



Planning & Zoning Commission

Donald Emerick, Chairman

Bill Little, Vice Chairman

Shawn Boysko

Ed Cooper

Trent Hartranft

Joe Jester

Shaun Simpson

MEETING MINUTES

October 9, 2019

A meeting of the Powell Planning & Zoning Commission was called to order by Chairman Emerick on Wednesday, October 9, 2019 at 7:00 p.m. Commissioners present included Donald Emerick, Shawn Boysko, Ed Cooper, Bill Little and Shaun Simpson. Trent Hartranft and Joe Jester were absent. Also present were Dave Betz, Development Director; Rocky Kambo, Assistant Development Director; Steve Reynolds, Architectural Advisor; Leilani Napier, Planning and Zoning Clerk; and interested parties.

STAFF ITEMS

Mr. Kambo advised the Commission that Steve Reynolds was replacing Derick Stadje for this meeting.

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 September 11, 2019. Commissioner Cooper seconded the motion. By unanimous consent of all Commission members present, the minutes were approved as written.

MAJOR AMENDMENT TO DEVELOPMENT PLAN TEXT

Applicant: The Retreat Association, an HOA c/o Dan O'Brien, President

Location: The Retreat Subdivision

Existing Zoning: (PR) Planned Residence District

Proposed Zoning: (PR) Planned Residence District

Request: To rezone the Retreat Subdivision from (PR) Planned Residence District to (PR) Planned Residence District with a new zoning text.

Dan O'Brien, 560 Cardinal Hill Lane, President, The Retreat Association, said the Retreat/Cardinal Hill neighborhood rezoning has been addressed for the last 21 months due to expiring deed restrictions on January 1, 2020. The Board of Trustees recognized one key factor in preserving the property values in the neighborhood, to preserve the enforceable deed restrictions expiring. We want to replace them with something that has teeth so we can make sure properties are maintained in an acceptable manner. The City of Powell was consulted in early 2018 to assist the Board in determining what to do next. The City recommended we rezone the Retreat as a Planned District. This offers us the ability to include development text which will pick up where the deed restrictions leave off. A volunteer committee of homeowners was put in place to come up with the initial ideas of what to include in the development text. The committee tried to maintain the ambiance and charm of The Retreat Association. The committee gave the development text recommendations to the Board of Trustees, who reviewed and included the language the Board wanted to include. The text was then sent to MKSK, a City Planner, who formalized the development text. The end product was sent to all homeowners in the Retreat and Cardinal Hill neighborhoods in paper form along with a ballot. We asked homeowners to give us an idea of whether they approved or disapproved of the language. As of tonight, 68 approved, 33 disapproved the language as it is written now. The document was submitted to the City of Powell's Development Department with an application to be reviewed by Planning & Zoning. An open house was held one week ago tonight to listen to homeowner's concerns and answer questions. The Board has met twice in an effort to modify the text so more neighbors think it is suitable. The Board made 22 minor changes. Some people had problems with words. We added words, took out words. The text is for the neighbors, not for me, not for any one particular company or person. The text is for the whole Retreat. The Board understands we can't satisfy every homeowner. We can firmly state the development text as offered, clearly represents the majority of Retreat/Cardinal Hill homeowners who voted to

approve/disapprove the text. The Retreat has a total of 162 properties. 140 are members of the Retreat Home Owner's Association (HOA). It is a volunteer association. 97% of the HOA members approved the text. 33% of the HOA members disapproved the text. There is a clear majority of those who approved the text. We believe this rezoning effort can be a model for future Powell neighborhoods who will have expiring deeds and restrictions. We are the first. We aren't going to be the last. We believe the property values are affected positively with restrictions and limitations in place. We can't afford to have unrestricted growth and maintenance. It would be detrimental to our property values.

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

The applicant is changing the area from a deed restricted coverage to coverage under a development plan text which under Ohio law, can be enforced by the City or by an individual property owner. A property owner can take another property owner to court if need be, if there is a violation. If there are disagreements between the City enforcing an issue and a property owner, there is an appeal process through the Board of Zoning Appeals, which is a benefit to having a development plan text.

Mr. Kambo thanked everyone in the audience for attending. There are certain avenues by which a property can be overseen. The most basic level of oversight is with City Zoning Code. You can think of City Zoning Code as the minimum requirements. Newer subdivisions bring in a development text. The development text can cover numerous things, being as specific as house colors allowed or as broad as land uses allowed. The next step is covenants and restrictions, which are in the deeds, known as covenants, conditions and restrictions (CC & Rs). So, you can have City Zoning Code first, development texts, then covenants and restrictions. CC&Rs are typically imposed by the developers of a project. An individual purchasing a home in a subdivision agrees to those conditions. The Retreat is one of our oldest subdivisions and doesn't have a development text. They had the minimum requirements of the City Zoning Codes and the covenants and restrictions. There are actually 7 distinct covenants and restrictions. As the Retreat was done in phases, each phase had its own covenants and restrictions. Staff didn't research all of the covenants and restrictions, nor did Staff compare them all. All expire January 1, 2020. If there are items which the residents would like to carry forward, the vehicle needs to be a new zoning development text. The chart in the Staff Report shows some of the similarities and differences between City Code and the new development text. One of the main changes is putting together an Architectural Review Committee (ARC). An open house was held on October 2nd. There was a good turnout. Comments ranged from the need for a development text at all, to why there is a need to be so specific on certain items. This is a grass roots effort brought to the City by the residents. The City didn't say they have to do this. The current deeds and restrictions expire January 1, 2020, but the new development text doesn't have to be in place by January 1, 2020. If it takes longer, there just won't be any specific oversight other than what the City has to offer. The City is here to help this process move forward and ensure the residents are onboard. Staff recommends more open houses and hopefully gain as much support for the development text as possible.

Mr. Betz said this is the start of a public hearing. The public hearing can be continued for as long as needed. Once the public hearing is closed, the Commission would have thirty (30) days to deliberate on how to handle and make a recommendation to City Council.

The Architectural Advisor had no comments on this item.

Chairman Emerick opened this item to public comment.

Sally VanMeter, 530 Cardinal Hill Lane, said she has been a resident at the Retreat for 32 years. I have had no problems with the rules we have been asked to play by. Actually, it takes a lot of things away from neighbors having to argue about. Rules are essential. I would hope every organization would come up with more than what the City has. I love architecture and there probably isn't any type of design out there that I don't find appealing. But, all together, no. Specific houses for pets aren't needed. I might want a horse. Someone else might want goats. Pretty soon the Retreat looks like, who knows what. There's an old poem which talks about good fences making good neighbors. It's really talking about rules. We need good rules to uphold our property values. Neighbors won't fight with each other. They won't have any reason to. They might not like the rules but they live within them and it makes a very nice community. I want good rules and I want them maintained.

