

## Powell City Council Presentation

October 18, 201

Mr. Mayor .... Members of City Council. My name is Charles Johnson and I live at 283 Penny Lane.

I have not had the pleasure of meeting all of you personally, and for that reason will give you a brief personal background which I hope will lend more credence to my comments. **CONTEXT**

I am a graduate of THE OHIO STATE UNIVERSITY where I majored in REAL ESTATE & URBAN LAND ECONOMICS. I have close to 30 years' experience in commercial estate development, construction, brokerage and management. I have had the distinct privilege to represent clients such as:

**DEAN WITTER - MORGAN STANLEY, BATTELLE MEMORIAL INSTITUTE, AIRBORNE EXPRESS, G.W. BANNING ASSOCIATES and the EDWARDS LAND COMPANY.**

I was recognized by my peers and served on both the Columbus Board of REALTORS and the OHIO ASSOCIATION of REALTORS Board of Directors and lobbied on their behalves on a local, state and national level.

Prior to moving to Powell, I served several years on the Upper Arlington Community Improvement Corporation.

With that being said, I have reviewed the Applicant's proposal and see a very-well thought out design. It is not only compatible with the surrounding environs but serves as an excellent buffer from the commercial activity to the West from the single family residential to the East.

As we've recently witnessed on Seldom Seen Rd, the patio-home concept fills a tremendous void, attracting high-income, empty -nesters. This developments demographics and close proximity to downtown, will greatly enhance its continued vitality and economic success. It will increase the real estate tax and school revenues to the city while adding little expense.

When looking at this current dilapidated structure, or other plans that could have been presented, I am perplexed why anyone – other than those who want **NO GROWTH at all**, would be opposed to this.

In the last meeting, several citizens expressed their support for this development – most notably a resident in Olentangy Ridge whose home adjoins this site.

Only two individuals expressed objection, and what confounded me, neither one of them cited specifically what they disliked or objected to.

And though I don't remember their names; I do recall what streets they live on – Kelly's Court and Squires Court. You see, those two streets are named after my children.

YES, I am the same Chuck Johnson who stood in a small room above the Powell Carryout 29 years ago and was told then by Powell's Planning Commission that my 43 acre subdivision currently known as Bartholomew Run was nice, the Development Commission or more specifically those who lived in The Retreat, really didn't want more growth in Powell.

Ironically, should that same anti-growth policy I see now, prevailed, the homes these two people currently reside in, wouldn't be there today.

As I mentioned in my opening, I haven't yet had the opportunity to meet all of you yet – though I have read your publically posted profiles. You represent a unique combination of highly educated individuals – a few with direct real estate and Urban Land Planning backgrounds.

I also know by your willingness to serve on Council, your dedication to do what's right for Powell.

In light of such; I remain confident you'll vote in favor of the Applicant's request.

I thank you for your time & consideration.

**Karen Mitchell**

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**From:** Dana Tomcik <danaltomcik@gmail.com>  
**Sent:** Tuesday, October 18, 2016 6:09 PM  
**To:** Brian Lorenz  
**Subject:** Powder Room

I realize I missed the 5 pm deadline....

Our household is for the development of these 400-600\$ homes. We do not want to see retail or other commercial projects developed directly behind out neighbors homes. We would also expect that that little access road be put back into the development plan.

Dana & Nate Tomcik

**Karen Mitchell**

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**From:** Jeremy Cole <jtc550@yahoo.com>  
**Sent:** Tuesday, October 18, 2016 3:43 PM  
**To:** Brian Lorenz  
**Subject:** Powder Room Property

Good Afternoon Brian,

I would like to submit my support for the proposed development of the Powder Room Property. As a homeowner that backs up directly to the property (I live next door to Marcy Freed), I am intimately affected by what goes in behind my home. After reviewing the plan, I support the approval of this development.

Much Appreciated,  
Jeremy Cole  
89 Beech Ridge Dr.

**Karen Mitchell**

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**From:** marcykuehlfreed@gmail.com  
**Sent:** Tuesday, October 18, 2016 4:18 PM  
**To:** Brian Lorenz  
**Subject:** Support for Harper's Point

Council,

I live adjacent to the proposed development. I support the re-zoning should the land be used for the Harper's Point Development.

I believe this development would positively impact the down town and surrounding area.

Marcy Freed  
97 Beech Ridge Drive

Sent from my iPhone

## Karen Mitchell

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**From:** Brian Lorenz  
**Sent:** Tuesday, October 18, 2016 2:16 PM  
**To:** kawheeland@aol.com  
**Subject:** RE: Harpers Pointe

Hi Karen - Thanks for your input. I will mention it for the record.

