



New Albany Planning Commission Agenda
Monday, June 3, 2024 at 7:00 p.m.

Members of the public must attend the meeting in-person to participate and provide comments at New Albany Village Hall at 99 West Main Street. The meeting will be streamed for viewing purposes only via the city website at <https://newalbanyohio.org/answers/streaming-meetings/>

I. Call to order

II. Roll call

**III. Action on minutes: May 6, 2024
May 20, 2024**

IV. Additions or corrections to the agenda

Administration of oath to all witnesses/applicants/staff who plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth."

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

VI. Cases:

FDP-22-2024 Final Development Plan

Final development plan modification to allow for construction of a 2,600 square foot Panda Express restaurant with drive-through on 1.332 acres located generally near the southeast corner of US-62 and Smiths Mill Road (PID: 222-005377).

Applicant: Panda Restaurant Group, c/o Josh Hibbits

Motion of acceptance of staff reports and related documents into the record for FDP-22-2024.

Motion of approval for application FDP-22-2024 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

CU-24-2024 Conditional Use

Request for a conditional use permit to operate a drive-through use associated with a Panda Express restaurant located generally near the southeast corner of US-62 and Smiths Mill Road (PID: 222-005377).

Applicant: Panda Restaurant Group, c/o Josh Hibbits

Motion of acceptance of staff reports and related documents into the record for CU-24-2043.

Motion of approval for application CU-24-2024 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VAR-25-2024 Variances

Variances to the number of active and operable doors and signage associated with a final development plan application for a Panda Express development generally near the southeast corner of US-62 and Smiths Mill Road (PID: 222-005377).

Applicant: Panda Restaurant Group, c/o Josh Hibbits

Motion of acceptance of staff reports and related documents into the record for VAR-25-2024.

Motion of approval for application VAR-25-2024 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VII. Other business

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

VIII. Poll members for comment

IX. Adjournment



**Planning Commission Staff Report
June 3, 2024 Meeting**

**PANDA EXPRESS DRIVE-THRU
CONDITIONAL USE**

LOCATION: Located generally at the southeast corner of Smith’s Mill Road and Johnstown Road (US-62) (PID: 222-005377)
APPLICANT: Panda Restaurant Group, c/o Josh Hibbits
REQUEST: Conditional Use
ZONING: Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a
STRATEGIC PLAN: Retail
APPLICATION: CU-24-2024

Review based on: Application materials received April 19, 2024 and May 10, 2024

Staff report prepared by Sierra Saumenig, Planner

I. REQUEST AND BACKGROUND

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

This request is in conjunction with a final development plan (FDP-22-2024) and associated variances (VAR-25-2024) for the Panda Express restaurant.

II. SITE DESCRIPTION & USE

The 1.36-acre site is generally located at the southeast corner of Smith’s Mill Road and Johnstown Road (US-62), within the Canini Trust Corp. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dunkin’ Donuts which also has a drive-through facility.

III. EVALUATION

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

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

Uses:

- The applicant proposes to develop a 2,600 sq. ft. Panda Express restaurant with a drive-through. The existing total site size is 1.36-acres. Restaurants 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 the parking lot, two drive-through lanes and internal drive aisles. The drive-throughs appear to be appropriately positioned in the side yard of the site where it does not interfere with traffic on the rest of the site.
- 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-through 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 window is appropriately sized, designed, and is located so it doesn't front the primary streets: Smith's Mill Road and Johnstown Road. The drive-through is on the east elevation of the building facing the existing car wash and Turkey Hill gas station, and is appropriately designed by using the same building materials that are used on other elevations of the building.
- The overall height of the building is 22.5 feet which meets the 45-foot maximum height allowed by the zoning text.
- All of the mechanical equipment is located on the roof of the building and will be fully screened from the public rights-of-way as well as private roads.

Parking & Circulation:

- Per Codified Ordinance 1167.05(d)(4) requires a minimum of one parking space for every 75 square feet of restaurant floor area space. The building is 2,600 square feet in size therefore 35 parking spaces are required. The applicant is providing 37 parking spaces.
- 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-thru stacking spaces must equal 25% of the total required parking spaces for the drive-through tenant space. Based on this calculation, 9 stacking spaces total must be provided and the applicant is exceeding this requirement by providing 19.
- The building is surrounded by the parking lot, two drive-through lanes and internal drive aisles. The drive-through appears to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.
- The Trust Corp site has a strong internal roadway network that supports car-oriented developments. The lot is surrounded by public roads on two sides that allows traffic to and from the site to be dispersed. Additionally, the site fronts a private road to the south of the site. The public roads and private road network provide multiple connections to public streets.

Landscaping:

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

- (b) *The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
- The proposed use is harmonious with the existing and intended character 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-through 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 a drive-through facility.
- (d) *The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
- Sewer and water service are available in this location.
 - Woodcrest Way was recently extended the length of the southern 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 does not appear to be detrimental to the economic welfare in the city due to the creation of jobs that 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 operations that will be detrimental to adjacent uses. This area of the city is auto-oriented and is in close proximity to the State Route 161. US-62 is currently heavily traveled therefore it is reasonable to assume that this development will be frequently visited and serve as an important asset to those in the surrounding area.
- (g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*
- The site is proposed to be accessed via two new curb cuts; one along Woodcrest Way and one proposed shared curb cut with the adjacent property.
 - 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.

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 land use recommendations. 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-through is 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 given their orientation and the travel pattern appears to be appropriately designed so it will not interfere with traffic circulation on the rest of the site.

Overall, the proposed development meets many of the Engage New Albany Strategic Plan development standards; the drive-through still allows the site to include walkways and landscaping to enhance visual aspects of the development and building entrances that connect with a pedestrian network and promote connectivity.

ACTION

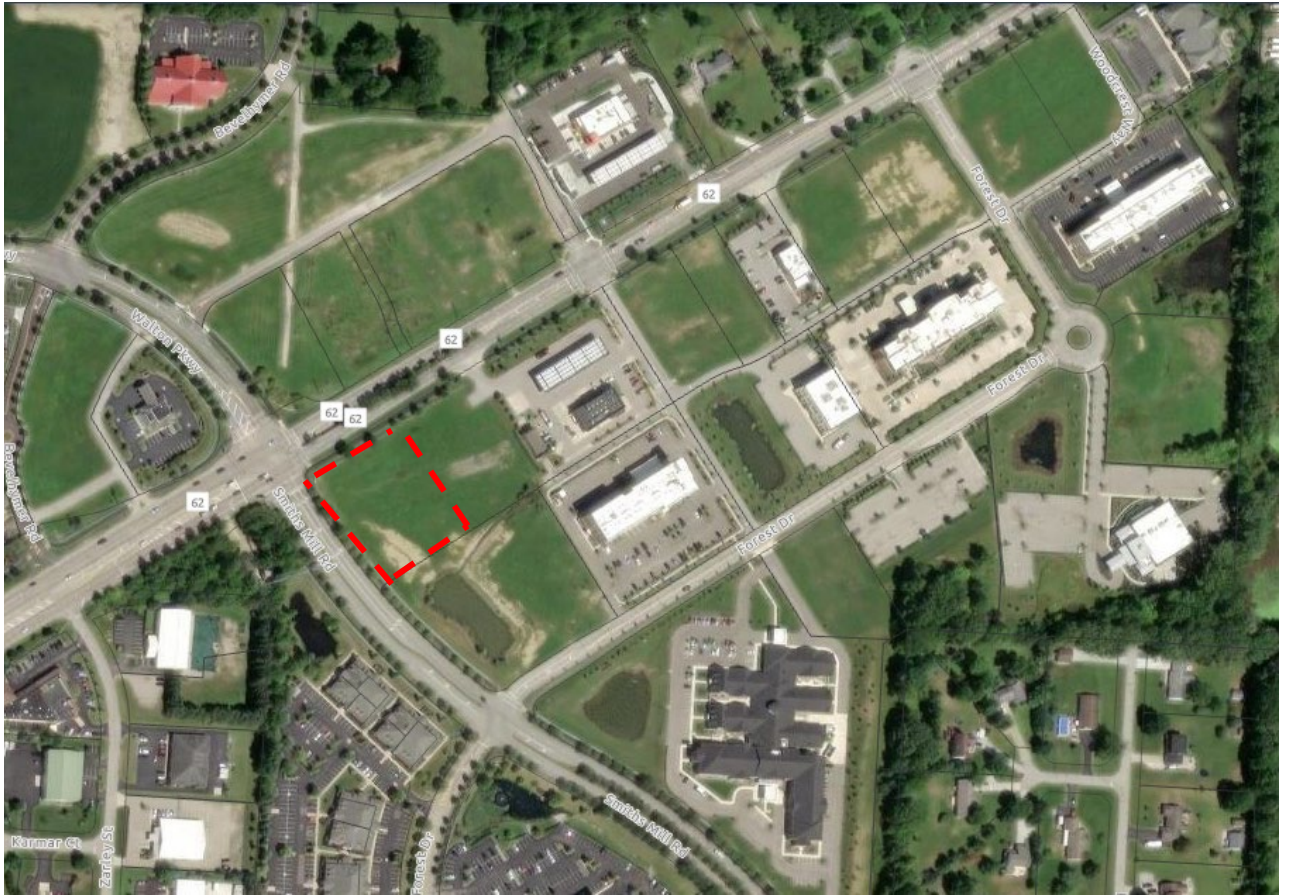
The Commission shall approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved with supplementary conditions, the Planning Commission shall direct staff to issue a zoning permit listing the specific conditions listed by the Planning Commission 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-24-2024 with the following conditions:

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

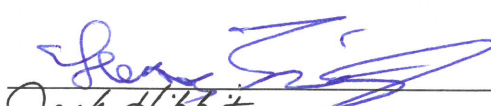
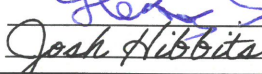
Approximate Site Location:



Source: Nearmap

NEW ALBANY

Community Development Planning Application

Project Information	Site Address <u>TBD; SE Corner of Smith's Mill Rd and US-62 (Johnston Rd)</u> Parcel Numbers <u>222-004736-00</u> Acres <u>1.332 Ac.</u> # of lots created <u>1</u>																																																											
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Choose Application Type</th> <th colspan="4" style="text-align: center;">Circle all Details that Apply</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> Appeal</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Certificate of Appropriateness</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Conditional Use</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Development Plan</td> <td>Preliminary</td> <td style="background-color: yellow;">Final</td> <td>Comprehensive</td> <td>Amendment</td> </tr> <tr> <td><input type="checkbox"/> Plat</td> <td>Preliminary</td> <td>Final</td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Lot Changes</td> <td>Combination</td> <td>Split</td> <td>Adjustment</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Minor Commercial Subdivision</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Vacation</td> <td>Easement</td> <td></td> <td>Street</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Variance</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Extension Request</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Zoning</td> <td>Amendment (rezoning)</td> <td></td> <td>Text Modification</td> <td></td> </tr> </tbody> </table>	Choose Application Type	Circle all Details that Apply				<input type="checkbox"/> Appeal					<input type="checkbox"/> Certificate of Appropriateness					<input checked="" type="checkbox"/> Conditional Use					<input checked="" type="checkbox"/> Development Plan	Preliminary	Final	Comprehensive	Amendment	<input type="checkbox"/> Plat	Preliminary	Final			<input type="checkbox"/> Lot Changes	Combination	Split	Adjustment		<input type="checkbox"/> Minor Commercial Subdivision					<input type="checkbox"/> Vacation	Easement		Street		<input type="checkbox"/> Variance					<input type="checkbox"/> Extension Request					<input type="checkbox"/> Zoning	Amendment (rezoning)		Text Modification
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Contacts	Description of Request: <u>Preliminary site plan review and approval for planning commission meeting. Proposed site is to be developed as a Panda Express restaurant with drive-thru.</u>																																																											
	Property Owner's Name: <u>ECC Johnstown LLC</u> Address: <u>6500 Westfield Blvd</u> City, State, Zip: <u>Indianapolis, IN 46220</u> Phone number: <u>317-574-7448</u> Fax: _____ Email: <u>tenglish@thomasenglish.com</u>																																																											
Signature	Applicant's Name: <u>Panda Restaurant Group (Attn. Josh Hibbits)</u> Address: <u>1683 Walnut Grove Ave.</u> City, State, Zip: <u>Rosemead, CA 91770</u> Phone number: <u>314-494-1698</u> Fax: <u>N/A</u> Email: <u>josh.hibbits@pandarg.com</u>																																																											
	<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 <u></u> Date: <u>04/15/24</u> Signature of Applicant <u></u> Date: _____</p>																																																											



ONE COMPANY.
INFINITE SOLUTIONS.

May 20, 2024

City of New Albany
Community Development
99 West Main Street
Po Box 188
New Albany, OH 43054

RE: Panda Express Variance Narrative

To Whom It May Concern,

A condition use request is being made by the Applicant, Panda Restaurant Group, to allow for drive-through facilities per section 1147.03. The site is located at the south-east corner of Smith's Mill Rd. and Johnstown Rd. on approximately 1.25 Acres. It is part of the Woodcrest Way Development Plan.

Section 1147.03 states that conditional use is needed for Drive-Through Facilities to be developed in association with a permitted use. This development requests a conditional use for the permitted restaurant use on this site.

A restaurant is a permitted use in this I-PUD zoning district. A drive-through is also harmonious with the developed corridor. There are other similar developments within the area that are also providing drive-through accessibility. By allowing a drive-through, it will not change the character of the area or be hazardous to existing or future uses. Our proposed drive-through will be adequately served by essential facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers. Our proposed drive-through will not be detrimental to the economic welfare of the community or to any persons or property. Vehicular approaches to our site and drive-through were designed and designated to allow for smooth traversing and to prevent interference with neighboring sites and traffic.

Sincerely,

Jillian Benaglio, PE
Atwell, LLC



**Planning Commission Staff Report
June 3, 2024 Meeting**

**PANDA EXPRESS
VARIANCES**

LOCATION: Located generally at the southeast corner of Smith’s Mill Road and Johnstown Road (US-62) (PID: 222-005377)

APPLICANT: Panda Restaurant Group, c/o Josh Hibbits

REQUEST: (A) Variance to Canini PUD zoning text section 8a.06(3)(i) to allow a wall sign to be installed on the drive through elevation of the building where the zoning text does not allow a sign to be installed.
(B) Variance to C.O. 1157.01(Design Guidelines and Requirements Section 6(A)(12)) to eliminate the requirement for active and operable front doors on the Johnstown Road and Woodcrest Way building elevations.

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

STRATEGIC PLAN: Retail

APPLICATION: VAR-25-2024

Review based on: Application materials received April 19, 2024 and May 10, 2024

Staff report prepared by Sierra Saumenig, Planner

I. REQUEST AND BACKGROUND

This application is for two variances related to a final development plan for a proposed Panda Express restaurant building with a drive-through located at the northeast corner of Smith’s Mill Road and Johnstown Road, within the Canini Trust Corp.

The applicant requests the following variances:

- (A) Variance to Canini PUD zoning text section 8a.06(3)(i) to allow a wall sign to be installed on the drive-through elevation of the building where the zoning text does not allow a sign to be installed.
- (B) Variance to C.O. 1157.01(Design Guidelines and Requirements Section 6(A)(12)) to eliminate the requirement for active and operable front doors on the Johnstown Road and Woodcrest Way building elevations.

II. SITE DESCRIPTION & USE

The 1.36-acre site is generally located at the southeast corner of Smith’s Mill Road and Johnstown Road (US-62), within the Canini Trust Corp. Some of the existing surrounding uses include Home2Suites, Turkey Hill gas station, as well as Dunkin’ Donuts.

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-24-2024.

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 to Canini PUD zoning text section 8a.06(3)(i) to allow a wall sign to be installed on the drive-through elevation of the building where the zoning text does not allow a sign to be installed.

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

1. Canini PUD zoning text section 8a.06(3)(i) states wall mounted signage is limited to one wall mounted sign, no larger than 80 square feet (allowed 1 square foot of signage for linear foot of building frontage up to 80 feet), for each elevation that fronts a public or private street.
2. The applicant proposes to install three wall signs. Two wall signs are located on the Johnstown Road and Smith's Mill Road frontages, meeting the zoning text location requirements. The third wall sign is on the drive-through elevation of the building which does not front on a public or private street therefore, a variance is required.
3. The variance request does not appear to be substantial. The property has three road frontages and thus, three wall signs would meet the development text which the applicant is proposing. No wall sign is proposed on the Woodcrest Way elevation which is the rear of the building. Additionally, all three wall signs meet size requirements and appear to be appropriately scaled in relation to the size of the building.
4. The Planning Commission has approved similar variance requests to allow for a wall signs to be located not adjacent to a public or private street. The PC approved variances for Marriott Courtyard on August 20, 2012 (VAR-05-12) and Dairy Queen on May 18, 2015 (VAR-34-2015).
5. The variance request meets the spirit and intent of the zoning text. As mentioned, three wall signs are permitted for this property and the building is not "over-signed" with the proposed wall sign on the drive-through side.
6. It does not appear that the essential character of the neighborhood would be altered if the variance request is granted. The wall sign on the drive-through side is the same sign as on the Smith's Mill Road and would be located above the drive-through window. Any property within the Canini PUD that fronts on three streets would be permitted three wall signs which the applicant is requesting. Due to the Woodcrest Way frontage being the rear of the building, a wall sign here would not be appropriate.
7. Granting the variance will not adversely affect the health, safety or general welfare of persons living in the immediate vicinity.
8. Granting the variance will not adversely affect the delivery of government services.

(B) Variance to C.O. 1157.01(Design Guidelines and Requirements Section 6(A)(12)) to eliminate the requirement for active and operable front doors on the Johnstown Road and Woodcrest Way building elevations.

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

1. The applicant requests a variance to eliminate the requirement that buildings have operable and active front doors along all public and private roads. The building has three frontages: Smith's Mill Road (public street), Johnstown Road (public street), and Woodcrest Way (private road).
 - a. The commercial building has active doors on the Smith's Mill Road frontage but not on the Johnstown Road or Woodcrest Way frontages (only one of the three elevations meet the requirement).
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 for the Woodcrest Way frontage. Nearby developments including the Turkey Hill gas station and Dairy Queen also have service doors on the Woodcrest Way frontage and thus, the proposal is consistent with the surrounding area. However, the variance for a non-

operable door on the Johnstown Road frontage does not preserve the “spirit and intent” of the zoning requirement. The intent of this requirement is to ensure that buildings maintain a presence on the street and not contain blank or “empty” building elevations so there is architectural vibrancy and interest on all sides of a building. The applicant could retain the existing service door on the Johnstown Road frontage and also add an additional operable door to the elevation.

4. While there are not active and operable doors along the Johnstown Road and private road (Woodcrest Way) elevations, the applicant is providing strong architectural features and materials so the building adequately addresses each road architecturally. However, the Johnstown Road frontage is the front of the building and an operable door is necessary to adequately address Johnstown Road architecturally.
5. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted for the Woodcrest Way frontage. Similar variances were granted for Turkey Hill, Sheetz and the other New Albany Duke and Duchess location on Johnstown Road.
6. It does appear that the essential character of the neighborhood will be alternated if the variance request is granted for the Johnstown Road frontage as other businesses have active and operable doors fronting the street.
7. It does not appear that the variances would adversely affect the delivery of government services, affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

II. SUMMARY

The variance request to allow a wall sign on the drive-through elevation whereas the zoning text states that a wall sign is permitted on building elevations that front or sides on public or private streets, is not substantial. The proposed Panda Express could have up to three wall signs so the wall sign along the drive-through elevation does not “over-sign” the building.

