



City of Pataskala Planning & Zoning Department
Scott Fulton, Director of Planning
Director of Planning's Report to Council

Current Projects

➤ **Planning and Zoning Commission**

November 1, 2023 Hearing: No applications were submitted; therefore, the November 1, 2023 Planning and Zoning Commission has been cancelled.

December 6, 2023 Hearing: At this time, no applications have been submitted for the December 6, 2023 Planning and Zoning Commission hearing. The application deadline is November 3, 2023.

➤ **Board of Zoning Appeals**

November 14, 2023 Hearing: The following applications are scheduled to be heard at the November 14, 2023 Board of Zoning Appeals hearing:

- Application VA-23-024: Jessica & Harlan Jackson are requesting a variance from Section 1297.02(B)(2) of the Pataskala Code to allow for a private swimming pool pump and filter installation that would fail to meet the minimum side yard setback for the property located at 140 Heron Avenue.
- Application VA-23-025: Alan Tharp is requesting variances from Sections 1229.045(b) to allow for a lot split that would create two (2) lots with less than the minimum required lot width of 200-feet, and less than the minimum required lot size of two (2) acres for the property located at 12964 Cleveland Road.

➤ **Agritourism**

- During public comments at the October 16, 2023 Council meeting, there was a request that Agritourism be added to the Code as it would help local business and meet some goals of the Comprehensive Plan.
- Staff is looking for guidance from Council to see if that is something that the Planning and Zoning Department should investigate.

➤ **Ordinance 2022-4424**

- Joe Clase, Plan 4 Land, is requesting to rezone 160 +/- acres from the AG – Agriculture to the PDD – Planned Development District pursuant to Section 1255.13 of the Pataskala Code for the property located at 10391 Hollow Road (Former High Lands Golf Course)
- The Planning and Zoning Commission recommended approval of the application on July 6, 2022 with the following condition:

1. The Applicant shall provide a clean copy of the complete application to the Planning and Zoning Department prior to proceeding to City Council.
- Originally, a Council public hearing was to be held on September 19, 2022 at 6:30pm; however, revised plans were not submitted in time to legally advertise the public hearing. Therefore, the hearing will need to be rescheduled until the revised plans are submitted and the public hearing can be legally advertised.
 - As of September 9, 2022, the applicant is investigating changes to the plan which could require a recommendation from the Planning and Zoning Commission prior to proceeding on to Council.
 - On March 23, 2023 Staff met with the applicant and property owner to discuss a reconfiguration of the subdivision. They are determining whether they want to proceed with a rezoning to PDD – Planned Development District or develop under the existing AG – Agricultural regulations.
 - On April 20, 2023 the applicant submitted a draft plan via email to develop the property as a subdivision under the current AG - Agricultural regulations. Staff is reviewing the plan and will provide feedback.
 - On May 5, 2023 staff provided a review of the concept plan and is working to set up a meeting to discuss.
 - Staff met with the applicant on May 16, 2023 to discuss the comments on the concept plan.
 - The applicant has prepared the updated plans for review by staff to comply with the condition of approval from the Planning and Zoning Commission. Once staff has determined that the plans have been updated appropriately, a Council public hearing will be scheduled.
 - A Council public hearing has been scheduled for October 16, 2023, at 6:15pm.
 - At the public hearing both Council and residents asked several questions. Staff compiled a list of these questions and answers from staff and the applicant (attached).
 - The staff report and decision letter are attached for reference.
 - Staff is happy to answer any questions related to this rezoning ordinance.

➤ **Ordinance 2023-4458**

- Fair Lady Development Holdings, LLC is requesting to rezone +/- 192.666-acres from the RR – Rural Residential and R-87 – Medium-Low Density Residential districts to the PM – Planned Manufacturing district pursuant to Section 1217.13 of the Pataskala Code for properties located at 0 Clark State Road, 0 Summit Road and 14530 Graham Road (PID: 063-140550-00.000, 063-141840-00.000, 063-151764-00.000, and 063-145944-00.001).
- The Planning and Zoning Commission recommended disapproval of the application on October 4, 2023.
- A Council public hearing has been scheduled for December 4, 2023 at 6:00pm.
- Staff is happy to answer any questions related to this rezoning ordinance.