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**From:** kawheeland@aol.com [kawheeland@aol.com]  
**Sent:** Tuesday, October 18, 2016 1:53 PM  
**To:** Brian Lorenz  
**Subject:** Harpers Pointe

Good Afternoon,

I wanted to express my support for this development as I cannot attend the meeting tonight to do so in person. This truly is the best use for this property. The opposition is lumping this with other developments and tagging it as "high density" which it is not. The other uses cited by the developer in the first meeting (used car lot, pawn shop, bar, apartments..) would be a blight for our city and not what we would want visitors to see as they enter the downtown district. I sincerely hope the council will consider all of this when you move to vote on a zoning change.

Thank You!  
Kim Wheeland  
217 Paddock Cir E  
Olentangy Ridge

**Karen Mitchell**

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**From:** Jamie McWilliams <JMcWilliams@specialtychemicalsales.com>  
**Sent:** Tuesday, October 18, 2016 10:09 AM  
**To:** Brian Lorenz; Joanna McWilliams  
**Subject:** Harpers

Brian

Am out of town tonight or would be at meeting. I live on Glen Village Ct in Olentangy Ridge. Wanted to theow my support behind the approval of this proposal. This will be a great way to use the space that is currentlg a huge eyesore.

Thank you for your time in reading this.

Jamie McWilliams  
Specialty Chemical Sales Inc  
614-424-9851

Good Evening,

I just wanted to touch base with you on the eve of the Powell City council vote on the future of the Powder Room Property. There are some slight differences between the vote from last year and the proposal before city council this time that I thought I would highlight.

The issue at hand before city council is to approve the zoning variance requested by the developer of the Powder Room property. If approved the developer will go back to the development committee for the plans final approval.

One of the more significant changes from last year and this go around is the change in zoning status. Last year they changed both parcels to Planned Residential. This year the Development arm of the city suggested and adopted a DR or Downtown Residential zoning on both parcels. I think that this designation is a positive for ORCA (Olentangy Ridge Civic Association) I quote Rocky Kambo, City of Powell GIS Planner....

*As for the differences between the two districts, they sound similar by name, but they are in fact unique in their purpose and requirements. Specifically, the purpose of the DR district is to preserve, protect, and promote the village-scale residential environment through provision of village-scale housing opportunities on modest lots in the Downtown District whereas the PR district does not make any specific mention about the historic downtown. Furthermore, the DR district has unique requirements about design, which the PR district does not, in that all buildings must be in line with the Powell Historic Architectural Guidelines. Simply put, the DR district has a stronger relationship with the historic district both in terms of design and synergy than the PR district.*

*It is due to this transitional nature of the property, and its location directly adjacent to the DB, Downtown Business District zoning of Powell Center, and the nature of the proposed development that Staff recommends that the property be placed within the DR, Downtown Residence District. The density, lot sizes, lot coverage, setbacks and building separation within the DR District are most closely associated with this proposal. Also, the house designs are still in their early stages, and can be easily adapted to fit more closely to our downtown area. This property is also within the Downtown Area TIF District. It is good to look at how to continue to improve your downtown area. This property is ideally situated to add housing within a walkable distance to the downtown core.*

The developer has made some changes to the plan from last year to define it as legally changed. Visually it appears almost identical. Besides changing some legal stuff (HOA from condo) the biggest physical change is the removal of the stub road the builder was going to start, eventually it would be finished by the city as a connector road to Grace Dr. Without the city completing the stub road, (that doesn't exist in the 2016 submission) the only entrance to the proposed development would be on Beech Ridge Dr.

The last major difference to note is the ownership of the property has changed. The developer has purchased the land from the previous owners. Obviously the stakes have moved to a critical mass for the developer.

We now move into the hearsay portion of my communication.....I believe that city council will approve this zoning change tomorrow night. It seems apparent to me that they city sees this as a "zoning up" from the business / single residential that exists now. After a 7-0 vote in favor of this last time, I would be shocked if they did not pass the requested variance.

