



Planning & Zoning Commission
Donald Emerick, Chairman
Bill Little, Vice Chairman
Trent Hartranft Joe Jester

Shawn Boysko

Ed Cooper

Shaun Simpson

MEETING MINUTES August 14, 2019

A meeting of the Powell Planning & Zoning Commission was called to order by Chairman Emerick on Wednesday, August 14, 2019 at 7:00 p.m. Commissioners present included Donald Emerick, Shawn Boysko, Ed Cooper, Trent Hartranft, Joe Jester and Bill Little. Shaun Simpson was absent. Also present were Rocky Kambo, Assistant Development Director; Leilani Napier, Planning & Zoning Clerk; and interested parties.

STAFF ITEMS

None.

HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA

Chairman Emerick opened the public comment session. Hearing no comments, he closed the public comment session.

APPROVAL OF MINUTES

MOTION: Commissioner Boysko moved to approve the minutes of July 10, 2019. Commissioner Little seconded the motion. Chairman Emerick abstained. By unanimous consent of all other Commission members present, the minutes were approved.

EXTENSION OF DEVELOPMENT PLAN APPROVAL

Applicant: Day Dream Inn, LLC
Location: 80 E. Olentangy Street
Zoning: (DB) Downtown Business District
Request: To review an extension request for a previously approved plan.

Gene Rodriguez, Day Dream Inn LLC, 80 E. Olentangy St., said I have been here several times. I received the original approval in 2015. I planned at that time to get this done. The Commission is familiar with the various explanations I've given over the last few years. My health has recovered substantially. I live in the house. This isn't a real economic pressure to wait until I have a good deal. I came before the Commission the last time with a fellow I had met 2 days previously and after the meeting, I never saw him again. Developers are quite busy right now and my project is small. I would hate to give the house away to someone to just get rid of it. It is a beautiful place and Powell is a beautiful town. I have been here for 30 years. I like Powell and I think the Day Dream Inn could make Powell better. I have a lot invested in this and to lose the approvals for no good reason doesn't seem fair. Unless there is some over-riding urge to do something with this property, aside from what I am proposing, why don't we set the clock back? Give me 2 years. Rome wasn't built in a day. I can't promise you I'm any more ready to move forward now than I was the last time but I will keep trying.

Mr. Kambo reviewed the Staff Report (Exhibit 1).

Staff recommends a six (6) month extension to hire a traffic engineer to analyze how the intersection would affect the driveway entrance.

Chairman Emerick opened this item to public comment. Hearing no public comments, he closed the public comment session and opened the floor for comments and questions from the Commission.

Commissioner Hartranft said the way the proposal sits now isn't a burden to the City. I love the house. The applicant is a current resident; the property isn't vacant. I don't have any problem extending until the applicant can find an

investor/someone to do the project. I am for a twelve (12) month extension. I understand the traffic study is being requested but the traffic is due to things the City has done, not due to something the resident has done. The traffic study could be done at a later time.

Commissioner Little said I share the same opinion. The situation would be different if a project had been started and then stopped. Talks took place about Scioto Street being extended across Liberty Street and over to Grace Drive. Ten (10) years ago, I went before Council and recommended left turns be eliminated at the four corners. Ten years later, it's being studied. Putting the burden on the homeowner to do a traffic study at this point isn't fair. We might consider the applicant coming before Planning & Zoning when he is ready to begin the project. If we think a traffic study is needed at that time, we could have it done. Having the applicant spend money for a traffic study right now isn't going to help anything. Mr. Kambo asked if Planning & Zoning would want the applicant to come back with a Certificate of Appropriateness at that time. Commissioner Little said sure. This is a gem of a house and property. He has a nice dream and I hope he has a chance to realize his dream. I'm in favor of a year or 2-year extension. It isn't such a big deal at this point.

Commissioner Cooper said if I remember correctly, the last time Mr. Rodriguez was here the Commission gave a six (6) month extension. With the advent of the four corners potentially going to a left turn ban, it will increase the traffic at the corner where this property is. The applicant has had nearly 5 years to come up with the financing to start this project and it hasn't happened yet, for a variety of reasons. I would be disinclined to give another extension. If the applicant can get his financing and engineering together, he can come back. For now, I am disinclined to vote for an extension.

