



**CODE ENFORCEMENT REPORT**

*Report attached.*

**PLANNING AND ZONING COMMISSION**

***September 11, 2019 – Minutes attached.***

**PRELIMINARY DEVELOPMENT PLAN REVIEW**

Applicant: Andy Johanni  
Location: 8930 Liberty Street  
Zoning: (PC) Planned Commercial District  
Request: To review a Preliminary Development Plan to construct six (6) commercial buildings on approximately 4.44 acres.

- *Request reviewed and approved with conditions.*

**OTHER COMMISSION BUSINESS**

Proposed Code change to remove fence requirements for swimming pools and allow automatic pool covers.

- *Discussion held.*

**HISTORIC DOWNTOWN ADVISORY COMMISSION**

*No meeting held.*

**BOARD OF ZONING APPEALS**

*No meeting held.*

## September Code Enforcement Report 2019

Date	Violation Description	Address	Name	Phone	Notes	Resolved Date
9/12/2019	Driveway construction/extension wo permit	630 Woods Hollow Ln	Jimmy Beck & Joseph Bruscato			9/12/2019
9/12/2019	Landscaping violation	1140 Retreat Ln	Ron Benit		overgrown vacant parcel	



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

Shawn Boysko

Ed Cooper

Joe Jester

Shaun Simpson

## **MEETING MINUTES September 11, 2019**

A meeting of the Powell Planning & Zoning Commission was called to order by Chairman Emerick on Wednesday, September 11, 2019 at 7:00 p.m. Commissioners present included Donald Emerick, Ed Cooper, Trent Hartranft, Joe Jester, Bill Little and Shaun Simpson. Shawn Boysko was absent. Also present were Rocky Kambo, Assistant Development Director; Derick Stadge, Architectural Advisor; Karen Mitchell, City Clerk; and interested parties.

### **STAFF ITEMS**

Mr. Kambo advised the Commission there will be a second, optional meeting on September 25, 2019. The Retreat subdivision's deed and covenants are expiring. They will be coming in with a new Development Text.

### **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 Little moved to approve the minutes of August 14, 2019. Commissioner Cooper seconded the motion. Commissioner Simpson abstained. By unanimous consent of all other Commission members present, the minutes were approved as written.

### **PRELIMINARY DEVELOPMENT PLAN REVIEW**

Applicant:	Andy Johanni
Location:	8930 Liberty Road
Existing Zoning:	(PC) Planned Commercial District
Request:	To review a Sketch Plan to construct six (6) commercial buildings on approximately 4.44 acres.

Andy Johanni, Senior Vice President, Equity, said we met with City Staff after our last time before the Commission in December. We have made some changes. We have a daycare user for the building showing at the bottom of the plan who wants 10,000 SF. There used to be two (2) buildings. We combined the two (2) buildings into one (1). The green space to the west will be a fenced in play area. The buildings have been moved out a little at the request of Staff so there isn't just a straight line along the setback area. This provides more visual interest. We received comments from Staff this week about our submittal. We limited access westbound off Seldom Seen so there is no left turn into our site. There will be right-in, right-out and left-out only. No left-in. The other intersection will have a left-in, a right-in and a right-out. A pork chop will prevent a left turn out. The fire department asked for a larger radius at the left-in for fire trucks and for a fire hydrant onsite. A potential user has asked for solar panels on their roof. We would like guidance to know if we should put this in our Final Development Plan (FDP) or if we will handle this with Staff later, when the user is committed. Mr. Kambo asked if the solar panels would go on top of the daycare user's building. Or, which building would they go on? Mr. Johanni said it would be one of the buildings on the north property line or the building on the corner. Dr. Milton has expressed he might explore this. Mr. Kambo said he would address this in the Staff Report comments. Mr. Johanni said there is also a question about potentially placing an electric charging station on this site.

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

Mr. Kambo said the City and County are working together to put a traffic signal in at the "T" intersection of Liberty Road and Seldom Seen. The applicant needs to work with the City Engineer to address any concerns or changes which might need to happen to allow for this traffic signal. Staff wants to make sure nothing is built and then has to be torn down. Commissioner Cooper asked if it's going to be a roundabout or a traffic signal. Commissioner Simpson said I'm pretty sure it's a traffic signal. Chairman Emerick said the Staff Report says traffic signal. Mr. Kambo said there were conversations about a roundabout but it was determined a signal would be more cost effective. Staff recommends approval with the conditions listed in the Staff Report.