I believe after it passes that the city will require the developer to reinsert the stub road. I Quote the Preliminary Development Plan Review (PP4 meeting minutes Aug 10, 2016)



*3. That the area where unit#48 is located be reserved for the possibility of connecting a new road through Powell Center to Grace Dr. The developer shall facilitate coordination between Powell center Owners, the city and themselves to see if such a roadway can be worked out during the final development plan process. Staff is very supportive of putting in this roadway, one way or another. The roadway was looked at during the Comprehensive Plan Process and again now during the Keep Powell Moving Initiative"*

What happens next is largely up to the anti-development groups that have fought downtown projects with great vigor in the past. If you have attended past city meetings or spoken to the leadership of these groups I don't see them going away without a fight. Whether by petition and a new ballot initiative or by legal challenges to the viability of the legally changed development, I believe that these challenges will come. If this effort becomes fruitful and a new ballot Initiative is successful, the developer has said on numerous occasions that he will pull the plans. This is important to understand. If this goes to ballot again, the developer has stated he will voluntarily pull the proposed development and execute new plans that are legally allowed in the present zoning (Business and Single Residential). He highlighted what he thought he could construct in the informational meeting a month ago, and none of the options are particularly wonderful for ORCA property values. These other possibilities are available online [http://cityofpowell.us/wp-content/uploads/2016/09/09.06.2016\\_cc\\_mn\\_Ex-1.pdf](http://cityofpowell.us/wp-content/uploads/2016/09/09.06.2016_cc_mn_Ex-1.pdf)

I can't help but feeling a little trapped by the various forces at work in this saga. I feel bullied by both the developer that put forth pretty much the exact same plan that was voted down a year ago and by the highly effective anti-development group that can't offer any suitable or economically viable plan that would serve as a replacement plan for this property. Neither party seems capable of compromise and we the citizens of Powell are getting pulled into their private war. This is never going to be a park, the lead cleanup is going to be expensive, and we need to put this to bed now.

While I understand the frustration of Powell residents and the general malaise that exists in my own neighborhood about the constant development that seems to confront us every day, I'm also confronted with a real decision that has to be made about the Powder Room Property. I don't want to dismiss the popular vote that overturned the development the last time. The sentiments are real. The landscape of Powell is changing drastically, but what I can't ignore is that the Gun Room Property is going to be developed. We can put in 47 homes of significant property value that will forever serve as a buffer to the development that is going to come along Powell and Grace Drive OR we can bring that business zoning right to the edge of our properties on Beech Ridge Dr. We can approve a project that per Powell's finance committee will produce 2.6 million in TIF funds & Per the auditor's office, collect school taxes that are estimated at \$320,000 annually.

If you were one of the citizens that voted "no" for the last zoning change, I ask you to give careful consideration of your opposition this time. I've arrived at the conclusion that this is our last chance to put the most attractive option on the map. If you sign a petition or campaign to overturn City Council a second time, you doom us to a less attractive neighbor, statistically more traffic in downtown with the business zoning, and quite possibly take away a road that would perform the very task everyone is looking for, help alleviating traffic flow through the center of town.

Respectfully,

Leif Carlson

ORCA President, Attendee of every Zoning and City Council meeting held on the Harper's Point Project.

P.S. (My views are not intended to be a reflection of The ORCA Board as a whole)

**Karen Mitchell**

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**From:** eric@majewski.us  
**Sent:** Tuesday, October 18, 2016 3:17 PM  
**To:** Brian Lorenz  
**Subject:** Support of the Powder Room Project

Brian,

I am hoping to make it to the meeting tonight, but thought I would voice my support for the project in the event I am not able to attend.

As a resident of "The Ridge" I can see only an upside to this project moving forward, hopefully with the reinstatement of the access road to help alleviate some congestion at the Beech Ridge entrance. If, in fact, the single family homes to be built there will be in the price range reported, it will raise the values of the surrounding subdivisions. If the developer exercises the other options - retail, multi-family, or mixed, the opposite will occur.

Those who stand against this are kidding themselves that there is a realistic higher and better use for this land. It will not be a park. Anyone can pick up a phone, call a seasoned, professional realtor, and ask them what the next highest and best use is for that property. The answer will always be single family residential. This is the choice before us. This is the *best* choice we could hope for. I urge council to approve the plan.

Eric Majewski

## Karen Mitchell

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**From:** Ryan Holdren <dvidog311@sbcglobal.net>  
**Sent:** Tuesday, October 18, 2016 3:26 PM  
**To:** Brian Lorenz  
**Subject:** clean up the Powder Room

Good afternoon,

I cant make the meeting tonight but I live in Olentangy Ridge and my family supports the proposed development and clean up of the Powder Room site.

Thanks,  
Ryan Holdren  
59 Forest Ridge Ct

## Karen Mitchell

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**From:** Kathy Schnetzler <kjschnet@aol.com>  
**Sent:** Friday, October 14, 2016 3:00 PM  
**To:** Karen Mitchell  
**Subject:** Fwd: Harpers Point  
**Attachments:** HarpersPointeChangeform10-18-2016.docx; ATT00001.htm

Karen

Please include this support for Tuesday October 18 City Council meeting at 7:30pm... He had incorrect email address.