Commissioner Jester said I have looked at the traffic at Grace Drive. It has increased significantly. The whole dynamics of this area have changed. I'm not sure what all of these changes are going to do to this project. I said I wouldn't approve any more extensions at the last hearing. After looking at the traffic now, I'm not sure I'm inclined to give an extension. I know and understand the applicant has been through a lot. I think the applicant might need to come up with another plan since a lot is happening in this area.

Commissioner Boysko said I do agree with Commissioner Jester regarding there is a lot going on in the area of this property now. There is going to be a lot of new activity, a lot of new traffic. The applicant is limited on what he can do. He is land locked. The ability to change the curb-cut location is impossible. The placement of the driveway is probably the best and only location. Restricting access and not allowing left turns out of this property would make sense. A traffic study might warrant this, whether done now or in the future. Do we place a condition regarding the site's access, do we deal with it administratively, is it handled during the site approval process or do we handle as a zoning function with a Certificate of Appropriateness? Mr. Kambo said you can't quote me on the conditions put on before but I'm almost certain something was put in saying the applicant must meet City Engineering requirements. That condition alone would handle this. Commissioner Little said I think we only allowed a right-in/right-out. Commissioner Boysko said I can't recall. It has been so long. I'm caught in the middle. I agree with Commissioner Hartranft and Little's comments. The Commission likes the project, the use and the re-development of the site. The project is a great fit for this property. The Commission does need to see some progress. I'm willing and open to granting an extension but we need to put some limits on it. The applicant needs to show some progress. We need to see the applicant is getting financing in place and getting a partner in place. We need a clear definition of what the progress needs to be. Construction needs to start. We don't want to be in this same situation a year from now.

Chairman Emerick said I am in the same spot as Commissioner Boysko. I understand the problems the applicant has had and we are trying to be as supportive as we can be. I agree with Commissioner Hartranft and Little that this isn't really causing any heartache to grant an extension. However, we do need to see progress. I would be in favor of a six (6) month extension to allow the applicant to show some progress. The project needs to get moving or be brought to a close. The request can't remain open forever.

Commissioner Little queried the Commission on who is in favor of an extension and who isn't; the length of an extension and what will be required as criteria to show progress.

Chairman Emerick said a six (6) month extension and progress would be a definite step towards having a partner and financing. Not a traffic study.

Commissioner Cooper said the City has had enough traffic studies done. We probably have enough studies on file to figure out what is going on at this intersection. I might be inclined to a six (6) month extension provided this is the final extension and we see definite movement towards having an investor and financing.

Commissioner Jester said he will concur with what Commissioner Cooper said. However, this needs to be the last extension.

Commissioner Boysko said a term sheet from a bank saying they have agreed to finance the project would be something we could accept. I would like the progress to be better defined. I don't want to be in the same situation 6 months from now. Mr. Rodriguez said he could provide this.

Commissioner Hartranft said he would like a longer extension.

Commissioner Boysko said I would be OK with a year extension if the applicant is progressing at this point.

Commissioner Jester asked what the applicant has to say. Mr. Rodriguez said a year should do it. I'm sure I won't be back in this position again. My original plan was to raise the capital from investors. For many reasons, I put this aside. I can still do this successfully within a year. You can look at the size of the escrow to decide if I'm progressing. If I continue to put money into the escrow, it means I'm making progress. Commissioner Boysko said this could go on for years. Mr. Rodriguez said I am sure I can find a way to show the project is underway.

Commissioner Jester asked if the applicant should come back before the Commission in 6 months and give an update. Chairman Emerick said we wouldn't really gain anything from this. We just need to see positive progress.

Commissioner Cooper asked if Mr. Rodriguez is still buying the property on a land contract. Mr. Rodriguez said yes. Commissioner Cooper said so Mr. Rodriguez doesn't own the property. Mr. Rodriguez said I have paid off most of the mortgage.

MOTION: Commissioner Little moved to approve an Extension Request for a previously approved Final Development Plan for the property located at 80 E. Olentangy Street as represented by Day Dream Inn, LLC, subject to the following condition(s):

1. That the extension shall be for twelve (12) months from July 15, 2019, and
2. That the applicant shall demonstrate a valid commitment within the twelve (12) month extension that a pathway to completion exists; and
3. That the Planning & Zoning Commission shall accept a proof of financing as an indication of said commitment.