Jerry Maddox, 580 Retreat Lane, said he supports the new covenants. I've been a resident of the Retreat for 18 years. I lived in Worthington prior to that. We spent years trying to find somewhere outside of Worthington where we wanted to move to. My daughter-in-law found the house in the Retreat. One of the first things we were impressed with was the size of the lots, the way the lawns were taken care of, the amount of vegetation, the abundance of trees, no plastic mailboxes, no fencing, no storage sheds. Unfortunately, Worthington does allow fencing. You see many yards fenced in. Worthington allows storage sheds with restrictions but the restrictions have loopholes. I hope this doesn't happen in the Retreat, ever. Worthington's restriction was sheds couldn't be more than 100 SF or you needed footings and foundations. People got around this by putting up smaller sheds but they put up multiple sheds. There was no limit on

how many sheds could be put up as long as they stayed beyond the setbacks. These sort of things just get away from you and we at the Retreat want more sensitivity and to be able to keep our presence the way it is. There is a real charm about the Retreat. The charm is created by the previous covenants. The guidelines helped maintain the beauty of the Retreat. The new development text is a reinforcement of the covenants.

Vumesh Vazirani, 951 Retreat Lane, said I may come up to speak twice. I have 2 lots in the Retreat. I want 2, 3-minute times. Some of the things said are definitely true but there are a lot of lies in there too. I've had a plastic mailbox for 13 years. There are no restrictions on fences, walls, outbuildings. I have my deed restrictions in my hands. Please do not believe everything you hear today on why the Retreat is so beautiful. It's because each owner has taken care of their own ownership, not that they were guided or had rules to follow. Look at my mailbox. Outbuildings are allowed. Fences are allowed. There are 7 different deed restrictions. None of the deed restrictions prevents me from putting up a plastic mailbox or putting a fence up. They praise this ARC so much. Let me tell you. I don't know if Scott is here today but he built a big white house across from me. Scott got around every ARC requirement. The only thing ARC did for me was make me go back and forth, back and forth, spend my money. If I had money like Scott does, I would get what I wanted. I gave up. This is what ARC is about. Putting more restrictions in place, making people bounce around like a ping-pong ball. This has been my experience for 13 years. The ARC requirements aren't solid. It depends on whoever comes before ARC. If you have a brown face, forget it, check it off. Anybody else with the same request would be fine. Scott has been able to build an outbuilding. He has a 6-car garage. There are issues. Everyone saw them but Scott got what he wanted. It's worth over a million dollars. There isn't a more expensive home. Having this ARC look at all rules prevents the next level of buildings with a buddy, buddy system. My deed restrictions say that when the deed restrictions expire January 1, 2020 there must be 100% approval of phase 1 to renew. Dan O'Brien says these can't be renewed. I don't think that's true. They can be left alone, reviewed, revised. 100% of phase 1 must agree. They will be breaking the law if we are forced into one big block.

Simon Russell, 510 Quails End, said I have lived here for 43 years. I don't want to spend this time arguing about the specific parts of the text. I do think there can be many reasonable objections. I would like to talk about the process. The drafting process has been far from transparent. Homeowners were given no indication of how expansive the text would be and no knowledge of the content until the text was submitted to Powell last month. There was a take it or leave it attitude with respect to asking for support. There were no forums or meetings to discuss the content until last week. This wasn't a good way to start this. The Retreat with 6 sections and Cardinal Hill are 2 separate subdivisions. The Retreat's deed restrictions are far more limited in nature and primarily focused on controlling the initial buildout of the lots. In my opinion, the development text goes way beyond what was originally stated to be the purpose of deed restriction replacement and is designed to do 3 things; restate existing deed restrictions and expand for all Retreat residents to bring them in line with Cardinal Hill's more expansive version, create a legal ARC with real authority, and expand Powell Code to create restrictive rules on Retreat residents and use Powell as a substitute HOA board which is affectively creating a pseudo HOA. When the Retreat was founded 40 years ago, Powell had a very limited amount of Code. Since then, Powell has become a City and the Retreat would do more than well by following the more expansive Powell Code. The Retreat Association incorrectly states it is an HOA. It is not. This is an important point. The Retreat's restrictions never included the ability to create an HOA though Cardinal Hills's did. The Retreat Association has no legal powers and is funded on an entirely volunteer contribution basis. More than 15% of homeowners aren't members. Funds are used to pay for entrance maintenance, street signs, Christmas decorations, resident's parties, etc. This has done a fine job for years. Now it appears the Retreat Association wants to expand its authority by creating new rules and regulations that we have lived perfectly well without for all of these years. Under the law, an HOA can't be retrospectively placed over existing properties without 100% owner approval. This appears to be an attempt to circumvent this rule by creating a pseudo HOA. Powell is being asked to enforce all of these new rules in place of an HOA. Is the City of Powell willing to do this? Any rules the City doesn't want to enforce should be removed. Can Powell legally expand their Code through this text to impose tighter restrictions on Retreat residents than any other residents? Can the Retreat Association be given the legal powers this text gives them over the makeup of an ARC when the ARC isn't representative of all residents? What legal opinions have all of the parties gotten on what is being proposed? I suggest that the existing proposal be tabled. If we are going to proceed, a legal opinion should be obtained on how to correctly handle each element. The text should be broken into easy to understand sections, reinstatement of existing deeds and restrictions, forming of a legal ARC process to allow all residents to be involved, make a list of all new rules which go beyond Powell's Code are some suggestions. All of this would take a lot of time, money and effort. There is certainly no rush to get this done and it does need to be done correctly. To the best of my knowledge, there have been no legal deed restriction actions in my 33 years in the Retreat. Surely, we can live without them for a few more months. Most residents picked the Retreat because of the space provided. We are looking to live our lives in homes with minimum interference from others. We have large lots and we aren't living on top of each other. We have co-existed for 40+ years. We only need rules which protect the overall environment from serious neglect or misuse and the City of Powell covers this. This is not what has been presented here tonight.

Ann Schenz, 485 Retreat Lane West, said I am in favor of the planned district document. My husband and I have lived in the Retreat for 32 years. We wanted trees and that's what we got. We have had the pleasure of serving on the

Board for about 10 years now. It is our great desire to help and serve our neighborhood. This is a working Board. In the future, my hope and prayer is that we remain good neighbors and friends no matter what. Whether we agree or disagree. I'm pleased to live in a neighborhood with these folks.

Mark Cooperman, 250 Deer Creek East, said I am a general surgeon. I have served as Chief of Staff for the past 7 years at the Columbus VA. As a Federal employee, I can assure everyone I am familiar with rules and regulations. Rules and regulations don't always work. Frequently they are onerous and don't always guarantee outstanding outcomes. However, they do prevent poor outcomes. Their absence invites disasters. I've been very fortunate. I've lived here for 40 years and have had excellent neighbors on both sides, who maintain their properties beautifully. The same can't be said throughout the Retreat anymore. We have seen a decline in property values compared to other developments. We love our home. It is a source of happiness for us and is a major asset. We both strongly support this plan. I would like to thank Dan O'Brien for the many years of tireless work he has put in on behalf of the neighborhood, whether people agree with everything or not. He has done a phenomenal job.

