



New Albany Planning Commission Meeting Minutes – Approved
Monday, September 18, 2023

I. Call to order

The New Albany Planning Commission held a regular meeting on Monday, September 18, 2023 at the New Albany Village Hall. Chair Kirby called the meeting to order at 7:03 p.m.

II. Roll call

Those answering roll call:

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

Council Member Durik attended on behalf of Council Pro Tem Brisk.

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

Staff members present: Law Director Albrecht; Development Engineer Albright; Engineering Manager Denny; Planning Manager Mayer; Planner Nichols; Deputy Clerk Madriguera.

III. Action on minutes: August 21, 2023

Chair Kirby complimented the use of bookmarks in the electronic meeting packet; the bookmarks made navigating the pdf much more efficient.

Chair Kirby asked whether there were any corrections to the minutes from the August 21, 2023 meeting.

Hearing none Commissioner Schell moved to approve the minutes from the August 21, 2023 meeting. Commissioner Briggs seconded the motion.

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

Upon roll call: Mr. Schell yes; Ms. Briggs yes; Mr. Wallace abstained; Mr. Kirby yes. Having three yes votes, the minutes were approved as submitted.

IV. Additions or corrections to agenda

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

Chair Kirby administered the oath to all present who would be addressing the commission and noted that the time was right to silence cell phones.

Planner Nichols stated that staff had two changes to the agenda. The first was a request to remove CU-78-2023 from the agenda. Planner Nichols explained that while

conducting a full review of the application, staff determined a conditional use was unnecessary.

Without objection, CU-78-2023 was removed from the agenda.

Planner Nichols stated that the second change was a request by the applicant that FDP-84-2023 be laid upon the table until the October 16, 2023 meeting. She noted that there was a person present at the meeting who wished to comment on the application, so if the tabling occurred presently, that person would not have to wait until the end of the agenda in order to comment.

Planning Manager Mayer remarked that the commission could move the tabling of the application to the top of the agenda, then the commission could hear the person's comments during Hearing of visitors for items not on tonight's agenda.

Commissioner Wallace asked whether it was appropriate for the commission to hear public comment on an application without a full staff report and in the absence of the applicant.

Law Director Albrecht responded that the person had the right to give public comment at this meeting but it certainly would be appropriate for those comments to be given again when the application was being considered and when applicant was present.

Commissioner Wallace also noted that no substantive materials from staff had been provided on FDP-84-2023.

Commissioner Wallace moved to table FDP-84-2023 until the October 16, 2023 meeting. 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. Wallace yes; Ms. Briggs yes; Mr. Kirby yes; Mr. Schell yes. Having four yes votes, FDP-84-2023 was laid upon the table.

Chair Kirby noted that FDP-84-2023 was no longer on tonight's agenda.

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

Chair Kirby asked whether there were any visitors who wished to speak on items not on the agenda.

Greg Munster, owner of the Wealth Center of New Albany, 9835 Johnstown Rd. The Wealth Center was formerly a Key Bank. Mr. Munster stated that he believed the Chipotle was asking for more curb cuts for ingress and egress and he requested that the commission be sensible and careful when considering an increase in curb cuts. He stated that the owner of Chipotle had spoken with him about the curb cut increase, presumably to get Mr. Munster's approval, but his reasoning and message was unclear. Mr. Munster stated that the association should be responsible for maintaining the private drives. The traffic load and flow through the private drives was making them into full thoroughfares, and as such they required thoroughfare maintenance.

Chair Kirby asked whether they would be deeded over to the village.

Mr. Munster replied that at present there was no deeding; presently he owned half and the owner of Chipotle owned half. He stated that he was happy to engage in further

conversation and that believes there is something more to be looked at here and that he would be returning in October.

Chair Kirby stated he looked forward to hearing more from Mr. Munster in October and encouraged him to bring as much paperwork as he could, and also to coordinate with staff.

VI. Cases:

FDP-77-2023 Final Development Plan

Final development plan to allow for construction of a 4,266 square foot CME Credit Union with a drive-through and Crimson Cup Coffee Shop on 2.03 acres located at the southwest corner of Beech Road and Smiths Mill Road (PID: 093-106512-00.00).

Applicant: Brian Wellert

Planner Nichols delivered the staff reports for the final development plan and the three variances in a single presentation.

Chair Kirby asked whether the condition regarding the landscape included the same specifications as stated in D3 on page 6 of the staff report [Per zoning text requirement (G)(3)(b)(i), a minimum of 6 trees per 100 lineal feet must be installed within the required setback area along Smith's Mill and along Beech Road.].

Planning Manager stated that yes it did. He acknowledged that the condition did not include the numerical specification. He explained that the condition was using a short-form of the text as stated in D3, and recommended that the specifications be stated when making the motion.

Chair Kirby asked for comments from engineering.

Engineering Manager Denny delivered the engineering report.

Chair Kirby noted that some of the documents said "potential encroachment" and asked for further explanation.

Applicant Brian Wellert explained that the potential encroachment note was from the original survey and referred to the existing sidewalk, thus it was not relevant to this project.

Chair Kirby asked for questions from the commission.

Commissioner Schell asked staff whether the variances would still be needed if the applicant agreed to shift the building as recommended in the staff report.

Planner Nichols answered that rotating the building would essentially do away with all of the variances except with regard to having active and operable front doors. The site has three frontages; Smith's Mill Road, Beech Road, and Beech Crossing. Technically, they would still need a variance to not have an active and operable front door facing Beech Crossing, which is a private road and is something the Planning Commission has approved before when it is a private road and not a prominent public street.

Chair Kirby asked to hear from the applicant.

Applicant Brian Wellert of Environmental Design Group 450 Grant Street Akron, Ohio stated that he was aware of the variances, but after doing a traffic analysis they became

aware of safety concerns and pedestrian crossing concerns. He referred to a slide presentation, and stated that the staff conditions would require a redesign of the building. He explained that the proposed structure contains a coffee shop, it is also a bank and for security reasons it has one public entrance.

Chair Kirby noted that a bank two doors down from the Village Hall had multiple entrances.

Mr. Wellert responded that some [banks] can and continued that this was their prototype and that they wanted to stick with this prototype. Mr. Wellert stated that if implemented, the city's conditions would result in the following: cars cutting through the drive-through in order to access the primary entrance; a redesigned interior floor plan; an implied outdoor dining area where none was contemplated; an inaccessible dumpster; a remote loading space which would require employees to cross the drive through lanes; and more pavement and less landscaping when the applicant was already challenged in their effort to balance landscaping requirements with parking requirements. He stated that the New Albany Company was not onboard with making the combined entrance. He further noted that reorienting the building would result in car-stacking that would block the entrance after three cars queued, and the exit would be blocked after six cars. Mr. Wellert explained the three variances they were requesting, to eliminate the operable door requirement on Beech Crossing and Smith's Mill Road; to permit the menu board to be visible from Smith's Mill Road; and to permit the dumpsters to be located in front of the building. He explained that their design intent was to utilize landscaping to screen the dumpsters so they would not be visible from the front of the building. Similarly, shrubs and trees would be used to screen the menu board as much as possible. He showed pictures of ornamental shrubs and trees to demonstrate what they had in mind for screening. He also showed photos of existing properties with dumpsters visible from the road. He further explained that they were willing to incorporate gentle mounding to provide screening. He continued that they were examining other improvements to improve the appearance from Smith's Mill Road. He acknowledged that that entrance had a back of the house feeling and explained that their intent has been to focus on front touch, meaning the primary entrance. They still intended to offer pedestrian access and significant parking spaces in the front with less parking on the side for safety and security.

Chair Kirby asked whether Mr. Wellert had any conflict with the engineering comments.

Mr. Wellert responded that there has been some confusion about storm water; he was concerned about the sight distance and would like to move it further south considering the left turn in. He stated that they were more than willing to discuss these issues. He continued that the landscaping was getting difficult and explained that their fear is that if they provide too much the land will not be accessible.

Chair Kirby asked whether Mr. Wellert was still addressing the engineering comments because it seemed as though he was addressing the conditions in the staff report.