Commissioner Boysko seconded the motion.

Vote: Y – 4 N – 2 (Cooper, Jester) (Simpson absent)

SKETCH PLAN REVIEW

Applicant: Redwood USA, LLC
Location: 3041 Home Road
Existing Zoning: (PI) Planned Industrial District – City of Powell & Liberty Township
Proposed Zoning: (PC) Planned Commercial District
Request: Review a Sketch Plan proposal to annex two (2) parcels from Liberty Township into the City of Powell and rezone the resulting four (4) contiguous parcels from (PI) Planned Industrial to (PC) Planned Commercial in order to construct a multi-phased, mixed-use development, which includes multi-family, office and assisted living on approximately eight (8) acres.

Commissioner Boysko recused himself.

Steve Martin, Attorney, Manos, Martin & Pergram Co., 50 North Sandusky Street, Delaware, said our request isn't consistent with the City's Comprehensive Plan. This property was originally zoned Planned Residential, part of the Woods of Powell. There is only one access from Home Road. There is wooded area and wetlands with very bad access. Redwood is in contract to purchase tracts A, B and C. We have filed a petition for tract C to be annexed. This gives the City a corridor north for annexation. The property, though zoned industrial in 2006, has sat vacant. We have met with Staff since the last Sketch Plan review and looked at a lot of potential users. We have expanded what we call the Planned Commercial portion of the property. The assisted living portion has been moved back and commercial is showing closest to Home Road. The overpass creates problems for office warehouse use. We think this current plan will work. It brings income tax into the City and it provides the only potential corridor to the north.

Todd Foley, POD Design, 100 Northwoods Blvd., reviewed Exhibit A1. At the last meeting, we heard the concern about changing the industrial use into residential use. We have made some changes to create some middle ground and provide some commercial use at the front of the property. The front 11.5 – 12 acres could be set aside as commercial use. We still think a senior living component is a viable use and we are exploring this. This resulted in a loss of Redwood units. We are down to 325 units. We will still preserve the stream crossings and wetlands. Approximately 43% of the site will be open space. We will bring more complete architectural elevations to the next review. There is a lot of flexibility in unit types. We have provided some income tax information for the Redwood portion. We will need to bring back information on the commercial portion. There could be a positive net effect for the City. Our civil engineer provided us with an analysis on how the access point would be prohibitive for industrial use. We have numerous factors

to consider as we try to preserve the goals of the City.

Mr. Kambo reviewed the Staff Report (Exhibit 1) and the Architectural Advisor's comments (Exhibit 1A).

Liberty Township has blocked our northward growth corridor. This made the City have to re-think our future development patterns. This property is one of our last commercial/industrial use sites. We need to take a hard look at this. Staff is happy to see commercial added to the proposal. The Architectural Advisor's comments support more commercial area. It is important for Planning & Zoning and the City to determine how much commercial needs to be maintained. Staff believes the proposal could move on to the Preliminary Development Plan review. Staff urges the applicant to come back with an analysis showing what more commercial use would provide.

Commissioner Hartranft asked Mr. Kambo to talk about the approved Liberty Township Planned Overlay District (POD). Mr. Kambo showed where the POD covers. The City's northward growth corridor is a part of this POD. Commissioner Hartranft said the area covers everything north of the high school. Mr. Kambo said yes, including the site where Schottenstein Real Estate is proposing apartments. Mr. Kambo showed an area which could potentially be annexed. Commissioner Cooper asked what made Mr. Kambo say this. Mr. Kambo said if the owners of the land wanted to be annexed into the City; the City could annex the land. It is the landowner's choice. The City never goes after land. Commissioner Little said we have an extremely well thought out Comprehensive Plan. In my opinion, the Township is playing games. But, should the Township's leadership change, they could resend their overlay. Mr. Kambo said he couldn't address that. It is a landowner's right to ask to be annexed. The City accepts land. The City doesn't go get land.

Chairman Emerick opened this item to public comment. Hearing no public comments, he closed the public comment session and opened the floor for comments and questions from the Commission.

Jim Frey, Real Estate Advisor, 5311 Gillumway, Westerville, said we would love to set aside 20 acres for commercial but we are having trouble getting 11 acres sold. To think 20 acres could be sold and developed commercial probably isn't going to happen. It hasn't happened to date. Assisted living people want to be up front, not pushed back.

