

**New Albany Planning Commission**  
Wednesday, February 21, 2024 Meeting Minutes – Approved

**I. Call to order**

The New Albany Planning Commission held a regular meeting on Wednesday, February 21, 2024 in the New Albany Village Hall. Chair Kirby called the meeting to order at 7:03 p.m. and asked to hear the roll.

**II. Roll call**

Those answering roll call:

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

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

**III. Action on minutes:** January 17, 2024

Chair Kirby asked if there were any corrections to the minutes from the January 17, 2024 meeting.

Hearing none, Commissioner Larsen moved to approve the January 17, 2024 meeting minutes. Commissioner Schell seconded the motion.

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

Upon roll call: Mr. Larsen yes, Mr. Schell yes, Mr. Wallace yes, Mr. Kirby yes. Having four yes votes, the January 17, 2024 meeting minutes were approved as submitted.

**IV. Additions or corrections to agenda**

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

Planning Manager Mayer answered none from staff.

Chair Kirby administered the oath to all present who planned to address the commission. He further reminded everyone that it was 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 for an item that was not on the agenda. Hearing none, he introduced the first case and asked to hear from staff.

**VI. Cases:**

**FDP-122-2023 Final Development Plan**

Final development plan to allow for a proposed development consisting of a multi-tenant building located generally at the northeast corner Smith's Mill Road and Forest Drive, within the Canini Trust Corp on a 2.607-acre site. (PID: 222-000347).

**Applicant: J. Carter Bean Architect LL, c/o Carter Bean**

Planner II Nichols delivered the staff reports for FDP-122-2023, VAR-123-2023, and CU-124-2023 in a single presentation.

Chair Kirby asked whether the graphic showed all four sides.

Planner II Nichols said yes, and indicated each of the four sides.

Chair Kirby asked for comments from engineering.

Development Engineer Albright delivered the engineering report.

Chair Kirby asked to hear from the applicant.

Applicant Carter Bean, Architect for the project. Mr. Bean thanked staff and spoke in support of the applications and proposed building. He had worked with staff through multiple levels of comments and revisions. He explained that although all of the spaces in the multi-tenant building had not yet been rented, the tenants included a restaurant with a drive-through, and a bank with a drive through. This was why he was seeking a conditional use and the three variances.

Chair Kirby asked whether Mr. Bean could make the case for four stacking spaces for the bank's drive through being enough.

Mr. Bean replied yes. He explained that this is an investment type bank, not a retail bank with an ATM and tellers. As such, the bank anticipates accommodating three to five customers per day.

Chair Kirby asked whether, if that was the case, the bank needed the drive-through.

Mr. Bean replied that, according to the bank they do.

Chair Kirby asked Law Director Albrecht whether the variance could be revoked because that intersection is not suitable for stacking.

Law Director Albrecht replied that once the variance is approved it would be hard to revoke.

Chair Kirby said, okay, but the commission could place a condition on the conditional use, requiring renewal in the event a new tenant takes over. He further stated that in order for this to pass, the applicant needed to make the case that this is different.

Mr. Bean stated that he had no objection to this condition.

Commissioner Schell agreed and asked why, if there were so few patrons, was it needed.

Mr. Bean responded that he thought it had to do with mobility of the clients, but that was purely speculation on his part.

Chair Kirby asked whether Mr. Bean had any conflict with the conditions in the staff report or the engineering memo.

Mr. Bean replied that he had no conflict.

Commissioner Larsen asked who would be using the patio on the back.

Mr. Bean explained that the restaurant would have dine-in service. The pick-ups would be mobile, but there would also be table service. He further stated that the patio could be used by other building tenants.

Commissioner Wallace confirmed with Law Director Albrecht that conditions could be imposed on the conditional use, and further that if circumstances change the conditional use could be revoked.

Law Director Albrecht replied that he believed so.

Planning Manager Mayer added that is why staff is recommending that the conditional use application is tied to a specific number of spaces. They intended it to apply to a low-intensity usage. He further clarified that the conditional use was a request to allow the drive through, the variance request was to permit four stacking spaces.

Council Member Wiltrout asked whether more parking spots be needed if the drive-through was eliminated.

Planning Manager Mayer responded by distinguishing the variance request from the conditional use request.

Mr. Bean responded that he was not asking for a variance for the number of parking spaces, that the request was for a variance for the number of stacking spaces in the drive through.

Commissioner Wallace asked whether the commission had, in prior applications, added language eliminating the conditional use if certain circumstances occurred. He wondered whether there was a way to do that here.

Planner II Nichols responded yes, the commission had taken such action in the past. However, this application was different in that it was phrased in the positive – what the tenant is permitted to do rather than what is prohibited. Low-volume use is permitted here.

Commissioner Wallace continued that he was concerned that another bank or user would lease the space and require more stacking spaces.

Chair Kirby asked about making this subject to annual review.

Planning Manager Mayer replied that if the city received a complaint, the city could ask for an annual queuing analysis. The city could also require the business to do counts in order to measure the amount of use.

Commissioner Schell asked Mr. Bean if he knew the lease term.

Mr. Bean replied that he did not, but stated that language could be added that this only applies to this tenant.

Chair Kirby agreed, and further remarked that this should not be a once and for all conditional use. Also, there needs to be an enforcement mechanism if the conditions on the ground change.

Commissioner Wallace stated that, similarly regarding the restaurant, whether this would truly be a pre-order situation. He observed that Woodcrest and Forest are heavily traveled. He asked Mr. Bean whether he could disclose the tenant.

Mr. Bean replied that he could not disclose the prospective tenant because they are on the fence. But he can say that the restaurant does not typically offer pick up or drive-through.

Planner II Nichols responded that when the city engineer reviewed the proposal, they were more comfortable with the restaurant on the northern end and the bank on the southern end, noting that the restaurant was only one stacking space short.

Chair Kirby further observed that if the building were moved closer to Smith's Mill Road, it would push into the retention basin which is not tenable.

Mr. Bean nodded and replied, exactly.

Commissioner Larsen stated that, however, that the window could move without the building being moved.

Commissioner Schell confirmed whether, if the restaurant turns over and the new restaurant was more active a new variance would be required.

Planner II Nichols responded that a new tenant would need a reevaluation of the conditional use.

Commissioner Schell added that complaints regarding this user could be addressed as they were raised.

Commissioner Wallace stated he had discomfort with the approach of approving variances and a conditional use without knowing enough factual information about the use. The commission could be asked to approve uses that may not be needed.

Mr. Bean replied that he understood and further noted that he did not want to be a nuisance or to create hazards.

Planning Manager Mayer added that, as Mr. Bean had mentioned, city staff had been working closely with him on this project and that the building had been flipped at the recommendation of the city traffic engineer. And, at this juncture staff feels this design protects Smith's Mill Road. He also stated that the architect feels that the drive way is sufficient.

Commissioner Wallace responded that there was no question that the building is aesthetically pleasing and that the project has a lot going for it.

Planning Manager Mayer mentioned that the Zarley Industrial Park project was also a use-specific project. Staff utilized the same approach with this project and these applications.

Council Member Wiltout stated that, when thinking about variances the commission was struggling with whether the cases have been made here. Whether the variances are necessary.

Chair Kirby agreed, he stated that he had no problem with the conditional use. He further offered a note for staff. Every time the commission sees a variance request, particularly a request that is not highly frowned upon, staff should take a glance at code and ask whether we have been getting it wrong. The variance process erodes the code.

Commissioner Wallace agreed and stated that that is the issue here. He continued that he could not think of another building with a drive through on two sides of the building. There is no way to fix this, although the city does have the enforcement mechanism.



Commissioner Schell added that this is tricky in terms of the numbers, and a commercial use is desired for this property, review would have to be somewhat lenient.

Mr. Bean responded that if it would please the commission, he could eliminate the variance on that particular drive-through by moving the window one bay.

Chair Kirby replied, sold! And noted for that this should be included in the record. He then asked, regarding the bank, how confident staff was about the right-in, right-out. He noted that he had seen some entertaining turns out of the Sheetz at Dublin-Granville Road.

Planning Manager Mayer replied that the applicant had agreed that staff will further critique that issue staff we will adjust the geometry to be sure there are no prohibited turns.

Planner II Nichols added that she thought that issue was addressed in the engineering report for the final development plan.

Commissioner Wallace asked Planner II Nichols whether the conditions for the landscape plan clearly capture the intent of the condition. He further noted that the applicant was considering it one condition when it was actually two.

Planner II Nichols replied that the requirement for the buffer yards on Smith's Mill and Forrest. Those are different, and she is comfortable that the applicant understands that they are two different requirements.

Commissioner Larsen asked about the wall signage. He noted that if each tenant gets a sign, there was possibility for six signs on the building.

Mr. Bean responded that he would defer and agree that each elevation has a single sign as indicated in the site plan rendering.

Council Member Wiltrout remarked that the final signage should be subject to staff approval.

Planner II Nichols added that the applicant will be proposing their own signage plan.

Commissioner Larsen thanked Mr. Bean for being amenable but suggested a condition for one signage for each elevation so there is no conflict.

Chair Kirby asked staff whether the applicant would be under-parked if the conditional uses and variances failed.

Planner II Nichols replied no, that the applicant currently exceeded the amount of parking and if the drive through and stacking requests failed, the applicant would still meet code.

Commissioner Larsen remarked he liked the look of the building very much, but that the exterior utilities were an eyesore and asked whether there could be an interior electrical room.

Mr. Bean responded that typically they were located outside, technically they could be inside but he had never done that. He further remarked that right now the building has four tenants.

Chair Kirby asked whether there was anyone present from the public wish to speak on the applications. Hearing none he moved to accept the staff reports and related documents into the record. 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. Larsen yes, Mr. Wallace yes. Having four yes votes, the staff reports and related documents were admitted into the record.

Chair Kirby noted that FDP-122-2023 could be passed independent of the variances. He further stated that the right-in, right-out was covered by condition two in the Engineering Memo.

Chair Kirby moved for approval of FDP-122-2023 subject to the conditions in the staff report noting that condition 2 addresses the right-in right-out. 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, Mr. Larsen yes. Having four yes votes, FDP-122-2023 was approved.

#### **VAR-123-2023 Variances**

Variances to the number of active and operable doors, setback requirements, and drive-through stacking spaces associated with a final development plan application for a proposed development consisting of a multi-tenant building located generally at the northeast corner Smith's Mill Road and Forest Drive, within the Canini Trust Corp on a 2.607-acre site. (PID: 222-000347).

**Applicant: J. Carter Bean Architect LL, c/o Carter Bean**

Chair Kirby confirmed with Mr. Bean that he wanted to withdraw his request for variance C.

Mr. Bean agreed to withdraw his request for variance C.

Law Director Albrecht confirmed that no vote was needed on variance C, because it had been withdrawn.

Chair Kirby moved to accept the staff reports and related documents into the record for the variances, VAR-123-2023. Commissioner Larsen seconded the motion.

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

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

Chair Kirby asked if the commission had any questions about variance A, the encroachment.

Hearing no further questions, Commissioner Schell moved for approval of VAR-123-2023(A). Commissioner Larsen seconded the motion.

Chair Kirby asked whether there was any discussion on the motion.

Commissioner Schell confirmed that the landscaping issue was resolved in the final development plan.

Planner II Nichols confirmed they were part of the Final Development Plan.

Chair Kirby asked for further questions. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Schell yes, Mr. Larsen yes, Mr. Kirby yes, Mr. Wallace yes. Having four yes votes, VAR-123-2023(A) was approved.

Chair Kirby stated, for precedent purposes that part of the reason for approval was the moving of the right of way line.

Chair Kirby asked if the commission had any questions about variance B, the four-sided architecture necessitating operable doors on each side.

Hearing none, he asked if the commission had any questions about variance D, the four stacking spaces for the bank drive-through. He noted that the right-in, right-out was covered in the Engineering Memo. He further noted that in the event another tenant leased the space, they would need to request a new conditional use permit [see CU-124-2023 below].

Commissioner Schell moved for approval of VAR-123-2023(B). 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. Schell yes, Mr. Larsen yes, Mr. Wallace yes, Mr. Kirby yes. Having four yes votes, VAR-123-2023(B) was approved.

Chair Kirby moved for approval of VAR-123-2023(D), the four stacking spaces. 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. Kirby yes. Having four yes votes, VAR-123-2023(D) was approved.

#### **CU-124-2023 Conditional Use**

Request for a conditional use permit to operate two drive-through uses associated with a final development plan application for a proposed development consisting of a multi-tenant building located generally at the northeast corner Smith's Mill Road and Forest Drive, within the Canini Trust Corp on a 2.607-acre site. (PID: 222-000347).

**Applicant: J. Carter Bean Architect LL, c/o Carter Bean**

Chair Kirby noted that the drive through is only allowed for pickup and there will be limited signage. The bank drive-through is for limited traffic and must be renewed upon new tenant.

Chair moved to admit the staff reports and related documents into the record for CU-124-2023. Commissioner Larsen seconded the motion.

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

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

Chair Kirby moved for approval of CU-124-2023 based on the findings in the staff report with the two conditions in the staff report, subject to staff approval. He noted that condition 1 in the staff report preserved limited signage. He further moved to include the following condition:

3. That the conditional use must be renewed if a new tenant leases the space.

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, Mr. Larsen yes. Having four yes votes, CU-124-2023 was approved.

The commission wished Mr. Bean good luck.

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

**VAR-007-2024 Variance**

Variance to the city sign code chapter 1169.16(d) to allow a wall sign size to be 240 square feet where code permits a maximum of 75 square feet on the Axiom 6 building at 10015 Innovation Campus Way (PID: 093-107478-00.001).

**Applicant: PJP Holdings LLC c/o Chad Moorehead**

Planner Cratic-Smith delivered the staff report.

Chair Kirby asked if there were any comments from engineering.

Development Engineer replied there were no engineering comments.

Chair Kirby asked whether this was for one sign or two.

Planner Cratic-Smith responded that the variance request is for one of the wall signs, but there will be two signs on the same building facade.

Chair Kirby asked whether a request to have two signs on the same façade was required.

Planning Manager Mayer responded no, code permits two signs on the same façade. The request was to permit a sign of this size.

Chair Kirby noted that the Plant 6 sign served as a way finder, and further noted that this would be easier to deal with if that sign did not meet code.

Commissioner Wallace asked whether the code could be updated to permit size-appropriate signage for large structures.

Planning Manager Mayer responded yes, this is something that staff could consider. He further remarked that the current size limitations were enacted before these data centers were constructed.

Chair Kirby asked whether there were other questions. Hearing none, he asked to hear from the applicant.

Applicant Eric Zartman of Underhill & Hodge, 8000 Walton Parkway came to the lectern. He thanked Planner Cratic-Smith and said he did not have much to add as far as details. He explained that Axium is a proud member of the community with this being their sixth building. He added that this property is unique from others because it is highway oriented. Axium is proud to be in New Albany and hopes that travelers on SR 161 can see their building.

Commissioner Wallace noted that the photograph in the presentation was helpful.

Chair Kirby asked if there were other questions. Hearing none, he asked whether there were any members of the public present who wished to speak on the application. Hearing none he moved to accept the staff reports and related documents into the record for VAR-007-2024. 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, Mr. Larsen yes, Mr. Schell yes. Having four yes votes, the motion passed and the documents were admitted into the record.

Commissioner Schell moved for approval of VAR-007-2024 based on the findings in the staff report. He noted there were no conditions. Commissioner Larsen seconded the motion.

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

Mr. Kirby yes, Mr. Larsen yes, Mr. Kirby yes, Mr. Wallace yes. Having four yes votes and VAR-007-2023 was approved.

Chair Kirby noted that this is a really big building and it needs a really big sign. He further noted that the building was surrounded by other big buildings with big signs, and he encouraged council to consider updating the code so variances of this nature would not be needed.

At 8:00 Chair Kirby called a short recess.

At 8:15 Chair Kirby called the commission to order and asked to hear the staff report for FDM-008-2024.

**FDM-008-2024 Final Development Plan Modification**

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

**Applicant: Lucas Bowersock, New Albany Driving Range**

Planner Cratic-Smith delivered the staff report.

Commissioner Schell asked Planner Cratic-Smith to demonstrate the location of the targets on the site plan. He further asked which neighbors had called the city to report that golf balls were landing on their property.

Planner Cratic-Smith demonstrated the location of the targets – they are centralized toward the north, and explained that the neighbors were on the southern side; the Cross Point Christian Church.

Commissioner Wallace asked for the dimension of the range, and the location of the tee box.

Planning Manager Mayer responded that it was about 800+ feet.

Chair Kirby asked if there were comments from engineering.

Development Engineer Albright answered that there were none.

Chair Kirby asked to hear from the applicant.

Applicant Chris Ingram, Partner at Vorys, Sater, Seymour, and Pease came to the lectern. He stated that he was joined by representatives of the New Albany Links Golf Club, and Kemper. He thanked city staff for their assistance. He explained that the current owner had recently purchased the property and that they did not remove any of the trees or landscape being complained about today. The club has taken the complaints it has received very seriously, it is committed to safety, and it wants to ameliorate and mitigate balls from leaving the property. He explained the steps they had already taken including: installing landscaping around the perimeter, relocating the targets, and installing a net.

For purposes of establishing the record, he distributed Exhibit 1, A Golf Ball Descends Shortly After Reaching the Apex. He stated that Exhibit 1 illustrates two key points. First, a golf ball's trajectory. He explained that a golf ball typically begins to descend as soon as it reaches its apex, it does not follow a parabolic pattern. Second it establishes the typical flight pattern when using the various clubs in the bag.

Commissioner Wallace asked whether the trajectory figures applied to limited flight golf balls.

Mr. Ingram answered that they did not. These figures applied to premium flight balls. He added that last fall the club began using limited flight golf balls. He explained the distinction between range golf balls, pro flight golf balls, and limited flight balls. He stated that limited flight golf balls travel roughly 85% of the distance of pro flight golf balls. Mr. Ingram then distributed Exhibit 2, Range Ball Tracking Confirms Success of Limited Flight Golf Balls and Netting. He explained that of the over 13,000 range balls hit, two of them left the range. After the limited flight balls and netting were introduced, 0 left the range. Thus, the club has concluded that the netting and the limited flight balls have successfully eliminated the problem.

Chair Kirby asked whether Mr. Ingram was asserting that the number of golf balls lost was 0, noting that there was no figure for golf balls not found.

Mr. Ingram stated correct, this figure was for the number of balls retrieved.

