



ORDINANCE 2024-41

FAILED: November 6, 2024

AN ORDINANCE AMENDING SECTION 1143.18 – DD-DOWNTOWN DISTRICT OVERLAY DISTRICT TO CLARIFY THE HISTORIC DOWNTOWN ADVISORY COMMISSION REVIEW PROCESS AND DOWNTOWN DISTRICT BOUNDARY.

WHEREAS, City Council has established a goal to improve the efficiency of City operations through modernizing and streamlining processes; and,

WHEREAS, Staff have identified potential updates to the Codified Ordinances in a continued effort to analyze code requirements, procedures, and standards; and,

WHEREAS, the periodic analyzing, revising, and updating of the Codified Ordinances to reflect best practices and streamline processes is in the best interest of the City.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, COUNTY OF DELAWARE, AND STATE OF OHIO, AS FOLLOWS:

Section 1: That Part Eleven of the Codified Ordinances are hereby amended as set forth in the document attached hereto as Exhibit A and incorporated herein by reference.

Section 2: That the Official Zoning Map is hereby amended as set forth in the document attached hereto as Exhibit C and incorporated herein by reference.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 4: That this Ordinance shall take effect on the earliest period allowed by law.

Section 5: That the provisions of this Ordinance shall automatically expire on December 31, 2025 absent further legislative action by City Council.

Tom Counts Date
Mayor

Elaine McCloskey Date
City Clerk

EFFECTIVE DATE: December 6, 2024

This legislation has been posted in accordance with
the City Charter on this date _____

City Clerk

1143.18 DD-DOWNTOWN DISTRICT OVERLAY DISTRICT.

- (a) *Purpose.* It is the purpose of the Downtown District Overlay District (herein after referred to as the "Downtown District") to promote the public, health, safety, and welfare by providing for the regulation of the downtown area through a single, unified district. This district is created to permit the careful and coordinated physical planning, development, and redevelopment of the land, and to provide flexibility in the location of land uses, housing types, and intensity. This district shall preserve, protect, and promote the historical nature of downtown by pursuing development that encourages a mix of uses in a manner that is safe, pleasant, convenient, and in context with the history of the area. It is also the purpose of the Downtown District to:
- (1) Safeguard the heritage of the City by preserving sites and structures within the historic central core of the City that reflect the City's history and its architectural history.
 - (2) Stabilize and improve property values.
 - (3) Strengthen the economy of the City by promoting business development through the allowance of buildings that provide flexible commercial opportunities yet in keeping with the village scale and character.
 - (4) Protect and enhance the City's attractions to residents and visitors.
 - (5) Enhance the visual and aesthetic character, diversity, and interest of the City's history.
 - (6) Foster civic pride in the beauty, human scale, and human details of the City's history.
 - (7) Promote excellence in small town design, incorporating elements that are consistent with the existing character of the area.
 - (8) Promote the use and preservation of historic sites and structures for the education and general welfare of the people of the City.
 - (9) Preserve sound existing housing stock in the historic central area of the City and safeguard the residential scale of the district and the character of sub-areas that are primarily residential in character.
- (b) *Definitions.* For the purpose of sections of this Zoning Ordinance specifically addressed to the Downtown District, certain terms and words are herewith defined as follows:
- (1) *A.I.A.* means the American Institute of Architects.
 - (2) *Alter* or *alteration* means any change involving the exterior architectural features, including landscaping, of any property which lies within a Downtown District, not including demolition, removal or new construction.
 - (3) *Applicant* means any person, persons, association, organization, partnership, units of government, public bodies and corporations who apply for a Certificate of Appropriateness in order to undertake an environmental change within the Downtown District.
 - (4) *Certificate of appropriateness* means a certificate authorizing any environmental change within the Downtown District.
 - (5) *Council* means the City Council of the City of Powell.
 - (6) *Demolition* means the complete or substantial removal or destruction of any structure which is located within the Downtown District.
 - (7) *Environmental change* means any exterior alteration, demolition, removal or new construction of any property resulting in a visual exterior change to the property subject to the provisions of these sections.

- (8) *Exterior architectural feature* means the architectural style, general design and arrangement of the exterior of a structure including, but not limited to, the type, color and texture of the building material, doors, windows, roof, porches and other appurtenant fixtures.
- (9) *Downtown District* means the district designated as such in this Zoning Ordinance.
- (10) *Historic downtown advisory commission* means the appointed board established to review environmental changes within the Downtown District, having specific powers and duties subject to the provisions of these sections.
- (11) *Planning and zoning commission* means the Planning and Zoning Commission of the City of Powell.
- (12) *Preservation* means the process, including maintenance, of treating an existing building to arrest or slow future deterioration, stabilize the structure and provide structural safety without changing or adversely affecting the character of appearance of the structure.
- (13) *Property owner* means the owner(s) of record.
- (14) *Rehabilitation or renovation* means the modification of or change to an existing building. Rehabilitation extends the useful life or utility of the building through repairs or alterations, sometimes major, while the features of the building that contributed to its architectural, cultural, or historical character are preserved and/or restored.
- (15) *Standards and guidelines* means the building construction and building rehabilitation criteria derived from historical and architectural information reflecting that particular Downtown District to be used by the Historic Downtown Commission in considering Certificate of Appropriateness applications. This refers to the "Downtown District Architectural Guidelines" found elsewhere in the Zoning Code.
- (16) *Structure* means any building including houses, stores, warehouses, churches, schools, garages, barns, carriage houses, tool sheds, or similar buildings, and also fences, walls, light fixtures, steps, signs, works of art, or other like fixtures or any appurtenances thereto, or any significant landscaping.
- (17) *Zoning administrator* means the Zoning Administrator or their designee of the City of Powell.
- (c) *Conformance with Existing Laws.* Where the existing laws and ordinances are not replaced or modified by these sections the existing laws and ordinances shall remain in effect. In the event of a conflict between these standards and any other standard prescribed in the Planning and Zoning Code, these standards shall apply.
- (d) *Correlation with City Programs.* The City shall consider its Capital Improvements Program, land purchases, and other plans in or proximate to the Downtown District, with respect to the purpose and requirements of these sections and shall, whenever feasible, support it and conform thereto.
- (e) *Land Use Review.* The City shall notify the Historic Downtown Commission of any activity requiring Planning and Zoning Commission review which is in the Downtown District or 250 feet from its boundary. Notification shall be given to the Historic Downtown Commission no less than ten calendar days before the Planning and Zoning Commission hearing on the matter.
- (f) *Establishment as a Receiving Area for the Transfer of Development Rights.* As authorized by Section 1143.12, the Downtown District is hereby established as a receiving area for the transfer of surplus development rights. The transfer of development rights shall meet any requirements and procedures set forth in Section 1143.12. In addition, the transfer of development rights to any property or properties in the downtown district shall only be allowed for those development plans that are considered exemplary plans by the Planning and Zoning Commission in advancing the purposes of the Downtown District, as stated in this section.
- (g) *Downtown District Boundaries.* The location and extent of the Downtown District Overlay District shall be as designated on the official Zoning Map of the Municipality of Powell.