Thank you

Sent from my iPhone

Begin forwarded message:

**From:** Winevine@aol.com  
**Date:** October 14, 2016 at 1:42:45 PM EDT  
**To:** kmitchell@cityofpowell.com, kjschnet@aol.com  
**Subject:** Harpers Point

Attached is the form that shows that Kim and I are for the new zoning and Harpers Point.

Please consider also that we have more of a reason to be against this project if there were reasons, There are not,

We own the corner lot in Downtown Powell, ( Kimberlys' Diamond Corner ) **for 30 years.**

We feel this is a positive asset to our community. please approve,

Ralph 614-570-4410  
Kim 614-436-GOLD (4653)

Attachment for consideration when you vote.

Send this form after signing.

Email: kmitchell@cityofpowell.us, kjschnet@aol.com

Date: October 10, 2016

Name: Elaine Albrecht

Address: 8023 Coldwater Dr., Powell, OH 43065

Zoning Change to Downtown Residential for Harper's Pointe Cluster Home Community.

I am in favor of **changing** from Commercial to Downtown Residential for the Harper's Pointe Cluster Home Community. The overall impact is positive for the city and adds a draw to empty nesters that are looking for this type of living. The impact is positive for growth and development in Downtown Powell. This is what our city needs!

Signature: Elaine Albrecht

Date: 10/10/2016

Send this form after signing.

Email: [kmitchell@cityofpowell.us](mailto:kmitchell@cityofpowell.us), [kjschnet@aol.com](mailto:kjschnet@aol.com)

Date: 10/07/2016

Name: Karen Weber

Address: 3940 Blue Water Loop  
Powell, OH 43065

Zoning Change to Downtown Residential for Harper's Pointe Cluster Home Community.

I am in favor of **changing** from Commercial to Downtown Residential for the Harper's Pointe Cluster Home Community. The overall impact is positive for the city and adds a draw to empty nesters that are looking for this type of living. The impact is positive for growth and development in Downtown Powell. This is what our city needs!

Signature: Karen Weber

Date: 10/7/16

Send this form after signing.

Email: [kmitchell@cityofpowell.us](mailto:kmitchell@cityofpowell.us), [kjschnet@aol.com](mailto:kjschnet@aol.com)

Date:

Name:

Address:

**Zoning Change to Downtown Residential for Harper's Pointe Cluster Home Community.**

I am in favor of **changing** from Commercial to Downtown Residential for the Harper's Pointe Cluster Home Community. The overall impact is positive for the city and adds a draw to empty nesters that are looking for this type of living. The impact is positive for growth and development in Downtown Powell. This is what our city needs!

Type Name Here:

Date:

October 12, 2016

Mr. Brian Lorenz  
City Hall in Powell  
Mayor  
47 Hall Street  
Powell, OH 43065

Dear Mr. Lorenz:

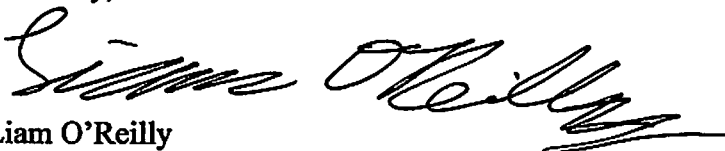
I am writing to you today as a member of the Powell community who has noticed a problem within the community. It involves a daily traffic problem at the intersection of N Liberty Street and E Olentangy Street in downtown Powell. In the afternoon, when there is a great deal of traffic passing through town, it often gets backed up on N Liberty Street. This is due to a person trying to turn left against oncoming traffic, which means they have to wait until an opening present itself. This means that not as many cars get through the light, causing traffic to back up.

I am writing to see if you could implement a "no left turn" policy at that light during certain times in the afternoon. I believe that this would allow traffic to move steadily through downtown Powell, creating less traffic backups. This would mean that it would take less time for people to make their way through town.

In regards to whether the no left turn policy would work, I believe it would work smoothly. I believe this because the other road at the intersection, E Olentangy Street, already has drivers following this during certain hours in the afternoon. During this time, traffic is not as backed up going in that direction. This is because the maximum number of cars gets through each light cycle, because traffic is not being prohibited by someone trying to make a left turn.

I believe that implementing the "no left turn" policy on N Liberty Street would allow traffic to move more smoothly in the afternoon. This would make my drive home from school, along with many other patrons' commutes, a lot shorter. I have no doubt that this policy would help ease traffic in the afternoon. If you could let me know if this is possible, I would appreciate it.

Sincerely,

A handwritten signature in black ink, appearing to read "Liam O'Reilly". The signature is fluid and cursive, with a long horizontal stroke at the end.

