



New Albany Board of Zoning Appeals Meeting Agenda
February 24, 2025, at 6:30 pm

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's website at <https://newalbanyohio.org/answers/streaming-meetings/>

I. Call to order

II. Roll call

III. Action on minutes January 27, 2025

IV. Additions or corrections to the agenda

Administer 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

VAR-08-2025 Variance

Variance to Business and Commerce L-GE zoning text section VI (B) to delay the installation of the required landscaping along adjacent residential use properties at 13360 Miller Road (PID: 095-111648-00.00)

Applicant: Ryan O'Grady

Motion to accept the staff reports and related documents into the record for - VAR-08-2025.

Motion to approve application VAR-08-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VII. Other business

VIII. Poll members for comment

IX. Adjournment



New Albany Board of Zoning Appeals
January 27, 2025 Meeting Minutes - DRAFT

I. Call to order

The New Albany Board of Zoning Appeals held a regular meeting on Monday, January 27, 2025 in the New Albany Village Hall. Chair LaJeunesse called the meeting to order at 6:30 p.m. and asked to hear the roll.

II. Roll call

Those answering roll call:

Mr. LaJeunesse	present
Mr. Jacob	present
Ms. Samuels	present
Mr. Schell	present
Mr. Smith	present
Council Member Shull	present

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

Staff members present: Law Director Albrecht, Planner Blackburn, Planning Manager Mayer, Deputy Clerk Madriguera.

III. Action on minutes December 23, 2024

Chair LaJeunesse asked if there were any corrections to the minutes from the December 23, 2024 meeting.

Hearing none, Board Member Jacob moved for approval of the December 23, 2024 meeting minutes as presented. Board Member Smith seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. Smith yes, Ms. Samuels yes, Mr. Schell yes, Mr. LaJeunesse yes. Having five yes votes, the motion passed and the December 23, 2024 meeting minutes were approved as presented.

IV. Additions or corrections to the agenda

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

Planning Manager Mayer answered none from staff.

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

Chair LaJeunesse administered the oath to all present who wished to address the board.

VI. Cases

VAR-99-2024 Variance

Variance to Harrison West L-GE zoning text section IV(E)(3)(h) to eliminate the requirement to install rooftop equipment screening at 9360 Innovation Campus Way (PID: 095-112050.002)

Applicant: Alan Sotak

Planner Blackburn delivered the staff report.

Board Member Jacob clarified the orientation of the structure on the map and asked whether the adjacent sites were eligible commercial sites or protected green space. He further asked about notice requirements.

Planning Manager Mayer confirmed that the adjacent sites were commercial. He further clarified that letters were sent to all neighbors within 200 feet of the subject property and that no comments were received.

Board Member Smith asked when the staff noticed the permitting error.

Planning Manager Mayer stated that it was about a year ago.

Applicant Alan Sotak agreed and answered that it was about a year into construction, partial occupancy had been granted to the owner.

Board Member Schell asked staff what the screening requirements are.

Planning Manager explained that screening could be done in a variety of ways. HVAC equipment must be screened but ventilation equipment is not subject to screening. Regarding sound, there are no sound or decibel requirements. Some property owners/tenants install parapet walls on the side, otherwise most buildings will add additional screen walls which are louvred. This screening provides visual as well as auditory screening.

Board Member Schell noted that the applicant had cited that they would incur costs if the variance was not granted and asked what the costs would be.

Mr. Sotak said that the cheapest bid was about \$475,000.00. He further explained that if this had been required in 2022 when the structural work was occurring it would have cost \$250,000.00.

Board Member Schell asked whether additional engineering was required to account for the weight of the screening.

Engineer for the applicant responded that the building was constructed to minimum specifications. The addition of support would need to be from the interior, the metal panel for screening does not weigh a lot, it is the wind load on the metal panel.

Chair LaJeunesse asked who owns the building and what is on top of it. He further confirmed that some of the roof top fixtures were needed for this particular business.

Mr. Sotak replied that Colliers owned the building when it was constructed and now PPG the building they are tenants. HVAC and humidity control fixtures are on top of the building, and there are business specific items on the roof.

Chair LaJeunesse asked whether it was the owner or this building tenant that first applied.

Planning Manager Mayer explained that Tenby, the construction company, probably first applied for the permit for the shell and it is typical for the tenant to request the permits for the specific equipment they require. Many plain warehouses require very little HVAC, however manufacturing facilities such as PPG require more rooftop equipment.

Chair LaJeunesse confirmed that the infrastructure on the roof is specific to the business.

Board Member Jacob confirmed that it is purely the sound, that the screening was purely intended to minimize the sound produced by the equipment.

Board Member Schell asked whether city staff had been out there to listen to it.

Planning Manager Mayer responded that staff has been out there but he was not sure whether they had heard all of it.

Mr. Sotak responded that the loudest the sound is 54 decibels, which is adequate for residential (which ranges up to 60).

Board Member Samuels asked whether the sound is cumulative.

The engineer for the applicant responded that it is not cumulative.

Board Member Samuels asked about the visibility from the two sides in the renderings. She stated about the spirit of the code; she further asked about the code screening and visibility requirements.

Planning Manager Mayer explained that it was visible from the east and north side. It was partially visible at best. It was predominantly visible from the north side. He explained the code requirements and the visibility from the public right of way standard.

Board Member Samuels asked about the attempted mitigation and whether that included mitigation on one side only.

Planning Manager Mayer responded that he was not sure whether it included mitigation on one side only, but mitigation on all four sides was discussed. Analysis took place on a case by case basis.

Board Member Samuels remarked that this case involved equipment that was mounted on a platform, and asked the applicant whether he had priced a visibility shield for installation on the north side only.

The engineer responded that they priced screening for all four sides.

Board Member Samuels continued that she was seeking to partner with the applicant and investigate what was possible – perhaps a one-side solution could be implemented.

Mr. Sotak responded that they had priced it for all sides, but was not sure how much it would change the overall cost. The screen did not create the cost, rather it was the structure needed to secure it.

Council Member Shull thanked the applicant for coming and stated they had a wonderful building. He understood what the applicants were up against in terms of reinforcement to withstand the wind. He noted that the sight perspective was second in priority to management of the sound and confirmed with Planning Manager Mayer whether this was more of a sound issue and stated that there are many variables that can affect sound.

Planning Manager Mayer agreed and stated that this all started in 2014 when the business park was expanded. At that time there were township residents, and those residents consistently raised the issue of sound as opposed to the sight of the rooftop equipment. There are no screening requirements on those buildings because of when they were constructed.

Chair LaJeunesse asked whether there used to be adjacent to residential to this part of the business park, and asked whether staff has looked at changing the code. He stated that he was worried about the neighbor to the west and the precedential value of allowing this variance. However if the city is considering changing the code that is a different story.