Mr. Wellert replied that their intent was to go along with engineering comments, but if they cannot come to an agreement on the variances then they may have some concerns with the engineering comments.

Commissioner Wallace asked Mr. Wellert to clarify whether he agreed with the engineering comments.

Mr. Wellert asked to hear the engineering comments again.

Chair Kirby read them.

Commissioner Schell handed Mr. Wellert a copy of the engineering memo.

Mr. Wellert responded that he agreed with all the engineering comments.

Chair Kirby asked for questions from the commission.

Commissioner Schell remarked that what the applicant was requesting and what the city staff was recommending was almost completely different and he was not sure if he had ever seen or reviewed a case with such disagreement. He also commented that it would be very difficult to vote on a variance without an accurate rendering of what was being proposed.

Commissioner Briggs concurred and remarked that this case was very difficult because the applicant's requests and the city suggestions seemed unreconcilable. The differences raised so many questions about the parking, queuing, and she could not recall ever being presented with a case like this.

Commissioner Wallace echoed those comments and stated that this commission very rarely grants variances. In order to grant a request for a variance, the commission must find that the request must meet the *Duncan* requirements; that is the law of Ohio. There can be disagreement on whether the *Duncan* requirements are met in a particular request. He continued that the comment that concerned him was that this property is located in Licking County and it was not in the heart of New Albany. One of the objectives of the commission is to keep the planning and development standards consistent regardless of where in New Albany the property is located. He stated that the commission was certainly willing to give an up or down vote on this application at tonight's meeting. He stated that given the distance between what Mr. Wellert was proposing and what the city was proposing, this application would benefit from continued work. He understood that Mr. Wellert was attempting to balance the prototype with the city's design standards. To that end, he suggested that Mr. Wellert consider tabling the application so he could return with an application that more closely meets the city's standards, rather than have a vote on the application as presented to the commission tonight.

Mr. Wellert stated that he agreed and their intent at this meeting was to have a discussion with the commission. He and Planner Nichols had been in daily contact, their preliminary was in June and their submittal was in August and that she had been very helpful. He remarked that the New Albany Company has reviewed, supported, and approved their proposed layout and that everyone has agreed with us as far as functionality but what breaks the conversation is the form. The view from the street was the application's weakness and he recognized that he had pushed to be on tonight's agenda. They did not want to set a precedent. Mr. Wellert stated that he wanted to have a positive interaction and to find the balance between form and function and he acknowledged that the application becomes more complicated with the mixed use as a coffee shop. Mr. Wellert then began to discuss the menu board.

Chair Kirby asked Mr. Wellert to clarify whether he had just said the menu board was 29 square feet.

Planner Nichols stated that staff had not seen the menu board sign.

Commissioner Wallace remarked that the staff report listed a number of areas, such as the menu board, where information from the applicant was missing. He continued that the commission cannot analyze an element of an application that is not present in the

materials. There are a lot of moving and missing parts in this application. He appreciated Mr. Wellert's honest intent to meet the city's requirement, but more work needs to occur on this application prior to the commission's vote on it.

Chair Kirby stated that the newly enacted code provisions regarding electronic menu boards were thorough and easy to follow. Mr. Wellert's request for variance for the proposed electronic menu board should be analyzed under the newly enacted code provisions.

Mr. Wellert agreed and stated that he had been provided with the new code and would provide an analysis of the proposed electronic menu board using the new code. He stated that he was expecting at least a condition regarding the menu board. He continued that there had been discussions and some disagreement with the planning department on whether the menu board was required to be on the other side of the building or whether the requirement was that it be effectively screened from view. He also acknowledged that if the requirement was for effective screening, that it would take some time for the landscaping to mature in order to meet the requirement.

Chair Kirby asked whether Mr. Wellert's issues with the private drive would exist if it was a public right of way.

Mr. Wellert clarified that his concern was the requirement for a joint drive with the neighboring undeveloped property rather than provision of their own private drive. He explained that relocating their curb cut in the city's recommended location would serve two lots, but it would incur considerable additional cost, and it would force the future land-user to use CME's driveway.

Council Member Durik asked staff explain to explain this condition, because it seemed as if there would be two curb cuts adjacent to each other.

Planning Manager Mayer responded that staff does not share the applicant's interpretation. The driveway is entirely located on CME's property. The shared drive was a suggestion, not a requirement. He explained that the applicant does not have to share a driveway. The driveway CME is required to provide would not have any implication for the property to the west.

Mr. Wellert stated that his point was that if the city's intent was to provide access for future development, there would be the same number of curb cuts on Beech Crossing regardless of whether there was a shared or private drive.

Chair Kirby stated that there is an ongoing issue regarding cross-access easements that has been challenging.

Planning Manager Mayer explained that the zoning text supports cross-access easements and that it was not required of Duke and Duchess because of the size of the lot. Staff suggests them because they ease congestion and site circulation. The thinking with this property was to move it as far west as possible. The shared drive was suggested but not required and it would not impact the number of curb cuts that the future land-user is permitted to have.

Chair Kirby clarified that none of the concerns presented by the applicant were based on the fact that Beech Crossing is a public and not a private road.

Mr. Wellert responded that he thought it was a combined issue. The intent of Beech Crossing is to provide limited curb cuts on to the main road. They wanted to provide a single curb cut and did not want to provide joint access or a curb cut for through access.

Chair Kirby asked whether this was another private drive issue and wondered whether New Albany needed to get out of the business of private drives.

Planning Manager Mayer responded that private drives make sense under certain circumstances based on the scale and purpose of roads. They act as collectors for public roads and have been successful in New Albany in certain locations.

Chair Kirby noted that we had an Achilles heel in Keswick and one or two others that created a planning problem and he wanted to avoid that outcome with this application. Chair Kirby continued that he had not yet commented on the application. He stated that the variances requested were hard to deal with. He explained that this location is a signature corner which meant that the city would not get this back if it was done incorrectly. This corner is the intersection of two major roads and as such the planning must be done correctly. He advised Mr. Wellert that the commission would vote on the application tonight, but warned that he had heard very little if any support from the commission for the application in its current form.

Chair Kirby asked whether there were any members of the public present who wished to comment on the application.

Hearing none, Chair Kirby moved to accept the staff reports and related documents into the record for FDP-77-2023. Commissioner Schell seconded the motion.

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

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

Mr. Wellert requested a five-minute recess.

Chair Kirby called a five-minute recess at 8:06 p.m.

Chair Kirby called the commission to order at 8:11 p.m.

Mr. Wellert requested that the application be tabled and after some discussion requested that the application be tabled to no later than January 2024.

Chair Kirby moved to lay application FDP-77-2023 on the table to a meeting no later than the January 2024 regular meeting. 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. Having four yes votes, FDP-77-2023 was laid upon the table until no later than January 2024.

VAR-79-2023 Variances

Variances to eliminate the requirement that there be active and operable doors on the Beech Crossing and Smiths Mill Road building elevations, to dumpster location requirements, and to allow a drive-through menu board sign to be visible from the public

right-of-way; associated with a final development plan application for a CME Credit Union with a Crimson Cup Coffee Shop development generally located at the southwest corner of Beech Road and Smiths Mill Road (PID: 093-106512-00.00).

Applicant: Brian Wellert

Chair Kirby moved to accept the staff reports and related documents into the record for VAR-79-2023. 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. Schell yes; Mr. Wallace yes. Having four yes votes, the staff reports and related documents for VAR-79-2023 were admitted into the record.

Chair Kirby moved to lay VAR-79-2023 on the table to a meeting no later than the January 2024 regular 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. Kirby yes; Mr. Schell yes; Ms. Briggs yes; Mr. Wallace yes. Having four yes votes, VAR-79-2023 was laid upon the table to no later than January 2024.

The commission wished the applicant good luck.

VII. Other business; poll members for comment; and adjournment

Chair Kirby asked if there was any other business to come before the commission. Hearing none, he polled the members for comment.

The commissioners wished everyone a pleasant evening.

