

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Meeting Agenda

August 5, 2019

6:00 PM

PUBLIC HEARING

City Council

*Bruce Jarvis – President
Mike Walker – Vice President
Jill Amos
Will Bennett
Bob Clark
Mike Coolman
Patrick Lynch*

A. Call To Order**B. Roll Call****C. Purpose of Public Hearing****[APL-19-001](#)**

June 18, 2019 Appeal of Planning and Zoning Commission Denial of Conditional Use Application CU-19-001 and Variance Application VA-19-005 for Panda Express, Inc. and Waterloo Crossing Ltd. (**[Panda Express Appeal](#)**)

D. Staff Report

Panda Express Findings of Fact and Conclusions of Law (**[Panda Express Findings of Fact](#)**)

Conditional Use App CU-19-001 Staff Report (**[CU-19-001](#)**)

Variance Application VA-19-005 Staff Report (**[VA-19-005](#)**)

E. Appellant's Presentation

Brief to City Council in Support of Conditional Use Application CU-19-001 and Variance Application VA-19-005 (**[Appellants' Brief](#)**)

F. Public Comments - Five Minute Limit Per Person**G. Council Discussion and Recommendation****H. Adjournment**

Respectfully submitted,

/s/ Joseph R. Miller

Joseph R. Miller (0068463)
Christopher L. Ingram (0086325)
Elizabeth S. Alexander (0096401)
VORYS, SATER, SEYMOUR AND PEASE LLP
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clingram@vorys.com
esalexander@vorys.com

Counsel for Appellants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served via hand delivery and email this 18th day of June, 2019 upon Amanda Jackson, Clerk of Council of the City of Canal Winchester, Ohio, 36 S. High Street, Canal Winchester, Ohio 43110, ajackson@canalwinchesterohio.gov.

/s/ Elizabeth S. Alexander

Elizabeth S. Alexander

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF CANAL WINCHESTER**

In re Application of Henry C. Klover –
Panda Express Inc. for a Conditional Use
Permit and Variance Request for Parcel No.
184-003208, located at the Waterloo
Crossing Shopping Center a 2,300 sq. ft.
Panda Express with a drive thru lane.

This application is before the Commission for two items: (1) Panda Express's Conditional Use Application to allow a proposed restaurant with drive thru service within the Waterloo Crossing Shopping Center, zoned General Commercial; and (2) Panda Express's variance request to allow for a building to exceed the build-to-line set at 25 feet. The Commission makes the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

1. On April 25, 2019, Panda Express submitted two items to the Canal Winchester Planning & Zoning Commission: (1) an Application for a Conditional Use Permit for a Panda Express restaurant with drive-thru window service and a turn-around loop for customers; and (2) a Variance Request to allow for the building to exceed the front build-to-line set at 25 feet.

2. The subject property is in the Waterloo Crossing Shopping Center, parcel number 184003208, and consists of approximately .722 acres. Properties to the north, east, and south are developed properties in the GC zoning district. Properties to the west, across Gender Road, are developed properties zoned Planned Commercial District (PCD).

3. Panda Express recognizes that a drive-thru window is a conditional use under Section 1167.03(a) of the Canal Winchester Zoning Code. Panda Express also acknowledges that its proposed plan requires a variance from Section 1199.04 of the Zoning Code regarding the front build-to-line.

4. On June 10, 2019 the Planning and Zoning Commission held a public hearing on Panda Express's application for a conditional use permit and variance request. The Planning and Zoning Commission reviewed the materials submitted with the application, heard testimony from representatives of Panda Express, and voted to deny the Conditional Use permit and Variance Request.

5. Panda Express filed an appeal of the denial to City Council on June 18, 2019.

II. CONCLUSIONS OF LAW

Conditional Use Request - #CU-19-001

1. A conditional use to Section 1167.03(a) of the Codified Ordinances has been requested to permit a drive-thru window and turn-around loop at a Panda Express in the Waterloo Crossing Shopping Center.

2. As such, the following criteria shall be considered by the Commission in reaching its determination as to whether to grant the conditional use:

(a) The proposed use is a conditional use of the zoning district and the applicable development standards of this Zoning Code are met.

(b) The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.

(c) The proposed use will not adversely impact access, traffic flow, and other public facilities and services.

(d) The proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature.

(e) The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

3. A claim of invalidity on the authorization or denial of a conditional use permit lies with the party contesting the determination. *Community Concerned Citizens, Inc. v. Union Twp. Bd. of Zoning Appeals* (1995), 66 Ohio St.3d 452. In other words, the applicant bears the burden of proving that he or she meets the criteria for grant of a conditional use permit.

4. Based on the materials submitted to the Planning and Zoning Commission and the evidence produced at the June 10, 2019 hearing, the proposed use of a drive-thru window is a conditional use of the zoning district under Section 1167.03(a).

5. The development plan for the Panda Express is overall compatible with the character of Waterloo Crossing but the proposed drive-thru creates significant traffic movement, access, and safety issues. As presented, the development plan requires a “wrap around” drive aisle in front of the building that interrupts pedestrian traffic and adversely affects the public health, safety, convenience, and comfort.

6. The Waterloo Crossing shopping center plans from 2004, 2005, 2006, 2010, and 2016 all show that the area for this proposed Panda Express was intended to be a parking expansion, not a commercial restaurant. While a fast food restaurant complies with the character of the general area, this location was not intended for such a use.

7. At its proposed location, the drive-thru access drive and wrap around drive will adversely impact traffic flow and access. Permitting the drive-thru and wrap around drive would create three full access points to the site that will create two additional conflict points for moving traffic. As proposed, all three traffic access points are full access and will be on private roads. Such a use creates an adverse impact on access and traffic flow within Waterloo Crossing.

8. The proposed use will take place in a parking lot. Therefore, there is not an impact on natural, scenic, or historic features.

9. While the proposed use as a commercial restaurant will not adversely impact the public health, safety, convenience, and comfort of the public, the proposed use of a drive-thru window and turn around loop may indeed have such adverse impacts. The drive-thru access lane and turn around loop create a third conflict point into the site and allows for vehicles travelling from seven different directions to converge unrestricted from two private roads. All surrounding sites have only one or two access sites onto one private road, which helps to reduce congestion and vehicle and pedestrian accidents.

10. Therefore, the Planning & Zoning Commission denies the conditional use permit to allow for the operation of drive-thru window at a Panda Express located at parcel number 184-003208.

Variance Request - #VA-19-005

1. A variance from Section 1199.04 of the Zoning Code, which regulates commercial buildings, has been requested to permit construction of the Panda Express with a setback from the right-of-way line of 45.66 feet despite the requirement for this location and sized building being 25 feet.

2. As such, the following criteria shall be considered by the Commission in reaching its determination as to whether to grant the variance:

- (a) The special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
- (b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.

- (c) That the special conditions and circumstances do not result from the actions of the applicant.
- (d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
- (e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
- (f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.
- (g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

3. A zoning board's authorization or denial of a variance is presumed to be valid and the burden of showing the claimed invalidity lies with the party contesting the determination. *Consol. Mgt., Inc. v. City of Cleveland*, 6 Ohio St.3d 238, 452 N.E.2d 1287 (1983).

4. Properties along major arterials as designated in the Canal Winchester Thoroughfare Plan have a build-to-line of 50 feet. All other streets have a build-to-line of 25' from the right of way. The proposed Panda Express does not front a major arterial and so must have a 25' build-to-line from the right of way under Section 1199.04 of the Zoning Code.

5. Special circumstances or conditions do not exist that are applicable to other lands or structures in the same zoning district. Panda Express has oriented its proposed drive-thru lane in a manner that requires a build-to-line variance. Removing the drive-thru lane from that front of the building removes need for the variance, and the applicant has submitted a concept plan that shows the drive aisle not in front of the building.

6. A literal interpretation of the Zoning Code would not deprive Panda Express of rights commonly enjoyed by other properties in the same district. This property is configured such that the drive-thru lane could exit onto the existing private drive east of the building. That configuration removes the need for the drive isle to wrap around the front of the building and removes the need for the build-to-line variance.

7. Any special conditions and circumstances do arise because of the actions of Panda Express. Its desire to have the drive-thru lane wrap in front of the building forces the building to site off of the required build-to line. Panda Express has shown the ability to meet the code without a variance in previous concepts provided to the city.

8. Granting the variance to Panda Express will not confer any undue privilege denied by the Zoning Code to other lands or structures in the same zoning district. Other properties have been pushed back to have drive-aisles to wrap in front of the building, although those properties have offered significant modifications to justify the variance. For example, Panera Bread received a variance in June 2014 to allow a building beyond the build-to-line at 73.29 feet but also included a large patio in front of the building that furthers the code's goal of promoting pedestrian friendly areas.

9. Granting this variance creates a safety concern by connecting the drive aisle to the private drive on the north-east end of the site. This creates traffic from both travel directions and tension between traffic entering and exiting the Panda Express parking lot and those leaving the drive-thru lane. This variance also removes the pedestrian orientation to the site by pushing the building off of the 25-foot build-to-line and forcing pedestrians to walk in the drive-thru loop which creates a safety concern.

10. Granting this variance permits an incompatible use on this site. Kay Jewelers was

previously approved for this site and met all of the applicable zoning standards. The site can be used in such a way that meets all zoning regulations.

11. Granting the variance will not permit a use that is otherwise not permitted in the zoning district because fast-service restaurants are permitted in the shopping center and the Gender Road corridor.

12. Therefore, the Planning & Zoning Commission denies the variance request to waive the front build-to-line requirement of 25 feet at the proposed Panda Express located at parcel number 184-003208.

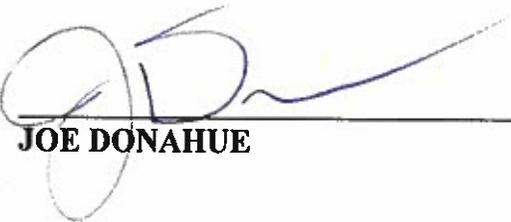
7/8/2019
DATE

AS TO THE CONDITIONAL USE REQUEST:



BILL CHRISTENSEN

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain



JOE DONAHUE

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain

BRAD RICHEY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain



MICHAEL VASKO

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain

JOE WILDENTHALER

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain


MARK CAULK

Concur

Dissent

Abstain

AS TO THE VARIANCE REQUEST:


BILL CHRISTENSEN

Concur

Dissent

Abstain


JOE DONAHUE

Concur

Dissent

Abstain

BRAD RICHEY

Concur

Dissent

Abstain


MICHAEL VASKO

Concur

Dissent

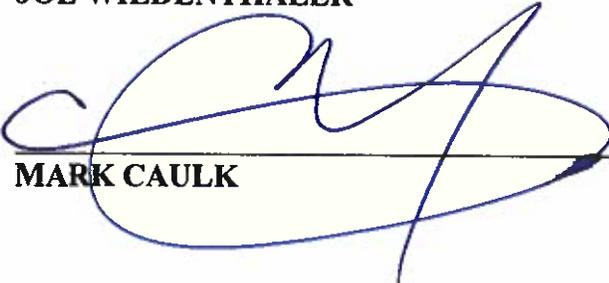
Abstain

JOE WILDENTHALER

Concur

Dissent

Abstain


MARK CAULK

Concur

Dissent

Abstain

**Conditional Use #CU-19-001
Panda Express**

Owner: Waterloo Crossing LTD
Applicant: Henry C. Klover – Panda Express Inc.
Location: PID 184-003208 – Property located at the Waterloo Shopping Center.
Existing Zoning: GC (General Commercial)
Request: Conditional Use to allow for a proposed restaurant with drive through service.

Location and Surrounding Land Uses

The subject property is zoned GC (General Commercial) and consists of 0.722 acres on the south side of Winchester Blvd. All surrounding properties are zoned GC and are part of the Waterloo Crossing Shopping Center. This property is subject to the Commercial Development Standards of the Zoning Code.

Conditional Use

A conditional use to Section 1199.03(a)(2)(h) has been requested to allow for a drive thru.

The following criteria shall apply:

- a. The proposed use is a conditional use of the zoning district and the applicable development standards of this Zoning Code are met.
 - *The proposed use (drive thru window service) is a conditional use of the zoning district. However, the applicant's use of the proposed drive-thru will cause the building to require a variance from meeting the 25 foot build-to line. With the proposed drive thru the building will have a 'wrap around' drive isle in front of the building. The applicant has explained that the wrap around drive isle is for orders that are not ready when the customer reaches the window, and are directed to drive back into the parking area to wait for the food.*
- b. The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.
 - *The proposed use (drive thru window service) is compatible with adjacent land uses and the zoning district. However, this particular use is not appropriate for the plans of the area. The Waterloo Crossing shopping center plans from 2004, 2005, 2006, 2010 & 2016 show that the area for this proposed Panda Express was intended to be a parking expansion, and was not intended for a commercial restaurant. The area to the east of the proposed Panda Express was intended for a potential building site.*
- c. The proposed use will not adversely impact access, traffic flow, and other public facilities and services.
 - *The proposed use will adversely impact traffic flow and access. The site will have three (3) full access points with the current site design. This will create two (2) additional conflict points for moving traffic around the site. All three (3) traffic access points are proposed to be full access and will be on private roads.*

- d. The proposed use will not result in the destruction, loss or damage of a natural, scenic, or historic feature.
 - *The proposed use will not result in the destruction, loss or damage of natural, scenic or historic features.*
- e. The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
 - *The proposed use as a commercial restaurant with a drive thru window service will not adversely impact the public health, safety, convenience and comfort... However, the proposed location of the drive-thru access drive and turn around loop will create a safety concern. This drive thru loop creates a third (3) conflict point into the site and allows for vehicles traveling from 7 different directions to converge unrestricted. Additionally, with the site plan proposal there will be off site work done to rearrange the existing parking creating a situation where the current access drive to the south turns into parking.*

Analysis

The applicant is requesting a conditional use to allow for a drive thru at the proposed Panda Express restaurant. The proposed building is 2,300 sq. ft. and will sit on a site comprised of 0.722 acres of land. This property is zoned General Commercial (GC) and is a vacant piece of ground within the Waterloo Crossing shopping center. All of the plans for the shopping center show this site as a future parking expansion.

Code section 1199.03(a)(2)(h) (Commercial Development Standards) of the Zoning Code states: "A drive thru, if deemed appropriate for the site by the Planning and Zoning Commission via a Conditional Use of the applicable zoning district, shall be designed as an integral part of the structure it serves. Features incorporated with a drive thru, including, but not limited to canopies, awnings and support posts, shall match the materials and color scheme of the building they are serving. Drive thru features shall not have any pick-up windows, ordering areas, signage, or other related items located on the front elevation of a building or located between the front of the building and a street right of way."

The development plans for the proposed Panda Express are overall compatible with the character of the Waterloo Crossing shopping center. However, the proposed conditional use of a drive thru does pose pedestrian access concerns. In this particular site, the drive thru causes the building to move away from the 25 foot build-to line creating a variance request. Panera Bread on West Waterloo Street has a similar situation where a drive-thru line that wraps in front of the building. However, this site has also been complimented by a large oversized patio in front of the building.

The subject site is surrounded by many uses of a similar nature including other fast-service restaurants, financial institutions and retail stores. The site circulation however is different than the surrounding uses. This site will feature three (3) connections to two (2) private roads. All other surrounding sites have one (1) or two (2) connections. All of the fast-service restaurants have one (1) connection to a private road. (*Panera Bread and Chipotle share a cross access drive that connects all future outparcels together to minimize the access drives with the Walmart parking lot*). With the proposed three (3) full access points for Panda Express there is a significant concern with traffic movement, access and safety.

Staff Recommendation

Staff feels that the proposed drive thru (as designed) is not compatible with the surrounding outparcels in the Waterloo Crossing shopping center. The proposal creates many traffic conflict points on site and off as well as creating a situation where the building is being pushed away from the required build-to line. Therefore staff recommends the applicant's request for a Conditional Use for a drive thru be denied as presented.



City of Canal Winchester

36 South High Street
Canal Winchester, Ohio 43110
Development Department
Phone (614) 837-7501 Fax (614) 837-0145

CONDITIONAL USE APPLICATION

rev. 09/24/2013

PROPERTY OWNER

Name PANDA EXPRESS INC.

Address 1683 WALNUT GROVE AVE. ROSEMEAD CALIFORNIA

Daytime Phone (626)799-9898 Email hakim.yala@pandarg.com

APPLICANT

Name Henry C. Klover

Address 10955 Lowell Avenue, Suite 700, Overland Park, KS 66210

Daytime Phone (913)649-8181 Email hcpermitting@klover.net

Address of Subject Property Winchester Blvd. & Canal St. Parcel 31-1800887

Current Zoning GC General Com. Description of Proposed Use The proposed structure will be a freestanding restaurant with drive-thru and on-site trash enclosure.

Attach legal description and current survey (within 2 years) of the subject property and all supporting materials as required by Section 1145.02 (c) (see attachment). Additional information may be required by the Planning and Zoning Administrator or the Planning and Zoning Commission

I certify that the information provided with this application is correct and accurate to the best of my ability.

Hakim Yala Digitally signed by Hakim Yala
DN: cn=Hakim Yala, o=CU
email=hakim.yala@pandarg.com,
c=US
Date: 2019.04.25 07:13:23 -0500 4/25/19
Property Owner's or Authorize Agent's Signature **Date**

DO NOT WRITE BELOW THIS LINE

Date Received: ___/___/___ Fee: \$ ___ Paid Historic District: ___ Yes ___ No
Preservation District: ___ Yes ___ No

Date of Action: ___/___/___ Application ___ No

Expiration Date: ___/___/___ Approved: ___ Yes
___ Yes, with conditions

Tracking Number: CU- _____

City of Canal Winchester
Development Department
36 South High Street
Canal Winchester, OH 43110

To Whom It May Concern,

The design team for Panda Express, Inc. is proud to submit for your site plan review and consideration of a conditional use application for a drive-thru restaurant facility at Winchester Blvd & Canal St. This variance specifically requests the permission to develop this restaurant with drive-thru services.

The statements below are provided as required per the Conditional Use Application Attachment document citing Required Materials per Section 1145.02 (c). The numbered requirement is listed, and then our response follows in italics.

1. Name, address and phone number of the applicant(s) and representative(s), if any, and the signature of the property owner(s).

Signature has been provided on associated Conditional Use Application:

Property Owner Representatvie

Hakim Yala

Panda Express Inc.

1683 Walnut Grove Ave.

Rosemead, CA 91770

(626) 799-9898

hakim.yala@pandarg.com

2. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.

Please see attached legal description and survey documentation.

3. A description of existing use, current zoning district, and proposed conditional use.

The lot is currently a vacant undeveloped outlot in the GC (General Commercial district). The proposed lot would be a Panda Express restaurant service casual Chinese food with dine in seating and a drive-thru.

4. A list of all property owners within, contiguous to and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.

1. CRI OUTPARCELS LLC
250 Civic Center Dr, Ste 500
Columbus, OH 43215-5088
Zoning:GC Commercial

2. Waterloo Crossing LTD
250 Civic Center Dr 500
Columbus, OH 43215
Zoning: GC Commercial

3. Bridgestone Retail Operations LLC
200 4th Avenue S.
Nashville, TN 37201
Zoning:GC Commercial

4. State Street Holding INC.
10 South Wacker Drive
12th floor, Suite 1260
Chicago, IL 60606
Zoning:GC Commercial

5. WOODYS COLUMBUS
330 Division Dr
Sugar Grove, IL 60554
Zoning: GC Commercial

5. A statement of the relationship of the proposed use to the general welfare of the community, to appropriate plans for the area, and to the changed or changing conditions behind the request.

The requested conditional use for a drive thru restaurant is designed with detailed consideration for pedestrian and automotive traffic safety and community welfare. The plans for the area already include current and recent drive-thru facilities, both bank and restaurant, and this use would build on that.

6. A statement of the relationship of the proposed use to adjacent land use in terms of traffic, parking, noise, and other potential nuisances and general compatibility.

The proposed use would not adversely affect adjacent land in terms of traffic as the traffic infrastructure is specifically designed for this use and intended development of this lot. The use provides entirely for its own parking needs. The services provided do not create noise considerations beyond those already present and designed for in the area. The only foreseeable affect would be the additional draw of commerce into the area.

7. A plot plan to show:

- A. Boundaries and dimensions of the lot and the size and location of all proposed and existing structures.

Please see attached legal description documentation and drawings 1-5.

- B. Traffic access, traffic circulation, existing and proposed utilities, parking, lighting and illumination, landscaping, signs, and other such information relevant to the proposed use.

Please see attached legal description documentation and drawings 1-5.

- C. Such additional information as may be required by this Zoning Code and/or requested by the Planning & Zoning Commission and/or the Planning & Zoning Administrator to review the application.

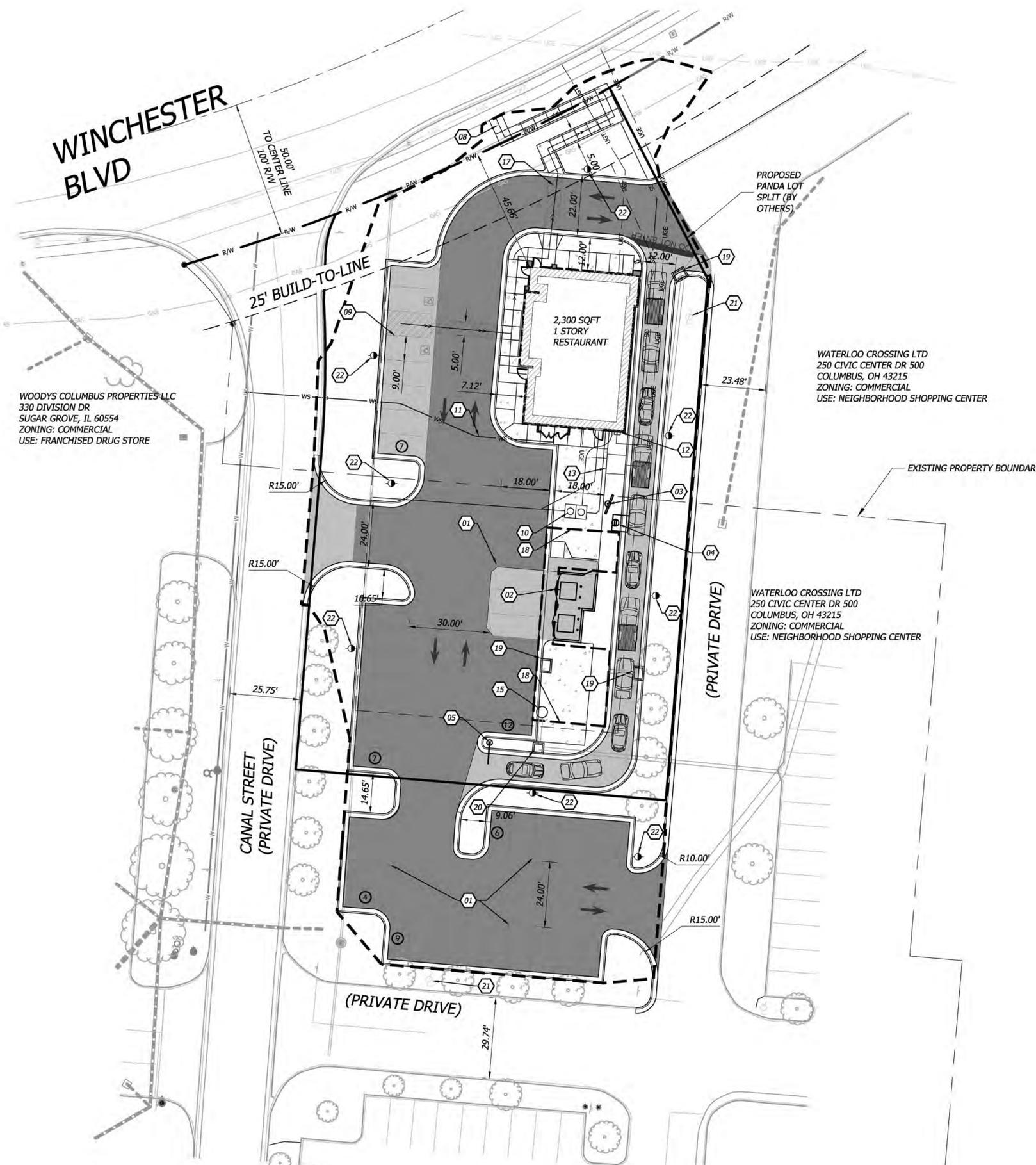
Please see attached legal description documentation and drawings 1-5.