Planning Manager Mayer responded that the erroneous permitting certainly establishes the unique circumstance.

Board Member Schell asked Law Director Albrecht whether this permitting error would justify granting this variance in the event that another tenant of the business park has a similar request.

Law Director Albrecht responded yes. The board's duty is to analyze each application on a case by case basis. He further stated that there is at least one case (in another district) where the owner's reliance on the city's permitting error was sufficient to justify granting the variance.

Chair LaJeunesse stated that \$450,000.00 quote sounds ridiculous and asked the applicant how many quotes he got.

Mr. Sotak explained the specifications for the quote. The engineer added that this was the only way. He further explained that it included the cost to the business of installing the screening would be significant.

Chair LaJeunesse asked for the length of the lease term.

Mr. Sotak replied that it was 10 years.

Board Member Jacob moved to accept the staff reports and related documents into the record for VAR-99-2024. Chair LaJeunesse seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. LaJeunesse yes, Ms. Samuels yes, Mr. Schell yes, Mr. Smith yes. Having five yes votes, the motion passed and the staff reports and related documents for VAR-99-2024 were accepted into the record.

Board Member Samuels moved for approval of VAR-99-2024 based on the findings in the staff report with the conditions in the staff report and subject to staff approval. Board Member Smith seconded the motion.

Chair LaJeunesse asked Board Member Samuels whether she had any provisions.

Board Member Samuels replied that she was torn. This was an exploratory conversation and she was concerned with the spirit of the code in terms of sound and visibility.

Council Member Shull stated that if Board Member Samuels wanted to continue the discussion, she could withdraw her motion.

In service of continuing discussion, Board Member Samuels withdrew her motion

Thereafter additional discussion occur on the merits of the variance, its precedential value if granted, whether the city should have a hard and fast rule, and enforcement mechanisms.

Chair LaJeunesse asked whether the board should propose a sound study.

Planning Manager Mayer explained that the city does not have a sound maximum. Staff has proposed a sound maximum in the past and the planning commission concluded that greater flexibility was more desirable than having a hard and fast rule. For that reason it is not part of the submittal requirement.

Board Member Schell asked whether there is a remedy if the property to the west is developed and the tenant has an issue with the sound.

Planning Manager Mayer responded that if the sound is outside of business hours it is a police enforcement issue. However the city is allowed to test upon a complaint.

Law Director Albrecht added that once a variance is granted it is difficult to change anything.

Board Member Samuels asked for the proximity of the businesses that are excluded from this.

Planning Manager Mayer noted the properties with no requirements, business to the west (Harrison and Smith's Mill Way) and stated that the code default does not have any site and sound screening requirements.

Board Member Jacob asked whether a business would have notice of these requirements if they were to explore locating here. He further confirmed that the property to the west was industrial.

Planning Manager Mayer answered that both statements were correct.

Board Member Samuels asked whether the property to the north that has not broken ground yet is being held to this screening requirement.

Board Member Schell remarked that he did not love it, but the fact that there is court precedent on a very similar issue is some comfort.

Law Director Albrecht confirmed that it is out there although not from this jurisdiction. It helps to distinguish these facts from future applications.

Board Member Samuels remarked that on the flip side it does not require staff to approve this at the application stage.

Planning Manager Mayer responded yes, the code exists. Explanation helps to inform future discussions and analysis.

Law Director Albrecht responded yes, and the court case does not permit the staff to ignore the code; the erroneous approval would give cover to this board on granting this variance.

Board Member Samuels followed and asked about prior denials following a permitting error.

Law Director Albrecht stated that each case must be evaluated individually. All factors must be evaluated. He then recommended that each board member give reasons supporting their vote in this case.

Hearing none, Chair LaJeunesse moved to approve VAR-99-2024 with no contingencies noting that the board had legs to stand on in the event a request such as this was presented to the board in the future. Board Member Smith seconded the motion.

Upon roll call: Mr. LaJeunesse yes, Mr. Smith yes, Mr. Jacob yes, Ms. Samuels yes, Mr. Schell yes. Having five yes votes, the motion passed and the variance was granted.

Chair LaJeunesse explained that he voted yes because this request was the result of a city staff permitting error. He encouraged staff to do a better job.

Board Member Jacob concurred with the chair and added that denial of the variance would place a substantial burden on the applicant, and the sensitivity of the products manufactured by this applicant.

Board Member Samuels concurred and found special circumstances exist. This is the result of a staff error and there is no maximum decibel limit in the code, and the evidence is that this sound at its loudest is 54 decibels.

Planning Manager Mayer stated it was worth noting this is 56 decibels.

Board Member Schell concurred and stated that this was one of the larger variances considered by the board in terms of cost and sensitivity, and it seemed likely that denial would expose the city to litigation.

VII. Other business

Council Member Shull remarked that from his time on this board a really good thing to review is the factors in *Duncan v. Middlefield*. This case did not have anything substantial with the exception of the noise, 56 decibels, which is moderate to moderately severe comparable to a clothes dryer. It was unclear whether the problem can be solved by other means but granting this was a solid decision based upon the seven factors.

Chair LaJeunesse asked when is the organizational meeting would occur.

Planning Manager Mayer responded that the board has until May to schedule the organizational meeting.

VIII. Poll members for comment

Chair LaJeunesse polled the members for comment.

IX. Adjournment

Hearing no comment and having no further business, Board Member Smith moved for adjournment. Board Member Samuels seconded the motion.

Upon roll call: Mr. Smith yes, Ms. Samuels yes, Mr. LaJeunesse yes, Mr. Schell yes, Mr. Jacob yes. Having five yes votes, the motion passed and the January 27, 2025 meeting of the New Albany Board of Zoning Appeals was adjourned.

Submitted by Deputy Clerk Madriguera, Esq.

Appendix

VAR-99-2024

Staff Report

Record of Action


NEW ALBANY
COMMUNITY CONNECTS US
Board of Zoning Appeals Staff Report
January 27, 2025 Meeting

PPG
Rooftop Equipment Screening Variance

LOCATION: 9360 Innovation Campus Way (PID: 095-112050-00.002).
APPLICANT: Alan Sotak
REQUEST: (A) Variance to Harrison West L-GE zoning text section IV(E)(3)(h) to eliminate the requirement to install rooftop equipment screening
ZONING: Limited General Employment (L-GE): Harrison West
STRATEGIC PLAN: Employment Center
APPLICATION: VAR-99-2024

Review based on: Application materials received December 10, 2024

Staff report prepared by Kylie Blackburn, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to exempt the building from installing the required rooftop screening. Harrison West L-GE Zoning text requires complete screening of all roof-mounted equipment on all four sides of buildings with materials that are consistent and harmonious with the building's façade and character and that such screening shall be provided in order to screen the equipment from off-site view and sound generated by such equipment.