Mr. Kambo said I want to address Mr. Johanni's questions. The City is very much in favor of solar panels and charging stations. The City has solar panels and charging stations on City premises. Powell is Tree City USA, a very green City. Staff would like to see the designs for the solar panels in the FDP so the Commission can review. If the applicant is unable to have this information in the FDP, Staff could review or the applicant could come back before Planning & Zoning with a Certificate of Appropriateness. This is a prominent site so it will be important for the solar panels to be reviewed by the Commission. The City doesn't have anything in Code to address solar panels yet but more and more requests for solar panels might start coming through. The charging station idea is fantastic and Staff would really like to see one on site.

Mr. Kambo said there is a pathway that goes along the east side of this site. The applicant is going to continue the pathway northward. Staff would like to see the pathway connected to the walkway to provide connection to the development. The applicant should show how the pathway will maneuver through the pork chop area. Staff would like to add this as a condition.

Derick Stadge, Architectural Advisor, reviewed Exhibit 1A. I agree 100% with moving the buildings back. This helps the edge not be so regular. The ADA parking at the daycare is out there all on its own. Is this intentional? Mr. Johanni said yes, the daycare requested this but they are fine with moving it toward the center. Mr. Stadge said I like how the planting isn't lollipop plants but more organic and clustered. Wherever the tower element ends up should drive the final planting plan. The tower will be the iconic piece when traveling southbound on Liberty Road. The tower will compete with some of the larger plants shown. Mr. Johanni said this isn't a hill I want to die on. I'm OK with either way. We placed it on the corner because the expansion is likely going to happen within a handful of years. We thought the expansion on one side and the tower on the other side would help balance the building. If you feel otherwise, we will change it. Mr. Stadge said if the tower is on the northwest corner, and I appreciate the jester being made with an iconic piece, I think the tower could be a little taller. The tower will get lost. This is why I was pushing the tower to the northeast corner. It is just a suggestion and not a hill I'm looking to die on. I understand the need for an enclosure around the daycare. No one wants to put a bunch of money into a fence. Buffering the fence with some small, ornamental plants, shrubs or grasses would soften up the edge. This will be the first thing the neighbors to the south see. Mr. Johanni asked if Mr. Stadge has seen the neighbors to the south. There is a mound there and trees which look like they were planted when that building was developed. You can't see there from the parking lot due to the mounding and growth. We aren't going to disturb this mound. We might clean up some of the scrub but the fence won't be seen. Mr. Stadge thanked Mr. Johanni for pointing this out. If the tower stays on the northwest side, until the addition comes on the northeast side there is going to be one, long expanse of unbroken gabled roof and repetitive windows. I ask that this be studied to see what the day one scenario will be until the addition goes in. Think about how long and monotonous the gabled roof will be.

Tom Coffey, Architect, said the drawings show day one. The bump out will be there. Mr. Stadge said I thought I was looking at the final condition of the building. Mr. Johanni said the only thing we show is the dashed in line for the addition. Mr. Stadge said if you are going to explore solar panels, this building will be tricky. You want southern exposure. This could give you the opportunity to do something different. This is a massive, continuous gable area facing Liberty Road. Mr. Johanni said I don't disagree with this but the buildings next to it and the landscaping plans will help break this up. Mr. Stadge said it will but the planting will be low. Drawings show 6" plants. There could be a dormer bump out or something which changes the scale of the front, something subtle, not major. Mr. Johanni said, with all due respect, the elevation isn't seen at this perspective. The landscaping is obscuring the buildings. Mr. Stadge said the multi-use trail going through the site is something to look at for the FDP. This isn't a point I want to belabor, just a comment. The HVAC mechanicals are shown on the north side, the Seldom Seen side. I don't know if the two windows there is how it will ultimately shake out. Mr. Coffey said yes, there will be windows there. Mr. Johanni said we are going to re-evaluate the windows on this elevation. As you pointed out, this is a mechanical room. I don't like spandrel glass or fake windows. Mr. Stadge said you can achieve what you are going for with some very intentionally placed louvres. Mr. Johanni said yes, something to break up the lower façade. There will be one or two residential type of condenser units outside. We will screen with landscaping. Mr. Stadge said there are other comments included in my review. I don't want to go through every single comment. Mr. Johanni said I like what you are recommending in regards to taking the windows lower to break up the façade. We don't want lower windows in medical type buildings. The rooms could be exam rooms and low windows become a problem. The same goes for the daycare. They don't want low windows due to child safety issues. Mr. Stadge said he understands. The daycare comments are more