If you have any further questions feel free to contact me at 913-649-8181 or by email at ryan.talbott@klover.net

Sincerely,

Henry C. Klover
Proprietor

May 14, 2019 10:35am Plotted By: kury.yoder \A\026800-05-Canal Winchester.dwg (Sheet) 026800-05-SIT5-SITE.dwg Layout: SITE PLAN



WOODYS COLUMBUS PROPERTIES LLC
 330 DIVISION DR
 SUGAR GROVE, IL 60554
 ZONING: COMMERCIAL
 USE: FRANCHISED DRUG STORE

PROPOSED PANDA LOT SPLIT (BY OTHERS)

WATERLOO CROSSING LTD
 250 CIVIC CENTER DR 500
 COLUMBUS, OH 43215
 ZONING: COMMERCIAL
 USE: NEIGHBORHOOD SHOPPING CENTER

WATERLOO CROSSING LTD
 250 CIVIC CENTER DR 500
 COLUMBUS, OH 43215
 ZONING: COMMERCIAL
 USE: NEIGHBORHOOD SHOPPING CENTER

SITE DATA

TOTAL FLOOR AREA:	2,300
PROPOSED SITE AREA:	33,722 SQ FT (± 0.77 ACRES)
DISTURBED AREA:	39,496 SQ FT (± 0.91 ACRES)

PARKING DATA (PROPOSED PANDA LOT ONLY)

CITY REQUIREMENTS- RESTAURANT
1 SPACES REQUIRED FOR EACH 100 SQUARE FEET (2300 SQ FT)

STALLS REQUIRED	23
TOTAL STALLS PROVIDED	26
STANDARD STALLS PROVIDED	24
ADA ACCESSIBLE STALLS REQUIRED	2 (1 VAN)
STACKING	11 CARS
SETBACKS	
FRONT	25
BACK	25
SIDE	20

ZONING
COMMERCIAL

CONSTRUCTION NOTES

- 01 LEAD FREE, WATER-BORNE EMULSION BASED WHITE TRAFFIC PAINT FOR PARKING LOT STALL STRIPING (TYP.)
- 02 DUMPSTER AND SCREENING ENCLOSURE
- 03 MENU BOARD
- 04 SPEAKER BOX
- 05 DRIVE THRU CLEARANCE BAR
- 06 LIGHT POLES, FACE OF CONCRETE BASE TO BE 2' FROM FACE OF CURB.
- 07 BACK OF CURB ALONG DRIVE-THRU, ADJACENT TO BUILDING SHALL EXTEND BACK TO FOOTING
- 08 SIDEWALK AND CONNECTION TO PUBLIC SIDEWALK
- 09 ADA PARKING AREA. 2% MAXIMUM SLOPE IN ANY DIRECTION.
- 10 1000 GALLON GREASE INTERCEPTOR
- 11 1 1/2" TYPE K COPPER DOMESTIC WATER SERVICE. METER AND BACKFLOW PREVENTOR INSIDE BUILDING.
- 12 GAS METER LOCATION
- 13 TRANSFORMER LOCATION
- 14 NOT USED
- 15 4' STANDARD MANHOLE FOR CONNECTION FROM DETENTION TO OUTLET CONTROL STRUCTURE.
- 16 4" PVC SANITARY SEWER CONNECTION. MINIMUM 2% SLOPE.
- 17 CROSSWALK STRIPING
- 18 UNDERGROUND STORMWATER DETENTION AREA
- 19 ODOT STANDARD CURB INLETS
- 20 DETENTION OUTFALL CONTROL STRUCTURE. REMOVE EXISTING STRUCTURE AND CONNECT TO EXISTING PIPES
- 21 EXISTING LIGHT TO REMAIN ON DEVELOPER/SHOPPING CENTER ELECTRIC
- 22 PROPOSED LIGHT POLE

DETENTION NOTE

- 1. UNDERGROUND DETENTION LIMITS SHOWN ARE APPROXIMATE.
- 2. VOLUME TO BE CONTAINED IS APPROXIMATELY 6000 CUBIC FT.
- 3. EXACT DIMENSIONS, VOLUME, AND DESIGN TO BE PROVIDED FOR FINAL ENGINEERING PLANS.

DEVELOPER INFORMATION

PANDA GROUP INC
 1683 WALNUT GROVE AVENUE
 ROSEMEAD, CA 97770
 720.436.1730

CURRENT OWNER

WATERLOO CROSSING LTD
 250 CIVIC CENTER DR #500
 COLUMBUS, OH 43215



PANDA EXPRESS, INC.
 1683 Walnut Grove Ave.
 Rosemead, California
 91770
 Telephone: 626.799.9898
 Facsimile: 626.372.8288

All ideas, designs, arrangement and plans indicated or represented by this drawing are the property of Panda Express Inc. and were created for use on this specific project. None of these ideas, designs, arrangements or plans may be used by or disclosed to any person, firm, or corporation without the written permission of Panda Express Inc.

REVISIONS:

NO.	DESCRIPTION

ISSUE DATE:

DRAWN BY:

PANDA PROJECT #: S8-20-D6790

ARCH PROJECT #: 18044.035



ARCHITECT:

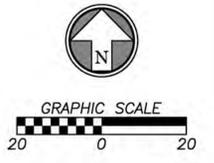
hckloverarchitect
 10955 LOWELL AVENUE, SUITE 700
 OVERLAND PARK, KS 66210
 ph: 913.649.8181 • fx: 913.649.1275

PANDA EXPRESS

TRUE WARM & WELCOME 2300 R1
 CANAL ST. & WINCHESTER BLVD
 CANAL-WINCHESTER, OH 43110

SITE LEGEND

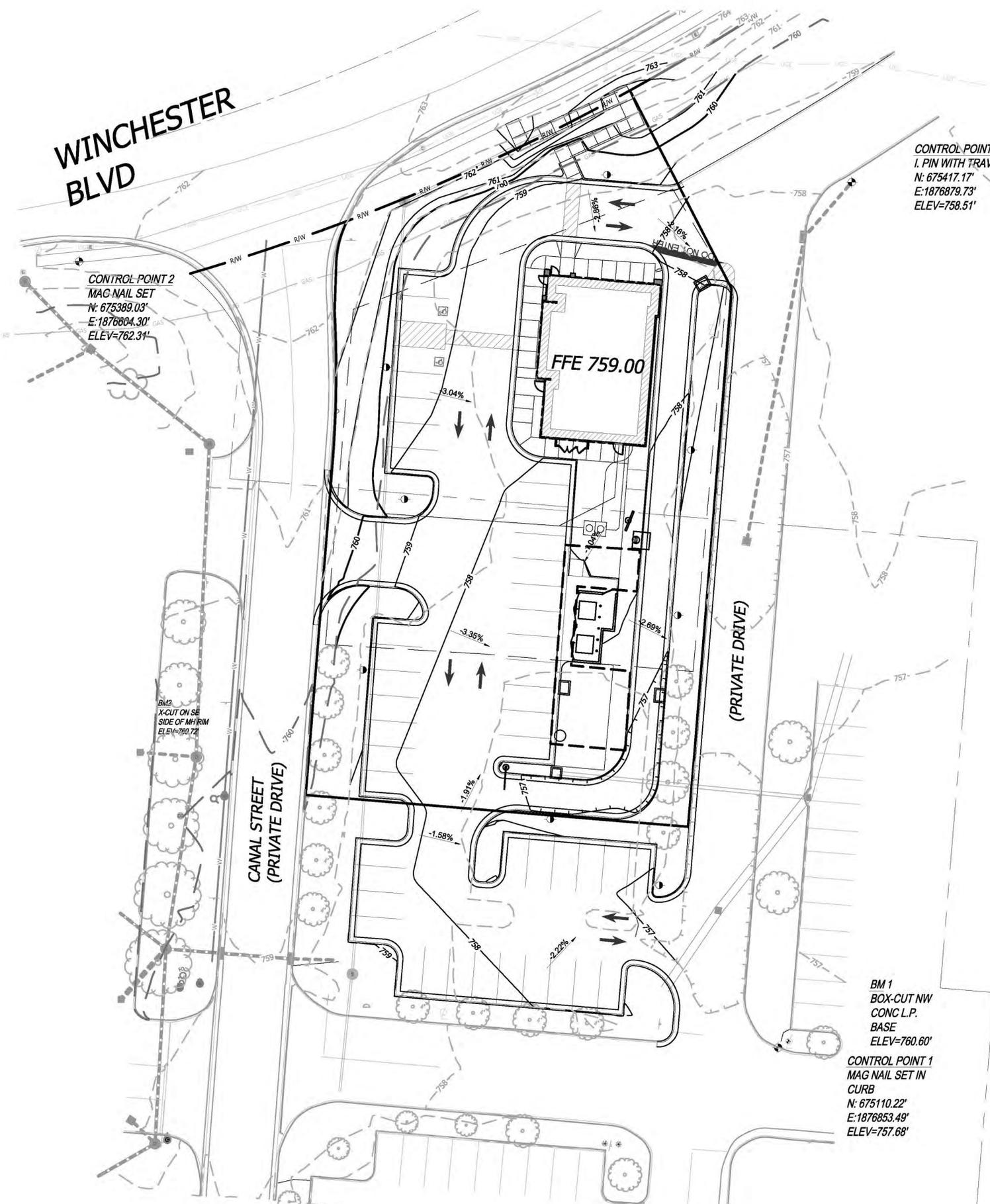
- PROPOSED BUILDING
- MEDIUM DUTY ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- CONCRETE SIDEWALK
- PARKING STALL COUNT
- CURB WITH NO GUTTER
- STANDARD CURB & GUTTER
- ACCESSIBLE ADA ROUTE
- BUILDING SETBACK LINE
- DISTURBED AREA
- PROPOSED PROPERTY LINE



BHC RHODES
 Civil Engineering • Surveying • Utilities
 7101 College Blvd., Suite 400
 Overland Park, Kansas 66210
 p. (913) 663-1900 f. (913) 663-1633
BHC RHODES is a trademark of Brungardt Hananick & Company, P.A.

SITE PLAN

May 14, 2019 10:35am Plotted By: kurt.yoder VA:026800-05-Canal Winchester - Panda Express - Master 2018\026800-05-Canal Winchester.dwg (Sheet) 026800-05-SIT5-0260.dwg Layout: Grad Plan



GRADING NOTES

- All topsoil, vegetation, root structures, and deleterious materials shall be stripped from the ground surface prior to the placement of embankments. Contractor shall obtain the on-site geotechnical representative's acceptance of the existing ground surface materials and the proposed fill material prior to the placement of fill.
- All proposed contour lines and spot elevations shown are finish ground elevations. Contractor shall account for pavement depths, building pads, topsoil, etc when grading the site.
- All disturbed areas that are not to be paved (green spaces) shall be finish graded with a minimum of six inches of topsoil.
- Finished grades shall not be steeper than 3:1.
- All grading work shall be considered unclassified. No additional payments shall be made for rock excavation. Contractor shall satisfy himself as to any rock excavation required to accomplish the improvements shown hereon.
- A 2.0% maximum cross slope shall be maintained on all pedestrian sidewalks and paths.

BENCHMARKS

(DATUM: NAVD88)

- BENCHMARK NUMBER: 1**
 ELEVATION= 760.60
 N:
 E:
 BOX CUT IN NORTHWEST CORNER OF CONCRETE LIGHTPOLE BASE
- BENCHMARK NUMBER: 2**
 ELEVATION:760.72
 N
 E
 "X" CUT ON THE SOUTHEAST SIDE OF THE MANHOLE RIM

PROJECT CONTROL

(DATUM: NAVD88)

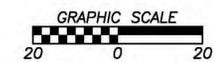
- CONTROL POINT NUMBER: 1**
 ELEVATION= 757.68
 N: 675110.22'
 E: 1876853.49'
 MAG NAIL SET IN CURB RADIUS
- CONTROL POINT NUMBER: 2**
 ELEVATION: 762.31
 N: 675389.03'
 E: 1876604.30'
 MAG NAIL SET IN CONCRETE SIDEWALK
- CONTROL POINT NUMBER: 3**
 ELEVATION: 758.51
 N: 675417.17'
 E: 1876879.73'
 I PIN WITH TRAVERSE CAP

FLOOD STATEMENT

The subject property lies within Flood Zone "X" (unshaded) (Areas determined to be outside the 0.2% annual chance floodplain.), as shown on the Hamilton County, Ohio and Incorporated Areas Flood Insurance Rate Map (F.I.R.M.).
 Map Number: 39049C0452K
 Panel No: 452 of 465
 Map Revised Date: June 17, 2008
NOTE: This statement is provided for informational purposes only and shall in no way constitute a basis for a flood certificate. No field work was performed to establish the boundaries of this zone. The information was derived by scaling the subject property on the above referenced map.

GRADING LEGEND

- | | | | |
|--|------------------------|--|-----------------------------------|
| | CURB WITH NO GUTTER | | 980 FINISH GRADE MAJOR CONTOURS |
| | STANDARD CURB & GUTTER | | 982 FINISH GRADE MINOR CONTOURS |
| | | | 980 EXISTING GRADE MAJOR CONTOURS |
| | | | 982 EXISTING GRADE MINOR CONTOURS |
| | | | PROPOSED STORM SEWER LINE |
| | | | PROPERTY BOUNDARY |
| | | | PROPOSED LOT SPLIT (BY OTHERS) |



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PANDA EXPRESS, INC.
 1683 Walnut Grove Ave.
 Rosemead, California
 91770
 Telephone: 626.799.9888
 Facsimile: 626.372.8288

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REVISIONS:

NO.	DATE	DESCRIPTION

ISSUE DATE:

DRAWN BY:

PANDA PROJECT # S8-20-D6790
 ARCH PROJECT # 18044.035



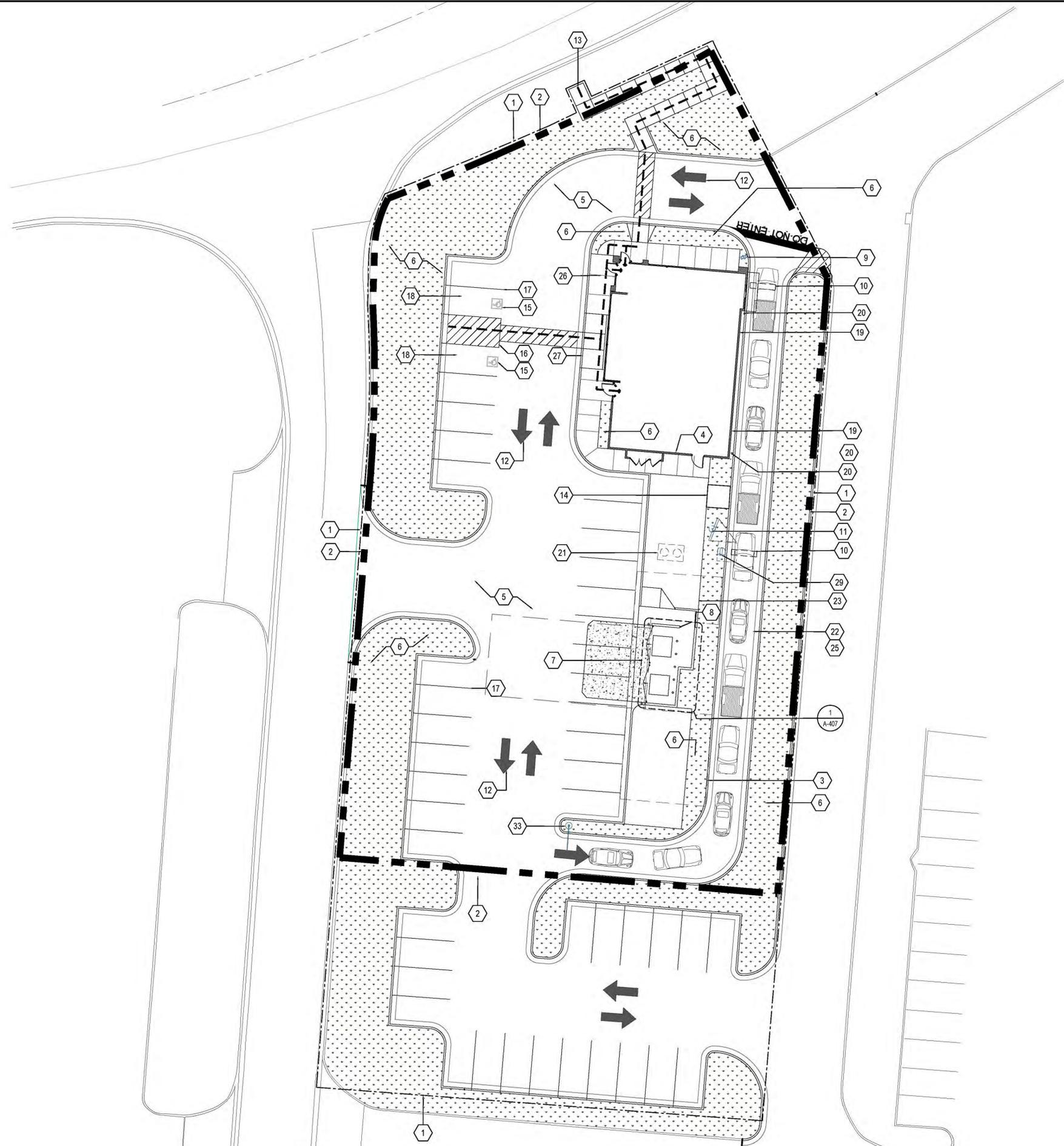
ARCHITECT:

hckloverarchitect
 10955 LOWELL AVENUE, SUITE 700
 OVERLAND PARK, KS 66210
 ph: 913.649.8181 • fx: 913.649.1275

PANDA EXPRESS

TRUE WARM & WELCOME 2300 R1
 CANAL ST. & WINCHESTER BLVD
 CANAL-WINCHESTER, OH 43110

GRADING PLAN



DEMOLITION NOTE:
 G.C. TO REMOVE ALL EXISTING ABOVE/UNDER GROUND STRUCTURAL WALLS, FOUNDATION, ASPHALT, CONC. CURBS AND DEBRIS PRIOR TO NEW CONSTRUCTION.

GENERAL NOTE:

1. G.C. TO VERIFY AND PROVIDE ALL UNDERGROUND WIRING AND CONDUIT (INSTALLED BY LOCAL UTILITY COMPANY) FROM TRANSFORMER TO ELECTRICAL MAIN SWITCHGEAR, DRIVE THRU MENU BOARD, BY G.C. VERIFY WITH PANDA PM.
2. WATER METER FOR IRRIGATION SHALL BE A SEPARATE METER THAN MAIN WATER METER. G.C. TO REFERENCE CIVIL UTILITY PLAN FOR SIZE AND LOCATION.
3. PROVIDE & INSTALL CAGE AND COVER FOR THE BACK-FLOW PREVENTER AT 4" CONCRETE CURB IN LANDSCAPE AREA, GORILLA CAGE, MANUFACTURED BY HOUSTON IRRIGATION SERVICES SPRING, TEXAS (281-705-9701). PROVIDE INSULATED COVER, AQUA SHIELD MODEL # BFP-1-S FOR COLDER REGIONS OF US. COORDINATE WITH PANDA PM. REFER TO DETAIL 11/A-407
4. FOR HORIZONTAL CONTROL PLAN REFER TO CIVIL DRAWINGS

- 1 LIMIT OF CONSTRUCTION
- 2 PROPERTY LINE
- 3 UNDERGROUND DETENTION. REFERENCE CIVIL
- 4 NEW SWITCHGEAR
- 5 PAVING - SEE CIVIL PLAN
- 6 IRRIGATED LANDSCAPING, REFER TO LANDSCAPE DRAWINGS
- 7 HEAVY DUTY CONCRETE APRON FOR DUMPSTER ENCLOSURE. REFERENCE CIVIL DRAWINGS FOR SPECIFICATIONS
- 8 TRASH ENCLOSURE, CONFIRM BIN SIZE WITH LOCAL WASTE MANAGEMENT COMPANY. (01 T-407)
- 9 "THANK YOU / DO NOT ENTER" SIGN
- 10 DRIVE THRU LANE SENSOR LOOP, INSTALL POSITION SO LOOP IS CENTERED ON ACTIVE PANEL OF DRIVE THROUGH WINDOW.
- 11 DRIVE THROUGH MENU BOARD-INSTALLED BY SIGN COMPANY. VERIFY WITH PANDA PM (SEE GENERAL NOTE ABOVE)
- 12 DIRECTIONAL ARROW
- 13 ACCESSIBLE PATH OF TRAVEL - - - - -
- 14 TRANSFORMER
- 15 INTERNATIONAL ACCESSIBILITY SYMBOL @ PARKING SPACE
- 16 ACCESSIBLE PARKING SPACE AND LOADING ZONE PAINT LOADING ZONE W/ 4" WIDE STRIPES @ 3'-0" O.C.
- 17 PAINT 4" WIDE SOLID PARKING STRIPING W/ TWO (2) COATS HIGHWAY WHITE PAINT
- 18 DESIGNATED HANDICAP PARKING SPACE
- 19 ROOF DRAIN AND OVERFLOW DRAIN FROM ROOF TO EXIT TO DAYLIGHT THRU FACE OF WALL. COLD CLIMATES WILL REQUIRE CONNECTION TO STORM SEWER. ARCHITECT TO VERIFY WITH LOCAL JURISDICTION.
- 20 STEEL PIPE BOLLARD. BOLLARDS TO BE PAINTED SAFETY YELLOW PRIOR TO APPLICATION OF LDPE SLEEVE. (18 A-407)
- 21 GREASE INTERCEPTOR
- 22 CONC. DRIVEWAY
- 23 EDGE OF SIDEWALK AT PLANTER
- 24 CONCRETE CURB AT LANDSCAPE AREA.
- 25 NOT USED
- 26 TOOLED JOINTS @ 5'-0"x5'-0" O.C. EXPANSION JOINT @ 20'-0" O.C.
- 27 ACCESSIBLE RAMP
- 28 NOT USED
- 29 ORDER CONFIRMATION BOARD
- 30 NOT USED
- 31 NOT USED
- 32 SEALED CONC SIDEWALK. (AQUA MIX SEALER'S CHOICE GOLD). CONCRETE TO BE LIGHT BROOM TEXTURE FINISH. PROVIDE UNDER SLAB TREATMENT PER SOIL REPORT. PROVIDE POSITIVE DRAINAGE AWAY FROM BLDG.
- 33 CLEARANCE BAR/BASE INSTALLED BY SIGN VENDOR.
- 34 NOT USED

SITE PLAN 1
 Scale= 1/16" = 1'-0" A-100

KEY NOTES A
 Scale= NTS A-100



PANDA EXPRESS, INC.
 1683 Walnut Grove Ave.
 Rosemead, California
 91770
 Telephone: 626.799.9898
 Facsimile: 626.372.8288

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REVISIONS:

ISSUE DATE:

DRAWN BY:
 PANDA PROJECT # S8-20-D6790
 ARCH PROJECT # 18044.035

hcktoverarchitect
 10955 LOWELL AVENUE, SUITE 700
 OVERLAND PARK, KS 66210
 ph: 913.649.8181 • fx: 913.649.1275

PANDA EXPRESS
 TRUE WARM & WELCOME 2200
 CANAL ST. & WINCHESTER BLVD
 CANAL-WINCHESTER, OH 43110

A-100
 SITE PLAN
 ARCHITECTURAL

**Variance #VA-19-005
Panda Express**

Owner: Waterloo Crossing LTD
Applicant: Henry C. Klover – Panda Express Inc.
Location: PID 184-003208 – Property located at the Waterloo Shopping Center.
Existing Zoning: GC (General Commercial)
Request: Variance from Chapter 1199.04(a) to allow for a building to exceed the build-to line set at 25’.

Location and Surrounding Land Uses

The subject property is zoned GC (General Commercial) and consists of 0.722 acres on the south side of Winchester Blvd. All surrounding properties are zoned GC and are part of the Waterloo Crossing Shopping Center. This property is subject to the Commercial Development Standards of the Zoning Code.

Analysis

The building is setback from the right-of-way line at 45.66 feet. The subject property has a front build-to-line at 25 feet because it is not along a major arterial identified in the Canal Winchester Thoroughfare plan. If the building was facing a major arterial identified in that plan then the setback would be 50 feet.