II. SITE DESCRIPTION & USE

The property, spanning 10.40 acres, houses PPG's warehouse and is situated within the Business Park District. Adjacent properties to the west and east are located in the same limited overlay district. To the north property is in the Jug Street South Expansion L-GE, while the property to the south is part of the Business Park East L-GE Innovation District, Subarea 1.

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 exempt the building from installing the required rooftop screening.

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

1. The Harrison West zoning text’s Architectural Standards code section IV(E)(3)(h) requires:
“Complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building’s façade and character. Such screening shall be provided in order to screen the equipment from off-site view and sound generated by such equipment.”
2. The applicant requests a variance to allow elevated rooftop equipment not to be screened on all four sides of the buildings for sound and on three sides for visual screening. The rooftop equipment is situated and visually screened by a parapet wall so it is not visible from the west, south, and east sides of the building. The rooftop equipment is visible from the north side of the building which includes sightlines from Harrison Road.
3. The building has parapets walls on the west, south, and eastern elevations. The parapet wall along Innovation Campus Way is 1 +/- foot tall from the top of the roof. The building’s roof slopes down from the front to the back (south to north), resulting in parapet walls along the east and west elevations that range from 1 foot to 6 feet in height. The equipment is sitting on platform that is 5 to 8 feet tall and the tallest equipment is between 8 to 10 feet tall.
4. The city code does not prescribe any decibel levels, noise reduction coefficient, or specific building materials. The sight and sound screening requirements stated above do not prescribe these items to allow for flexibility and creativity in design and to take into account each building’s unique design. When reviewing the elevations and screening

- plan, the city staff looks for material that is designed and located to ensure sound is deflected up (vertically), instead of projected out (horizontally) to ensure it complies with the zoning regulations. This typically means there is a parapet wall or other solid or louvered wall, that is the same height or close to the same height, on all four sides of the roof top equipment. This can serve as both the screening requirements for sight and sound. Visual screening is determined from the sightlines at the edges of the property.
5. Only major mechanical equipment such HVAC, air handlers, generators, and other items with motors mounted on the roof platform that need to be screened. Pipes, ducts, roof lights, and similar items do need to be screened.
 6. The special conditions and circumstances do not result from the action of the applicant. As stated in the applicant's justification letter, the city staff erroneously approved construction plans that includes rooftop equipment without the proper screening. During an initial inspection of the site, the city staff realized the error and contacted the tenant.
 7. The problem can be solved by some manner other than the granting of a variance. After learning of the code requirement, the applicant submitted a screening plan that was approved by the city. It has the platform completely screened on all sides from the top of the platform to the top of the tallest piece of mechanical equipment (approximately 12'-6").
 - a. The platform screening has sightline screening louvers at three locations for required air circulation. The louver material would be used at the access gate as well. The screening plan also resulted in the north condensing units and roof-mounted RTU being screened on three sides by the roof slope and parapets screening the south sides. The screen at the north condensing units would need to be 48" based on the unit height.
 8. There are special conditions and circumstances that exist that are peculiar to the land or structure involved since the city staff mistakenly approved plans without the proper screening. However, the screening requirements are applicable to other lands or structures in the same and surrounding zoning districts. With the exception of the original Licking County business park construction that occurred between 2010 and 2012, located within the Smith's Mill Loop Road, all other L-GE limitation texts have this same rooftop screening requirement.
 9. Another special condition and circumstance is that the equipment is on a raised platform on top of the roof. This is not a typical condition throughout the business park.
 10. The variance does not preserve the "spirit and intent" of the zoning requirement. The applicant proposes leaving the existing roof-mounted equipment unscreened. This proposal does not meet the intent of the regulation, which is designed to mitigate both the visual and acoustic impacts of such equipment on neighboring properties by ensuring sound is deflected up (vertically), instead of projected out (horizontally).
 11. Although there is no screening of the roof-top equipment the visual aesthetics are not substantial. The equipment is only visible from the north property line where there is no existing parapet wall or other screening in use. The equipment is blocked visually from the Innovation Campus Way right of way and there are limited views from the Harrison Road public right-of-way. The lack of sound buffering may be substantial since it lacks screening on all four sides of the equipment.
 12. It does not appear that granting the variance would not substantially alter the essential character of the neighborhood. This is because there are other buildings with unscreened "industrial-type" design features that accompany manufacturing buildings such as cat-walks, exterior pipes, conduits and vents that are visible to public streets. The property is surrounded by other commercial properties and the equipment has limited visibility from Harrison Road.
 13. This is the city's first variance request to rooftop screening requirements.
 14. It appears granting the variance will not adversely affect the delivery of government services.

IV. SUMMARY

During the building permit review city staff reviews building elevations and screening plans to ensure the rooftop mechanical equipment is screened for sight and sound to ensure noise compliance. The city staff historically has worked cooperatively and proactively with businesses to ensure they are in compliance with the noise requirements of the city. No other variance of this nature has been requested before.

The variance does not seem to be substantial from a sight perspective, as there is limited visibility of roof-mounted equipment from Harrison Road and the northern adjacent properties. Granting the variance does not appear to substantially alter the neighborhood's character due to it being surrounded by other commercial properties. The lack of sound attenuation may be substantial since the equipment is elevated from the top of the roof and lacks the required screening to buffer sound on all four sides.

V. ACTION

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

Move to approve application VAR-99-2024.

Approximate Site Location:



Source: NearMap



Community Development Department

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

Dear Alan Sotak

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

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

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

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

Thank you.



Community Development Department

Decision and Record of Action

Tuesday, January 28, 2025

The New Albany Board of Zoning Appeals took the following action on 01/27/2025 .

Variance

Location: 9360 Innovation Campus Way
Applicant: Alan Sotak

Application: PLVARI20240099
Request: Variance
Motion: To Approve

Commission Vote: Motion Approved, 5-0


Result: Variance, PLVARI20240099 was Approved, by a vote of 5-0.

Recorded in the Official Journal this January 28, 2025

Condition(s) of Approval: N/A

Staff Certification:

Kylie Blackburn
Planner


NEW ALBANY
COMMUNITY CONNECTS US
Board of Zoning Appeals Staff Report
February 24, 2025 Meeting

LANDSCAPE SCREENING VARIANCE

LOCATION: 13360 Miller Road, NW (PID: 095-111648-00.000).
APPLICANT: Ryan O’Grady
REQUEST: (A) Variance to Business and Commerce L-GE zoning text section VI(B) to delay the installation of the required landscaping along adjacent residential use properties
ZONING: Limited General Employment (L-GE): Business and Commerce Zoning Text
STRATEGIC PLAN: Employment Center
APPLICATION: VAR-08-2025

Review based on: Application materials received January 31, 2025

Staff report prepared by Kylie Blackburn, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to delay the installation of the required landscaping along a residentially used property. The Business and Commerce L-GE zoning text requires landscaping and/or mounding to be installed within the minimum required pavement setback areas, adjacent to residentially zoned and used properties, to provide an opacity of 75% on the date that is five (5) years after planting to a total height of 10 feet above ground level when viewed from off-site. Due to the requirements of this zoning text, the landscaping is required to be installed immediately and the applicant request a variance to allow it to be installed by the end of construction work on the site.