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 since there is a hierarchy of streets. The applicant is still providing a high-quality designed building. Therefore, the design and non-active doors along Woodcrest Way appear to be appropriate.

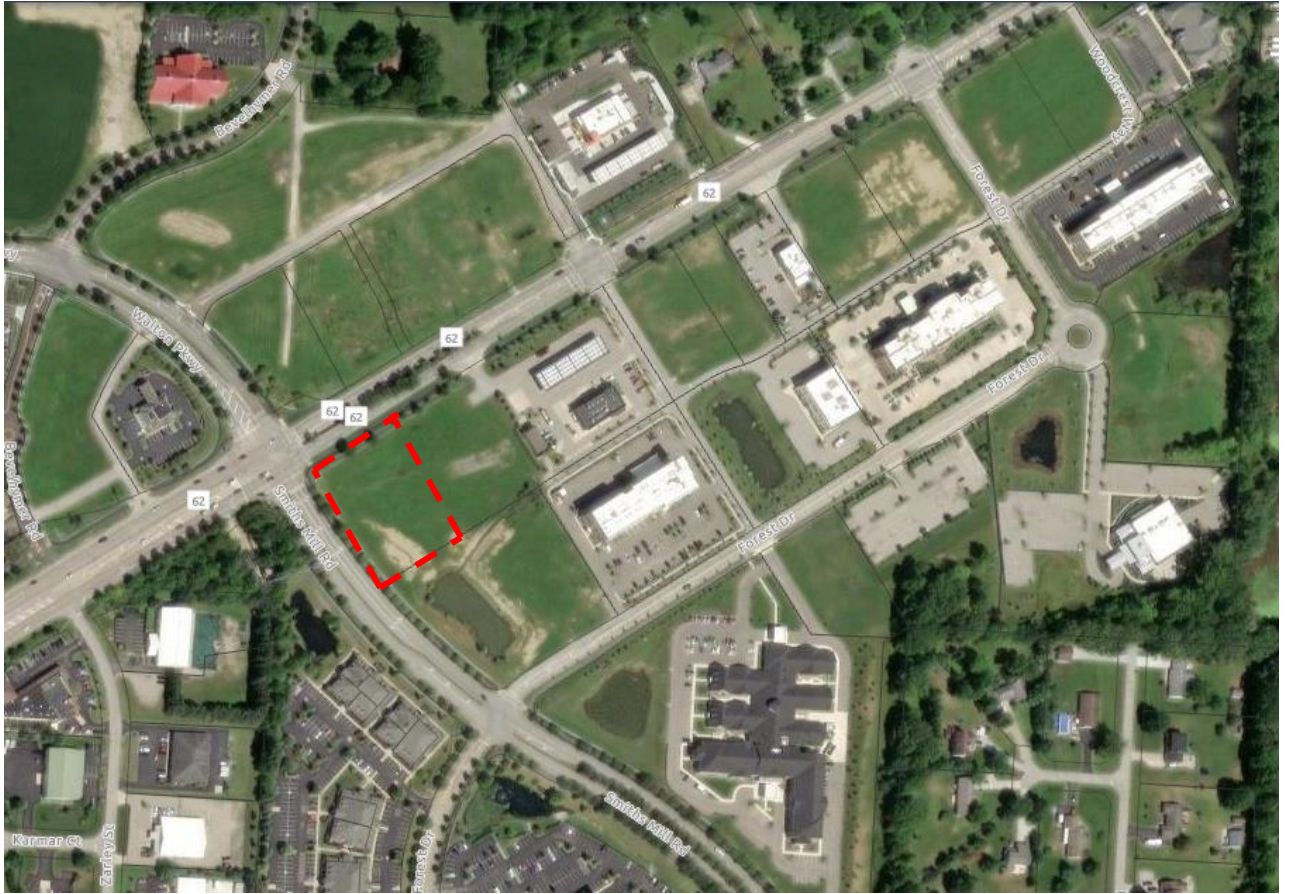
However, the applicant should provide an active and operable door along the Johnstown Road and Smith’s Mill Road street frontages as those since the property is located on a prominent corner and those are both the primary streets that the restaurant fronts. Not having an operable and active front along both Johnstown Road and Smith’s Mill Road does appear to be substantial as it will alter the surrounding area and cause inconsistency among the street frontage. Having businesses and homes front onto streets by providing operable and active doorways is a design hallmark of the city of New Albany. All of the other businesses along Smith’s Mill Road and Johnstown Road have an operable active front door that fronts those streets.

V. ACTION

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

Move to approve application VAR-25-2024 (conditions may be added)

Approximate Site Location:



Source: Nearmap



Community Development Planning Application

Project Information	Site Address <u>TBD; SE Corner of Smith's Mill Rd and US-62 (Johnston Rd)</u> Parcel Numbers <u>222-004736-00</u> Acres <u>1.332 Ac.</u> # of lots created <u>1</u>																																																											
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Choose Application Type</th> <th colspan="4" style="text-align: left;">Circle all Details that Apply</th> </tr> <tr> <td><input type="checkbox"/> Appeal</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Certificate of Appropriateness</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Conditional Use</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Development Plan</td> <td>Preliminary</td> <td>Final</td> <td>Comprehensive</td> <td>Amendment</td> </tr> <tr> <td><input type="checkbox"/> Plat</td> <td>Preliminary</td> <td>Final</td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Lot Changes</td> <td>Combination</td> <td>Split</td> <td>Adjustment</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Minor Commercial Subdivision</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Vacation</td> <td>Easement</td> <td></td> <td>Street</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Variance</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Extension Request</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Zoning</td> <td>Amendment (rezoning)</td> <td></td> <td>Text Modification</td> <td></td> </tr> </table>	Choose Application Type	Circle all Details that Apply				<input type="checkbox"/> Appeal					<input type="checkbox"/> Certificate of Appropriateness					<input type="checkbox"/> Conditional Use					<input type="checkbox"/> Development Plan	Preliminary	Final	Comprehensive	Amendment	<input type="checkbox"/> Plat	Preliminary	Final			<input type="checkbox"/> Lot Changes	Combination	Split	Adjustment		<input type="checkbox"/> Minor Commercial Subdivision					<input type="checkbox"/> Vacation	Easement		Street		<input checked="" type="checkbox"/> Variance					<input type="checkbox"/> Extension Request					<input type="checkbox"/> Zoning	Amendment (rezoning)		Text Modification
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Description of Request: _____ _____ _____																																																												
Contacts	Property Owner's Name: <u>ECC Johnstown LLC</u> Address: <u>6500 Westfield Blvd</u> City, State, Zip: <u>Indianapolis, IN 46220</u> Phone number: <u>317-574-7448</u> Fax: _____ Email: <u>tenglish@thomasenglish.com</u>																																																											
	Applicant's Name: <u>Panda Restaurant Group (Attn: Josh Hibbits)</u> Address: <u>1683 Walnut Grove Ave.</u> City, State, Zip: <u>Rosemead, CA 91770</u> Phone number: <u>314-494-1698</u> Fax: _____ Email: <u>Josh.hibbits@pandarg.com</u>																																																											
Signature	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.																																																											
	<table style="width:100%;"> <tr> <td style="width: 60%;">Signature of Owner</td> <td style="width: 20%; text-align: center;"></td> <td style="width: 20%;">Date: <u>05/07/2024</u></td> </tr> <tr> <td>Signature of Applicant</td> <td style="text-align: center;"></td> <td>Date: <u>05/06/2024</u></td> </tr> </table>	Signature of Owner		Date: <u>05/07/2024</u>	Signature of Applicant		Date: <u>05/06/2024</u>																																																					
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May 16, 2024

City of New Albany
Community Development
99 West Main Street
Po Box 188
New Albany, OH 43054

RE: Panda Express Variance Narrative

To Whom It May Concern,

A variance request is being made by the Applicant, Panda Restaurant Group, to eliminate a requirement for active and operable doors on the US-62 and Woodcrest Way building elevations (C.O. 1157.01 (Design Guidelines and Requirements Section 6(A)(12)) and a variance to allow a "Panda Wall Sign" installed on the drive-through elevation of the building (Canini PUD Zoning Text Section 8a.06(3)(i)). The site is located at the south-east corner of Smith's Mill Rd. and Johnstown Rd. on approximately 1.25 Acres. It is part of the Woodcrest Way Development Plan.

The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered practical difficulties in the use of its property include, according to the Ohio Supreme Court *Duncan vs Middlefield*, those which are bolded below (analysis of this variance is provided after each). Again, the case provides for a weighing of factors. Not all of them must be met and no single factor controls.

- 1. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.**
 - a.** The property will realize a higher return on value if the requested variances are granted. These wall signs were specifically designed as part of the Applicant's branding and to increase the buildings' visibility.
- 2. Whether the variance is substantial.**
 - a. Entry Doors: Our site is surrounded on three sides by roads. We are providing 2 public entrances to the restaurant and they are positioned at locations to allow patrons to easily access the restaurant.
 - b. Signage: Per zoning code, we are allowed a "Panda Wall Sign" on the northern, western, and southern elevations. We are not proposing this type of sign on the northern and southern elevations



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of the building. Due to expected traffic on the roads surrounding the site, our building signage will be more beneficial and visible to the public by having it on the eastern and western elevations.