- (h) *Development Plan Required.* Unless the provisions of this section state otherwise, a development plan shall be required in accordance with the procedures described in the planned district requirements of this zoning code.
- (i) *Establishment of the Historic Downtown Advisory Commission.* The Downtown District is held to have a distinctive nature. In the interest of the public health, safety, and welfare it is considered a public necessity to protect the qualities of the Downtown District and enhance the unique characteristics of this area.
- (1) There is hereby established a Historic Downtown Advisory Commission.
 - (2) The Historic Downtown Advisory Commission shall be empowered to hear, review, approve, deny, and recommend modifications to proposals for Certificates of Appropriateness involving environmental changes within the district. Applications for Certificates of Appropriateness shall be judged using the adopted Downtown District Architectural Guidelines.
 - A. The Historic Downtown Advisory Commission shall establish, within the spirit and purposes of this section, procedures for which the Historic Downtown Advisory Commission will evaluate applications for Certificates of Appropriateness. Such information shall be written and published within three months after the Historic Downtown Advisory Commission members have been appointed and may be revised from time to time.
 - B. The Historic Downtown Advisory Commission shall maintain files, available to the public, containing all applications granted or denied to serve as a basis for prospective applicants to conform their plans to established policy.
 - C. The Historic Downtown Advisory Commission may make recommendations to the City Council and Planning and Zoning Commission regarding amendments to these sections and with respect to other legislation affecting the Downtown District.
 - D. The Historic Downtown Advisory Commission shall work for the continuing education of both the Downtown District residents and businesses which it serves and the residents of the City as a whole with respect to these sections and the district's historic heritage and architectural significance. In addition, the Historic Downtown Advisory Commission may publish informational literature and hold periodic public meetings to disseminate information on preservation and rehabilitation techniques and resources.
 - E. The Historic Downtown Advisory Commission may delegate to the Zoning Administrator or their designee review authority over certain Environmental Changes on historically and architecturally documented criteria adopted by the Historic Downtown Advisory Commission. The Zoning Administrator or their designee shall then review, grant, deny and/or recommend modifications in writing for such applications.
 - F. The Historic Downtown Advisory Commission shall serve as the architectural review commission for all areas that fall within the boundaries of the Downtown District.
 - (3) The Historic Downtown Advisory Commission shall have six members appointed by Council. The purpose of the Historic Downtown Advisory Commission will be to administer the delegated functions as set forth in this chapter, to provide advice to the City Council, Planning and Zoning Commission, and property owners and developers in the Downtown District, and to oversee new construction, remodeling, rehabilitations, restorations and additions made in the Downtown District. The Historic Downtown Advisory Commission membership shall be as follows:
 - A. A registered architect, pursuant to O.R.C. Chapter 4703 appointed by Council. Council shall appoint a person, whose background, education and/or professional experience is in historic design, preservation, renovation, or rehabilitation, to the Historic Downtown Advisory Commission. This member may be a nonresident of the City of Powell. This member shall serve in an advisory capacity and shall not vote.

- B. Two residents of the City of Powell appointed by Council, one of which must be a resident of the Downtown District.
 - C. One owner of a business located in the Downtown District appointed by Council. This member may be a nonresident of the City of Powell.
 - D. One representative with a professional background or experience in historic design, preservation, restoration, renovation, or construction appointed by Council. This member may be a nonresident of the City of Powell.
 - E. One representative from the Planning and Zoning Commission as appointed by City Council.
 - F. If no citizens have the qualifications set forth above or if in the majority opinion of City Council no individuals are qualified to carry forth the purpose, goals, and objectives of the Historic Downtown Advisory Commission as stated in this section are available at the time of appointment, then Council may appoint any resident, property owner, or business owner of the city to fill any of these positions.
- (4) Members shall serve a three-year term.
 - (5) Members of the Commission may be removed by a majority vote of City Council.
 - (6) Members shall serve without compensation, except for the A.I.A. representative, who is eligible for compensation as set by Council.
 - (7) A vacancy during the term of any member shall be filled for the unexpired term in the manner authorized for the original appointment.
 - (8) The Historic Downtown Advisory Commission shall select one of its members to serve as chairperson and one as vice-chairperson. The Zoning Administrator or their designee shall provide such staff assistance as is necessary and available. All City departments and agencies shall cooperate in expediting the work of the Historic Downtown Advisory Commission.
 - (9) The Historic Downtown Advisory Commission shall adopt rules and regulations consistent with these sections governing its procedures and transactions. The Historic Downtown Advisory Commission shall meet as required to carry out the review of applications for Certificates of Appropriateness, and such other related work as may be accepted through request of the Planning and Zoning Commission or Council. Meetings shall be held at least once each month when there are applications to be considered.
- (j) *Certificate of Appropriateness Required.* No environmental changes shall be made to any property within the Downtown District unless a Certificate of Appropriateness has been previously issued by the Planning and Zoning Commission, Historic Downtown Advisory Commission, or the Zoning Administrator, when authorized.
- (1) Applications for a Building Permit, Zoning Certificate, Development Plan, Amendment to Development Plan, or Zoning Amendment, or applications for environmental changes within the Downtown District shall be deemed as applications for Certificates of Appropriateness provided any applicable submittal requirements are met.
 - (2) Any change in the outward appearance of a property within the Downtown District shall require approval of Certificate of Appropriateness by the Planning and Zoning Commission if any change in the outward appearance of a property within the Downtown District results in one or more of the following:
 - A. The plans call for a new non-residential structure or addition of occupiable space to an existing non-residential structure, whether principal or accessory; or
 - B. The plans call for two or more new residential dwelling units; or
 - C. There will be a demolition of a structure larger than 75 square feet in ground floor area; or