II. SITE DESCRIPTION & USE

The property, spanning +/- 79.3 acres, is located in the Licking County portion of the New Albany Business Park. The site is planned to be developed as a data center campus. Adjacent properties to the west and south are located in the same limited overlay district. To the east, the property is zoned Technology Manufacturing District. The property to the north is residentially zoned and used, located within Jersey Township.

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 Business and Commerce L-GE zoning text section VI(B) to delay the installation of the required landscaping along adjacent residential use properties

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

1. The Business and Commerce zoning text’s Buffering, Landscaping, Open Space, and Screening code section VI(B) provides the following requirements related to screening along residentially zoned and used properties.

“For those perimeter boundaries which abut residentially zoned and used properties (if two contiguous properties have an intervening public street right-of-way between them, they shall still be considered to be abutting) that are not owned by the developer, then the required landscaping and/or mounding (or some combination thereof) within minimum required pavement setback areas shall be enhanced to provide an opacity of 75% on the date that is five (5) years after planting to a total height of 10 feet above ground level when viewed from off-site. Existing trees may be utilized to meet this opacity requirement.”

2. Zoning text section VI(J) states that this screening is required to be installed when a site improvement is constructed that will be within 800 feet of the residentially zoned and used property. There is a residentially zoned and used property adjacent to the northern boundary of this commercial site and the applicant plans to construct improvements that are within 800 feet of this shared property line, therefore the screening is required to be

- installed immediately. The applicant requests a variance to this requirement to delay the installation of landscaping until the end of construction work on the site.
3. The variance request does not appear to be substantial, as the applicant intends to delay the landscaping installation just until construction is completed on-site. The variance is being requested due to there being insufficient space to relocate construction trailers on site during construction. While the required landscaping will not be in place immediately, the applicant states that they will install construction fencing along the northern property line, adjacent to the neighboring residential area.
 4. Allowing the variance would not significantly alter the essential character of the neighborhood. The applicant has committed to maintaining screening of the construction from neighboring properties through the use of fencing until the landscaping is installed. Since the landscaping would not provide full opacity immediately upon installation, the fencing may offer more effective screening than the landscaping could on day one. Additionally, there are other commercial sites in the surrounding where immediate installation of screening is not required. Those property owners are permitted to install the screening by the end of construction which is the same request this applicant is making.
 5. The variance request generally aligns with the "spirit and intent" of the zoning requirement, as the applicant is still required to provide the necessary screening as construction is completed. This approach ensures that the intent of the zoning requirement is upheld while still addressing practical constraints, thereby serving substantial justice by balancing the needs of the project with the surrounding environment.
 6. The applicant states that there are special conditions and circumstances in this case that justify the variance request, as outlined in their reasoning letter. They state that despite repeated attempts to contact the residents of the adjoining property, no one has reached out, and it appears that the property is not actively in use. However, the zoning text still requires compliance with the screening provisions.
 7. Granting the variance will not adversely affect the health and safety of those residing or working nearby, nor will it be materially detrimental to the public welfare or injurious to private property or public improvements. The applicant has ensured that a form of screening will remain in place along the residential property through the use of fencing, and the landscaping will be installed once construction is complete and the construction trailers are removed. This approach will maintain the intended screening, ensuring no negative impact on the surrounding area.
 8. The variance would not adversely affect the delivery of government services.

IV. SUMMARY

The variance request involves delaying the installation of required landscaping until after construction is completed, due to space constraints for construction trailers. The applicant commits to maintaining screening along the residential property line using fencing during this period, ensuring that the intent of the zoning requirements is still met. Granting the variance will not significantly alter the neighborhood's character, as the fencing will provide effective screening until the landscaping can be installed. Overall, it does not appear that granting this variance negatively impacts the surrounding area and it will be in line with the spirit of the zoning code.

V. ACTION

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

Move to approve application VAR-08-2025.

Approximate Site Location:



Source: NearMap

RECEIVED

JAN 29 2025

THE CITY OF NEW ALBANY



Community Development Planning Application

Submission	<p>Submit planning applications and all required materials via email to planning@newalbanyohio.org</p> <p>Paper copies are not required at this time however, 12 paper copies of the entire submission will be required ahead of a board hearing date. The planner assigned to your case will inform you when the paper copies need to be delivered to our offices. Fee invoices will be issued to you once the application is entered.</p>																									
Project Information	<p>Site Address <u>13360 Miller Road, NW, New Albany, Ohio 43031</u></p> <p>Parcel Numbers <u>095-111648-00.000</u></p> <p>Acres <u>79.30</u> # of lots created <u>1</u></p>																									
	<p>Choose Application Type</p> <p><input type="checkbox"/> Appeal <input type="checkbox"/> Extension Request</p> <p><input type="checkbox"/> Certificate of Appropriateness <input checked="" type="checkbox"/> Variance</p> <p><input type="checkbox"/> Conditional Use <input type="checkbox"/> Vacation</p> <p><input type="checkbox"/> Development Plan</p> <p><input type="checkbox"/> Plat</p> <p><input type="checkbox"/> Lot Changes</p> <p><input type="checkbox"/> Minor Commercial Subdivision</p> <p><input type="checkbox"/> Zoning Amendment (Rezoning)</p> <p><input type="checkbox"/> Zoning Text Modification</p>	<p>Description of Request:</p> <p>We are requesting a Variance to Zoning Requirement Section VI, J, which requires Screening to implemented when any structure which is withing 800 feet of property line to be screened prior to the structures start. This would be applicable on the northern property line.</p>																								
Contacts	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: left;">Applicant Information</th> <th colspan="2" style="text-align: left;">Property Owner Information</th> </tr> </thead> <tbody> <tr> <td style="width: 25%;">Name</td> <td style="width: 25%;">Ryan O'Grady</td> <td style="width: 25%;">Name</td> <td style="width: 25%;">Nick Ondracek.</td> </tr> <tr> <td>Address</td> <td>777 Woodward Ave. Suite 300</td> <td>Address</td> <td>410 Terry Ave. North</td> </tr> <tr> <td>City, State, Zip</td> <td>Detroit MI 48226</td> <td>City, State, Zip</td> <td>Seattle, WA 98109</td> </tr> <tr> <td>Phone Number</td> <td>313-570-4562</td> <td>Phone Number</td> <td>380-201-8278</td> </tr> <tr> <td>Email</td> <td>rogrady@walbridge.com</td> <td>Email</td> <td>nickord@amazon.com</td> </tr> </tbody> </table>		Applicant Information		Property Owner Information		Name	Ryan O'Grady	Name	Nick Ondracek.	Address	777 Woodward Ave. Suite 300	Address	410 Terry Ave. North	City, State, Zip	Detroit MI 48226	City, State, Zip	Seattle, WA 98109	Phone Number	313-570-4562	Phone Number	380-201-8278	Email	rogrady@walbridge.com	Email	nickord@amazon.com
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Email	rogrady@walbridge.com	Email	nickord@amazon.com																							
<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 <small>Nick Ondracek</small> Date: 2025.01.29 08:30:30-05'00' Date: <u>1/29/2025</u></p> <p>Signature of Applicant Date: <u>1/29/2025</u></p>																										