➤ **FEMA FIRM Update**

- FEMA has released updated preliminary Flood Insurance Rate Maps (FIRM) for Licking County that include portions of Pataskala.
- A virtual community officials meeting was held on June 28, 2022 from 10:30am to 12:00pm
- A virtual flood plain map information open house was held on June 28, 2022 from 5:00pm to 7:00pm.
- A lengthy PowerPoint presentation explaining the process is available upon request.
- The updated flood maps are not expected to be in place until at least 2024. An issue with Sycamore Creek arose wherein the floodway was mapped with a standard 1 foot rise, however Licking County has a higher standard for mapping the floodway at a 0.1 foot rise. Since Licking has that standard, FEMA Region V has been working with Licking County to determine a path forward.
- Staff will keep Council apprised as the process continues and more information is available.

➤ **Pataskala CRA's**

- The Planning and Zoning Department has compiled information on the existing CRA's within the City for assessment and provided them to the Montrose Group.
- This assessment will determine the efficiency of existing CRA areas and determine if they should be expanded, retracted, or otherwise adjusted.
- Staff has completed the CRA Process Guide so that all parties (Council, Administration and the Company) are on the same page and know what to expect when navigating the CRA process. It is designed to be policy, rather than legislation, so that it can remain flexible.
- Staff and Montrose are working on the creation of a CRA for the northwest "innovation" district as outlined in the Comprehensive Plan.
- Staff presented a summary of the proposed Northwest Innovation District CRA to the Development Committee on June 21, 2022 for consideration. The Development Committee recommended that staff proceed with the formal creation of the CRA.
- A draft ordinance is currently under review by the Law Director. Once completed it, and associated CRA creation documents, will be presented to Development Committee.

➤ **Comprehensive Plan**

- The Planning and Zoning Department has identified the Economic Development goals outlined in the Comprehensive Plan for implementation and has reviewed them with Montrose and the City Administrator.
- The Planning and Zoning Department is prioritizing the planning and zoning goals outlined in the Comprehensive Plan for implementation. It is likely that Conservation Rural/Suburban regulations will be the first item addressed.
- With the passage and implementation of Impact Fees, staff has completed Action 6.3.1 of the Comprehensive Plan which states: "Consider the use of impact fees as a tool plan for and cover the cost associated with future development".

- Montrose is working on the creation of a CRA for the northern “innovation” district as outlined in the Comprehensive Plan as Action 4.2.2 which states: “Continue to market and explore opportunities for the northern innovation district”.
- Staff is working on the creation of the Summit Road TIF as outlined in the Comprehensive Plan as Action 2.2.2 which states: “Establish the area as a primary showplace for the City through public and private improvements”.

➤ **Summit Road TIF**

- Staff met on February 16 to finalize the TIF agreement with the developer.
- The developers application was tabled at the September 7, 2022 Planning and Zoning Commission hearing.
- The developer submitted a Preliminary Plan amendment for the project that will appear at the September 7, 2022 Planning and Zoning Commission hearing.
- Staff met with the developer on May 18, 2022 to discuss the next steps in moving the project forward
- Staff is working on setting up a meeting with the developer to discuss the traffic analysis and proposed site plan.
- The developer has submitted a traffic analysis for review.
- Staff met to discuss the next steps in the TIF process on January 13, 2022.
- Staff spoke with the developer’s attorney who indicated that they would be seeking approval from the Planning and Zoning Commission for the proposed development located on the northeast corner of Broad Street and Summit Road prior to completing the TIF agreement. The developer has not yet applied for approval.
- Staff continues to work with the developer and Mr. Schwallie on finalizing the Summit Road TIF agreement.
- Staff met with the developer on April 23, 2021 to discuss revisions to the draft TIF agreement. Staff has forwarded those on to Mr. Schwallie to make the updates.
- Mr. Schwallie has prepared a draft of the TIF agreement for review by staff and the developer.
- The property owner has confirmed the items to be included in the TIF and staff has forwarded these items to Mr. Schwallie to be incorporated into the TIF document.
- Staff has identified that items to be included in the TIF and has forwarded that list to the property owner for review.
- Staff has identified the parcels to be included in the TIF for the intersection of Summit Road and Broad Street and has forwarded them on to Mr. Schwallie for review.
- Staff spoke with Mr. Shwallie on August 28, 2020 regarding the parcels initially identified to be included in a Summit Road TIF. It became apparent after this discussion that the initial focus should be on creating a TIF for the intersection of Summit Road and Broad Street. Staff is in the process of identifying parcels to be included for review by Mr. Schwallie.
- Staff contacted Dennis Schwallie to determine interest and cost of preparing the TIF. Mr. Schwallie indicated that he would need to know the number of parcels to be included in the TIF before a cost estimate could be provided.