Section 1199.04 of the Zoning Code, which regulates commercial buildings, states: “To promote quality streets, buildings shall meet build-to lines along public roadway frontages. Build-to lines shall be fifty (50) feet from the right of way on major arterials as designated on the Canal Winchester Transportation Thoroughfare Plan and twenty-five (25) feet from the right of way on all other streets”.

“(1) In order to achieve quality streetscapes, variation from the build-to line will be permitted to allow for added green space, amenities, outdoor seating and the like. Buildings may be located further from the right of way than the established build-to line per the following:”

Building Height	Variation from Build-To Line
One Story Building	0 feet to 5 feet
Two Story Building	0 feet to 10 feet
Three Story Building	0 feet to 15 feet

“(2) At least fifty (50) percent of the building’s front elevation shall be located within the applicable variation from the built-to line range.”

“(3) Uncovered seating areas or architectural features may project up to five (5) feet closer to the right of way than the established build-to line.”

“(4) Buildings larger than twenty thousand (20,000) square feet or attached to existing inline retail space shall be exempt from the build to line requirements if located more than three hundred (300) feet from the right of way line.”

The commercial development standards in regards to build-to-lines were set up to promote pedestrian friendly and walkable streets. The proposed project directly contradicts this philosophy by placing vehicular traffic on all four (4) sides of the building, including between the building and the public sidewalk. The applicant has essentially eliminated the pedestrian oriented design by pushing the building away from the public sidewalk and placing a two direction traffic hazard to the front entry. The subject property was intended to be a future parking expansion, not for a commercial building. This can be seen with the applicants attempt to fit a commercial use with a drive thru window service in this awkward site, creating additional traffic conflict points and needing to move the building off the established build-to line.

Recent Variance

Panera Bread received a variance on June 9, 2014 to allow a building beyond the build-to line to be located 73.29 feet from the right-of-way. This project included a large patio in front of the building and the drive thru loop was for one way traffic only.

Aldi received a variance in June 13, 2016 to allow a building beyond the build-to line to be located 42.5 feet from the right-of-way.

Criteria For Approval

- (a) That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
 - *Special circumstances or conditions do not exist which are not applicable to other lands or structures in the same zoning district. The applicant’s orientation of the drive thru lane has forced the building to require a build-to line variance. The applicant has the ability to remove the drive thru lane in front of the building and shift the building to the build-to line to meet applicable setbacks for the zoning district. The applicant has provided a concept site plan showing the drive isle not in front of the building.*

- (b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.
 - *The literal interpretation of this Zoning Code would not deprive the applicant the rights commonly enjoyed by other properties in the same zoning district. This property has the unique site scenario where they could have the drive thru lane exit onto the existing private drive to the east of the building without the need for the drive isle to wrap in front of the building.*

- (c) That the special conditions and circumstances do not result from the actions of the applicant.
 - *The site layout and configuration do result from the action of the applicant. The desire to have the building to be pushed away from the right-of-way line is for the sole purpose of having the drive thru lane wrap in front of the building back into the parking lot. With this scenario, the building is forced to site off the required build-to line. The applicant has shown that they have the ability to meet the code with the layout of the site in previous concepts provided to the city.*

- (d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
- *Granting this variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district. Other surrounding uses with drive thru restaurants have been pushed back to have drive aisles to wrap in front of the building for circulation purposes to exit the drive thru. The only similar project built under the current code was Panera Bread and they provided a large patio in front of the building to justify the increase in building setback.*
- (e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
- *Granting this variance will create a safety concern with the drive aisle connecting to the private drive on the north-east end of the site. This connection will create traffic from both travel directions along the shopping center, people entering and existing the Panda Express parking lot and people leaving the Panda Express drive thru. This variance removes the pedestrian orientation to the site when pushing the building off the 25 foot build-to line creating a safety concern for pedestrians walking in the drive thru loop.*
- (f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.
- *Granting this variance will allow for an incompatible use on the site. This site was previously approved for a Kay Jewelers store which was able to meet all applicable building setbacks for the zoning district. The previous plan did show this site can be used in a way that meets zoning regulations without the need for variances.*
- (g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.
- *Granting this variance will not permit a use that is otherwise not permitted in the zoning district. The use of a fast-service restaurant is permitted and seen elsewhere in the shipping center and along the Gender Road corridor.*

Staff Recommendation

With the proposed building orientation staff is concerned with vehicle conflict points and the removal of the pedestrian oriented design to the building. The setback of the building is being dictated by a drive thru loop which the applicant has the ultimate control to redesign or eliminate the layout to remove the need for the setback variance. Staff is recommending that the Variance Application #VA-19-005 be denied as presented.



City of Canal Winchester

36 South High Street
Canal Winchester, Ohio 43110
Development Department
Phone (614) 837-7501 Fax (614) 837-0145

VARIANCE APPLICATION

rev. 09/24/2013

PROPERTY OWNER

Name PANDA EXPRESS INC.

Address 1683 WALNUT GROVE AVE. ROSEMEAD CALIFORNIA

Daytime Phone (626)799-9898

Email hakim.yala@pandarg.com

APPLICANT

Name Henry C. Klover

Address 10955 Lowell Avenue, Suite 700, Overland Park, KS 66210

Daytime Phone (913)649-8181

Email hcpermitting@klover.net

Address of Subject Property Winchester Blvd. & Canal St. Parcel 31-1800887

Current Zoning GC General Com.

Variance Request to Section 1199.04(a)

Requested Variance For the increase of a 25'-0" build to line to be 50'-0" to which would prevent a layout with dead-end parking and allow for traffic to connect with the existing private drive.

Attach a legal description and current survey (within 2 years) of the subject property and all supporting materials as required by Section 1147.02(c) (see attachment). Additional information may be required by the Planning and Zoning Administrator or the Planning and Zoning Commission.

I certify that the information provided with this application is correct and accurate to the best of my ability.

Hakim Yala

Digitally signed by Hakim Yala
DN: cn=Hakim Yala, o=City of Canal Winchester, email=Hakim.Yala@pandarg.com, c=US
Date: 2019.04.25 17:14:11 -0500

4/25/19

Property Owner's or Authorize Agent' Signature

Date

DO NOT WRITE BELOW THIS LINE

Date Received: / /

Fee: \$
Paid

Historic District: Yes No

Preservation District: Yes No

Date of Action: / /

Application No

Expiration Date: / /

Approved: Yes

 Yes, with conditions

Tracking Number: VA -

City of Canal Winchester
Development Department
36 South High Street
Canal Winchester, OH 43110

To Whom It May Concern,

The design team for Panda Express, Inc. is proud to submit for your site plan review and consideration of a variance application for a drive-thru restaurant facility at Winchester Blvd & Canal St. This variance is specific to prescribed 25'-0" build-to line, allowing for a 50'-0": build-to line which would prevent a layout with dead-end parking, and allow for traffic to connect with the existing private drive.

The statements below are provided as required per the Variance Application Attachment document citing Required Materials per Section 1147.02 (c). The numbered requirement is listed, and then our response follows in italics.

1. Name, address and phone number of the applicant(s) and representative(s), if any, and the signature of the property owner(s).

Signature has been provided on associated Variance Application:

Property Owner Representative

Hakim Yala

Panda Express Inc.

1683 Walnut Grove Ave.

Rosemead, CA 91770

(626) 799-9898

hakim.yala@pandarg.com

2. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.

Please see attached legal description documentation.

3. The nature of the variance required to include what provisions of the Zoning Code are affected.

VARIANCE 1 (build to line increase) AFFECTED CODE: Chapter 1199.04(a)

4. A statement pertaining to and explaining the relation of the variance(s) requested to the following criteria for approval as listed under Section 1147.03:

A. That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.

Special circumstances or conditions do exist which are not applicable to other lands or structures in the same zoning district. The site's unique shape and size necessitate pushing the building back from the build-to line. Strict adherence to the 25' build-to line would result in a building that encroaches on the adjacent utility easement. It would also result in an unworkable dead-end parking layout.

B. That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.

A literal interpretation of the provisions of this Zoning Code would deprive Panda Express of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code. This is evidenced by the fact that many adjacent and nearby buildings are located well beyond the 25' build-to line such as Firestone (80'), Charley's (133' & 176'), Walgreens (106' & 98'), Chase Bank (106'), Goodwill (33'), Autozone (63'), and Bob Evans (100' & 78'). In fact, we do not find that there is an existing building that comes close to this 25' build-to line anywhere in the area.

C. That the special conditions and circumstances do not result from the actions of the applicant.

The special conditions and circumstances effectively limiting how close our building can be placed to the build-to line are a result of the site's unique size and shape, and the existing utility easement adjacent to the build-to line. We are seeking to push back from this line the bare minimum.

D. That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.

Though this site is otherwise desirable, it is uniquely constrained by its shape, width, and frontage arc and angle. These constraints are not common to other nearby lands or structures within the same zoning district. The requested variance seeks only to accommodate our needs specific to maintaining a workable design while adhering to the many other constraints on this site. Additionally, no nearby site comes close to locating their building at the 25' build-to line

E. That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

The requested variance for push back from the prescribed 25' build-to line is designed with detailed consideration for pedestrian and automotive traffic safety and convenience. Adherence to the prescribed build-to line would result in dead end parking in front of the building that significantly compromises traffic and pedestrian safety and convenience, and could also adversely affect fire apparatus safety and convenience.

F. That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.

This is not applicable to this variance. The basis for the requested variance is not related to a proposed use that is not presently permitted by zoning regulations.

G. That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

This variance request does not seek to permit a use that is otherwise not permitted within the respective zoning district. Our intended restaurant use is permitted within and already well-represented by many nearby users within this GC (General Commercial) zoning district.

5. A list of all property owners within, contiguous to and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.

1. CRI OUTPARCELS LLC
250 Civic Center Dr, Ste 500
Columbus, OH 43215-5088
Zoning:GC Commercial

2. Waterloo Crossing LTD
250 Civic Center Dr 500
Columbus, OH 43215
Zoning: GC Commercial

3. Bridgestone Retail Operations LLC
200 4th Avenue S.
Nashville, TN 37201
Zoning:GC Commercial

4. State Street Holding INC.
10 South Wacker Drive
12th floor, Suite 1260
Chicago, IL 60606
Zoning:GC Commercial

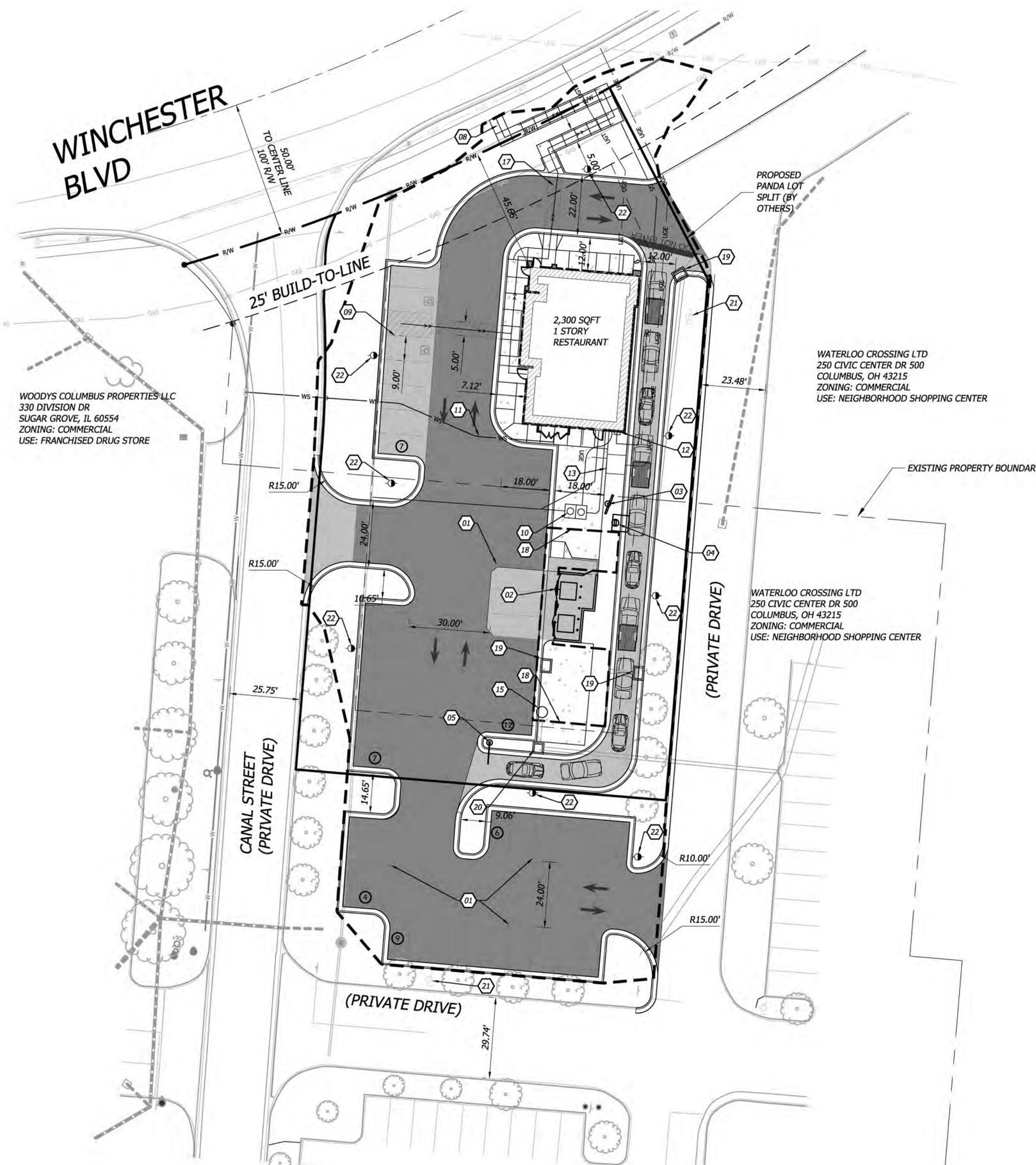
5. WOODYS COLUMBUS
330 Division Dr
Sugar Grove, IL 60554
Zoning: GC Commercial

If you have any further questions feel free to contact me at 913-649-8181 or by email at ryan.talbott@klover.net

Sincerely,

Henry C. Klover
Proprietor

May 14, 2019 10:35am Plotted By: kury.yoder - Master 2018\0268600-05-Canal Winchester.dwg (Sheet) 0268600-05-SITIS-SITE.dwg Layout: SITE PLAN



WOODYS COLUMBUS PROPERTIES LLC
 330 DIVISION DR
 SUGAR GROVE, IL 60554
 ZONING: COMMERCIAL
 USE: FRANCHISED DRUG STORE

PROPOSED PANDA LOT SPLIT (BY OTHERS)

WATERLOO CROSSING LTD
 250 CIVIC CENTER DR 500
 COLUMBUS, OH 43215
 ZONING: COMMERCIAL
 USE: NEIGHBORHOOD SHOPPING CENTER

WATERLOO CROSSING LTD
 250 CIVIC CENTER DR 500
 COLUMBUS, OH 43215
 ZONING: COMMERCIAL
 USE: NEIGHBORHOOD SHOPPING CENTER

SITE DATA

TOTAL FLOOR AREA:	2,300
PROPOSED SITE AREA:	33,722 SQ FT (± 0.77 ACRES)
DISTURBED AREA:	39,496 SQ FT (± 0.91 ACRES)

PARKING DATA (PROPOSED PANDA LOT ONLY)

CITY REQUIREMENTS- RESTAURANT
1 SPACES REQUIRED FOR EACH 100 SQUARE FEET (2300 SQ FT)

STALLS REQUIRED	23
TOTAL STALLS PROVIDED	26
STANDARD STALLS PROVIDED	24
ADA ACCESSIBLE STALLS REQUIRED	2 (1 VAN)
STACKING	11 CARS

SETBACKS	
FRONT	25
BACK	25
SIDE	20

ZONING

COMMERCIAL

DEVELOPER INFORMATION

PANDA GROUP INC
 1683 WALNUT GROVE AVENUE
 ROSEMEAD, CA 97770
 720.436.1730

CURRENT OWNER

WATERLOO CROSSING LTD
 250 CIVIC CENTER DR #500
 COLUMBUS, OH 43215



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 91770
 Telephone: 626.799.9898
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CONSTRUCTION NOTES

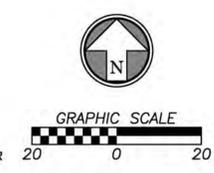
- 01 LEAD FREE, WATER-BORNE EMULSION BASED WHITE TRAFFIC PAINT FOR PARKING LOT STALL STRIPING (TYP.)
- 02 DUMPSTER AND SCREENING ENCLOSURE
- 03 MENU BOARD
- 04 SPEAKER BOX
- 05 DRIVE THRU CLEARANCE BAR
- 06 LIGHT POLES, FACE OF CONCRETE BASE TO BE 2' FROM FACE OF CURB.
- 07 BACK OF CURB ALONG DRIVE-THRU, ADJACENT TO BUILDING SHALL EXTEND BACK TO FOOTING
- 08 SIDEWALK AND CONNECTION TO PUBLIC SIDEWALK
- 09 ADA PARKING AREA. 2% MAXIMUM SLOPE IN ANY DIRECTION.
- 10 1000 GALLON GREASE INTERCEPTOR
- 11 1 1/2" TYPE K COPPER DOMESTIC WATER SERVICE. METER AND BACKFLOW PREVENTOR INSIDE BUILDING.
- 12 GAS METER LOCATION
- 13 TRANSFORMER LOCATION
- 14 NOT USED
- 15 4' STANDARD MANHOLE FOR CONNECTION FROM DETENTION TO OUTLET CONTROL STRUCTURE.
- 16 4" PVC SANITARY SEWER CONNECTION. MINIMUM 2% SLOPE.
- 17 CROSSWALK STRIPING
- 18 UNDERGROUND STORMWATER DETENTION AREA
- 19 ODOT STANDARD CURB INLETS
- 20 DETENTION OUTFALL CONTROL STRUCTURE. REMOVE EXISTING STRUCTURE AND CONNECT TO EXISTING PIPES
- 21 EXISTING LIGHT TO REMAIN ON DEVELOPER/SHOPPING CENTER ELECTRIC
- 22 PROPOSED LIGHT POLE

DETENTION NOTE

- 1. UNDERGROUND DETENTION LIMITS SHOWN ARE APPROXIMATE.
- 2. VOLUME TO BE CONTAINED IS APPROXIMATELY 6000 CUBIC FT.
- 3. EXACT DIMENSIONS, VOLUME, AND DESIGN TO BE PROVIDED FOR FINAL ENGINEERING PLANS.

SITE LEGEND

- | | |
|------------------------------|------------------------|
| PROPOSED BUILDING | PARKING STALL COUNT |
| MEDIUM DUTY ASPHALT PAVEMENT | CURB WITH NO GUTTER |
| CONCRETE PAVEMENT | STANDARD CURB & GUTTER |
| CONCRETE SIDEWALK | ACCESSIBLE ADA ROUTE |
| | BUILDING SETBACK LINE |
| | DISTURBED AREA |
| | PROPOSED PROPERTY LINE |



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REVISIONS:

ISSUE DATE:

DRAWN BY:
 PANDA PROJECT #: S8-20-D6790
 ARCH PROJECT #: 18044.035



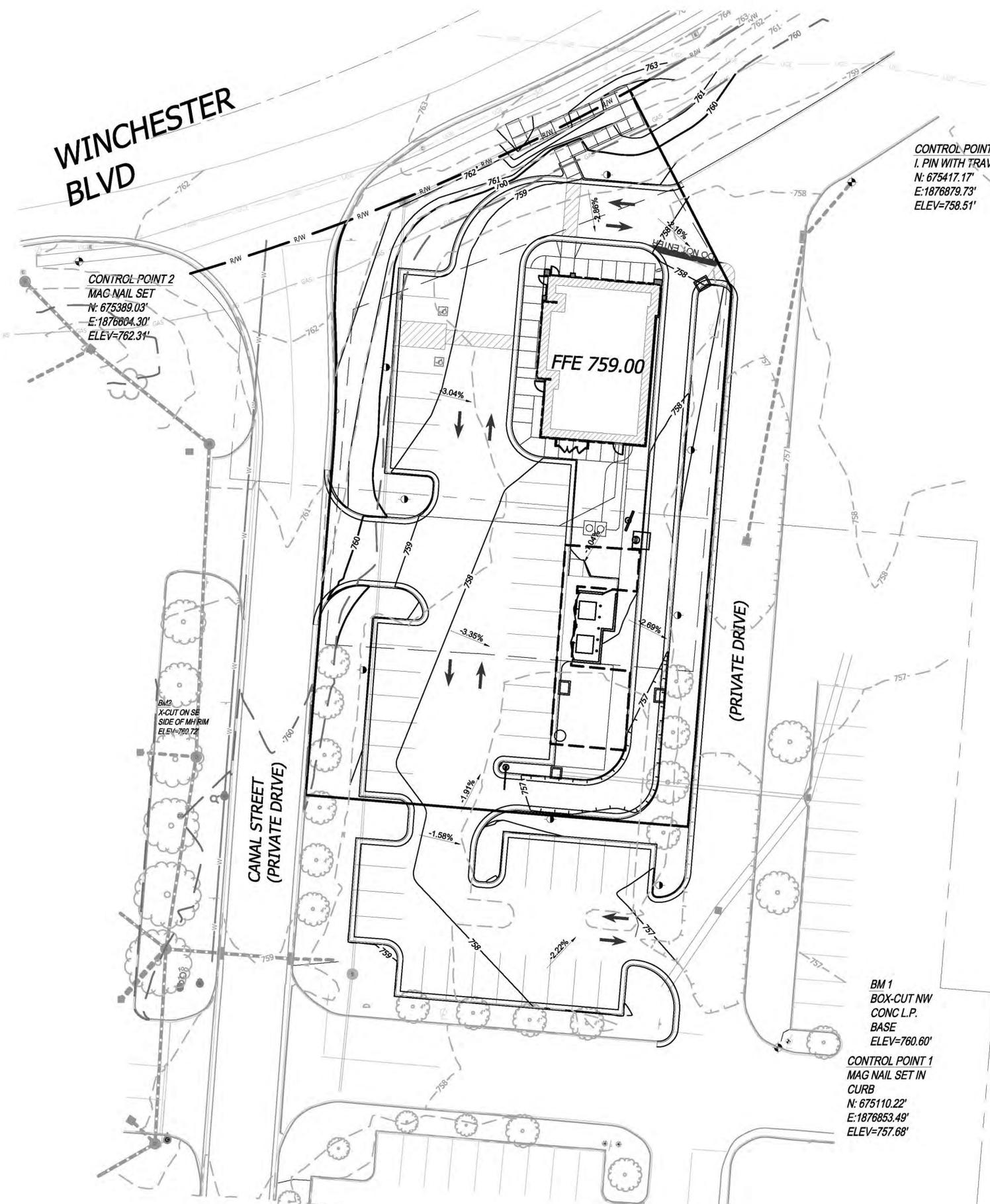
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PANDA EXPRESS
 TRUE WARM & WELCOME 2300 R1
 CANAL ST. & WINCHESTER BLVD
 CANAL-WINCHESTER, OH 43110

SITE PLAN

May 14, 2019 10:35am Plotted By: kurt.yoder VA:026800-05-Canal Winchester - Panda Express - Master 2018:026800-05-Canal Winchester - CHA(14-DWG) (Eng) Sheet(1) of 2:6800-05-SIT-026800.dwg Layout: Grad Plan



GRADING NOTES

- All topsoil, vegetation, root structures, and deleterious materials shall be stripped from the ground surface prior to the placement of embankments. Contractor shall obtain the on-site geotechnical representative's acceptance of the existing ground surface materials and the proposed fill material prior to the placement of fill.
- All proposed contour lines and spot elevations shown are finish ground elevations. Contractor shall account for pavement depths, building pads, topsoil, etc when grading the site.
- All disturbed areas that are not to be paved (green spaces) shall be finish graded with a minimum of six inches of topsoil.
- Finished grades shall not be steeper than 3:1.
- All grading work shall be considered unclassified. No additional payments shall be made for rock excavation. Contractor shall satisfy himself as to any rock excavation required to accomplish the improvements shown hereon.
- A 2.0% maximum cross slope shall be maintained on all pedestrian sidewalks and paths.