Commissioner Wallace stated that Mr. Ingram's evidence showed how many balls were hit and that 2 golf balls were collected from the church property from July 22-26, prior to

the installation of netting and the usage of limited flight golf balls. And that after the installation of netting and the usage of limited flight golf balls, 0 balls were collected from church property. The evidence does not demonstrate how many balls were not collected at all, and it was hard to believe that not a single ball left the range.

Mr. Ingram clarified that the total balls hit, were the total hit during the duration. It was a sum taken during the usage of the limited flight balls.

Commissioner Wallace continued that his analysis suggested that not a single ball was unaccounted for.

Applicant Lucas Bowersock answered that not all of the balls were collected, some of the golf balls are remain plugged in the ground. But staff is watching visually, how the balls travel.

Council Member Wiltrout asked Mr. Bowersock how they tracked the number of balls hit.

Mr. Bowersock answered that they sell tokens, and they inventory the number of tokens sold.

Chair Kirby asked whether the collected balls were counted, and how they knew how many golf balls left the property.

Mr. Bowersock replied that they did not count the collected balls, but they watched the flights all day to see whether any balls left the property.

Council Member Wiltrout confirmed that the staff watched each and every shot and what kinds of records were maintained.

Mr. Bowersock answered that the tokens were counted and a tally sheet was used.

Chair Kirby remarked then that the only numerical control was the amount of times the machine was filled, and the 0 loss is not of balls.

Mr. Bowersock responded that the ground was soft and balls got stuck in ground, however, they kept track of the balls that left the property.

Chair Kirby pointed out that if the balls were difficult to locate on club property that they would probably be more difficult to locate on neighboring property.

Mr. Ingram added that it was a relatively errant shot that resulted in the ball leaving the property.

Commissioner Wallace asked what the distance to the netting was.

Mr. Bowersock answered it was between 140-yards to the first post and 210-yards beyond that.

Council Member Wiltrout asked where the counter was sitting and whether it was a clear line of sight.

Mr. Bowersock indicated the location and responded that it was a clear line of sight.

Commissioner Wallace remarked that he heard what the applicant was saying, that not a single ball left the course. But he found it hard to believe that not a single ball landed here [on church property], after the installation of netting and usage of limited flight balls.

Mr. Ingram asserted that the club had made a significant investment. The development plan modifications prevent and mitigate the impact on the neighboring property, and promote safety and the enjoyment of the community; therefore, the applicant is requesting approval, and because this is a quasi-judicial proceeding, the applicant reserves the right to cross-examine any witnesses.

Commissioner Wallace stated that it would be helpful to know what screening was there when the final development plan was approved in 2009.

Planning Manager Mayer displayed the 2009 final development plan site plan, the bubbles indicated large areas of trees. He explained that in 2009 it was the northside property owners who were concerned. He also showed today's conditions which indicate a large grassy area, there are some trees but it is not as large as it used to be.

Commissioner Larsen noted that the staff report mentioned mounding and asked where the mounding was located.

Planning Manager Mayer indicated the location of the mounding and the netting.

Commissioner Schell asked whether the neighbors complained about the removal of the trees.

Planning Manager Mayer answered no. City staff learned of the removal when the complaint was made in November. Then it was discovered that the trees had been removed, following that the permit for the new netting was requested.

Council Member Wiltout asked when the applicant purchased the property.

Mr. Ingram answered that it was purchased in October of 2022. He further explained that the mitigation did not go into effect until April of 2023.

Chair Kirby opened the public hearing.

Planner Cratic-Smith called the following members of the public who wished to address the commission on this application:

Attorney Samantha Damint, 13361 Church View Drive. Ms. Damint with Brennan, Manna & Diamond, and works with the attorney that represents Cross Point Christian Church (CPCC). CPCC owns the property to the south. She referenced a positional letter that had been submitted for inclusion in the record [See Appendix for positional letter and exhibits A – E]. She stated that the applicant's failure to maintain their property in conformity with the approved final development plan is depriving CPCC of its quiet enjoyment of their property. CPCC is under constant threat of wayward golf balls and has diminished use of their outdoor fields and play spaces. She stated that CPCC is not against the driving range, but requested the imposition of the following meaningful conditions as stated in the letter:

1. Installation of 150 ln ft of 50 ft high barrier netting on the southern edge of the range area;
2. Continued use of the centered range targets;
3. Continued use of the limited flight golf balls;



4. Repositioning of the tee as far back toward the clubhouse as possible.

Cody Clark, 7866 New Albany Condit Road, Pastor of CPCC. He approached the lectern with a five-gallon bucket of golf balls. He stated that he has been in contact with other neighbors who have been impacted by the removal of the trees. He explained that several rows of trees were removed and that they were between 60-75 feet tall. He further stated that the range has been widened. He has spoken to Mr. Bowersock who assured him the issue would be remedied but it has not. They receive 50-100 balls per week, and employees from the club have even come over to collect balls from CPCC property. He stated that the golf balls in the bucket were collected from CPCC property. After many conversations, the Links has moved to low-flight balls and more fencing. He explained that these measures have helped, but not enough. He stated that the people at CPCC are scared to go to the back half of the property and parents are scared for their children. If the city does not implement a solution, CPCC will continue to be deprived of the use of their property. In the fall of 2023 CPCC needed electrical work and the electricians were scared to work on their property and had positioned their van as a shield for fear of being hit by golf balls. Whether or not the current owner removed the trees, it is their duty to restore safety. This issue has been a financial hardship to our church, they have lost the leasing income from youth soccer leagues. CPCC is not against the driving range but if the driving range should not come at the expense of safety. The solution suggested by the applicant will not solve this problem – 200 feet is not enough; the low-flight golf balls still land on CPCC property; and the moving of the targets is not enough. He asked whether the commission members would allow their children to play on CPCC property, or whether they would live next door to CPCC. The range was safe with the natural barrier around it, and removal of the trees has supercharged this issue. He continued that they are not asking for anything new, they are requesting an appropriate net and they are requesting that this proposal is denied and that the driving range is shut down until a remedy is put in place. It is only a matter of time until a person is struck, a lawsuit is filed.

Commissioner Larsen asked whether changing the orientation of the range would help.

Pastor Clark answered that it would not, explaining that CPCC would get hooks instead of slices. He asserted that CPC wants to use their whole property, and an appropriate fence is required.

Commissioner Wallace asked what the time period was for collection of the balls in the bucket.

Pastor Clark speculated that it was a few months, maybe since the beginning of 2024. There are thousands in a year. He added that on Sunday, kids picked up 24 balls. He would guess that the bucket contains 2-3-months' worth of golf balls.

Toby Price, 6139 Albany Crest Avenue New Albany Ohio, stated that they had been collecting the balls since the net went up in April of 2023, and this was just a portion of them. There were a whole lot more.

Commissioner Schell asked Pastor Clark who had been consulted regarding solving this problem and what their recommendation was.

Pastor Clark stated that Netting Builder had been contacted and Exhibit E [see Appendix] contained proposed a remedy of installing a net, at a cost of about \$507,000.00.

Natalie Vitaoli, 234 Weeping Willow Run Drive, CPCC Director of the Children's Ministry stated that she is concerned as a teacher and as a mom. Her children played on

the CPCC grounds each Sunday. Unfortunately, the golf club has created an area that is no longer safe for children. She shared that she has witnessed the danger of the golf balls coming on to the playground first-hand. The kids are excited when they pick up a golf ball, but it is dangerous. If a child had been hit by the golf ball that she saw, that child would have seriously injured. She stated that CPCC cannot continue to have their safety compromised and urged the committee to be a force for change.

Commissioner Wallace thanked the members of the public who had testified. He stated that the commission had heard testimony from the church, and asked the remaining witnesses to please keep their comments short if they were along the same lines.

Chair Kirby agreed and asked the remaining witnesses to please offer new information.

Adam Gotton, 423 Tipperary Loop Delaware Ohio. Mr. Gotton explained that he is the Director of New Albany Football Club which is a youth soccer club that had leased CPCC's field for play. However, once the net went up it became clear that there were safety concerns. Presently, CPCC has said they are unable to rent to the club.

Council Member Wiltrout remarked that it almost seemed like the existing net has not helped and that perhaps it had made matters worse.

Mr. Gotton responded that the net has almost become a target, he noted that all the golfers aim for the net.

Pastor Cody stated that the net went up after the trees were removed.

George Stribick, 7400 Bevelhimer Road. He stated that he had heard things at the hearing that shocked him. He remarked that he worked 40 years as a quality manager, and is disappointed with staff. Staff was not told and did not go out and inspect it; some quality and checks need to be put into the process. He referenced Newsweek and that a property owner had told the publication that he picked up 5,000 balls from his backyard and this was during the time when the trees were there. Mr. Stribick recalled that in 2009 when the commission was reviewing the final development plan the question was whether the neighbors had been contacted and whether they were happy. He continued there were five or six remaining points he wanted to make including: the corrective measures do not work, he indicated the location of his property and stated that he has about 5,000 trees on his property and he picks up between 8-10 balls each time he goes on to his property which is about 300 feet away from the subject property; he stated that the arc of a tee shot at 200 feet was about 160 feet which meant that many balls would make it over the fence; regarding the low-density balls, he had no doubt that the low density balls would help but they would not solve the problem; this presented too much risk, a golf ball to the forehead would probably prevent a person from walking; children should not be bearing this risk; regarding the applicant's assertion that the previous owner was responsible, Mr. Stribick responded that once the current owner purchased the property, they became responsible.

Bill Hersch, 2785 Dale Avenue Bexley Ohio. Mr. Hersch stated that he went to Ohio State he has degrees in electrical and industrial engineering and he is a professional engineer. He is retired from ATT and Bell Laboratories. He explained that the arc and trajectory of golf balls. He stated that on the Sunday before Labor Day, he picked up 18 balls. He further remarked that he goes to the VA golf course and their fence is the entire length of the property and it is twice as high. He recommended an extensive study to ensure that no golf balls can leave the property. He stated that it is clear that the applicant's count is inaccurate. He continued that his former wife was an emergency room nurse. She had treated a child who had been struck in the head by a golf ball and

died as a result of the injury. He remarked that the award to the child's family was large enough to drive the golf club owner into bankruptcy and to force them to surrender the property in order to satisfy the judgment.

John Bambey, 8304 Camile Road. Mr. Bambey stated that he lives in the Links and is in leadership with CPCC. He stated that CPCC wants to be good neighbors and they clearly need the commission to help them. CPCC has given the commission information on how to solve this issue and urged the commission to come to their assistance.

Jesse Coppel, 194 S. Main Street. He thanked the commission for hearing them out. He remarked that looking back at the record there was considerable debate on whether this site was appropriate to begin with. At that time the trees stopped the golf balls, but the trees have been removed and their removal has resulted in the current situation. It is not appropriate to have this site next to CPCC. CPCC wants a fence and some trees too. Trees add aesthetic value. He further remarked that the Links zoning text says that the driving range should meet a particular standard and the staff report was missing the evaluation of whether that standard was being met. He further remarked that the applicant has not submitted a site drawing or safety plan to demonstrate their due diligence.

Chair Kirby asked if there were other members of the public who wished to address the commission. Hearing none, he asked staff whether this was a zoning violation as it currently stands.

Planning Manager Mayer responded that the city has not issued a violation yet, but it if this application fails and if the property is not restored it would be a zoning violation.

Chair Kirby asked whether the applicant's golf balls are marked.

Mr. Ingram said that they are.

Commissioner Wallace confirmed that there is currently permission for the driving range based on the approved final development plan.

Planning Manager Mayer agreed and added that the driving range use is permitted by the zoning text as well.

Commissioner Wallace asked about the national driving range standards in the zoning test as mentioned by Mr. Coppel, and whether those were being adhered to.

Planning Manager Mayer responded that the city had noted that in the staff report. However, because that was a private association that required membership, the city did not have access to those standards so staff was unsure whether they were being adhered to.

Council Member Wiltrout asked whether it would be permissible to have the applicant provide the standards for evaluation.

Law Director Albrecht replied that provision of the standards can be requested in order to evaluate consistency.

Commissioner Wallace noted that Mr. Bambey mentioned discussions between the parties and asked how many discussions had occurred and what was the result.

Pastor Clark responded that he and Mr. Bowersock had had multiple phone conversations prior and after the opening. There had also been a face to face meeting. He further

explained that he was not a designer, but CPCC did not have a problem before the trees were removed.

Commissioner Schell asked Pastor Clark whether he would feel comfortable if the recommendations that he had given were implemented.

Pastor Clark responded that it would not make him happy and he did not believe there was any way to restore what the golf club had done, but it would be a compromise.

Mr. Bowersock added that when he and Pastor Clark spoke, they switched over to the limited-flight balls and the process of trying to prevent balls from landing on CPCC property began.

Mr. Ingram stated that the golf club wants to find a reasonable compromise here. CPCC offers of compromise had not been provided to him. The bucket of balls were not the limited flight balls and the existing net was a significant investment by a professional company it was not happenstance. The commission's role was to resolve a zoning issue. He further requested that this application be tabled for a month so that a compromise can be reached.

Commissioner Wallace remarked that it could be tabled until April to give the parties sufficient time to resolve the issues. He continued that the commission would like to see the standards that are required in the zoning text. He further remarked that it sounds like there is an opportunity for more dialogue. The applicant is permitted to have a driving range, what needs to be resolved is the operation of the range. The evidence before the commission is conflicting, and more detail is needed. He confirmed that the applicant was comfortable with April.

Mr. Ingram replied the applicant was comfortable with April.

Commissioner Larsen noted that as a golf ball is hit, it fans out, and suggested that the parties consider changing the orientation of the tee.

Mr. Ingram responded that it was an excellent idea but it created the problem of getting pedestrians and golfers customers to the other side.

Commissioner Wallace urged that all options should be explored.

Chair Kirby further advised that planting trees was an olive branch to extend to the neighbors.

Planning Manager Mayer then clarified that the zoning text does not require adherence to the National Golf Foundation Standards, rather the zoning text states that the National Golf Foundation Standards should be used as a guideline.

Hearing no further questions, Chair Kirby moved to accept the staff reports and related documents including the applicant's exhibits 1 and 2, and the neighbor letters and exhibits, into the record for FDM-008-2024. 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, Mr. Schell yes, Mr. Larsen yes. Having four yes votes the documents were admitted.

Chair Kirby moved to table FDM-008-2024 until the regular meeting in April. 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, Mr. Larsen yes. Having four yes votes, FDM-008-2024 was laid upon the table until the regular meeting in April, 2024.

The commission thanked everyone present.

## **VII. Other business**

### **1. Annual Organizational Meeting**

Chair Kirby opened the annual organizational meeting and the following actions were taken:

- Swear in new members – Chair Kirby noted there were no new members.
- Elect Chairperson
  - Commissioner Wallace nominated Chair Kirby to be Chairperson of the New Albany Planning Commission. Commissioner Schell seconded the motion. Hearing no further discussion, Mr. Kirby asked to hear the roll. Upon roll call: Mr. Wallace yes, Mr. Schell yes, Mr. Larsen yes, Mr. Kirby yes. Having four yes votes, Mr. Kirby was elected Chairperson of the New Albany Planning Commission.
- Elect Vice-Chairperson
  - Chair Kirby nominated Commissioner Wallace to serve as Vice-Chairperson of the New Albany Planning Commission. Commissioner Schell seconded the motion. Hearing no further discussion on the motion, Mr. Kirby asked to hear the roll. Upon roll call: Mr. Kirby yes, Mr. Schell yes, Mr. Larsen yes, Mr. Wallace yes. Having four yes votes, Commissioner Wallace was elected Vice-Chairperson of the New Albany Planning Commission.
- Elect Secretary
  - Chair Kirby nominated Commissioner Schell to serve as Secretary of the New Albany Planning Commission. Commissioner Wallace seconded the motion. Hearing no further discussion, Mr. Kirby asked to hear the roll. Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Mr. Schell yes, Mr. Larsen yes. Having four yes votes, Commissioner Schell was elected Secretary of the New Albany Planning Commission.
- Appointment of Board of Zoning Appeals Representative
  - Chair Kirby nominated Commissioner Schell to serve as Board of Zoning Appeals Representative. Commissioner Wallace seconded the nomination. Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Mr. Schell yes, Mr. Larsen yes. Having four votes, Commissioner Schell was appointed the New Albany Planning Commission's Representative to the Board of Zoning Appeals.
- Establish date, time, and location for 2024 regular meetings

- Chair Kirby moved to establish the date, time, and location for 2024 regular meetings to be the same as in prior years. Commissioner Wallace seconded the motion. Commissioner Schell confirmed that the commission wanted to maintain the 7:00 p.m. start time. Mr. Kirby asked to hear the roll. Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Mr. Larsen yes, Mr. Schell yes. Having four votes, the date, time, and location for 2024 regular meetings as recommended was established.

**2. Steering Committee Member Appointment: Triangle Focus Area Plan**

Planning Manager Mayer explained that this area is located south of Central College on Bevelhymer Road. It would be an eight-month planning process with two public open houses. The meetings would occur at 8:00 a.m. on a weekday.

Commissioner Larsen indicated his willingness to serve and noted that there were several weeks in the summer when he was planning to be away.

Planning Manager Mayer replied that the group could not work around individual schedules but would be happy to have him.

Chair Kirby thanked Commissioner Larsen, and ordered that the record reflect that Commissioner Larsen is the commission's liaison to the Triangle Focus Area Plan.

**VIII. Poll members for comment**

Chair Kirby polled the members for comment. They all wished each other a good night.

**IX. Adjournment**

Having no further business, Chair Kirby adjourned the February 21, 2024 New Albany Planning Commission meeting at 10:02 p.m.

Submitted by Deputy Clerk Madriguera, Esq.

**Appendix**

**FDP-122-2023**

**Staff Report**

**Record of Action**

**VAR-123-2023**

**Staff Report**

**Record of Action**

**CU-124-2023**

**Staff Report**

**Record of Action**

**VAR-106-2023**

**Staff Report**

**Record of Action**

**FDM-008-2024**

**Staff Report**

**Applicant's Exhibits 1 and 2**

**CPCC Positional Letter and Exhibits A – D**

**Record of Action**



**Planning Commission Staff Report  
February 21, 2024 Meeting**

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**SMITH'S MILL LOT 14  
FINAL DEVELOPMENT PLAN**

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LOCATION: Located generally at the northeast corner of Smith's Mill Road and Forest Drive (PID: 222-000347)  
APPLICANT: J. Carter Bean Architect LLC, c/o Carter Bean  
REQUEST: Final Development Plan  
ZONING: Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a  
STRATEGIC PLAN: Retail  
APPLICATION: FDP-122-2023

Review based on: Application materials received December 15, 2023 and January 23, 2024.