Department Address: 7815 Walton Parkway • New Albany, Ohio 43054 • Phone 614.939.2254

Mailing Address: 99 West Main Street • P.O. Box 188 • New Albany, Ohio 43054

Fees & Submittal Information

Appeal		250.00	
Certificate of Appropriateness			
	ARB – single and two family residential	100.00	
	ARB – All other residential or commercial	300.00	
	ARB - Signage	75.00	
Conditional Use		600.00	
Development Plan – Preliminary PUD or Comprehensive			
	Planning fee	First 10 acres	750.00
		Each additional 5 acres or part thereof	50.00 / each
	Engineering fee	1-25 lots	155.00 / each
		Minimum fee	1000.00
	Engineering fee	26 – 50 lots	3875.00
		Each additional lot over 26	75.00 / each
	Engineering fee	Over 51 lots	5750.00
		Each additional lot over 51	50.00 / each
Development Plan – Final PUD			
	Planning fee	First 10 acres	650.00
		Each additional 5 acres or part thereof	50.00
	Engineering fee	1-25 lots	
		(minimum fee \$1,000.00)	155.00 / each
	Engineering fee	26 – 50 lots	3875.00
		Each additional lot over 26	75.00 / each
	Engineering fee	Over 51 lots	5750.00
		Each additional lot over 51	50.00 / each
Development Plan – Non-PUD			300.00
Development Plan / Text Amendment			600.00
Plat – Road Preliminary			
	Planning fee		350.00
	Engineering fee	no lots on either side of street	1.00 / LF
		lots on one side of street	.50 / LF
		Minimum fee	1,000.00
Plat – Road Final			
	Planning fee		350.00
	Engineering fee	no lots on either side of street	1.00 / LF
		lots on one side of street	.50 / LF
		Minimum fee	1,000.00
Plat – Subdivision Preliminary			
	Planning		650.00
		Plus each lot	50.00 / each
	Engineering fee	1-25 lots	
		(minimum fee \$1,000.00)	155.00 / each
	Engineering fee	26 – 50 lots	3875.00
		Each lot over 26	75.00 / each
	Engineering fee	Over 51 lots	5750.00
		Each lot over 51	50.00 / each

Fees & Submittal Requirements

Plat – Subdivision Final			
Planning		650.00	_____
	Plus each lot	15.00 / each	_____
Engineering fee	1-25 lots		
	(minimum fee \$1,000.00)	155.00 /each	_____
Engineering fee	26-50 lots	3875.00	_____
	Each lot over 26	75.00 / each	_____
Engineering fee	Over 51 lots	5750.00	_____
	Each lot over 51	50.00 / each	_____
Lot Changes		200.00	_____
Minor Commercial Subdivision		200.00	_____
Vacation (Street or Easement)		1200.00	_____
Variance			
	Non-single family, commercial, subdivision, multiple properties	600.00	<u>\$600.00</u>
	Single Family residence	250.00	_____
	In conjunction with Certification of Appropriateness	100.00	_____
Extension Request		0.00	_____
Zoning			
	Rezoning - First 10 acres	700.00	_____
	Each additional 5 acres or part thereof	50.00 / each	_____
	Rezoning to Rocky Fork Blacklick Accord	250.00	_____
	Text Modification	600.00	_____
Easement Encroachment		800.00	_____

Variance Request
Amazon Data Center – Campus 4
13360 Miller Road

Per the Zoning Code, Section VI, (J), a landscape screening element is required when any permanent structure is within eight (800'-0") hundred feet of a residential area. This issue occurs on the northern parcel of the Amazon Campus 4 site. Amazon has included for this landscape screening element as illustrated on attachment A and fully intends on installing this screening as part of the Campus 4 project, in compliance with this requirement.

This variance requests a delay to the installation of this landscape screening element, reference highlighted portion only of attachment A, to permit construction management and personnel to access this area for construction purposes. If the landscape screening element is required per the Zoning Code, this will eliminate the only available area for construction management temporary trailer offices and temporary construction personnel parking. Per attachment B, Campus 4 will require approximately 1,000 parking spaces at peak time and approximately 15 temporary construction trailer offices. AEP has a Utility Easement for much of this area. They have been extremely generous and cooperative in permitting this temporary access. Walbridge and Amazon currently installed a temporary fence with screening tarps to screen the existing residence during construction.