BENCHMARKS

(DATUM: NAVD88)

- BENCHMARK NUMBER: 1**
 ELEVATION= 760.60
 N:
 E:
 BOX CUT IN NORTHWEST CORNER OF CONCRETE LIGHTPOLE BASE
- BENCHMARK NUMBER: 2**
 ELEVATION:760.72
 N
 E
 "X" CUT ON THE SOUTHEAST SIDE OF THE MANHOLE RIM

PROJECT CONTROL

(DATUM: NAVD88)

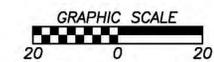
- CONTROL POINT NUMBER: 1**
 ELEVATION= 757.68
 N: 675110.22'
 E: 1876853.49'
 MAG NAIL SET IN CURB RADIUS
- CONTROL POINT NUMBER: 2**
 ELEVATION: 762.31
 N: 675389.03'
 E: 1876604.30'
 MAG NAIL SET IN CONCRETE SIDEWALK
- CONTROL POINT NUMBER: 3**
 ELEVATION: 758.51
 N: 675417.17'
 E: 1876879.73'
 I PIN WITH TRAVERSE CAP

FLOOD STATEMENT

The subject property lies within Flood Zone "X" (unshaded) (Areas determined to be outside the 0.2% annual chance floodplain.), as shown on the Hamilton County, Ohio and Incorporated Areas Flood Insurance Rate Map (F.I.R.M.).
 Map Number: 39049C0452K
 Panel No: 452 of 465
 Map Revised Date: June 17, 2008
NOTE: This statement is provided for informational purposes only and shall in no way constitute a basis for a flood certificate. No field work was performed to establish the boundaries of this zone. The information was derived by scaling the subject property on the above referenced map.

GRADING LEGEND

- | | | | |
|--|------------------------|--|-----------------------------------|
| | CURB WITH NO GUTTER | | 980 FINISH GRADE MAJOR CONTOURS |
| | STANDARD CURB & GUTTER | | 982 FINISH GRADE MINOR CONTOURS |
| | | | 980 EXISTING GRADE MAJOR CONTOURS |
| | | | 982 EXISTING GRADE MINOR CONTOURS |
| | | | PROPOSED STORM SEWER LINE |
| | | | PROPERTY BOUNDARY |
| | | | PROPOSED LOT SPLIT (BY OTHERS) |



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REVISIONS:

NO.	DATE	DESCRIPTION

ISSUE DATE:

NO.	DATE	DESCRIPTION

DRAWN BY:

NO.	DATE	DESCRIPTION

PANDA PROJECT # S8-20-D6790
 ARCH PROJECT # 18044.035



ARCHITECT:

hckloverarchitect
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GRADING PLAN

WINCHESTER BLVD

WOODYS COLUMBUS PROPERTIES LLC
330 DIVISION DR
SUGAR GROVE, IL 60554
ZONING: COMMERCIAL
USE: FRANCHISED DRUG STORE

PLACE ROCK BAGS TO CATCH SEDIMENT ALONG GUTTER

CANAL STREET (PRIVATE DRIVE)

(PRIVATE DRIVE)

2,300 SQFT
1 STORY
RESTAURANT

WATERLOO CROSSING LTD
250 CIVIC CENTER DR 500
COLUMBUS, OH 43215
ZONING: COMMERCIAL
USE: NEIGHBORHOOD SHOPPING CENTER

WATERLOO CROSSING LTD
250 CIVIC CENTER DR 500
COLUMBUS, OH 43215
ZONING: COMMERCIAL
USE: NEIGHBORHOOD SHOPPING CENTER

EXISTING PROPERTY BOUNDARY

EROSION CONTROL NOTES

1. PRIOR TO LAND DISTURBANCE ACTIVITIES, THE CONTRACTOR SHALL:
 - CONSTRUCT A STABILIZED ENTRANCE/PARKING/DELIVERY AREA.
 - INSTALL PERIMETER CONTROLS AND REQUEST THE INSPECTION OF THE PRE-CONSTRUCTION EROSION AND SEDIMENT CONTROL MEASURES DESIGNATED ON THE APPROVED EROSION AND SEDIMENT CONTROL PLAN. LAND DISTURBANCE WORK SHALL NOT PROCEED UNTIL THERE IS A SATISFACTORY INSPECTION.
 - IDENTIFY THE LIMITS OF CONSTRUCTION ON THE GROUND WITH EASILY RECOGNIZABLE INDICATIONS SUCH AS CONSTRUCTION STAKING, CONSTRUCTION FENCING, AND PLACEMENT OF PHYSICAL BARRIERS OR OTHER MEANS ACCEPTABLE TO THE INSPECTOR AND IN CONFORMANCE WITH THE EROSION AND SEDIMENT CONTROL PLAN.
2. THE CONTRACTOR SHALL COMPLY WITH ALL REQUIREMENTS OF THE FEDERAL CLEAN WATER ACT, OHIO DEPARTMENT OF HEALTH AND ENVIRONMENT, AND NPDES STORMWATER RUNOFF FROM CONSTRUCTION SITES GENERAL PERMIT, INCLUDING BUT NOT LIMITED TO:
 - THE CONTRACTOR SHALL SEED, MULCH, OR OTHERWISE STABILIZE ANY DISTURBED AREA WHERE THE LAND DISTURBANCE ACTIVITY HAS CEASED FOR MORE THAN 14 DAYS.
 - THE CONTRACTOR SHALL PERFORM INSPECTIONS OF EROSION AND SEDIMENT CONTROL MEASURES AT THE FOLLOWING MINIMUM INTERVALS:
 - DURING ACTIVE CONSTRUCTION PHASES - AT LEAST ONCE PER WEEK
 - DURING PERIODS OF INACTIVITY - AT LEAST ONCE PER MONTH
 - AFTER EACH RAINFALL EVENT OF 1/2 INCH OR MORE - WITHIN 24 HOURS OF THE RAIN EVENT
 - THE CONTRACTOR SHALL MAINTAIN AN INSPECTION LOG INCLUDING THE INSPECTOR'S NAME, DATE OF INSPECTION, OBSERVATIONS AS TO THE EFFECTIVENESS OF THE EROSION AND SEDIMENT CONTROL MEASURES, ACTIONS NECESSARY TO CORRECT DEFICIENCIES, WHEN THE DEFICIENCIES WERE CORRECTED, AND THE SIGNATURE OF THE PERSON PERFORMING THE INSPECTION. THE INSPECTION LOG SHALL BE AVAILABLE FOR REVIEW BY THE REGULATORY AUTHORITY.
 - THE CONTRACTOR SHALL HAVE THE EROSION AND SEDIMENT CONTROL PLAN ROUTINELY UPDATED TO SHOW ALL CHANGES AND AMENDMENTS TO THE PLAN. A COPY OF THE EROSION AND SEDIMENT CONTROL PLAN SHALL BE KEPT ON SITE AND MADE AVAILABLE FOR REVIEW BY THE REGULATORY AUTHORITY.
3. PERMANENT SEEDING SHALL BE INSTALLED AFTER COMPLETION OF FINAL GRADING EXCEPT WHEN SEEDING WILL OCCUR OUTSIDE OF THE ACCEPTABLE SEEDING SEASON. WHEN TEMPORARY SEEDING IS INSTALLED, PERMANENT SEEDING SHALL BE INSTALLED AT THE NEXT SEEDING SEASON. TEMPORARY SEEDING SHALL NOT BE USED AS A STABILIZATION MEASURE FOR A PERIOD EXCEEDING 12 MONTHS. THE PERMIT WILL NOT BE CLOSED UNTIL PERMANENT SEEDING HAS BEEN ESTABLISHED TO A MINIMUM OF 70% DENSITY OVER THE ENTIRE DISTURBED AREA.
4. THE CONTRACTOR SHALL MAINTAIN INSTALLED EROSION AND SEDIMENT CONTROL DEVICES IN A MANNER THAT PRESERVES THEIR EFFECTIVENESS FOR PREVENTING SEDIMENT FROM LEAVING THE SITE OR ENTERING A SENSITIVE AREA SUCH AS A NATURAL STREAM CORRIDOR, AREAS OF THE SITE INTENDED TO BE LEFT UNDISTURBED, A STORM SEWER, OR AN ON-SITE DRAINAGE CHANNEL.
5. THE CONTRACTOR IS RESPONSIBLE FOR PROVIDING EROSION AND SEDIMENT CONTROL FOR THE DURATION OF A PROJECT. IF THE CITY DETERMINES THAT THE BMPs IN PLACE DO NOT PROVIDE ADEQUATE EROSION AND SEDIMENT CONTROL AT ANY TIME DURING THE PROJECT, THE CONTRACTOR SHALL INSTALL ADDITIONAL OR ALTERNATE MEASURES THAT PROVIDE EFFECTIVE CONTROL.
6. CONCRETE WASH OR RINSE WATER FROM CONCRETE MIXING EQUIPMENT, TOOLS AND/OR CONCRETE TRUCKS, TOOLS, ETC. MAY NOT BE DISCHARGED INTO OR BE ALLOWED TO RUN DIRECTLY INTO ANY EXISTING WATER BODY OR STORM INLET. ONE OR MORE LOCATIONS FOR CONCRETE WASH OUT WILL BE DESIGNATED ON SITE, SUCH THAT DISCHARGES DURING CONCRETE WASHOUT WILL BE CONTAINED IN A SMALL AREA WHERE WASTE CONCRETE CAN SOLIDIFY IN PLACE.
7. CHEMICALS OR MATERIALS CAPABLE OF CAUSING POLLUTION MAY ONLY BE STORED ONSITE IN THEIR ORIGINAL CONTAINER. MATERIALS STORED OUTSIDE MUST BE IN CLOSED AND SEALED WATER-PROOF CONTAINERS AND LOCATED OUTSIDE OF DRAINAGE WAYS OR AREAS SUBJECT TO FLOODING. LOCKS AND OTHER MEANS TO PREVENT OR REDUCE VANDALISM SHALL BE USED. SPILLS WILL BE REPORTED AS REQUIRED BY LAW AND IMMEDIATE ACTIONS TAKEN TO CONTAIN THEM.
8. SILT FENCES AND EROSION CONTROL BMPs WHICH ARE SHOWN ALONG THE BACK OF CURB MUST BE INSTALLED WITHIN TWO WEEKS OF CURB BACKFILL AND PRIOR TO PLACEMENT OF BASE ASPHALT. EXACT LOCATIONS OF THESE EROSION CONTROL METHODS MAY BE FIELD ADJUSTED TO MINIMIZE CONFLICTS WITH UTILITY CONSTRUCTION; HOWEVER, ANTICIPATED DISTURBANCE BY UTILITY CONSTRUCTION SHALL NOT DELAY INSTALLATION.
9. SEE LANDSCAPE PLAN AND DETAIL FOR FINAL SURFACING SPECIFICATIONS.

EROSION/SEDIMENT CONTROL STAGING CHART

Project Stage	BMP Plan Ref. No.	BMP Description	Remove after stage:	Notes:
A - Place BMPs Prior to Land Disturbance.	01	Perimeter Silt Fence	D	Place as shown on plan.
	02	Construction Entrance & Staging Area	D	Place as shown on plan.
	03	Concrete Wash-out	D	Place as shown on plan.
	04	Storm Inlet Protection	D	Place as shown on plan.
B - After stripping, grubbing, & mass grading	05	Interior Silt Fence	D	To be placed and removed per construction schedule - general location shown on plan.
C - After Utility Storm Sewer Construction	06	Storm Inlet Protection	D	Place as shown on plan.
D - Final Grading, Paving & Landscaping		Final Seeding, Sod and Landscaping	N/A	Silt fencing & Inlet protection may be removed once seed & sodded areas are established on 70% of site.

LEGEND

	980	FINISH GRADE 5' CONTOURS		INLET FILTER BAGS
	979	FINISH GRADE 1' CONTOURS		CONSTRUCTION ENTRANCE
	980	EXISTING GRADE 5' CONTOURS		CONCRETE WASH OUT
	979	EXISTING GRADE 1' CONTOURS		FINISHED SURFACE - CONCRETE PAVEMENT
	R/W	RIGHT-OF-WAY LINE		FINISHED SURFACE - CONCRETE SIDEWALK
		PROPERTY LINE		FINISHED SURFACE - ASPHALT PARKING
		ADJACENT PROPERTY LINE		
		PROPOSED STORM SEWER MAIN		
	SF	SILT FENCE		
		DISTURBED AREA (0.91 ACRES)		

GRAPHIC SCALE
0 20 40



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REVISIONS:

ISSUE DATE:

DRAWN BY: KMY

PANDA PROJECT #: S8-20-D6790
ARCH PROJECT #: 18044.035



ARCHITECT:

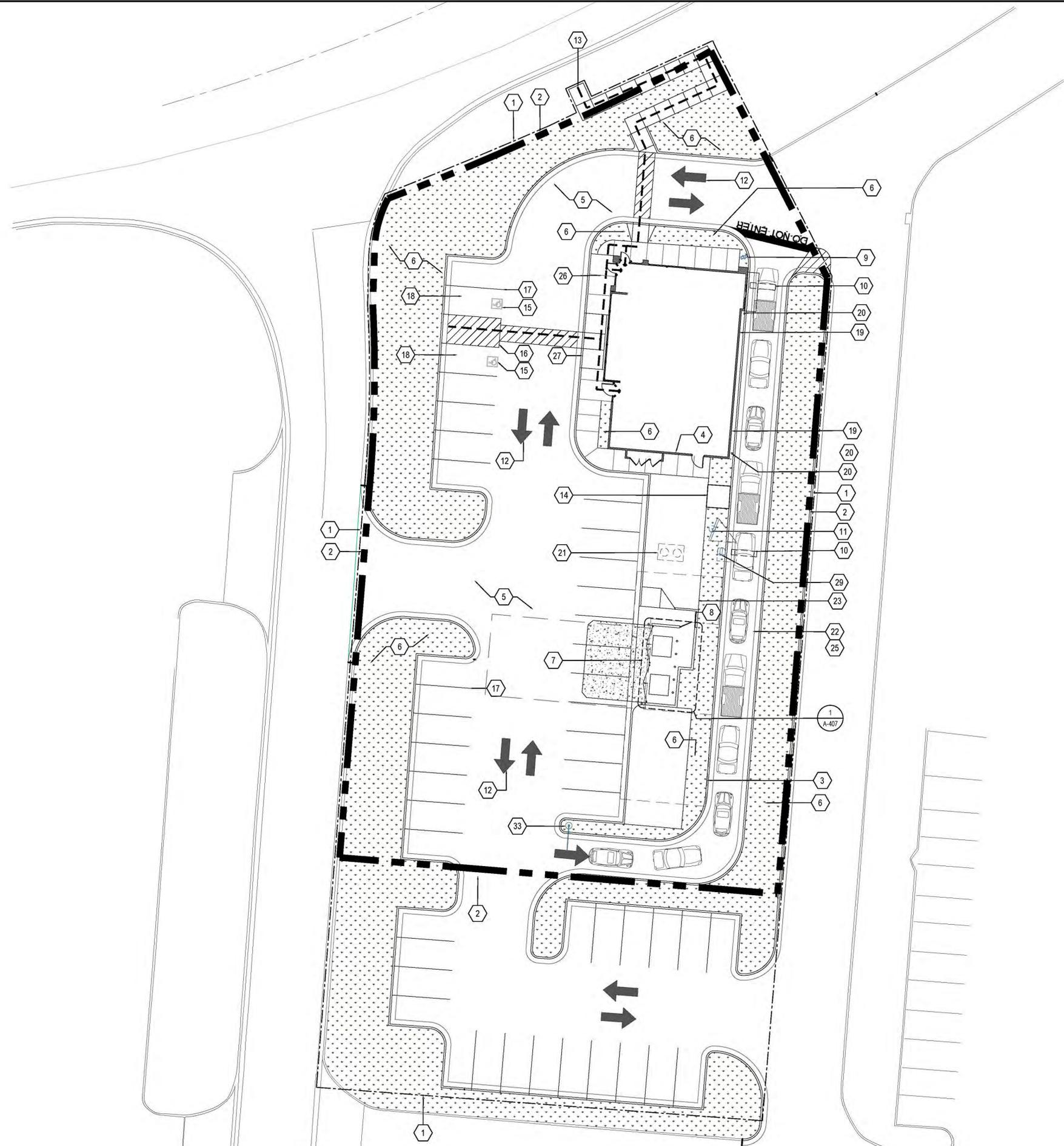
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EROSION CONTROL PLAN

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May 14, 2019 10:35am Plotted By: kmy.kozder Plot: 2018\026800-05-Canal Winchester.dwg - Master 2018\026800-05-Canal Winchester.dwg - Sheet 01 of 01 - DWG - 2300 R1 - SITES - EROSION CONTROL PLAN



DEMOLITION NOTE:
 G.C. TO REMOVE ALL EXISTING ABOVE/UNDER GROUND STRUCTURAL WALLS, FOUNDATION, ASPHALT, CONC. CURBS AND DEBRIS PRIOR TO NEW CONSTRUCTION.

GENERAL NOTE:

1. G.C. TO VERIFY AND PROVIDE ALL UNDERGROUND WIRING AND CONDUIT (INSTALLED BY LOCAL UTILITY COMPANY) FROM TRANSFORMER TO ELECTRICAL MAIN SWITCHGEAR, DRIVE THRU MENU BOARD, BY G.C. VERIFY WITH PANDA PM.
2. WATER METER FOR IRRIGATION SHALL BE A SEPARATE METER THAN MAIN WATER METER. G.C. TO REFERENCE CIVIL UTILITY PLAN FOR SIZE AND LOCATION.
3. PROVIDE & INSTALL CAGE AND COVER FOR THE BACK-FLOW PREVENTER AT 4" CONCRETE CURB IN LANDSCAPE AREA, GORILLA CAGE, MANUFACTURED BY HOUSTON IRRIGATION SERVICES SPRING, TEXAS (281-705-9701). PROVIDE INSULATED COVER, AQUA SHIELD MODEL # BFP-1-S FOR COLDER REGIONS OF US. COORDINATE WITH PANDA PM. REFER TO DETAIL 11/A-407
4. FOR HORIZONTAL CONTROL PLAN REFER TO CIVIL DRAWINGS

- 1 LIMIT OF CONSTRUCTION
- 2 PROPERTY LINE
- 3 UNDERGROUND DETENTION. REFERENCE CIVIL
- 4 NEW SWITCHGEAR
- 5 PAVING - SEE CIVIL PLAN
- 6 IRRIGATED LANDSCAPING, REFER TO LANDSCAPE DRAWINGS
- 7 HEAVY DUTY CONCRETE APRON FOR DUMPSTER ENCLOSURE. REFERENCE CIVIL DRAWINGS FOR SPECIFICATIONS
- 8 TRASH ENCLOSURE, CONFIRM BIN SIZE WITH LOCAL WASTE MANAGEMENT COMPANY. (01 T-407)
- 9 "THANK YOU / DO NOT ENTER" SIGN
- 10 DRIVE THRU LANE SENSOR LOOP, INSTALL POSITION SO LOOP IS CENTERED ON ACTIVE PANEL OF DRIVE THROUGH WINDOW.
- 11 DRIVE THROUGH MENU BOARD-INSTALLED BY SIGN COMPANY. VERIFY WITH PANDA PM (SEE GENERAL NOTE ABOVE)
- 12 DIRECTIONAL ARROW
- 13 ACCESSIBLE PATH OF TRAVEL ----->
- 14 TRANSFORMER
- 15 INTERNATIONAL ACCESSIBILITY SYMBOL @ PARKING SPACE
- 16 ACCESSIBLE PARKING SPACE AND LOADING ZONE PAINT LOADING ZONE W/ 4" WIDE STRIPES @ 3'-0" O.C.
- 17 PAINT 4" WIDE SOLID PARKING STRIPING W/ TWO (2) COATS HIGHWAY WHITE PAINT
- 18 DESIGNATED HANDICAP PARKING SPACE
- 19 ROOF DRAIN AND OVERFLOW DRAIN FROM ROOF TO EXIT TO DAYLIGHT THRU FACE OF WALL. COLD CLIMATES WILL REQUIRE CONNECTION TO STORM SEWER. ARCHITECT TO VERIFY WITH LOCAL JURISDICTION.
- 20 STEEL PIPE BOLLARD. BOLLARDS TO BE PAINTED SAFETY YELLOW PRIOR TO APPLICATION OF LDPE SLEEVE. (18 A-407)
- 21 GREASE INTERCEPTOR
- 22 CONC. DRIVEWAY
- 23 EDGE OF SIDEWALK AT PLANTER
- 24 CONCRETE CURB AT LANDSCAPE AREA.
- 25 NOT USED
- 26 TOOLED JOINTS @ 5'-0"x5'-0" O.C. EXPANSION JOINT @ 20'-0" O.C.
- 27 ACCESSIBLE RAMP
- 28 NOT USED
- 29 ORDER CONFIRMATION BOARD
- 30 NOT USED
- 31 NOT USED
- 32 SEALED CONC SIDEWALK. (AQUA MIX SEALER'S CHOICE GOLD). CONCRETE TO BE LIGHT BROOM TEXTURE FINISH. PROVIDE UNDER SLAB TREATMENT PER SOIL REPORT. PROVIDE POSITIVE DRAINAGE AWAY FROM BLDG.
- 33 CLEARANCE BAR/BASE INSTALLED BY SIGN VENDOR.
- 34 NOT USED

SITE PLAN 1
 Scale= 1/16" = 1'-0" A-100

KEY NOTES A
 Scale= NTS A-100



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 CANAL-WINCHESTER, OH 43110

A-100
 SITE PLAN
 ARCHITECTURAL

**BEFORE THE CITY COUNCIL
FOR CANAL WINCHESTER, OHIO**

PANDA EXPRESS, INC., et al.,	:	
	:	
Applicants,	:	
	:	Application/Appeal No.
v.	:	CU-19-001 & VA-19-005
	:	
PLANNING AND ZONING COMMISSION	:	
FOR CANAL WINCHESTER, OHIO,	:	
	:	
Appellee.	:	

**BRIEF OF APPELLANTS WATERLOO CROSSING LTD AND
PANDA EXPRESS, INC. IN SUPPORT OF APPEAL OF THE
DENIAL OF CONDITIONAL USE PERMIT AND VARIANCE APPLICATION**

I. INTRODUCTION

Waterloo Crossing LTD (the “Landowner”) and Panda Express, Inc. (“Panda Express”) (together, “Applicants”) seek approval to construct a Panda Express restaurant with drive-thru service on a lot within the Waterloo Crossing Shopping Center, located on the south side of Winchester Boulevard, parcel number 184003208 (the “Property”). In order to develop the Property, Applicants need two approvals from Canal Winchester’s Planning and Zoning Department (collectively, the “Application,” attached hereto as Exhibit A). The first is for a conditional use permit so that the Panda Express can operate with drive-thru service. The second is for a minor variance from the setback requirements in order to accommodate the Property’s trapezoidal shape, uneven grading, and a gas easement that runs along the north edge of the lot.

Despite the City’s approval of other similarly-situated uses in the immediate vicinity of the Property, and despite being presented with overwhelming evidence in support of the Application from experts with decades of experience, on June 10, 2019, the Planning and Zoning Commission (the “P&Z Commission”) voted to deny Applicants’ conditional use and variance

requests. The only objections to the Application were speculative claims by individual Commission members and Staff about supposed pedestrian hazards and traffic circulation issues. The P&Z Commission's concerns about the alleged impacts of Applicant's proposed development were particularly unfounded in light of the fact that both Walgreens (located directly across Canal Street from the proposed Panda Express) and Panera Bread (located on Winchester Boulevard to the northeast from the proposed Panda Express) have drive-thrus that pose the identical supposed pedestrian hazard the P&Z Commission rejected here. Yet, drive-thru service at those two businesses was approved and each operates safely today.

The only evidence before the P&Z Commission was that the Panda Express with drive-thru service and a modified setback is, in fact, completely compatible with the surrounding area. The Property is zoned General Commercial ("GC") – the only district that allows drive-thru windows at restaurants as a permitted conditional use. Canal Winchester has previously approved more than twenty-five (25) businesses with drive-thru facilities in the immediate vicinity of the Property, *eleven (11) of which are food-service establishments*. Further, the setback variance Applicants requested is minimal – only 15.66 feet beyond the build-to line. The City has previously approved similar variances, including one that allows Panera Bread to build over 73 feet from the right-of-way. The City's Zoning Staff recognized this. Yet, the P&Z Commission denied the Application. Its decision is contrary to the evidence and not supported by the law. City Council is obligated to reverse the P&Z Commission's arbitrary decision and approve Applicants' requests for drive-thru service and an area variance.