Commissioner Schell noted that he looked forward to seeing everyone at Oktoberfest.

Chair Kirby adjourned the September 18, 2023 New Albany Planning Commission meeting at 8:15 p.m.

Submitted by: Deputy Clerk Madriguera, Esq.

Appendix

FDP-77-2023

Staff Report

Record of Action

VAR-79-2023

Staff Report

Record of Action



**Planning Commission Staff Report
September 18, 2023 Meeting**

**CME CREDIT UNION AND CRIMPSON CUP COFFEE SHOP
FINAL DEVELOPMENT PLAN**

LOCATION: Located at the southwest corner of Beech Road and Smith's Mill Road
(PID: 093-106512-00.00)
APPLICANT: Brian Wellert
REQUEST: Final Development Plan
ZONING: Beech Crossing I-PUD
STRATEGIC PLAN: Retail
APPLICATION: FDP-77-2023

Review based on: Application materials received August 18, 2023 and September 1, 2023.

Staff report prepared by Chelsea Nichols, Planner

I. REQUEST AND BACKGROUND

The application is a final development plan for a proposed CME credit union and Crimson Cup coffee shop with drive-throughs located at the at the southwest corner of Beech Road and Smith's Mill Road.

The property in question is zoned I-PUD and is located within the Beech Crossing Zoning District which was reviewed and approved by the Planning Commission on January 22, 2020 (ZC-102-2019).

The proposed coffee shop with drive-through is a permitted use as a "carry-out food and beverage establishment with drive-through facility". The proposed bank is permitted as a personal service. The drive-through associated with the bank is also a permitted use.

The applicant is applying for three variances related to this final development plan under application VAR-79-2023. Information and evaluation of the variance requests are under a separate staff report.

II. SITE DESCRIPTION & USE

The site is generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road. The site is 2.03 acres and is currently undeveloped. This is the fourth proposed development for this zoning district. The Planning Commission approved final development plan applications for Duke and Ditches on October 20, 2020, Holiday Inn Express on February 19, 2020, and Taco Bell on August 21, 2023.

III. EVALUATION

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

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

- a. *That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;*

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

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

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

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

Engage New Albany Strategic Plan Recommendations

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

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

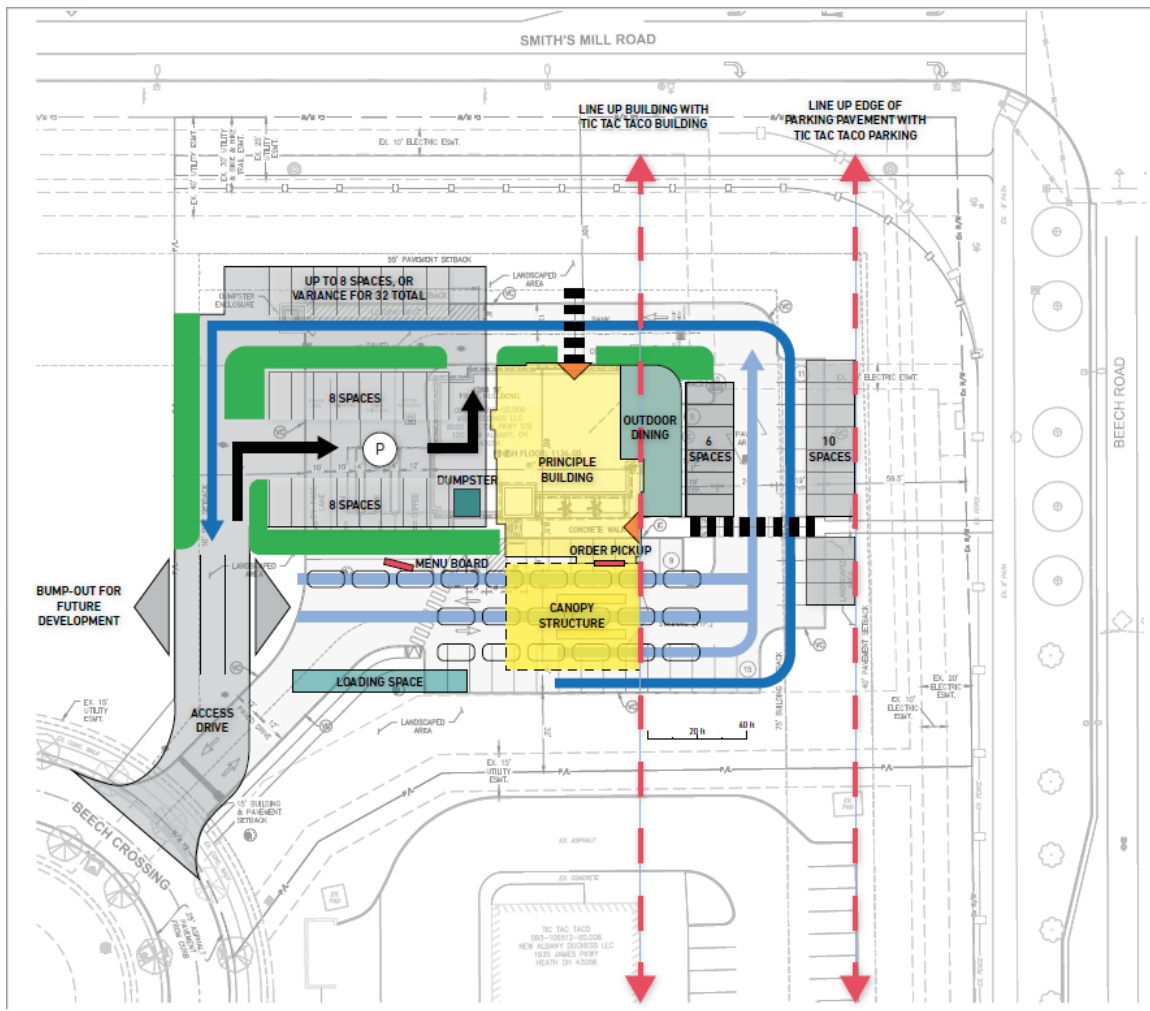
A. Use, Site and Layout

1. The applicant proposes to develop a 4,266 sq. ft. CME credit union and Crimson Cup coffee shop with drive-throughs.
 - a. The credit union floor area is be 1,309 sq ft,
 - b. The coffee shop is be 894 sq ft, and
 - c. 2,216 sq ft for shared space.
2. The PUD zoning text requires the following setbacks from these perimeter boundaries:
 - a. Beech Road:
 - i. Required minimum: 40-foot pavement and 75-foot building
 - ii. Proposed: 59.5+/- foot pavement and 137.33+/- foot building setback [requirement met]
 - b. Smith's Mill Road:
 - i. Required minimum: 55-foot pavement and 75-foot building
 - ii. Proposed: 80+/- foot pavement and 101+/- foot building setback [requirement met]
 - c. Internal Parcel Boundaries (southern and western property lines):
 - i. Required minimum: 10-foot pavement and building setback
 - ii. Proposed (western property line): 52-foot pavement and 92-foot building setback [requirement met]
 - iii. Proposed (southern property line): 32+/- feet pavement and 102.5-foot building setback [requirement met]
 - d. Outparcel Access Road (Beech Crossing):
 - i. Required minimum: 15-foot building and pavement setback
 - ii. Proposed: 111+/- foot pavement (not counting drive aisle) and 152+/- foot building setback [requirement met]
3. The development site is accessed by a private road which was reviewed and approved by the Planning Commission on October 21, 2019 (FDP-72-2019). This private road, Beech Crossing, was constructed by another private developer and includes street trees and a sidewalk along the road.
4. According to zoning text section C(1), the applicant is required to install leisure trail along Smith's Mill Road. The site plan meets this standard by providing an 8' wide leisure trail within the front yard of the lot along Smith's Mill Road
5. Per zoning text section C(4,) the applicant is required to connect into the existing pedestrian circulation system. The applicant is meeting this requirement by providing a direct connection into the existing leisure trail along Beech Road and the existing sidewalk along Beech Crossing.
6. The zoning text requires that the total lot coverage, which includes all areas of pavement and building, to not exceed 80% of the total area. The proposed development is at 38% lot coverage thereby meeting this requirement.