pertaining to the height going up. The windows seem very, very small. Mr. Johanni said so you are OK if the windows go taller but not lower. Mr. Stadge said yes. What is the intention of the rooftop HVAC on the daycare building? It is dashed in. Is there a well? Mr. Johanni said there is a well. The units will be hidden behind the well. Mr. Stadge said building 6 and 3 will be the only buildings for quite some time and will have a lot of visibility. The detail could require some refinement. You can put film on the door glass so people can't see in. The painted, hollow, metal door is going to be pretty cold looking on the front. It will be very visible from Seldom Seen until the northward structures are built. Mr. Johanni asked if the top half could be glass. Mr. Stage said yes, just something so the door isn't a solid painted door. Mr. Johanni said the user is OK with glass as long as it isn't down low. Mr. Stadge said the backside of the building is what will be seen as people travel northbound on Liberty Road. The backside of the building should be looked at. Maybe you could incorporate solar panels here. Mr. Johanni said the building is set far off of Liberty Road. The neighbors to the south have a series of pine trees along Liberty Road. I drove it tonight. You won't see this building until you are looking at its east façade. It is so well screened. You won't see the backside of this building unless you are in the parking lots, looking through a 6' tall mound and the fully developed pine trees. Mr. Stadge said for half the year. For the other half, when the leaves drop, it will be a different story. Mr. Johanni said they are evergreens. Mr. Stadge said I get your point but I think it will be seen more than you think. Mr. Johanni said if we are going to put money into this site, let's put it some place which will make some sense for the City.

Chairman Emerick opened this item to public comment.

Mr. & Mrs. Robert Shunn, 78 Featherstone Court: Mrs. Shunn said we face Seldom Seen. We are the newest ones in our subdivision, Epcon patio homes. I think we are the only ones here tonight because we are the newest to live here. We moved in in December. The card we received in the mail didn't tell us anything on where this development was going. The card just said within 250' of our home. We came tonight to find out where this is going. We didn't realize you were putting it here. We thought it might be directly across the street from us. My first question is, is this a done deal? It sounds like there is no question, like this has already been approved. You are discussing the kinds of windows. Chairman Emerick said this is the second step in the process. Mr. Kambo said there are 5 steps. There will be at least 1 more meeting here and 2 readings at City Council. Mrs. Shunn said this is the first they have heard anything about this. Mr. Kambo said public notices start at the Preliminary Development Plan stage. Mrs. Shunn said you may see more of our neighbors then. The part which is facing Seldom Seen, there is an oval shown. Is this a body of water? Mr. Kambo said this is a wet basin. There may be some water. Mrs. Shunn asked if there will be any shrubs or anything protecting things from the water. We have 2 dogs. I don't want them running over and into that water. Mr. Johanni pointed out the pond which is at the northwest section. Our pond will look similar to this. Mrs. Shunn said this side isn't her subdivision. We are on the other side. That pond is pretty swampy. It isn't well maintained. I guess I will have to keep an eye on my dogs. When will this start, if everything goes as proposed? Mr. Johanni said our current schedule has us breaking ground in the spring of 2020. Mrs. Shunn said we moved into a quiet neighborhood in December and wow! One tenant is going to be a daycare and a potential dentist. We are concerned about who will be in here. We had horrible thoughts that fast food, a gas station or a bar and grill would go in. There won't be anything like this will there? Mr. Johanni said no amphitheaters, no strip clubs and no retail. There will be office users similar to the users you first mentioned. Mrs. Shunn said this is encouraging. The card told us very little. We were fearful of what would show up here. Mr. Kambo asked to see the card. The card gives a website where you can go see the current proposal. Everything shown here tonight is available online for you to look at. Details are there to be seen. Mrs. Shunn spoke from the audience (inaudible).

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

Commissioner Simpson thanked the applicant for coming back. I like seeing the evolution of the elevations. Overall, the project looks good and within the scope of the area. I mentioned at our last meeting we need to see a lighting plan. I've sold condominiums there, owners are worried, and I worry about the lighting. We need to see a lighting plan. Mr. Johanni said we plan to bring lighting the next time. Commissioner Simpson said the signage at the church has been a point of contention. I am sensitive about the lights. Mr. Johanni asked Mr. Kambo to make them aware of what's going on at the church. Commissioner Simpson said the sign is a scrolling sign. The Township allowed it. Mr. Kambo said it's an LED sign. We will look at the lighting plan at the FDP.