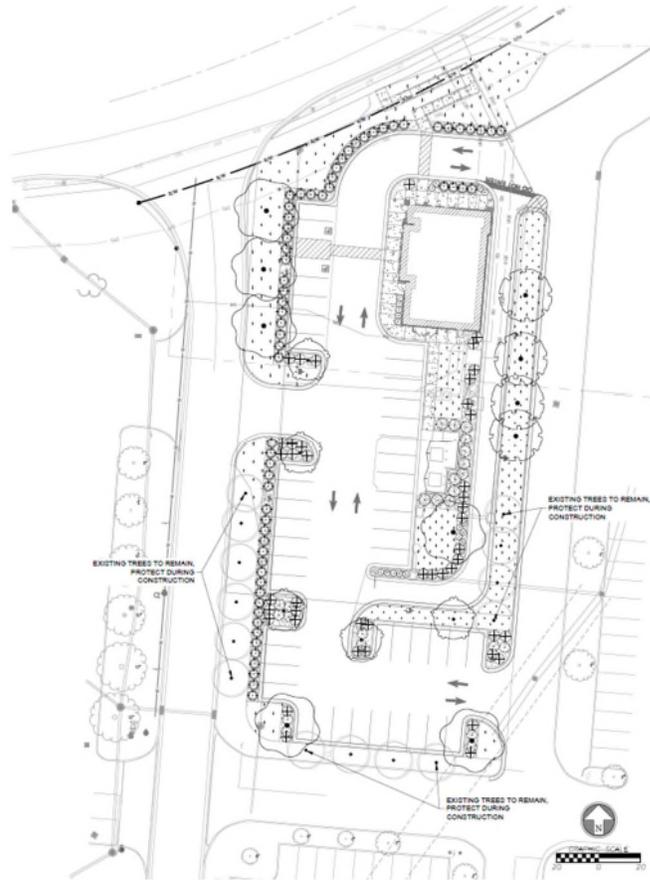
II. BACKGROUND

A. Applicants' Proposed Development Makes the Most of the Property's Features and Zoning Classification.

The Property is a 0.722 acre parcel on the south side of Winchester Boulevard in the Waterloo Crossing Shopping Center. The Property and the surrounding parcels are zoned GC.



The Property's layout is challenging – it is narrow and trapezoidal in shape. This necessitates both an ingress and egress location to avoid dead-end parking rows and alleviate irritation, delay, and safety concerns. Applicants thoughtfully designed a site plan for the proposed development on the Property (the "Site Plan") that addressed these circulation issues. Below is a depiction of the current Site Plan for the Property, which includes drive-thru service:



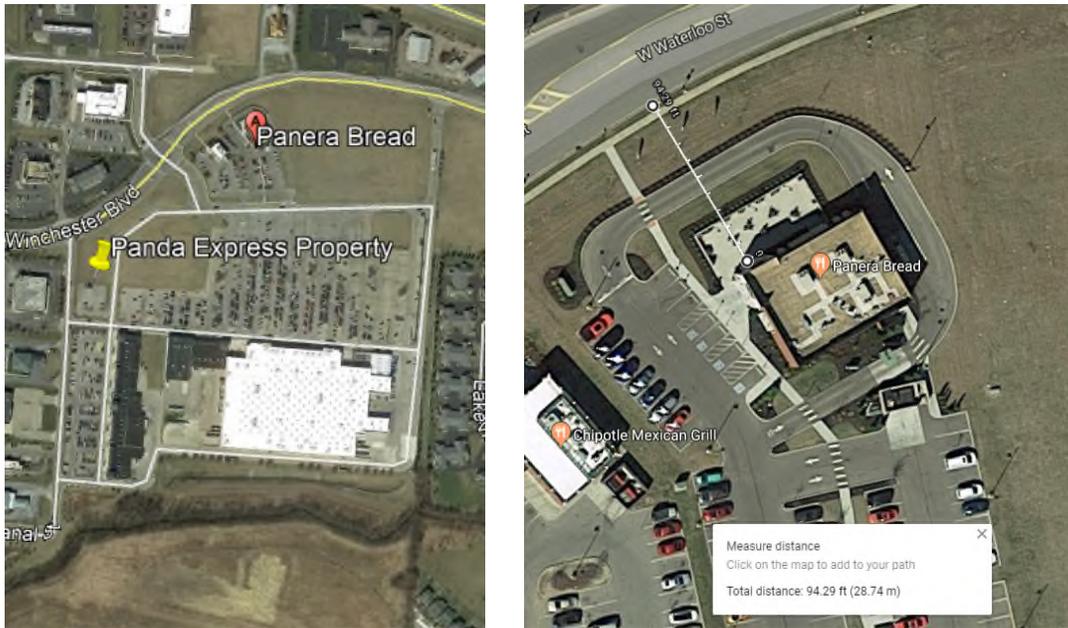
B. The Site Plan is Consistent with Surrounding Development.

Not only does the Site Plan address circulation and vehicular and pedestrian safety concerns, but it also reflects an overall design for the proposed restaurant that is compatible with surrounding development. Similarly situated businesses within the immediate vicinity of the Property were permitted to construct drive-thru windows with identical features to those set forth in the Application.¹

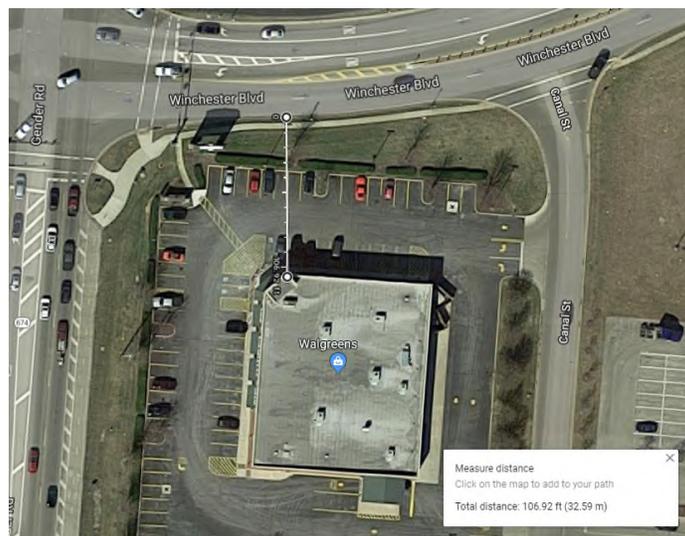
For example, the Panera Bread, located northeast along Winchester Boulevard from the proposed Panda Express, has a wraparound drive-thru requiring a variance for a 73.29-foot

¹ The eleven food-service establishments with drive-thru windows in close proximity to the Property are: Panera, Starbucks, Donato's, Popeye's, Skyline Chili, Tim Horton's/Wendy's, Burger King, McDonald's, Arby's, Kentucky Fried Chicken/Long John Silver's, and Taco Bell/Pizza Hut. The other fourteen businesses with drive-thru windows are: Fifth Third Bank, Walgreens, Chase Bank, PNC Bank, Canal Winchester Bank, Valvoline, Firestone, Discount Tire, Mr. Tire, NTB, Walmart Tire Center, Captain Carwash, BP Carwash, and a Swan Drycleaner.

setback, requiring pedestrians to use a crosswalk that goes through the drive-thru lane on one side or through parking traffic on the other:

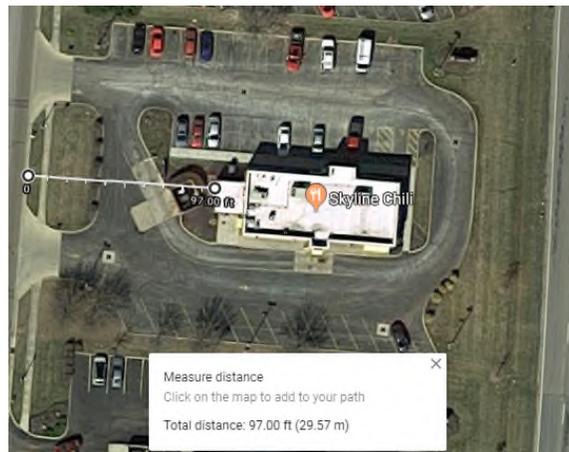


Additionally, other businesses in the area with similar and even shorter setback distances than the proposed Panda Express require pedestrians to cross a parking area through the drive-thru and all other traffic to enter the establishment, and none of these businesses has had any safety issues. For example, Walgreens has an approximately 107-foot setback and a double lane parking area.



Walgreens not only shares the sidewalk with the proposed Panda Express, but it has the very same striped crosswalk connecting the sidewalk with the front of the building that Staff and the Commission members now contend poses a “hazard to pedestrians.” Yet, there have been no reports of incidents with Walgreens’ crosswalk or the circulation around its site.

Yet another example of the Site Plan’s compatibility with surrounding development is the Skyline Chili located to the west of the proposed Panda Express. It has a drive-thru with a significant bend in the pathway and a setback of about 74.4 feet. It also requires pedestrians to cross through the parking area, drive-thru traffic, and all other traffic to enter the establishment.



Finally, The O’Charley’s Restaurant and Bar, located across Winchester Boulevard from the proposed Panda Express has three access points, just like the proposed Site Plan here:



Given the Property's features and the Site Plan's compatibility with surrounding development, and because a drive-thru is a *permitted* conditional use under GC zoning,² Applicants applied to the P&Z Commission in April 2019 for a conditional use permit and area variance to construct the Panda Express in accordance with the Site Plan.

C. Zoning Staff Ignored the Zoning Code and Recommended Denial of the Application Based on Staff's "Feelings."

In June 2019, Canal Winchester's Zoning Staff issued reports on both of the Applicants' requests. (See Staff Reports on Conditional Use #CU-19-001 and #VA-19-005, attached hereto as Exhibit C.) Staff found that drive-thru service "*is compatible* with adjacent land uses and the zoning district," and that the variance will not confer any undue privilege because "[o]ther surrounding uses with drive thru restaurants have been pushed back to have drive aisles to wrap in front of the building for circulation purposes." (*Id.* at p. 1.) Despite these findings, however, Staff recommended that the P&Z Commission deny Applicants' request for a conditional use permit to accommodate drive-thru service on the Property. It did so based solely on its "feel[ings] that the proposed drive thru (as designed) is not compatible with the surrounding outparcels in the Waterloo Crossing shopping center." (*Id.* at p. 2.) Staff's feelings on the matter were informed by nothing other than generalized "pedestrian access concerns." (*Id.*)

D. The P&Z Commission Ignores All of the Evidence in Support of the Application and Arbitrarily Rejected Applicants' Requests.

On June 10, 2019, the Commission held a public hearing to consider the Application. Only four members of the Commission were present. At the hearing, there was *no* evidence presented to support Staff's speculation regarding supposed pedestrian safety concerns. Nor was

² See Zoning Code at § 1167.03(a). Relevant excerpts from Canal Winchester's Zoning Code are hereto as Exhibit B.

there any testimony offered opposing the proposed Panda Express or its drive-thru. Instead, the *only* evidence presented was evidence supporting the Application. Based on the Site Plan, the development in the surrounding area, and the testimony of Applicants' architect, Henry Klover, the Commission had more than sufficient evidence to grant the requests.

Nonetheless, the Commission rejected the Application in a split decision. During the hearing, without any evidence to substantiate his claims, a Commissioner arbitrarily opined that the proposed drive-thru would negatively impact traffic and pose a hazard to drivers. The Commissioner also speculated – again, without any evidence – that the double lane in the parking at the front of the restaurant and the wraparound drive-thru would create a safety hazard to pedestrians coming to the establishment from the front sidewalk. This concern was objectively misplaced. Many other establishments in the area require pedestrians to cross through drive-thru traffic and parking lot traffic – some do not even provide striped crosswalks – without having any safety hazards emerge. Finally, a Commissioner took issue with the three access points for the proposed location. Yet, Staff itself stated that the third access point is required because of external factors and was not contrary to any law or regulation.

These were the only concerns raised, and there was absolutely no evidence before the Commission to support them. Despite this, the Commission denied the Application. It memorialized its decision in a Findings of Fact and Conclusions of Law (attached hereto as Exhibit D), which sets forth the same vague concerns, but never supported by evidence. This appeal to City Council followed.

III. ARGUMENT

The Commission's decision denying Applicants' requests for a conditional use permit and setback variance violates Canal Winchester's Zoning Code, Ohio law, and the United States Constitution. City Council must correct the Commission's error and approve the Application.

A. Applicants' Request for a Conditional Use Permit Meets All Necessary Requirements in the Zoning Code and Is Supported by the Evidence.

The only evidence before City Council is that the Application satisfies the Zoning Code requirements for a conditional use permit. Specifically, Zoning Code § 1145.03 sets forth five factors for determination of whether a conditional use permit should be issued:

- (a) The proposed use is a conditional use of the zoning district and the applicable development standards of the Zoning Code are met.
- (b) The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.
- (c) The proposed use will not adversely impact access, traffic flow, and other public facilities and services.
- (d) The proposed use will not result in the destruction, loss or damage of a natural, scenic, or historic feature.
- (e) The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

(Ex. B at § 1145.03). Here, Applicants meet every single factor.

1. The drive-thru is a permitted conditional use of the zoning district.

The Property is zoned General Commercial ("GC"), which expressly delineates a place for "eating and drinking" as a permitted use. (*See* Ex. B at § 1167.02(a)(6)). A drive-thru is also expressly a *permissible conditional use* for the Property. (*See* Ex. B at § 1167.03(a).) Panda Express locations have entered other similar commercial areas zoned for general commercial

purposes all over the country without any pushback. (Kan Affidavit, attached hereto as Exhibit E, at ¶ 3).

2. The drive-thru is compatible with the surrounding area and consistent with the purpose of the zoning district.

The proposed Panda Express is compatible with the surrounding area and consistent with the purpose of a GC zoning district as the proposed drive-thru makes the Panda Express more “accessible to the population served.” (Ex. B at § 1167.01); (Weiler Affidavit, attached hereto as Exhibit F, at ¶ 4); (Klover Affidavit, attached hereto as Exhibit G, at ¶¶ 2, 7). In fact, the City has approved more than 25 business with drive-thru services in the immediate vicinity, and at least 11 of those are food-service establishments just like Panda Express. Even the Commission’s own staff stated that the proposed drive-thru is compatible with adjacent land uses and zoning district. (Ex. C at Conditional Use p. 1).

3. The drive-thru will not adversely effect access and traffic flow.

The proposed Panda Express, including the drive-thru, has no adverse impact on access, traffic flow, or other public facilities and services. The three concerns raised by the Commission lack any evidentiary support or merit. First, the three access points will not adversely affect access or traffic flow because there is adequate spacing between the three access points and all access points are from internal private roads with slower speeds. (Gallagher Report, attached hereto as Exhibit H, at p. 2); (Klover at ¶ 5). The O’Charley’s Restaurant & Bar directly across Winchester Boulevard similarly has three access points that have no negative impact on traffic flow. Second, the layout of the proposed drive-thru will not hinder traffic flow or pose a safety hazard. (Gallagher at p. 4). The proposed drive-thru is designed to permit vehicle stacking and to provide sufficient room for eleven cars to easily fit, which is greater than generally required

during peak hours. (Klover at ¶ 8); (Kan at ¶ 6). Finally, the proposed Site Plan will not hinder traffic flow, but will actually improve traffic in the region. (Klover at ¶ 3); (Gallagher at p. 4).

4. The drive-thru will not result in the destruction, loss or damage of natural, scenic or historic features.

As the Commission and its staff recognize, “the proposed use will not result in the destruction, loss or damage of natural, scenic or historic features.” (Ex. C at Conditional Use p. 2); (Findings at p. 3, ¶ 8).

5. The drive-thru will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

There is no evidence that the proposed drive-thru and Site Plan pose any safety hazards to car traffic or pedestrians. In the words of Mr. Gallagher, a professional traffic engineer with decades of experience, the drive-thru loop as proposed is “popular, reasonable, time-tested, safe, and typically approved for restaurants that provide drive-thru services.” (Gallagher at p. 2); (*see also* Kan at ¶ 7). As such, it is utilized by many other restaurants both within the Waterloo Crossing area and the across the entire country. *Id.* Contrary to the Staff Report’s unfounded claims, the drive-thru loop does not allow for “vehicles traveling from 7 different directions to converge unrestricted.” (Ex. C at Conditional Use p. 2). Rather, the proposed drive-thru provides for the optimal layout for safety and circulation. (Klover at ¶¶ 3, 7); (Gallagher at p. 2). Additionally, the P&Z Commission’s unsupported assertions that the Site Plan poses safety risks to pedestrians, as they must cross the double lane parking area and the drive-thru, are baseless. The Property will include a “ladder” type crosswalk, making it “completely safe” to access the location. (Gallagher at pp. 2-3). Finally, the proposed Panda Express will not hinder the comfort or prosperity of the area. Rather, Robert Weiler, a preeminent appraiser and real estate developer

with over 60 years of experience in the industry, states that the Panda Express will actually *increase* the property values of the surrounding community. (Weiler at ¶ 5.)

B. Applicants' Request for an Area Variance Meets All Necessary Requirements and Is Supported By the Evidence.

Section 1199.04(a) of the Zoning Code requires a 30-foot built-to line (25 feet plus 5 feet variation for a one-story building).³ Here, the Applicants request a variance to 45.66 feet – a 15.66-foot variance. The evidence supports granting the variance, and its denial by the Commission violates the Zoning Code and Ohio Law.

1. The Application for an area variance satisfies Zoning Code requirements.

Applicants' Variance Application satisfies the Zoning Code's requirements. Section 1147.03 of the Zoning Code sets forth seven factors for determination of whether a variance should be granted:

- (a) That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
- (b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.
- (c) That the special conditions and circumstances do not result from the actions of the applicant.
- (d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
- (e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
- (f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.

³ Section 1199.05(a)(2) outlines the build-to line for sites with a drive-thru lane at the front of the building to be 25 feet plus 5 feet where the structure is a one-story building.

(g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

(Ex. B at § 1147.03). The evidence provided by the Applicants is more than sufficient to establish that each factor is met.

a. Special circumstances exist that require granting this variance.

Special circumstances exist that require granting the variance, namely the northeast access point from the private road requires two-direction traffic in front of the building, which necessitates a built-to line variance. Furthermore, external factors to the property, including a gas easement along the north border of the property; a significant grade change of approximately 3 feet in the Northeast corner; and the trapezoidal shape of the lot created by Winchester Blvd curving North away from the site, necessitate this variance. (Klover at ¶ 4).

b. A literal interpretation of the Zoning Code would deprive Applicants of rights commonly enjoyed by other properties in the same zoning district.

A literal interpretation of the Zoning Code would deprive the Applicants the ability to have a drive-thru, which numerous other properties in the same zoning district enjoy. (Weiler at ¶ 6). The proposed drive-thru layout – the wraparound structure – is necessary to permit customers to return to the parking lot if their food is not ready when they arrive at the window, which is a common characteristic of many successful drive-thrus, including the very popular Chick-fil-a establishments. (Klover at ¶¶ 6-7); (Kan at ¶ 5). In fact, both Messrs. Gallagher and Klover conclude that this two-way traffic lane is necessary and safe.

c. The actions of the Applicants do not necessitate the issuance of this variance.

As mentioned above, the gas easement, the northeast access point, and trapezoidal shape – all external factors that are not a result of the Applicants’ actions – necessitate a built-to line

variance. Furthermore, any developer on that land would be accessing those same access points and conflict points. (Gallagher at p. 2).

- d. **This setback variance will not confer on the Applicants any undue privilege that is denied to other landowners in the same zoning district.**

Both Staff and the Commission agreed that granting this variance will not confer any undue privilege to Applicants that is denied to other properties, rather, granting the variance will permit the proposed Property to be in conformity with the surrounding area. (*See* Ex. C at Variance p. 3); (Findings at p. 6, ¶ 8); (*see also* Klover at ¶ 2); (Weiler at ¶ 5.) For example, Panera Bread was granted a variance to be 73.29 feet from the right-of-way; Chipotle was permitted to build about 83 feet from the right-of-way; and Walgreens was permitted to build approximately 106 feet from Winchester Boulevard.

- e. **This setback variance will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.**

The variance will not adversely affect the safety and general welfare of patrons both travelling by car and by foot nor of other traffic in the Waterloo Crossing shopping area. There is no evidence that the proposed Site Plan will create any traffic issue. In fact, the only expert evidence is to the contrary. (*See* Gallagher at pp. 3-4). Additionally, pedestrian access will not be adversely impacted. Rather, the “ladder” crosswalk allows pedestrians, if any, to safely cross the parking area and drive-thru lane without any safety concerns. (*Id.* at pp. 2-3). In fact, other business in the area have similar pedestrian access with no issue.⁴ Finally, the proposed Panda Express will not hinder the comfort or prosperity of the area. Instead, the Panda Express will *increase* the property values of the surrounding community. (Weiler at ¶ 5).

⁴ For example, the Panera requires pedestrians to walk across the drive-thru lane along a crosswalk; the Walgreens requires pedestrians to walk across a double lane parking lot; Skyline Chili requires pedestrians to walk across a parking lot and drive-thru; and Tim Hortons requires pedestrians to walk across a parking lot and drive-thru.

f. Granting this variance would not be solely based on a showing that the property could be put to better economic use than presently permitted by the Zoning Code.

The current zoning permits a food establishment with a drive-thru. Based on external factors – a gas easement; a grade change in the northeast corner; three private road access points; and the trapezoidal shape of the lot – this variance is required to allow the proposed Panda Express to safely and efficiently operate. (Klover at ¶ 4). Additionally, as mentioned above, any developer on that land would be accessing those same access points and conflict points and would be subject to the gas easement. (Gallagher at p. 2).

g. Granting this variance will not permit a use that is otherwise not permitted within the zoning district.

Granting the variance will not permit a use that is otherwise not permitted in the zoning district. (Findings at p. 7, ¶ 11). The Property is zoned GC, which expressly permits a place for “eating and drinking” as a permitted use and a drive-thru as a conditional use. (See Ex. B at § 1167.02(a)(6); § 1167.03(a)). In fact, Staff acknowledged that the use is permitted and consistent with the area. (Ex. C at Variance p. 3).

2. The Application for an area variance satisfies the *Duncan* factors.

In addition to meeting each of the above seven factors enumerated in the Zoning Code, Applicants also satisfy each of the seven factors for granting a variance outlined in the Ohio Supreme Court opinion in *Duncan v. Middlefield*, including whether the variance is or is not substantial, whether the property owner purchased the property with knowledge of the zoning restriction; and whether the property owner’s predicament feasibly can be obviated through some method other than a variance. *Duncan v. Middlefield*, 23 Ohio St. 3d 83, 86 (1986).

Here, the variance is not substantial. Applicants are only seeking 15.66 additional feet, far less significant than many that have been granted in the surrounding area. Further,

Applicants purchased this Property knowing that it was zoned GC and that such a zoning district would expressly allow them to construct a Panda Express – a food service establishment – with a drive-thru service. Finally, the gas easement, challenging shape of the parcel, three private road access points, and grade change at the northeast corner require this variance for development of the Property. Thus, Applicants not only satisfy the requirements in the Zoning Code, but also satisfy Ohio law.

C. The P&Z Commission Wrongly and Arbitrarily Denied Applicants’ Application for a Conditional Use and Variance.

Based on the foregoing, the Commission wrongly and arbitrarily denied Applicants’ requests for a conditional use permit and area variance. Its decision was unsupported by the evidence. Furthermore, the Commission’s vague desires for a more “walkable” district and for the Property to be used for additional parking were inappropriate bases upon which to deny the Application.

1. The P&Z Commission’s denial of the Application was impermissibly based on unfounded concerns and is unsupported by any permissible or appropriate evidence.

As a matter of law, “[personal] opinions are neither evidence nor relevant” in consideration of a conditional use permit. *Estadt v. Board of Zoning Appeals*, 3d Dist. Union No. 14-97-1, 1997 Ohio App. LEXIS 2800, *10, 1997 WL 317463 (June 6, 1997) (reversing denial of conditional use permit where evidence of Site Plan, Zoning Resolution, and photographs showed compliance with the permit’s requirements); *Falling v. Butler County Bd. of Zoning Appeals*, 12th Dist. No. CA97-06-118, 1998 WL 42225, *2 (Feb. 2, 1998) (“any decision flowing from such a hearing must be based on evidence presented and not on public opinion” (quoting *In re Rocky Point Plaza Corp.*, 86 Ohio App.3d 486 (1993))).