- D. There is a request for rezoning, zoning variance, or subdivision of land within the Downtown District.
- (3) Any change in the outward appearance of a property within the Downtown District shall require approval of Certificate of Appropriateness by the Historic Downtown Advisory Commission if any change in the outward appearance of a property within the Downtown District results in one or more of the following:
- A. The plans call for not more than one new residential dwelling unit or addition of occupiable space to an existing residential structure; or
 - B. There will be any changes which affect the outward appearance of a structure, such as installation of different windows, or the construction or reconstruction, including replacement, of such architectural elements as, for example, porches or chimneys; or
 - C. There will be repairs that might change the outside appearance of a building, such as foundations, walls, porches, roofs or chimneys where the original materials are not matched; or
 - D. There will be any change in the outward appearance of a structure or property, not otherwise described in these sections, requiring a Zoning Certificate or Building Permit.
- (4) External color and/or material changes relative to any structure in the Downtown District shall require approval of a Certificate of Appropriateness by the Historic Downtown Advisory Commission.
- A. If the proposed colors and/or materials are approved colors and/or materials included in the adopted standards and guidelines, the color and/or materials may be approved directly by the Zoning Administrator or their designee if this is the only change proposed.
 - B. If the Zoning Administrator or their designee determines that the proposed colors and/or materials are not the existing colors and/or materials and do not match those of the approved standards and guidelines, the change must be submitted to the Historic Downtown Advisory Commission for review.
- (5) Landscape changes, signs, lighting fixtures, etc. inconsistent with those indicated in the adopted standards and guidelines must be submitted for approval of a Certificate of Appropriateness by the Historic Downtown Advisory Commission. Those that are so consistent, including landscape changes within rights-of-ways, may be approved directly by the Zoning Administrator or their designee.
- (6) Changes that do not require review and approval include:
- A. Changes that do not change the exterior appearance of a property, such as repainting a house in the exact same colors or replacing windows with exact duplicates, provided such changes are in conformance with the adopted standards and guidelines;
 - B. Repairs that do not alter the outside appearance of a property such as repairing foundations, walls, porches, roofs, chimneys or downspouts with original materials in original colors;
 - C. Interior changes to a structure, such as plumbing, or electrical repairs, or other interior remodeling as long as these changes do not affect the outside appearance of the structure;
 - D. Flowers and annuals anywhere, and trees and shrubs beyond rights-of-way, do not need to be reviewed and do not need approvals.
- (7) Upon receipt of all pertinent documents, the Zoning Administrator or their designee:
- A. Shall inform the applicant of the review procedures and application requirements;
 - B. Shall have the authority to request from the applicant additional pertinent information regarding the proposed environmental change, including architectural drawings and detailed drawings of significant architectural features and details at a proper and legible scale, as well as sample materials and color chips;

- C. Shall inform applicants having applications requiring Planning and Zoning Commission and/or Historic Downtown Advisory Commission review of the date(s) on which the application will be heard; and
- D. Shall inform the Planning and Zoning Commission and Historic Downtown Advisory Commission of the Certificate of Appropriateness applications.

(k) *Certificate of Appropriateness Hearing Procedures.*

- (1) A Development Plan, amendment to a Development Plan, or Zoning Amendment approval or denial by the Planning and Zoning Commission shall be considered the same for a Certificate of Appropriateness. Any Certificate of Appropriateness being reviewed by the Planning and Zoning Commission shall follow the requirements of a planned district.
- (2) The following procedures shall apply to recommendations for Certificates of Appropriateness:
 - A. For properties located in the Downtown District Boundary, the Historic District Advisory Commission shall review applications and provide written comments and recommendations to the Planning and Zoning Commission for consideration.
 - B. For properties zoned DR, Downtown Residence District or DB, Downtown Business District that are not located in the Downtown District Boundary, the Planning and Zoning Commission may ask the Historic District Advisory Commission to review applications and provide written comments and recommendations for consideration.
 - C. The Planning and Zoning Commission shall consider recommendations as part of the approval process, providing their reasoning for whether or not the recommendations correspond to the adopted standards, guidelines, and requirements of this zoning ordinance.
 - D. Should the Historic District Advisory Commission not provide written comments and recommendations on an application, it shall not prohibit the Planning and Zoning Commission from acting upon the application.
- (3) A hearing on an application for a Certificate of Appropriateness, shall be conducted at the next regularly scheduled Historic Downtown Advisory Commission meeting. The Historic Downtown Advisory Commission chairperson may call special meetings at the request of the Zoning Administrator.
- (4) The chairperson shall conduct meetings of the Historic Downtown Advisory Commission and a record of minutes shall be kept and maintained as a permanent record. The minutes of meetings shall be a public record.
- (5) The Historic Downtown Advisory Commission shall post the agenda in a manner consistent with other city boards, commissions, and city council. Other owners, residents, and neighborhood organizations may be notified as determined by the Historic District Advisory Commission or Zoning Administrator to carry out the intent of these sections.
- (6) The majority of the Historic Downtown Advisory Commission members shall constitute a quorum. For the taking of official action, a majority vote of the quorum shall be required.
- (7) In ruling upon an application for a Certificate of Appropriateness, the Historic Downtown Advisory Commission shall consider the following:
 - A. The adherence of the environmental change to the district's adopted standards and guidelines, as well as other requirements established in these sections, and
 - B. The effect of the Historic Downtown Advisory Commission's decision upon the applicant.
- (8) At the hearing, the Historic Downtown Advisory Commission shall issue a decision, setting forth its findings and analysis. In the event that no action is taken within 45 days, the Certificate of Appropriateness shall be forwarded to the Planning and Zoning Commission for action at their next scheduled meeting.

- (9) Unless the work described in the Certificate of Appropriateness is commenced within one year and continued progress is made and is completed within two years from the date of issuance of the Certificate of Appropriateness, the Certificate of Appropriateness shall expire as a matter of law. The Historic Downtown Advisory Commission may grant an extension of time for good cause shown.

(l) *Demolition Hearing Procedures.*

- (1) A Certificate of Appropriateness is not required for the demolition of structures less than 75 square feet in area unless determined to be of historical value by the Zoning Administrator or their designee. A written request for demolition with supporting documentation and all other applicable permits are required.
- (2) In cases where an applicant applies for a Certificate of Appropriateness to demolish a structure within the Downtown District, the Planning and Zoning Commission shall approve the demolition and issue a Certificate of Appropriateness following the procedures stated in Section 1143.18(k)(2) when:
 - A. At a minimum, a Sketch Plan showing possible future redevelopment of the property is reviewed and found generally reasonable by the Historic Downtown Advisory Commission; and it is determined that one or both of the following conditions prevail:
 1. That the structure contains no features of architectural and/or historic significance;
 2. That there exists no reasonable economic use for the structure as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition, or that deterioration has progressed to the point where it is not economically feasible to restore the structure as demonstrated by the applicant through supporting documents such as cost analyses, structural reports, and/or other necessary documents.
- (3) Every effort shall be made to reuse existing structures through adaptive reuse and to restore their historic character. Under no condition shall a structure that is able to be rehabbed be demolished for an off-street parking facility or loading space.