Dr. Craig Mills, 870 Retreat Lane, said I have lived here for 32 years. I've practiced with Mr. Cooperman. My wife's best friend is Dan's wife, who is Spanish. I studied medicine in a socialized country, in Spain, where Franco ruled. A lot of these rules and regulations smack of control, smack of people trying to run your business. If I want to leave a dead tree standing in the back of my property because I like to hear the woodpeckers, I think I should be able to do this. If my son wants to buy my house and after 32 years I decided I don't want to leave the Retreat, don't I have the right to build a garage with a mother-in-law suite on top and live there? I think I do. My personal experience with Powell controlling my things hasn't been good. I built a pool. My neighbor complained about the pool. Ex-Mayor of Powell. I had to move my water feature clear down to the other end of my pool and to this day, it doesn't work right because I moved it. I had to move my pool motors amongst a bunch of dead elm trees and now I have dead elm trees falling on my pool equipment. I don't like so many rules and regulations. I support Mr. Russell. I love Dan O'Brien and what he has done is excellent but I believe there are too many rules and regulations. I think this should be tabled and we need to take a better look at it.

Donica Key, 535 Quails End, said I didn't go to the open house so I am just now hearing what is going on. One of my neighbors said this would be mandatory so I am against this. We first moved into the Retreat about 20 years ago. The Retreat Association wasn't so nice to us. It is voluntary so we haven't been a part of the Association because of the way we were treated. We tried to build a basketball court in our backyard. We have 3 acres which is surrounded by trees. You can't see onto our land. They wanted us to plant trees around the perimeter of the basketball court. We tried to come up with other things but everything we suggested was cut down. It depends on who you talk to and I think their rules are subjective. They don't hold everyone to the same rules. I am against this. Someone told us we are the only African-American family living in the neighborhood so I don't know if this is why we were treated this way or not. It will be unfair if these rules are put in place.

Bill Thomas, 930 Retreat Lane, thanked the Commission and City Staff for their time and attention. This is a big undertaking and takes a lot of time. Someone said there wasn't an opportunity to give feedback. That wasn't my experience. Things were e-mailed around. We were asked to give feedback. Meetings were scheduled. People had plenty of time to give input. When I hear people say things are very subjective and they don't like it, if you haven't looked at the deed restrictions in the Retreat, please do so. They are horrible and they are subjective. They were written 40 years ago. They aren't a good set of deed restrictions. The development text is a nice, thorough set of deed restrictions. Everyone has been given the opportunity to give input and be involved. This allows the City to be involved. We want some type of restrictions and regulations. This is what keeps neighborhoods nice and gives continuity. There hasn't been any picking on one person. It is a beautiful neighborhood but there are some homes which aren't kept up. The deed restrictions are so soft and weak. There isn't much which can be done about things. The Powell Zoning Code just isn't specific enough. This is a good idea and I urge the Commission to vote in favor.

Dave Jeffries, 209 Raccoon Run, said he couldn't not come up and speak. I felt if my voice wasn't heard I wouldn't be comfortable with myself. The one thing that stands out to me is the outbuilding restriction. I voiced my opinion at the open house too. Fencing and who decides what kind of fencing is allowed is another thing. When it comes to an outbuilding I truly believe everyone's property needs are a little different in the Retreat. Homes were built at different times. Garages are different sizes. There is a restriction about parking cars in the garage. We all have lawn equipment and other things. There is also an ARC. Unilaterally deciding an outbuilding reduces value is inappropriate. I think an outbuilding adds value for some properties. If I were searching for a house in a neighborhood like the Retreat and I saw a nicely structured outbuilding, I would consider it a value and an opportunity for me to have storage space. There are businesses in the business of outbuildings. Some are beautiful and very nice. I'm asking for the outbuilding restriction to be removed. A homeowner should be able to come forward with a plan and show the outbuilding would add value. A decision should be made from there instead of cutting me off right from the start. This gives me no opportunity to present a plan.

Tracy Duzzny, 424 Cardinal Hill Lane, said we are a little different. We have lived here less than 2 years. Our experience with the Board of Trustees has been less than positive. I agree with Mr. Russell's interpretation of how this whole development text went down in terms of lack of communication and rushing through. The full development text isn't available for someone to fully read. We got a redlined item yesterday at 5:45 p.m. about additional changes. I don't support this development text at all. My husband and I, being in the military, have moved around a lot. This is our 6th home. We have been in subdivisions which have HOAs and in ones that don't. We really have seen no difference. The main thing with property values is how you keep your property. The inside is important too. These homes are aging, 30 to 40 years old. If a home still has the original stuff from 40 years ago a new buyer is looking at a \$200,000 renovation to make improvements. We are still going through this 2 years later. We had to tear out all of the landscaping because it was eating at the sides of our house. I disagree with the number of people who looked at this beforehand. We were told in an email that 13 members of the neighborhood reviewed the text. With a total of 162 houses this isn't a consensus. 61 households didn't even vote. 33 were against. This in no way constitutes a majority. If this is going to affect all homeowners, all homeowners need a vote. I agree with removing the no outbuilding clause. We need to be able to put our stuff somewhere if we are going to maintain our property. The whole development text needs to be thrown out and reworked, talked about. Beauty is in the eyes of the beholder. This is an old neighborhood. There is a new generation of people coming in who want to make changes. The restrictions against outbuildings and greenhouses is discriminatory against women. Men have their man cave in the basement but a woman can't have a she shed or greenhouse. I urge the Commission to vote no.

William Souder, 559 Cardinal Hill Lane, said I recently moved into the community 2 or 3 years ago. I want to thank the community for putting up with a large amount of dumpsters. We had an unfortunate event happen at our house. We didn't have anybody lash out at the situation so I want to say thank you. I feel like I'm suffering from a little bit of identity crisis. I'm definitely for rules, whether they be deed restrictions or development text. I'm also concerned with process. I can nitpick a couple of the rules. What I'm troubled by is the concept of whether a thing does exist or doesn't exist and what we should do with the community so we don't cause strife while doing it. We've heard it's the Retreat, the Retreat and Cardinal Hill. It's broken up in text in several different ways. It's not defined very well. We tried to define it. We asked questions amongst the community. I went to the Delaware County Recorder. I even searched through this body's notes to see when Cardinal Hill and the Retreat stood before this body. What are we and what are we going to be? Cardinal Hill was 44 lots when they were here before. The body said then alterations needed to be made to the deed restrictions. It seems as if Mr. Bonner did that. It seems there was a relationship between the building of the Retreat and Cardinal Hill. I can appreciate a community wanting to come together and do things. What I fear and what I want to discuss is how does Powell see these things as all of these things evolve. When the Chase comes up, will the Retreat file another one and the Chase would be included? Mr. Bonner bailed out the Chase with a lot of work with this body. I don't want them to be separate but I don't want to ignore that they are separate. I want to make sure this text, 1.4, makes it very clear, in this provision, that if you violate the Retreat's deed restrictions. It doesn't call out whether you violate the one you have been living by, the one we bought into. In our opinion, in reading the text, it says if you violated the Retreat's deed restrictions, then they may be coming. They aren't giving up their right to do these things. I ask that we take a moment to understand what is the dynamic we are dealing with. Are we handling it appropriately? Are we setting any precedent with Powell that might be a little uneasy for other residents down the road?