Under Ohio Law, “evidence” for purposes of adjudicating an application for a conditional use permit or variance request “should be direct evidence, which is more than speculation or opinion.” *Falling v. Butler County Bd. of Zoning Appeals*, 1998 WL 42225 at *3 (citation omitted). ***Specific direct evidence*** is required to deny a conditional use or variance application. *See id.* at *4. Thus, opinions or unsupported contentions must have no weight. *Id.* at *3.

Here, the P&Z Commission was presented with testimony from Henry Klover, a professional architect with decades of experience in site layout and development, the proposed Site Plan, aerial photographs from the Property, and examples of successful and safe establishments in the area with similar drive-thru services and site layouts. Yet, the Staff and the Commission responded with bare assertions and speculation regarding traffic and safety, with no supporting proof. This approach to zoning determinations has been squarely rejected by Ohio law.

Regardless of whether there was support for the Commission members’ opinions – which there wasn’t – an increase in traffic or traffic hazards is legally insufficient to deny the application. Ohio law is clear:

‘when a subject property is located in an area burdened with heavy traffic and * *
* the property can be used commercially only, and the desired use is a permitted
one, ***the problem of additional traffic hazards must be secondary to the right of
a property owner to have the use of his property in a manner that is consistent
with its location.***’

Speedway Super Am. LLC v. Granville Village Council (5th Dist. Jan 10, 2005), 2005 WL 66580, 2005-Ohio-82, ¶14 (emphasis added) (quoting *Pure Oil Div. of Union Oil Co. of Cal. v. City of Brook Park* (1971), 26 Ohio App.2d 152, 158). Thus, even if there was any substantive evidence before the P&Z Commission as to any adverse traffic hazards by the Panda Express proposal (which there was not), this evidence would have been insufficient to deny the application. *See Fallang*, 1998 WL 42225 at *4.

2. The P&Z Commission Cannot Base a Denial of the Application on Vague Desires for Alternative Site Development.

It is black letter Ohio law that a conditional use permit cannot be denied “simply because the use is no longer considered desirable.” Meck & Pearlman, *Ohio Planning and Zoning Law*, Section 9.11 (2013), citing *Kabatek v. City of North Royalton City Council*, 1998 WL 6952 (8th Dist. 1998). To the extent the City seeks to prohibit drive-thrus based upon some new desire to make the area more pedestrian friendly, it must first either rezone the Property or amend the Zoning Code. *See id.* And, any such desire to make the area more “walkable” is contradicted by the City’s continued acceptance of other establishments similar to the proposed Panda Express. (Klover at ¶ 10); (Gallagher at p. 3).

Additionally, the Commission stated a vague desire that the Property should be used as additional parking based on a long-term development plan. (Findings at p. 3, ¶ 6). Such a desire cannot be a basis for denying the Applicants’ Application. In this GC-zoned district, a dining establishment – such as this Panda Express – is a permitted use and is permitted to be built on the Property regardless of the shopping center plans. A development plan that charts the property as parking has no effect on the current zoning or the rights of the landowner to build on the property according to that zoning. Moreover, as outlined by Mr. Klover, using the property for additional parking for the Walmart and surrounding area is nonsensical and unsafe, as it is a significant distance from any other establishment. (Klover at ¶ 10). As such, any parking would become a haven for semi-trucks and larger vehicles as an overnight rest stop. *Id.* Parking is not the property’s highest and best use. The proposed Panda Express is.

Finally, the Zoning Code states that the conditional use should be consistent with “plans for the *area*,” not necessarily plans for the *Property*. (Ex. B at § 1145.03(b)). The Commissioner focused too narrowly on whether the shopping center plans contemplated a

building in this exact spot, instead of looking at the Property's zoning and the surrounding area as a whole.

The Commission's denial of the Application was not supported by any evidence. Instead, it was couched in unfounded safety concerns and a vague desire for the Property to be used for some other purpose. Denial of the Application on these bases is contrary to the City's Zoning Code, Ohio law, and the United States Constitution.

D. Denial of the Proposed Panda Express Violates the Landowner's Rights under the United States Constitution.

In addition to the fact that the Commission's denial of the Application was wrong, arbitrary, and based on impermissible speculation, denial of the Application, if allowed to stand, also violates the United States Constitution. The Due Process and Equal Protection Clauses require that Canal Winchester approve the Application.

First, the Applicants have a procedural due process right that requires the City to follow the procedures outlined in Canal Winchester's Zoning Code. The Applicants have complied with all legitimate zoning restrictions. It is clear that these procedures were not followed when the P&Z Commission ruled against the Applicants without any evidence and arbitrarily denied the Application. Second, the Applicants have a substantive due process right that administrative zoning decisions be made in a manner that is not arbitrary or capricious. Yet, the Commission acted in an arbitrary and capricious manner, depriving Applicants of their property and liberty interests.

Finally, the Applicants have an equal protection right to be treated the same as others similarly situated. *See Wedgewood Ltd. Partnership v. Twp. of Liberty, Ohio*, 456 F.Supp.2d 904, 939 (S.D. Ohio 2006). In the immediate vicinity of the Property, there are *twenty-five* businesses with drive-thru windows, including *eleven* eating establishments. The Commission is

treating the proposed Panda Express differently than other similarly situated businesses, thereby violating Applicants' right to equal protection under the law.

IV. CONCLUSION

For the foregoing reasons, the Applicants respectfully request that Council reverse the Commission's denial of Applicants' requests and approve the Application for a conditional use permit and area variance.

Respectfully submitted,

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Attorneys for Applicants/Appellants Waterloo Crossing Ltd. and Panda Express, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served via email this 31st day of July, 2019 upon the Clerk of Council for the Canal Winchester, Ohio Council, Amanda Jackson, at ajackson@canalwinchesterohio.gov.

/s/ Kara M. Mundy
Kara M. Mundy

Exhibit A



City of Canal Winchester

36 South High Street
Canal Winchester, Ohio 43110
Development Department
Phone (614) 837-7501 Fax (614) 837-0145

CONDITIONAL USE APPLICATION

rev. 09/24/2013

PROPERTY OWNER

Name PANDA EXPRESS INC.

Address 1683 WALNUT GROVE AVE. ROSEMEAD CALIFORNIA

Daytime Phone (626)799-9898 Email hakim.yala@pandarg.com

APPLICANT

Name Henry C. Klover

Address 10955 Lowell Avenue, Suite 700, Overland Park, KS 66210

Daytime Phone (913)649-8181 Email hcpermitting@klover.net

Address of Subject Property Winchester Blvd. & Canal St. Parcel 31-1800887

Current Zoning GC General Com. Description of Proposed Use The proposed structure will be a freestanding restaurant with drive-thru and on-site trash enclosure.

Attach legal description and current survey (within 2 years) of the subject property and all supporting materials as required by Section 1145.02 (c) (see attachment). Additional information may be required by the Planning and Zoning Administrator or the Planning and Zoning Commission

I certify that the information provided with this application is correct and accurate to the best of my ability.

Property Owner's or Authorize Agent's Signature 4/25/19

Date

DO NOT WRITE BELOW THIS LINE

Date Received: ___/___/___ Fee: \$_____
Paid Historic District: ___ Yes ___ No
Preservation District: ___ Yes ___ No

Date of Action: ___/___/___ Application ___ No
Expiration Date: ___/___/___ Approved: ___ Yes
___ Yes, with conditions

Tracking Number: CU - _____

Conditional Use Application Attachment

Required Materials per Section 1145.02 (c)

1. Name, address and phone number of the applicant(s) and representative(s), if any, and the signature of the property owner(s).
2. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.
3. A description of existing use, current zoning district, and proposed conditional use.
4. A list of all property owners within, contiguous to and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.
5. A statement of the relationship of the proposed use to the general welfare of the community, to appropriate plans for the area, and to the changed or changing conditions behind the request.
6. A statement of the relationship of the proposed use to adjacent land use in terms of traffic, parking, noise, and other potential nuisances and general compatibility.
7. A plot plan to show:
 - A. Boundaries and dimensions of the lot and the size and location of all proposed and existing structures.
 - B. Traffic access, traffic circulation, existing and proposed utilities, parking, lighting and illumination, landscaping, signs, and other such information relevant to the proposed use.
 - C. Such additional information as may be required by this Zoning Code and/or requested by the Planning & Zoning Commission and/or the Planning & Zoning Administrator to review the application.



City of Canal Winchester

36 South High Street
Canal Winchester, Ohio 43110
Development Department
Phone (614) 837-7501 Fax (614) 837-0145

VARIANCE APPLICATION

rev. 09/24/2013

PROPERTY OWNER

Name PANDA EXPRESS INC.

Address 1683 WALNUT GROVE AVE. ROSEMEAD CALIFORNIA

Daytime Phone (626)799-9898

Email hakim.yala@pandarg.com

APPLICANT

Name Henry C. Klover

Address 10955 Lowell Avenue, Suite 700, Overland Park, KS 66210

Daytime Phone (913)649-8181

Email hcpermitting@klover.net

Address of Subject Property Winchester Blvd. & Canal St. Parcel 31-1800887

Current Zoning GC General Com.

Variance Request to Section 1199.04(a)

Requested Variance For the increase of a 25'-0" build to line to be 50'-0" to which would prevent a layout with dead-end parking and allow for traffic to connect with the existing private drive.

Attach a legal description and current survey (within 2 years) of the subject property and all supporting materials as required by Section 1147.02(c) (see attachment). Additional information may be required by the Planning and Zoning Administrator or the Planning and Zoning Commission.

I certify that the information provided with this application is correct and accurate to the best of my ability.

Property Owner's or Authorize Agent's Signature

4/25/19
Date

DO NOT WRITE BELOW THIS LINE

Date Received: ___ / ___ / ____

Fee: \$ _____
Paid

Historic District: ___ Yes ___ No
Preservation District: ___ Yes ___ No

Date of Action: ___ / ___ / ____

Application ___ No

Expiration Date: ___ / ___ / ____

Approved: ___ Yes

___ Yes, with conditions

Tracking Number: VA - _____

Variance Application Attachment
Required Materials per Section 1147.02 (c)

1. Name, address and phone number of the applicant(s) and representative(s), if any, and the signature of the property owner(s).
2. A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.
3. The nature of the variance required to include what provisions of the Zoning Code are affected.
4. A statement pertaining to and explaining the relation of the variance(s) requested to the following criteria for approval as listed under Section 1147.03:
 - A. That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
 - B. That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.
 - C. That the special conditions and circumstances do not result from the actions of the applicant.
 - D. That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
 - E. That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
 - F. That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.
 - G. That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.
5. A list of all property owners within, contiguous to and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.
6. A plot plan to show the following:
 - A. Boundaries and dimensions of the property and the size and location of all proposed and existing structures.
 - B. The nature of the special conditions or circumstances.
 - C. The proposed use of all parts of the lot and structures.
 - D. The use of land and location of structures on adjacent properties.
 - E. Such additional information as may be required by the Zoning Code and/or requested by the Planning & Zoning Administrator or the Planning & Zoning Commission.

Exhibit B

[Print](#)

Canal Winchester, OH Code of Ordinances

1145.03 CRITERIA FOR APPROVAL.

The following considerations shall be examined in review of an application for a conditional use:

- (a) The proposed use is a conditional use of the zoning district and the applicable development standards of this Zoning Code are met.
- (b) The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.
- (c) The proposed use will not adversely impact access, traffic flow, and other public facilities and services.
- (d) The proposed use will not result in the destruction, loss or damage of a natural, scenic, or historic feature.
- (e) The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
(Ord. 41-01. Passed 8-20-01.)

Print

Canal Winchester, OH Code of Ordinances

1145.04 REVIEW PROCEDURE.

(a) Filing and Acceptance of Application. A written application for a Conditional Use and twelve (12) 11" by 17" size copies and two (2) full size copies of all plans and supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1145. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Conditional Use Application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator. (Ord. 53-07. Passed 9-4-07.)

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) days prior to a scheduled public hearing in one or more newspapers of general circulation in the Municipality. Such notice shall include time and place of the public hearing and nature of the proposed conditional use.

(d) Notice to Property Owners. Written notice of the hearing shall be mailed by the Municipality, certified mail, at least ten (10) days prior to the date of a scheduled public hearing to all property owners as listed under Section 1145.02 (c)(4). The notice shall correspond to subsection (c) hereof in content. (Ord. 41-01. Passed 8-20-01.)

(e) Procedure at Hearing. Within thirty-five (35) days of the public hearing, the Planning and Zoning Commission shall review the application and render one of the following decisions:

- (1) Approval of conditional use as requested.
- (2) Approval of conditional use with modifications.
- (3) Disapproval of conditional use.

The Commission shall apply the criteria in Section 1145.03 in reaching its determination. In approving a conditional use, the Commission may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made part of the terms under which the conditional use is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the conditional use approval and respective Certificate of Zoning Compliance.

The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. (Ord. 22-11. Passed 4-4-11.)

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Canal Winchester, OH Code of Ordinances

1145.06 APPEALS.

(a) Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for a Conditional Use shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within thirty (30) days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. In reaching a determination of a requested Conditional Use on appeal, Council shall consider Section 1145.03. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required. (Ord. 22-11. Passed 4-4-11.)

(b) Public Notification. At least one (1) notice shall be given at least ten (10) days prior to the public hearing in one or more newspapers of general circulation in the municipality. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(c) In approving a Conditional Use on appeal, Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said Conditional Use is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135, and shall result in revocation of the Conditional Use approval and respective Certificate of Zoning Compliance. (Ord. 53-07. Passed 9-4-07.)

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Canal Winchester, OH Code of Ordinances

1147.03 CRITERIA FOR APPROVAL.

All relevant factors including but not limited to the following considerations shall be examined in the review, public hearing, and approval of an application for a variance:

- (a) That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
- (b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.
- (c) That the special conditions and circumstances do not result from the actions of the applicant.
- (d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
- (e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
- (f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.
- (g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.
(Ord. 41-01. Passed 8-20-01.)

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Canal Winchester, OH Code of Ordinances

1147.04 REVIEW PROCEDURE.

(a) Filing of Application. A written application for a Variance and twelve (12) 11" by 17" size copies and two (2) full size copies of all supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1147. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Variance Application shall be reviewed by Village officials until all required information has been received by the Planning and Zoning Administrator.

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) days prior to a scheduled public hearing in one (1) or more newspapers of general circulation in the Municipality. Such notice shall include the time and place of the public hearing and the nature of the proposed variance(s).

(d) Notice to Property Owners. Written notice of the hearing shall be mailed by the Municipality, certified mail, at least ten (10) days prior to the date of a scheduled public hearing to all property owners as listed under Section 1147.02(c) (5). The notice shall correspond to subsection (c) hereof in content.

(e) Recommendation from the Landmarks Commission. Variances to Section 1175.01 (Old Town Overlay District) shall require a recommendation from the Landmarks Commission prior to the public hearing held by the Planning and Zoning Commission. The Landmarks Commission shall consider variance applications per the criteria of approval found in Section 1147.03.

(f) Procedure at Hearing. Within thirty-five (35) days of the public hearing, the Planning and Zoning Commission shall review the application and render one of the following decisions:

- (1) Approval of variance(s) as requested.
- (2) Approval of variance(s) with modifications.
- (3) Disapproval of variance(s).

The Commission shall apply criteria in Section 1147.03 in reaching its determination. In approving a variance(s), the Commission may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed herein.

The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

(Ord. 18-12. Passed 5-7-12.)

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Canal Winchester, OH Code of Ordinances

1147.07 APPEALS.

(a) Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for a Variance shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within thirty (30) days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. In reaching a determination on a requested Variance on appeal, Council shall consider Section 1147.03. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required. (Ord. 22-11. Passed 4-4-11.)

(b) Public Notification. At least one (1) notice shall be given at least ten (10) days prior to the public hearing in one or more newspapers of general circulation in the municipality. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(c) In approving a Variance on appeal, Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said Variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the Variance approval and respective Certificate of Zoning Compliance. (Ord. 53-07. Passed 9-4-07.)

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Canal Winchester, OH Code of Ordinances

1167.01 PURPOSE.

The General Commercial District (GC) is intended to encourage the concentration of a broad range of individual commercial establishments which together may constitute a cluster of general commercial activity that serves a substantial portion of the Municipality's residential population. Concentrated general commercial developments should be ideally located near major circulation routes and accessible to the population served.

(Ord. 41-01. Passed 8-20-01.)

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Canal Winchester, OH Code of Ordinances

1167.02 PERMITTED USES.

Land and buildings in the General Commercial District (GC) shall be used only for the following purposes:

- (a) **Retail Stores.** Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods (including the buying or processing of goods for resale) including:
 - (1) General Merchandise: Hardware stores, department stores, mail order houses, limited price variety stores, and miscellaneous general merchandise stores.
 - (2) Food: Grocery stores, meat and fish (seafood) markets, fruit stores and vegetable markets, candy, nut and confectionery stores, dairy products stores, retail bakeries, supermarkets, and miscellaneous food stores.
 - (3) Building Materials, Retail: Lumber and other building materials, heating and plumbing equipment, electrical supply equipment, and hardware and farm equipment.
 - (4) Apparel: Clothing, accessories and personal furnishing stores, shoe stores, custom tailors, furriers and fur shops, and miscellaneous apparel and accessory stores.
 - (5) Home Furnishings: Furniture, home furnishings, and equipment stores, household appliance stores, and radio, television and music stores.
 - (6) Eating and drinking places.
 - (7) Electronic products.
 - (8) Video rental store.
 - (9) Miscellaneous Retail: Drug stores and proprietary stores, liquor stores, antique stores and secondhand stores, stationery stores, sporting goods stores and bicycle shops, jewelry stores, florists, cigar stores, news dealers, camera and photographic supply stores, gift, novelty and souvenir shops, optical goods stores, and miscellaneous retail stores not elsewhere classified.
 - (10) Business Services: Advertising, duplicating, addressing blueprinting, photocopying, mailing, stenography, and business services not elsewhere classified.
 - (11) Artisan Workshop.
 - (12) Specialty Food and/or Beverage Facility.
- (b) **Business and Professional Offices.** Business offices engaged in providing tangible and intangible services to the public, involving both persons and their possessions, including:
 - (1) Administrative, Business and Professional Offices: Administrative offices primarily engaged in general administration, supervision, purchasing, accounting and other management functions, and professional offices engaged in providing tangible and intangible services to the general public, involving both persons and possessions, including financial services, real estate and insurance.
 - (2) Professional: Offices of physicians and surgeons, dentists and dental surgeons, chiropractors, medical and dental laboratories, health and allied sciences not elsewhere classified, legal services, design services including engineering, architecture, landscape architecture, urban planning, graphic arts and interior design, and accounting, auditing and bookkeeping services.
 - (3) Health care maintenance and emergency services.
- (c) **Personal and Consumer Services.** Personal services generally involving the care of the person or his/her personal effects and consumer services generally involving the care and maintenance of tangible property or the provision of intangible services for personal consumption, including:
 - (1) Personal: Photographic studios, including commercial photography, beauty shops, barber shops, laundromats, funeral services, shoe repair shops, pressing, alteration and garment repair, and miscellaneous personal service.
 - (2) Repair Services: Electrical repair shops, watch, clock and jewelry repair, reupholsters and furniture repair, and similar household item repair shops and related services.
 - (3) Artisan Studio.

(Ord. 15-28. Passed 7-6-15.)

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Canal Winchester, OH Code of Ordinances

1167.03 CONDITIONAL USES.

The following uses may be allowed in the General Commercial District (GC) subject to approval in accordance with Chapter 1145:

- (a) Drive-Up Window Service or Open Display. Drive-up window service or outdoor service, or open display facility, developed in association with a principal permitted use.
- (b) Residential. Living quarters as an integral part of and subordinate to a principal permitted use.
- (c) Automobile Convenience Markets. Automobile Repair and Services, and Automobile Service Stations. No portion of an Automobile Service Station's structure or its appurtenances, including ancillary, associated or auxiliary equipment, shall be located in front of the established building line.
- (d) Recreation. Theaters, dance halls, dance studios, dance schools, bowling, swimming pools, and skating rinks.
- (e) Hotels and Motels. Lodging facilities and subordinate eating and drinking facilities and recreational facilities, provided that the minimum lot area is two (2) acres.
- (f) Offices of Veterinarians and Animal Hospitals.
- (g) Commercial Kennel. Commercial kennels shall not be located within two-hundred (200) feet of a residential zoning district, including PUD, TND, PRD, and PCND.
- (h) Automobile Parking Lot or Garage. An automobile parking lot or garage as a principal use.
- (i) Automobile car wash. Automobile car washes shall not be located within one hundred and fifty (150) feet of a residential zoning district, including PUD, PRD, TND and PCND. No portion of a structure or its appurtenances, including ancillary, associated or auxiliary equipment, shall be located in front of the established building line.
- (j) Electric Vehicle Charging Stations. Electric vehicle charging stations when a property has more than five (5) electric vehicle charging stations or an electric vehicle charging station that includes an overhead canopy.
- (k) Mini-warehouses. Mini-warehouses shall be located on a major or minor arterial as identified in the Canal Winchester Thoroughfare Plan. They shall be located on a lot with a maximum lot width of one-hundred and fifty (150) feet of frontage measured at the building line.

(Ord. 16-027. Passed 9-6-16.)

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Canal Winchester, OH Code of Ordinances

1199.04 SITE DESIGN.

(a) **Build-To Line.** To promote quality streets, buildings shall meet build-to lines along public roadway frontages. Build-to lines shall be fifty (50) feet from the right of way on major arterials as designated on the Canal Winchester Transportation Thoroughfare Plan and twenty-five (25) feet from the right of way on all other streets.

- (1) In order to achieve quality streetscapes, variation from the build-to line will be permitted to allow for added green space, amenities, outdoor seating and the like. Buildings may be located further from the right of way than the established build-to line per the following:

Building Height	Variation from Build-To Line
One Story Building	0 feet to 5 feet
Two Story Building	0 feet to 10 feet
Three Story Building	0 feet to 15 feet

- (2) At least fifty (50) percent of the building's front elevation shall be located within the applicable variation from the build-to line range.
- (3) Uncovered seating areas or architectural features may project up to five (5) feet closer to the right of way than the established build-to line.
- (4) Buildings larger than twenty thousand (20,000) square feet or attached to existing in-line retail space shall be exempt from the build to line requirements if located more than three hundred (300) feet from the right of way.

(b) **Sidewalks and Multi Purpose Paths.** A sidewalk, or multi-purpose path as designated in the Canal Winchester Transportation Thoroughfare Plan, shall be constructed along all public streets. In addition, a sidewalk shall connect the building entrance with the sidewalk or multi-purpose path along the primary public street.

(c) **Adjacent Pavement.** Pavement is prohibited directly adjacent to any building elevation, except for loading zone areas, vehicular building entrances, drive thru windows, or at entrance walk ways into the building.

(d) **Trash Containers, Service Areas and Loading Zones.** Trash containers, service areas and loading zones shall be located at the rear of the building. Trash containers, service areas and loading zones may be permitted on the side of a building if not oriented towards a public or private street and properly screened from public or private streets and residential zoning districts.

(e) **Utility Boxes.** Utility boxes shall be located to the rear of the building and painted the same, or primary, color of the building elevation where the utility box is located.

(Ord. 8-12. Passed 4-2-12.)

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Canal Winchester, OH Code of Ordinances

1199.05 PARKING LOT DESIGN.

Parking lot areas shall be designed to reduce their visual impact, production of excess heat and effect on drainage. Appropriately sized landscaped areas shall be provided within each parking lot area allowing for a variety of shade trees to be planted that will not buckle the parking lot's surface and at the same time provide shade. Therefore, all off-street parking lot areas shall be designed using the "parking bay" concept, which consists of parking spaces grouped together and each parking bay separated by landscaped tree islands.