(m) *Appeals.*

- (1) Decisions by the Zoning Administrator or their designee related to the approval of a Certificate of Appropriateness may be appealed by any interested party to the Historic Downtown Advisory Commission. Written notice of appeal shall be made within seven days of the decision. The appeal shall be heard at the next regularly scheduled meeting of the Historic Downtown Advisory Commission. A majority vote of the members of the Historic Downtown Advisory Commission shall be required to overturn a decision of the Zoning Administrator.
- (2) Decisions by the Historic Downtown Advisory Commission may be appealed by any interested party to the Planning and Zoning Commission in writing within seven days of the Historic Downtown Advisory Commission hearing.
- (3) The Planning and Zoning Commission shall consider an appeal and shall utilize the written findings of the Historic Downtown Advisory Commission to present historic, architectural, and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the City. A majority vote of the members of the Planning and Zoning Commission shall be required to overturn a decision of the Historic Downtown Commission.
- (4) No building permit or other permit required for the activity applied for shall be issued during the seven-day period or while an appeal is pending.

(n) *Exclusions.*

- (1) Nothing in these sections shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any property that does not involve a change in design, material, or other appearance thereof covered by the Historic Downtown Advisory Commission's adopted standards and guidelines.

- (2) Nothing in these sections shall be construed to prevent authorized Municipal officers from abating public nuisances.
- (o) *Downtown District General Requirements.*
- (1) Standards for Rehabilitation. These "Standards for Rehabilitation" are adopted and shall be complied with within the Downtown District in addition to other standards and guidelines that may be adopted:
 - A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - F. Distinctive historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - I. New additions, exterior alterations, or related new construction may not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
 - (2) A primary component of this district shall be landscaping features which minimize potential negative impact of this district's uses on abutting suburban style residential areas.
 - A. A minimum 50 feet wide dedicated buffer zone should be provided within the Downtown District along the west boundary line of the Bartholomew Run residential subdivision. This buffer zone will be dedicated at the time of the construction of a building within this district or the change of use from a single-family dwelling to a different permitted use. This buffer zone should be subject to a tree planting program encouraging planting of a mixture of year-round vegetation, such as evergreens, and trees of an especially aesthetically pleasing nature in regard to autumn colors selected from the City's approved list of trees.
 - B. This buffer zone shall be a part of a 75 feet "No Structure Zone" for new commercial and non-single-family structures and a 60 feet "No Structure Zone" for a single-family structure converted to a commercial structure with a 60 feet "No Parking Zone."

- C. The existing private school use at 284 South Liberty Street will not be subject to the landscaping requirements stated above, but will be subject to the approved Final Development Plan and future approved Development Plans to be submitted for future phases of the school use. However, should this use change, or if the school ceases to be a going concern, the buffer zone/landscaping requirements above shall be fully implemented based on future development.
 - D. Any new single-family dwelling proposed on a parcel affected by the buffer zone shall be exempt from the requirements of the buffer zone provided no more than one single-family dwelling is proposed on that parcel and no lot split is required. All structures shall meet the setback requirements of the principal structure.
- (3) When a non-residential use, including when an existing residential property is changed to a non-residential use is adjacent to any residential property, a 25 feet side yard (except in cases of zero lot line development) and rear yard buffer zone shall be incorporated which requires the planting of a mixture of year-round vegetation, such as evergreens, and trees of an especially aesthetically pleasing nature in regard to autumn colors selected from the approved list of trees. Said plantings must have minimum year-round opaqueness of 75 percent. This buffer zone is required only along the common property line of the other residential use and only as long as the adjacent lot is being used as a residential use.
 - (4) A mix of non-residential and residential uses is encouraged where permissible by the underlying zoning district, including within the same building. First floor non-residential uses are highly encouraged for any structure fronting Olentangy and Liberty Streets.
 - (5) Whenever possible, drive aisles from public streets shall be shared.

1143.18 DD-DOWNTOWN DISTRICT OVERLAY DISTRICT.

- (a) *Purpose.* It is the purpose of the Downtown District Overlay District (herein after referred to as the "Downtown District") to promote the public, health, safety, and welfare by providing for the regulation of the downtown area through a single, unified district. This district is created to permit the careful and coordinated physical planning, development, and redevelopment of the land, and to provide flexibility in the location of land uses, housing types, and intensity. This district shall preserve, protect, and promote the historical nature of downtown by pursuing development that encourages a mix of uses in a manner that is safe, pleasant, convenient, and in context with the history of the area. It is also the purpose of the Downtown District to:
- (1) Safeguard the heritage of the City by preserving sites and structures within the historic central core of the City that reflect the City's history and its architectural history.
 - (2) Stabilize and improve property values.
 - (3) Strengthen the economy of the City by promoting business development through the allowance of buildings that provide flexible commercial opportunities yet in keeping with the village scale and character.
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- (e) *Land Use Review.* The City shall notify the Historic Downtown Commission of any activity requiring Planning and Zoning Commission review which is in the Downtown District or 250 feet from its boundary. Notification shall be given to the Historic Downtown Commission no less than ten calendar days before the Planning and Zoning Commission hearing on the matter.
- (f) *Establishment as a Receiving Area for the Transfer of Development Rights.* As authorized by Section 1143.12, the Downtown District is hereby established as a receiving area for the transfer of surplus development rights. The transfer of development rights shall meet any requirements and procedures set forth in Section 1143.12. In addition, the transfer of development rights to any property or properties in the downtown district shall only be allowed for those development plans that are considered exemplary plans by the Planning and Zoning Commission in advancing the purposes of the Downtown District, as stated in this section.
- (g) *Downtown District Boundaries.* The location and extent of the Downtown District Overlay District shall be as designated on the official Zoning Map of the Municipality of Powell ~~and shall only include those properties zoned DR, Downtown Residence District and DB, Downtown Business District, both of which are planned districts.~~

~~(1) Proposals to expand, or modify the Downtown District boundaries.~~

~~A. Initiation.~~

- ~~1. Proposals to expand or modify the Downtown District boundaries shall be initiated by resolution of City Council, with referral to the Planning and Zoning Commission. Proposals to expand, or modify the Downtown District shall include the following documentation:
 - ~~a. Evidence that the area is of architectural and historic significance.~~
 - ~~b. A boundary description.~~~~