7. The Beech Crossing I-PUD zoning text places a limitation on total acreage that can be utilized for retail uses in the Beech Road / Smith's Mill Road area. The intent is to limit retail development to a maximum of 92 acres in this general area. Once 92 acres have been developed with retail uses found in the C-3 and GE zoning districts, the remainder of the land from all of these subareas can only allow non-retail General Employment (GE) zoning district uses listed in their respective zoning texts. This 2.03-acre development is subject to this overall 92-acre retail limitation.

B. Access, Loading, Parking

1. The site is accessed from one full access curb cut along Beech Crossing, which is near the southwest corner of the property.
2. The site layout consists of one-way vehicular traffic traveling counterclockwise around the building resulting in the coffee menu board sign being located on the elevation facing Smith's Mill Road and the drive through window on the west of the building. The building's orientation results in the drive-through menu board sign, steel utility/service door, and the building's electrical meter and power boxes facing Smith's Mill Road. The city design consultant, MKSK, is not supportive of the building orientation and comments:
 - a. Due to the prominent location and high visibility of the development, it is important that the menu board sign does not face Smith's Mill or Beech Roads.
 - b. The diagram below contains recommended revisions to the site plan to ensure the building is appropriately oriented to the public streets.
 - i. Rotate the building 90 degrees counterclockwise so the drive-through is located on the south side of the building, provide a shared drive with the western adjoining future development, and align the building and parking to match the existing neighbor to the south. All of these changes help achieve the important consistency and cohesiveness along the public corridors.
 - ii. Relocate the dumpster, enclosure, and loading area to the interior of the site, and out of view from traffic on Beech and Smith's Mill Roads.
 - iii. Add a second doorway to the two-story architecture feature so there are entrances along Smith's Mill Road and Beech Road after the building is rotated. Relocate parking to the rear of the site.



3. The city parking code contains the following parking standards for coffee shops associated with a bank use.
 - a. Parking requirements for the bank, per Chapter 1167; 1 parking space per 200 square feet of gross floor area. Drive-through for the bank; number of stacking spaces is based on 80% of the required parking.
 - b. Parking requirements for the coffee shop, per Chapter 1167; 1 parking space per 75 sq ft of gross floor area. Drive-through stacking spaces is based on 25% of the required parking.
 - c. The credit union floor area is 1,309 sq ft, the coffee shop is 894 sq ft, and 2,216 for shared space. The applicant divided the 2,216 sq ft in half to calculate 2,417 square feet for the credit union and 2002 sq ft for the coffee shop. Based on these calculations, 13 spaces are required for the credit union and 27 spaces for the coffee shop; for a total of 40 spaces required. The applicant is providing 40 parking spaces.
 - d. As for the required drive-through stacking spaces, 11 spaces are required for the credit union and 7 spaces are required for the coffee shop. It is not clear at this time how many stacking spaces are provided for each use. The city staff recommends the Planning Commission confirm with the applicant the number of stacking spaces provided.
4. Per C.O. 1167.03(a), the minimum parking space dimensions required are 9 feet wide and 19 feet long. The applicant is meeting this requirement.
5. Per C.O. 1167.03(a), the minimum maneuvering lane width size is 22 feet for this development type. The applicant is exceeding this requirement at 24 feet.

C. Architectural Standards

1. The purpose of the New Albany Design Guidelines and Requirements is to help ensure that the New Albany community enjoys the highest possible quality of architectural

design. The zoning text contains architectural standards and the site also falls under the Section 6 of the Design Guidelines and Requirements: Commercial Outside Village Center.

2. The zoning text states that retail buildings shall be a minimum of one story and a maximum of two stories in height. This requirement is being met as the building is a one-story building.
3. The primary building material is brick, which is a permitted building material in the zoning text.
4. Zoning text section E.4(b) states that all rooftop mechanical units must be screened to limit off site visibility and sound. The applicant meets this requirement.
5. DGR Section 6(I)(A)(4) states that the number, location, spacing and shapes of window openings shall be carefully considered, particularly for buildings in retail use and shall impart a sense of human scale. The applicant meets this requirement by designing the windows with consistent spacing and shapes. The number and location of the windows are also appropriate.
6. DGR Section 6(I)(A)(6) states that all visible elevations of a building must receive similar treatments in style, materials and design so that no visible side is of a lesser character than any other. The applicant is meeting this requirement by using the same materials on all building elevations.
7. DGR Section 6(I)(A)(12) states that buildings shall have active and operable front doors along all public and private streets. The building fronts onto Smith's Mill Road to the north, Beech Road to the east, and Beech Crossing to the southwest. The building is designed with an active and operable front door facing Beech Road but there is no door on the north facing Smith's Mill or on the southwest facing Beech Crossing. The applicant requests a variance, under application VAR-79-23, to eliminate this requirement for the north and southwest elevations of the building. This variance request is evaluated under a separate staff report.
8. C.O. 1149.04 states dumpsters are to be located as to effectively be screened from view. The applicant requests a variance, under application VAR-79-23, to eliminate this requirement in order to allow for the dumpsters to be located in front of the building along Smith's Mill Road. This variance request is evaluated under a separate staff report.

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

1. Per Beech Crossing zoning text requirements G(a) and G(3)(a), a four-board horse fence is required to be installed along Smith's Mill Road. This requirement is met.
2. Per zoning text requirement G(8), a master landscape plan shall be completed as part of the first final development plan that is submitted for a property located west of the previously approved "Outparcel Access Road"/the existing Beech Crossing. This landscape plan is subject to the review and approval of the city landscape architect. The current property owner, the New Albany Company (NACO), had submitted the plan and it had been approved by the city landscape architect ahead of the future Taco Bell site to the west. The landscape standards established along Smiths Mill and Beech Road surround the proposed site to the north and east.
3. Per zoning text requirement (G)(3)(b)(i), a minimum of 6 trees per 100 lineal feet must be installed within the required setback area along Smith's Mill and along Beech Road. Based on the available information, it is not clear at this time whether this requirement is met. In addition, the approved NACO master landscape plan for this area contains buffer landscaping standards within the front yard setback that must be followed. The proposed landscape plan and the approved NACO plan do not align entirely in design. Staff recommends a condition of approval that the landscape plan be updated at the time of permitting to meet code, subject to staff approval.
4. Per zoning text requirement G(3)(c), a minimum 3.5-foot-tall landscape buffer must be provided to screen parking areas along all public rights of way. The proposed landscape plan shows that a 3.5-foot-tall landscape buffer installed along the parking areas that are along public rights of way, therefore this requirement is being met.

5. Per zoning text requirement G(3)(d), a landscape buffer is required to be installed within the required setback of any interior side parcel line and shall consist of a ten-foot landscape buffer with grass and landscaping and deciduous trees planted at a rate of 4 trees for every 100 feet of side property line and deciduous shrubs must be planted under the trees. The applicant proposes to install these 12 trees and shrubs along the west side within the 10-foot setback. Therefore, this requirement is being met.
6. Per zoning text requirement G(5), street trees shall be planted at a rate of one (1) tree for every thirty (30) feet of street frontage. Trees shall be regularly spaced along Beech Road and Smith's Mill Road. As currently proposed, this requirement does not appear to be met in design and quantity. Staff recommends a condition of approval that the landscape plan be updated at the time of permitting to meet code requirements, subject to staff approval.
7. Per zoning text requirement G(7), a minimum of one tree for every 10 parking spaces is required and at least 5 percent of the vehicular use area shall be landscaped. The applicant is providing 40 parking spaces, and meeting this requirement by providing 4 trees. In addition, over 5% of the total parking area is landscaped. This requirement is being met.