- 3. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”**
 - a. By allowing either variance, they will not affect the use or access of neighboring properties.
- 4. Whether the variance would adversely affect the delivery of government services.**
 - a. By allowing either variance, they will not affect the delivery of government services.
- 5. Whether the property owner purchased the property with knowledge of the zoning restriction.**
 - a. The property was purchased knowing the basic building and signage requirements. It was expected to request minimal design changes.
- 6. Whether the problem can be solved by some manner other than the granting of a variance.**
 - a. The applicants predicament cannot be reasonably resolved by some other manner while still achieving the Applicant’s desired aesthetic and building visibility.
- 7. Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.**
 - a. The spirit and intent of the zoning requirements will be preserved because the requested variances are minor, they will not cause neighbor or the neighborhood any detriment, and they will allow the Applicant to enjoy the same property rights as certain neighbors within this commercial industrial district.

The factors that are to be considered by the BZAs when reviewing a variance request pursuant to Code Section 1113.06 (1-5) are in bold below, with each being followed by an analysis of each factor.

- 1. 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.**
 - a. Our site is surrounded on three sides by roads which would require us to have public doors on three sides of the building. This is unique as most buildings in this district would only be required a single public entry point.
- 2. 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.**
 - a. Entry Door: A single entry door is not uncommon in this zoning district and is consistent with other neighboring properties.
 - b. Signage: Multiple wall signs are typically permitted in this zoning district with the size and orientation of our building. We are asking to reallocate the allowed signage to a different building face.
- 3. That the special conditions and circumstances do not result from the action of the applicant.**
 - a. The variances are not requested to alleviate a condition that the applicant has already caused.



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- 4. 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.**
 - a. Granting the variances requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other properties in the same zoning district.
- 5. 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.**
 - a. Granting the variances will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, or be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

Sincerely,

Jillian Benaglio, PE
Atwell, LLC



To: Planning Commission
From: Community Development Department
Re: Chapter 1187 Subdivision Process and Minor Residential Subdivision Updates
Regulations
Date: May 20, 2024

The city staff proposes two updates to chapter 1187 of the codified ordinance (Subdivision Regulations). The updates include:

1. Adding minor residential subdivisions
2. Updating the process and procedures for subdivision to reflect current practices

During the May 20th Planning Commission meeting, staff asks the board to review and make a formal recommendation to the city council to adopt these code changes. Proposed changes are indicated in red within the code section and an unmarked version is also attached. Please feel free to contact city staff if you have any questions.

Minor Residential Subdivision:

At the direction of the city council, the city staff researched and are proposing adding minor residential subdivisions within the city. The city code defines a subdivision as the division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two (2) or more parcels, sites, or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of the transfer of ownership provided. The result is splitting smaller parcels is considered a subdivision which requires all of the same requirements as traditional subdivisions.

The update is necessary because the city subdivision regulations are overly burdensome to property owners who want to split their property into just a couple of lots. Chapter 1187 has a one-size-fits-all regulation so all “subdivisions” are treated the same. This means that a two-lot subdivision has the same requirements as a 200-lot subdivision for example. Since subdivisions have to be platted, it requires the hiring of an engineer which is costly. Additionally, subdivisions require parkland and open space dedication. Smaller subdivisions can’t provide parkland and open space that is meaningful to the overall community.

The city subdivision chapter already contains minor commercial subdivisions. The city staff has modeled the minor residential subdivisions after that code section. With the adoption of this proposed minor residential subdivision property owners will no longer be required to plat or provide the typical infrastructure requirements if less than five lots are being created and there no new public streets being created.

After a lot is split, the city code still requires street trees and leisure trail/sidewalks be constructed at the time of development. Those items are reviewed for compliance at the time of a building permit submittal.

Process and Procedure Updates:

The majority of this update is to ensure the required process and procedures for subdivisions reflect current city practices. Recently it has come to the city staff's attention that strict interpretation of the subdivision regulations results in a change in the approval process. This code update is necessary to ensure the city remains competitive in the commercial and residential markets.

The process and procedures contained in the city subdivision chapter haven't been updated or amended since their adoption in 1991. The city staff, technology, and construction methods have changed substantially since 1991 and accordingly, this proposal includes updates that reflect current best practices and technology. Examples of these changes include:

- Submittal requirements for engineering plans;
- The type of deposits required for pre and post construction;
- Clarifying the definition of a subdivision;
- Clarifying time frame requirements; and
- Optimizing acceptance practices.

The city staff proposes one change to the current overall development process. Currently, the city council is required to review and accept public infrastructure constructed by the developer via ordinance after it has been fully inspected and approved by the city staff in the field. The city staff proposes that infrastructure no longer requires a public hearing and the infrastructure can be accepted by the city engineer after it has been fully inspected and approved. The city staff commits to providing the city council with annual updates on the infrastructure installed and accepted within the city.

1187.01 DEFINITIONS.

The following words and phrases when used in this chapter shall have the meaning here described.

- (a) "Easement" means a grant by property owner(s) to another party or parties for a specific use of a described portion of property.
- (b) "Improvements" means street pavements, with or without curbs and/or gutters, sidewalks, water mains, sanitary and storm sewers, stormwater management facilities, erosion and sedimentation measures, grading and shaping, street lights, landscaping, screening and buffering and other related matters normally associated with the development of land into development sites.
- (c) "Lot" means a division of land and described on a recorded subdivision plat or recorded deed by metes and bounds description.
- (d) "Minor commercial subdivision" means a commercially zoned parcel, with an approved Final Development Plan or equivalent plan, with public road frontage, which does not involve the opening, widening or extension of a public street and does not involve more than five (5) lots after the original tract has been completely subdivided.
- (e) "Minor residential subdivision" means the division of any parcel of land into five (5) or fewer parcels, sites, or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of residential use and does not involve new, widening or the extension of any public street.
- (e) "Plat" means a map of a subdivision described by accurate distances and bearings.
- (f) "Right-of-way" means the width between property lines of a street, roadway, easement.
- (g) "Subdivision" means the division of any parcel of land into more than five (5) parcels, sites, or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of residential, commercial or industrial uses. This definition does not include:
 - The sale, exchange or boundary adjustment of existing properties where such action does not create additional building sites; and
 - The division or partition of land into parcels, sites, or lots more than five (5) where such action does not involve new, the extension of public streets; and means the division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two (2) or more parcels, sites, or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of the transfer of ownership provided, however, that the division or partition of land into parcels of more than five (5) acres not involving any new streets or easements of access, or the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempt. The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except for private streets serving industrial structures, the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
 - The division or allocation of land as open spaces for common use by owners; or the division or allocation of land for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
 - Minor commercial and residential subdivisions.

(Ord. 77-91. Passed 10-15-91; Ord. 08-2007. Passed 2-20-07; Ord. 31-2007. Passed 8-21-07.)

1187.02 REQUIRED IMPROVEMENTS.

The subdivider or developer of land shall provide and pay the entire cost of improvements to such land as follows:

- (a) Street improvements shall consist of grading the right-of-way for full width; construction of curbs or curbed gutters and pavement; construction of draining structures and appurtenances. Two (2) roof drain openings shall be provided in curb for each lot, or shall be machine cored by the builder.
- (b) Sanitary sewers, including mains, manholes, services and all appurtenances.
- (c) Water distribution system, including mains, services, valves, fire hydrants and all appurtenances.
- (d) Concrete sidewalks on both sides of street, except where Leisure Trails are required in accordance with the Village's Strategic Plan or as recommended by the Parks and Trails Advisory Board. Sidewalks shall be linked to external trails or sidewalks. Where special circumstances exist for sidewalk construction a fee in-lieu may be considered according to the procedure in Section 1187.18.
- (e) Leisure Trails in accordance with the Village's Strategic Plan or as recommended by the Parks and Trails Advisory Board. Trails shall be linked to external trails or sidewalks. Where special circumstances exist for trail construction a fee in-lieu may be considered according to the procedure in Section 1187.18.
- (f) Storm sewers, including manholes, inlets or catch basins, and all appurtenances, stormwater management features and facilities.
- (g) Landscaping, screening and buffering features, if required by these regulations or the Zoning Code.
- (h) Street lighting above public right-of-way which meets minimum illumination specifications approved by the Municipal Engineer. Light standards shall be approved by the Municipality.
- (i) Erosion and sedimentation control measures and practices.

All phases of the improvement shall be approved by the Municipal Engineer and shall be constructed in accordance with Municipal specifications and standards as approved by the Municipal Engineer.

(Ord. 77-91. Passed 10-15-91; Ord. 31-2007. Passed 8-21-07.)

1187.03 ~~APPLICATION PLAN, PRELIMINARY PLAT PROCESS~~

~~a) Preliminary Plat: A preliminary plat may be submitted to the Planning Commission for review, subject to the regulations of this chapter. Approval of a preliminary plat application shall not be required prior to the approval of a final plat application. shall be~~

~~b) Preliminary Plat Contents~~

~~The subdivider shall submit an application to the City Manager's designee a minimum of 30 days prior to the meeting of the Planning Commission which the subdivider desires their application to be heard. If the City Manager's designee finds that the application is not complete and does not meet requirements of this section, they shall notify the applicant in writing of the deficiencies. The applicant may make the necessary additions and/or revisions. No hearing shall be held or action of approval taken by the Planning Commission until a complete application meeting all requirements of this section has been filed with and accepted by the City Manager's designee.~~

~~A subdivider or developer may submit a sketch, prepared by a registered engineer or surveyor, of the proposed subdivision to the Planning Commissioner for informed comments and suggestions. The preliminary plat shall contain the following:~~

-
- (1) Scale - Minimum of one inch equals one hundred (100) feet.
 - (2) The proposed name of the subdivision.
 - (3) Key map showing location within the Municipality.
 - (4) Names and addresses of owners, developers and the surveyor who developed the plat.
 - (5) Date of submission.
 - (6) North point.
 - (7) Signature block for applicant and applicant's engineer and surveyor.