*Staff report prepared by Chelsea Nichols, Planner*

**I. REQUEST AND BACKGROUND**

The application is for a final development plan for a proposed multi-tenant building located generally at the northeast corner Smith's Mill Road and Forest Drive, within the Canini Trust Corp. One of the multiple tenants is a restaurant with a drive-through and another is a bank with a drive-through. The remainder of the tenants are unknown at this time.

The zoning text allows Office buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, OCD Office Campus District, Section 1144.02 and C-2, Commercial District, Section 1147.02, and the conditional uses contained in Section 1147.02, which includes restaurants and banks with drive-through facilities. The applicant has applied for a conditional use to be heard by the Planning Commission at tonight's meeting under case CU-124-2023.

The applicant is also applying for three variances related to this final development plan under application VAR-123-2023. Information and evaluation of the variance requests are under a separate staff report.

**II. SITE DESCRIPTION & USE**

The site is generally located on the northeast corner of Smith's Mill Road and Forest within the Canini Trust Corp site. The site is 2.38 acres and is currently undeveloped. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-through facility. In addition, both Wendy's (with a drive-through) and Valvoline are two nearby sites that are currently under construction and were approved in 2023.

**III. EVALUATION**

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

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

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

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

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



- j. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- k. *Provide an environment of stable character compatible with surrounding areas; and*
- l. *Provide for innovations in land development, especially for affordable housing and infill development.*

### **Engage New Albany Strategic Plan Recommendations**

The Engage New Albany Strategic Plan recommends the following development standards for the Neighborhood Retail future land use category:

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

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

1. The applicant proposes to develop an 15,128 sq. ft. mixed use retail building containing multiple tenants; including a restaurant with a drive-through on the north end and a bank with a drive-through on the south end. The remaining spaces within the multi-tenant building would also be retail. The existing total site size is 2.607-acres. Both restaurants and banks with drive-through facilities are a conditional use within this zoning district and the applicant has applied for this conditional use to be heard by the Planning Commission at tonight's meeting under case CU-124-2023.
2. The applicant is not proposing a full-service drive-through with menu boards or order kiosk. The restaurant drive-through is proposed for pick-up of pre-ordered food only. The applicant states that this shall have a lower intensity of use and customers will not be waiting for food to be prepared. In addition, the applicant is not proposing a full-service retail banking facility. The applicant expects a total of 3-5 customers per day (both inside and at the drive-through).
3. The proposed use is appropriate given the proximity of this site to State Route 161 and the surrounding commercial development surrounding this site. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-through facility. In addition, both Wendy's (with a drive-through) and Valvoline are two nearby sites that are currently under construction and were approved in 2023.
4. Zoning text section 8a.01(7) requires that the total lot coverage, which includes areas of pavement and building, to not exceed 80%. The plan meets this required with a proposed 49.7%.
5. The zoning text section 8a.01 requires the following setbacks:

<b>Road</b>	<b>Requirement</b>	<b>Proposed</b>
Smith's Mill Road	50-foot building and pavement setback	112+/- foot pavement [meets code]  140+/- building [meets code]
Forest Drive	30-foot building and pavement setback	15+/- foot pavement [ <u>a variance has been requested under application VAR-15-2023]</u>  49+/- foot building [meets code]
Rear Yard	0-foot building and pavement setback	5-foot pavement [meets code]

		111+/- foot building [meets code]
Woodcrest Way	20-foot building and pavement	30+/- foot pavement [meets code]
		43+/- foot building [meets code]

## B. Access, Loading, Parking

1. The site is accessed from four curb cuts:
  - a. Two proposed full access curb cuts along Woodcrest Way;
  - b. One existing full access, shared curb cut on Forest Drive;
  - c. A second right-in only, proposed along Forest Drive.
2. The zoning text encourages shared access drives between sites by allowing for zero pavement setbacks and by including a provision stating that where appropriate shared access and joint parking agreements between adjacent parcels may be required by the Village Development Director. Historically, the city staff and Planning Commission have encouraged shared curb cuts and connecting drive aisles between sites. The proposed site does establish a drive aisle for shared access to the existing development site to the east.
3. The building is surrounded by a patio and retention basin to the west, the parking lot to the east, a drive-through lane to the north, a second drive-through lane to the south. The drive-throughs appear to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.
4. Codified Ordinance 1167, retail shopping centers are required per code to have one parking space for each 200 square feet of gross floor area, plus one for each three persons allowed under maximum occupancy in any theater or place of assembly. Based on the provided information, it appears as though the site is required to provide 76 spaces. The plan exceeds the required parking minimum with 84 spaces.
5. Additionally, the city parking code requires a minimum number of stacking spaces in the drive through lane must be provided. The required number of drive-through stacking spaces for a restaurant with drive-through must equal 25% of the total required parking spaces for the drive-through tenant space. The required number of drive-through stacking spaces for a bank with drive-through must equal 80% of the total required parking spaces for the drive-through tenant space.
  - a) The proposed restaurant with drive-through is 2,421 square feet, which would require 9 stacking spaces. The plan provides 7 stacking spaces for the restaurant drive-through. The applicant has requested a variance related to this under application VAR-123-2023. Information and evaluation of the variance request is under a separate staff report.
  - b) The proposed bank with drive-through is 2,720 square feet, which would require 11 stacking spaces. The plan provides four stacking spaces. The applicant has requested a variance related to this under application VAR-123-2023. Information and evaluation of the variance request is under a separate staff report.
6. Per C.O. 1167.03(a), the minimum parking space dimensions required are 9 feet wide and 19 feet long. The application meets this requirement.
7. Per C.O. 1167.03(a) the minimum maneuvering lane width size is 22 feet for this development type. The application meets this requirement.
8. Per C.O. 1165.06(a)(1), a 5-foot-wide concrete sidewalk is required to be installed along the Forest Drive site frontage. The application meets this requirement.

## C. Architectural Standards

1. The purpose of the New Albany Design Guidelines and Requirements is to help ensure that the New Albany community enjoys the highest possible quality of architectural design.
2. The zoning text contains architectural standards and regulated by Section 6 of the Design Guidelines and Requirements (Commercial outside the Village Center).

3. The zoning text states that the maximum building height within this zoning district shall not exceed 35 feet. The proposed building height is 25' 4", therefore this requirement is being met.
4. The applicant is proposing to use brick for the majority of the building. The proposal also includes metal canopies and Hardi-plank for the trim. The zoning text permits the use of these materials such as brick, pre-cast stone, wood, glass and other synthetic materials are permitted as long as they are used appropriately. The design of the building and use of materials is appropriate and consistent with other buildings in the immediate area.
5. Zoning text section 8a.03(1) states that all visible elevations of a building shall receive similar treatment in style, materials and design so that no visible side is of a lesser visual character than any other. The applicant is accomplishing this requirement by utilizing four-sided architecture.
6. DGR Section 6(I)(A)(12) states that buildings shall have operable and active front doors along all public and private roads. The applicant is not providing an active and operable door along Woodcrest Way (private drive) and Forest Drive (public street) and a variance has been requested related to this under application VAR-123-2023. Information and evaluation of the variance request is under a separate staff report.
7. Zoning text section 8a.05(3) requires that trash receptacles and exterior storage areas be fully screened from public roads. The applicant is meeting this requirement by providing a dumpster enclosure and landscaping around three sides of the enclosure.
8. C.O. 1171.05(b) also states that all trash and garbage container systems must be screened. The applicant proposes to install a dumpster enclosure thereby meeting this requirement.
9. A roof plan was submitted and demonstrates that all rooftop mechanical equipment will be fully screened from all public roads.
10. Zoning text section 8a.03(3)(b) states that if a flat roof is used, strong cornice lines must be integrated and the applicant is meeting this.

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

1. Parking Lot Landscaping Requirement:
  - Codified Ordinance 1171.06(a)(3) requires one tree per 10 parking spaces. The applicant is providing 84 parking spaces thereby requiring 9 trees. The plan meets this requirement.
  - Per zoning text 8a.04(4)(a), parking lots shall be screened from rights-of-way with a minimum 36-inch-high evergreen landscape hedge or wall. The landscape plan meets this requirement with the proposed 36-inch-high evergreen landscape hedge.
2. General Site Landscaping Requirement:
  - Codified Ordinance 1171(5)(e) requires parking lots over 20,000 square feet to have a minimum of one tree per 5,000 square feet of ground coverage and a total tree planting equal to 10.5 in tree trunk size for every 2,000 square feet of ground coverage. The applicant states that the parking lot is approximately 33,000 sq ft and the building is approximately 16,000 sq ft, therefore requiring 10 trees at 17" total caliber (CAL). The applicant proposes to provide 10 trees at 20" total CAL. This is at a rate of 2" CAL per tree. However, code requires a minimum of 2.5" CAL per tree and while the landscape table reflects 2.5", the notes states 2.0". The city staff recommends a condition of approval that the plan meets the 2.5" CAL size requirement (condition #1.a).
3. Street Tree Landscaping Requirement:
  - The zoning text section 8a.04(2) requires that street trees must be planted along Smith's Mill Road at a rate of one tree for every 30 feet. The existing street trees meet this requirement.
  - The applicant is required to install trees along Woodcrest Way per the approved Woodcrest Way final development plan (FDP-69-2014). The Woodcrest Way final development plan requires the trees along private drives to be red sunset maple. This requirement is met.
  - The Woodcrest Way final development plan requires the site plan and landscape plan to include a 5' wide tree lawn on the outside of the 5' wide sidewalk along

Woodcrest Way. The plan meets this requirement and also provides the 5' wide sidewalk along Forest Drive.

4. US 62/Johnstown Road Buffer Landscaping Requirement:
  - Zoning text section 8a.04(5) requires that there be a minimum of eight (8) deciduous or ornamental trees per 100 lineal feet planted throughout the setback areas along Smith's Mill Road and Forest Drive. The proposed landscape plan groups both the requirements for Smith's Mill Road and Forest Drive together by stating 48 trees are required and 48 are provided. However, the requirements need to be separated and should be two separate requirements; one for Smith' Mill Road and a second for Forest Drive. The city staff recommends a condition of approval that this be updated as such to meet this standard (condition #1. b).
5. The zoning text requires a minimum of 8% interior parking lot landscaping on the site. The landscape plan meets this requirement.
6. The applicant's landscape plan proposes ornamental trees for buffer trees that are required per code. The plan also proposes that the buffer ornamental trees be planted at 1.5" CAL. However, code requires all buffer trees to be deciduous and to be 2.5" CAL. The city staff recommends a condition of approval that the applicant update the plan to meet code (condition #1.2).
7. The City Landscape Architect has reviewed the referenced plan in accordance with the landscaping requirements found in the New Albany Codified Ordinances and zoning text and provides the following comments. Staff recommends a condition of approval that all City Landscape Architect's comments are met at the time of engineering permits, subject to staff approval (condition #1.c). The City Landscape Architect's comments are:
  - Shift street trees to continue proper spacing and rhythm along Forest Drive. See diagram.
  - Per American Standard for Nursery Stock, provide the 2.5" caliper Taxodium distichum at a minimum 12' height at install.
  - Replace use of Malus 'Spring Snow' with a deciduous shade tree. Recommend use of one of the following... Liriodendron tulipifera, Nyssa sylvatica, Platanus occidentalis, Gymnocladus dioicus. Resubmit updated plant list.
  - Utilize Malus 'Spring Snow' in place of Syringa reticulata. Resubmit updated plant list.
  - Verify cultivar of Acer rubrum 'Red Sunset'. Resubmit updated plant list.

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

1. The applicant has submitted a photometric plan that meets code.
2. Zoning text section 8a.05(e) and (f) requires all parking lot and private driveway light poles to be cut-off and downcast, not exceed 20 feet in height, painted New Albany Green and the use the same fixture that has been used at Dairy Queen and throughout the Canini Trust Corp. The application commits to meeting these requirements.
3. As part of this final development plan application, the applicant has submitted a preliminary sign plan for the site.

#### **Wall Signs**

Zoning text section 8a.06(3)(i) permits one wall mounted sign per retail tenant on each elevation of the building that fronts or sides on a public or private road. The proposed building faces three public streets or private drives. Therefore, three wall signs are permitted for each tenant. In addition, one square foot of sign face is permitted per each lineal foot of the building, not to exceed 80 square feet in size per sign. Signs along Smiths Mill Road are permitted to be up to 80 sq ft in size. The private drive (Woodcrest Way) signs are permitted to be up to 77 sq ft in size. The signs on Forest Drive are permitted to be up to 61 sq ft in size. The applicant proposes the following wall signs:

### **Woodcrest Way Elevation Wall Sign**

- a. Area: 39 sq. ft. [meets code]
- b. Lettering Height: 24" tall [meet code, 24-inch maximum required]
- c. Location: one on the Woodcrest Way building elevation [meets code]
- d. Lighting: halo-illumination [meets code, external and halo permitted]
- e. Relief: 2-1/2" [meets code, code minimum of 1-inch relief required]
- f. Color: maximum of 3 colors [meets code, 4 colors permitted]
- g. Materials: metal [meets code]

### **Smith's Mill Elevation Wall Signs**

- a. Area: 57 sq. ft. per sign [meets code]
- b. Lettering Height: 24" tall [meet code, 24-inch maximum required]
- c. Location: one per tenant along the Smith's Mill building elevation [meets code]
- d. Lighting: halo-illumination [meets code, external and halo permitted]
- e. Relief: 2-1/2" [meets code, code minimum of 1-inch relief required]
- f. Color: maximum of 3 colors [meets code, 4 colors permitted]
- g. Materials: metal [meets requirements of C.O. 1169.12(g)]

### **Parking Lot Elevation Wall Signs**

- a. Area: 57 sq. ft. [meets code]
- b. Lettering Height: 24" tall [meet code, 24-inch maximum required]
- c. Location: one per tenant along the rear building elevation [meets code]
- d. Lighting: halo-illumination [meets code, external and halo permitted]
- e. Relief: 2-1/2" [meets code, code minimum of 1-inch relief required]
- f. Color: maximum of 3 colors [meets code, 4 colors permitted]
- g. Materials: metal [meets requirements of C.O. 1169.12(g)]

Final tenant signage will be reviewed and approved by the city staff at the time of permitting, as long as they meet code (condition #3).

## **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 (condition #2).

1. Have a professional surveyor licensed in the state of Ohio sign and seal the ALTA survey included with the submittal.
2. Add a major flood routing arrow to the legend and show major flood routing in plan view on sheet C500. Direct runoff away from public streets to the greatest extent practical.
3. Engineering staff recommends that the applicant commit to providing only low volume traffic uses where the proposed drive-thru is shown off of Forest Drive. Any other type of use will create back-up issues on Forest Drive.
4. Engineering staff will evaluate pavement markings/signage requirements, storm water management, fire protection, sanitary sewer collection and roadway construction related details once detailed construction plans become available

## **V. SUMMARY**

The Planning Commission should evaluate the overall proposal based on the requirements in the Engage New Albany Strategic Plan, the Canini Trust Corp zoning text, and New Albany Design Guidelines and Requirements. The proposed development meets many of the Engage New Albany Strategic Plan development standards; including walkways and landscaping to enhance visual aspects of the development, integrating outdoor spaces for food related business, and designing building entrances that connect with a pedestrian network and promote connectivity.

The city architect has reviewed the proposal and is supportive of the building design. Overall, the building enhances this corridor within the city by providing an appropriately styled building. The building has a lot of the same design elements as other successful multi-tenant developments such as the New Albany Exchange. The building also evokes elements from Market Square with the traditional retail storefront. In addition, the building's proposed architecture matches the standards found within the zoning text and the New Albany's Design Guidelines and Requirements.

The site is well laid out. The city design consultant and city landscape architect have reviewed the plans and are supportive. The building is appropriately positioned on the site to address the primary street, even with the existing stormwater basin located in front, along Smith's Mill Road. The applicant positively activates the basin by locating the outdoor seating along it and Smith's Mill Road.

While the drive-throughs are fronting on a public and private street, they are appropriately designed as there are no menu boards. The conditions limiting its use in the conditional use application ensures the drive-through will not negatively impact the public street.

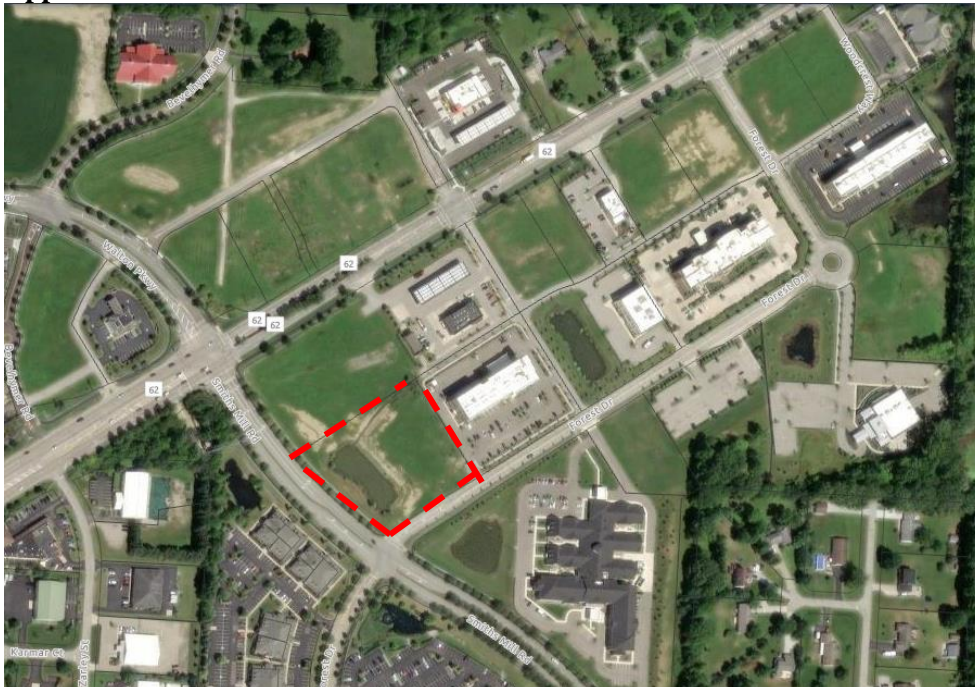
## V. ACTION

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

Move to approve final development plan application **FDP-122-2023**, subject to the following conditions:

1. The landscape plan shall be updated to meet the following:
  - a. The minimum 2.5" CAL size requirement for all deciduous trees.
  - b. The buffer landscape requirements within setback areas along Smith's Mill Road and Forest Drive.
  - c. All City Landscape Architect's comments, subject to staff approval.
2. All city engineer's comments shall be addressed, subject to staff approval.
3. Final tenant signage will be reviewed and approved by the city staff at the time of permitting, as long as they meet code.