Liam O'Reilly  
3491 Village Club Dr.  
Powell, OH 43065



I. **Article 6, § 6.06(B) of the Charter does not allow City Council to avoid its responsibility to pass on the Planning and Zoning Commission's recommendation to approve Ordinance 2016-44.**

Section 6.06(B) states: "Ordinances rejected or repealed by an electoral vote shall not be re-enacted, in whole or in part, except by an electoral vote."

Ordinance 2016-44 is not an "ordinance rejected or repealed by an electoral vote." It is an independent, newly proposed ordinance that has gone through the zoning process set forth in § 1131.12 of the Zoning Code. This Ordinance is not an amendment, a reconsideration of, or a reenactment of a previously "rejected or repealed" ordinance.

Ordinance 2015-18 is not only a different ordinance on its face from Ordinance 2016-44, but the substance of the two ordinances is also completely different. This was clarified in the August 10, 2016 Staff Report of the Planning and Zoning Commission:

"In order to bring the proposal back before P&Z the applicant is required to make substantial enough changes to be considered a new application. The developer has since made the necessary changes to the initial proposal in order to bring it back before P&Z for review. To ensure the proposal meets the substantial change test, the city's Law Director provided a verbal determination to ensure it indeed meets the criteria to bring it back before P&Z."

Among other things, changes in the "new application" include:

- **Zoning** – Property is currently zoned Planned Commercial (PC) and Residential (R); Ordinance 2016-44 seeks to have the property rezoned a Planned Residence (PR) within the Downtown Residential (DR) District. (Staff Report, Aug. 10, 2016, at p. 1.)
- **Ownership** – "Before it was going to be condominium type ownership. Now, it is proposed for fee-simple single family lots with a HOA maintaining the yards and common areas." (Staff Report, Aug. 10, 2016, at p. 1.)
- **Different Unit Structure and Layout** – Prior 2015 application was for 47 single family condominium homes. The current 2016 application is for 48 single family condominium homes with a large pond in the middle. Further, "the entryway has changed and now includes a new home." (Cf. Ordinance 2015-18; Staff Report, Aug. 10, 2016, at pp. 1-2.)
- **Different Access** – "The most substantial change is that the proposal no longer has a road going through the development and through the Powell Center plaza to the west to Grace Drive." (Staff Report, Aug. 10, 2016, at p. 1.)

It is clear from the above and from the City of Powell's own admissions that Ordinance 2016-44 is substantively different from that of Ordinance 2015-18 such that it cannot be considered a "reenactment." Having been presented with a new ordinance, City Council must vote on it pursuant to its own charter (see Charter, § 1131.12) and the process City Council followed when it voted on 2015-18. City Council cannot rely on Article 6, § 6.06(B) to avoid voting on Ordinance 2016-44.

**II. City Council cannot abdicate its duty to vote on Ordinance 2016-44 by referring Ordinance 2016-44 directly to the voters.**

Both the City's Charter and the Zoning Code delegate the responsibility to zone and re-zone property within the City of Powell to City Council. Under the City's Charter, City Council has an express duty to "[r]egulat[e] ... the use of private real estate in the City by establishing zones, limiting the use of each zone and limiting the height of buildings and the intensity of land use." (Charter, § 4.07(c).) The Zoning Code expressly requires City Council to either adopt, amend, or deny Ordinance 2016-14. (Zoning Code, § 1131.12 ("Within thirty days after the public hearing required in § 1131.11 or such longer period as is determined to be appropriate by Council, Council shall either adopt or deny the recommendation of the Planning and Zoning Commission or adopt some modification thereof." (emphasis added).) There can be no argument that the City Charter and Zoning Code charge City Council with the responsibility to approve re-zonings.

City Council cannot abdicate its legislative responsibility over re-zonings and amendments to the zoning map. *See, e.g., Columbus v. State Emp't Relations Bd.*, 29 Ohio Misc. 2d 35, 42, 505 N.E.2d 651, 659 (Ct. Com. Pl. 1985) ("To abdicate the authority to make laws is unconstitutional . . . [.]") (emphasis added) (citing *Green v. State Civ. Serv. Comm.* (1914), 90 Ohio St. 252, 107 N.E. 531)); *City of Norwood v. Horney*, 161 Ohio App. 3d 316, 332 (Ohio Ct. App., Hamilton County 2005) (overruled on other grounds) ("Where the final decision to exercise legislative authority rests with the municipality's city council, then there can be no delegation of municipal legislative authority." (emphasis added)); *Cleveland v. Piskura*, 145 Ohio St. 144, 156 (1945) ("Insofar as the functions of the city of Cleveland are legislative, they are vested in the city council and that body cannot delegate the exercise of those functions to any other authority." (emphasis added)).