- (a) **Parking Lot Location.** All parking spaces, drives or other structures for vehicular parking or movement shall be located to the rear or side of the principal building with no more than fifty (50) percent of such parking area located to the side of the principal building.
 - (1) Buildings larger than twenty thousand (20,000) square feet or attached to existing in-line retail space shall be permitted to have parking to the front of the building if the building is located more than three hundred (300) feet from the right of way and the parking lot is located no closer than two hundred (200) feet from the right of way.
 - (2) If a drive thru is deemed appropriate by the Planning and Zoning Commission and designed per Section 1199.03(h) of this Zoning Code, a drive lane may be permitted to be located in front of the building. In such case, the building shall be moved the furthest away from the build-to line as indicated in Section 1199.04(a) (1) of the Commercial Development Standards.
- (b) **Parking Bays.** No parking bay shall contain more than twenty-four (24) total parking spaces, with a maximum of twelve (12) spaces in a single row.
- (c) **Maximum Number of Parking Spaces.** Off street parking areas shall only be permitted to have twenty-five (25) percent more spaces than stated as the applicable minimum in Section 1185.03 of this Zoning Code.
 - (1) Parking spaces above the maximum shall be permitted with an additional sixty (60) square feet of landscaping provided for every one (1) additional parking spaces. The provided additional landscaping shall be in addition to the minimum landscaping required in Section 1191.02(c)(2) of this Zoning Code.
 - (2) Additional landscaping shall include a mix of trees and shrubs and be clearly identified as additional landscaping on the site's landscaping plan.
- (d) **Parking Lot Islands.** Each landscaped tree island in a single loaded parking stall design shall have a minimum area of one hundred and sixty two (162) square feet with a minimum width of nine (9) feet. Each landscaped island located in a double loaded parking stall design shall have a minimum area of three hundred twenty four (324) square feet, with a minimum width of nine (9) feet. The landscaped tree island(s) shall contain at least one shade tree and include at least fifty (50) square feet of other plant materials.
- (e) **Bio-swales.** Bio-swales, also referred to as rain gardens, may be incorporated in the overall parking lot design. In addition to separating parking bays, when properly designed bio-swales/rain gardens can also assist with stormwater quality and quantity management.
- (f) **Intersection Site Distance.** When a drive isle intersects with an internal service road, nothing shall materially impede the vision between a height of two and one-half (2½) feet and ten (10) feet for the area bounded by the intersecting street lines of those roadways and a line joining points along said roadways fifteen (15) feet from the point of intersection. (Ord. 8-12. Passed 4-2-12.)

Exhibit C

**Conditional Use #CU-19-001
Panda Express**

Owner: Waterloo Crossing LTD
Applicant: Henry C. Klover – Panda Express Inc.
Location: PID 184-003208 – Property located at the Waterloo Shopping Center.
Existing Zoning: GC (General Commercial)
Request: Conditional Use to allow for a proposed restaurant with drive through service.

Location and Surrounding Land Uses

The subject property is zoned GC (General Commercial) and consists of 0.722 acres on the south side of Winchester Blvd. All surrounding properties are zoned GC and are part of the Waterloo Crossing Shopping Center. This property is subject to the Commercial Development Standards of the Zoning Code.

Conditional Use

A conditional use to Section 1199.03(a)(2)(h) has been requested to allow for a drive thru.

The following criteria shall apply:

- a. The proposed use is a conditional use of the zoning district and the applicable development standards of this Zoning Code are met.
 - *The proposed use (drive thru window service) is a conditional use of the zoning district. However, the applicant's use of the proposed drive-thru will cause the building to require a variance from meeting the 25 foot build-to line. With the proposed drive thru the building will have a 'wrap around' drive isle in front of the building. The applicant has explained that the wrap around drive isle is for orders that are not ready when the customer reaches the window, and are directed to drive back into the parking area to wait for the food.*
- b. The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.
 - *The proposed use (drive thru window service) is compatible with adjacent land uses and the zoning district. However, this particular use is not appropriate for the plans of the area. The Waterloo Crossing shopping center plans from 2004, 2005, 2006, 2010 & 2016 show that the area for this proposed Panda Express was intended to be a parking expansion, and was not intended for a commercial restaurant. The area to the east of the proposed Panda Express was intended for a potential building site.*
- c. The proposed use will not adversely impact access, traffic flow, and other public facilities and services.
 - *The proposed use will adversely impact traffic flow and access. The site will have three (3) full access points with the current site design. This will create two (2) additional conflict points for moving traffic around the site. All three (3) traffic access points are proposed to be full access and will be on private roads.*

- d. The proposed use will not result in the destruction, loss or damage of a natural, scenic, or historic feature.
 - *The proposed use will not result in the destruction, loss or damage of natural, scenic or historic features.*
- e. The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
 - *The proposed use as a commercial restaurant with a drive thru window service will not adversely impact the public health, safety, convenience and comfort... However, the proposed location of the drive-thru access drive and turn around loop will create a safety concern. This drive thru loop creates a third (3) conflict point into the site and allows for vehicles traveling from 7 different directions to converge unrestricted. Additionally, with the site plan proposal there will be off site work done to rearrange the existing parking creating a situation where the current access drive to the south turns into parking.*

Analysis

The applicant is requesting a conditional use to allow for a drive thru at the proposed Panda Express restaurant. The proposed building is 2,300 sq. ft. and will sit on a site comprised of 0.722 acres of land. This property is zoned General Commercial (GC) and is a vacant piece of ground within the Waterloo Crossing shopping center. All of the plans for the shopping center show this site as a future parking expansion.

Code section 1199.03(a)(2)(h) (Commercial Development Standards) of the Zoning Code states: "A drive thru, if deemed appropriate for the site by the Planning and Zoning Commission via a Conditional Use of the applicable zoning district, shall be designed as an integral part of the structure it serves. Features incorporated with a drive thru, including, but not limited to canopies, awnings and support posts, shall match the materials and color scheme of the building they are serving. Drive thru features shall not have any pick-up windows, ordering areas, signage, or other related items located on the front elevation of a building or located between the front of the building and a street right of way."

The development plans for the proposed Panda Express are overall compatible with the character of the Waterloo Crossing shopping center. However, the proposed conditional use of a drive thru does pose pedestrian access concerns. In this particular site, the drive thru causes the building to move away from the 25 foot build-to line creating a variance request. Panera Bread on West Waterloo Street has a similar situation where a drive-thru line that wraps in front of the building. However, this site has also been complimented by a large oversized patio in front of the building.

The subject site is surrounded by many uses of a similar nature including other fast-service restaurants, financial institutions and retail stores. The site circulation however is different than the surrounding uses. This site will feature three (3) connections to two (2) private roads. All other surrounding sites have one (1) or two (2) connections. All of the fast-service restaurants have one (1) connection to a private road. (*Panera Bread and Chipotle share a cross access drive that connects all future outparcels together to minimize the access drives with the Walmart parking lot*). With the proposed three (3) full access points for Panda Express there is a significant concern with traffic movement, access and safety.

Staff Recommendation

Staff feels that the proposed drive thru (as designed) is not compatible with the surrounding outparcels in the Waterloo Crossing shopping center. The proposal creates many traffic conflict points on site and off as well as creating a situation where the building is being pushed away from the required build-to line. Therefore staff recommends the applicant's request for a Conditional Use for a drive thru be denied as presented.

**Variance #VA-19-005
Panda Express**

Owner: Waterloo Crossing LTD
Applicant: Henry C. Klover – Panda Express Inc.
Location: PID 184-003208 – Property located at the Waterloo Shopping Center.
Existing Zoning: GC (General Commercial)
Request: Variance from Chapter 1199.04(a) to allow for a building to exceed the build-to line set at 25’.

Location and Surrounding Land Uses

The subject property is zoned GC (General Commercial) and consists of 0.722 acres on the south side of Winchester Blvd. All surrounding properties are zoned GC and are part of the Waterloo Crossing Shopping Center. This property is subject to the Commercial Development Standards of the Zoning Code.

Analysis

The building is setback from the right-of-way line at 45.66 feet. The subject property has a front build-to-line at 25 feet because it is not along a major arterial identified in the Canal Winchester Thoroughfare plan. If the building was facing a major arterial identified in that plan then the setback would be 50 feet.

Section 1199.04 of the Zoning Code, which regulates commercial buildings, states: “To promote quality streets, buildings shall meet build-to lines along public roadway frontages. Build-to lines shall be fifty (50) feet from the right of way on major arterials as designated on the Canal Winchester Transportation Thoroughfare Plan and twenty-five (25) feet from the right of way on all other streets”.

“(1) In order to achieve quality streetscapes, variation from the build-to line will be permitted to allow for added green space, amenities, outdoor seating and the like. Buildings may be located further from the right of way than the established build-to line per the following:”

Building Height	Variation from Build-To Line
One Story Building	0 feet to 5 feet
Two Story Building	0 feet to 10 feet
Three Story Building	0 feet to 15 feet

“(2) At least fifty (50) percent of the building’s front elevation shall be located within the applicable variation from the built-to line range.”

“(3) Uncovered seating areas or architectural features may project up to five (5) feet closer to the right of way than the established build-to line.”

“(4) Buildings larger than twenty thousand (20,000) square feet or attached to existing inline retail space shall be exempt from the build to line requirements if located more than three hundred (300) feet from the right of way line.”

The commercial development standards in regards to build-to-lines were set up to promote pedestrian friendly and walkable streets. The proposed project directly contradicts this philosophy by placing vehicular traffic on all four (4) sides of the building, including between the building and the public sidewalk. The applicant has essentially eliminated the pedestrian oriented design by pushing the building away from the public sidewalk and placing a two direction traffic hazard to the front entry. The subject property was intended to be a future parking expansion, not for a commercial building. This can be seen with the applicants attempt to fit a commercial use with a drive thru window service in this awkward site, creating additional traffic conflict points and needing to move the building off the established build-to line.

Recent Variance

Panera Bread received a variance on June 9, 2014 to allow a building beyond the build-to line to be located 73.29 feet from the right-of-way. This project included a large patio in front of the building and the drive thru loop was for one way traffic only.

Aldi received a variance in June 13, 2016 to allow a building beyond the build-to line to be located 42.5 feet from the right-of-way.

Criteria For Approval

- (a) That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
 - *Special circumstances or conditions do not exist which are not applicable to other lands or structures in the same zoning district. The applicant’s orientation of the drive thru lane has forced the building to require a build-to line variance. The applicant has the ability to remove the drive thru lane in front of the building and shift the building to the build-to line to meet applicable setbacks for the zoning district. The applicant has provided a concept site plan showing the drive isle not in front of the building.*
- (b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.
 - *The literal interpretation of this Zoning Code would not deprive the applicant the rights commonly enjoyed by other properties in the same zoning district. This property has the unique site scenario where they could have the drive thru lane exit onto the existing private drive to the east of the building without the need for the drive isle to wrap in front of the building.*
- (c) That the special conditions and circumstances do not result from the actions of the applicant.
 - *The site layout and configuration do result from the action of the applicant. The desire to have the building to be pushed away from the right-of-way line is for the sole purpose of having the drive thru lane wrap in front of the building back into the parking lot. With this scenario, the building is forced to site off the required build-to line. The applicant has shown that they have the ability to meet the code with the layout of the site in previous concepts provided to the city.*

- (d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
- *Granting this variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district. Other surrounding uses with drive thru restaurants have been pushed back to have drive aisles to wrap in front of the building for circulation purposes to exit the drive thru. The only similar project built under the current code was Panera Bread and they provided a large patio in front of the building to justify the increase in building setback.*
- (e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
- *Granting this variance will create a safety concern with the drive aisle connecting to the private drive on the north-east end of the site. This connection will create traffic from both travel directions along the shopping center, people entering and existing the Panda Express parking lot and people leaving the Panda Express drive thru. This variance removes the pedestrian orientation to the site when pushing the building off the 25 foot build-to line creating a safety concern for pedestrians walking in the drive thru loop.*
- (f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.
- *Granting this variance will allow for an incompatible use on the site. This site was previously approved for a Kay Jewelers store which was able to meet all applicable building setbacks for the zoning district. The previous plan did show this site can be used in a way that meets zoning regulations without the need for variances.*
- (g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.
- *Granting this variance will not permit a use that is otherwise not permitted in the zoning district. The use of a fast-service restaurant is permitted and seen elsewhere in the shipping center and along the Gender Road corridor.*

Staff Recommendation

With the proposed building orientation staff is concerned with vehicle conflict points and the removal of the pedestrian oriented design to the building. The setback of the building is being dictated by a drive thru loop which the applicant has the ultimate control to redesign or eliminate the layout to remove the need for the setback variance. Staff is recommending that the Variance Application #VA-19-005 be denied as presented.

Exhibit D

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF CANAL WINCHESTER**

In re Application of Henry C. Klover –
Panda Express Inc. for a Conditional Use
Permit and Variance Request for Parcel No.
184-003208, located at the Waterloo
Crossing Shopping Center a 2,300 sq. ft.
Panda Express with a drive thru lane.

This application is before the Commission for two items: (1) Panda Express's Conditional Use Application to allow a proposed restaurant with drive thru service within the Waterloo Crossing Shopping Center, zoned General Commercial; and (2) Panda Express's variance request to allow for a building to exceed the build-to-line set at 25 feet. The Commission makes the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

1. On April 25, 2019, Panda Express submitted two items to the Canal Winchester Planning & Zoning Commission: (1) an Application for a Conditional Use Permit for a Panda Express restaurant with drive-thru window service and a turn-around loop for customers; and (2) a Variance Request to allow for the building to exceed the front build-to-line set at 25 feet.

2. The subject property is in the Waterloo Crossing Shopping Center, parcel number 184003208, and consists of approximately .722 acres. Properties to the north, east, and south are developed properties in the GC zoning district. Properties to the west, across Gender Road, are developed properties zoned Planned Commercial District (PCD).

3. Panda Express recognizes that a drive-thru window is a conditional use under Section 1167.03(a) of the Canal Winchester Zoning Code. Panda Express also acknowledges that its proposed plan requires a variance from Section 1199.04 of the Zoning Code regarding the front build-to-line.

4. On June 10, 2019 the Planning and Zoning Commission held a public hearing on Panda Express's application for a conditional use permit and variance request. The Planning and Zoning Commission reviewed the materials submitted with the application, heard testimony from representatives of Panda Express, and voted to deny the Conditional Use permit and Variance Request.

5. Panda Express filed an appeal of the denial to City Council on June 18, 2019.

II. CONCLUSIONS OF LAW

Conditional Use Request - #CU-19-001

1. A conditional use to Section 1167.03(a) of the Codified Ordinances has been requested to permit a drive-thru window and turn-around loop at a Panda Express in the Waterloo Crossing Shopping Center.

2. As such, the following criteria shall be considered by the Commission in reaching its determination as to whether to grant the conditional use:

(a) The proposed use is a conditional use of the zoning district and the applicable development standards of this Zoning Code are met.

(b) The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.

(c) The proposed use will not adversely impact access, traffic flow, and other public facilities and services.

(d) The proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature.

(e) The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

3. A claim of invalidity on the authorization or denial of a conditional use permit lies with the party contesting the determination. *Community Concerned Citizens, Inc. v. Union Twp. Bd. of Zoning Appeals* (1995), 66 Ohio St.3d 452. In other words, the applicant bears the burden of proving that he or she meets the criteria for grant of a conditional use permit.

4. Based on the materials submitted to the Planning and Zoning Commission and the evidence produced at the June 10, 2019 hearing, the proposed use of a drive-thru window is a conditional use of the zoning district under Section 1167.03(a).

5. The development plan for the Panda Express is overall compatible with the character of Waterloo Crossing but the proposed drive-thru creates significant traffic movement, access, and safety issues. As presented, the development plan requires a “wrap around” drive aisle in front of the building that interrupts pedestrian traffic and adversely affects the public health, safety, convenience, and comfort.

6. The Waterloo Crossing shopping center plans from 2004, 2005, 2006, 2010, and 2016 all show that the area for this proposed Panda Express was intended to be a parking expansion, not a commercial restaurant. While a fast food restaurant complies with the character of the general area, this location was not intended for such a use.

7. At its proposed location, the drive-thru access drive and wrap around drive will adversely impact traffic flow and access. Permitting the drive-thru and wrap around drive would create three full access points to the site that will create two additional conflict points for moving traffic. As proposed, all three traffic access points are full access and will be on private roads. Such a use creates an adverse impact on access and traffic flow within Waterloo Crossing.

8. The proposed use will take place in a parking lot. Therefore, there is not an impact on natural, scenic, or historic features.

9. While the proposed use as a commercial restaurant will not adversely impact the public health, safety, convenience, and comfort of the public, the proposed use of a drive-thru window and turn around loop may indeed have such adverse impacts. The drive-thru access lane and turn around loop create a third conflict point into the site and allows for vehicles travelling from seven different directions to converge unrestricted from two private roads. All surrounding sites have only one or two access sites onto one private road, which helps to reduce congestion and vehicle and pedestrian accidents.

10. Therefore, the Planning & Zoning Commission denies the conditional use permit to allow for the operation of drive-thru window at a Panda Express located at parcel number 184-003208.

Variance Request - #VA-19-005

1. A variance from Section 1199.04 of the Zoning Code, which regulates commercial buildings, has been requested to permit construction of the Panda Express with a setback from the right-of-way line of 45.66 feet despite the requirement for this location and sized building being 25 feet.

2. As such, the following criteria shall be considered by the Commission in reaching its determination as to whether to grant the variance:

- (a) The special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
- (b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.

- (c) That the special conditions and circumstances do not result from the actions of the applicant.
- (d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
- (e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
- (f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.
- (g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

3. A zoning board's authorization or denial of a variance is presumed to be valid and the burden of showing the claimed invalidity lies with the party contesting the determination. *Consol. Mgt., Inc. v. City of Cleveland*, 6 Ohio St.3d 238, 452 N.E.2d 1287 (1983).

4. Properties along major arterials as designated in the Canal Winchester Thoroughfare Plan have a build-to-line of 50 feet. All other streets have a build-to-line of 25' from the right of way. The proposed Panda Express does not front a major arterial and so must have a 25' build-to-line from the right of way under Section 1199.04 of the Zoning Code.

5. Special circumstances or conditions do not exist that are applicable to other lands or structures in the same zoning district. Panda Express has oriented its proposed drive-thru lane in a manner that requires a build-to-line variance. Removing the drive-thru lane from that front of the building removes need for the variance, and the applicant has submitted a concept plan that shows the drive aisle not in front of the building.

6. A literal interpretation of the Zoning Code would not deprive Panda Express of rights commonly enjoyed by other properties in the same district. This property is configured such that the drive-thru lane could exit onto the existing private drive east of the building. That configuration removes the need for the drive isle to wrap around the front of the building and removes the need for the build-to-line variance.

7. Any special conditions and circumstances do arise because of the actions of Panda Express. Its desire to have the drive-thru lane wrap in front of the building forces the building to site off of the required build-to line. Panda Express has shown the ability to meet the code without a variance in previous concepts provided to the city.

8. Granting the variance to Panda Express will not confer any undue privilege denied by the Zoning Code to other lands or structures in the same zoning district. Other properties have been pushed back to have drive-aisles to wrap in front of the building, although those properties have offered significant modifications to justify the variance. For example, Panera Bread received a variance in June 2014 to allow a building beyond the build-to-line at 73.29 feet but also included a large patio in front of the building that furthers the code's goal of promoting pedestrian friendly areas.

9. Granting this variance creates a safety concern by connecting the drive aisle to the private drive on the north-east end of the site. This creates traffic from both travel directions and tension between traffic entering and exiting the Panda Express parking lot and those leaving the drive-thru lane. This variance also removes the pedestrian orientation to the site by pushing the building off of the 25-foot build-to-line and forcing pedestrians to walk in the drive-thru loop which creates a safety concern.

10. Granting this variance permits an incompatible use on this site. Kay Jewelers was

previously approved for this site and met all of the applicable zoning standards. The site can be used in such a way that meets all zoning regulations.

11. Granting the variance will not permit a use that is otherwise not permitted in the zoning district because fast-service restaurants are permitted in the shopping center and the Gender Road corridor.

12. Therefore, the Planning & Zoning Commission denies the variance request to waive the front build-to-line requirement of 25 feet at the proposed Panda Express located at parcel number 184-003208.

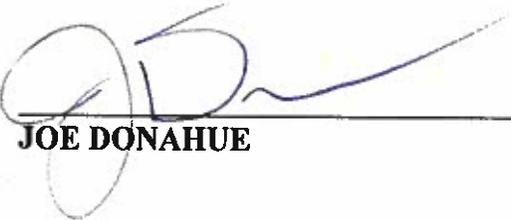
7/8/2019
DATE

AS TO THE CONDITIONAL USE REQUEST:



BILL CHRISTENSEN

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Concur	Dissent	Abstain

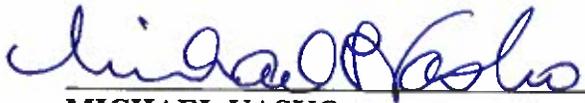


JOE DONAHUE

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain

BRAD RICHEY

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain



MICHAEL VASKO

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain

JOE WILDENTHALER

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concur	Dissent	Abstain


MARK CAULK

Concur

Dissent

Abstain

AS TO THE VARIANCE REQUEST:


BILL CHRISTENSEN

Concur

Dissent

Abstain


JOE DONAHUE

Concur

Dissent

Abstain

BRAD RICHEY

Concur

Dissent

Abstain


MICHAEL VASKO

Concur

Dissent

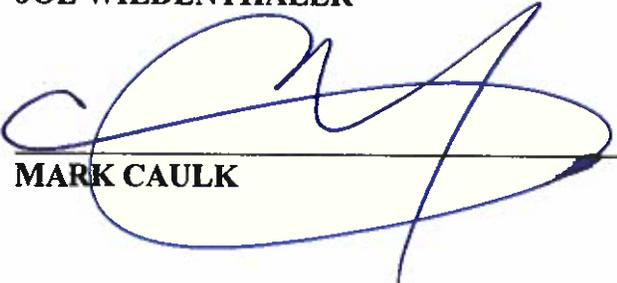
Abstain

JOE WILDENTHALER

Concur

Dissent

Abstain


MARK CAULK

Concur

Dissent

Abstain

Exhibit E

AFFIDAVIT OF CHIAHSIN KAN

STATE OF California)
) SS
COUNTY OF Los Angeles)

I, Chiahsin Kan, being duly sworn and cautioned, hereby depose and state as follows:

1. I am the Senior Design Manager for the Panda Restaurant Group. I have worked for the Panda Restaurant Group for about 14 years. This Affidavit is based upon my personal involvement in this matter and reflects facts to the best of my personal knowledge.

2. As part of my role as the Panda Restaurant Group's Senior Design Manager, I participate in the analyzation and design of Panda Express locations across the country, including developing site plans, kitchen plans, and exterior and interior designs. I am involved in over 80 design projects each year.

3. I was involved in the site plan and design of this proposed Panda Express, including the design of the drive-thru service. Panda Express considers this location to be an ideal site due to the similar restaurants and establishments in the surrounding area, its location off the main Winchester Boulevard, and its location in a General Commercial district. This site is comparable to other successful Panda Express locations in the Columbus area and throughout the country. In my 14 years with Panda Express, we have never had such difficulty in entering a commercial area like the Waterloo Crossing area as we have faced with this location.

4. Panda Express is a quick-service restaurant that provides counter and drive-thru services. The food is freshly prepared throughout the day, and customers select their entrees as they travel along the line of food at the counter. Fulfilling an order for a patron of the drive-thru service will take approximately the same amount of time as fulfilling an order for a counter service patron. The average time to fill a generic order is 2 minutes and 30 seconds.

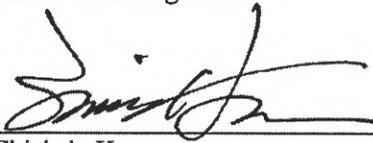
5. The site plan for the proposed Panda Express provides for a wraparound drive-thru service. I worked with Panda Express operations to design a drive-thru service that was quick, efficient, and safe. The wraparound design allows for customers whose orders were not able to be completed by the time they reach the drive-thru window to pull through and return into the parking lot to finish waiting

for their orders. This is the optimal layout for this drive-thru and allows for a safer layout than forcing drive-thru patrons to exit directly onto the private drive.

6. The proposed Panda Express location is designed to easily permit up to eleven cars in the drive-thru service. This is more than sufficient room to safely and efficiently handle customer traffic during peak hours. Drive-thru services throughout Ohio have a higher percentage of patrons on average. As such, the longer design of this Panda Express' drive-thru allows for seamless service that keeps the line of cars moving efficiently and provides for better internal traffic circulation.

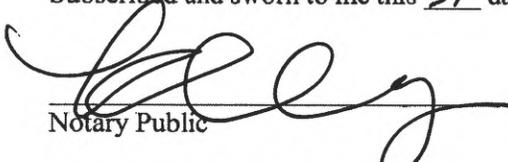
7. Panda Express is ranked second in the country in terms of its safe and efficient drive-thru services. Panda Express is a successful food service establishment that can foster growth and increase business in a shopping center area, such as the Waterloo Crossing area.