The following existing conditions shall be shown:

- (8) Boundary lines and approximate acreage included.
- (9) Locations, widths and names of all existing or prior platted streets or alleys, railroad and utility rights-of-way, parks and public open spaces, community ownership association, permanent buildings and structures, all section and corporation lines within or adjacent to the tract.
- (10) Existing sewers, water mains, culverts and other underground facilities within the tract, indicating pipe size, elevations and grades (if readily available) and locations (if known or available).
- (11) Existing easements on subject acreage and easements within fifty (50) feet on adjacent subdivided plat. Proposed developer utility and proposed public utility easements are not expected to be shown.
- (12) Names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land with deed book and page number or official record volume.
- (13) Boundary lines of adjacent tracts of unsubdivided and subdivided land, within one hundred (100) feet of boundary line.
- (14) Existing zoning or deed restrictions (if known) for subject and surrounding acreage.
- (15) Existing contours, with intervals of five (5) feet where the slope is greater than ten percent (10%) and two (2) feet where the slope is less than ten percent (10%).
- (16) Drainage channels, wooded areas, water courses and other significant physical features.
- (17) All elevations shall be based on sea level datum as determined by the U.S. Coast and Geodetic survey or the U.S. Geological Survey.
- (18) FEMA floodplain areas.

The following proposed conditions shall be shown:

- (19) Layout of streets and right-of-way widths.
- (20) Layout, numbers and dimensions of lots. Lots shall be numbered sequentially for each plat from one, or continue from the last number used on previous section in multiple phase developments.
- (21) Parcels of land intended to be dedicated or temporarily reserved for public use, and proposed method of maintenance and control of same.
- (22) Building setback lines shown graphically with dimensions or standards indicated in current Zoning Ordinance.
- (23) Names of new streets shall not duplicate names of any existing dedicated streets within the northeastern quadrant of Franklin County and/or its incorporated areas.

(24) New streets, which are extensions of or in alignment with existing streets, shall bear the names of the existing streets of which they are extensions, or with which they are in alignment.

(25) All new streets shall be named and shall be subject to the approval of the Planning Commission.

In addition to the aforementioned requirements, the developer shall submit a written statement which shall include:

(26) The impact, if any, of the proposed development on area drainage and other lands at lower elevations in the vicinity.

(27) Potential impact of this development on area traffic loads and fire protection capability.

(28) Potential impact of this development on the local school district(s).

(29) Verification that an application, if required, has been submitted to the Ohio Environmental Protection Agency in compliance with Section 401 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain a Water Quality Certification Permit from the Ohio Environmental Protection Agency. In the case of an isolated wetland, either a general state or individual state isolated wetland permit must be obtained from the Ohio Environmental Protection Agency (Sections 6111.021 - 6111.024 of House Bill 231).

(30) Verification that an application, if required, has been submitted to the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain either a nationwide or individual permit from the U.S. Army Corps of Engineers.

c) Approval of Preliminary Plat

1) The Planning Commission review of a preliminary plat application shall be based on the requirements of this chapter.

2) After action by the Planning Commission on an application for preliminary plat approval, the City Manager's designee shall record the action taken. Copies of action taken shall be forwarded to the applicant.

~~The approval of a preliminary plat shall be effective for a period of twelve (12) months, or for such other time as approved by the Planning Commission.~~

3) No construction work on the proposed subdivision, including grading, shall be commenced until approval is received of a final plat. The subdivider shall not transfer any lot, parcel or tract therefrom before the final plat has been recorded.

~~1)~~

(Ord. 77-91. Passed 10-15-91; Ord. 31-2007. Passed 8-21-07.)

1187.04 PRELIMINARY PLAT.

The subdivider shall submit an application with a total of thirteen (13) copies of the preliminary plat to the Village Administrator's designee a minimum of fifteen (15) working days prior to the meeting of the Planning Commission at which the subdivider desires his application to be heard.

The Village Administrator's designee shall, within five (5) working days, review the application and plat for completeness and compliance with the requirements in this section. If he finds the application is complete and meets the requirements, he shall, at least five (5) working days prior to the meeting at which the plat will be heard, forward copies to the Municipal Engineer, Planner and Administrator for review and comment, and to all members of the Planning Commission. He shall also place one copy on file in the zoning office.

If the Village Administrator's designee finds that the application is not complete and does not meet requirements of this section, he shall notify the applicant in writing of the deficiencies. The applicant may make the necessary additions and/or revisions. No hearing shall be held or action of approval taken by the Planning Commission until a complete application meeting all requirements of this section has been filed with and accepted by the Village Administrator's designee.

(a) ~~The preliminary plat shall contain the following:~~

- ~~(1) Scale – Minimum of one inch equals one hundred (100) feet.~~
- ~~(2) The proposed name of the subdivision.~~
- ~~(3) Key map showing location within the Municipality.~~
- ~~(4) Names and addresses of owners, developers and the surveyor who developed the plat.~~
- ~~(5) Date of submission.~~
- ~~(6) North point.~~
- ~~(7) Signature block for applicant and applicant's engineer and surveyor.~~

(b) ~~The following existing conditions shall be shown:~~

- ~~(1) Boundary lines and approximate acreage included.~~
- ~~(2) Locations, widths and names of all existing or prior platted streets or alleys, railroad and utility rights-of-way, parks and public open spaces, community ownership association, permanent buildings and structures, all section and corporation lines within or adjacent to the tract.~~
- ~~(3) Existing sewers, water mains, culverts and other underground facilities within the tract, indicating pipe size, elevations and grades (if readily available) and locations (if known or available).~~
- ~~(4) Existing easements on subject acreage and easements within fifty (50) feet on adjacent subdivided plat. Proposed developer utility and proposed public utility easements are not expected to be shown.~~
- ~~(5) Names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land with deed book and page number or official record volume.~~
- ~~(6) Boundary lines of adjacent tracts of unsubdivided and subdivided land, within one hundred (100) feet of boundary line.~~
- ~~(7) Existing zoning or deed restrictions (if known) for subject and surrounding acreage.~~
- ~~(8) Existing contours, with intervals of five (5) feet where the slope is greater than ten percent (10%) and two (2) feet where the slope is less than ten percent (10%).~~
- ~~(9) Drainage channels, wooded areas, water courses and other significant physical features.~~
- ~~(10) All elevations shall be based on sea level datum as determined by the U.S. Coast and Geodetic survey or the U.S. Geological Survey.~~
- ~~(11) FEMA floodplain areas.~~

(c) ~~The following proposed conditions shall be shown:~~

- ~~(1) Layout of streets and right-of-way widths.~~
- ~~(2) Layout, numbers and dimensions of lots. Lots shall be numbered sequentially for each plat from one, or continue from the last number used on previous section in multiple phase developments.~~
- ~~(3) Parcels of land intended to be dedicated or temporarily reserved for public use, and proposed method of maintenance and control of same.~~

-
- ~~(4) Building setback lines shown graphically with dimensions or standards indicated in current Zoning Ordinance.~~
 - ~~(5) Names of new streets shall not duplicate names of any existing dedicated streets within the northeastern quadrant of Franklin County and/or its incorporated areas.~~
 - ~~(6) New streets, which are extensions of or in alignment with existing streets, shall bear the names of the existing streets of which they are extensions, or with which they are in alignment.~~
 - ~~(7) All new streets shall be named and shall be subject to the approval of the Planning Commission.~~
 - ~~(d) In addition to the aforementioned requirements, the developer shall submit a written statement which shall include:
 - ~~(1) The impact, if any, of the proposed development on area drainage and other lands at lower elevations in the vicinity.~~
 - ~~(2) Potential impact of this development on area traffic loads and fire protection capability.~~
 - ~~(3) Potential impact of this development on the local school district(s).~~
 - ~~(4) Verification that an application, if required, has been submitted to the Ohio Environmental Protection Agency in compliance with Section 401 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain a Water Quality Certification Permit from the Ohio Environmental Protection Agency. In the case of an isolated wetland, either a general state or individual state isolated wetland permit must be obtained from the Ohio Environmental Protection Agency (Sections 6111.021—6111.024 of House Bill 231).~~
 - ~~(5) Verification that an application, if required, has been submitted to the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain either a nationwide or individual permit from the U.S. Army Corps of Engineers.~~~~

~~(Ord. 28-2004. Passed 6-15-04; Ord. 31-2007. Passed 8-21-07.)~~

1187.045 APPROVAL OF PRELIMINARY PLAT.FINAL PLAT PROCESS

After action by the Planning Commission on an application for preliminary plat approval, the Clerk of the Commission shall record the action taken as follows:

- ~~(a) If the application was approved, three (3) copies of the approved preliminary plat shall be stamped "Approved by Planning Commission in an official meeting held (date) with the following additional provisions: (list or attach the specific provisions or contingencies, if none so note)" and shall be signed by the Chairman or Clerk attesting to action taken.~~
- ~~(b) If application is disapproved, three (3) copies of the disapproved preliminary plat shall be stamped "Disapproved by the Planning Commission in an official meeting held (date) for the following reasons: (list or attach the specific reasons for denial)" and shall sign same attesting to action taken.~~

~~Two (2) copies of the signed preliminary plat shall be forwarded to the applicant and one copy retained in the permanent files in the zoning office.~~

~~The approval of a preliminary plat shall be effective for a period of twelve (12) months, or for such other time as approved by the Planning Commission.~~

- ~~(a)(Ord. 77-91. Passed 10-15-91; Ord. 31-2007. Passed 8-21-07.)~~

a) Final Plat: A final plat shall be submitted to the Planning Commission for review of subdivisions as defined in C.O. 1187.01(g).

b) Final Plat Contents

The subdivider shall submit an application to the City Manager's designee a minimum of 30 days prior to the meeting of the Planning Commission which the subdivider desires their application to be heard. If the City Manager's designee finds that the application is not complete and does not meet requirements of this section, they shall notify the applicant in writing of the deficiencies. The applicant may make the necessary additions and/or revisions. No hearing shall be held or action of approval taken by the Planning Commission until a complete application meeting all requirements of this section has been filed with and accepted by the City Manager's designee.