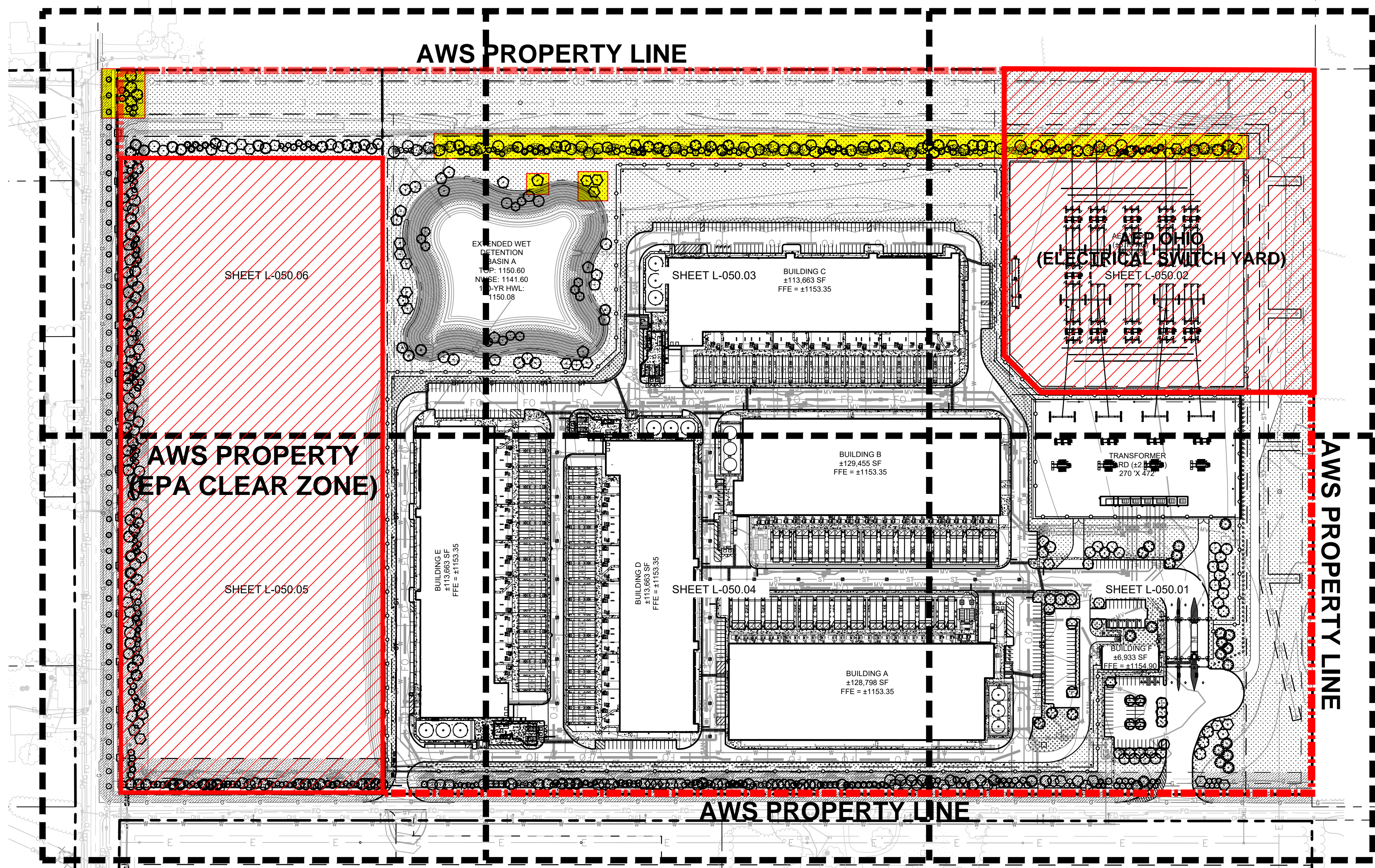
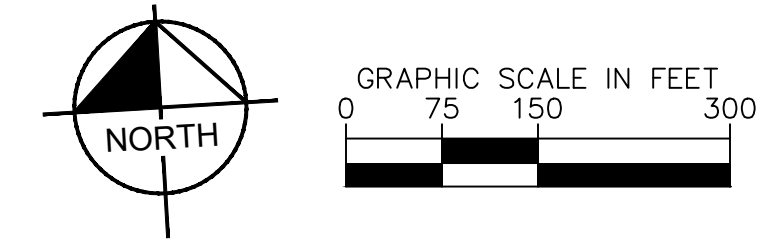
The initial plan was to utilize the land to the immediate west of Campus 4 (approximately 22.5 acres), located between Campus 4 and Beech Road. However, this land is a required buffer area as dictated by the EPA for this site. To date, this land must be kept unencumbered and remain as "Green Space" per Amazon's permit. Therefore, utilizing the area to the west for construction trailers and parking is not permitted.

We also investigated utilizing the Amazon land to the south of Miller Road. Amazon is currently in the design phase for a CMH105 site, but this design is not available at this time. Amazon has permitted utilization of a small portion of the site south of Miller Road for temporary staging of materials and trucks. However, this will be transferred to the CMH105 construction team once that site gets started.

Walbridge has attempted to reach out to notify the occupant of the residence several times, both in person and leaving messages. All attempts have been unsuccessful, and Walbridge has not received any response back from the occupant. We believe that this residence is currently unoccupied.

It is Walbridge's and Amazon's goal to comply with all codes and requirements. When construction starts to wind down, the area in question will be fully restored with a landscape screening element and the currently installed temporary fencing with screening will be removed. The landscape screening element portion will be installed across the northern portion of the west parcel EPA buffer which will screen the existing residence from Campus 4. All construction and full screening will be completed by November 2027.

We respectfully request that this variance request be approved to allow construction to proceed.



SUPERSEDED INSPECTION PROJECT

SUPERSEDED INSPECTIONS PROJECT: RECORD HAVE READ THE COUNTY COMMERCIAL PARTIAL PERMITTING PROCESS FOR SHELL BUILDINGS POLICY AND AGREE TO THE CONDITIONS AND RESPONSIBILITIES OF POLICY AS IT RELATES TO PLANS AND PERMITS FOR SHELL AND TENANT BUILD-OUTS FOR SUPERSEDED PROJECTS.

AHJ STAMP

CONFIDENTIAL

PROJECT ADDRESS
MILLER ROAD NW
CITY OF NEW ALBANY,
LICKING COUNTY, OH 43031

PROJECT DELIVERY PACKAGE
DESIGN DEVELOPMENT

SEAL/SIGNATURE

THE LICENSED PROFESSIONAL SEAL AFFIXED TO THIS SHEET APPLIES ONLY TO THE MATERIAL AND ITEMS SHOWN ON THIS SHEET. ALL DRAWINGS, INSTRUMENTS OR OTHER DOCUMENTS NOT EXHIBITING THIS SEAL SHALL NOT BE CONSIDERED PREPARED BY THIS PROFESSIONAL, AND THIS PROFESSIONAL EXPRESSLY DISCLAIMS ANY AND ALL RESPONSIBILITY FOR SUCH PLAN, DRAWINGS OR DOCUMENTS NOT EXHIBITING THIS SEAL.