John McConaghy, 385 Retreat Lane West, said I am in favor of the text. We are hearing a lot of the extremes. I believe some of these things are a little bit controlling. We have lived in the Retreat for 17 years. I think the absence of rules could lead to chaos. There has been a lot of emails. I found emails from 2018 starting to ask for input. The communication has been out there. People were asked to vote. A significant number didn't vote, for whatever reason. Maybe it was their choice. We need to continue the discussion and get along. We need to be neighborly and we can work through the issues. I take exception to comment that greenhouses are for women. I want a greenhouse. It isn't just a woman thing. I appreciate the work Dan O'Brien has put into this. We aren't always going to be 100% on everything. We need to work and have dialog, hear each other out. The Retreat can remain the wonderful place which drew us here.

Jonathan Dotson, 595 Retreat Lane North, said it was mentioned earlier about a future generation of the Retreat. I consider myself to be one of those people. I support this document. I feel there has been ample time given and enough communication. I live next to a home that unfortunately is in disrepair. I don't want this to continue to happen. I'm willing to work with my neighbor to help support her in the best way I can. In terms of cutting down trees, I've offered to help. I understand that things happen. We have busy lives. I work. I have 2 young infants at home. The majority of people who know me have seen me outside working in my yard. We constantly maintain. I have been on HOAs before. We definitely need something. The Board has listened to the majority of the people. Volunteers were asked for to serve on the committee at the past 2 homeowner's annual meetings. Communication has been sent. Those not in favor of this document should go to the Board and have conversations. Those who brought up concerns, I have never heard of these concerns. Some of those who are against this document unfortunately are some homes which need some help. I don't want to continue to have families move in who aren't able to upkeep what others are putting pride into every single day. I hope the Commission will consider this document and move forward with it. I appreciate

everyone coming tonight to share concerns. I understand there will be differences of opinions. We need to have something in place. We moved to Powell because it is beautiful and has standards. We need to maintain standards to protect the future so our children can expect the same.

Helen McConaghy, 385 Retreat Lane West, said my husband spoke earlier. So you can see that we can agree and disagree, I support the document. I think we need something. I would hate to rush. I agree with the gentleman who mentioned outbuildings. Our neighborhood has aged since the deeds and restrictions were written. We have a 2-car garage. We love gardening. We can barely get 2 cars in our garage. The rules say don't put anything outside. We need a place to put the riding mower if you enjoy gardening and mowing the lawn. I like how they put a representative from the neighborhood on the ARC so it isn't just Powell. I agree an outbuilding could add value to a property. I love that the Retreat isn't a cookie cutter neighborhood. There aren't 5 styles of architecture only and only a few styles of paint. That's boring. I love our neighborhood with its big lots and friendliness. I love how we come together to help each other. I like the different styles and the diversity. I'm excited about some of the newer families coming in. I know we can come to an agreement. We might not do it tonight. We might need to iron out some things. I do agree with rules.

Shawn Carroll, 509 Retreat Lane North, said I want to clarify something. A lot of the no votes were asked what they would do to make things better so they would vote yes. The Board did a great job of taking a lot of the recommendations and changing the text. I don't know how many of the no votes would turn to yes at this point. I've lived in 3 neighborhoods besides this one. All of the neighborhoods had restrictions which were a lot tighter. I might not have agreed with some of the restrictions but everybody needs to compromise. You can't have everything you want and expect everybody to agree on everything. I support this document.

Rachael Romain, 215 Partridge Bend, said unlike many of the people here, I've only lived in my house 1 year. We moved here from another subdivision in Powell. I looked out my back door and saw 5 other homes. I have 2 boys who needed a place where they can throw a ball and it not go into someone else's yard. We found the house, on a perfect lot. I don't think anyone here doesn't think we want to maintain the value of our homes. I don't think anyone here doesn't want a beautiful home with a beautiful outdoors. It's not that if we have rules or don't have rules we are going to let the whole neighborhood go to pot and let our house fall apart. I don't think this is what anyone is saying, whether they are in support of the document or against it. We do need some level of rules. Most of the rules are in line with Powell Code. Some of the rules get into some really nitpicky issues. The Board wasn't willing to compromise in all cases. They weren't willing to hear people out. I was asked what would cause me to change my vote. I would change my vote if there was an option for outbuildings. I'm not saying I want a greenhouse or a she shed. If the option was there so I would have some sort of option and be able to present it to a Board, I would consider this. I have a lot where no one looks back at me. I have trees on all sides. How can someone sit here and tell me I can't have a shed. There needs to be some level of compromise. People need to be willing to hear each other out, on all aspects. Not just some. I believe it can be worked through but we need the time and everyone needs to listen to each other.

Vumesh Vazirani, 1044 Deer Creek, said this is my second property. I hear you guys. You love the way it looks. I have 2.6 acres and 2.59 acres. Less than 1 acre is grass. Do you expect me to go in and clear out all the wood and show you flat land? I have a creek running on both properties. Do you want me to clear it out and grass it? I live on the first corner house of the Retreat. I'll clear it out tomorrow. It will tear up the Retreat look. There is a lot of dead wood. It is naturally preserved because this is what everyone wants. I will clear it out and then there won't be a hidden look from 315. I've had my car broken into 3 times on 315 because of drive by. The windows were smashed and they took my stuff. If my house is more visible, they will come in further. You can look up the police reports. In the summer, the woods hide my house, including your properties. People drive by and don't know what's in there. We can't have it both ways. We have red-tailed fox, deer. All these rules which are being talked about are expiring for a reason. Let them expire. The City has Zoning Codes which match up 95%. The ARC is against non-white Americans and they weren't treated right.

Christy Hoyt, 636 Cardinal Hill Lane, said we moved here from Scottsdale, Arizona 2 years ago. Everything in Scottsdale is under an HOA. My dad was the Board President. I've been in many meetings like this but 10 times the size and nothing is new to me. When you are in a community, you have to earn the right to gripe. You have to go to the meetings. You have to join the association. You have to be a part of the neighborhood and not just wave to people. You have to earn your neighborhood privileges. I'm in favor of this. As of tonight, we actually have 2 other yes votes. A realtor friend of mine can't think of another community in Powell that doesn't have deed restrictions. We are sitting here griping about all of this hard work our neighbors have put into this. Dan O'Brien has done a tremendous job. I'm blown away. The work is all out of love for you guys. It's not handcuffs. The fact that race has been brought into this just really upsets me. Come on. No race card. We're very happy in the Retreat. We are happy with these deed restrictions. Nothing is 100%. I don't believe we need 100%. Can't make everybody happy all of the time.