1187.06 FINAL PLAT.

~~The owner shall submit an application with a total of thirteen (13) copies of the final plat to the Village Administrator's designee at least fifteen (15) working days prior to the meeting of the Planning Commission at which the subdivider desires his application to be heard.~~

~~The Village Administrator's designee shall review the application and plat for completeness and compliance with the requirements in this section. If he finds the application is complete and meets the requirements, he shall forward copies to the Municipal Engineer, Planner and Administrator for review and comment, and to all members of the Planning Commission at least five (5) working days prior to the meeting at which the plat will be heard. He shall also place one copy on file in the zoning office.~~

~~If the Village Administrator's designee finds that the application is not complete and does not meet requirements of this section, he shall notify the applicant, who shall be allowed to make the necessary revisions. No hearing shall be held or action of approval taken by the Planning Commission until a complete application meeting all requirements of this section has been filed with and accepted by the Village Administrator's designee.~~

~~Action will be taken by the Commission and Council within thirty (30) days after acceptance of the final plat by the Village Administrator's designee. See Section 1187.07 for approval of the final plat. If not recorded in twelve (12) months, such approval of Council and the Commission shall become null and void.~~

~~(a) — The final plat shall contain the followingsubmitted shall contain the following:~~

- (1) Boundary of plat, based on an accurate distances and bearings.
- (2) Where the subdivision does not abut to an existing subdivision, the true angle and distance to the nearest street intersection, accurately described on the plat.
- (3) Municipal, Township, County or Section lines accurately tied to the lines of the subdivision by distances and angles.
- (4) Radii, arcs and chords, points of curvature and tangency. Central angles for all curvilinear streets and radius for all rounded corners.
- (5) All lot numbers and lines with accurate dimensions in decimals of a foot and bearings in degrees, minutes and seconds.
- (6) One inch iron pins, thirty (30) inches long, with plastic caps identifying the surveyor shall be placed at such locations that the subdivisions can be readily resurveyed. As a minimum, all extreme corners shall be monumented.
- (7) Accurate location, width of right-of-way and name of all streets or other public ways.
- (8) All proposed developer easements, such as water, sanitary and storm sewers shall be shown. All proposed public utility easements shall be shown if they are available.

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- (9) Minimum building setback lines along all streets and other public ways.
 - (10) Accurate outlines and delineation of all drainage easements, one hundred (100) year floodway routing, flood hazard areas and other watercourses contained within or contiguous to the plat boundaries.
 - (11) Accurate outlines of any areas to be dedicated or reserved for public use, with purposes indicated thereon, and of any areas to be reserved by deed covenant, for the common use of all property owners.
 - (12) Other information deemed necessary by the Municipal Engineer or the Planning Commission in order to fully describe any special conditions or circumstances affecting the proposed plat.
 - (13) If more than one sheet is required for the plat, an index map, at a smaller scale, showing all of the lots on one contiguous drawing shall be shown on the first sheet.

~~(b)~~—The final plat submittal shall also contain:

- ~~(141)~~ A certification by a registered surveyor that the plat represents a survey made by him and that the monuments shown exist as located, or will be set one foot below proposed grade prior to beginning of construction, and that all dimensional and geodetic details are correct. The plat shall be prepared in accordance with the minimum plat requirements as established by the Franklin County Engineer's Office.
- ~~(152)~~ A notarized certification by the owner/owners of the adoption of the plat and the dedication by them to public use of the streets and other public areas shown on the plat. No property should extend to center of rights-of-way.
- ~~(163)~~ Proper form for the approval of the Planning Commission, with space for signature of the Chairperson.
- ~~(174)~~ Space for approval by signature of the Mayor, Municipal Engineer, Council representative to Planning Commission and Finance Director. The signature of the Engineer shall be withheld until all easements are shown.
- ~~(185)~~ Proper form for approval and acceptance by the Council, showing resolution number.
- ~~(196)~~ Within ten (10) working days after the review comments have been transmitted to the developer, and the tracing (final plat drawing) has been revised to reflect the review comments, it shall be submitted to the Municipal Engineer for the permanent filing.

Any additions or changes to the plat shall be made in the Engineer's office unless otherwise authorized by the Engineer.

- ~~(207)~~ Space for transfer by the County Auditor and recording by the County Recorder. A statement as to the expiration date of the municipal approval shall be placed just ahead of the space provided for the County Auditor's signature.
 - ~~(218)~~ Application fees specified by separate ordinance.
 - ~~(229)~~ Copies of any and all proposed deed covenants, deeds of right-of-way and deeds of easement.
- ~~(c)~~—In addition to the aforementioned requirements, the developer shall submit a written statement which shall include:
- ~~(231)~~ Evidence that the Ohio Environmental Protection Agency has considered the applicant's application and granted such permit or determined that such permit is not applicable. If a permit was granted, four (4) copies shall be supplied by the owner to the Village Administrator's designee for distribution.
 - ~~(242)~~ Evidence that the U.S. Army Corps of Engineers has considered the applicant's application and granted such permit or determined that such permit is not applicable. If a permit was granted, four (4) copies shall be supplied by the owner to the Village Administrator's designee for distribution. After the tracing

(final plat drawing) has been revised to reflect the review comments, eight (8) copies showing all approvals, shall be supplied by the owner to the Finance Director for distribution.

c) Approval of Final Plat

- ~~1) After the tracing (final plat drawing) has been revised to reflect the review comments, four (4) copies showing all approvals, shall be supplied by the owner to the Village Administrator's designee for distribution.~~
- 1) The Planning Commission review of a final plat application shall be based on the requirements of this chapter and provide a recommended action to City Council, who shall take final action on such application.
- 2) After action by City Council on an application for final plat approval, the action shall be documented by the Clerk of Council. The final plat may be recorded with the County Recorder's office provided compliance is made with other provisions of this chapter, only after full approval by the City Engineer. The City Manager may only add or revise easements after City Council has approved a final plat.
- 3) The approval of a final plat shall be effective for a period of twelve (12) months, or for such other time as approved by City Council.
- 4) The subdivider shall not transfer any lot, parcel or tract therefrom before the final plat has been recorded. No construction work on the proposed subdivision, including grading, shall be commenced until approval is received of a final plat and an engineering permit has been approved, in accordance with C.O. 909.

~~The subdivider shall not transfer any lot, parcel or tract therefrom before the final plat has been recorded. No construction work on the proposed subdivision, including grading, shall be commenced until approval is received of the final plat and provided compliance is made with the other provisions of this chapter. Only easements may be added or revised on the final plat after approval, and only after approval by the Municipal Engineer.~~

~~All construction work and materials used in connection with public improvements in the area platted will conform to requirements of the Municipal Engineer and Municipal specifications and be inspected by the Engineer.~~

~~After all easements have been placed on the plat, and the plat has been approved and received Council acceptance, it shall be recorded by the Municipal Engineer.~~

~~The developer shall furnish two (2) checks, one for the County Auditor and one for the County Recorder. (Ord. 28-2004. Passed 6-15-04; Ord. 31-2007. Passed 8-21-07.)~~

1187.07 IMPROVEMENT GUARANTEES.

- (a) The subdivider or developer shall, prior to construction, deposit with the Finance Director a sum of money as prescribed by Chapter 909 to defray the cost of inspection and the engineering services provided and any expense incurred by the Municipality due to the installation of the improvements and review of the plat and plans. The subdivider and developer shall hold the Municipality free and harmless from any and all claims for damages of every nature arising or growing out of the construction of such improvements, and shall defend, at his/her own cost and expense, each and every suit or action brought against said Municipality by reason thereof, until the improvement has been accepted by the Municipality.
- (b) The City Engineer, shall accept infrastructure within the subdivision after its construction and the appropriate bonds have been provided, as prescribed by Chapter 909.

Before the approval of the final plat, the subdivider or developer shall sign a developer's agreement and provide a two-year letter of credit (LC) acceptable to the Municipality guaranteeing the completion of all

improvements, including but not limited to streets, curbs, sidewalks, storm sewer mains and lines, sanitary sewer mains and lines, water main and lines, prior to the recording of the plat of the subject subdivision, or at such time as may be agreed to by Council. The LC shall be in an amount equal to the estimated cost of constructing the street, street-related and storm water control improvements and as approved by the Municipal Engineer. A maintenance bond in the amount of ten percent (10%) of the preliminary estimated or final construction costs shall be provided for a maintenance period of two (2) years, beginning with the date of acceptance of the subdivision and all its appurtenances by Council. A certified check in the amount of two and one-half percent (2.5%) of the initial inspection fee shall also be provided to the Village at the date of acceptance of the subdivision. This check will be applied toward the two-year maintenance inspection by the Village. An additional and separate maintenance bond in the amount of ten percent (10%) of said construction cost shall also be provided to address settlement related to the installation of storm sewer or sanitary sewer mains and lines in the front yard. This maintenance bond shall be provided for a maintenance period of five (5) years, beginning with the date of acceptance of the subdivision and all its appurtenances by Council. The Finance Director shall retain custody of the maintenance bond during that time period.