E. Lighting & Signage

1. Section II(H)(1) of the zoning text requires all parking lot light poles to be downcast and use cut-off type fixtures in order to minimize light spilling beyond the boundaries of the site. The proposed light fixtures for the site lighting match the existing Duke and Duchess site with the development and meets the requirements. In addition, a detailed photometric plan was submitted showing that there is no light spillage from this site.
2. Section II(H)(3) states that all parking lot poles within the entire zoning district shall be black or New Albany Green, be constructed of metal and not exceed 30 feet in height. to the city staff recommends this site uses the same black metal poles that are installed at the existing Duke and Duchess site so there is consistent and cohesive lighting within the development. However, the applicant has not submitted this information. Staff recommends a condition of approval that all parking lot light poles are black metal, are to not exceed 30 feet in height, and are subject to staff approval at the time of permitting.
3. The applicant requests to install a drive-through menu board sign for the coffee shop on the northern side of site (facing Smith's Mill Road). Drive-through menu board signs are allowed and code states drive-through menu board signs shall not be visible from the public right-of-way. The applicant has applied for a variance under application VAR-79-2023. Information and evaluation of the variance request is under a separate staff report.
4. Details, including location, for the proposed monument sign are not provided, in addition to other sign details still needed for a full evaluation. Staff recommends a condition of approval that all other sign details be subject to staff approval and must meet code requirements. Any additional variances needed, other than what is included in application VAR-79-2023, must be heard by the Planning Commission at a later date in the future.

Wall Signs

1. The zoning text and C.O. 1169.15(d) permits one wall sign per tenant on each of the building frontages, either on a public or private road, with 1 square foot in area per linear square foot of building frontage, not to exceed 50 square feet.
2. This building has two tenants and three building frontages. This permits the building to have six (6) wall signs in total. Based on the architectural elevations, the applicant proposes two wall signs on each of the three building frontages. As shown on the architectural elevation sheets, the wall signs are proposed:

Smith's Mill Northern Elevation Wall Sign for CME:

The wall sign reads "CME Federal Credit Union" and featuring the company logo.

- a. Lettering Height: 3 feet [24-inch maximum, a variance was not requested. Staff recommends a condition of approval that all signage is revised to meet code requirements, subject to staff approval]
- b. Area: 18 square feet [meets code]
- c. Location: facing northern elevation along Smith's Mill Road [meets code]
- d. Lighting: external lighting [meets code]
- e. Relief: information not provided [must meet code minimum of 1-inch relief]
- f. Colors: red, grey, blue, and black (total of 4 colors) [meets code]
- g. Material: information not provided [must meet requirements of C.O. 1169]

Smith's Mill Northern Elevation Wall Sign for Crimson Cup:

The wall sign reads "Coffee Drive Thru" stacked below the company logo.

- a. Lettering Height: information not provided [must meet code maximum of 24 inches]
- b. Area: accurate information not provided [must meet code]
- c. Location: facing northern elevation facing Smith's Mill Road [meets code]
- d. Lighting: external lighting [meets code]
- e. Relief: information not provided [must meet code minimum of 1-inch relief]
- f. Colors: red, white and black (total of 3 color) [meets code]
- g. Material: information not provided [must meet requirements of C.O. 1169]

Beech Road Eastern Elevation Wall Sign for CME:

The wall sign reads "CME Federal Credit Union" and featuring the company logo.

- a. Lettering Height: 3 feet [24-inch maximum, a variance was not requested. Staff recommends a condition of approval that all signage is revised to meet code requirements, subject to staff approval]
- b. Area: 18 square feet [meets code]
- c. Location: facing eastern elevation along Beech Crossing [meets code]
- d. Lighting: information not provided [must meet code]
- e. Relief: information not provided [must meets code]
- f. Colors: red, grey, blue, and black (total of 4 colors) [meets code]
- g. Material: information not provided [must meet requirements of C.O. 1169]

Beech Road Eastern Elevation Wall Sign for Crimson Cup:

The wall sign reads "Crimson Cup coffee & tea"

- a. Lettering Height: 21" [meets code]
- b. Area: 10.5 square feet [meets code]
- c. Location: facing eastern elevation along Beech Crossing [meets code]
- d. Lighting: information not provided [must meet code]
- e. Relief: information not provided [must meets code]
- f. Colors: red and black (total of 2 color) [meets code]
- g. Material: information not provided [must meet requirements of C.O. 1169]

Beech Crossing Southern Elevation Wall Sign for CME:

The wall sign reads "CME Federal Credit Union" and featuring the company logo.

- a. Lettering Height: 4' 8" [24-inch maximum, a variance was not requested. Staff recommends a condition of approval that all signage is revised to meet code requirements, subject to staff approval]
- b. Area: 48.5 square feet [meets code]
- c. Location: south elevation serving as Beech Crossing wall signage [meets code]
- d. Lighting: external lighting [meets code]

- e. Relief: information not provided [must meets code]
- f. Colors: red, grey, blue, and black (total of 4 colors) [meets code]
- g. Material: information not provided [must meet requirements of C.O. 1169]

Beech Crossing Southern Elevation Wall Sign for Crimson Cup:

The wall sign reads “Crimson Cup coffee & tea”

- a. Lettering Height: 26” [24-inch maximum, a variance was not requested. Staff recommends a condition of approval that all signage is revised to meet code requirements, subject to staff approval]
- b. Area: 16.5 square feet [meets code]
- c. Location: south elevation serving as Beech Crossing wall signage [meets code]
- d. Lighting: external lighting [meets code]
- e. Relief: information not provided [must meets code]
- f. Colors: white and black (total of 2 colors) [meets code]
- g. Material: information not provided [must meet requirements of C.O. 1169]

IV. ENGINEER’S COMMENTS

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

1. Refer to Exhibit A. Revise the referenced FDP to include the signature block provided with Exhibit A and add all note blocks.
2. Refer to sheets C1.00 and C2.00. Show the location of the stop bar and stop sign at the curb cut and provide a cross walk and signage that meets ADA requirements.
3. Refer to sheet L1.00. Provide a site distance triangle at the curb cut and evaluate site distance relative to existing and proposed landscaping. Remove landscaping that may impede motorist view.
4. Provide fire truck turning radius analysis.
5. In accordance with code sections 1159.07 (b)(3) sections Z. and AA. provide documentation indicating that all OPEA or ACOE issues have been addressed.
6. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

V. SUMMARY

The proposed use is appropriate for this site given its proximity to State Route 161 and the New Albany International Business Park. This site, and the Beech Crossing development, is auto-oriented but still incorporates strong pedestrian connectivity. While the use appears to be appropriate, the building is prototypical in function and layout, and does not appear to be appropriately oriented on the site. The Engage New Albany Strategic Plan recommends retail sites have a strong street presence and include architectural and landscaping features that respond to the existing New Albany character. Ensuring a strong street presence that appropriately addresses the intersection is important since the site is located at a prominent gateway into the city and business park. The building orientation deviates from New Albany principle planning standards found in the city codes and plans that result in three variances.

Per code section 1159.08, the planning commission should consider structures with regard to their visual impact. The orientation of the building has a visual impact on the public streets. The purpose of the New Albany Design Guidelines and Requirements (DGR) is to help ensure that the New Albany community enjoys the highest possible quality of architectural design. The building architecture meets the city DGR requirements, however, rotating the building as staff suggests will result in the building’s two-story architectural feature to be appropriately positioned on the site. The building’s proposed orientation results in the “service” elevation that contains the

dumpster, drive through menu sign, utility boxes and meters, and service doors, which are typically the rear of the building, to face Smith's Mill Road.

The planning commission has historically approved retail sites with operable and active front doors along primary streets and have only approved menu board signs to be located on sides of the building or private drives. Locating the menu board sign and dumpster in front of the building along Smith's Mill Road is not consistent with the immediate retail design pattern or other retail areas in New Albany.