Commissioner Hartranft said I appreciate the applicant coming back. I think the plan is a good plan and fits the area. The plan coincides with all of the medical and professional services in the area already. I like the design. It breaks up the whole Commerce Park area. The setback of the buildings is approximately where the volleyball center is next door, correct? Mr. Johanni said yes. Commissioner Hartranft said this is a good distance from Seldom Seen Road. Maybe 150'. Mr. Kambo said the setback line is 150'. Mrs. Shunn asked from the audience if there was access from Seldom Seen. Mr. Johanni said yes, there is. Commissioner Hartranft said there will be into the site. There will be a right in/right out with a left turn out. Mr. Johanni said correct. Commissioner Hartranft said I wanted to point out the setback

is pretty far back from the road. The applicant listened to the requests from Staff and I appreciate the applicant working with us.

Commissioner Little said I wasn't present the first time the applicant came in but I appreciate the applicant being here tonight. We looked at a big daycare center being put here a few years ago. I made a point then that I view this area as an entryway into Powell. This is an important corner and we need to treat it this way. I trust Tom Coffey's work and I think we will all be happy when the work is done. I think solar panels are great. We just need to figure out how to hide them as best as possible. There's a right way to put them in and a wrong way to put them in. As long as the panels are put in the right way. If the applicant doesn't include the solar panels in the FDP, the applicant should come back before P&Z later. The lighting will be important since there are residential areas. Is this site inclusive in the Wolf Commerce Park? I thought there were by-laws for the Wolf Commerce Park area. Mr. Kambo said the site is a part of the Wolf Commerce Park so the deeds, easements and restrictions stand. It is in the Staff Report. Commissioner Little said typically there has been a woman who represents the Wolf Commerce Park. Does she still? Mr. Kambo said yes. Commissioner Little said she usually attends and gives their blessing. Mr. Kambo said Staff can reach out to Claire Jolie and get her comments before the next meeting. Commissioner Little said we need to check with her. It's easier to have her input beforehand as opposed to after the fact. Mr. Johanni said I don't understand the goal of someone else being involved. Commissioner Little said it is like an HOA. Mr. Kambo said Staff can talk with the applicant about this after and get them in touch. Claire's family developed Wolf Commerce Park and they still have oversight over Wolf Commerce Park. This site may be a little different. I don't want to speak out of turn. Commissioner Little said I'm not sure either. Mr. Johanni said I was unaware of this. Do we have a financial obligation? Mr. Kambo said no financial obligation. Let Staff look at the deeds and restrictions, speak to Claire and see what is required. Commissioner Little said I think their basic desire is to avoid certain uses not going into the area. Chairman Emerick said I think they do an architectural review. Mr. Kambo said Staff needs to make sure this site is even included. We will look into it. Commissioner Little said I concur with the Architectural Advisor's comments. If these comments can be incorporated in the FDP it would be great. I think this will be a good, pleasant addition to the community, on an important intersection to Powell.

Commissioner Cooper said I agree with all comments so far. I am really happy to hear the applicant is requesting solar panels on the one building. I would like to see them on all of the buildings. There is a product that looks like a shingle but it's a solar panel. I don't know if the product is efficient or if it works well. Commissioner Cooper addressed Mrs. Shunn in the audience. There is an Ordinance in Powell which says dogs aren't allowed to run free.

Commissioner Jester said I think this site is one of the most important pieces of property in Powell. The traffic is very heavy on Liberty Road and Seldom Seen. We need to make sure this project is done exactly right as far as getting in and out of the site on both Seldom Seen and Liberty Road. I was looking for a deceleration lane south on Liberty Road. Has any thought been given to this? Mr. Johanni said a traffic study hasn't indicated this is required. There is some widening at the intersection which is a part of the traffic light improvements. Are you talking about the left in off Liberty into our site? Commissioner Jester said yes. There is a lot of traffic here and people tailgate. Mr. Kambo said Staff can double check with the Engineers. I'm sure they looked at this as they studied everything for the traffic light but Staff will confirm. Commissioner Jester said all of the Architectural Advisor's comments are very important. He brought up many good comments. This corner should be a show place as far as architecture goes. I feel very strong about this. I like this development going in here. What sequence will be followed in regards to which building is built first and how many buildings at a time? Mr. Johanni said this will be a phased project. The buildings will be individually owned condominium buildings. The buildings will be constructed as they are sold. Right now, building 1 is still available. Building 2 is in contract for sale but construction is probably 18 months behind the others. Building 3 will be constructed in the first phase. Buildings 4 and 5 are available. Building 6 will be constructed in the first phase. Commissioner Jester said you are starting with the southwest building and moving around. Mr. Johanni said we are starting with building 3 and 6. The first phase will also include all site improvements. Commissioner Jester asked if Mr. Johanni agrees with the architectural comments. There is a lot to do between now and the next meeting. I'm very concerned about this. I want this to be a showcase corner.