Neither the Charter nor the Ohio Revised Code provide any mechanism for the electorate to replace City Council and to approve, amend, or deny a recommendation by the Planning and Zoning Commission in the first instance.

Email: [kmitchell@cityofpowell.us](mailto:kmitchell@cityofpowell.us);  
[kjschnet@aol.com](mailto:kjschnet@aol.com)

Date: 10 14 16

Name: Ralph Renninger

Address: 1 North Liberty St  
Powell, 43065  
*Kimberly's Diamond Corner*

In my opinion this will help our city and area, kind of awful there even needs to be a discussion. This is far better than a commercial use. Any questions call me at 614-570-4410

Zoning Change to Downtown Residential for Harper's Pointe Cluster Home Community.

I am in favor of **changing** from Residential & Commercial to Downtown Residential for the Harper's Pointe Single Family Home Community. The overall impact is positive for the city and adds a draw to empty nesters that are looking for this type of living. The impact is positive for growth and development in Downtown Powell. This is what our city needs!

Signature: \_\_\_\_\_ Ralph Renninger    [winevine@aol.com](mailto:winevine@aol.com)

Date:     \_\_\_\_10-14-16

Send this form after signing.

Email: kmitchell@cityofpowell.us  
kjschnet@aol.com

Date: October 12 2016

Name: David L Lamp

Address: 59 Traditions Way

Email: Powell OH 43065

**Zoning Change to Downtown Residential for Harper's Pointe Single Family Home Community.**

I am in favor of changing from Residential & Commercial to Downtown Residential for the Harper's Pointe Single Family Home Community. The overall impact is positive for the city and adds a draw to empty nesters that are looking for this type of living. The impact is positive for growth and development in Downtown Powell. This is what our city needs!

Signature: 

Date: 10/12/16

October 12, 2016

*VIA EMAIL TO: ghollins@fbtlaw.com*  
Eugene Hollins, Esq.  
Law Director, City of Powell  
Frost Brown Todd  
10 W. Broad Street Suite 2300  
Columbus, OH 43215

**RE: Submission of Ordinance 2016-44 to Powell Electors**

Dear Mr. Hollins:

As you know, I appeared before the Powell City Council on September 6, 2016 and October 4, 2016 to address Ordinance 2016-44 and Len Pivar's re-proposal for a high-density housing development at 2470 Powell Road. Through various legal entities, Mr. Pivar proposed virtually the exact same project last year. Council unanimously approved rezoning and the final development plan for the project on May 19, 2015 through Ordinance 2015-18. Of course voters then rejected Ordinance 2015-18 on Election Day 2015, following the submission of a referendum petition to the City.

When I appeared at Council on September 6 and October 4, I explained that, if Council approves Ordinance 2016-44, Powell voters must also approve the ordinance through an election before it may take effect. Article 6, Section 6(B) of the Powell Charter provides as follows: "Ordinances rejected or repealed by an electoral vote shall not be re-enacted, in whole or in part, except by an electoral vote."

Because Ordinance 2016-44 would re-enact Ordinance 2015-18 "in whole or in part," it must be submitted to voters under Powell Charter Art. 6, § 6(B) if Council approves it. Ordinance 2016-44 re-enacts Ordinance 2015-18 in whole or in part because it would rezone the land at 2470 Powell Road and Ordinance 2015-18 also attempted to rezone the land at 2470 Powell Road. Simply put, voters rejected rezoning that land in 2015 and they are entitled under the Charter to vote on future rezoning of that land.

More fundamentally, Ordinance 2016-44 must be submitted to voters if Council approves it because it rezones land for the purpose of building the same high-density housing project that voters already rejected in 2015. Without question, Mr. Pivar's re-proposed plan is virtually identical to the voter-rejected plan with the exception of three superficial changes: it adds another residence to the high-density project, substitutes a homeowners' association for a condominium association, and eliminates a short

connector road.<sup>1</sup> **Please be honest**; no objective and reasonable person could honestly say that Ordinance 2016-44 is not re-enacting Ordinance 2015-18, because the Ordinance rezones land for virtually the same project that voters rejected at the 2015 Election.

Upon my review of Ordinance 2016-44, I was surprised by the absence of language submitting the Ordinance to Powell electors on an election ballot if Council approves it. I am also puzzled by your failure to publicly advise Council that Ordinance 2016-44 must appear on the ballot if Council approves it. At both the September 6 and October 4, 2016 Council meetings, I explained that the Ordinance must appear on the ballot before it may take effect, yet you have failed to publicly advise Council accordingly.