### Approximate Site Location:



Source: ArcGIS

404,669-01  
February 9, 2024

To: Chelsea Nichols  
City Planner

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

Re: Smiths Mill Lot 14 FDP  
Resubmittal

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

1. Have a professional surveyor licensed in the state of Ohio sign and seal the ALTA survey included with the submittal.
2. Add a major flood routing arrow to the legend and show major flood routing in plan view on sheet C500. Direct runoff away from public streets to the greatest extent practical.
3. We recommend that the applicant commit to providing only low volume traffic uses where the proposed drive-thru is shown off of Forest Drive. Any other type of use will create back-up issues on Forest Drive.
4. We will evaluate pavement markings/signage requirements, storm water management, fire protection, sanitary sewer collection and roadway construction related details once detailed construction plans become available

MEF/JMH

cc: Josh Albright, Development Engineer,  
Cara Denny, Engineering Manager,  
Dave Samuelson, P.E., Traffic Engineer



## **Community Development Department**

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

Dear J. Carter Bean Architect LLC,

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

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

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

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

Thank you.





## Community Development Department

### Decision and Record of Action

Thursday, February 22, 2023

The New Albany Planning Commission took the following action on 02/21/2024.

#### Final Development Plan

**Location:** Generally at the northeast corner of Smith's Mill Road and Forest Drive  
(PID: 222-000347)

**Applicant:** J. Carter Bean Architect LLC

**Application:** FDP-122-2023

**Request:** Final Development plan for a multi-tenant building.

**Motion:** To approve with conditions.

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

**Result:** Final Development Plan, PLFDP20240122, was Approved with Conditions, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2024

#### Condition(s) of Approval:

1. The landscape plan shall be updated to meet the following:
  - a. The minimum 2.5" CAL size requirement for all deciduous trees.
  - b. The buffer landscape requirements within setback areas along Smith's Mill Road and Forest Drive.
  - c. All City Landscape Architect's comments, subject to staff approval.
2. All city engineer's comments shall be addressed, including the final design of the right-in curb cut for the bank drive-through, subject to staff approval.
3. Final tenant signage will be reviewed and approved by the city staff at the time of permitting, as long as they meet code.

Staff Certification:

*Chelsea Nichols*

Chelsea Nichols  
Planner



**Planning Commission Staff Report  
February 21, 2024 Meeting**

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**SMITH'S MILL LOT 14  
VARIANCES**

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**LOCATION:** Located generally at the northeast corner of Smith's Mill Road and Forest Drive (PID: 222-000347)

**APPLICANT:** J. Carter Bean Architect LLC, c/o Carter Bean

**REQUEST:**

- (A) Variance to Canini Trust Corp, I-PUD Text 8a.01(2) to allow for an encroachment into the 20' pavement setback along Forest Drive.
- (B) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Forest Drive and Woodcrest Way building elevations.
- (C) Variance to C.O. 1167.07(d)(4) to allow for 7 stacking spaces in the restaurant drive-through when code requires 8.
- (D) Variance to C.O. 1167.07(d)(6) to allow for 4 stacking spaces in the bank drive-through when code requires 11.

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

**STRATEGIC PLAN:** Retail

**APPLICATION:** VAR-123-2023

Review based on: Application materials received December 15, 2023 and January 23, 2024.

*Staff report prepared by Chelsea Nichols, Planner*

**I. REQUEST AND BACKGROUND**

This application is for various variances related to a final development plan for a proposed development consisting of a multi-tenant building located generally at the northeast corner Smith's Mill Road and Forest Drive, within the Canini Trust Corp. One of the tenants is a restaurant with a drive-through and another is a bank with a drive-through.

The zoning text allows Office buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, OCD Office Campus District, Section 1144.02 and C-2, Commercial District, Section 1147.02, and the conditional uses contained in Section 1147.02, which includes restaurants and banks with drive-through facilities. The applicant has applied for a conditional use to be heard by the Planning Commission at tonight's meeting under case CU-124-2023.

The applicant requests the following variances:

- (A) Variance to Canini Trust Corp, I-PUD Text 8a.01(2) to allow for an encroachment into the 20' pavement setback along Forest Drive.
- (B) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Forest Drive and Woodcrest Way building elevations.
- (C) Variance to C.O. 1167.05(d)(4) to allow for 7 stacking spaces in the restaurant drive-through when code requires 8.
- (D) Variance to C.O. 1167.05(d)(6) to allow for 4 stacking spaces in the bank drive-through when code requires 11.

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

The site is generally located on the northeast corner of Smith's Mill Road and Forest within the Canini Trust Corp site. The site is 2.38 acres and is currently undeveloped. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-through facility. In addition, both Wendy's (with a drive-through) and Valvoline are two nearby sites that are currently under construction and were approved in 2023.

## **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 Canini Trust Corp, I-PUD Text 8a.01(2) to allow for an encroachment into the 20' pavement setback along Forest Drive.**

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

1. The requested variance will reduce the required minimum pavement setback on a portion of the site adjacent to Forest Drive on the south side of the property from 20 feet to 15 feet.
2. The applicant states the variance would allow the parking spaces to align with the adjacent parking next door on the Home2Suites hotel site.
3. It does not appear that the essential character of the neighborhood would be altered if the variance request is granted. The applicant has aligned the parking spaces along Forest Drive with those on the adjacent site next door at the Home2Suites site in order to maintain a uniform streetscape. The Home2Suites site did not require a variance. The need for a variance on this site is because the Forest Drive right-of-way widens from 50 feet at the Home2Suites site to 65 feet at Smith's Mill Road.
4. The variance request does not appear to be substantial. The appropriate streetscape improvements are still installed even with the smaller setback. The applicant is installing street trees and shrubs to provide screening of the parking lot. In addition to the tree lawn for the street trees and there is a 5-foot-wide sidewalk proposed along Forest Drive
5. Historically, the Planning Commission has only approved encroachments into the pavement setbacks when all of the required streetscape amenities, such as sidewalk and tree lawn, can still be accommodated. The site plan does accommodate the tree lawn and sidewalk along Forest Drive.
6. The variance request meets the spirit and intent of the zoning text. The applicant is providing the approved streetscape at this site and has aligned the parking spaces along Forest Drive with those on the adjacent site next door to maintain a uniform streetscape.
7. The proposed variance appears to be appropriate for this public road. The applicant has demonstrated that the reduced setback still allows for installation of appropriate landscape to create the streetscape and prevent this road from appearing to be a parking lot drive aisle.
8. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

**(B) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Forest Drive and Woodcrest Way building elevations.**

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, Forest Drive, and the private road named Woodcrest Way.
  - a. As proposed, the commercial building will have entrances to each tenant space along the Smith's Mill Road elevation and along the elevation facing the parking lot.
  - b. The elevations with no active door are along Forest Drive and the private road, Woodcrest Way. The lack of operable and active front doors along Forest Drive and Woodcrest Way are due to the drive-through windows.
2. As required by the zoning text, the building is designed with the same caliber of finish on all sides of the building using the same building materials.
3. The variance appears to preserve the "spirit and intent" of the zoning requirement. The intent of this requirement is to ensure that buildings maintain a presence on the street and do not contain blank or "empty" building elevations so their architectural vibrancy and interest on all sides of a building which is crucial in pedestrian oriented development.
  - a. This site and the overall Canini Trust Corp developments are auto-oriented by design therefore it does not appear that maintaining an entrance on every street is as important in this development scenario.

- b. All sides of the building are designed with the same caliber of finish using the same building materials so none of the elevations appear as a “lesser” side of the building.
4. While there isn’t an active and operable door along the all road elevations, the applicant is providing strong architectural features and materials so the building adequately addresses the primary street (Smith’s Mill Road) architecturally. The building is designed so the front door architectural elements such as the retail storefront windows fronts Smith’s Mill Road. The Smith’s Mill Road elevation of this building makes the entrance to the building easily identifiable.
5. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted. This same variance request has been granted for other developments within the Canini Trust Corp along Woodcrest Way
6. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

**(C) Variance to C.O. 1167.07(d)(4) to allow for 7 stacking spaces in the restaurant drive-through when code requires 8.**

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

1. The requested variance reduces the number of required stacking spaces from 8 stacking spaces to 7 stacking spaces near the northwest property line along Woodcrest Way.
2. The city parking code requires that a minimum number of stacking spaces in the drive through lane must be provided. The required number of drive-through stacking spaces for a restaurant with a drive-through must equal 25% of the total required parking spaces for the drive-through tenant space. The total required parking spaces are one for each 75 square feet of gross floor area. The proposed restaurant with a drive-through is 2,421 square feet, which requires 8 stacking spaces.
3. The variance does not appear to be substantial. The applicant is not proposing a full-service drive-through with menu boards or an order kiosk. The restaurant drive-through is proposed for pick-up of pre-ordered food only. The applicant states that this shall have a lower intensity of use and customers will not be waiting for food to be prepared.
4. The variance appears to preserve the “spirit and intent” of the zoning requirement. The parking code is a “one size fits all” regulation and does not consider the functions or logistics of different drive-through types, especially new emerging types with no menu boards and online order pick-up only.
5. Drive-through facilities associated with a permitted use are conditional uses. The applicant has applied for a conditional use to be heard by the Planning Commission at tonight’s meeting under case CU-124-2023. As part of the conditional use evaluation, the city staff recommends a condition of approval that the restaurant drive-through is only allowed for the pick-up of pre-ordered food. A full-service drive-through or food ordering is prohibited.
7. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.
6. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted.

**(D) Variance to C.O. 1167(d)(6) to allow for 4 stacking spaces in the bank drive-through when code requires 11.**

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

1. The requested variance would reduce the number of required stacking spaces from 11 to 4 stacking spaces near the southeast property line along Forest Drive. The required number of drive-through stacking spaces for a bank with a drive-through must equal 80% of the total required parking spaces for the drive-through tenant space. The total required

- spaces are one for each 200 square feet of gross floor area. The proposed bank with a drive-through is 2,720 square feet, which requires 11 stacking spaces.
2. The variance does not appear to be substantial. The applicant is not proposing a full-service retail banking facility. The applicant expects a total of 3-5 customers per day (both inside and at the drive-through). The variance appears to preserve the “spirit and intent” of the zoning requirement.
  3. The parking code is a “one size fits all” regulation and does not consider the functions or logistics of different drive-through types. Drive-through facilities associated with a permitted use are conditional uses.
  4. The applicant has applied for a conditional use to be heard by the Planning Commission at tonight’s meeting under case CU-124-2023. As part of the conditional use evaluation, the city staff recommends a condition of approval that the bank drive-through is only permitted for low-volume traffic uses, comparable to 3-5 customers per day, subject to the city traffic engineer’s review and approval.
  8. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.
  5. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted.

## II. SUMMARY

Due to the auto-oriented nature of this zoning district, providing active and operable front doors on every elevation does not appear to be necessary, and the applicant is still providing a high-quality designed building.

Ensuring consistent streetscape between sites along corridors is an important aspect of the New Albany community. It appears the appropriate streetscape improvements can still be accomplished with the smaller setback along the south side of the site. The site plan does accommodate the required 5-foot tree lawn and 5-foot sidewalk in order to match the surrounding sites. Historically the city boards and commissions have only approved encroachments into the pavement setbacks as long as there are no impacts to the streetscape elements (i.e. sidewalk, tree lawn, etc.).

While the number of stacking spaces for both the restaurant drive-through and bank drive-through are lower than what code requires, the variances do not appear to be substantial. The parking code is a “one size fits all” regulation and does not consider the functions or logistics of different drive-through types. In addition, the drive-throughs are conditional uses and conditions have been suggested as part of that application’s review to ensure the shorter drive-through stacking functions properly.

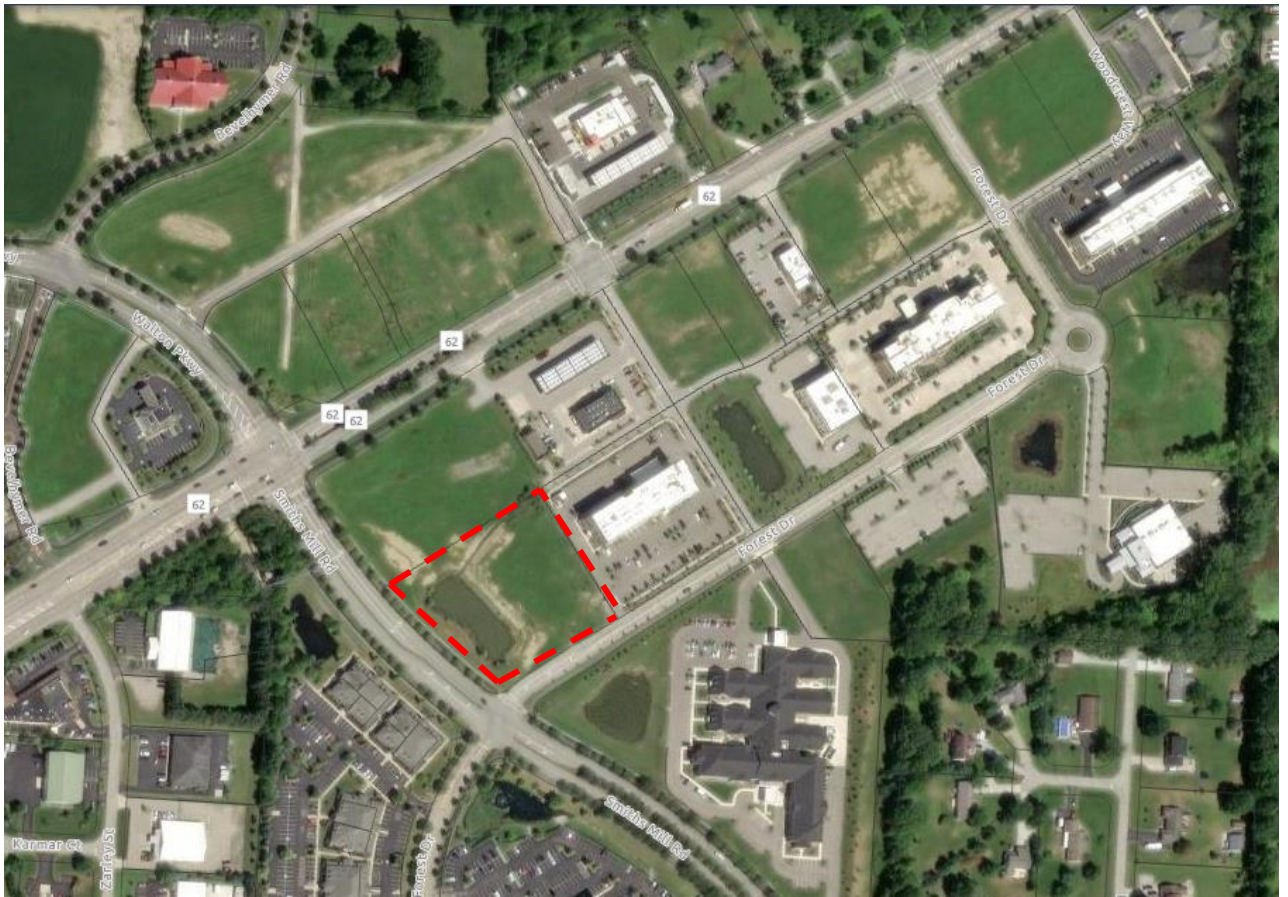
Overall, even with the requested variances, the proposed development meets many of the Engage New Albany Strategic Plan development standards; including providing walkways and landscaping to enhance visual aspects of the development, integrating outdoor spaces for food related businesses, and designing building entrances that connect with a pedestrian network and promote connectivity.

## 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-123-2023 (conditions may be added).**

Approximate Site Location:



Source: Google Earth



## **Community Development Department**

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

Dear J. Carter Bean Architect LLC,

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

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

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

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

Thank you.





## Community Development Department

### Decision and Record of Action

Thursday, February 22, 2023

The New Albany Planning Commission took the following action on 02/21/2024.

#### Variances

**Location:** Generally at the northeast corner of Smith's Mill Road and Forest Drive  
(PID: 222-000347)

**Applicant:** J. Carter Bean Architect LLC

**Application:** VAR-123-2023

**Request:** Variances associated with a final development plan for a multi-tenant building.

**Motion:** To approve.

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

**Result:** Variances, PLVAR20240123, was Approved, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2024

#### Variances:

- (A) Variance to Canini Trust Corp, I-PUD Text 8a.01(2) to allow for an encroachment into the 20' pavement setback along Forest Drive. **APPROVED**
- (B) Variance to DGR Section 6(I)(A)(12) to eliminate the requirement that there be active and operable doors on the Forest Drive and Woodcrest Way building elevations. **APPROVED**
- (C) Variance to C.O. 1167.07(d)(4) to allow for 7 stacking spaces in the restaurant drive-through when code requires 8. **WITHDRAWN**
- (D) Variance to C.O. 1167.07(d)(6) to allow for 4 stacking spaces in the bank drive-through when code requires 11. **APPROVED**

Staff Certification:

*Chelsea Nichols*

Chelsea Nichols  
Planner



**Planning Commission Staff Report  
February 21, 2024 Meeting**

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**SMITH'S MILL LOT 14 DRIVE-THRU  
CONDITIONAL USE**

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LOCATION: Located generally at the northeast corner of Smith's Mill Road and Forest Drive (PID: 222-000347)  
APPLICANT: J. Carter Bean Architect LLC, c/o Carter Bean  
REQUEST: Final Development Plan  
ZONING: Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a  
STRATEGIC PLAN: Retail  
APPLICATION: CU-124-2023

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Review based on: Application materials received December 15, 2023 and January 23, 2024.

*Staff report prepared by Chelsea Nichols, Planner*

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**I. REQUEST AND BACKGROUND**

The applicant requests approval of a conditional use to allow two drive-throughs to be developed as part of a new multi-tenant building located generally at the northeast corner Smith's Mill Road and Forest Drive, within the Canini Trust Corp. One drive-through is for a restaurant and the second is for a bank. The Canini Trust Corp (I-PUD) zoning text allows the C-2 General Business (Commercial) District which permits restaurant and bank uses. Drive-thru facilities associated with a permitted use are conditional uses.

This request is in conjunction with a final development plan (FDP-122-2023) and associated variances (VAR-123-2023) for the new multi-tenant building.