Further affiant sayeth naught.



Chiahsin Kan

Acknowledged via electronic communication
~~Subscribed and sworn to me~~ this 27 day of July, 2019.



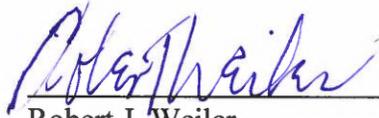
Notary Public

My Commission expires on N/A.

Exhibit F

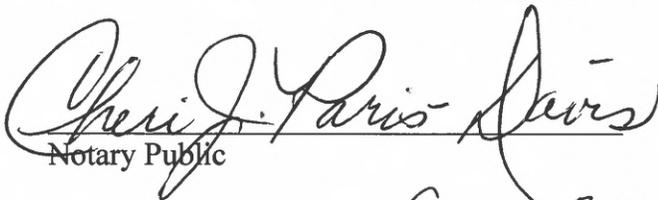
7. Granting Applicants a variance from the setback requirements applicable to property zoned GC will allow the Property to be compatible and in conformity with the surrounding area and businesses in its immediate vicinity.

Further affiant sayeth naught.



Robert J. Weiler

Subscribed and sworn to me this 30th day of July, 2019.



Notary Public

My commission expires on Aug 3, 2023.



CHERI J PARIS-DAVIS
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
08-07-2023
Recorded in
Franklin County

QUALIFICATIONS OF ROBERT J. WEILER

EDUCATIONAL BACKGROUND

- Bachelor of Science Degree in Business Administration, University of Arizona, 1957
- Master of Arts Degree in Real Estate, The Ohio State University, 1964
- Doctor of Philosophy (Ph.D.), The Ohio State University, 1968
- Juris Doctor (J.D.) Degree, Capital University Law School, 1983

REAL ESTATE EXPERIENCE

- Realtor® since 1957
- Full time real estate appraisal profession since 1959
- Chairman of the Board of The Robert Weiler Company
- Developer of numerous subdivisions and apartment/office/industrial complexes in Central Ohio
- Real estate consulting since 1970
- Adjunct Professor, Capital University Law School and Capital University MBA Program
- Adjunct Professor, OSU Moritz College of Law
- Contributing Editor, *The Appraisal of Real Estate*

CLIENTS REPRESENTED

- | | |
|--------------------|--|
| • Individuals | • Franklin County Auditor |
| • Investors | • Department of Development |
| • Mortgage Lenders | • The Ohio State University |
| • Realtors® | • Attorneys |
| • Churches | • Numerous large corporations, including several listed on the New York Stock Exchange |
| • City of Columbus | |
| • State of Ohio | |

MEMBERSHIPS

- Licensed Certified General Real Estate Appraiser, State of Ohio
- Columbus Board of Realtors®; Director, Past President
- Ohio and National Association of Realtors®; Board of Directors, 1977-79, National Association of Realtors®
- American Institute of Real Estate Appraisers;¹ Past President, Ohio Chapter #3; MAI designation
- Society of Real Estate Appraisers;¹ Past President, Columbus Chapter, Instructor of SRA courses
- Columbus and Ohio State Bar Associations
- Past Chairman, Ohio Real Estate Appraisal Board
- Past Chairman, Capital University Board of Trustees
- Past Member, Columbus Board of Education; President 1987
- Board of Trustees, Metropolitan YMCA; Past Chairman
- Past Member of the Board of Trustees, Center of Science and Industry (COSI)
- Board of Trustees, Affordable Housing Trust
- Board of Trustees, Ohio Capital Corporation for Housing
- Board of Trustees, Columbus Urban League
- Past Member of the Board of Trustees, Central Ohio Transit Authority (COTA)
- Board of Trustees, Columbus Bar Foundation
- Founding Member, Central Ohio Community Improvement Corporation (COCIC)

¹Unified as the Appraisal Institute, January 1, 1991

Exhibit G

Zoning Code's requirements and the 25' to 30' build to line, would create an establishment that would be an anomaly and would not be consistent with the surrounding retail area, contrary to the claims made by the Planning and Zoning Commission.

3. Based on my more than 40 years of experience, the proposed site plan is the optimal layout for the lot. The site is narrow and trapezoidal in shape. The narrowness of the site does not permit vehicular circulation completely around the building, (which is prevalent in almost all the surrounding retail pad sites) necessitating both an ingress and egress location to avoid dead-end parking rows. The site has three access points. The main access is on the West side across from Walgreens and aligns with this drive and is in a customary and appropriate location. The second is to the Northeast corner, which permits exit to an internal Shopping Center drive lane that is necessary to prevent a dead-end parking row. The third is the connection to the remaining shopping center parking lot to the South that is provided to keep this parking lot from also having a dead-end situation. Contrary to the Planning and Zoning Commission's unsubstantiated assertion that the three access points will create an adverse impact on access and traffic flow, these access points within the parking lot allow for better internal circulation and improve the safety and use of the lot by mitigating the negative issues involved with dead-end parking. Dead-end parking in site design is avoided as much as possible by my office and Panda Express. Dead-end parking rows create unnecessary difficulties for the public to navigate and for getting in and out of the lot, which causes irritation, delays, and safety concerns. In this day of the micro cars and motorcycles most consumers have been tricked into thinking a parking space is open when it is actually occupied. This conflict is further exacerbated if the drive thru is also forced to exit thru this same path and also creates significant confusion and anxiety for the elderly. The design of the Panda Express site layout alleviates all

these concerns and far outweighs any issues with internal shopping center intersection decisions made when leaving the site. Particularly when the two Eastern exits are to a relatively unused ring road with limited vehicular traffic.

4. Additionally, external factors must be considered: a gas easement along the north border of the property; significant grade change of approximately 3 feet exists in the Northeast corner and requires room for a switch back walkway to provide the required pedestrian connection to the street; and the trapezoid-shape of the lot created by Winchester Blvd curving North away from the site creating a triangle in which the rectangular building must fit – a triangle's hypotenuse is roughly 40% longer than the square side, the setback required to cover 50% of the building façade puts significant restraints on the site layout, particularly with a drive thru that wraps the building. The Planning and Zoning Commission failed to take into account these external conditions, which are unique to this property. The setback required for the Panda Express site is the only pad site that has the 25-foot build-to line within the development, while the other sites remaining and those recently constructed for Panera and Chipotle are double this setback with a 50-foot build to line. These external features of the property require that the building be setback further than the 25 or 30 feet outlined in the Canal Winchester Zoning Code.

5. The three access points to and from the location do not create an inadvisable amount of conflict points on the property. As the access points are from private roads, internal to the Shopping Center and the Walmart area, and are appropriately spaced and aligned, there is no issue above what is considered normal and traditional conflict points internal to major parking lots. The Planning and Zoning Commission and its staff expressed concern with the additional conflict points from the access points to the site, but they have approved and considered safe other establishments with significantly more conflict points. For example, there are hundreds of

conflict points that exist in the adjacent Walmart parking lot. This is however normal and traditional in every large shopping center and parking lot design. In fact, the proposed site plan improves the existing traffic flow by adding a deeper North South Island to the Southeast corner of the site that removes the “dive-in” traffic at the intersection between the main drives that is in front of each retail frontage.

6. The proposed drive-thru service, in particular, is also similar to and consistent with the other dining establishments in the surrounding area as evidenced by the twenty-five establishments with drive-thrus listed in paragraph 2 above. The drive-thru service allows the proposed Panda Express to be more accessible to the customers desiring a quicker or on-the-go dining experience, similar to and competitive with the many other establishments in the surrounding retail environment.

7. Based on my 40-plus years of experience, the drive-thru is the optimal layout for safety and circulation based on the property’s features. The Planning and Zoning Commission’s claims that the drive-thru may adversely impact public health and safety are unfounded and untrue. The drive-thru was in fact designed to facilitate proper internal traffic flow based on the narrow trapezoid shape of the lot. By not having the drive-thru exit directly onto the private road in the northeast corner of the lot, customers will be able to pull into the parking lot if their orders are not completed within the time it takes them to get to the window, thereby alleviating any internal traffic jam from an overflowed drive-thru.

8. The drive-thru was also designed to permit vehicle stacking that is greater than generally required during peak hours. The drive-thru can easily fit eleven cars, which is more than is estimated at peak hours on an average day, thereby preventing any negative affect on traffic flow and by preventing potential overflow from the drive-thru lane.

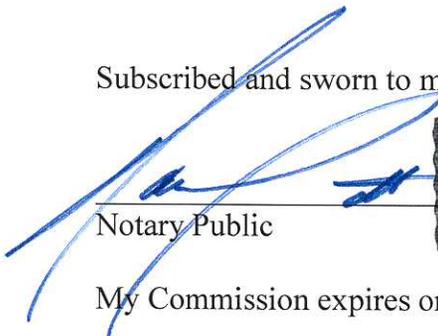
9. Contrary to the Planning and Zoning Commission's unfounded claims, the proposed Panda Express and its drive-thru will not adversely affect the public health, safety, or general welfare. It will seamlessly fit into the existing retail environment of the entire Waterloo Crossing area, which is similarly not contrary to the general welfare.

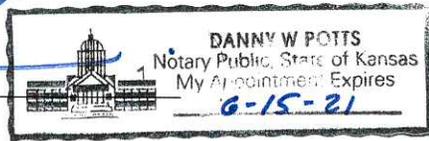
10. The proposed Panda Express is the highest and best use for this property. The Planning and Zoning Commission incorrectly concluded this property should be additional parking based on area developments plans. Based on my vast experience with development of retail and shopping centers, I do not consider parking to be the highest and best use for the site, and I do not believe any Site Planner would consider using the lot for additional parking, considering the site's street frontage and distance from other retail. Additional parking would not be a beneficial or desirable use for this property because it is a significant distance from any other establishment that would benefit from the additional parking. As a generally accepted planning rule, which many communities codify, parking should not be over 300 feet from the intended retail entrance for which it is providing spaces. Here, the only business within 300 feet of the lot would require pedestrians to cross primary roads to reach the destination, which is not desirable and an increased safety hazard. Furthermore, if the lot was converted to additional parking, semi-trucks and large vehicles would use that area as a rest and overnight stop similar to what is seen in the outer parking at other Walmart's across Ohio and the country.

Further affiant sayeth naught.


Henry Klover

Subscribed and sworn to me this 26TH day of July, 2019.


Notary Public



My Commission expires on 6-15-21.



Henry Klover, NCARB

President / Principal

PROFESSIONAL SUMMARY

Henry Klover has over thirty-nine years' experience working with national developers, retail and restaurant clients, giving him unique insight into the needs of his clients. He also has experience in large, mixed-use projects, retail, restaurant, and major shopping center developments, remodels, lifestyle centers, and corporate office complexes.

STATE REGISTRATION

Registered Architect in 50 states and the District of Columbia

EDUCATION

Bachelor of Environmental Design with Distinction
Bachelor of Architecture with Highest Distinction
University of Kansas
– School of Architecture & Urban Design, Lawrence, KS

ASSOCIATIONS

Member of the National Council of Architectural Registration Boards

Member of the International Council of Shopping Centers

COMMUNITY ACTIVITIES

University of Kansas - Klover Architects Scholarship
Kansas State University - Klover Architects Scholarship
Young Life

MIXED USE/LIFESTYLE CENTERS:

The District - Lenexa, KS
17th and Madison, Kansas City, MO
The Grove, Lee's Summit, MO
City Center Lenexa – Lenexa, KS
Southpointe Pavilions – Lincoln, NE
Jefferson Pointe Shopping Center – Fort Wayne, IN
Greenway Station – Middleton, WI
Village Pointe – Omaha, NE
Cornerstone of Leawood – Leawood, KS
Oak Brook Promenade- Oak Brook, IL
Phase III – Town Center Plaza – Leawood, KS
Main Street Village – Orland Park, IL
Wilderness Hills – Lincoln, NE
Village at Walnut Creek – Westminster, CO
Briarcliff Village- Kansas City, MO
Fountain Pointe- Aurora, IL
The Shops at Boardwalk – Kansas City, MO
Nall Valley Shoppes – Overland Park, KS

MASTER PLANNING:

3 Trails – Kansas City, MO
Briarcliff – Kansas City, MO
Blue Promenade – Leawood, KS
City Center Lenexa – Lenexa, KS
Branson Commerce Park – Branson, MO
Horizons Parkway – Riverside, MO
Memphis Midtown – Memphis, TN
Lake Park II – Salt Lake City, UT
Scenic Ridge – Kansas City, MO
Shoal Creek – Kansas City, MO
Village of Tammeron – Austin, TX

MALL RENOVATIONS AND ADDITIONS:

Oak Park Mall Remodel and Expansion – Overland Park, KS
Hickory Pointe Shopping Center – Forsythe, IL
East Hills Shopping Center – St. Joseph, MO
Oak Park Mall Food Court – Overland Park, KS
Regency Court – Omaha, NE
Ward Parkway- Kansas City, MO
Village of Merrick Park-Coral Gables, FL
Chapel Hill – Colorado Springs, CO
Southwest Plaza - Littleton, CO

OFFICES:

Perceptive Software Headquarters – Lenexa, KS
Renner 89 – Lenexa, KS
TD Ameritrade – Overland Park, KS
Briarcliff – Kansas City, MO
Briarcliff Professional Plaza – Kansas City, MO
Horizons Parkway – Riverside, MO

HOSPITALITY:

Homestead Village – Multiple Locations
Homewood Suites – Orland Park, IL
Homewood Suites – Springfield, MO

Exhibit H

July 29, 2019

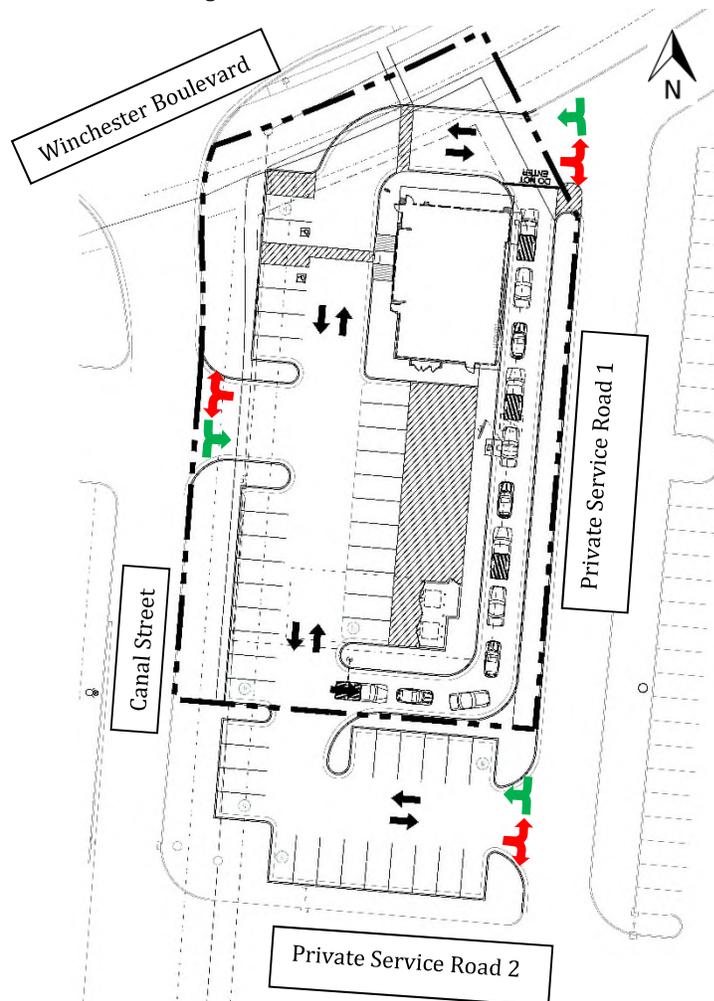
Brian Kan
Panda Restaurant Group
1683 Walnut Grove Avenue
Rosemead, CA 91770

RE: Proposed Canal Winchester Panda Express Traffic Narrative

Mr. Kan,

Carpenter Marty Transportation was retained by Vorys, Sater, Seymour, and Pease, LLP to complete a traffic access assessment for a proposed Panda Express restaurant located in Canal Winchester, OH, Parcel Number 184003208. Specifically, we were asked to analyze how the build-to variance and proposed drive-thru would affect the transportation and safety aspects of the site. A copy of my CV is attached to this report.

Figure 1 - Site Plan and Access Points



The proposed development is located on the southeast corner of Winchester Boulevard and Canal Street and will include a 2,300 SF building with a single-lane drive-thru. The site plan for the proposed development, as well as the proposed access points, can be seen in **Figure 1** above.

Site Circulation and Access

The proposed Panda Express parking lot will be designed for two-way traffic except for the proposed drive-thru. As seen in **Figure 1**, a single, full access point is proposed along Canal Street on the west side of the development. This access point will align with the Canal Street access point for the existing Walgreen's Pharmacy. A single, full access point is proposed along Private Service Road 1 on the northeast corner of the development. This is an existing access point into this site. These are the primary access points directly servicing the Panda Express property.

There is an existing, full access point along Private Service Road 1, just north of the Private Service Road 2, that can provide a third access point for the proposed development. Although an easement is in place for Panda Express to utilize this existing drive, Panda Express has no control over the access point. The abutting parcel for which the existing access services is currently an overflow parking lot. It is likely only to be used for Panda Express site access by employees and familiar customers coming from the Wal-Mart area of the existing shopping center. Therefore, for this reason, it should not technically be considered a site access point.

This fact leaves the site with two fully functioning primary access points. This would be a request of any retailer wishing to develop on this site with or without variances. Having a site that is bordered by three roadways, requesting and receiving approval for two fully-functioning primary access points with or without variances is completely typical.

Drive-thru service is proposed along the east side of the building with counter-clockwise circulation. The proposed Private Service Road 1 access on the northeast corner of the property will allow drive-thru customers to exit onto Private Service Road 1 or turn left and access Canal Street. Based on my over 30 years of experience, this type of site configuration is popular, reasonable, time-tested, safe, and typically approved for restaurants that provide drive-thru services. Contrary to the Planning and Zoning Commission's unsupported statements regarding the proposed site's impact on traffic, it is clear that the proposed access points onto Canal Street and Private Service Road 1 will aid in dispersing traffic generated by the proposed development and are reasonable for this site and this use.

Likewise, the Planning and Zoning Commission's claims that the proposed drive-thru layout will interrupt pedestrian traffic and adversely affect public health and safety is unsubstantiated. Pedestrian access to the adjacent sidewalk along Winchester Boulevard is proposed to be provided via a crosswalk on the site. This can be made completely safe in this location and situation by upgrading the proposed cross-walk to a "ladder" or "continental" type crossing. This upgrade has

been proposed to and approved by the Applicants. See **Figure 2** for an example of this type marking pulled from the Federal Highway Administration¹.

Figure 2 - Typical Ladder Crosswalk Marking Pattern



This would be considered an upgraded crossing when utilized for a crossing on a public street. Visibility to this cross-walk is good in both directions making it a safe crossing onto the public sidewalk. However, contrary to the conclusions expressed by the Planning and Zoning Commission, pedestrian volumes from the surrounding area are estimated to be minimal to non-existent for several reasons. First, most developments, including all but one development along Canal Street, do not tie into existing pedestrian facilities. Second, all residential units are at least a half-mile walk away which is *well* beyond the 600 feet rule-of-thumb that planners use when laying out mixed use retail sites. Third, this region of Canal Winchester is firmly suburban-retail in character and car-centric. When regional developments of the type surrounding this site were planned, vehicular travel was the only mode of travel considered. Zero accommodations were made for pedestrians. Based on my extensive experience regarding site access planning and traffic and safety impact studies, attempting to change this by forcing build-to lines into a suburban-character development is unwise and will not produce the desired aesthetic results or the desired pedestrian activity. The only pedestrians expected to travel to the site are those from businesses in the Wal-Mart development that are adjacent to this site. They will not use the proposed crosswalk. For these

¹ <https://www.fhwa.dot.gov/publications/research/safety/pedbike/10068/ch03.cfm>

reasons, the build-to variance should not be denied based on pedestrian safety. The crossing will be safe and a negligible amount, possibly zero, pedestrians will use the proposed crossing.

Trip Generation Estimates

Trips were generated for the PM Peak Hour of adjacent street traffic for a 2,300 SF building utilizing Land Use Code (LUC) LUC 933 - *Fast-Food Restaurant without Drive-Through Window*. PM Peak hour of adjacent street traffic for the proposed site was generated using the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 10th Edition*. Using this data source to estimate the PM peak hour of adjacent street traffic is what is utilized by the City of Canal Winchester, as well as other agencies nationally, to study development traffic. This was done to show how Panda Express restaurants with a drive-thru compare to average fast-food restaurants without a drive-thru, which is a permitted use on this site. It should be noted that Panda Express restaurants are not open during AM Peak hours and will not be generating traffic until 10:30am.

In addition to ITE data, a 24-hour count was collected at an existing Panda Express location at 5299 N. Hamilton Road in Columbus, OH. The peak hour of adjacent street traffic (Hamilton Road in this case), 5:00pm-6:00pm, was determined by a count collected by Carpenter Marty Transportation in February 2019 approximately ½ mile north of Panda Express. A summary of the trip generation and Panda Express data collection can be seen in **Table 1** below. The full trip generation and count data can be seen in the **Attachment**.

Table 1 – Trip Generation Summary

Land Use	Size	PM Peak of Adjacent Street Traffic		
		Entry	Exit	TOTAL
933 - Fast-Food Restaurant without Drive-Through Window	2,300 SF Gross Floor Area	33	33	66
5299 N. Hamilton Road Panda Express Count Data (Non-ITE Source)	2,540 SF Gross Floor Area	36	37	73

As seen in Table 1, trips generated by the Panda Express are minimally higher than the national data for fast-food restaurants without drive-through windows. Table 1 shows only seven additional trips are expected during the PM peak, which is roughly one car every nine minutes – an amount that will go completely unnoticed and will have no effect on site circulation, access, or the surrounding roadway system. As such, the Planning and Zoning Commission’s claims that the proposed Panda Express will negatively affect traffic and safety are unsupported, and therefore, the proposed drive-thru should not be denied.

Conclusions

Based on my more than 30 years of experience, the proposed Panda Express development with its access points, site layout, drive-thru, and its associated pedestrian crossing will not create any site circulation, safety, or operational issues and are not reasons for denial of the drive-thru or build-to

line variance. The two-way traffic throughout the parking lot, multiple access points, and drive-thru are typical of this type of land-use.

If I can help in any way, do not hesitate to contact me at jgallagher@cmtran.com or 614.286.0822 anytime.

Sincerely,

A handwritten signature in black ink, which appears to read "John J. Gallagher", is written over a blue circular professional engineer seal. The seal contains the text "STATE OF OHIO" at the top, "JOHN J. GALLAGHER" in the center, "E-59312" below the name, and "REGISTERED PROFESSIONAL ENGINEER" around the bottom edge.

John Gallagher, MS, PE, PTOE
Director of Traffic and Planning Services
Carpenter Marty Transportation



John Gallagher, PE, PTOE

Education: BS Civil Engineering, University of Kentucky
MS Civil Engineering, The Ohio State University

PE Number: 59312 (Ohio)

PTOE Number: 1496

John Gallagher has more than 30 years of professional engineering experience. He has been with the Carpenter Marty Transportation team for 11 years, and is a certified Professional Traffic Operations Engineer. John manages all traffic and planning services at Carpenter Marty Transportation. He is prequalified with ODOT in Safety Studies, Signal and Signal System Design, as well as Interchange Justification/Modification Studies. John's skills in operational analyses has led to identification of capacity and safety issues which are then mitigated by developing several alternative designs. These analyses include analyzing corridors using the latest software and modeling packages to confirm capacity issues and evaluate solutions. Throughout his career, John has worked on more than 300 operational, safety, impact, and corridor studies. He has been involved in more than 175 signal and signal system designs, redesigns, and operational improvements, most of which involved total redesign of the intersection including new turn lanes, relocated approach legs, roundabouts, as well as signal interconnection and coordination. Several of these designs received safety funding through John's efforts. John has experience in both the public and private sectors. He has produced, managed, or administered more than \$125 million in traffic designs and operational studies. John is an expert in traffic impact studies, intersection design, operational planning, school traffic circulation, crash analysis, and pedestrian safety. He is adept at analyzing existing and projected traffic conditions in order to compare, recommend, and justify needed improvements.