~~(2) Study and hearing.~~

- ~~A. General procedures to expand, or modify the Downtown District boundaries shall be in accordance with the required procedures for zone changes as provided in this Zoning Ordinance.~~
- ~~B. Planning and Zoning Commission report. The Planning and Zoning Commission report to Council shall include information as to how the proposed Downtown District expansion or modification is of special historical and architectural significance. The Planning and Zoning Commission report shall include the following:
 - ~~1. A recommendation from the Historic Downtown Advisory Commission.~~
 - ~~2. Whether the area or buildings in the area are listed on the National Register of Historic Places;~~
 - ~~3. Whether it provides significant examples of architectural styles of the past;~~
 - ~~4. A description of the area and structures to serve as an informational resource. The description shall include, but need not be limited to, the following:
 - ~~a. A geographic description including location and its relationship to the entire municipality and current boundaries of the downtown district;~~
 - ~~b. A description of the general land uses;~~
 - ~~c. A general description of the building conditions;~~
 - ~~d. A general description of the socioeconomic characteristics;~~
 - ~~e. A description of existing developmental plans or programs within or including the area;~~
 - ~~f. A list of neighborhood organizations within, serving or otherwise interested in the area in question.~~~~~~

~~(3) City Council designation.~~

- ~~A. City Council hearing. City Council shall hold public hearings on proposals to expand, or modify the Downtown District. These hearings shall be in the same manner as for any proposed change in the Zoning Map.~~
- ~~B. Zoning Map Overlay. The Zoning Administrator shall cause the designation to be shown upon the official Zoning Map of the City of Powell as an Overlay without changing the underlying zoning. Whenever there is a conflict between regulation of the zoning district and the regulations of the Downtown District, the more restrictive shall apply.~~
- ~~C. Notification of designation. Upon expansion or modification of the boundaries of the Downtown District, the clerk shall promptly notify the Zoning Administrator, who shall notify all interested of affected property owners, groups, boards and commissions.~~

- (h) *Development Plan Required.* Unless the provisions of this section state otherwise, a development plan shall be required in accordance with the procedures described in the planned district requirements of this zoning code.
- (i) *Establishment of the Historic Downtown Advisory Commission.* The Downtown District is held to have a distinctive nature. In the interest of the public health, safety, and welfare it is considered a public necessity to protect the qualities of the Downtown District and enhance the unique characteristics of this area.
- (1) There is hereby established a Historic Downtown Advisory Commission.
 - (2) The Historic Downtown Advisory Commission shall be empowered to hear, review, approve, deny, and recommend modifications to proposals for Certificates of Appropriateness involving environmental changes within the district. Applications for Certificates of Appropriateness shall be judged using the adopted Downtown District Architectural Guidelines.
 - A. The Historic Downtown Advisory Commission shall establish, within the spirit and purposes of this section, procedures for which the Historic Downtown Advisory Commission will evaluate applications for Certificates of Appropriateness. Such information shall be written and published within three months after the Historic Downtown Advisory Commission members have been appointed and may be revised from time to time.
 - B. The Historic Downtown Advisory Commission shall maintain files, available to the public, containing all applications granted or denied to serve as a basis for prospective applicants to conform their plans to established policy.
 - C. The Historic Downtown Advisory Commission may make recommendations to the City Council and Planning and Zoning Commission regarding amendments to these sections and with respect to other legislation affecting the Downtown District.
 - D. The Historic Downtown Advisory Commission shall work for the continuing education of both the Downtown District residents and businesses which it serves and the residents of the City as a whole with respect to these sections and the district's historic heritage and architectural significance. In addition, the Historic Downtown Advisory Commission may publish informational literature and hold periodic public meetings to disseminate information on preservation and rehabilitation techniques and resources.
 - E. The Historic Downtown Advisory Commission may delegate to the Zoning Administrator or their designee review authority over certain Environmental Changes on historically and architecturally documented criteria adopted by the Historic Downtown Advisory Commission. The Zoning Administrator or their designee shall then review, grant, deny and/or recommend modifications in writing for such applications.
 - F. The Historic Downtown Advisory Commission shall serve as the architectural review commission for all areas that fall within the boundaries of the Downtown District.
 - (3) The Historic Downtown Advisory Commission shall have six members appointed by Council. The purpose of the Historic Downtown Advisory Commission will be to administer the delegated functions as set forth in this chapter, to provide advice to the City Council, Planning and Zoning Commission, and property owners and developers in the Downtown District, and to oversee new construction, remodeling, rehabilitations, restorations and additions made in the Downtown District. The Historic Downtown Advisory Commission membership shall be as follows:
 - A. ~~One member of the A.I.A. registered architect, pursuant to O.R.C. Chapter 4703~~ appointed by Council. Council shall appoint a person, whose background, education and/or professional experience is in historic design, preservation, renovation, or rehabilitation, to the Historic Downtown Advisory Commission. This member may be a nonresident of the City of Powell. This member shall serve in an advisory capacity and shall not vote.

- B. Two residents of the City of Powell appointed by Council, one of which must be a resident of the Downtown District.
- C. One owner of a business located in the Downtown District appointed by Council. This member may be a nonresident of the City of Powell.
- D. One representative with a professional background or experience in historic design, preservation, restoration, renovation, or construction appointed by Council. This member may be a nonresident of the City of Powell.
- E. One representative from the Planning and Zoning Commission as appointed by City Council.
- F. If no citizens have the qualifications set forth above or if in the majority opinion of City Council no individuals are qualified to carry forth the purpose, goals, and objectives of the Historic Downtown Advisory Commission as stated in this section are available at the time of appointment, then Council may appoint any resident, property owner, or business owner of the city to fill any of these positions.

(4) Members shall serve a ~~three-year~~three-year term.

(5) Members of the Commission may be removed by a majority vote of City Council.

(6) Members shall serve without compensation, except for the A.I.A. representative, who is eligible for compensation as set by Council.

(7) A vacancy during the term of any member shall be filled for the unexpired term in the manner authorized for the original appointment.

(8) The Historic Downtown Advisory Commission shall select one of its members to serve as chairperson and one as vice-chairperson. The Zoning Administrator, ~~or agent, or their designee~~ shall provide such staff assistance as is necessary and available. All City departments and agencies shall cooperate in expediting the work of the Historic Downtown Advisory Commission.