**II. SITE DESCRIPTION & USE**

The site is generally located on the northeast corner of Smith's Mill Road and Forest within the Canini Trust Corp site. The site is 2.38 acres and is currently undeveloped. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dairy Queen which also has a drive-through facility. In addition, both Wendy's (with a drive-through) and Valvoline are two nearby sites that are currently under construction and were approved in 2023.

**III. EVALUATION**

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

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

**Uses:**

- The applicant proposes to develop an 15,128 sq. ft. mixed use retail building containing multiple tenants; including a restaurant with a drive-through on the north

end and a bank with a drive-through on the south end. The remaining spaces within the multi-tenant building will also be retail. Both restaurants and banks with drive-through facilities are a conditional use within this zoning district.

- The Engage New Albany Strategic Plan identifies this area as the retail future land use area. The proposed use is appropriate based on its proximity to State Route 161, the New Albany Business Park and the surrounding uses. The site is located within the Canini Trust Corp which envisions this type of use.
- The building is surrounded by a patio and retention basin to the west, the parking lot to the east, a drive-through lane to the north, a second drive-through lane to the south. The drive-throughs appear to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.
- It does not appear that the proposed use drive-through uses will alter the character of the surrounding area. This area is zoned to allow retail and personal services uses such as restaurants and banks which typically have drive-through facilities. Additionally, the Planning Commission recently approved multiple drive throughs in the area for Popeyes, Wendy's, Dairy Queen, Sheets, and Dunkin Donuts developments which all included a drive-thru facility and are located near this proposed development. This subarea of the Canini Trust Corp also contains other car-oriented businesses such as a Turkey Hill gas station and Valvoline oil change service

#### **Architecture:**

- The design of the commercial building and use of materials is appropriate and consistent with other buildings in the immediate area. The building is well designed architecturally and meets the majority of code requirements and DGR requirements.
- The drive through windows are located so they don't front the primary street: Smith's Mill Road. The drive-throughs are on the north and south elevations of the building facing Woodcrest Way and Forest Drive, and are appropriately designed by using the same building materials that are used on other elevations of the building.
- All of the mechanical equipment is located on the roof of the building and will be fully screened from the public rights-of-way as well as private roads.

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

- The Trust Corp site has a strong internal roadway network that supports car-oriented developments. The lot is surrounded by two public roads and one private road on three sides that allows traffic to and from the site to be dispersed. The road network consisting of Smith's Mill Road, Forest Drive, and Woodcrest Way provides multiple connections to public streets.
  - The site is accessed from four curb cuts:
    - a. Two proposed full access curb cuts along Woodcrest Way;
    - b. One existing full access, shared curb cut on Forest Drive;
    - c. A second right-in only, proposed along Forest Drive.
- Codified Ordinance 1167, retail shopping centers are required per code to have one parking space for each 200 square feet of gross floor area, plus one for each three persons allowed under maximum occupancy in any theater or place of assembly. Based on the provided information, the site is required to provide 76 spaces. The plan exceeds the required parking minimum with 84 spaces.
- Additionally, the city parking code requires a minimum number of stacking spaces in the drive through lane must be provided.
  - Restaurants with drive-through facilities:
    - Restaurants with drive-through facilities are required to have one parking space for each 75 square feet of gross floor area. The required number of drive-through stacking spaces for a restaurant

with a drive-through must equal 25% of the total required parking spaces.

- The proposed restaurant with drive-through is 2,421 square feet, which requires 8 stacking spaces. The plan provides 7 stacking spaces for the restaurant drive-through. The applicant has requested a variance related to this under application VAR-123-2023. Information and evaluation of the variance request is under a separate staff report.
- The applicant is not proposing a full-service drive-through with menu boards or order kiosk. The restaurant drive-through is proposed for pick-up of pre-ordered food only. The applicant states that this shall have a lower intensity of use and customers will not be waiting for food to be prepared.
- The city staff recommends a condition of approval that the restaurant drive-through is only allowed for the pick-up of pre-ordered food. A full-service drive-through or food ordering is prohibited (condition #1).
- Banks with drive-through facilities:
  - Banks with drive-through facilities are required to have one parking space for each 200 square feet of gross floor area. The required number of drive-through stacking spaces for a bank with drive-through must equal 80% of the total required parking spaces.
  - The proposed bank with drive-through is 2,720 square feet, which requires 11 stacking spaces. The plan provides four stacking spaces. The applicant has requested a variance related to this under application VAR-123-2023. Information and evaluation of the variance request is under a separate staff report.
  - The city traffic engineer has reviewed the proposal and recommends that the applicant commit to providing only low volume traffic uses where the proposed drive-through is shown off of Forest Drive and states any other type of use will create back-up issues on Forest Drive.
  - Given this, the applicant is not proposing a full-service retail banking facility. The applicant expects a total of 3-5 customers per day (both inside and at the drive-through).
  - The city staff recommends a condition of approval that the bank drive-through is only permitted for low-volume traffic uses, comparable to 3-5 customers per day, subject to the city traffic engineer's review and approval (condition #2).

#### **Landscaping:**

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

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

- The proposed use is harmonious with the existing and intended character of the general vicinity and will not change the essential character of the area.
- The proposed use is appropriate due to its proximity to the State Route 161 interchange and the New Albany Business Park.
- This site is located within the Canini Trust Corp which envisions this type of use. There are existing restaurants with drive-thru facilities that are developed in this zoning district.

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

### **III. SUMMARY**

The overall proposal is consistent with the code requirements for conditional uses. The proposed use is appropriate for the site based on the current zoning and the Engage New Albany Strategic Plan. Retail has historically been approached in a thoughtful and prescribed way that promotes a planned amount of land being dedicated to this use. Due to the close proximity of this site to State Route 161 and this portion of the business park, the drive-throughs are appropriate in this location.

The proposed use will not change the character of the US-62 corridor as there are existing restaurants with drive-through facilities within the Canini Trust Corp site and the other drive-through developments located along the street.

The drive-through lanes are in appropriate locations as it is oriented and will not interfere with traffic circulation on the rest of the site. The applicant is not proposing a full-service drive-through with menu board and order kiosk. The drive-through is proposed for pick-up of pre-ordered food only. In addition, the applicant is not proposing a full-service retail banking facility. The lengths of the drive-throughs and circulation pattern for the site is appropriate given the proposed lower intensity of uses and number of anticipated customers.

Overall, even with the two drive-throughs, the proposed development meets many of the Engage New Albany Strategic Plan development standards; including providing walkways and landscaping to enhance visual aspects of the development, integrating outdoor spaces for food related businesses, and designing building entrances that connect with a pedestrian network and promote connectivity.

### **ACTION**

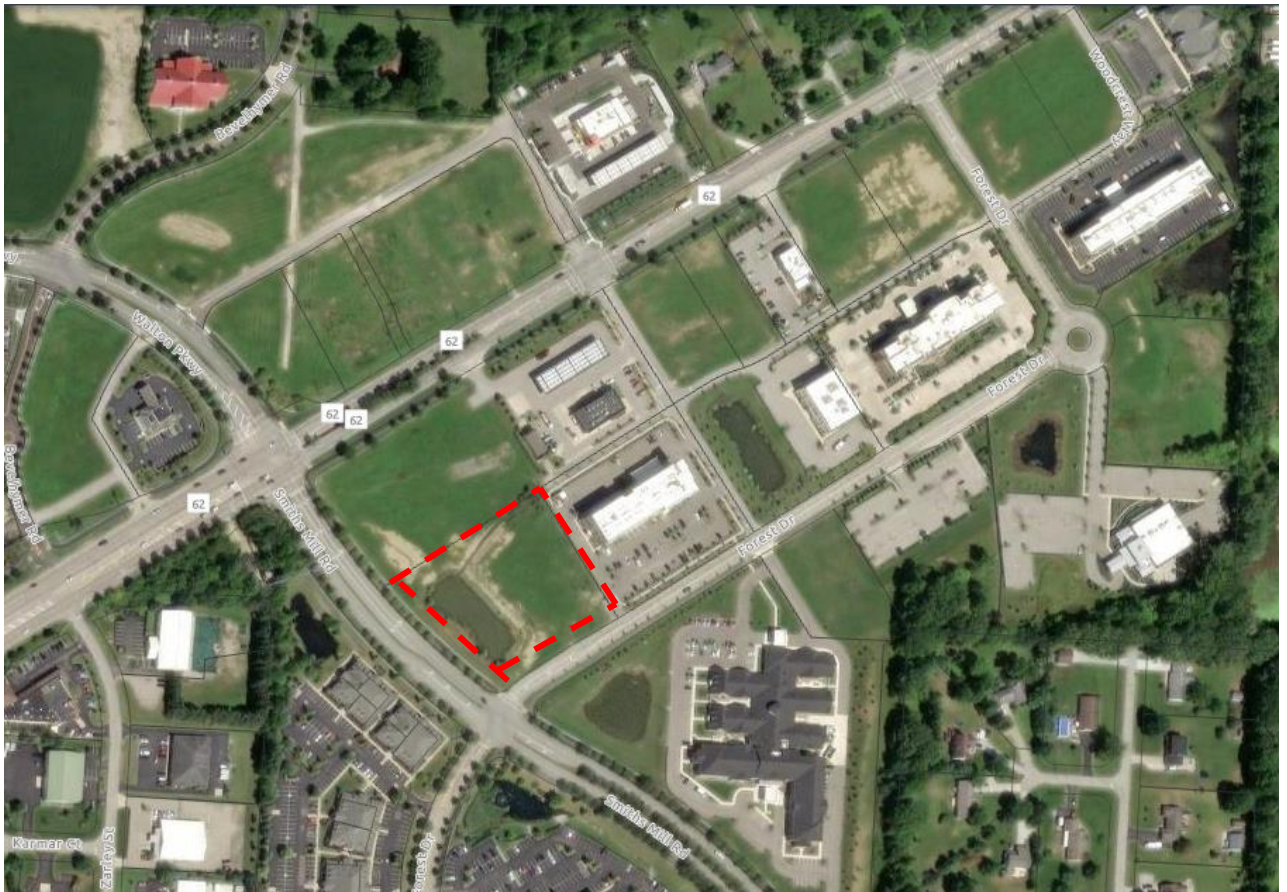
The Commission shall approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved with supplementary conditions, the Planning Commission shall direct staff to issue a zoning permit listing the specific conditions listed by the Planning Commission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

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

#### **Move to approve application CU-123-2023 with the following conditions:**

1. The restaurant drive-through is only allowed for the pick-up of pre-ordered food only. A full-service drive-through or food ordering is prohibited.
2. The bank drive-through is only permitted for low-volume traffic uses, comparable to 3-5 customers per day, subject to the city traffic engineer's review and approval.

Approximate Site Location:



Source: Google Earth



## **Community Development Department**

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

Dear J. Carter Bean Architect LLC,

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

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

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

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

Thank you.



## Community Development Department

### Decision and Record of Action

Thursday, February 22, 2023

The New Albany Planning Commission took the following action on 02/21/2024.

#### Conditional Use

**Location:** Generally at the northeast corner of Smith's Mill Road and Forest Drive  
(PID: 222-000347)

**Applicant:** J. Carter Bean Architect LLC

**Application:** CU-124-2023

**Request:** Conditional Use to allow two drive-throughs to be developed as part of a new multi-tenant building.

**Motion:** To approve with conditions.

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

**Result:** Final Development Plan, PLCU20240124, was Approved with Conditions, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2024

#### Condition(s) of Approval:

1. The restaurant drive-through is only allowed for the pick-up of pre-ordered food only, which includes limited signage. A full-service drive-through or food ordering is prohibited.
2. The bank drive-through is only permitted for low-volume traffic uses, comparable to 3-5 customers per day, subject to the city traffic engineer's review and approval.
3. A conditional use renewal shall be required upon a change in tenant.

Staff Certification:

*Chelsea Nichols*

Chelsea Nichols  
Planner





**Planning Commission Staff Report  
February 21, 2024 Meeting**

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**AXIUM 6  
SIGN VARIANCE**

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LOCATION: 10015 Innovation Campus Way (PID: 093-107478-00.001)  
APPLICANT: Axiom Packaging, LLC c/o Chad Moorehead  
REQUEST: Variance to C.O. 1169.16(d) to allow the size of a wall sign to be 205 square feet where code permits a maximum of 75 square feet  
ZONING: Infilled Planned Unit Development (I-PUD)  
STRATEGIC PLAN: Employment Center  
APPLICATION: VAR-007-2024

Review based on: Application materials received January 19, 2024

*Staff report prepared by Sierra Cratic-Smith, Planner*

**I. REQUEST AND BACKGROUND**

The applicant requests the following variance related to a new sign package for the Axiom 6 building located at the intersection of Mink Street and Innovation Campus Way. The city sign code allows a maximum size of 75 square feet per sign. The applicant requests to allow a new logo sign to be 205 square feet.

**II. SITE DESCRIPTION & USE**

The Axiom Packaging Plant 6 building is located at the southwest corner intersection of Mink Street and Innovation Campus Way. The property is 22.4+/- acres. It is part of the New Albany Business Park within Licking County. There are several other businesses located north and south of the building. Several residential homes across Mink Street are outside of the city's jurisdiction.

**III. EVALUATION**

The application complies with application 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. ASSESSMENT

#### *Considerations and Basis for Decision*

#### **A variance request to C.O. 1169.16(d) to allow the size of a wall sign to be 205 square feet where code permits a maximum of 75 square feet.**

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

1. A variance request to C.O. 1169.16(d) to allow the size of a wall sign to be 205 square feet where code permits a maximum of 75 square feet.
2. C.O. 1169.16(d) states that one wall sign, up to 75 sq.ft. in size is permitted to be installed per building frontage. The building has two frontages: Innovation Campus Way and Mink Street, therefore a total of two wall signs are allowed. The applicant proposes to install two wall signs. The two wall signs will both be mounted on one elevation facing State Route 161.
  - a. Sign 1: features the company name and logo. This first sign is 205 +/- square feet. This exceeds the maximum area requirement according to the city sign code and is what the Planning Commission is evaluating. The first sign will be 205 +/- square feet.
  - b. The second sign will be 34 +/- square feet. Sign 2: says “plant 6.” This second sign is 34 +/- square feet. This sign meets all of the city sign code requirements.
3. The building is about 200 +/- feet from Mink Street and 580 feet from US State Route 161.
4. The applicant proposes to install larger wall area signs to identify the Axium 6 plants from other Axium warehouses located in the Business Park.
5. The spirit and intent of the zoning code is preserved because it ensures that the signs are appropriately scaled and designed for the building that they are located on. The city sign code requires signs “integrate with the building/site on which they are located and adjacent development in scale, design, and intensity. For example, large signs are best suited for buildings with larger massing.” The proposed signs meet this intent as they are well designed

and appropriately scaled in relation to the large warehouse building thereby making the size appropriate in this case.

6. It does not appear that the essential character of the immediate area will be altered if the variance is granted. The site is located in the center of the New Albany Business Park and is completely surrounded by commercially zoned and the signs are faced away from the residential properties. In addition, the building maintains large setbacks from both public roads, minimizing their visual impact.
7. The granting of the variance will not confer on the applicant any special privileges because the city Board of Zoning Appeals (BZA) has approved similar variances. There have been a wide range of approvals for sign variances for size:
  - a. The largest variance sign size was approved by the board in April 2021. Amazon requested a wall sign at 297 square feet for a building at approximately 1,271 feet long and about 50 +/- feet in height. Therefore, the square foot for the façade is 63,550 square feet making the sign less than 1% of the façade.
  - b. The lowest sign size variances request was approved by the board in August 2023. Amgen requested a wall sign at 98 square feet for a building 540 feet long and 35 feet in height. The building façade's area is 18,900 square feet making the sign area about 1% of the façade's area.
8. The variance requests does not appear to be substantial because the sign is an appropriate size for the large warehouse façade.
  - a. The building frontage that the signs are located on is about 910 feet long and the building is 40 feet in height. The building façade's square footage is 36,400 making the signs less than 1% of the building facade.
  - b. Due to this large size, the proposed wall signs appear to be appropriately scaled in relation to the size of the building. If the applicant were to install wall signs that met code requirements, the signs would be under scaled and appear out of place on the larger building.
9. Granting the variance will not adversely affect the health, safety or general welfare of persons living in the immediate vicinity.
10. Granting the variance will not adversely affect the delivery of government services.

#### **IV. SUMMARY**

Even though the sign is larger than code allows it still appropriately integrates with the building/site on which it is located and the adjacent development in scale, design, and intensity. The larger sign does not create an appearance of competition between adjacent signs. Therefore the request does not appear to be substantial.

#### **V. ACTION**

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate. Conditions of approval may be added.

**Move to approve application V-007-2024.**

**Approximate Site Location:**



Source: NearMap



## **Community Development Department**

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

Dear PJP Holdings LLC c/o Chad Moorehead

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

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

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

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

Thank you.



## Community Development Department

### Decision and Record of Action

Thursday, February 22, 2024

The New Albany Planning Commission took the following action on 02/21/2024 .

#### Variance

**Location:** 10015 Innovation Campus Way

**Applicant:** PJP Holdings LLC c/o Chad Moorehead

**Application:** PLVARI20240007

**Request:** Variance to the city sign code chapter 1169.16(d) to allow a wall sign size to be 240 square feet where code permits a maximum of 75 square feet on the Axium 6 building.

**Motion:** To approve

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

**Result:** Variance, PLVARI20240007 was Approved, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2024

**Condition(s) of Approval:** N/A

Staff Certification:

*Sierra Cratic-Smith*

Sierra Cratic-Smith  
Planner



**Planning Commission Staff Report  
February 21, 2024 Meeting**

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

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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-008-2024  
APPLICANT: New Albany Links Golf Club, Lucas Bowersock

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

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*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 originally heard the final development plan in July 2009 for a new golf course facility and driving range. It was tabled to August because there were concerns for golf ball retention on US State Route 62 and the northern property line. In August 2009, the developer returned with the addition of landscape along the northern property line and black netting along the eastern property line. In addition, staff and the applicant found that the substantial amount of landscaping along the north and south property lines were efficient enough for golf ball control.

The owner has since changed the site landscaping by removing trees from the north and south property line. 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.

**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 of 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 of 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.