- Staff contacted Connie Klema, who represents the Coughlin properties on the corner of Summit, to see if there was interest in contributing to the cost of the TIF. This was done at the request of the Development Committee. Ms. Klema indicated she would need to know the cost first.
- Staff spoke with Mr. Schwallie on October 8, 2020 and is continuing to move forward on the establishment of the TIF.
- There are a few remaining items that need to be finalized before a formal document can be created; however, staff continues to work on these items and make progress on the TIF.
- Ordinance 2023-4459 is on the agenda for a second reading to create the Broad and Summit TIF.



CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

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MEADOWS AT HIGHLAND QUESTIONS

At the October 16, 2023 Council public hearing, several questions were raised by both Council and residents about the proposed rezoning. Those questions are listed below along with responses from staff and the applicant.

1. *The traffic study was conducted in 2019. How is the study still valid in 2023? What is being done about traffic at the intersection of Hollow Road and State Route 310?*

- **Staff Response:** The applicant requested a divergence from Section 1113.07(j) of the Pataskala Code to omit a Traffic Impact Study as a requirement for the Preliminary Development Plan. Staff felt the request for a divergence was reasonable. The project has two access points on Hollow Road for the 32-lot subdivision, Highland Meadows Drive serving 28 lots and Brandy Court serving the remaining 4 lots. The Traffic Impact Study would have determined the need for roadway improvements, such as a left turn lane. Staff knew that a project with two access points for 32 lots would not warrant the need for a turn lane; therefore, requiring a Traffic Study was unnecessary as the findings would show what was already known. Although the applicant requested a divergence, a traffic memo was supplied with the development text indicating that turn lanes were not warranted. Although the traffic memo is dated 2019, updating the study would not change the findings.

The applicant is not responsible for making upgrades to the intersection of Hollow Road and State Route 310, they are only responsible for making access improvements to their site, if warranted. That being said, the City enacted impact fees in 2021 which require the developer to pay a fee for each home constructed that will go toward area roadway improvements. In this instance a total of \$36,506.88 would be generated that could be applied to improvements at the intersection of Hollow Road and State Route 310.

- **Applicant Response:** Based on the initial trip generation figures calculated by Carpenter Marty Transportation regarding the expected traffic generated by this development, a full traffic impact study was not necessary. We understand there are concerns that have been expressed through the Planning Commission meetings regarding existing traffic flows on the surrounding roadways. We strongly believe the proposed use will have less impact than the golf course that previously occupied this property and will take any reasonable measures necessary to eliminate any traffic impact.

2. *When will the Planned Development District, if approved, take effect?*

- Staff Response: The requirements of the Planned Development District would take effect 30-days after a vote to approve the rezoning by Council. Based upon the current timeline, the third reading would take place on November 20, 2023 resulting in an effective date of December 20, 2023.
- Applicant Response: Applicant concurs with staff response.

3. *How can the provisions of the Planned Development District be “locked in” as in any change to the approved rezoning would be required to be approved by City Council?*

- Staff Response: Pursuant to Section 1217.13 of the Pataskala Code, Council shall either adopt or deny the recommendation of the Planning and Zoning Commission. Conditions cannot be placed on an approval by Council as that would constitute contract zoning, which is illegal. Therefore, Council cannot legally require the applicant to return to Council if the plan were to change following a rezoning. Any change to the plan; however, still requires review and approval by the Planning and Zoning Commission.
- Applicant Response: We understand we are “locked in” to the terms of the proposed development plan text and maps, without any subsequent application. We concurs with staff response, though it has been our experience that the Planning and Zoning Commission can require a new rezoning submittal, requiring council approval, if there are additional divergences being requested or if the Planning and Zoning Commission determines the any revisions deviate from the major terms agreed to in this application. Either way, we would be sure to follow proper procedures, if any revisions are considered. We feel this review was very thoroughly considered by the city and our team and do not believe revisions will be necessary.

