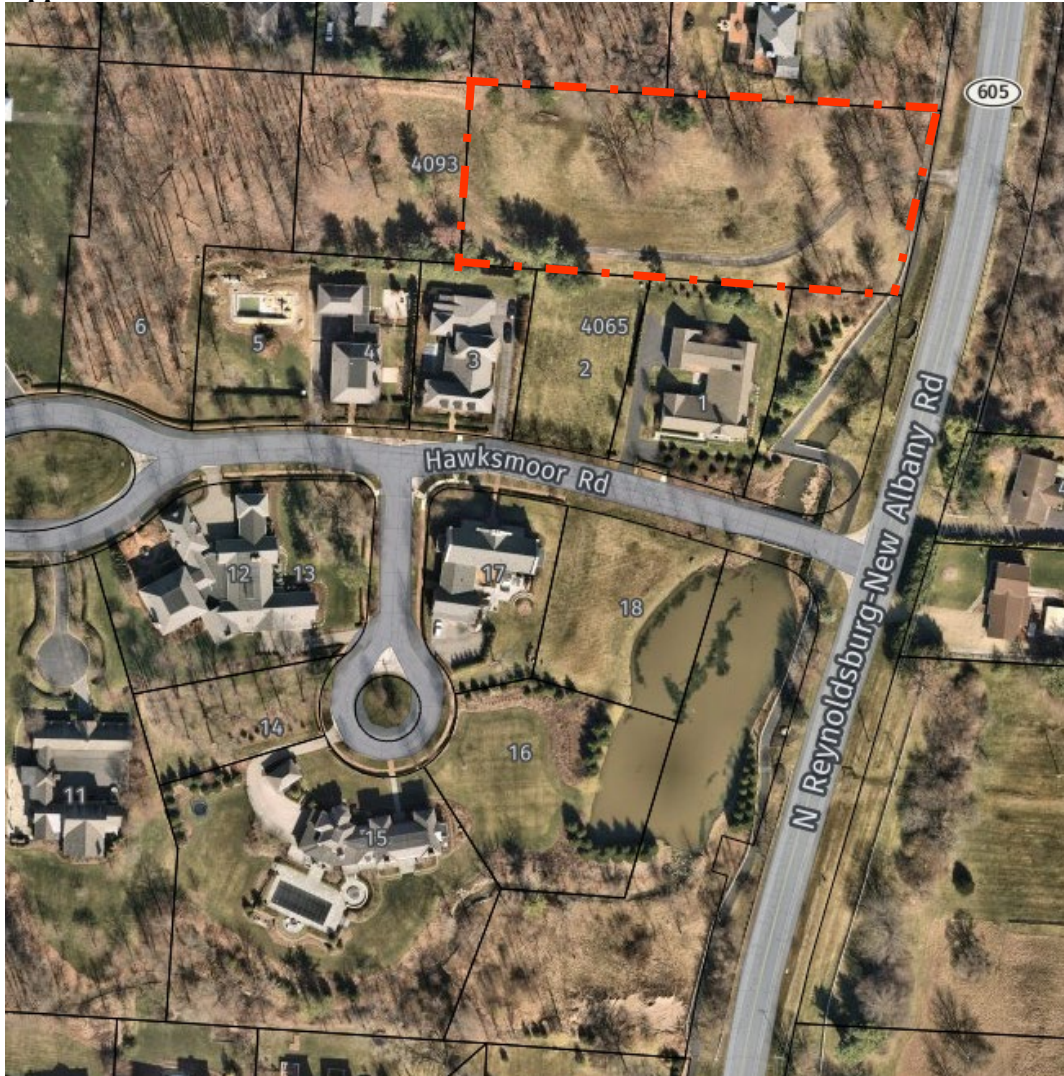
VI. ACTION

Suggested Motion for:

Move to approve final development plan application VAR-31-2024 based on the findings in the staff report with the following conditions.

1. This application's approval is contingent upon the approval of application FDP-20-2024.

Approximate Site Location:



Source: Nearmap



Community Development Department

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

Dear Todd Parker,

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

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

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

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

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, May 21, 2024

The New Albany Planning Commission took the following action on 05/20/2024 .

Final Development Plan

Location: 4093 Reynoldsburg New Albany Rd

Applicant: Todd Parker,

Application: PLFDP20240020

Request: A new single family residential home.

Motion: To approve

Commission Vote: Motion Denied, 1-4

Result: Final Development Plan, PLFDP20240020 was Denied, by a vote of 1-4.

Recorded in the Official Journal this May 21, 2024

Condition(s) of Approval:

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith
Planner



Community Development Department

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Thank you.



Community Development Department

Decision and Record of Action

Tuesday, May 21, 2024

The New Albany Planning Commission took the following action on 05/20/2024 .

Variance

Location: 4093 Reynoldsburg New Albany Rd

Applicant: Todd Parker,

Application: PLVARI20240031

Request: The applicant requests the following variances related to final development plan application FDP-20-2024 for a new single-family residence:

A. Variance to allow all 7 garage door to be 10 feet in width where the Hawksmoor North zoning text permits a maximum width of nine (9) feet.

B. Variance to allow a garage to project 24 feet beyond the front façade of a house whereas the city Design Guidelines and Requirement section 5(II)(B)(4) requires that if garage doors face the primary street, the facade of the garage shall be set back a minimum of ten feet from all portions of the principal facade of the primary building.

C. Variance to allow a stone water table where the Hawksmoor North zoning text section D(2)(c) requires a brick plinth if wood or hardi-board siding is used.

Motion: To Approve

Commission Vote: Motion Denied, 0-5

Result: Variance, PLVARI20240031 was Denied, by a vote of 0-5.

Recorded in the Official Journal this May 21, 2024

Condition(s) of Approval:

Sierra Cratic-Smith

Staff Certification:

Sierra Cratic-Smith
Planner