Have you advised or will you advise Council to perform its clear legal duty under Powell Charter Art. 6, § 6(B) to submit Ordinance 2016-44 to Powell electors, if Council should approve the Ordinance? In addition, if Council approves Ordinance 2016-44 and fails to immediately submit Ordinance 2016-44 to electors, do you plan to perform *your* clear legal duty under R.C. 733.58 to seek a writ of mandamus to compel Council to submit the Ordinance to electors?<sup>2</sup>

Please notify me as to your position on these matters as soon as possible, as I plan to enforce the law through litigation if you and/or Council shirk the clear legal duties described above. I have not yet retained counsel for such an action because the law is clear and I am hopeful that I will not have to file suit. As a result, you have no ethical bar to discussing this matter with me.

Thank you for your attention to this matter.

Best regards,

*/s/ Brian Ebersole*

Brian Ebersole  
215 Squires Ct., Powell, Ohio 43065  
brianebersole@msn.com

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<sup>1</sup> See, Thomas Gallick, *Developer keeps sights set on Powder Room*, THISWEEK NEWS, Aug. 17, 2016, available at: <http://www.thisweeknews.com/content/stories/olentangy/news/2016/08/11/developer-keeps-sights-set-on-powder-room-spot-WB-TG.html>.

<sup>2</sup> R.C. 733.58 provides the following: "In case an officer or board of a municipal corporation fails to perform any duty expressly enjoined by law or ordinance, the village solicitor or city director of law shall apply to a court of competent jurisdiction for a writ of mandamus to compel the performance of the duty."

**Karen Mitchell**

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**From:** Valerie Hinterschied <zabek1@aol.com>  
**Sent:** Tuesday, October 18, 2016 6:52 PM  
**To:** Brian Lorenz  
**Subject:** Powder room development

Hi,

My name is Val Hinterschied and I live in Olentangy Ridge. My husband Eric and I both support the proposed development on the Powder Room property.

Thanks,

Val Hinterschied

Sent from my iPhone

## Karen Mitchell

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**From:** Megan Canavan  
**Sent:** Friday, October 07, 2016 2:28 PM  
**To:** Karen Mitchell  
**Subject:** FW: New submission from Contact

**From:** mcanavan=cityofpowell.us@mg.buckeyedev.com [mailto:mcanavan=cityofpowell.us@mg.buckeyedev.com] On Behalf Of mcanavan@cityofpowell.us  
**Sent:** Friday, October 07, 2016 2:22 PM  
**To:** Megan Canavan <MCanavan@cityofpowell.us>; sarah@buckeyeinteractive.com  
**Subject:** New submission from Contact

### Name

Nick Hughes

### Address

2392 Wildcat Run CT  
Powell, Ohio 43065  
United States  
[Map It](#)

### Phone

(614) 546-8572

### Email

[nickehughes@gmail.com](mailto:nickehughes@gmail.com)

### Concerning

Development

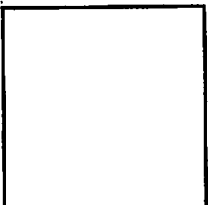
### Message

I wanted to leave a comment that I hope will make its way to the mayor. I think the Murphy extension was well worth the expense and has laid the foundation for another simple change. NO LEFT TURNS at 750 and Liberty, ever. This would create a flow of traffic that would challenge the flow of 4 lanes. With the new extension, you have given options to all left turn scenarios:

- 1) Heading South on Liberty, must use Grace.
- 2) Heading North on Liberty, must use Murphy.
- 3) Heading East on SR 750, can use Murphy or Grace.
- 4) Heading West on SR 750, must use Grace.

Please consider this change as adding anymore lanes to the area will never happen, something like this would be bold, much appreciated, and I believe, very effective.

Thank you for reading,  
Nick Hughes





## Karen Mitchell

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**From:** Tim Wheeland <wheelandt@cs.com>  
**Sent:** Tuesday, October 18, 2016 1:53 PM  
**To:** Brian Lorenz  
**Cc:** olentangyridge@gmail.com; kawheeland@aol.com; WheelandT@cs.com  
**Subject:** Powder Room Final Reading on 10/18/2016...

Dear Mayor Lorenz,

I will not be able to attend the City Council meeting on October 18th due to a prior commitment. I hope that you will accept this email with my comments regarding the development of the old Powder Room site -- and make note of it as you see fit.