Chairman Emerick said I also think this is a gateway into the City. The architectural features are going to be very key. Is the pork chop big enough to prohibit left hand turns where there is only supposed to be a right hand turn? I've seen this a problem many times. Mr. Johanni said we will be submitting what we believe to be sufficient. The Engineering Staff will ensure it is sufficient. Commissioner Cooper said the fire department will also. Mr. Johanni said it will be more than stripes. There will be a curbed area. Mr. Kambo said it will be raised and may even have the breakaway bollards. The City Engineer will determine the best way.

Commissioner Little moved to approve a Preliminary Development Plan for the property located at 8930 Liberty Road as represented by Andy Johanni, subject to the following condition(s):

1. That the applicant shall submit a Development Plan Text as a part of the Final Development Plan; and

2. That the Final Development Plan Text shall include anticipated approved and unapproved uses, the restriction of turning movements at the Seldom Seen entrance as recommended by the City Engineer, condominium documents, maintenance responsibilities for all improvements on the site and a lighting plan; and
3. That all Engineering Department comments shall be adhered to as a part of the Final Development Plan and Engineering Plan review processes; and
4. That all Architectural Advisor comments shall be implemented in the Final Development Plan; and
5. That the bike path on Liberty Road shall be reconfigured as suggested by Staff.

Commissioner Jester seconded the motion.

Vote: Y – 6

N – 0

(Boysko absent)

## OTHER COMMISSION BUSINESS

Mr. Kambo advised the Commission that Staff has no further information pertaining to pool covers. The idea is so new there is no precedent to follow at this point. Staff will continue to research and we will have further discussions at another meeting. Commissioner Cooper asked if Liberty Township has gotten back to Staff with any information. Mr. Kambo said Staff hasn't heard from Liberty Township since their attendance at the last meeting. I don't believe the Township has made any decisions yet. Commissioner Cooper asked if Mr. Kambo was asking for the Commission's opinion tonight. Mr. Kambo said Staff would be glad to get opinions. Commissioner Cooper said I disagree with pool covers. When you talk about a child's life, a fence is important. Fences have been used for a long time. I have talked with many people about this and people have a problem with covers. There could be human error and they forget to put the cover on. Or, if the electric is out and the cover can't be put on. If it were up to me, I would have both. Commissioner Little said it's one thing if someone wants to put their own children at risk, but a person would be putting their neighbor's children at risk too. I don't think this is worth the talk. Mr. Kambo asked if he could get a general feeling from the Commission. Commissioner Simpson said he would echo the comments made. Commissioner Hartranft said I haven't even seen the new technology so I don't have enough information to form an opinion. I know there are pool cover systems that automatically close if the pool is still for a period of time. It isn't as if a person could forget. The power issue is a point to think about. I'm sure the company has thought this through. There may be battery backups. There are garage doors with battery backups so I don't know why a pool cover wouldn't have a battery backup. I am open to seeing the technology. I can't make a decision without seeing it. Chairman Emerick said at this point I would stay with a fence. I would like to see the new technology. I would think a company would have some type of backup power. I'm not sure a pool cover is the cure all solution. Commissioner Jester said a person could be dealing with a child's life and it isn't worth it. I would want to stay with a fence. I recognize there is good technology. Losing a child isn't worth it. Mr. Kambo said Staff will look at the technology out there and bring information to the October meeting. We can have a more robust discussion then. Commissioner Hartranft asked if it would be helpful to get information from the legal community. What is the responsibility of a homeowner that has a fence and a kid jumps the fence and drowns in the homeowner's pool? Is the homeowner still responsible? I would like to know some legal parameters. There has to be some type of legal basis for a company to go into business. Commissioner Simpson said a pool cover is probably safer than a gate that is left open if there is a power backup and the cover auto closes. Chairman Emerick said it's called inherent danger or liability. Commissioner Hartranft asked if a sign in the yard saying there is a pool cover is enough. I don't know the answer. Mr. Kambo said Staff will also talk with the City's Law Director, look at other communities, speak to other communities' Law Directors and see what the technology is.

## ADJOURNMENT

MOTION: Chairman Emerick moved at 7:54 p.m. to adjourn the meeting. By unanimous consent, the meeting was adjourned.

## DATE MINUTES APPROVED:

Donald Emerick  
Chairman

Date

Leilani Napier  
Planning & Zoning Clerk

Date