

**NOTICE OF APPEAL OF DISAPPROVAL OF FDP-32-2026
AND STATEMENT IN SUPPORT**

6600 New Albany-Condit Road

Applicant/Appellant:

Rob Riddle

Attorney Representing Applicant/Appellant:

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I. APPEAL

Appellant hereby appeals the decision of the City of New Albany Planning Commission (“PC”) to disapprove the final development plan application for property located at 6600 New Albany-Condit Road. The application is known as FDP-32-2026 (the “FDP”). This appeal is being filed pursuant to City of New Albany Codified Ordinances Section 1159.12, which reads as follows:

“1159.12 - APPEAL.

If the Planning Commission disapproves the Preliminary Development Plan or Final Development Plan in a C-PUD application or the Final Development Plan in a I-PUD application the applicant shall have thirty (30) days in which to file an appeal with the Council for review. Such appeal shall be in writing, filed within thirty (30) days of the disapproval, and shall be filed with the Administrator. Council shall then act within a reasonable time.”

This appeal is submitted on July 24, 2026 and the PC action occurred on July 20, 2026. Therefore, this appeal has been timely made under Codified Ordinances Section 1159.12.

II. STATEMENT IN SUPPORT OF APPEAL

The applicant for the FDP and the appellant in this appeal, Rob Riddle, owns real property and improvements at 6600 New Albany-Condit Road, which is located to the southeast of the New Albany-Condit Road overpass at State Route 161. A rezoning application and associated preliminary development plan approving the classification of the subject property into the I-PUD, Planned Development District was approved relatively recently by New Albany City Council in Ordinance Number O-48-2026. The approved rezoning and preliminary development plan served to set the zoning regulations for the property and to confirm the general plan for the use and operation of the site.

These approvals facilitated the conversion of an existing residence to an office and of an existing accessory structure for a real estate brokerage and other professional office uses. These uses are intended to accommodate supporting uses such as a real estate title company or may include offices for other professionals such as lawyers or accountants. Medical office uses are not permitted pursuant to the approved rezoning. The plan for updating the improvements to the site as set forth in the approved zoning and preliminary development plan included architectural upgrades to the facades of existing structures, the installation of paved parking areas, minor additions to lighting within parking areas and along pedestrian passageways, and the installation of a 6-foot tall wooden opaque fence along the southern boundary line of the property.

Codified Ordinances Section 1159.10(c) requires that, after such approvals are received, a final development plan application must be filed and approved by PC before an applicant or owner may proceed to the building permitting stage for a project. On June 8, 2026, the City's Architectural Review Board reviewed the FDP application and made a recommendation for its approval to PC. On July 20, 2026, PC heard the FDP application. One member of the PC was absent from the meeting. City staff's report on the application also recommended approval with several conditions, all of which the applicant agreed to meet. After a public hearing was held, a motion to approve the FDP application was made and seconded by PC members. The motion failed by a vote of 2-2, as a majority of PC members in attendance were required for the FDP application to be approved.

During the hearing, questions were asked by PC Members to confirm that the Plain Township Fire Department had determined that fire truck access was being accommodated with the development. Additional questions were asked relating to the location of a proposed 6-foot tall opaque fencing that the applicant is providing and its relationship to an existing electric service easement running near to that boundary line. Questions were raised concerning whether or not if the fence is proposed to be located within the easement and, if so, whether or not appropriate approvals from the easement holder had been obtained.

The applicant was not represented by legal counsel at the PC hearing on the FDP application but did his best to try to answer these questions. One condition in the staff report that the applicant agreed to was to ensure that all of the City Engineer's comments are addressed. One of the engineering comments contained in a letter attached to the staff report from E.P. Ferris requires the applicant to "[p]rovide a fire truck turning radius analysis and contain Fire Department approval." Such a condition is not unusual and must be fulfilled in order to obtain a zoning permit and/or building permit for a project and after a final development plan is approved. Failure to produce such information at the time of permitting would result in a permit being denied.

As to the relationship between the fence and the electric easement, this is a private concern between the easement beneficiary and the property owner. The applicant is in the process of confirming that the location of the fence is outside of the existing easement. To the extent that it is not and the easement beneficiary refuses to allow the property owner to install this improvement within the easement, then the property owner would be required to file an

amended final development plan for review by PC with the new fence location. The appellant hopes to provide an update on this item to City Council at the hearing on this appeal.

Although the conversations at the PC hearing related to fire access and the fence placement, after PC's vote was completed the City Attorney properly requested each of the two dissenting voters to explain the rationale for their decisions, given that the action on the FDP application is administrative in nature. This fact limits PC's discretion to approve or disapprove. The stated reasons of each of the two dissenting members was that, just like they had opined at the time of rezoning/preliminary development plan review, they did not believe the proposed use was appropriate on the property. As explained below, casting a vote based on this reasoning was not compliant with applicable local law or established Ohio case law. Regardless of the preceding discussion of other topics before PC's vote, the dissenting members' explanations of their votes must be taken at face value. Their votes were solely the result of their objections to the proposed use.¹

PC's review of the FDP was limited in its scope by Codified Ordinances Section 1158.10(e), which reads, in relevant part:

“(e) If the Planning Commission finds that the Final Development Plan complies in all respects with the regulations of this chapter and the previously approved Preliminary Development Plan, the Commission ***shall*** approve the plan and the Commission chair, vice chair or designee shall affix his/her signature and approval date thereto attesting to such approval.” (Emphasis added.)

The litmus test for FDP plan approval is therefore proof of compliance with the approved rezoning and preliminary development plan. Because the use rights were established as part of the rezoning and preliminary development plan for this property, the only question to be decided by PC in that regard was whether or not the use(s) proposed in the FDP are permitted uses in the approved zoning. There is no debate that the proposed uses are the same as those that were approved at the earlier review stage.

PC's action to approve a final development plan application that complies with an approved zoning is not discretionary. It is mandatory. The bolded, underlined, and italicized portion of Codified Ordinances Section 1158.10(e) as set forth above clearly provides that the Commission “***shall***” approve the FDP in this circumstance. Therefore, the basis of PC's disapproval of the FDP was not compliant with local law.

The position of the appellant is also well-supported in case law from Ohio courts. In the Ohio Supreme Court case of *State ex rel. Committee for the Referendum of Ordinance No.*

¹ Given that an appeal of PC's decision must be filed within 30 days after it was made, there are no approved minutes of the PC meeting available at the time of the filing of this appeal. In addition, PC has cancelled its meeting previously scheduled for August 3, 2026, meaning that the earliest that PC's minutes of the June 20, 2026 meeting will be available is August 17, 2026. Given the short timeline between that date and filing deadline for this appeal, and the improper delay that the PC's decision has caused the appellant, this appeal is being filed as soon as possible. Video of the PC meeting on June 20, 2026 is available for City Council's viewing to verify the factual accuracy of what is being presented in this appeal statement.

3844-02 v. Norris, 99 Ohio St.3d 336, 2003-Ohio-3887, it was held that “***where specific property is already zoned as a PUD area, approval of subsequent development as being in compliance with the existing PUD standards is an administrative act***.” In other words, the final development plan review process is one where compliance with the law must be determined. It applies approved standards from an already-approved zoning text and preliminary development plan. It does not involve the ability to change any uses which are permitted by an effective zoning.

III. Relief Requested

Given that the PC acted beyond its permitted review authority and scope under the Codified Ordinances and established Ohio case law, its decision was improper. Appellant requests City Council to accept and grant its appeal, resulting in approval of FDP-32-2026.

Respectfully submitted,



Aaron Underhill, attorney for appellant

7/24/2026