LEGAL NOTICE
REGIONAL LEGAL NOTICE

ISSUE DATE: 18DEC2024 PROJECT NO: 190290000
DRWNG: DS/DE CHKAPP: DE/EOR

REV.	DATE	DESCRIPTION

CONFIDENTIAL
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NEW ALBANY, OH 43054

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COLUMBUS, OH 43235

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MILLER RD NW
NEW ALBANY, OH 43054

SECURITY ENGINEER:
BERNARDO CONSULTING GROUP INC
GREG BERNARDO
214.794.2446
8112 CLEAR RIVER LANE
DENTON, TX 76210

PROJECT: **DATA CENTER**
TITLE: **OVERALL LANDSCAPE PLAN**

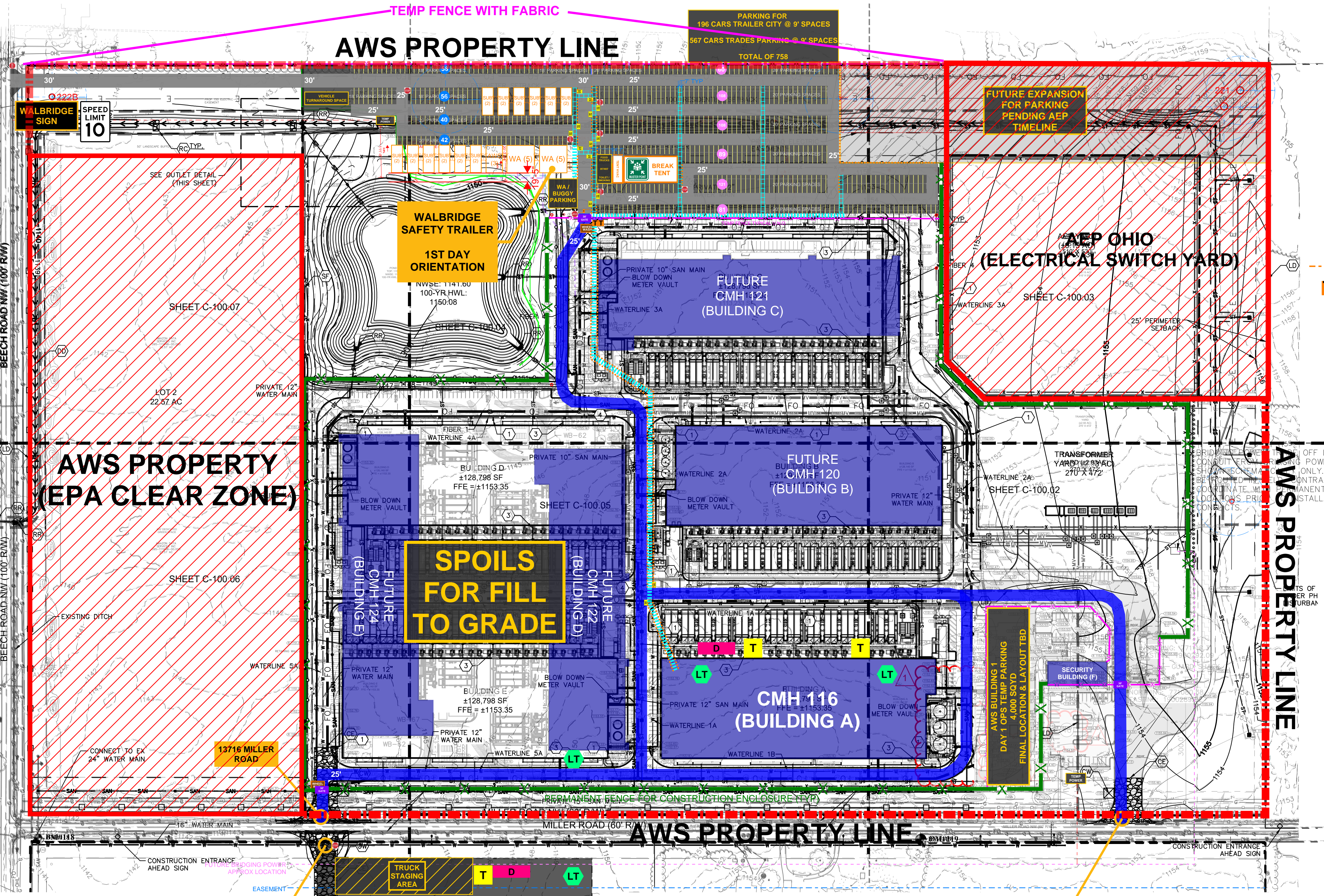
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ZONING ORDINANCE	REQUIRED	PROPOSED
BUSINESS AND COMMERCE ZONING DISTRICT LIMITATION TEXT LANDSCAPING REQUIRED ADJACENT TO RESIDENTIAL USES: FOR COMMERCIAL, INDUSTRIAL, OFFICE AND INSTITUTIONAL USES WHICH ABUT DISTRICTS WHERE RESIDENCES ARE A PERMITTED USE, A BUFFER ZONE WITH A MINIMUM WIDTH OF 25 FEET SHOULD BE CREATED AND PLANTED WITH NATURAL VEGETATION. NATURAL VEGETATION SHALL HAVE AN OPAQUENESS OF 75% DUE FALL FOLIAGE AND SHALL BE A VARIETY WHICH WILL ATTAIN 10 FEET IN HEIGHT WITHIN 5 YEARS OF PLANTING.	LENGTH OF NORTH PROPERTY LINE = 2,112.17 LF 2,112.17 LF x 0.75 = 1,584.13 LF 1,585 LF OF NATURAL VEGETATION REQUIRED WITHIN THE RESIDENTIAL BUFFER	1,594.39 LF OF NATURAL VEGETATION (CANOPY TREES, ORNAMENTAL TREES, EVERGREEN TREES AND LARGE SHRUBS) PROVIDED WITHIN THE RESIDENTIAL BUFFER
PARKING AREAS: THERE SHALL BE NO LESS THAN 1 TREE PLANTED FOR EVERY 10 PARKING SPACES.	TOTAL NUMBER OF PARKING SPACES = 494 SPACES 494 SPACES / 10 SPACES = 49.4 49 CANOPY TREES REQUIRED THROUGHOUT THE PARKING AREAS	49 CANOPY TREES PROVIDED WITHIN PARKING AREAS
MILLER ROAD, WALNUT STREET, BEECH ROAD AND US ROUTE 62: A LANDSCAPE BUFFER SHALL BE REQUIRED AND PLANTED WITH A MINIMUM QUANTITY OF 8 TREES PER 100 LINEAR FEET, IN ADDITION TO STREET TREES. TREES SHALL BE RANDOMLY PLANTED TO CREATE A NATURALIZED APPEARANCE.	LENGTH OF MILLER ROAD (EXCLUDING DRIVEWAYS) = 2,548.03 LF 2,548.03 LF / 100 LF = 25.48 25.48 x 8 TREES = 203.84 = 204 TREES REQUIRED ALONG MILLER ROAD LENGTH OF BEECH ROAD = 1,638.29 LF 1,638.29 LF / 100 LF = 16.38 16.38 x 8 TREES = 131.04 = 131 TREES REQUIRED ALONG BEECH ROAD	69 CANOPY TREES, 83 ORNAMENTAL TREES AND 52 EVERGREEN TREES (204 TOTAL TREES) PROVIDED ALONG MILLER ROAD 62 CANOPY TREES, 33 ORNAMENTAL TREES AND 36 EVERGREEN TREES (131 TOTAL TREES) PROVIDED ALONG BEECH ROAD
SECTION 1171.04 - STREET TREE REQUIREMENTS DECIDUOUS CANOPY TREES (STREET TREES) SHALL BE PLANTED NO LESS THAN 24 FEET AND NO MORE THAN 36 FEET ON CENTER.	LENGTH OF MILLER ROAD (EXCLUDING DRIVEWAYS) = 2,548.03 LF 2,548.03 LF / 36 LF = 70.7 71 STREET TREES REQUIRED ALONG MILLER ROAD LENGTH OF BEECH ROAD = 1,638.29 LF 1,638.29 LF / 36 LF = 45.5 46 STREET TREES REQUIRED ALONG BEECH ROAD	STREET TREES NOT PROVIDED ALONG MILLER ROAD DUE TO DRAINAGE SWALE, 71 CANOPY TREES PROVIDED ELSEWHERE ON SITE 46 ORNAMENTAL TREES PROVIDED ALONG BEECH ROAD DUE TO OVERHEAD POWER LINE CONFLICTS
SECTION 1171.05 - LANDSCAPING SCREENING FOR BUILDINGS OVER 50,000 SQUARE FEET: A MINIMUM OF 1 TREE FOR EVERY 5,000 SQUARE FEET OF GROUND COVERAGE AND A TOTAL TREE PLANTING EQUAL TO 25 INCHES PLUS 1/2 INCH IN TREE TRUNK SIZE FOR EVERY 4,000 SQUARE FEET OVER 50,000 SQUARE FEET IN GROUND COVERAGE.	TOTAL GROUND COVERAGE OF STRUCTURE AND VEHICULAR USE AREAS = 2,110,072 SQ. FT. (BUILDINGS - 645,840 SQ. FT., VEHICULAR USE AREA - 1,464,232 SQ. FT.) TOTAL NUMBER OF TREES: 2,110,072 SQ. FT. / 5,000 SQ. FT. = 422.01 = 422 TREES REQUIRED TOTAL TRUNK SIZE OF TREES: 25 + (0.5 x (2,110,072 SQ. FT. / 50,000 SQ. FT.)) / 4,000 = 282.5 = 283" TRUNK SIZE REQUIRED	117 STREET TREES (3" CAL) 237 CANOPY TREES (2.5" CAL) 145 ORNAMENTAL TREES (2" CAL) 122 EVERGREEN TREES (1.5" CAL), 6 FT HEIGHT) TOTAL TREES = 117 + 237 + 145 + 122 = 621 TREES TOTAL TRUNK SIZE = 117 (3) + 237 (2.5) + 145 (2) + 122 (1.5) = 1,416.5" TRUNK SIZE