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

Commissioner Simpson said I have a couple problems in general. One, a majority can't impact the property rights of a minority. Just because 50 plus 1 is for something doesn't necessarily mean it needs to be done. Property rights are a thing. People bought these properties under a certain set of restrictions. To actually impede on those property rights because 50% plus 1 like it, I don't believe is right. However, I am for some sort of restrictions. Almost every HOA I've seen has architectural review. It being held and appointed by an elected or elective group does give a few problems. If you choose not to be a part of the association and don't have any say at all in who is on that committee, who determines what goes into a home, bothers me a little bit. Enforcement is going to be very difficult, especially when it comes to movement of cars. Do I now have access to someone's property to see how long a car has been there? There are a lot of homes with over 2 acres. Large driveways. Are they going to be picking and choosing who is enforced on? Defining what is a holiday decoration bothers me a little bit. Am I not allowed to leave them out until January 26th? It's still a little cold to take down Christmas lights. Putting a 30-day on this is a little rough. Defining what toys are. Trying to restrict people's use of their land. To me, this is a borderline fair housing issue. A lot of the text is very generic and leaves it up to interpretation of the ARC. This bothers me a little bit. Fencing, mailbox changes, things like this which are currently in place I have no problem with as long as they aren't held to making changes immediately. I do have problems with the outbuilding issue. Most outbuilding restrictions are there for home sites with ½ acre or less. Here, we are talking about 2.5 acre lots. To me, these lots require a commercial mower. You have to have somewhere to store this stuff. Having an outbuilding on a 2.5 acre lot isn't asking for a lot. If you want to say the outbuilding needs to have the same architecture or siding as the home, I don't have a problem with that. To totally restrict is something else I have a problem with. The other things I have a problem with are minimal language problems. I say go back and look at the language. Words like high quality. What is the determination of high quality? It's a very generic type of word and if a select 3 or 4 people determine what it means, and it changes every 2 years. This isn't going to be a sediment document with the Board changing every 2 years. You will have different definitions every 2 years. If there is going to be a development text, I would like to see it be more specific to what we are looking at. Things like putting natural gas on the generator. Is solar power going to be available in 30 years? 45 days for signs. Does this include a for sale sign? A political sign? This becomes a free speech issue. Overall, rules are good. To this degree, I have a problem with a lot of the violations of people's personal property rights.

Commissioner Little thanked everyone for coming. Do the current deed restrictions provide an avenue to make modifications? The HOA I am in has a process which says what needs to happen. Mr. Kambo said from what I heard at the October 2nd open house, it varies. Some of the deed restrictions didn't have any and others require 100% of residents within that phase to agree in order to extend. I believe one says 50% of the residents who live in that phase is required. We don't know which one is which. It varies. Commissioner Little said they are starting from scratch. Mr. Betz said the City is taking this as a new application. The process for changing their deeds and restrictions doesn't really matter. We are looking at a new set of rules. If the property owners find the text isn't working, they can come back and say they need to make changes. The text doesn't have to change in whole. It can change in part. They would have to come back before P&Z. Commissioner Little said it isn't up to me to judge what you, as your neighborhood, decide to include or don't include in your deed restrictions. It's your neighborhood. I have been our HOA president for 20 years. I have a lot of empathy for the folks in your neighborhood trying to do this. From my experience, bylaws, covenants, deed restrictions, by spirit, are there to protect the valuations of the properties. Just as important, they maintain the character of the subdivision. The Retreat has a lot of character. The key is how the homeowners decide to apply these tools. You are never going to capture every word about every possible combination of events. I recommend keeping this relatively simple. There will always be grey areas. In my experience, we have always decided to treat these as guidelines. They are guidelines amongst neighbors. You are neighbors. This is the most important thing. Our HOA has architectural review. You will find most subdivisions do. In my 20 years, we've had 1 dispute go to the Board of Appeals. We lost. Someone found a loophole and put up a fence. None of the neighbors appreciated it. Eventually the fence came down. We fixed the loophole. In our process, the first thing we do is tell a person to talk to their neighbors. Let them know what you are getting ready to do. It's a lot worse if you come back and the work is already half or 2/3s done and the neighbor doesn't like it. Everyone starts to argue and then a bunch of bad things happen. We tell people we have an architectural review board so someone doesn't put a fuchsia igloo in their backyard because neighbors aren't going to be happy with this. It's how you decide, as neighbors, to use this process which determines whether the process is successful or not. Our process is quick and good mediation. We work things out. These documents do help deal with concerns with "that neighbor". It's a tough spot for a Board member to be in. Homeowners do have some control because they vote for their Board members. The real goal is to maintain property value and character. 138 out of 145 of our homeowners agreed with all of the changes we made a few years ago. I suggest that you consider trying to keep your neighborhood competitive. I get calls from realtors asking if we allow fences in our neighborhood. My response is, if there is a pool, we allow wrought iron fences. We don't allow stockade fences. We used a legal organization who specializes in this type of documentation. I also advise that if you think you are going to address people's maintenance of their homes, you are on a real slippery slope. There may be someone whose health is failing. We have had neighbors go and do yard work on other's property. You are in a

dangerous place if you think you are going to make someone paint their house on a regular basis. I recommend this request be tabled to give you folks an opportunity to go back and talk through this better. Get more consensus amongst the whole. Keep it simple. Use the document as guidelines. You can control how this is used by voting for your Board members.

Commissioner Boysko said I couldn't put it any better than what Commissioner Little just said. I agree with everything he mentioned. I see one challenge with keeping it simple. You can be too subjective if you keep it too simple. I agree with the need to have some type of restrictions in place. I think most people here tonight agree also there is a need to have something in place. It is debatable what those restrictions are. I don't want to be put in a position where I'm determining what those restrictions are, what's best for your community. That's up to you. I'm in favor of the Retreat governing themselves and not having this Commission be involved any more than we have to. I encourage you to go back and try to be more inclusive. Try to address the more unique conditions as opposed to trying to find a one size fits all for the entire community. Maybe the only consistency you can find is the process in the ARC. Maybe there is more variation between subdivisions because they are diverse. I agree with tabling this request.

Commissioner Cooper said I agree. A development plan text is in order. I don't think it's up to the Commission to nitpick whether we think there should be outbuildings or not, whether you should be able to park in your driveway for more than 7 days when you are on a 14-day vacation. The neighborhood, the neighbors need to go back and figure it out. Then come back before the Commission.

Chairman Emerick said I agree with what has been said. The best plan of action would be to table this request and give you the opportunity to talk with each other. See what additional changes you want to make to the text. The Commission doesn't want to be voting on something we have the sense isn't quite finalized yet. You may be close but just not there. I recommend tabling.

Mr. Betz said I would like to make a suggestion which might help with the group. We heard a few main topics which might be out there for changes. I wrote down a few; how to handle outbuildings, dead trees/limbs and the removal of, mailboxes, fence types, parking in driveways, the ARC process. Anything in the draft which is subjective in nature. One thing to remember is the City, as a part of our Zoning Ordinances, requires 30 days from the time a Zoning Certificate is applied for to make a decision. Or, the City will issue the permit. This gives the 2 bodies 30 days to work things out. If things aren't worked out, the City issues the permit anyway. We are obligated to if it meets development plan requirements and people are being too subjective about things. A fully revised text can be submitted and we can have another public hearing.

Commissioner Little moved to table the Major Amendment to the Development Plan Text for the property located at The Retreat Subdivision as represented by The Retreat Association, an HOA, c/o Dan O'Brien, President, to allow further dialog regarding consensus for a new Development Text among the homeowners. Further consensus seems to be necessary, but not limited to, the following items:

1. Items such as out buildings.
2. Dead tree and limb removal and/or scenic easements.
3. Mailbox types.
4. Fence types.
5. How the Architectural Review Board will operate.