Commissioner Cooper said he is still looking at the Comprehensive Plan and regardless of what we wish or think could happen in the future, our northward growth is limited. I am disinclined to change the zoning from industrial to commercial. I don't have anything against this project. I think we need to preserve our last piece of industrial property in Powell.

Commissioner Jester asked Mr. Kambo to show the Architectural Advisor's comments again, specifically Scenario 2. How many apartments will the project have with this scenario? Mr. Foley said a little under 200. Commissioner Jester said I want to preserve as much commercial as we can. I like the idea of the commercial being 2/3's of the project. How many apartments would there be with this? Mr. Kambo said about 200. Commissioner Jester asked if the business plan could work with this many apartments. Mr. Martin said no. Mr. Martin said I have someone here from HER Realtors. He works with Redwood throughout the Midwest. No senior living facility will want to be 1,500 feet from the nearest road. Redwood won't buy this property and annex the property unless they can have the business number of apartments. The 200 won't work. Commissioner Jester said this was his question. I wanted to know if it would work. Mr. Martin said it wouldn't work. Commissioner Jester asked the applicant if they have talked with the City's Architectural Advisor about what he is suggesting. Mr. Foley said this is the first we have seen this. Mr. Kambo said the Architectural Advisor's comments have been on the website. Commissioner Jester said I don't want to give up commercial but I also want a plan which will work. I like the amount of commercial shown in the Architectural Advisor's comments. I want the applicant to have a plan which works for them.

Jim Frey, Real Estate Advisor, 5311 Gillumway, Westerville, said if you look down Sawmill Road, how much commercial property do you see which is back 1,800 feet. None. You are asking us to do something that doesn't work. Commissioner Jester said I am wondering why our Architectural Advisor made this recommendation then. Mr. Frey said I'm not certain why. Commissioner Jester said our Architectural Advisor thinks this is a good plan. This is important to me. Mr. Kambo said I think our Architectural Advisor made this recommendation based on the comments the Commission made at the last meeting. He conceptualized this for the Commission's viewing. It wasn't to draw red line boundaries. It was more to add to the dialog. Commissioner Jester said this is where I stand and I wanted to know where the applicant stands. Mr. Frey said we stand by what we are showing tonight. This works for us. We are projecting \$140,000 a year in income tax. We will have private streets which the City won't have to maintain. Our neighborhoods require very little police service. Commissioner Jester said I would like the applicant to go back and see what else can be done, see if we can achieve all goals. I respect what the applicant is trying to do and I respect the City trying to maintain as much commercial as possible. Mr. Frey said you want a project that works.

Commissioner Hartranft said I like the project. The commercial area has been available at this location for 10 – 12 years. There hasn't been any type of interest. I understand the worries of giving up commercial but if this was such a hot commercial area and a hot market, the land would have been gone by now. I do want to keep the front part commercial. The applicant has made a good adjustment. I like their new concept. I'm supportive of the new plan.

Commissioner Little said our current funding/financing/tax base revenue generation for the City of Powell will not be sustainable if we don't have other revenue streams. Industrial is an ideal/traditional way to do this for many communities. I've worked in manufacturing for 37 years so I'm somewhat in favor of industrial development and recognize what it can do for a community. I'm also in the logistics business and I recognize this property is a little bit difficult to put a large-scale industrial operation on and manage the semi traffic, which would be necessary. I'm on the fence and going against my first inclination. I'm OK with moving this property out of the industrial zoning and into another approach for development. We put a lot of effort into a really good Comprehensive Plan. We spent a lot of money and planned it out well. The Township is playing some games. Everyone in the Township and the City, down the road, will recognize this is being done at the City's expense. We tried to account for what all of the Townships plan to do, add a lot of residents north of the City. We wanted to establish mixed-use pods north of the City so these new residents would have places to go to shop without driving to the City. We envisioned the intersection of Sawmill and Hyatts being a great place for one of those pods but the Township just approved a bunch of residential development in this location. I do think the applicant could develop a destination point with mixed-use in the front of the property. This would bring people from the future hospital and all of the new homes. Commercial in my mind is something which serves the community, not an office building. A mixed-use pod would draw people. If the applicant can see and understand this vision, I think something can be worked out. The City will be on a slippery slope if this property isn't annexed in. Hopefully a solution which makes everyone happy can be found. I encourage the applicant to look at this vision.