(9) The Historic Downtown Advisory Commission shall adopt rules and regulations consistent with these sections governing its procedures and transactions. The Historic Downtown Advisory Commission shall meet as required to carry out the review of applications for Certificates of Appropriateness, and such other related work as may be accepted through request of the Planning and Zoning Commission or Council. Meetings shall be held at least once each month when there are applications to be considered, ~~and not less than once every three months. Special meetings may be held at the call of the chairperson of the Historic Downtown Commission.~~

(j) *Certificate of Appropriateness Required.* No environmental changes shall be made to any property within the Downtown District unless a Certificate of Appropriateness has been previously issued by the Planning and Zoning Commission, Historic Downtown Advisory Commission, or the Zoning Administrator, when authorized.

(1) Applications for a Building Permit, Zoning Certificate, Development Plan, Amendment to Development Plan, or Zoning Amendment, or applications for environmental changes within the Downtown District shall be deemed as applications for Certificates of Appropriateness provided any applicable submittal requirements are met.

(2) Any change in the outward appearance of a property within the Downtown District shall require approval of Certificate of Appropriateness by the Planning and Zoning Commission if any change in the outward appearance of a property within the Downtown District results in one or more of the following:

- A. The plans call for a new non-residential structure or addition of ~~occupyable~~occupiable space to an existing non-residential structure, whether principal or accessory; or
- B. The plans call for two or more new residential dwelling units; or

- C. There will be a demolition of a structure larger than 75 square feet in ground floor area; or
 - D. There is a request for rezoning, zoning variance, or subdivision of land within the Downtown District.
- (3) Any change in the outward appearance of a property within the Downtown District shall require approval of Certificate of Appropriateness by the Historic Downtown Advisory Commission if any change in the outward appearance of a property within the Downtown District results in one or more of the following:
- A. The plans call for not more than one new residential dwelling unit or addition of ~~occupyable~~occupiable space to an existing residential structure; or
 - B. There will be any changes which affect the outward appearance of a structure, such as installation of different windows, or the construction or reconstruction, including replacement, of such architectural elements as, for example, porches or chimneys; or
 - C. There will be repairs that might change the outside appearance of a building, such as foundations, walls, porches, roofs or chimneys where the original materials are not matched; or
 - D. There will be any change in the outward appearance of a structure or property, not otherwise described in these sections, requiring a Zoning Certificate or Building Permit.
- (4) External color and/or material changes relative to any structure in the Downtown District shall require approval of a Certificate of Appropriateness by the Historic Downtown Advisory Commission.
- A. If the proposed colors and/or materials are approved colors and/or materials included in the adopted standards and guidelines, the color and/or materials may be approved directly by the Zoning Administrator or their designee if this is the only change proposed.
 - B. If the Zoning Administrator or their designee determines that the proposed colors and/or materials are not the existing colors and/or materials and do not match those of the approved standards and guidelines, the change must be submitted to the Historic Downtown Advisory Commission for review.
- (5) Landscape changes, signs, lighting fixtures, etc. inconsistent with those indicated in the adopted standards and guidelines must be submitted for approval of a Certificate of Appropriateness by the Historic Downtown Advisory Commission. Those that are so consistent, including landscape changes within rights-of-ways, may be approved directly by the Zoning Administrator or their designee.
- (6) Changes that do not require review and approval include:
- A. Changes that do not change the exterior appearance of a property, such as repainting a house in the exact same colors or replacing windows with exact duplicates, provided such changes are in conformance with the adopted standards and guidelines;
 - B. Repairs that do not alter the outside appearance of a property such as repairing foundations, walls, porches, roofs, chimneys or downspouts with original materials in original colors;
 - C. Interior changes to a structure, such as plumbing, or electrical repairs, or other interior remodeling as long as these changes do not affect the outside appearance of the structure;
 - D. Flowers and annuals anywhere, and trees and shrubs beyond rights-of-way, do not need to be reviewed and do not need approvals.
- (7) Upon receipt of all pertinent documents, the Zoning Administrator or their designee:
- A. Shall inform the applicant of the review procedures and application requirements;
 - B. Shall have the authority to request from the applicant additional pertinent information regarding the proposed environmental change, including architectural drawings and detailed drawings of

significant architectural features and details at a proper and legible scale, as well as sample materials and color chips;

- C. Shall inform applicants having applications requiring Planning and Zoning Commission and/or Historic Downtown Advisory Commission review of the date(s) on which the application will be heard; and
- D. Shall inform the Planning and Zoning Commission and Historic Downtown Advisory Commission of the Certificate of Appropriateness applications.

(k) *Certificate of Appropriateness Hearing Procedures.*

- (1) A Development Plan, amendment to a Development Plan, or Zoning Amendment approval or denial by the Planning and Zoning Commission shall be considered the same for a Certificate of Appropriateness. Any Certificate of Appropriateness being reviewed by the Planning and Zoning Commission shall follow the requirements of a planned district.

- (2) The following procedures shall apply to recommendations for Certificates of Appropriateness:

A. For properties located in the Downtown District Boundary, the Historic District Advisory Commission shall review applications and provide written comments and recommendations to the Planning and Zoning Commission for consideration.

B. For properties zoned DR, Downtown Residence District or DB, Downtown Business District that are not located in the Downtown District Boundary, the Planning and Zoning Commission may ask the Historic District Advisory Commission to review applications and provide written comments and recommendations for consideration.

C. The Planning and Zoning Commission shall consider recommendations as part of the approval process, providing their reasoning for whether or not the recommendations correspond to the adopted standards, guidelines, and requirements of this zoning ordinance.

D. Should the Historic District Advisory Commission not provide written comments and recommendations on an application, it shall not prohibit the Planning and Zoning Commission from acting upon the application. The Planning and Zoning Commission may ask the Historic Downtown Advisory Commission to review a Certificate of Appropriateness application with city staff and provide written comments and recommendations to the Planning and Zoning Commission for consideration. Such recommendations shall be part of the Planning and Zoning Commission approval unless the Planning and Zoning Commission finds the recommendations do not correspond to the adopted standards and guidelines or approval process as required by the zoning code. For any recommendation by the Historic Downtown Advisory Commission found to not correspond to the adopted standards and guidelines or approval process as required by the zoning code, the Planning and Zoning Commission shall provide a written reason for such finding. Should the Historic District Advisory Commission not provide written comments and recommendations for any application, for any reason, it shall not prohibit the Planning and Zoning Commission from acting upon any application.