- ~~(b) The Engineer shall inspect the improvements prior to the expiration of the bond period. Upon his notification that there are no deficiencies, or that all deficiencies have been corrected to his satisfaction, the bond shall be released and the developer's guarantee shall be considered satisfied so long as all fees owed to the Municipality by the owner or developer are paid.~~
- ~~(c) The subdivider or developer shall, prior to construction, deposit with the Finance Director a sum of money as prescribed by Chapter 909 to defray the cost of inspection and the engineering services provided and any expense incurred by the Municipality due to the installation of the improvements and review of the plat and plans. The subdivider and developer shall hold the Municipality free and harmless from any and all claims for damages of every nature arising or growing out of the construction of such improvements, and shall defend, at his/her own cost and expense, each and every suit or action brought against said Municipality by reason thereof, until the improvement has been accepted by the Municipality.~~
- ~~(d) The subdivider or developer shall furnish to the Municipality at the time of commencing construction, proof of possession of liability insurance of not less than one million dollars (\$1,000,000.00) and property damage insurance of not less than three hundred thousand dollars (\$300,000.00).~~
- ~~(e) If any violation of, or non-compliance with, any of the provisions and stipulations of this chapter occurs, the Engineer or the Village Administrator's designee shall notify the Law Director of any violation. Before a stop work order is issued, the Law Director shall notify the developer of the violation. The developer has five (5) working days to correct any violations.~~

(Ord. 28-2004. Passed 6-15-04; Ord. 31-2007. Passed 8-21-07; Ord. 36-2008. Passed 10-21-08.)

1187.22 MINOR COMMERCIAL SUBDIVISIONS.

- (a) Notwithstanding anything to the contrary, approval without a plat of a minor commercial subdivision may be granted by the Community Development Director or designee if the proposed minor subdivision of a parcel of land meets all of the following conditions:
 - (1) A final development plan according to Chapter 1159 or an equivalent plan has been approved by ~~the Planning Commission~~ a city board or commission;
 - (2) The proposed subdivision is located along an existing public road, has frontage along a public street and involves no opening, widening or extension of any street;
 - (3) No more than five (5) lots are created after the original parcel has been completely subdivided;
 - (4) The proposed subdivision is not contrary to other subdivision, zoning, and other applicable regulations; and

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- (5) The property has been surveyed and a survey drawing, legal description of the property and other information as may be pertinent or required for appropriate action are submitted with the application.
 - (b) If approval is given under these provisions, the Community Development Director or designee shall, within ten (10) working days after submission, approve such proposed minor subdivision and, upon presentation of a conveyance for said parcel, shall stamp "Approved by New Albany; No Plat Required", and the authorized representative of the Commission shall sign the conveyance.

~~(c) — For the purpose of this section, "original parcel" means the parcel existing as of the effective date of this section of the Subdivision Regulations (February 20, 2007).~~

(Ord. 08-2007. Passed 2-20-07; Ord. 31-2007. Passed 8-21-07.)

1187.23 MINOR RESIDENTIAL SUBDIVISIONS.

- (a) Notwithstanding anything to the contrary, approval without a plat of a minor residential subdivision may be granted by the Community Development Director or designee if the proposed minor subdivision of a parcel of land meets all of the following conditions:
 - (1) The proposed subdivision is located along an existing public road, has frontage along a public street and involves no extension of any street;
 - (2) No more than five (5) lots are created after the original parcel has been completely subdivided;
 - (3) The proposed subdivision is not contrary to other subdivision, zoning, and other applicable regulations; and
 - (4) The property has been surveyed and a survey drawing, legal description of the property and other information as may be pertinent or required for appropriate action are submitted with the application.
- (b) If approval is given under these provisions, the Community Development Director or designee shall, within ten (10) working days after submission, approve such proposed minor subdivision and, upon presentation of a conveyance for said parcel, shall stamp "Approved by New Albany; No Plat Required", and the authorized representative of the Commission shall sign the conveyance.

1187.01 DEFINITIONS.

The following words and phrases when used in this chapter shall have the meaning here described.

- (a) "Easement" means a grant by property owner(s) to another party or parties for a specific use of a described portion of property.
- (b) "Improvements" means street pavements, with or without curbs and/or gutters, sidewalks, water mains, sanitary and storm sewers, stormwater management facilities, erosion and sedimentation measures, grading and shaping, street lights, landscaping, screening and buffering and other related matters normally associated with the development of land into development sites.
- (c) "Lot" means a division of land and described on a recorded subdivision plat or recorded deed by metes and bounds description.
- (d) "Minor commercial subdivision" means a commercially zoned parcel, with an approved Final Development Plan or equivalent plan, with public road frontage, which does not involve the opening, widening or extension of a public street and does not involve more than five (5) lots after the original tract has been completely subdivided.
- (e) "Minor residential subdivision" means the division of any parcel of land into five (5) or fewer parcels, sites, or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of residential use and does not involve new, widening or the extension of any public street.
- (e) "Plat" means a map of a subdivision described by accurate distances and bearings.
- (f) "Right-of-way" means the width between property lines of a street, roadway, easement.
- (g) "Subdivision" means the division of any parcel of land into more than five (5) parcels, sites, or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of residential, commercial or industrial uses. This definition does not include:
 - The sale, exchange or boundary adjustment of existing properties where such action does not create additional building sites; and
 - The division or partition of land into parcels, sites, or lots more than five (5) where such action does not involve new, the extension of public streets; and
 - The division or allocation of land as open spaces for common use by owners; or the division or allocation of land for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
 - Minor commercial and residential subdivisions.

(Ord. 77-91. Passed 10-15-91; Ord. 08-2007. Passed 2-20-07; Ord. 31-2007. Passed 8-21-07.)

1187.02 REQUIRED IMPROVEMENTS.

The subdivider or developer of land shall provide and pay the entire cost of improvements to such land as follows:

- (a) Street improvements shall consist of grading the right- of-way for full width; construction of curbs or curbed gutters and pavement; construction of draining structures and appurtenances. Two (2) roof drain openings shall be provided in curb for each lot, or shall be machine cored by the builder.
- (b) Sanitary sewers, including mains, manholes, services and all appurtenances.

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- (c) Water distribution system, including mains, services, valves, fire hydrants and all appurtenances.
 - (d) Concrete sidewalks on both sides of street, except where Leisure Trails are required in accordance with the Village's Strategic Plan or as recommended by the Parks and Trails Advisory Board. Sidewalks shall be linked to external trails or sidewalks. Where special circumstances exist for sidewalk construction a fee in-lieu may be considered according to the procedure in Section 1187.18.
 - (e) Leisure Trails in accordance with the Village's Strategic Plan or as recommended by the Parks and Trails Advisory Board. Trails shall be linked to external trails or sidewalks. Where special circumstances exist for trail construction a fee in-lieu may be considered according to the procedure in Section 1187.18.
 - (f) Storm sewers, including manholes, inlets or catch basins, and all appurtenances, stormwater management features and facilities.
 - (g) Landscaping, screening and buffering features, if required by these regulations or the Zoning Code.
 - (h) Street lighting above public right-of-way which meets minimum illumination specifications approved by the Municipal Engineer. Light standards shall be approved by the Municipality.
 - (i) Erosion and sedimentation control measures and practices.

All phases of the improvement shall be approved by the Municipal Engineer and shall be constructed in accordance with Municipal specifications and standards as approved by the Municipal Engineer.

(Ord. 77-91. Passed 10-15-91; Ord. 31-2007. Passed 8-21-07.)

1187.03 PRELIMINARY PLAT PROCESS

a) Preliminary Plat: A preliminary plat may be submitted to the Planning Commission for review, subject to the regulations of this chapter. Approval of a preliminary plat application shall not be required prior to the approval of a final plat application.

b) Preliminary Plat Contents

The subdivider shall submit an application to the City Manager's designee a minimum of 30 days prior to the meeting of the Planning Commission which the subdivider desires their application to be heard. If the City Manager's designee finds that the application is not complete and does not meet requirements of this section, they shall notify the applicant in writing of the deficiencies. The applicant may make the necessary additions and/or revisions. No hearing shall be held or action of approval taken by the Planning Commission until a complete application meeting all requirements of this section has been filed with and accepted by the City Manager's designee.

The preliminary plat shall contain the following:

- (1) Scale - Minimum of one inch equals one hundred (100) feet.
- (2) The proposed name of the subdivision.
- (3) Key map showing location within the Municipality.
- (4) Names and addresses of owners, developers and the surveyor who developed the plat.
- (5) Date of submission.
- (6) North point.
- (7) Signature block for applicant and applicant's engineer and surveyor.

The following existing conditions shall be shown:

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- (8) Boundary lines and approximate acreage included.
 - (9) Locations, widths and names of all existing or prior platted streets or alleys, railroad and utility rights-of-way, parks and public open spaces, community ownership association, permanent buildings and structures, all section and corporation lines within or adjacent to the tract.
 - (10) Existing sewers, water mains, culverts and other underground facilities within the tract, indicating pipe size, elevations and grades (if readily available) and locations (if known or available).
 - (11) Existing easements on subject acreage and easements within fifty (50) feet on adjacent subdivided plat. Proposed developer utility and proposed public utility easements are not expected to be shown.
 - (12) Names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land with deed book and page number or official record volume.
 - (13) Boundary lines of adjacent tracts of unsubdivided and subdivided land, within one hundred (100) feet of boundary line.
 - (14) Existing zoning or deed restrictions (if known) for subject and surrounding acreage.
 - (15) Existing contours, with intervals of five (5) feet where the slope is greater than ten percent (10%) and two (2) feet where the slope is less than ten percent (10%).
 - (16) Drainage channels, wooded areas, water courses and other significant physical features.
 - (17) All elevations shall be based on sea level datum as determined by the U.S. Coast and Geodetic survey or the U.S. Geological Survey.
 - (18) FEMA floodplain areas.

The following proposed conditions shall be shown:

- (19) Layout of streets and right-of-way widths.
- (20) Layout, numbers and dimensions of lots. Lots shall be numbered sequentially for each plat from one, or continue from the last number used on previous section in multiple phase developments.
- (21) Parcels of land intended to be dedicated or temporarily reserved for public use, and proposed method of maintenance and control of same.
- (22) Building setback lines shown graphically with dimensions or standards indicated in current Zoning Ordinance.
- (23) Names of new streets shall not duplicate names of any existing dedicated streets within the northeastern quadrant of Franklin County and/or its incorporated areas.
- (24) New streets, which are extensions of or in alignment with existing streets, shall bear the names of the existing streets of which they are extensions, or with which they are in alignment.
- (25) All new streets shall be named and shall be subject to the approval of the Planning Commission.