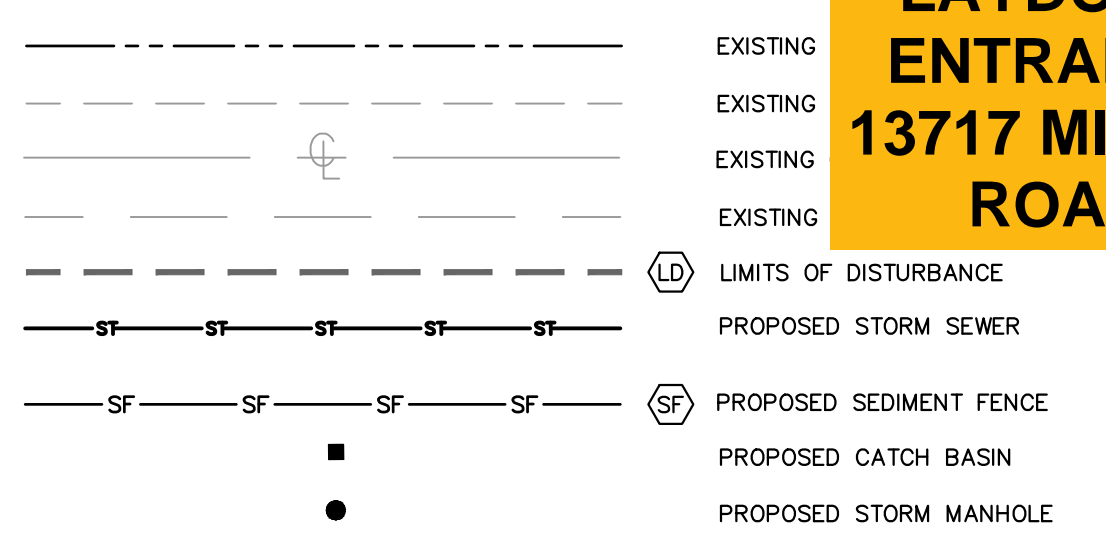


WALBRIDGE CONSTRUCTION ENTRANCE
4490 BEECH ROAD



Legend	Description	Quantity	Unit
	25' TEMP SITE ACCESS ROAD	4,770.59	ft
	FENCE - PERMANENT	5,203.87	ft
	FENCE - TEMPORARY	1,168.17	ft
	FENCE - TEMPORARY - FUTURE	764.12	ft
	FENCE - TEMPORARY WITH FABRIC	2,014.68	ft
	GATE - 10'	2	Count
	GATE - 30'	3	Count
	MISC - GUARD SHACK	1	Count
	MISC - GUARD SHACK	1	Count
	MISC - TURNSTILE	1	Count
	MISC - TURNSTILE	2	Count
	MISC - WHEEL WASH CAR	1	Count
	MISC - WHEEL WASH TRUCK	1	Count
	PAVED AREA - LADOWN	266.562	sf
	PAVED AREA - TRAILER CITY / TRADES PARKING	323.200	sf
	PEDESTRIAN WALKWAY - GRAVEL	1,694.05	sf
	PEDESTRIAN WALKWAY - ON ASPHALT	1,120.55	sf
	PEDESTRIAN XING SIGN (TWO-SIDED STANDARD)	14	Count
	STOP SIGN	9	Count
	TEMP SANITARY TO TRAILERS	438.73	ft
	TEMP WATER TO TRAILERS	328.05	ft
	TRAFFIC BARRIER	2,943.90	ft

LEGEND



LAYDOWN ENTRANCE
13717 MILLER ROAD

CURRENT TEMP PARKING
THRU FEB 2025

NOTES

ALL PROPOSED CATCH BASINS SHALL HAVE INLET PROTECT...
 BEECH ROAD AND MILLER ROAD ARE TO BE SWEEPED WHENEVER...
 DIRECT DISCHARGE OF SEDIMENT LADEN WATER TO THE CITY'S...
 THIS PLAN MUST BE POSTED ON-SITE. A COPY OF THE SWPPP

PERMANENT ENTRANCE
(LIMITED CONSTRUCTION TRAFFIC)
13340 MILLER ROAD