Commissioner Cooper seconded the motion.

Vote: Y – 5 N – 0

(Hartranft and Jester absent)

FINAL DEVELOPMENT PLAN REVIEW

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

Commissioner Boysko recused himself.

Andy Johanni, Senior Vice President, Equity, said we have worked with Staff and made some changes since the last meeting. We moved the handicapped parking closer to the entrance to the building. The users specifically asked to not have the handicapped parking in front of the entrance. This is pretty common. We added a sidewalk which now connects the buildings to the public sidewalks. We added the multi-use path and have shown how it connects through the pork chop. We added a shed on a roof to break up the façade. We changed from glass to louvers on the copula. This change is for maintenance issues. Getting up on the roof and keeping the glass clean will be difficult. It will be more easily maintained. We had been asked to raise the copula. We respectfully would like to decline. We like the

current scale. We have added quite a bit of expense to the building and we think it is a beautiful building. It meets all codes. If we are required to raise the element, we will have to go back to the drawing board and remove it. We would come back with a different solution. We are to the point where the building won't work anymore. We think it is in scale. We don't want this building to get out of scale from all of the other buildings. It will diminish all of the other buildings. It will hurt our marketability. Aesthetically we think the building looks right. We submitted a revised site lighting plan. We originally submitted a 25' pole and it is now a 20' pole. The photo matrix was done and we don't need to add more. The light won't be seen off the property. We received Staff's comments regarding the entrances yesterday. I request that we figure this out. I understand the comment which says to be approved by the City Engineer. There are a lot of details which have to go into the engineered plans. These aren't engineered plans. Improvements to the right-of-way is something we saw for the first time yesterday. We did a traffic study in December/January. We've been talking about this for 9 months. This didn't come up on the Preliminary Development Plan review. We don't know what costs this is going to entail for us. We have some issues with safety. We have been asked to add a drop lane prior to our entrance. Someone heading to the east on Seldom Seen is going to hit 2 lanes right at our entrance. This is going to cause confusion. The safety issue is when people go to leave our drive to make a left. They will have to cross 2 lanes. We don't think this adds to safety. The additional drop lane didn't show up in the traffic study as a requirement or a need. My presumption, going through a Preliminary and Final approval, was we would know what the requirements were for this. We would know what our costs would be and whether this project is feasible or not before we got to the Final. If we are still in a position where we aren't just talking about whether we need a 6' radius or a 10' radius on a curb. We are talking about adding \$100,000 worth of scope to a project here. This is the difference between feasibility and infeasibility for us. I was presuming that when we got to the Final Development Plan review we would know what we are designing and what the City is requiring of us. I'm seeing a new scope item coming up now. I guess I need a better understanding of what it means to get Preliminary and Final plan approval. I thought we were narrowing our scope and it's been opened back up again. If we get approval tonight does that mean we are largely done, we are working through engineering issues but not adding to our scope? We can still kill this project. I would rather have a discussion now. We have tried to do everything the City has asked us. The market is very tight for this type of project.

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

Staff does have concern with the access points. We have discussed this at length at several of the meetings so it is not new. The intersection is getting improved by the County with support of a grant. The safety grant received is based on plans submitted by the County. The City is paying for some of the improvements. There is a need to control left turns in. Our City Engineer would rather not put a pork chop in. They would prefer to just use no left turn signage. We don't see it as an issue for people to turn left through 2 lanes. People will be turning through 2 lanes when they turn out of Ashmore. There is much more traffic on Liberty Road. It really isn't a safety issue. The little wedges which need to be put in aren't a great cost. We don't know what is needed yet. The applicant can check with the County. The grant is very specific on what can be done. Moving forward through the process and leaving this up to negotiations with the City Engineer is a good way to leave things at this point. The request still needs to go to City Council. We might have this finalized by the time it goes to Council. Discussions still need to take place. Staff recommends approval with the conditions listed in the Staff Report. Mr. Kambo said there were questions at the last P&Z meeting about whether there were Wolfe Commerce Park covenants which need to be considered. There are not.

Steve Reynolds, Architectural Advisor, reviewed Exhibit 1B and 1C. Most of our comments from the previous meeting have been addressed and we appreciate it.

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

Commissioner Cooper thanked the applicant for coming back. I have no problems. Pay attention to the Architectural Advisor's comments. You will still need to work with the City Engineer, like it or not. And, possibly the County Engineer. We've received the lighting plan. Mr. Betz said we mentioned that the lighting might turn off at a certain time at night. The lights aren't needed all night. Commissioner Cooper asked if it is a security issue. Mr. Betz said no, more of a safety issue. It gets dark earlier in the winter.

Commissioner Simpson thanked the applicant for coming back. The project looks good. I wish we had answers on the turn in area but we can't at this point.

Commissioner Little thanked the applicant. This is a good addition to the City. I don't know how to affectively address the applicant's concern. Mr. Betz said it needs to be left to the City Engineer. Mr. Kambo said we always put a condition on that the applicant has to adhere to the City Engineer's requirements. This benefits both the City and the applicant. It provides flexibility. We may not have the right engineering solution now but as things are worked out and dealt with the proper solution can be put in place. This shouldn't be looked at as an impediment but as a flexible avenue. Commissioner Little said the condition in the Staff Report says the site plan will incorporate. I would rather say work

with the City Engineer. Mr. Betz said we are fine with that. Mr. Johanni said he appreciates Mr. Kambo's comments about this being flexible. I need some certainty this is going to stop. That all of the big marbles are in the jar. Mr. Betz said this is actually a small marble compared to other costs. It's a wedge of pavement. Mr. Kambo said there are 2 ways of doing this. You can go back to the City Engineer and confirm what it is they want and then come back to P&Z or you can have P&Z approve the development plan and it be finalized with the City Engineer. Mr. Betz said you still need to go before City Council which will take another month. Mr. Johanni said I would like to do that. What does finalization look like for me? Mr. Betz said this. Then you have your final engineering to do. You aren't through your final engineering yet. You will see another round of our City Engineer looking at this. You still have storm water to go through. Mr. Kambo said we understand your desire to solidify exactly what the engineering requirements are going to be. Typically we find that getting as close to a Final Development Plan as possible and working on engineering after is the most flexible way to do it. You have the option to table this and take everything to the City Engineer now to make sure they are 100% fine with what you are proposing, but you would need to bring this back. Mr. Johanni said I would just like to ask for help in solidifying this between now and when we go to Council. Mr. Betz said that is fine. Your engineer, the City Engineer and the County Engineer should all sit down together and make a decision. Mr. Kambo said you can take your request to City Council whenever you want to. There will be 2 readings at City Council after P&Z. You can meet and solidify in between. Mr. Johanni said I would like to continue.

Chairman Emerick said I don't have anything to add.