- (3) A hearing on an application for a Certificate of Appropriateness, as defined in Sections shall be conducted at the next regularly scheduled Historic Downtown Advisory Commission meeting, ~~no later than 45 days after the filing of the application.~~ The Historic Downtown Advisory Commission chairperson may call special meetings with the applicant for consultation at their own discretion or at the request of the Zoning Administrator or the chairperson of the Planning and Zoning Commission prior to the regularly scheduled Historic Downtown Advisory Commission meeting.

~~(4) At the Historic Downtown Advisory Commission's discretion, a maximum of one deferral not to exceed 45 days beyond the originally scheduled hearing date may be granted.~~

- (5) The chairperson shall conduct meetings of the Historic Downtown Advisory Commission and a record of minutes shall be kept and maintained as a permanent record. The minutes of meetings shall be a public record.

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- (65) The Historic Downtown Advisory Commission shall post the agenda in a manner consistent with other city boards, commissions, and city council. Other owners, residents, and neighborhood organizations may be notified as determined by the Historic District Advisory Commission or Zoning Administrator to carry out the intent of these sections.
- (76) The majority of the Historic Downtown Advisory Commission members shall constitute a quorum. For the taking of official action, a majority vote of the quorum shall be required.
- (87) In ruling upon an application for a Certificate of Appropriateness, the Historic Downtown Advisory Commission shall consider the following:
- A. The adherence of the environmental change to the district's adopted standards and guidelines, as well as other requirements established in these sections, and
 - B. The effect of the Historic Downtown Advisory Commission's decision upon the applicant.
- (98) At the hearing, the Historic Downtown Advisory Commission shall issue ~~an oral decision followed by a written decision within 45 days after the date of the hearing~~, setting forth, ~~with specificity~~, its findings and analysis. In the event that no action is taken within 45 days, the Certificate of Appropriateness shall be forwarded to the Planning and Zoning Commission for action at their next scheduled meeting.
- (109) Unless the work described in the Certificate of Appropriateness is commenced within one year and continued progress is made and is completed within two years from the date of issuance of the Certificate of Appropriateness, the Certificate of Appropriateness shall expire as a matter of law. The Historic Downtown Advisory Commission may grant an extension of time for good cause shown.

(l) *Demolition Hearing Procedures.*

- (1) A Certificate of Appropriateness is not required for the demolition of structures less than 75 square feet in area unless determined to be of historical value by the Zoning Administrator or their designee. A written request for demolition with supporting documentation and all other applicable permits are required.
- (2) In cases where an applicant applies for a Certificate of Appropriateness to demolish a structure within the Downtown District, the Planning and Zoning Commission shall approve the demolition and issue a Certificate of Appropriateness following the procedures stated in Section 1143.18(k)(2) when:
 - A. At a minimum, a Sketch Plan showing possible future redevelopment of the property is reviewed and found generally reasonable by the Historic Downtown Advisory Commission; and it is determined that one or both of the following conditions prevail:
 - 1. That the structure contains no features of architectural and/or historic significance;
 - 2. That there exists no reasonable economic use for the structure as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition, or that deterioration has progressed to the point where it is not economically feasible to restore the structure as demonstrated by the applicant through supporting documents such as cost analyses, structural reports, and/or other necessary documents.
- (3) Every effort shall be made to reuse existing structures through adaptive reuse and to restore their historic character. Under no condition shall a structure that is able to be rehabbed be demolished for an off-street parking facility or loading space. ~~Where structures must be removed, they shall be replaced with buildings of historic character and qualities of the District.~~

(m) *Appeals.*

- (1) Decisions by the Zoning Administrator or their designee related to the approval of a Certificate of Appropriateness may be appealed by any interested party to the Historic Downtown Advisory Commission. Written notice of appeal shall be made within seven days of the decision. The appeal shall be heard at the next regularly scheduled meeting of the Historic Downtown Advisory Commission. A

majority vote of the members of the Historic Downtown Advisory Commission shall be required to overturn a decision of the Zoning Administrator.

- (2) Decisions by the Historic Downtown Advisory Commission may be appealed by any interested party to the Planning and Zoning Commission in writing within seven days of the Historic Downtown Advisory Commission hearing.
- (3) The Planning and Zoning Commission shall consider an appeal ~~within 45 days of receipt~~ and shall utilize the written findings of the Historic Downtown Advisory Commission to present historic, architectural, and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the City. A majority vote of the members of the Planning and Zoning Commission shall be required to overturn a decision of the Historic Downtown Commission.
- (4) No building permit or other permit required for the activity applied for shall be issued during the ~~seven day~~seven-day period or while an appeal is pending.

(n) *Exclusions.*

- (1) Nothing in these sections shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any property that does not involve a change in design, material, or other appearance thereof covered by the Historic Downtown Advisory Commission's adopted standards and guidelines.
- (2) Nothing in these sections shall be construed to prevent authorized Municipal officers from abating public nuisances.

(o) *Downtown District General Requirements.*

- (1) Standards for Rehabilitation. These "Standards for Rehabilitation" are adopted and shall be complied with within the Downtown District in addition to other standards and guidelines that may be adopted:
 - A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - F. Distinctive historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - I. New additions, exterior alterations, or related new construction may not destroy historic materials that characterize the property. The new work shall be differentiated from the old and

shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

- J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (2) A primary component of this district shall be landscaping features which minimize potential negative impact of this district's uses on abutting suburban style residential areas.
 - A. A minimum 50 feet wide dedicated buffer zone should be provided within the Downtown District along the west boundary line of the Bartholomew Run residential subdivision. This buffer zone will be dedicated at the time of the construction of a building within this district or the change of use from a ~~single-family~~ ~~single-family~~ dwelling to a different permitted use. This buffer zone should be subject to a tree planting program encouraging planting of a mixture of ~~year-round~~ ~~year-round~~ vegetation, such as evergreens, and trees of an especially aesthetically pleasing nature in regard to autumn colors selected from the City's approved list of trees.
 - B. This buffer zone shall be a part of a 75 feet "No Structure Zone" for new commercial and non-single-family structures and a 60 feet "No Structure Zone" for a single-family structure converted to a commercial structure with a 60 feet "No Parking Zone."
 - C. The existing private school use at 284 South Liberty Street will not be subject to the landscaping requirements stated above, but will be subject to the approved Final Development Plan and future approved Development Plans to be submitted for future phases of the school use. However, should this use change, or if the school ceases to be a going concern, the buffer zone/landscaping requirements above shall be fully implemented based on future development.
 - D. Any new single-family dwelling proposed on a parcel affected by the buffer zone shall be exempt from the requirements of the buffer zone provided no more than one single-family dwelling is proposed on that parcel and no lot split is required. All structures shall meet the setback requirements of the principal structure.
 - (3) When a non-residential use, including when an existing residential property is changed to a non-residential use is adjacent to any residential property, a 25 feet side yard (except in cases of zero lot line development) and rear yard buffer zone shall be incorporated which requires the planting of a mixture of ~~year-round~~ ~~year-round~~ vegetation, such as evergreens, and trees of an especially aesthetically pleasing nature in regard to autumn colors selected from the approved list of trees. Said plantings must have minimum ~~year-round~~ ~~year-round~~ opaqueness of 75 percent. This buffer zone is required only along the common property line of the other residential use and only as long as the adjacent lot is being used as a residential use.
 - (4) A mix of non-residential and residential uses is encouraged where permissible by the underlying zoning district, including within the same building. First floor non-residential uses are highly encouraged for any structure fronting Olentangy and Liberty Streets.
 - (5) Whenever possible, drive aisles from public streets shall be shared.