In addition to the aforementioned requirements, the developer shall submit a written statement which shall include:

- (26) The impact, if any, of the proposed development on area drainage and other lands at lower elevations in the vicinity.
- (27) Potential impact of this development on area traffic loads and fire protection capability.
- (28) Potential impact of this development on the local school district(s).

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- (29) Verification that an application, if required, has been submitted to the Ohio Environmental Protection Agency in compliance with Section 401 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain a Water Quality Certification Permit from the Ohio Environmental Protection Agency. In the case of an isolated wetland, either a general state or individual state isolated wetland permit must be obtained from the Ohio Environmental Protection Agency (Sections 6111.021 - 6111.024 of House Bill 231).
 - (30) Verification that an application, if required, has been submitted to the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act in which anyone who wishes to discharge dredged or fill material into waters of the United States must obtain either a nationwide or individual permit from the U.S. Army Corps of Engineers.

c) Approval of Preliminary Plat

- 1) The Planning Commission review of a preliminary plat application shall be based on the requirements of this chapter.
- 2) After action by the Planning Commission on an application for preliminary plat approval, the City Manager's designee shall record the action taken. Copies of action taken shall be forwarded to the applicant.
- 3) No construction work on the proposed subdivision, including grading, shall be commenced until approval is received of a final plat. The subdivider shall not transfer any lot, parcel or tract therefrom before the final plat has been recorded.

1187.04 FINAL PLAT PROCESS

- a) Final Plat: A final plat shall be submitted to the Planning Commission for review of subdivisions as defined in C.O. 1187.01(g).

b) Final Plat Contents

The subdivider shall submit an application to the City Manager's designee a minimum of 30 days prior to the meeting of the Planning Commission which the subdivider desires their application to be heard. If the City Manager's designee finds that the application is not complete and does not meet requirements of this section, they shall notify the applicant in writing of the deficiencies. The applicant may make the necessary additions and/or revisions. No hearing shall be held or action of approval taken by the Planning Commission until a complete application meeting all requirements of this section has been filed with and accepted by the City Manager's designee.

The final plat shall contain the following:

- (1) Boundary of plat, based on an accurate distances and bearings.
- (2) Where the subdivision does not abut to an existing subdivision, the true angle and distance to the nearest street intersection, accurately described on the plat.
- (3) Municipal, Township, County or Section lines accurately tied to the lines of the subdivision by distances and angles.
- (4) Radii, arcs and chords, points of curvature and tangency. Central angles for all curvilinear streets and radius for all rounded corners.
- (5) All lot numbers and lines with accurate dimensions in decimals of a foot and bearings in degrees, minutes and seconds.

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- (6) One inch iron pins, thirty (30) inches long, with plastic caps identifying the surveyor shall be placed at such locations that the subdivisions can be readily resurveyed. As a minimum, all extreme corners shall be monumented.
 - (7) Accurate location, width of right-of-way and name of all streets or other public ways.
 - (8) All proposed developer easements, such as water, sanitary and storm sewers shall be shown. All proposed public utility easements shall be shown if they are available.
 - (9) Minimum building setback lines along all streets and other public ways.
 - (10) Accurate outlines and delineation of all drainage easements, one hundred (100) year floodway routing, flood hazard areas and other watercourses contained within or contiguous to the plat boundaries.
 - (11) Accurate outlines of any areas to be dedicated or reserved for public use, with purposes indicated thereon, and of any areas to be reserved by deed covenant, for the common use of all property owners.
 - (12) Other information deemed necessary by the Municipal Engineer or the Planning Commission in order to fully describe any special conditions or circumstances affecting the proposed plat.
 - (13) If more than one sheet is required for the plat, an index map, at a smaller scale, showing all of the lots on one contiguous drawing shall be shown on the first sheet.

The final plat submittal shall also contain:

- (14) A certification by a registered surveyor that the plat represents a survey made by him and that the monuments shown exist as located, or will be set one foot below proposed grade prior to beginning of construction, and that all dimensional and geodetic details are correct. The plat shall be prepared in accordance with the minimum plat requirements as established by the Franklin County Engineer's Office.
- (15) A notarized certification by the owner/owners of the adoption of the plat and the dedication by them to public use of the streets and other public areas shown on the plat. No property should extend to center of rights-of-way.
- (16) Proper form for the approval of the Planning Commission, with space for signature of the Chairperson.
- (17) Space for approval by signature of the Mayor, Municipal Engineer, Council representative to Planning Commission and Finance Director. The signature of the Engineer shall be withheld until all easements are shown.
- (18) Proper form for approval and acceptance by the Council, showing resolution number.
- (19) Within ten (10) working days after the review comments have been transmitted to the developer, and the tracing (final plat drawing) has been revised to reflect the review comments, it shall be submitted to the Municipal Engineer for the permanent filing.

Any additions or changes to the plat shall be made in the Engineer's office unless otherwise authorized by the Engineer.
- (20) Space for transfer by the County Auditor and recording by the County Recorder. A statement as to the expiration date of the municipal approval shall be placed just ahead of the space provided for the County Auditor's signature.
- (21) Application fees specified by separate ordinance.
- (22) Copies of any and all proposed deed covenants, deeds of right-of-way and deeds of easement.

In addition to the aforementioned requirements, the developer shall submit a written statement which shall include:

- (23) Evidence that the Ohio Environmental Protection Agency has considered the applicant's application and granted such permit or determined that such permit is not applicable. If a permit was granted, four (4) copies shall be supplied by the owner to the Village Administrator's designee for distribution.
- (24) Evidence that the U.S. Army Corps of Engineers has considered the applicant's application and granted such permit or determined that such permit is not applicable. If a permit was granted, four (4) copies shall be supplied by the owner to the Village Administrator's designee for distribution. After the tracing (final plat drawing) has been revised to reflect the review comments, eight (8) copies showing all approvals, shall be supplied by the owner to the Finance Director for distribution.

c) Approval of Final Plat

- 1) The Planning Commission review of a final plat application shall be based on the requirements of this chapter and provide a recommended action to City Council, who shall take final action on such application.
- 2) After action by City Council on an application for final plat approval, the action shall be documented by the Clerk of Council. The final plat may be recorded with the County Recorder's office provided compliance is made with other provisions of this chapter, only after full approval by the City Engineer. The City Manager may only add or revise easements after City Council has approved a final plat.
- 3) The approval of a final plat shall be effective for a period of twelve (12) months, or for such other time as approved by City Council.
- 4) The subdivider shall not transfer any lot, parcel or tract therefrom before the final plat has been recorded. No construction work on the proposed subdivision, including grading, shall be commenced until approval is received of a final plat and an engineering permit has been approved, in accordance with C.O. 909.

1187.07 IMPROVEMENT GUARANTEES.

- (a) The subdivider or developer shall, prior to construction, deposit with the Finance Director a sum of money as prescribed by Chapter 909 to defray the cost of inspection and the engineering services provided and any expense incurred by the Municipality due to the installation of the improvements and review of the plat and plans. The subdivider and developer shall hold the Municipality free and harmless from any and all claims for damages of every nature arising or growing out of the construction of such improvements, and shall defend, at his/her own cost and expense, each and every suit or action brought against said Municipality by reason thereof, until the improvement has been accepted by the Municipality.
- (b) The City Engineer shall accept infrastructure within the subdivision after its construction and the appropriate bonds have been provided, as prescribed by Chapter 909.

(Ord. 28-2004. Passed 6-15-04; Ord. 31-2007. Passed 8-21-07; Ord. 36-2008. Passed 10-21-08.)

1187.22 MINOR COMMERCIAL SUBDIVISIONS.

- (a) Notwithstanding anything to the contrary, approval without a plat of a minor commercial subdivision may be granted by the Community Development Director or designee if the proposed minor subdivision of a parcel of land meets all of the following conditions:
 - (1) A final development plan according to Chapter 1159 or an equivalent plan has been approved by a city board or commission;

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- (2) The proposed subdivision is located along an existing public road, has frontage along a public street and involves no opening, widening or extension of any street;
 - (3) No more than five (5) lots are created after the original parcel has been completely subdivided;
 - (4) The proposed subdivision is not contrary to other subdivision, zoning, and other applicable regulations; and
 - (5) The property has been surveyed and a survey drawing, legal description of the property and other information as may be pertinent or required for appropriate action are submitted with the application.
- (b) If approval is given under these provisions, the Community Development Director or designee shall, within ten (10) working days after submission, approve such proposed minor subdivision and, upon presentation of a conveyance for said parcel, shall stamp "Approved by New Albany; No Plat Required", and the authorized representative of the Commission shall sign the conveyance.

(Ord. 08-2007. Passed 2-20-07; Ord. 31-2007. Passed 8-21-07.)

1187.23 MINOR RESIDENTIAL SUBDIVISIONS.

- (a) Notwithstanding anything to the contrary, approval without a plat of a minor residential subdivision may be granted by the Community Development Director or designee if the proposed minor subdivision of a parcel of land meets all of the following conditions:
- (1) The proposed subdivision is located along an existing public road, has frontage along a public street and involves no extension of any street;
 - (2) No more than five (5) lots are created after the original parcel has been completely subdivided;
 - (3) The proposed subdivision is not contrary to other subdivision, zoning, and other applicable regulations; and
 - (4) The property has been surveyed and a survey drawing, legal description of the property and other information as may be pertinent or required for appropriate action are submitted with the application.
- (b) If approval is given under these provisions, the Community Development Director or designee shall, within ten (10) working days after submission, approve such proposed minor subdivision and, upon presentation of a conveyance for said parcel, shall stamp "Approved by New Albany; No Plat Required", and the authorized representative of the Commission shall sign the conveyance.