Property line	2009 Approval Requirements	2024 Proposal
Northern Property line (860 feet in length)	<ul style="list-style-type: none"> <li>• Utilize existing trees and landscaping as a barrier.</li> <li>• Add staggered deciduous trees within two gaps along tree line.</li> <li>• Add black netting to existing horse rail fence (approx. 860 feet in length).</li> </ul>	<ul style="list-style-type: none"> <li>• Utilize existing trees and landscaping as a barrier.</li> </ul>
Southern Property line (800 feet in length to water tower)	<ul style="list-style-type: none"> <li>• Utilize existing trees and landscaping as a barrier.</li> <li>• Add staggered deciduous trees within one gap of the tree line.</li> <li>• 30-foot-wide no-mow zone along property line.</li> </ul>	<ul style="list-style-type: none"> <li>• 30-foot-wide no-mow zone along property line.</li> <li>• 150 ft long, 50 ft tall black net.</li> <li>• 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</li> </ul>

		have evergreen trees on top.
Eastern Property line (465 feet in length)	<ul style="list-style-type: none"> <li>Utilize existing trees and landscaping as a barrier.</li> <li>Add black four rail fence with black netting.</li> </ul>	<ul style="list-style-type: none"> <li>No landscaping or trees along the fence line.</li> <li>Fence (<u>plans don't indicate if there is netting</u>)</li> </ul>

The applicant written narrative states the netting on the southern property line is 200 feet in length, however, the netting on site plan measures at a length of 150 feet. The city staff recommends that the Planning Commission verify with the applicant the length of the netting.

4. There are significant changes to the site and landscape (See Figures 1 & 2). Most of the landscape along the southern and eastern property line was removed. The property owner states the removal of landscape along the southern property line would enhance visibility for the players. To prevent golf balls from leaving the property, the applicant is proposing the following:
  - a. The owner now uses limited-flight golf balls to reduce the distance by 15%. 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.
  - 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).



**August 2023 (Figure 1)**



2009 (Figure 2)

## F. Lighting & Signage

1. There are no changes or additions to the lighting or signage on the site.

## 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 netting along a portion of the southern border and limited flight balls. In addition, according to the applicant, relocating and centralizing the targets will also reduce the number of golf balls leaving the property.

## 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.



**Approximate Site Location:**



Source: Near Map



## Planning Commission

July 20, 2009

7:00 p.m.

### Meeting Minutes

New Albany Planning Commission met in regular session in the Council Chamber of Village Hall, 99 W Main Street and was called to order by Planning Commission Chair Neil Kirby at 7:03 p.m.

Colleen Briscoe (council liaison)	Present
Neil Kirby	Present
Dave Olmstead	Present
Brad Shockey	Present
David Demers	Present
David Wallace	Present

Staff members present: Michelle Murphy, Planner; Adrienne Joly, Planner; Jennifer Chrysler, Development Director; Ed Ferris, Engineer; Stephen Mayer, Community Development; Asim Z. Hague, Attorney; and Emmett Abella, Clerk.

Mr. Olmstead moved to adopt the minutes of the June 15, 2009 meeting, seconded by Mr. Demers. Upon roll call: Mr. Olmstead, yea; Mr. Demers, yea; Mr. Wallace, abstain; Mr. Shockey, yea; Mr. Kirby, abstain. Yea, 3; abstention, 2; nay 0. Motion carried by a 3-2-0 vote.

Ms. Joly reported that there were no corrections to the agenda.

Mr. Kirby swore to truth those wishing to speak before the Commission.

In response to Mr. Kirby's invitation to speak on non-agenda items, there were no questions or comments from the public.

Mr. Olmstead moved to accept the staff reports and related documents into the record, seconded by Mr. Wallace. Upon roll call vote: Mr. Olmstead, yea; Mr. Wallace, yea; Mr. Kirby, yea; Shockey, yea; and Mr. Demers, yea. Yea, 5; nay, none. Motion passed by a 5-0 vote.

#### Case

#### **FDP-02-09 Final Development Plan**

Final Development Plan for a proposed driving range and golf cart storage facility for the New Albany Links Golf Course.

**Applicant:** New Albany Links Golf Course



**Planning Commission Staff Report  
July 20, 2009 Meeting**

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**NEW ALBANY LINKS DRIVING RANGE AND GOLF CART FACILITY**

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**LOCATION:** New Albany Links Golf Course, east of New Albany Links Drive, adjacent to Johnstown Road.

**APPLICANT:** New Albany Links Golf Course Co. Ltd

**REQUEST:** Final Development Plan

**ZONING:** C-PUD (Commercial - Planned Unit Development)

**APPLICATION:** FDP-02-09

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**I. REQUEST AND BACKGROUND**

The application is for a final development plan for a new driving range and golf cart facility to serve the New Albany Links Golf Course. The final development plan area includes a portion of the existing golf course site and 10 acres of undeveloped property located adjacent to Johnstown Road. The golf cart facility consists of a 4000 square foot building that will be located south of the existing golf course parking lot and east of the existing club house. The final development plan covers areas located within the New Albany Links PUD.

The Village of New Albany's Architectural Review Board (ARB) reviewed a certificate of appropriateness application for the proposal on June 13, 2009. The ARB voted to approve the certificate of appropriateness for the driving range and golf cart storage facility.

**II. SITE DESCRIPTION & USE**

The site is located to the east of New Albany Links Drive. The driving range site is located within Reserve "A" of the New Albany Links as shown on the updated development plan and is part of the golf course. The proposed golf cart storage facility is located in reserve "B" of the original final development plan.

The property is zoned PUD under the New Albany Links Subdivision development text. The proposed driving range and golf cart storage facility are permitted uses within the development text. The final development plan site consists of a driving range, a golf cart storage building and paved paths.

**III. PLAN REVIEW**

Review is based on zoning text, and planning, subdivision and zoning regulations, including the design standards. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

### **Site and Layout**

1. The final development plan site consists of a portion of the existing golf course site and 10 acres of undeveloped property that lies to the east of the 1<sup>st</sup> hole of the golf course.
2. The golf cart storage building will be located within the interior of the golf course, between the existing parking lot and existing putting greens. There are no existing buildings located in close proximity to the proposed golf cart storage facility. The New Albany Links development text does not establish building location requirements for non-single family portions of the development.
3. No buildings are proposed as part of the driving range. The only improvements proposed will be a tee box and 8' asphalt cart path located on the westernmost portion of the site.
4. Asphalt paths will provide circulation and access between the clubhouse, golf course, golf cart storage building and the driving range. The proposed path is shown on a supplemental 11'x17' sheet in the application. This must be added to the final development plan.

### **Access, Loading, Parking**

1. Vehicular access to both facilities is proposed to be from New Albany Links Drive.
2. The proposed driving range has frontage along Johnstown Road. An existing curb cut is shown on the submitted final development plan. This should be removed and sod planted in its place to prevent vehicles from accessing the driving range from Johnstown Road.
3. Pedestrian access will be from paved cart paths within the interior of the golf course.
4. No additional parking spaces are required by Chapter 1167 of the Codified Ordinances as the proposed facilities are accessory to the established golf course use on the site.

### **Architectural Standards**

1. The golf cart storage building will be rectangular in size with a gable roof clad with dimensional asphalt shingles. Three dormers are present on the front elevation to give the appearance of a one and one-half story building as required by the Links development text. False, shuttered windows are located on both the front and rear elevations.
2. The golf cart storage building will be clad in vinyl lap siding, with a brick veneer base. The color of the siding will be "Country Beige" with "Clay" trim and shutters. Roof shingles will be "Colonial Slate." The brick veneer will be "Rose Full Range" color. Gutters and downspouts will be "Pebblestone Clay" in color. Two "Sandstone" colored garage doors and one door will provide access for golf carts and individuals
3. The overall appearance of the golf cart storage building will be consistent with the appearance of the existing development in the area and is appropriate for the function of the building.
4. This site is subject to Chapter 1157 (Architectural Review District) has been reviewed under these standards under the Certificate of Appropriateness application.

### **Buffering, Landscaping, Open Space, Screening**

1. There is no landscaping proposed to be installed with the driving range or the golf cart storage building. However, the overall site is heavily landscaped with existing golf course plantings and mature trees.
2. No additional fencing and/or netting are proposed as part of the driving range. The applicant believes existing trees and vegetation along the driving range property lines will be adequate.

### **Lighting and Signage**

1. No additional lighting or signage is proposed as part of this application.

### **III. ENGINEER'S COMMENTS**

*Under separate cover from the consulting Village Engineer, E.P. Ferris & Associates.*

### **IV. RECOMMENDATION**

The final development plan provides supportive uses to the existing New Albany Links golf course. The proposed uses are permitted by the New Albany Links Subdivision development text and are accessory to the golf course.

### **V. ACTION**

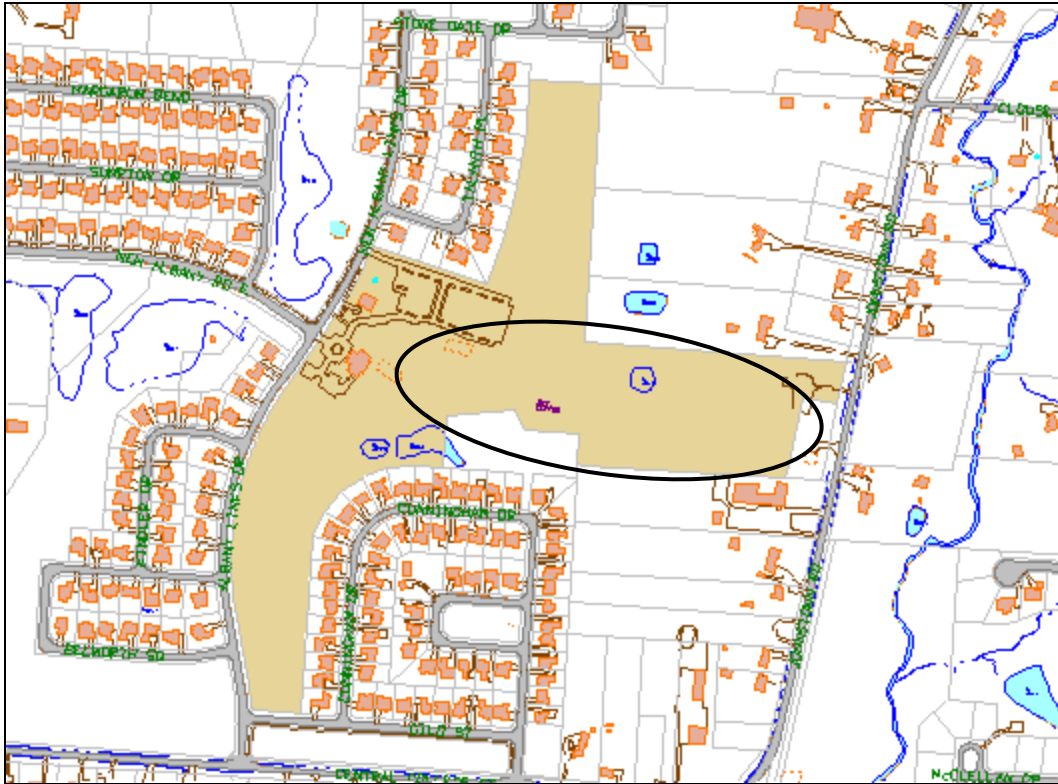
Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate (conditions of approval may be added):

#### **Suggested Motion for FDP-02-09:**

Move to approve final development plan application **FDP-02-09**

1. The existing curb cut along Johnstown Road to the proposed driving range should be removed and planted with sod to prevent vehicular access.
2. The proposed cart paths must be added to the Final Development Plan.
3. Address all the items in the memo from the Village Engineer dated July 8, 2009 to the satisfaction of the Village Engineer.





Source: Franklin County Auditor

Ms. Joly reported that there are two new facilities proposed as part of the New Albany Links Golf Course. A driving range and a building proposed to store golf carts located on a ten acre parcel located east of the golf course's first tee and west of Johnstown Road. Both are permitted uses under the New Albany Links Zoning Text. The ARB approved a Certificate of Appropriateness for the proposal on July 8, 2009. Ms. Joly said the proposed driving range is 155 yard by 336 yards. The 4,000 square foot storage building will be located south of the golf course's parking lot. Vehicular access from both facilities will be from New Albany Links Drive and pedestrian access is proposed via paved cart paths. The proposed driving range has frontage along Johnstown Road and the plans show an existing curb cut there, although the applicant has not proposed to use this for vehicular access. Staff feels the curb cut should be removed and replaced with sod. The applicant has not proposed additional landscaping, however, Ms. Joly stressed that the site does have plantings and mature trees. The only improvements associated with the driving range facility are going to be a tee box and an eight foot wide cart path on the westernmost portion of the site. The applicant has not proposed netting or fencing as part of the driving range, citing adequate existing vegetation and trees. The storage building will be rectangular in shape with the appearance of one and one half stories, in accordance with the zoning text. Staff feels this proposal provides supported uses for the golf course, has been designed in an appropriate manner, and recommends approval subject to the conditions listed in the staff report.

In response to Chairman Kirby's question regarding unresolved engineering issues, Mr. Ferris stated that he recommends:

- in accordance to the code, the symbols need to be shown on the FDP
- a letter indicating that the Corps of Engineers and OEPA approvals are in accordance with the code
- a written letter from the consultant indicating that the proposed project meets all requirements of the "After the Fact" permitting
- to show on FDP how access to the tee box/driving range is intended to be provided (not by vehicular means, but by golf cart only)
- that the FDP does not show how water or sanitary sewer service connections to the proposed golf cart storage facility will be made. The code requires that this information be provided
- will comment on the grading plan once the final engineering plans for the development occurs

Representing the applicant, Mr. Chuck Orth stated that he is a registered landscape architect. He reviewed points concerning the driving range and golf cart storage facility and reiterated many areas covered in Ms. Joly's report.

Mr. Chuck Orth explained further that the goal for the golf cart storage facility is to accommodate 80 golf carts. The golf carts are currently gas powered with the intent to eventually have electric carts. Mr. Orth presented renderings and distributed handouts of the driving range and golf cart building.

Upon invitation of the public and Board for comments or questions, Mr. Olmstead recalled that staff recommended the curb cut be removed, but Mr. Orth wanted to maintain it. Ms. Joly indicated that gating the curb cut would most likely fulfill staff's request for removal.

Mr. Olmstead stated that staff reported the natural screening was adequate buffering for the property owners, however, he noticed several gaps on the north side revealing signage and neighboring properties. He is concerned about misguided golf balls terminating on neighboring properties or persons. A debate concerning driving skills, and adequate driving range distances followed.

In response to Mr. Olmstead's and Mr. Kirby's questions regarding landscape change subsequent to the FDP, Ms. Murphy pointed out if the change was extensive, approval must be granted by the Planning Commission.

Mr. Olmstead reiterated that he still has concerns with potential issues due to the lack of measures to restrict the flight of golf balls onto neighboring properties on Route 62.

Because the golf ball retention issues could not be resolved this evening, Mr. Demers suggested separating the driving range and golf cart barn for approval reasons.

In response to Mr. Olmstead's question regarding the Architectural Review Board's approval of the storage facility with dormers on one side only, Ms. Joly responded that the approval was based on the location and position of the golf cart facility in that the side with no dormers would not be visible by the public.

In response to Mr. Olmstead's concern of the use of vinyl siding on the upper portion of the golf barn, Ms. Joly stated that it is a permitted use in the Links Zoning Text.

Mr. Shockey indicated that if there is signage reading "Private Maintenance Access" and ample room to park and turn around by maintenance vehicles using the access gate over the curb cut, he is okay with it.

In response to Mr. Wallace's question regarding future removal of the curb cut, Mr. Orth said that the curb cut would be difficult to give up.

Moved by Mr. Olmstead to table **FDP-02-09** to the next regular Planning Commission meeting in August and ask that the applicant go back and speak with staff and the neighbors and work with them to come up with a plan that is acceptable to the neighbors and with staff to take care of the issue of access off 62, and also with potential issues of golf ball control. Seconded by Mr. Shockey. Upon discussion, Mr. Kirby indicated that hearing the commentary of the neighbors would be very helpful. Upon roll call: Mr. Olmstead, yea; Mr. Shockey, yea; Mr. Kirby, yea; Mr. Demers, yea; and Mr. Wallace, yea. Yea, 5; nay none. Motion to table **FDP-02-09** carried by a 5-0 vote.

Case

**V-08-09 Variance**

7375 Stone Gate Drive

Variance from the Codified Ordinance 1187.13(b)(9) to allow a driveway slope to exceed 8%.

**Applicant:** Craig Tuckerman



**Planning Commission Staff Report  
July 20, 2009 Meeting**

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**DRIVEWAY SLOPE VARIANCE – 7375 STONE GATE DRIVE**



## Planning Commission

August 17, 2009

7:00 p.m.

### Meeting Minutes

New Albany Planning Commission met in regular session in the Council Chamber of Village Hall, 99 W Main Street and was called to order by Planning Commission Chair Neil Kirby at 7:05 p.m.

Colleen Briscoe (council liaison)	Absent
Neil Kirby	Present
Dave Olmstead	Present
Brad Shockey	Present
David Demers	Absent
David Wallace	Present

Staff members present: Michelle Murphy, Planner; Adrienne Joly, Planner; Ed Ferris, Engineer; Asim Z. Haque, Attorney; and Emmett Abella, Clerk.

Mr. Olmstead corrected the spelling of Ms. Briscoe's name in paragraph four on page 19 of the July 20 meeting minutes.

Mr. Kirby corrected the spelling of Mr. Haque's name in paragraph three on page 1 of the July 20 minutes.

Mr. Kirby corrected the second paragraph (first full paragraph) on page 23 of the July 20 meeting. He did not invite the public to speak on non-agenda items.

With the above corrections, Mr. Olmstead moved to adopt the minutes of the July 20, 2009 meeting, seconded by Mr. Wallace. Upon roll call: Mr. Olmstead, yea; Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea. Yea, 4; nay, none. Motion carried by a 4-0 vote.

Ms. Joly reported that there were no corrections to the agenda.

Mr. Kirby swore to truth those wishing to speak before the Commission.

In response to Mr. Kirby's invitation to speak on non-agenda items, there were no questions or comments from the public.

Mr. Olmstead moved to accept the staff reports and related documents into the record, seconded by Mr. Wallace. Upon roll call vote: Mr. Olmstead, yea; Mr. Wallace, yea; Mr. Kirby, yea; Shockey, yea. Yea, 4; nay, none. Motion passed by a 4-0 vote.

Cases:

## **FDP-02-09 Final Development Plan**

Final Development Plan for a proposed driving range and golf cart storage facility for the New Albany Links Golf Course.