Commissioner Little moved to approve a Final Development Plan to construct six (6) commercial buildings on approximately 4.44 acres for the property located at 8930 Liberty Road as represented by Andy Johanni, subject to the following condition(s):

1. That the applicant shall work with the City Engineer to determine whether the need exists for extended off-site paving along the Seldom Seen entrance; and
2. That the applicant shall work with the City Engineer to finalize all other engineering requirements; and
3. That the City Engineer shall approve the final design of the new street paving, bike path, right of way paving and the north bound turn lane that will make up the entrance/exit from Liberty Road; and
4. That the applicant shall work with City Staff on providing additional trees and/or landscaping in the green spaces fronting Seldom Seen and Liberty Roads; and
5. That the applicant shall submit a revised lighting plan to and shall obtain approval from City Staff; and
6. That all Architectural Advisor comments shall be considered.

Commissioner Cooper seconded the motion.

Vote: Y – 4 N – 0 (Boysko recused) (Hartranft and Jester absent)

Mr. Johanni said we meet the landscaping requirements. We are just re-positioning trees, not adding trees. Mr. Betz said this is fine. Commissioner Little said this makes it easier for you. We don't get specific. Mr. Kambo said we are making it easier for you. Chairman Emerick said we are stating the goal. You get to work out how to do it.

MINOR AMENDMENT TO AN APPROVED FINAL DEVELOPMENT PLAN

Applicant: KAD, LLC
Location: 233 S. Liberty Street
Existing Zoning: (DB) Downtown Business District
Request: To review a plan to construct two (2) buildings, one (1) residential and the other mixed-use, on the front portion of approximately 1.5 acres.

Brian Jones, 503 City Park, Columbus, said I am the Architect on this project. This plan is consistent with what was approved before. We have eliminated some of the hardscape. There will be 2 live/work units and a couple carriage house units. Mr. Carmendy is thinking of living in one of the units. We are open to the Architectural Advisor comments.

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

The proposal will bring a new type of product into the City, a live/work type of product. Signage will be important and should be reviewed.

Steve Reynolds, Architectural Advisor, reviewed Exhibit 1D. I commend the product type, the live/work environment will be great for Powell. The massing as you go down the street, it is great to see the care that was taken to look at how the building approaches the street, the corner. The signage should definitely come back. The City Engineer is going to have to provide final approval on the entrance or how the paving will work. I can't tell if the current path goes over the top of the road. I'm sure that once there is final civil engineering drawings we will be able to tell. We made a comment about the setback and it's because we weren't sure where the path will go. You should look at the final setbacks. You need to pay attention to the trees, make sure they meet City guidelines. There are guidelines on the species. They should be outlined. With the massing, this is a complex roof plan. Lots of valleys, lots of pieces and

parts. Our biggest points are around materials, pallet, details, being able to see a pallet would be helpful. Understanding the Historic Downtown Advisory Commission's (HDAC) requirements such as half-round gutters and the right kind of lighting is important. It will be important to understand how the architectural details are going to work out; stone or brick or horizontal siding, window placement, the element which sits on the end. I understand this will be coming back and it will be important to provide detail. Mr. Jones said the critiques helped us understand there is probably a better, simpler approach. Bring the buildings into a Village of Powell character. You have made a very good point. From a siding standpoint, we are hoping to see 3 or 4 different stylistic variations. As the plans get developed we will be excited to bring back more detail. We want the readability of these being 4 different buildings with independent existence. Getting rid of the stone element and letting this be a simpler Powell massing will help. Mr. Reynolds said there is a need to see a color pallet. We do want these to read as 4 separate structures, understanding the different material pallets. We want to make sure it is cohesive. The materiality needs to lend itself to the rest of the area. There are a lot of rations to look at cupolas by. I feel like the cupola should be a little bigger. The drawing makes the cupolas look the same. It would be nice if they appeared to be a little different. The main entry and the secondary entrances need to be distinguished as different. Will someone go back out onto a porch as leaving the garages to get into the unit or is there a way to have someone enter right into the unit? Mr. Jones said that would be a better solution. Mr. Reynolds said to summarize, materiality, seeing lighting is very important. The recommendation to have HDAC review this is good.

Chairman Emerick opened this item to public comment.

Enas Yunis, 197 Donerail Ave., said I was a part of the 20-year plan when it was being designed for the City. We discussed the walkability and the green we want to maintain in the area. The designs of this don't tell me to come here. I don't feel invited. I can't tell which is house and which is work place. I can't see enough windows to tell what is inside. I don't even know if I should walk in. Looking at the back building with all of the trucks parked there tells me this is a workstation area, like a place for big trucks to be fixed or something. It isn't a place where someone could walk over for ice cream. I'm not sure what the use is going to be. This needs to be clarified more. It's not a walkable area. By the time I reach this area I don't want to walk any further. I don't know why I'm going there unless I want to continue on to the library. I would like to see a multi-use area where the bottom is a business and the top is a house but I can't tell from the pictures how you go from the business to the house securely. Will someone just walk into the first floor area which is a house? How do you secure this from intruders given the businesses are so close by? Usually when there is a multi-use building you have a house in the middle of businesses with a way to stay private. I can't see where the privacy is. It's hard for me to say yes I can take my kids here and feel safe with all of the trucks in the back. It would be great for this area to become something people want to walk to and enjoy.

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

Commissioner Cooper said this is a great project. I don't have any problem with the plans as presented. I would like to see this request go to HDAC. I'm sure HDAC will want to see lighting detail, signage. Signage might help people know what businesses are at the location.

Commissioner Boysko said I agree with Commissioner Cooper's and the Architectural Advisor's comments. I appreciate the scale, the size and detail put into this. I would like to see color renderings. Looking back on the other buildings along Liberty, it was a missed opportunity. We have some nice, articulated buildings which are all washed out. You lose a lot of character. I would hate to see this project lose its character. Color variations will help the buildings to read independently. This will be a beautiful addition. This site plan is a tremendous improvement to what was approved before. Mr. Betz said there is a lot less pavement and rooftop coverage. The storm water plan will be fine. Commissioner Boysko asked if the area to the south of the one building is going to be the storm water area. Mr. Betz said yes. It is a very long and narrow area, which outlets down to the south. The City Engineer has looked at this and doesn't have a problem. They are saving the big pine tree in the front. These aren't going to be real busy work places. There will be paths from the sidewalk to go back in. Mr. Carmendy and his electricians come and go in the morning, come back in the evening. Commissioner Boysko said I envision this as a much smaller scale live/work area, not a high volume retail area. You do want to invite activity to the front but I don't see a lot of activity behind. It will be more private and residential behind. Are we approving an amendment today? This isn't an amendment to a Preliminary and then an amendment to a Final. Mr. Betz said they had a Final Development Plan which had more of a commercial nature to it. That is being changed to a mixed-use. There is a change in the land use. We didn't see architecture before. Mr. Kambo said this meeting is an amendment to their Final Development Plan. Commissioner Boysko asked if the applicant has to come back after HDAC. Mr. Betz said no, unless you want them to come back.