Official Zoning Map

City of Powell, Ohio Oct. 2024

- City of Powell Boundary
- Downtown District Boundary
- Parcel Lines
- DB - Downtown Business District
- DR - Downtown Residence District
- PI - Planned Industrial District
- PC - Planned Commercial District
- PO - Planned Office District
- PR - Planned Residence District
- R - Residence District
- LT-PC - Liberty Township Planned Commercial District
- FR-1 - Liberty Township Farm Residence District

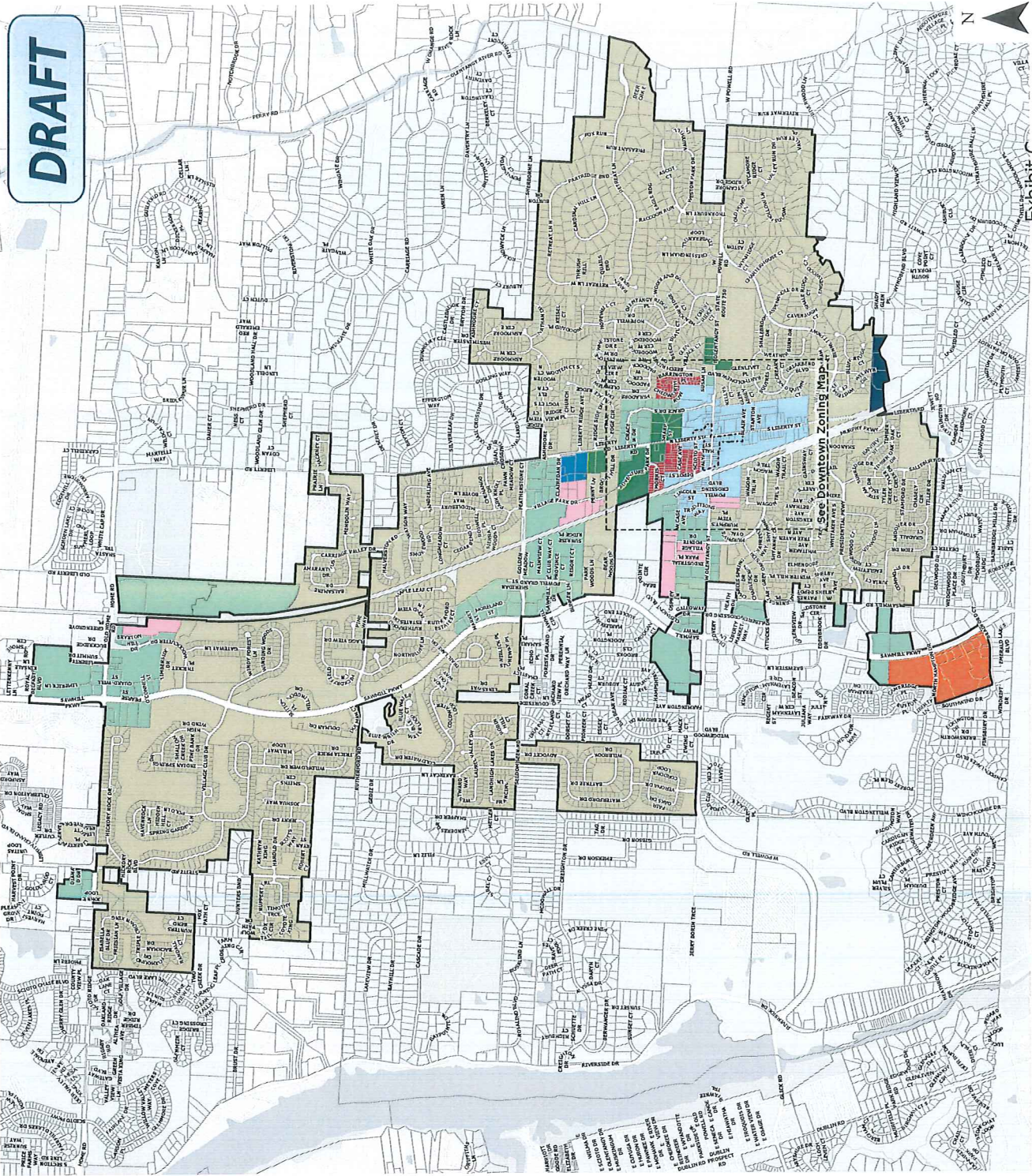
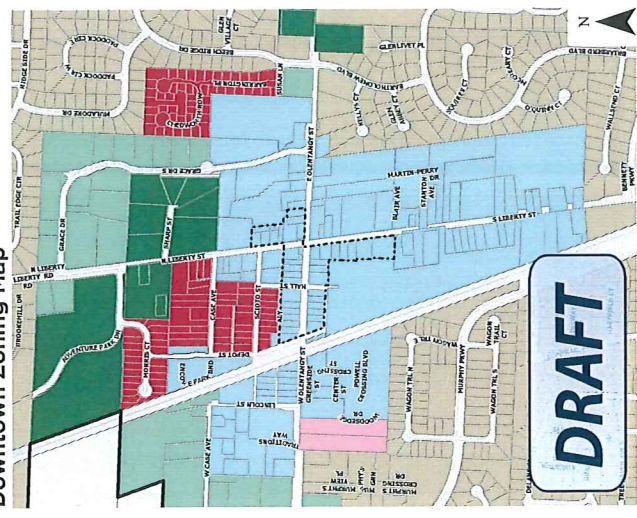


Exhibit C

Downtown Zoning Map



See Downtown Zoning Map