As I stated at the last meeting, I am a resident of the Olentangy Ridge subdivision and the development site is about four lots from my property (217 Paddock Circle E.). I strongly support the development plan that is being proposed due to a number of factors:

1. The existing site is in disarray. The buildings are run down, the landscaping looks horrible, the walkways need repaired, and in general it just looks like a mess. It has looked this way for a number of years -- and it is time to move forward and get things cleaned up.
2. The developer now owns this property. He can do what he wants with it - under the existing zoning ordinances. I feel that the other options that the developer has are not conducive to the neighborhood or to downtown Powell. We do not want to see additional storefronts, apartments, office buildings, car lots, pawn shops, or any of the other "commercial" type establishments that the developer currently has the right to build. I am happy that the developer has continued to work with the neighbors and city council on bringing this option to the table. It will be our own fault if something else is developed there.
3. Traffic in downtown Powell is getting better -- it still has room for improvement -- but I feel that with the "Keep Powell Moving" plans that are currently in place it will continue to improve over time. I do hope that we can revisit the connecting road between Beech Ridge Drive to Grace Drive. I believe this will help with the traffic flow to / from the Olentangy subdivision, as well as help with the traffic from the new development. I understand this is not something that is currently on the table as part of the development -- but I hope that City Council and the developer can work something out at a later date to make that happen.
4. The additional revenue from this development (both for TIF funds and the school district taxes) are significant. We should take advantage of these new funds to continue improving our local community.
5. While the opposition to this development has made their feelings known -- they have not provided any suggestions on what should be developed there. We cannot continue with the status quo. We need to move forward and get this project done -- everyone will benefit... the property will be cleaned up, new funds will be made available, and new homes will be built that help transition from neighborhoods to downtown Powell.

It is time for the opposition to put up or shut up. What do they want built there? What compromises can be made to get them on board? Silence on their part is not an option. What will they do if / when the developer decides to implement something that he already has the rights to build? Will they attempt to block that? Will Powell end up in court yet again? It is time to put this craziness to an end.

I would like to take this time to thank you for letting the community know how we feel. I would also like to thank you (and the members of City Council) for the time you spend managing this great community. It is a great place to live -- and I hope that my schedule permits me to attend our City Council meetings on a more regular basis in the years to come.

Sincerely,

Tim Wheeland  
217 Paddock Circle E.

## Karen Mitchell

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**From:** McWilliams, Joanna S <joanna.mcwilliams@pncmortgage.com>  
**Sent:** Tuesday, October 18, 2016 1:40 PM  
**To:** Brian Lorenz  
**Subject:** RE: Harpers

Hi Brian,

I would love to attend tonight's meeting, however with a husband that travels constantly and two kiddo's under the age of eight, it can be problematic, so I regretfully won't be able to attend tonight's meeting.

However, I would like you and council to know as a resident of not only the Olentangy Ridge Community and Powell, I am in full support of the proposal regarding the Powder Room.

Thank you kindly for being so involved with your citizens and taking time to note our concerns and support.

Joanna McWilliams

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**From:** Jamie McWilliams [mailto:JMcWilliams@specialtychemicalsales.com]  
**Sent:** Tuesday, October 18, 2016 10:09 AM  
**To:** lorenz@cityofpowell.us; McWilliams, Joanna S <joanna.mcwilliams@pncmortgage.com>  
**Subject:** Harpers

Brian

Am out of town tonight or would be at meeting. I live on Glen Village Ct in Olentangy Ridge. Wanted to theow my support behind the approval of this proposal. This will be a great way to use the space that is currentlg a huge eyesore.

Thank you for your time in reading this.

Jamie McWilliams  
Specialty Chemical Sales Inc  
614-424-9851

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Email: kmitchell@cityofpowell.us;  
kjschnet@aol.com

Date: 10-17-16

Name: Al and Gail Faber

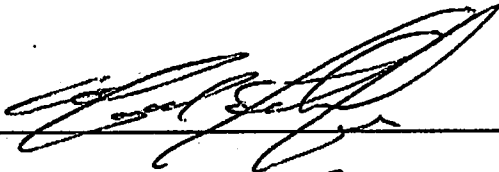
Address: 55 Beech Ridge Dr, Powell, OH 43065

Email: alfredcfaber@gmail.com

Zoning Change to Downtown Residential for Harper's Pointe Single Family Home Community.

I am in favor of **changing** from Residential & Commercial to Downtown Residential for the Harper's Pointe Single Family Home Community. The overall impact is positive for the city and adds a draw to empty nesters that are looking for this type of living. The impact is positive for growth and development in Downtown Powell. This is what our city needs!

Signature: \_\_\_\_\_



Date: \_\_\_\_\_

10-17-16