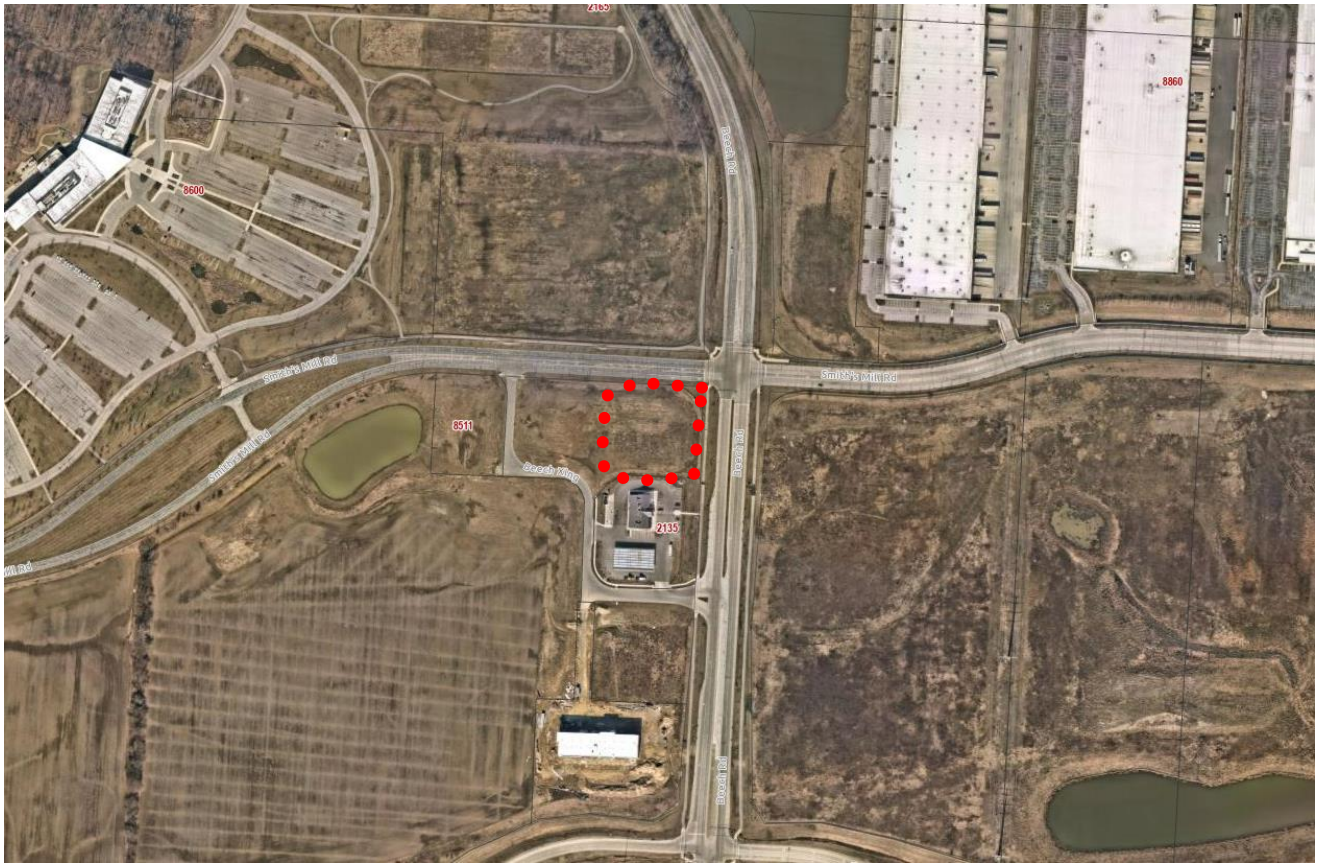
V. ACTION

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

Move to approve final development plan application FDP-77-2023, subject to the following conditions:

1. The city's design consultant's comments shall be addressed, subject to staff approval;
 1. Rotate the building 90 degrees counterclockwise so the drive-through is located on the south side of the building, provide a shared drive with the western adjoining future development, and align the building and parking to match the existing neighbor to the south.
 2. Relocate the dumpster, enclosure, and loading area to the interior of the site, and out of view from traffic on Beech and Smith's Mill Roads.
 3. Add a second doorway to the two-story architecture feature so there are entrances along Smith's Mill Road and Beech Road after the building is rotated.
2. The landscape plan shall be updated to meet code and the approved master landscape plan, subject to staff approval, including but not limited to the following;
 - a. The design and minimum quantity of trees to be installed within the required setback area along Smith's Mill and along Beech Road.
 - b. The design and minimum quantity of street trees to be installed along Smith's Mill Road and along Beech Road.
3. All parking lot light poles match the neighboring Duke and Duchess, are colored black and shall not exceed 30 feet in height, and are subject to staff approval at the time of permitting;
4. All sign details are subject to staff approval at the time of permitting and all signage shall be revised to meet code requirements, subject to staff approval;
5. The city engineer comments must be addressed, subject to staff approval; and
6. Any additional variances needed, other than what is included in application VAR-70-2023, must be heard by the Planning Commission at a later date in the future.

Approximate Site Location



Source: ArcGIS

404.649-01

September 5, 2023

To: Chelsea Nichols
City Planner

From: Matt Ferris, P.E., P.S.
By: Jay M. Herskowitz, P.E., BCEE

Re: Credit Union Crimson
Coffee - FDP
2nd Submittal

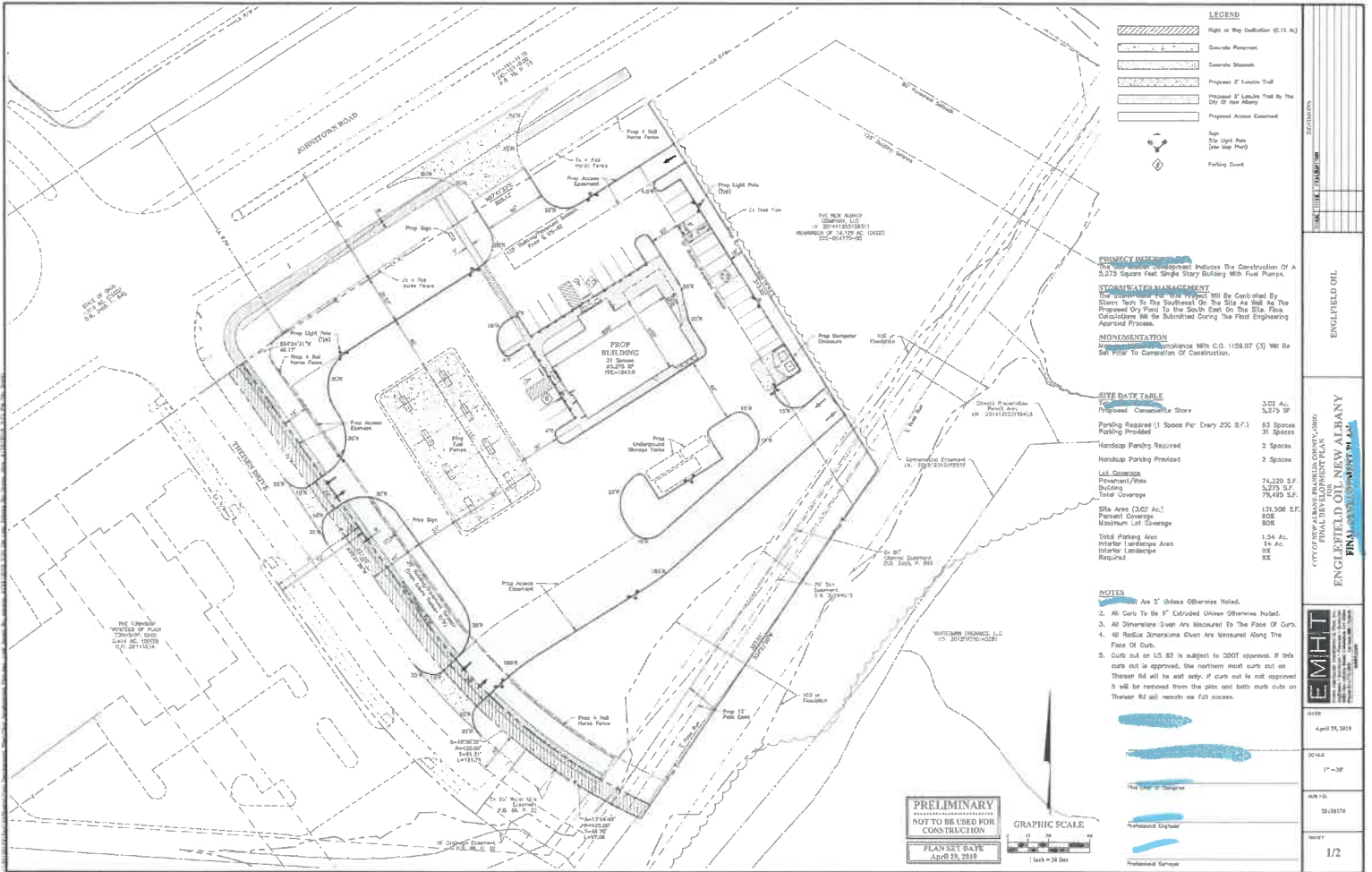
We reviewed the referenced submittal in accordance with Code Section 1159.07 (b)(3) FDP.
Our review comments are as follows:

1. Refer to Exhibit A. Revise the referenced FDP to include the signature block provided with Exhibit A and add all note blocks.
2. Refer to sheets C1.00 and C2.00. Show the location of the stop bar and stop sign at the curb cut and provide a cross walk and signage that meets ADA requirements.
3. Refer to sheet L1.00. Provide a site distance triangle at the curb cut and evaluate site distance relative to existing and proposed landscaping. Remove landscaping that may impede motorist view.
4. Provide fire truck turning radius analysis.
5. In accordance with code sections 1159.07 (b)(3) sections Z. and AA. provide documentation indicating that all OPEA or ACOE issues have been addressed.
6. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

MEF/JMH

(attachment)

cc: Cara Denny, Engineering Manager
Joshua Albright, Development Engineer



LEGEND

[Symbol]	Right of Way Dedication (0.13 Ac.)
[Symbol]	Concrete Pavement
[Symbol]	Concrete Masswall
[Symbol]	Proposed 2' Landscape Trail by the City of New Albany
[Symbol]	Proposed Access Easement
[Symbol]	Sign
[Symbol]	Site Light Pole (See Map Part)
[Symbol]	Parking Curb

PROJECT DESCRIPTION
This project involves the construction of a 5,275 Square Foot Single Story Building With Fuel Pumps.

STORMWATER MANAGEMENT
The stormwater management system will be controlled by storm tanks to the southwest of the site as well as the proposed dry pond to the south east. On the site, final calculations will be submitted during the final engineering approval process.

MONUMENTATION
Monumentation will be installed with C.O. 1158.07 (3) will be set prior to completion of construction.

SITE DATA TABLE

Proposed Commercial Store	2,022 S.F.
Parking Required (1 Space Per Every 200 S.F.)	83 Spaces
Parking Provided	31 Spaces
Handicap Parking Required	2 Spaces
Handicap Parking Provided	2 Spaces
LUL Coverage	74,220 S.F.
Proposed/Planned Building	5,275 S.F.
Total Coverage	79,495 S.F.
Site Area (3.62 Ac.)	121,508 S.F.
Percent Coverage	65%
Maximum Lot Coverage	65%
Total Parking Area	1.54 Ac.
Interior Landscape Area	16 Ac.
Interior Landscape Required	65%

- NOTES**
1. All dimensions are 3" unless otherwise noted.
 2. All Curb To Be 3" Elevated Unless Otherwise Indicated.
 3. All Dimensions Over Area Measured To The Face Of Curb.
 4. All Radius Dimensions Given Are Measured Along The Face Of Curb.
 5. Curb cut on U.S. 82 is subject to 2007 approval. If this curb cut is approved, the northern most curb cut on Thacker Rd will be suit out. If curb cut is not approved it will be removed from the plan and both curb cuts on Thacker Rd will remain as R/W access.

PRELIMINARY
NOT TO BE USED FOR CONSTRUCTION
PLAN SET DATE
April 23, 2019



ENGINEFIELD OIL

CITY OF NEW ALBANY, INDIANA
FINAL DESIGN PRESENT PLAN
DATE: 04/23/2019
PROJECT: ENGINEFIELD OIL NEW ALBANY, INDIANA

EMHT
ENGINEERING & ARCHITECTURE
1100 N. 10TH ST., SUITE 100
INDIANAPOLIS, IN 46202
TEL: 317.444.1100
WWW.EMHT.COM

1/2



Community Development Department

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

Dear Brian Wellert,

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, September 19, 2023

The New Albany Planning Commission took the following action on 9/18/2023 .

Final Development Plan

Location: FDP-77-2023

Applicant: Brian Wellert

Application: FDP-77-2023

Request: Final development plan to allow for construction of 4,266 square foot CME credit union with a drive-through and Crimson Cup coffee shop on 2.03 acres located at the southwest corner of Beech Road and Smiths Mill Road.

Motion: To table FDP-77-2023

Commission Vote: Motion Table, 4-0

Result: FDP-77-2023 was Tabled to the January 2024 regular meeting, or before, by a vote of 4-0.

Recorded in the Official Journal this September 19, 2023

Condition(s) of Approval:

N/A

Staff Certification:

Chelsea Nichols
Planner



**Planning Commission Staff Report
September 18, 2023 Meeting**

**CME CREDIT UNION AND CRIMSON CUP COFFEE SHOP
VARIANCES**

LOCATION: Located at the southwest corner of Beech Road and Smith's Mill Road (PID: 093-106512-00.00)

APPLICANT: Brian Wellert

REQUEST:

- (A) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Beech Crossing and Smith's Mill Road building elevations.
- (B) Variance to C.O. 1149.04 to allow dumpsters to be located in front of the building along Smith's Mill Road when code states dumpsters are to be located as to effectively screen them from view.
- (C) Variance to C.O. 1169.11(c) to allow a drive-through menu board sign to be visible from Smith's Mill Road when code states drive-through menu board signs shall not be visible from the public right-of-way.

ZONING: Beech Crossing I-PUD

STRATEGIC PLAN: Retail

APPLICATION: VAR-79-2023

Review based on: Application materials received September 1, 2023.

Staff report prepared by Chelsea Nichols, Planner

I. REQUEST AND BACKGROUND

This application is for variances related to a final development plan for a proposed CME credit union with a drive-through and Crimson Cup coffee shop located at the southwest corner of Beech Road and Smith's Mill Road within the Beech Crossing development.

The applicant requests the following variances:

- (A) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Beech Crossing and Smith's Mill Road building elevations.
- (B) Variance to C.O. 1149.04 to allow dumpsters to be located in front of the building along Smith's Mill Road when code states dumpsters are to be located as to effectively screen them from view.
- (C) Variance to C.O. 1169.11(c) to allow a drive-through menu board sign to be visible from Smith's Mill road when code states drive-through menu board signs shall not be visible from the public right-of-way.

II. SITE DESCRIPTION & USE

The site is generally located north of State Route 161, south of Smith's Mill Road and west of Beech Road. The site is 2.03 acres and is currently undeveloped. This is the fourth proposed development for this zoning district. The Planning Commission approved final development plan

applications for Duke and Duchess on October 20, 2020 Holiday Inn Express on February 19, 2020, and Taco Bell on August 21, 2022.

III. EVALUATION

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

Criteria

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

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

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

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

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

III. RECOMMENDATION

Considerations and Basis for Decision

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

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

1. The applicant is requesting a variance to eliminate the requirement that buildings have operable and active front doors along all public and private roads. The building has three

frontages: Smith's Mill Road (public street), Beech Road (public street), and Beech Crossing (private road).