Chairman Emerick said I concur with Commissioner Little. This is where I'm at. Staff has recommended the applicant move on to a Preliminary Development Plan. The Commission concurs with this recommendation.

PLAT REVIEW

Applicant: Carriage Trail, Romanelli and Hughes Building Company
Location: 2770 Carriage Road
Existing Zoning: (PR) Planned Residence District
Request: To review a plat for a proposed residential subdivision consisting of 11 units on approximately 5.38 acres.

Matt Ackroyd, E.P. Ferris, 880 King Ave., Columbus, said this development was approved by Planning & Zoning. This is more of an administrative step in the process.

Mr. Kambo reviewed the Staff Report (Exhibit 1).

Staff comments cover the plat having an incorrect subdivision name. The subdivision name has been changed to Carriage Trail. This needs to be fixed on the plat. The street name should be labeled on the plat. A note needs to be showing on the plat that no direct access should be allowed to Liberty Road from Lots 9 and 10 and the private street. The right-of-way needs to be provided to allow for a future roundabout. Staff recommends approval with the two (2) conditions listed in the Staff Report. Commissioner Cooper asked if Mr. Kambo meant County or City. The condition in the Staff Report says County. Mr. Kambo thanked Commissioner Cooper for pointing this out. The condition reads correctly in the Staff Report.

Chairman Emerick opened this item to public comment. Hearing no public comments, he closed the public comment session and opened the floor for comments and questions from the Commission.

There were no comments or questions from the Commission.

Commissioner Little moved to approve a Plat Review for the property located at 2770 Carriage Road, also known as Carriage Trail, as represented by Romanelli and Hughes, subject to the following condition(s):

1. That the City Engineer shall have final approval over additional or amended notes, easements, rights-of-way, lot numbers, addresses, street names or other items the City Engineer feels is protective to the City and its residents; and
2. That the right-of-way shall be reserved and approved by the City Engineer on this plat for the future of any roundabout that would be designed by the County Engineer.

Commissioner Cooper seconded the motion.

Vote: Y – 6 N – 0 (Simpson absent)

PLAT REVIEW

Applicant: Morris Station, Romanelli and Hughes Building Company
Location: 185 N. Liberty Street
Existing Zoning: (R) Residence District
Request: To review a plat for a proposed residential subdivision consisting of 21 units on approximately 4.01 acres.

Mr. Kambo reviewed the Staff Report (Exhibit 1).

The Architectural Advisor had comments regarding the common access drive (CAD) which reminded us of the motion/conditions from February 13, 2019 (Exhibit 1B). Specifically, Condition #2 and #3. Staff recommends approval with these mentioned comments and the condition listed in the Staff Report.

Chairman Emerick opened this item to public comment. Hearing no public comments, he closed the public comment session and opened the floor for comments and questions from the Commission.

Commissioner Little asked if the plat clearly spells out the future extension of Depot Street. I know the plat shows Depot Street. What happens when someone buys the 2 lots right beside Depot Street and they say no one ever told me Depot Street was going to be extended? We were misled. Mr. Kambo said there is no vehicular access to be in effect until such time as the public street right-of-way is extended by plat, deed or easement. Commissioner Little said we need to make sure no one has a right to call foul. Mr. Kambo read Condition #10 listed in the February 13, 2019 motion/conditions (Exhibit 1B). The applicant has to put this sign up. Commissioner Boysko said they are building Depot Street. It isn't a future street. It is being built as a part of this development. Mr. Kambo said the stub is being built. The sign is to make sure people are aware the stub will be a future roadway. People won't be blindsided.

There were no other questions or comments from the Commission.

Commissioner Little moved to approve a Plat Review for the property located at 185 N. Liberty Street, also known as Morris Station, as represented by Romanelli and Hughes, subject to the following condition(s):

- 1. That the City Engineer shall have final approval over additional or amended notes, easements, rights-of-way, lot numbers, addresses, street names or other items the City Engineer feels is protective to the City and its residents.

Commissioner Cooper seconded the motion.