**Applicant:** New Albany Links Golf Course Ltd.



### **Planning Commission Staff Report August 17, 2009 Meeting**

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#### **NEW ALBANY LINKS DRIVING RANGE AND GOLF CART FACILITY**

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LOCATION:	New Albany Links Golf Course, east of New Albany Links Drive, adjacent to Johnstown Road.
APPLICANT:	New Albany Links Golf Course Co. Ltd
REQUEST:	Final Development Plan
ZONING:	C-PUD (Commercial - Planned Unit Development)
APPLICATION:	FDP-02-09

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#### **I. REQUEST AND BACKGROUND**

The application is for a final development plan for a new driving range and golf cart facility to serve the New Albany Links Golf Course. The final development plan area includes a portion of the existing golf course site and 10 acres of undeveloped property located adjacent to Johnstown Road. The golf cart facility consists of a 4000 square foot building that will be located south of the existing golf course parking lot and east of the existing club house. The final development plan covers areas located within the New Albany Links PUD.

The Village of New Albany's Architectural Review Board (ARB) reviewed a certificate of appropriateness application for the proposal on June 13, 2009. The ARB voted to approve the certificate of appropriateness for the driving range and golf cart storage facility.

The Planning Commission considered this item on July 20, 2009. The item was tabled to give the applicant additional time to work on access off Johnstown Road, and also on adding golf ball control measures. To address these concerns, the applicant proposes planting 20, 2-inch deciduous trees along gaps in the existing vegetation along the north and south property lines and a black, 4-rail fence with netting to be located 295 feet east of the tee box to prevent balls from bouncing onto Johnstown Road. Also, a gate has been added at the end of the driveway off Johnstown Road to prevent access by the public to the site.

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

The site is located to the east of New Albany Links Drive. The driving range site is located within Reserve "A" of the New Albany Links as shown on the updated development plan and is part of the golf course. The proposed golf cart storage facility is located in reserve "B" of the original final development plan.

The property is zoned PUD under the New Albany Links Subdivision development text. The proposed driving range and golf cart storage facility are permitted uses within the development text. The final development plan site consists of a driving range, a golf cart storage building and paved paths.

## **III. PLAN REVIEW**

Review is based on zoning text, and planning, subdivision and zoning regulations, including the design standards. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

### **Site and Layout**

1. The final development plan site consists of a portion of the existing golf course site and 10 acres of undeveloped property that lies to the east of the 1<sup>st</sup> hole of the golf course.
2. The golf cart storage building will be located within the interior of the golf course, between the existing parking lot and existing putting greens. There are no existing buildings located in close proximity to the proposed golf cart storage facility. The New Albany Links development text does not establish building location requirements for non-single family portions of the development.
3. No buildings are proposed as part of the driving range. Proposed improvements are a tee box, 8' asphalt cart path located on the westernmost portion of the site, 16, 2-inch caliper deciduous trees planted in a staggered pattern along gaps in existing vegetation at the north property line; 6, 2-inch caliper deciduous trees planted in a staggered pattern along a gap in the existing vegetation along the south property line; a black, 4-rail fencing with black netting located 295 yards east of the tee box and a gate setback from Johnstown Road to allow access for maintenance vehicles. This must be added to the final development plan.
4. Asphalt paths will provide circulation and access between the clubhouse, golf course, golf cart storage building and the driving range. The proposed path is shown on a supplemental 11'x17' sheet in the application. This must be added to the final development plan.

### **Access, Loading, Parking**

1. Vehicular access to both facilities is proposed to be from New Albany Links Drive.
2. The proposed driving range has frontage along Johnstown Road. An existing curb cut and driveway are shown on the submitted final development plan. The applicant proposes to use this access point for maintenance vehicles. A gate will be constructed at the end of the driveway to prevent access by the public. This must be added to the final development plan.
3. Pedestrian access will be from paved cart paths within the interior of the golf course.
4. No additional parking spaces are required by Chapter 1167 of the Codified Ordinances as the proposed facilities are accessory to the established golf course use on the site.

### **Architectural Standards**

1. The golf cart storage building will be rectangular in size with a gable roof clad with dimensional asphalt shingles. Three dormers are present on the front elevation to give the appearance of a one and one-half story building as required by the Links development text. False, shuttered windows are located on both the front and rear elevations.
2. The golf cart storage building will be clad in vinyl lap siding, with a brick veneer base. The color of the siding will be "Country Beige" with "Clay" trim and shutters. Roof shingles will be "Colonial Slate." The brick veneer will be "Rose Full Range" color. Gutters and downspouts will be "Pebblestone Clay" in color. Two "Sandstone" colored garage doors and one door will provide access for golf carts and individuals
3. The overall appearance of the golf cart storage building will be consistent with the appearance of the existing development in the area and is appropriate for the function of the building.
4. This site is subject to Chapter 1157 (Architectural Review District) has been reviewed under these standards under the Certificate of Appropriateness application.

### **Buffering, Landscaping, Open Space, Screening**

1. The overall site is heavily landscaped with existing golf course plantings and mature trees.
2. The original submittal did not contain any new landscaping or fencing/netting. Ball control was an issue when the Planning Commission considered this application in July. The plans have been revised to include a total of 20, 2-inch deciduous trees planted in a staggered pattern within gaps in the existing vegetation along the north and south property lines. A black, four-rail fence with netting will be located 295 yards east of the tee box to prevent balls from rolling onto Johnstown Road.

### **Lighting and Signage**

1. No additional lighting or signage is proposed as part of this application.

### **III. ENGINEER'S COMMENTS**

*Under separate cover from the consulting Village Engineer, E.P. Ferris & Associates.*

### **IV. RECOMMENDATION**

The final development plan provides supportive uses to the existing New Albany Links golf course. The proposed uses are permitted by the New Albany Links Subdivision development text and are accessory to the golf course.

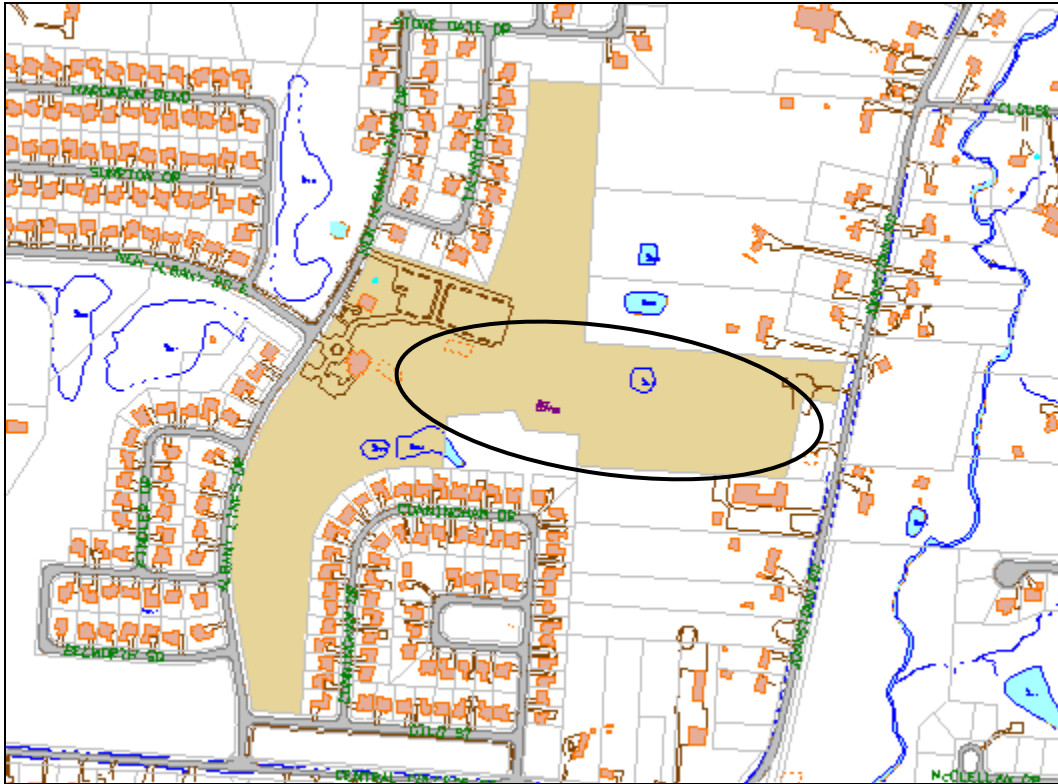
### **V. ACTION**

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

### **Suggested Motion for FDP-02-09:**

Move to approve final development plan application **FDP-02-09**

1. The proposed cart paths, fence and gate must be added to the Final Development Plan.
2. Address all the items in the memo from the Village Engineer dated July 8, 2009 to the satisfaction of the Village Engineer.



Source: Franklin County Auditor

Ms. Joly reported to the Commission that the case had been heard and tabled in July to allow the applicant time to work on ball control measures and to look at access off (State Route) 62. To address these issues the applicant has revised its plans and proposed planting a total of twenty, two-inch deciduous trees along gaps in the existing vegetation along the north and south property lines. The applicant has indicated that the typical size of these trees will be from 12 to 14 feet in height. Also, a black, four-rail fence with netting has been added to the plans. This fence will be set back approximately 124 feet west of (SR) 62 and is intended to prevent balls from bouncing or rolling onto the road (not to catch balls in flight). A gate has been added to the end of the driveway off Johnstown Road to prevent access by the public to the site. This is agreeable with staff. Ms. Joly noted that staff has spoken with Mr. Joiner, the neighbor to the north and provided him information about the status of this application. Staff believes this proposal provides supportive uses to the golf course and does recommend approval subject to the conditions listed on page 3 of the staff report.

In response to Mr. Kirby's question to the engineer regarding new issues, Mr. Ferris answered no.

Speaking on behalf of the New Albany Links Golf Club, Mr. Chuck Orth reviewed items with the help of visuals. He said most of the discussion during the last meeting pertained to the driving range. There were concerns about the open



gaps existing to the property to the north, Mr. Joiner's property and to the church to the south. He said they have addressed the issues and referred to photographs on the easel. Mr. Orth pointed out the area where the twenty mature trees will be planted as well as where the fence netting will be placed. Mr. Orth also talked about the addition of a gate at an existing access point.

Mr. Olmstead asked the applicant for another inch of caliber on the trees. He said 2 inch caliber is rather small. Typically street trees in the village are three inch.

Mr. Orth indicated that he would be agreeable to the request of increasing the caliber.

At the invitation from Mr. Kirby to the public, Mr. Elbert Joiner, 10605 Johnstown Road addressed the Commission. He said he has been watching the project for the past several months.

In response to Mr. Olmstead's question asking if he is opposed to or supportive of the project, Mr. Joiner stated that is right next door to the project but does not know what is going on and that no one had volunteered information regarding the project.

Mr. Olmstead briefly explained how the process works with zoning approval, development plan, and notification procedures.

Ms. Joly indicated that notices were mailed and that Mr. Joiner is on the mailing list.

Mr. Kirby suggested moving the case to the end of the meeting allowing Mr. Joiner to meet with Mr. Orth and staff in an adjoining conference room.

Discussion was held on water retention and drainage on Mr. Joiner's property.

Mr. Joiner stated that he would like to see the project stopped until the problem is corrected.

Mr. Wallace asked Mr. Joiner to explain the problem. Mr. Joiner again cited the drainage problem on his property and Mr. Wallace again indicated that the drainage issue was not before the Commission at this time. Mr. Wallace further explained that the issues of the day are proposed changes to the development plan.

Discussion continued on Mr. Joiner's drainage issue.

Mr. Olmstead moved to table **FDP-02-09 Final Development Plan** to the last item of regular business on this evening's agenda. Seconded by Mr. Kirby.

land, these small rezoning areas do not include that land, it isn't something that is required at this time, but will be installed with future developments. She also said there were a few minor housekeeping items such as labeling of subareas, adding a small portion of lot seven to the zoning exhibit that did not appear on the exhibit, verifying and making corrections on acreage, and some additional signature blocks were also added.

In response to Mr. Olmstead's question regarding sidewalk and/or leisure trail requirements to be built along Reserve C and Reserve A, Ms. Murphy said there were no requirements for Reserve C, however, there is a sidewalk proposed through Reserve A.

In response to Mr. Kirby's question regarding engineering comments, Mr. Ferris said that on the zoning text, page 8, number 7, paragraph b, four tenths of an acre should replace the wording of 0.45 acres. Subarea C wording should be revised to read Reserve C, and the words "traffic circle" should replace the word "roundabout."

Mr. Ferris added that in the final development plan he recommends that the site statistics that in the open space Reserve C be added which is the traffic circle.

Mr. Kirby stated to the applicant that he presumed he would be agreeable to a condition that is modification to the text that is to the satisfaction of staff because there are various clean up items that need to be taken care of. He also added that we have a sidewalk behind the cemetery in the Reserve from the roundabout.

Before responding to Mr. Kirby's above comment, Mr. Tom Rubey asked permission to make his presentation. He said he agreed with all of the engineer's comments, as well as the planners' comments particularly with the point about the language regarding the windows.

He added that there was some miscommunication about NAC commitment to leisure trails and parkland dedication. There is an asphalt path between lots 18 and 17. NAC is not requesting any type of waivers from sidewalks or leisure trail construction. There will be a trail that extends through this park area. The exact alignment has not yet been determined.

It was determined that there will be sidewalks in front of the houses below the circle on both sides and Mr. Olmstead pointed out an area and stated that there needs to be a connection back of to Leisure Trail.

Mr. Kirby said Straits Lane is expected to go in when the rest of the road goes in and it will stub at the lot line. Mr. Kirby said that the commitment he is looking for is at the lot line, where the road ends, somewhere it will end up on that same lot.

Mr. Rubey said he does not know; he could not answer definitively. There will be sidewalks along both sides of all streets. "How the sidewalk condition is incorporated into the park, I don't know."

Mr. Kirby explained that he is saying that somehow a sidewalk will appear at the lot line.

Mr. Rubey said he understands and the other thing to keep in mind, (pointing out spots on the visual), said that the area is all part of the township cemetery. As this road continues there will be additional parkland dedication that occurs through there. So, how the sidewalk condition works with the park is very different than the way the sidewalk condition works with a single family lot. We are not trying to renege on our obligation, but you will not have a sidewalk separated by a tree lawn within that park.

Mr. Kirby stated that he was making the point that the road has to go through and eventually you will get a sidewalk through there, too. So, when development at the lot line goes south, it's ready.

Mr. Kirby continued with some detail questions. He said on the text, you are still calling them Street A and Street B. He questioned the nine foot fence, recalling a six foot agreement from the past. Mr. Rubey said it has to be nine feet to screen the white maintenance facility behind the township hall.

Mr. Rubey said he wants to put a four rail horse fence between the church property and the pond.

In response to Mr. Kirby's question of 80% coverage instead of 50%, Mr. Rubey stated he is not sure where the 50 percent came from. The 80 percent is impervious surface, not the footprint of the house.

In response to Mr. Kirby's question regarding the stricken language, Mr. Rubey said there is already a zoning code requirement for the width of the driveway at the apron at the right-of-way, so the language we had trumped that.

There was no response on Mr. Kirby's invitation of the public to speak on this case.

Moved by Mr. Olmstead, seconded by Mr. Kirby for a positive recommendation to council **ARB-09-09 Certificate of Appropriateness, ARB-10-09 Certificate of Appropriateness, ZC-02-09/PDP-02-09 Zoning Amendment, FDP-03-09 Final Development Plan, and ZM-02-09 Zoning Modification**, adding a condition for each case, a modification of text to the satisfaction of staff of each and the individual conditions under each of the items on page 7 of 8 and 8 of 8 in the Planning Commission staff report. Upon roll call: Mr. Olmstead, yea; Mr. Kirby,

yea; Mr. Shockey, yea; and Mr. Wallace, yea. Yea, 4, nay, none. Motion passed by a 4-0 vote.

Moved by Mr. Olmstead, seconded by Mr. Kirby to remove from the table **FDP-02-09**. Mr. Olmstead, yea; Mr. Kirby, yea; Mr. Wallace, yea; Mr. Shockey, yea. Yea, 4, nay, none. Motion carried by a 4-0 vote.

Upon invitation from Mr. Kirby, Mr. Orth stated that drainage and trees are the issues. Mr. Orth stated that he and the engineer with EMH&T will meet with Mr. Joiner next week to do some diversion to help with that situation. He said during the conference they discussed trees and whether that would be enough protection and those types of things. He said they are willing to do the 3-inch as was suggested earlier by Mr. Olmstead.

In response to Mr. Olmstead question asking Mr. Joiner if he is fine with this, Mr. Joiner responded, "sure."

Moved by Mr. Olmstead, seconded by Mr. Wallace for adoption of **FDP-02-09 Final Development Plan** subject to the two conditions in the staff report and adding a third condition that a minimum of three inch caliber tree will be used instead of the two inch caliber tree as specified in the original document, and item four that the applicant will work with the adjoining neighbor to determine an appropriate height for the understory and no mow zone if necessary to contain the golf balls. Upon roll call: Mr. Olmstead, yea; Mr. Wallace, yea; Mr. Kirby, yea; Mr. Shockey, yea. Yea, 4; nay, none. Motion carried by a 4-0 vote.

When the chair polled members for comment, Mr. Wallace suggested that the Planning Commission should receive notice of meetings in a similar manner of the Architectural Review Board in the local newspaper.

Ms. Murphy said she would look into it.

Ms. Murphy also added that for the informal meeting in September, the PC will meet on Wednesday, September 9, in lieu of Monday, September 7, as it is a legal holiday. Also, instead of an informal meeting, there will be items on the agenda requiring voting action.

With no further business, Mr. Kirby adjourned the meeting at 8:10 p.m.