- a. The commercial building has one active door for the public directed towards the east facing Beech Road. This door is located within a two-story architectural feature on the south elevation of the building that includes a patio area. There are no active doors along Smith's Mill Road and Beech Crossing.
2. The Engage New Albany Strategic Plan recommends retail sites have a strong street presence and include architectural and landscaping features that respond to the existing New Albany character. It recommends that retail development shall adhere to the standards for architecture, site design, and landscaping in New Albany. The building has been designed with the drive-thru window, stacking spaces, and menu board sign on the north side along Smith's Mill Road. With this design, it does not allow for an active door along Beech road. Historically, queuing for a drive-thru has typically been approved by the planning commission with it in the rear as opposed to out front; and with the drive-through menu board signs located so that they are not be visible from the public right-of-way.
3. It does not appear that the spirit and intent of the requirement is preserved by the variance request. The intent of this requirement is to ensure that buildings maintain a presence on the street and do not contain blank or "empty" building elevations so there is architectural vibrancy and interest on all sides of a building. This site and the overall Beech Crossing development is auto-oriented by design, therefore it does not appear that maintaining an entrance on every street is as important in the scenario along the private, secondary road Beech Crossing. However, it is important for buildings to maintain an entrance on Beech Road and Smith's Mill Road since there are primary public streets.
 - a. The only active door is facing Beech Road and is actually located within an architectural feature on the southside of the building and is setback from the front façade along the east side of the building.
4. It appears the problem can be solved by some manner other than the granting of a variance. As part of the final development plan, the city consultant MKSK includes a diagram illustrating how the building can be rotated 90 degrees with a new site circulation plan. That plan is shared as part of that application (FDP-77-23).
 - a. Rotating the building results in the front door facing Smith's Mill Road and the outdoor seating area facing Beech Road. Adding a second doorway to the two-story architectural feature, along with the building rotation, eliminates the need for a variance.
5. There are no special conditions and circumstances that 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. The site is located on a primary gateway to the community and business park, making it a focal point on these primary streets.
6. The essential character of the neighborhood would be substantially altered. This would be the first drive-through in New Albany with a drive-through menu board sign and stacking along the primary road as opposed to having an active front door.
7. 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. Additionally, the variance would not adversely affect the delivery of government services.

(B) Variance to C.O. 1149.04 to allow dumpsters to be located in front of the building along Smith's Mill Road when code states dumpsters are to be located as to effectively be screened from view.

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

1. The city code section 1149.04 requires "all trash and garbage shall be stored in a container system which are located *and* enclosed so as to effectively screen them from view. The applicant is enclosing the dumpsters with a brick wall; however, the applicant

- requests a variance to eliminate the requirement that dumpsters are to be *located* as to effectively screen them from view. The variance is to allow the dumpsters to be located in front of the building along Smith's Mill Road.
2. The essential character of the neighborhood would be altered by granting the variance. Locating the dumpster in front of the building along Smith's Mill Road is not consistent with the immediate retail design pattern or other retail areas in New Albany.
 3. The variance is substantial. Historically, the planning commission has not approved dumpsters to be located in front of the building along a prominent public road. Locating dumpsters in front of the building could be precedent setting.
 4. It does not appear that the spirit and intent of the requirement is preserved by the variance request. The city staff is not aware of other private developments locating their dumpsters in front of the building. Even though the dumpster itself is screened with a brick wall, it does not meet the spirit and intent which is to minimize the visibility of service features of the site (e.g. utility boxes and meters, trash, loading and unloading zones, etc.) from public streets and right-of-way.
 5. The problem can be solved by some manner other than the granting of a variance. As part of the final development plan, the city staff demonstrated how the building can be rotated 90 degrees with the new site circulation plan MKSK provided. That plan was shared as part of that application (FDP-77-23). This revised plan shows how the dumpster can be relocated so that it is more internal to the site.
 6. There are no special conditions and circumstances that 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. The city code and strategic plan prioritizes and emphasizes the importance of the aesthetic of the site from the public streets.
 7. 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. Additionally, the variance would not adversely affect the delivery of government services.

(C) Variance to C.O. 1169.11(c) to allow a drive-through menu board sign to be visible from Smith's Mill Road when code states drive-through menu board signs shall not be visible from the public right-of-way.

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

1. The applicant requests a variance to install a drive-thru menu board sign for the coffee shop on the northern side of site (facing Smith's Mill Road). Drive-thru menu board signs are allowed and code states drive-through menu board signs shall not be visible from the public right-of-way.
 - a. The applicant has not provided information on the sign as far as the dimensions, whether it is a digital menu board sign, or whether it meets other code standards. The city staff recommendations the Planning Commission confirm with the applicant these design specifications.
2. The essential character of the neighborhood would be altered by granting the variance. Locating the menu board sign in front of the building along Smith's Mill Road is not consistent with the immediate retail design pattern or other retail areas in New Albany and could be considered precedent setting. This would be the first drive-through in New Albany with a drive-through menu board sign along the primary street.
3. It appears the problem can be solved by some manner other than the granting of a variance. As part of the final development plan, the city consultant MKSK includes a diagram illustrating how the building can be rotated 90 degrees with a new site circulation plan. That plan is shared as part of that application (FDP-77-23).
 - a. Rotating the building results in the building elevation with the menu board sign being relocated to the side of the site (facing west) and thereby eliminates the need for a variance.
4. The variance is substantial and it does not appear that the spirit and intent of the requirement is preserved by the variance request. Historically, the planning commission

- has not approved menu board signs to be located in front of the building along a public road. This elevation with the menu board sign is designed to be the back of the building. In addition to the drive-through, it contains a steel utility/service door and the building's electrical meter and power boxes.
5. There are no special conditions and circumstances that 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. The city code and strategic plan prioritizes and emphasizes the importance of the aesthetic of the site from the public streets.
 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. Additionally, the variance would not adversely affect the delivery of government services.

II. SUMMARY

The proposed use appears to be appropriate for the site based on the current zoning and the site is strategically located to provide auto oriented services/retail uses due to its proximity to the interchange and to serve this end of the business park. While the use appears to be appropriate, the building is prototypical in function and layout, and does not appear to be appropriately oriented on the site. The building's orientation results in the "service" elevation that contains the dumpster, drive through menu sign, utility boxes and meters, and service doors, which are typically the rear of the building, to face Smith's Mill Road. It appears the majority, if not all of the variances, can be solved by rotating the building 90 degrees counterclockwise and adding a doorway to the architectural focal point containing the entry point to the building.

The Engage New Albany Strategic Plan recommends retail development should adhere to the standards for architecture, site design, and landscaping in New Albany; and have a strong street presence that responds to the existing New Albany character. The variance requests are a result of the building orientation. These requests are to three of the city's core planning principles that have been followed throughout the city.

The purpose of the New Albany Design Guidelines and Requirements (DGR) is to help ensure that the New Albany community enjoys the highest possible quality of architectural design. The building architecture meets the city DGR requirements, however, rotating the building as staff suggests will result in the building's two-story architectural feature to be appropriately positioned on the site. This will result in the front door facing Smith's Mill Road and outdoor seating to face Beech Road. This is desirable from a site layout perspective since it faces the building's primary and active elevations to the city's primary public streets.

The planning commission has historically approved retail sites with operable and active front doors along primary streets. Menu board signs have always been located on sides of the building or private drives. Dumpsters have not been approved in front of the building and within view of the public street. Locating the menu board sign and dumpster in front of the building along Smith's Mill Road is not consistent with the immediate retail design pattern or other retail areas in New Albany and could be considered precedent setting.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate (The Planning Commission can make one motion for all variances or separate motions for each variance request):

Move to approve application VAR-79-2023 (conditions may be added).

Approximate Site Location:



Source: ArcGIS



Community Development Department

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

Dear Brian Wellert,

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, September 19, 2023

The New Albany Planning Commission took the following action on 9/18/2023.

Variances

Location: VAR-79-2023

Applicant: Brian Wellert

Application: VAR-79-2023

Request: Variances to eliminate the requirement that there be active and operable doors on the Beech Crossing and Smiths Mill Road building elevations, to dumpster location requirements, and to allow a drive-through menu board sign to be visible from the public right-of-way; associated with FDP-77-23.

Motion: To table VAR-79-2023

Commission Vote: Motion Table, 4-0

Result: VAR-79-2023 was Tabled to the January 2024 regular meeting, or before, by a vote of 4-0.

Recorded in the Official Journal this September 19, 2023

Condition(s) of Approval:

N/A

Staff Certification:

Chelsea Nichols
Planner