4. *Why is a 30-foot rear setback allowed? It is too close to the road.*

- Staff Response: The 30-foot setback is measured from the rear property line of the lot to the house. Reserve A is located along the frontage of Alward Road and a portion of Hollow Road. The width of the reserve varies from 270 to 280 feet along Alward Road and 85 feet along Hollow Road. Houses abutting Alward Road would be a minimum of 300 to 310 feet from Alward Road and houses abutting Hollow Road would be a minimum of 115 feet from Hollow Road.
- Applicant Response: Applicant concurs with staff response and recognizes these setbacks are to be buffered in accordance with the landscape plan. These setbacks were carefully considered and should be considered much greater than what is required with the existing zoning district. While this is the permitted setback, it should also be noted that much of the setback for the lots along Hollow Road will be occupied by septic systems that will require a much greater setback than that permitted on the plans.

5. *Was there any right-of-way dedication as part of the project?*

- Staff Response: Yes, an additional 15 feet of right-of-way would be dedicated along both Hollow Road and Alward Road.

- Applicant Response: Applicant concurs with staff response and commits to make this dedication on the subdivision plat. The dedication is noted in the development plan.

6. *What is the density of Highland Estates?*

- Staff Response: The density of Highland Estates is approximately 0.25 dwelling units per acre.
- Applicant Response: Applicant concurs with staff response and notes that the proposed density of 0.20 dwelling units per acre is less than this adjoining development.

7. *Why was the property for sale?*

- Staff Response: Staff will defer to the applicant as they can provide better insight.
- Applicant Response: AV Investment LLC, the property owner/developer, was surprised by an unsolicited, lucrative offer from another developer to purchase the site after Intel announced their new investment. AV Investment had already engaged their team to project total cost of the infrastructure required by the Planning and Zoning Commission's recommendation to ensure maintenance costs would be sustainable, so they took some time to consider this offer while this study was being conducted. AV Investment eventually entered into a contract with this interested party. This discussion began to occur as the Planning and Zoning Commission recommended approval of the project. AV Investment understood the process could be stayed for a period of time before seeking final approval of the plan to explore this opportunity. The purchase contract ultimately expired after the interested party determined that they wanted to pursue a different site. Other offers continued to be brought by the realtor who handled the first contract, so it was agreed by AV Investment to inflate the purchase price but to keep it on the market out of respect to the realtor who spent so much time facilitating the prior contract and otherwise allow the applicant to move forward with finalizing adoption of this plan. This was looked at as harmless by AV Investment LLC as they were already waited on Plan 4 Land to get the project rescheduled for completion with the project team who had previously removed the project from their active project list not knowing if the project was going to proceed. AV Investment LLC no longer wants to entertain offers and instead plans to build this project themselves. They have engaged architects to begin working on custom house plans to proceed with as the site begins development, hopefully next spring.

After it was noted at the first reading of this application that this was a concern, AV Investment LLC removed the listing from the market and has informed the realtor that they no longer want to entertain offers.

8. *There are too many divergences. Why so many?*

- Staff Response: The divergence for the Traffic Impact Study was discussed above as part of question number one. The U.S. Sixth Circuit Court of Appeals issued a ruling in the fourth quarter of 2021 that determined local tree ordinances that required permits and payments of fees of certain trees to be unconstitutional; therefore, Section 1283.03 – Tree Preservation and Replacement cannot be enforced. The divergence was added to memorialize this in the

Development Text. Several divergences (frontage on a public road, no curbs, no sidewalks, no street trees, etc.) were requested because the interior roads of the subdivision would be private. Many of the requirements are specific to public roads. The applicant's justification for the divergences is listed on page 17 of the Development Text.

- Applicant Response: While there are a larger number of divergences, it is reasonable. Most of those requested are minor variations of the standards. The nature of the PUD zoning permits the ability to negotiate standards based on give and take. PUDs provide flexibility as developers design developments to be more attractive. Strict compliance doesn't always yield the best design. Divergences are only called out for slight variations to the rules, but it is only fair to note that these are offset by many areas where the plan comes nowhere close to standards permitted. For example, the proposed density of this development is 40% of the density recommended in the comprehensive plan. In exchange for this and other design measures to make the project more appealing, the applicant is requesting some more flexibility. If there are questions about one or more of the divergences and the justification included in the application, the applicant would be happy to further address the requests.