## Community Development Planning Application

Project Information	Site Address <u>7100 New Albany Lines Dr</u>
	Parcel Numbers _____
	Acres _____ # of lots created _____
Contacts	<div style="border: 1px solid black; padding: 5px;"> <p><b>Choose Application Type</b> <span style="float: right;"><b>Circle all Details that Apply</b></span></p> <p> <input type="checkbox"/> Appeal  <input type="checkbox"/> Certificate of Appropriateness  <input type="checkbox"/> Conditional Use  <input checked="" type="checkbox"/> Development Plan  <input type="checkbox"/> Plat  <input type="checkbox"/> Lot Changes  <input type="checkbox"/> Minor Commercial Subdivision  <input type="checkbox"/> Vacation  <input type="checkbox"/> Variance  <input type="checkbox"/> Extension Request  <input type="checkbox"/> Zoning         </p> <p>           Preliminary <u>Final</u> Comprehensive Amendment            Preliminary Final            Combination Split Adjustment            Easement Street            Amendment (rezoning) Text Modification         </p> </div>
	Description of Request: <u>Updated Development Plan for Driving Range</u>
Signature	Property Owner's Name: <u>New Albany Lines Golf Club</u> Address: <u>7100 New Albany Lines Dr</u> City, State, Zip: <u>New Albany, OH 43054</u> Phone number: <u>614 855 8532</u> Fax: _____ Email: <u>lbowersock@kempersports.com</u>
	Applicant's Name: _____ Address: <u>SAME</u> City, State, Zip: _____ Phone number: _____ Fax: _____ Email: _____
	<p>Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.</p> <p>           Signature of Owner _____ Date: _____            Signature of Applicant <u>[Signature]</u> Date: <u>6-11-24</u> </p>

**Narrative Statement on New Albany Links Golf Club Driving Range:**

**1/30/2024**

Since KSM Columbus II assumed ownership of New Albany Links Golf Club on October 7th, 2022, a series of strategic updates have been implemented at our driving range to enhance both golfer experience and ensure the safety of our surrounding community.

One of the significant changes involved obtaining permitting from the city of New Albany to install a 200-foot-long, 50-foot-high net. This substantial net acts as a barrier, intercepting golf balls in flight and preventing them from venturing beyond our property lines. The net serves as a proactive measure to address concerns related to errant shots and reinforces our commitment to the safety of neighboring areas.

Additionally, we repositioned our range targets, moving them closer to the north side property line. This adjustment not only accommodates the installation of the protective net but also encourages golfers to focus their shots within the designated range area, reducing the likelihood of balls straying outside our confines.

To further guide golfers towards the intended target areas, we implemented a thoughtful landscaping strategy. A fairway cut has been meticulously mowed around the targets, enhancing visibility and providing a visual marker for players. Beyond these designated target zones, we've allowed the grass to grow longer, subtly signaling to golfers the boundaries of the intended hitting areas.

In June of 2023, we took another significant step by introducing limit flight golf balls. This new type of ball is designed to reduce its flight distance by 15% compared to the previous range balls. By incorporating these specialized golf balls into our range, we aim to keep the trajectory of shots more controlled, minimizing the risk of golf balls leaving our property and addressing any concerns related to distance.

It's important to note that, while these improvements were implemented under the current ownership, I cannot provide insights into any work carried out by the previous ownership group.

Overall, these changes reflect our ongoing commitment to the safety and enjoyment of both our golfers and the surrounding community, ensuring that the New Albany Links driving range remains a responsible and enjoyable destination for golf enthusiasts.





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

# NEW ALBANY LINKS DRIVING RANGE

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

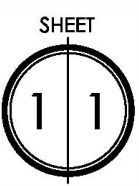
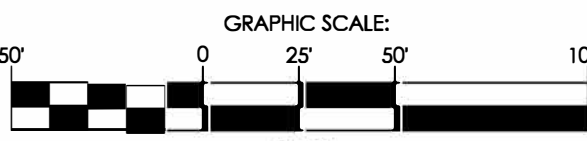
PREPARED FOR:

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  
5500 New Albany Road, Columbus, OH 43054  
Phone: 614.775.4500 • Toll Free: 888.775.3448  
emht.com

DATE:	JUNE 11, 2009
REVISED:	NOVEMBER 18, 2009
REVISED:	OCTOBER 15, 2021
REVISED:	JANUARY 11, 2024
REVISED:	
REVISED:	

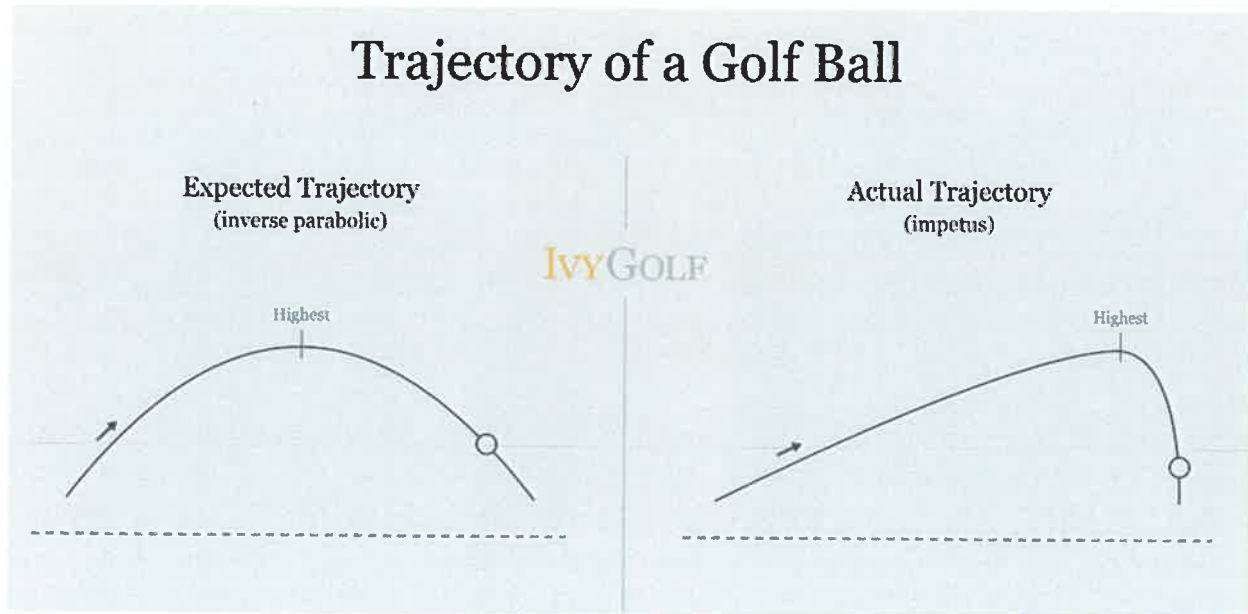


NEW ALBANY LINKS  
DRIVING RANGE

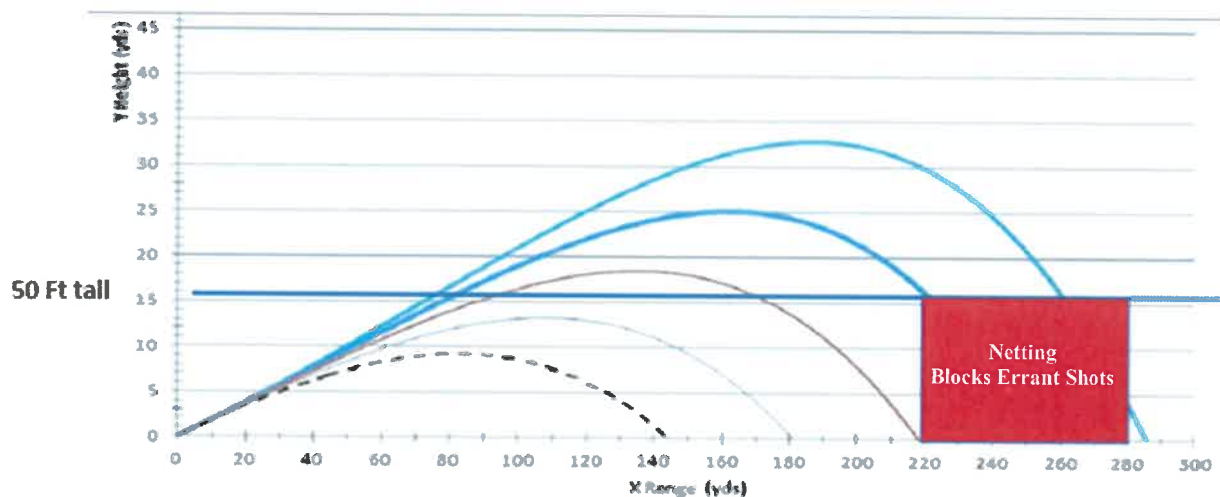
20211105



## A Golf Ball Descends Shortly After Reaching the Apex



## Netting Measured and Designed to Stop Errant Golf Balls



4.2

led.

Feb. 21, 2024

Range Ball Tracking Confirms Success of Limited Flight Balls and Netting

Regular Range Balls		Limited Flight Balls In Use									
Dates (Fall 2023)		Aug. 26-28	Aug. 29	Aug. 30	Sept. 1	Sept. 2	Sept. 3	Sept. 9	Sept. 10		
Total Balls Hit		6,650	2,025	1,400	2,450	2,450	1,725	2,550	1,700		
Balls Retrieved from Church Property		-	-	-	-	-	-	-	-		
Balls that Remained on the Range		6,650	2,025	1,400	2,450	2,450	1,725	2,550	1,700		





**LISTEN. SOLVE. EMPOWER.**

**P:** 614.246.7500 **F:** 614.246.5790 **W:** bmdllc.com  
250 Civic Center Drive, Suite 300, Columbus, Ohio 43215

**Brandon T. Pauley**  
**Partner**  
**D:** (614) 246-7510  
**F:** (614) 246-7511  
**E:** btpauley@bmdllc.com

February 20, 2024

New Albany Planning Commission  
c/o Sierra Cratic-Smith  
Via Email: [scratics@newalbanyohio.org](mailto:scratics@newalbanyohio.org)

**Re: New Albany Links Driving Range – Application FDM-008-2024**

To Whom it May Concern:

Please be advised this office represents Cross Point Christian Church (“CPCC”). The purpose of this letter is to memorialize concerns regarding Kemper Sports Management Holdings LLC as owner/operator of New Albany Links Golf Club (“Kemper” or Applicant”) operation of its driving range. CPCC’s operations pre-dated the driving range by decades. This letter is intended to set forth an official opposition and request for conditions regarding the Development Plan Modification Application FDM-008-2024 (the “Application”). The Application was necessitated by the failure of Applicant to operate within the confines of a previously approved site plan.

That failure, at least as it relates to the driving range, is causing significant disruption to CPCC’s operations and is depriving CPCC of its quiet enjoyment and use of its property. Further, operation of the driving range in a manner permitting balls to constantly escape the range facility creates an appreciable injury to CPCC. CPCC and its guests are under constant threat from wayward golf shots due to Kemper’s unreasonable operation of the driving range. As such, we hope this Planning Commission will impose conditions for remedial measures be immediately taken to alleviate the threat including, but not limited to repositioning (moving back and reangling) the teeing ground and building sufficient barriers (including heightening and lengthening the barrier netting).

Indeed, this nuisance has been exacerbated (if not wholly created) by Kemper’s (or its predecessor) actions relocating the driving range teeing area, angling the teeing area towards CPCC property, and the removal of natural barriers between CPCC and the driving range. The included overhead photos show the teeing ground angled directly at CPCC property. The threat is constant and results in golf balls flying onto CPCC property at all hours and in amounts ranging from a few to a few dozen per day. This is not the result of a few wayward shots, but rather the end product of thoughtless design with little to no recognition of the impact on bordering property.

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

- (a) Adjacent land use.
- (b) The relationship of topography to the use intended or to its implications.
- (d) Adjacent zoning.
- (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.

Each subpart is implicated here. Again, this could have been avoided if the natural barriers of mature trees were maintained. As set forth in the Application, visibility of the players was the main concern when removing the natural barrier, not the safety of the adjacent property owners and invitees.

Further, as set forth in Codified Ordinance Chapter 1159.08, the deviation from the original site plan through the elimination of natural barriers has adversely affected the community as demonstrated through the negative impacts on the CPCC programming. Does this Planning Commission want to sacrifice youth soccer, Sunday fellowship, outdoor programming for adult daycare programs so that one driving range can operate. Despite any position proffered by the applicant, approving without a meaningful barrier condition would harm the community. The existing netting structure is wholly ineffective. The netting is too short and not long enough. CPCC consulted NettingBuilder and received the attached quote along with suggested specifications for the netting structure. As you will see, it recommends 65' high netting. This also is closer to the height of the now demolished, mature trees that provided protection for CPCC.

CPCC operates its faith-based ministry and related functions seven days a week. CPCC also leases use of its back soccer fields and outdoor gathering space to third parties including, but not limited to youth ministries, organizations providing programming for adults with disabilities and youth soccer leagues. The danger has resulted in CPCC operating under constant threat and adjusting schedules of future programming in the soccer field area. CPCC has always been a good neighbor to the New Albany Links operation, but multiple pleas to remedy this growing concern have been unpersuasive.

As such, we urge the Planning Commission to impose the following conditions:

- 1) Installation of 150 ln ft of 50ft high and 650ft of 65ft high barrier netting on the Southern side of the range area.
- 2) Centering the range targets so they are equally spaced between the north and south property lines.
- 3) The owner now uses limited-flight golf balls to reduce the distance by 15%.
- 4) Reposition the teeing ground as far back towards the clubhouse as possible.

I have included the following exhibits demonstrating the following:

Exhibit A - Angle of the driving range to CPCC Property  
Exhibit B - Golf ball on the CPCC playground  
Exhibit C – Golf balls landing in parking area  
Exhibit D – Former Natural Boundary  
Exhibit E – Quote for Barrier Netting

With that said, our hope remains the City will impose meaningful conditions on the continued operation of the driving range facilities.

Very truly yours,

BRENNAN, MANNA & DIAMOND, LLC

A handwritten signature in blue ink, appearing to read 'BTP', with a stylized flourish extending to the right.

Brandon T. Pauley

BTP/svo

Enclosures

4885-5845-0087, v. 1

















# NETTINGBUILDER

www.nettingbuilder.com

Telephone 559 331-1440

## PROPOSAL & CONTRACT

TO: George Stribick

From: Neil Shaw

108 Ahmad Dr, Gaffney SC 29341

09/13/2023

This Proposal is valid for 60 days from above date.

### **Project RE: Install Golf Barrier Netting Links Golf, New Albany OH**

#### **Scope of Work:**

NettingBuilder will install golf barrier netting at Links of New Albany Golf club to 65ft and 50ft height.

On north side of the range we will install 250ln ft of 50ft high and 400 ft of 65ft high golf fencing. Pole are all timber. Steel poles would require a separate quote. On the southern side of the range we will install 150 ln ft of 50ft high and 650ft of 65ft high barrier netting. Each pole will be embedded in a compacted dirt foundation.

All cables will be new galvanized EHS guy strand and all hardware will be Utility grade hot dipped galvanized components. New heavy duty 20,000lbs earth anchors (12) will be installed at corner post with anchors installed for both directions of cabling. The corner pole will be anchored at the 25ft, 50ft and 75ft height in each direction. Additional anchors will be installed in the netting row to secure the 65ft poles at the transition to 50ft.

Netting material will be our new 200lbs Heavy Duty GolfGuard, UV resistant, black poly netting, rope bordered and mounted to cables with snap link carabiners. See our new warranty\*

NettingBuilder will install netting and complete a turnkey installation in under 5 weeks.

**Warranty:** NettingBuilder warranties the installation of 65ft and 50ft poles and associated materials supplied by NettingBuilder against defect for **3 years** from date of installation. Any repairs needed during this time will be performed free of charge and in a timely matter. The Netting fabric carries a 10 year UV breakdown warranty. External projectile damage and machine damage is not warrantied.

**The Turnkey Price to install 1450ln ftb of Golf Barrier Fencing with timber poles and HD GolfGuard Netting with warranty is \$507,100.**

**Payment Terms:** **A 45% deposit shall be due with owner's purchase order.** An interim payment of 35% is due at start of work. Final payment shall be due upon completion of the netting system installation. Invoices not paid when due are subject to a service charge of 1-1/2% per month, an annual percentage rate of 18%. Should suit be instituted to enforce the provisions of the Proposal and Contract, the total outstanding payments of the contract price will immediately become due and the prevailing party shall be entitled to reasonable attorney's fees and court costs as determined by court or other tribunal hearing the matter.

**Permits:** Our Proposal does not include any permit fees or related costs involved in securing permits. The customer shall be responsible for acquiring any permits required and any costs relating to permit requirements.

**Indemnification:** NettingBuilder and its sub contractors shall not indemnify any additional owners, contractors or Agents.

**Insurance:** NettingBuilder shall provide Certificates of Insurance listing owner as "additional insured." Our general and product liability coverage is \$1,000,000 per occurrence.

**Assumptions:** Owner shall be responsible for providing our crew & equipment reasonable access "to, from and at" work site during construction. Mobilization costs are included in our Proposal are based on one move-on and move-off. Owner shall be responsible for providing our crew & equipment reasonable access "to, from and at" work site during construction. Any work stoppage directed by owner causing additional move-on required to complete the project will be invoiced at the rate of \$4,000.00 per occurrence.

Our Proposal is based on the following: Good soil & digging conditions defined as able to complete the excavation using standard auguring equipment. Should rocky or wet conditions be encountered, the additional charge will be cost plus 10% and invoiced under a Change Order to the Contract Price.

**Exclusions:** Obstructions – The owner shall be responsible for identifying and relocating or removing any obstacles that will impede the installation efforts, including but not limited to, telephone (or power) lines and underground piping, high grass, soil or ground impediment or dangerous animals or insects. Should Change Order(s) be required during the course of construction, they will be submitted for the customer's approval to reimburse for contractor's additional cost and overhead. NettingBuilder is a nonunion company and, as such, will not become signatory to any labor agreement. We reserve the right to hire and use any responsible subcontractor or perform services under a general contractor without prior notification or approval.

**Excavation:** The owner shall be responsible for locating all underground utilities within the area of the proposal containment structure.

The parties are authorized to execute this Contract on behalf of their respective corporations and agree with the terms and conditions itemized on the foregoing page.

**Lead Times:** Standard lead times for projects are 60 days, Projects with netting only approximately 15-30 days.

Buyer: \_\_\_\_\_

Accepted By:

NettingBuilder Netting Builder

Neil Shaw, CEO – Cell 864 616-4505

By: \_\_\_\_\_

Date: \_\_\_\_\_



## **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

Thursday, February 22, 2024

The New Albany Planning Commission took the following action on 02/21/2024 .

#### Final Development Plan Modification

**Location:** 7100 NEW ALBANY LINKS DR

**Applicant:** Luke Bowersock, Kemper Sports,

**Application:** PLFDM20240008

**Request:** Modification to the approved final development plan for the New Albany Links subdivision driving range.

**Motion:** To table

**Commission Vote:** Motion to table, 4-0

**Result:** Final Development Plan Modification, PLFDM20240008 was Tabled, by a vote of 4-0.

Recorded in the Official Journal this February 22, 2024

**Condition(s) of Approval:** N/A

Staff Certification:

*Sierra Cratic-Smith*

Sierra Cratic-Smith  
Planner