Vote: Y – 6 N – 0 (Simpson absent)

OTHER COMMISSION BUSINESS

Mr. Kambo said the State has recently allowed municipalities to make a determination on whether a fence or a pool cover is permissible as a protective barrier for pools in a residential neighborhood. A newer resident has submitted a request asking the City to consider removing the requirement for a fence and allowing an automatic pool cover. Staff wanted to bring this to Planning & Zoning's attention and ask if the Commission would like Staff to study this more and bring a recommendation before the Commission. It would be a Code change. Code changes must go before Planning & Zoning. Chairman Emerick asked for a poll.

Commissioner Hartranft said he would be interested in exploring.

Commissioner Little said his Home Owner's Association (HOA) specifically addresses this issue. A wrought iron fence is required. I have mixed emotions about this. I would hate for one of my kids to wonder into a pool area where someone forgot to cover the pool.

Commissioner Boysko said this came before the Development Committee and we had good discussions. Further research is definitely justified. The technology is out there to support the safety of this type of system. We might want to better define what type of system and make a prescriptive type of methodology for a pool cover. Maybe we can make it generic enough that many manufacturer's criteria could be used. We discussed what would happen if someone forgot to close the cover. It's no different than someone forgetting to close a fence gate and someone wondering in. The responsibility goes back to the homeowner.

Commissioner Jester said the technology is there. It is a complex issue. There are many different types of pool covers. Right now, I'm not inclined to move away from a fence. I haven't seen anything which compels me to change the Code. This does deserve a hearing.

Commissioner Cooper said it is worth further study. I never thought about a gate before. I thought most pools were fenced in and the only access was from the home. I am a bit concerned about someone forgetting to cover the pool.

I am open to more research and discussion. I would like to hear about other places who might have changed their Code.

Commissioner Boysko asked, as a matter of procedure, does Council need Planning & Zoning's approval? Mr. Kambo said Planning & Zoning makes a recommendation for Code change to Council. Council is the ultimate adopter of Code changes but Planning & Zoning makes a recommendation.

Commissioner Jester asked where the person is who has asked about this. Mr. Kambo said they have submitted a plan to the Building Department for review. The Building Department can't make a decision until the Code changes.

Chairman Emerick said it is worthwhile to at least investigate and discuss the possible change.

Commissioner Boysko said it is critical to distinguish between this particular type of pool cover and all other pool covers. There needs to be some clear distinction. The pool cover submitted isn't a cheap alternative to fencing. The homeowner has used this system in the past and they believe it is a superior system. The homeowner has kids and trusts the system. Chairman Emerick said it doesn't lessen the homeowner's liability.

Mr. Kambo said Staff will continue to research, look at other communities and bring this back.

Tracey Mullenhour, Zoning Inspector, Liberty Township, said Liberty Township is also having these discussions. We have 5 residents who are really pushing for just pool covers. There is a pool cover which is supposed to be superior in safety. It is operated by a keypad so kids can't operate. One issue we have come across is power outages. We have also heard this cover is so unique to the area that getting service takes weeks. If you decide to go with a pool cover only and it needs service, there would be no protection for a period of time. We have had 3 hearings to discuss. Our Zoning Commission is taking a long time. It is a difficult decision to make. There are a handful of residents pushing for this and then there are thousands who we don't know how they feel. We haven't taken the time to reach out to everyone, including the City of Powell. We would like to work with the City of Powell, as one community, as much as we can. We share a lot of borders. Neighbors with adjacent properties should be aware of whatever both of our jurisdictions decide. We follow the residential Building Department under Delaware County. Delaware County approved this. However, when we held the public hearing at the Township Zoning Commission level, a group of people opposed to the Code change showed up. The group represented several subdivisions who said if the Code change is passed, they will make arrangements to have the subdivisions require fencing. We have pulled this from all other proposed Code amendments and we have been asked by this group of residents to keep conversations moving. We are reaching out to the City of Powell to see if we can have joint discussions and get our thoughts together. The ultimate decision is up to the City's Council or the Township's Trustees.

ADJOURNMENT

MOTION: Chairman Emerick moved at 8:28 p.m. to adjourn the meeting. By unanimous consent, the meeting was adjourned.

DATE MINUTES APPROVED: September 11, 2019

Donald H Emerick 9/11/19 *Lelani Napier* 9/16/19

Donald Emerick Lelani Napier Date
Chairman Planning & Zoning Clerk