Commissioner Simpson asked if the lighting is all figured out. Mr. Betz said no, not yet. Most lighting will just be off the building, some lighting may be needed at the porches. Mr. Kambo said lighting will be reviewed by HDAC. Commissioner Simpson said as long as lighting is going to be looked at. Have any changes which have happened in the last 11 years affected this site? Mainly Village Academy. Mr. Betz said no. Commissioner Simpson asked if we

need to worry about Dan's building. Mr. Kambo said this stands alone. Mr. Betz said this will make the area, coming in from the south, nice. It will be complementary.

Commissioner Little said the plan looks great and is a good addition to the community. I also think HDAC should review the request.

Chairman Emerick said I echo the comments made. I agree the request should go to HDAC.

Commissioner Little moved to approve a Minor Amendment to an Approved Final Development Plan to construct two (2) buildings, one (1) residential and the other mixed-use for the property located at 233 S. Liberty Street as represented by KAD, LLC, subject to the following condition(s):

1. That all Engineering Department comments shall be adhered to as part of the plan and engineering plan review process; and
2. That all Architectural Advisor comments shall be implemented; and
3. That the applicant shall submit a sign plan to be reviewed and approved by the Planning & Zoning Commission; and
4. That all material, color and fixture selections shall be reviewed and approved by City Staff prior to issuing a building certificate; and
5. That the applicant's request shall be reviewed by the Historical Downtown Advisory Commission prior to submittal to City Council.

Commissioner Boysko seconded the motion.

Vote: Y – 5 N – 0

(Hartranft and Jester absent)

Commissioner Little said the comments provided by Ms. Yunis are valid and are important to think about.

MINOR AMENDMENT TO AN APPROVED FINAL DEVELOPMENT PLAN

Applicant: Pulte Homes
Location: Steitz Road and Hunters Bend
Existing Zoning: (PR) Planned Residence District
Request: To change the setback requirements for Lots 3806 and 3816 of the recorded Plat for Shelly's Retreat at Carpenter's Mill.

Joe Lamparyk, Pulte Homes, said he is also a resident of Powell. I live at 276 Watson Way. We have a minor amendment to the recorded plat. The plat was created by an engineering firm. We initiated the design elements of the community with certain house plans in mind. There are 2 lots where the house plans don't fit on the lots. The proposal is to make an amendment to those 2 specific lots, lot 3806 and lot 3816, to allow the houses to move forward so we maintain the clearance behind the house per the community design. Lot 3806 is near the front of the community, on a very soft radius of a turn. Moving the house forward a distance of roughly 4' would be insignificant in terms of a visual effect on the house or community. Lot 3816 is in the very back of the community, on the furthest point of a cul de sac. Moving this house forward doesn't visually impact houses around it. The notes reference 3 options. We have presented the 2 smallest houses on each of the lots. We are staying consistent with the house plans approved for the community. One of the house plans will have a different exterior dimension if changed to a brick front. A stone front would be slightly smaller. The footprint of one plan doesn't change at all, the second plan the footprint changes. That's why there are 3 plans for each lot.

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

The plot plans will need a note on them which reflects the decision of P&Z tonight, if the encroachments are approved, so there are clear titles. Staff recommends approval with the conditions in the Staff Report.

Steve Reynolds, Architectural Advisor, had no comments.

Commissioner Simpson asked if they need a variance. Mr. Betz said the Commission would be amending the dimensions in the development plan text so no variance is necessary. Mr. Kambo said this will become a part of the plan. Mr. Betz said it just needs to be noted on the plot plan. Mr. Kambo asked if the applicant has a preference of the 3 options per lot. Mr. Lamparyk said of the 3 options, there is actually 2 house types. We would like for both to be approved. When someone picks these lots, they have 2 house options instead of 1. Mr. Kambo said a condition needs to allow the applicant to select the house plan and submit to the City to become a part of the development plan. Chairman Emerick opened this item to public comment.

Marlynn Schwenk, 8125 Farm Crossing Circle, said she received a postcard. My property is in a condo community Village of Scioto Reserve. There are woods. Will this affect the woods? Mr. Betz said this will have no additional effect

on the woods. Mr. Kambo said it is literally moving where the house sits on the lot. Mr. Betz said the houses will be moved a few feet forward. Ms. Schwenk said I didn't know if you were moving back. Mr. Betz said no. Mr. Kambo said we purposefully asked them to move the houses forward to ensure there was no impact. Ms. Schwenk said good. I like my trees. Did you put the little yellow tags in the yard? Mr. Kambo said they might be utility markings. Mr. Betz said those are marking utilities such as gas lines. Ms. Schwenk said they are all over the place and I was concerned.

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

Mr. Lamparyk said there is one other point I would like to clarify. The plot plans submitted as a part of the proposal show a wooden set of stairs for egress out of the house in the easement, on all plans. Mr. Betz said this is fine. There are porches with these units. Mr. Lamparyk asked if there is any problem with this going into the rear setback. Mr. Betz said no.

Commissioner Cooper said pick the house plan you want because the differences on the front setback are minuscule. Pick the house plan that works the best and let Staff know. Mr. Betz said correct. They will pick 1 of the 6 and let us know. The customer will pick.

Commissioner Little asked if we are suggesting the applicant will include the house selection that is appropriate for these lots on the plan. Mr. Betz said when they do choose, they will submit the plot plan; the plot plan will have a note on it that P&Z approved on this date. An encroachment will show on the front setback. We don't want to amend the plat. That is difficult. By putting the note on, any future transactions will show up as the transfer property. It won't come up as an encroachment that leads to difficulties in trying to sell the house. Commissioner Little asked if there is a need for a second condition. Mr. Betz said no, we just need to make sure the note is on. Mr. Kambo said the requirement of having the note written on the plat and the second condition is for once the selection is made, to let the City know so we can have the selection in our documents. Mr. Betz said we will get it when we get the Zoning Certificate. Mr. Kambo said yes but this formalizes it. Mr. Betz said stay with the Staff recommendations.

Commissioner Little moved to approve a Minor Amendment to an Approved Final Development Plan to change the setback requirements for Lots 3806 and 3816 for the property known as Shelly's Retreat at Carpenter's Mill, located at Steitz Road and Hunters Bend as represented by Pulte Homes, subject to the following condition(s):

1. That the revised plot plans shall be submitted to the City Building Department saying, "Setback Encroachments approved by the Planning & Zoning Commission of the City of Powell dated October 9, 2019"; and
2. That the applicant shall notify City Staff of the home model selected via the Zoning Certificate process.

Commissioner Boysko seconded the motion.

Vote: Y – 5 N – 0 (Hartranft and Jester absent)

OTHER COMMISSION BUSINESS


Mr. Betz said Staff met with Council last night on the beginning of the budget process. We are recommending that the Comprehensive Plan and Keep Powell Moving plan be updated. The Comprehensive Plan was adopted 4 years ago. There have been a lot of changes since then. We need to re-visit our growth areas. Commissioner Little asked if we see a new group of trustees who have different opinions, would this correct itself. Mr. Betz said 1 of the trustees isn't running so this probably won't be a possibility.

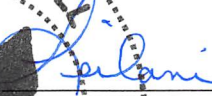
Mr. Kambo said since we knew today was going to be a lengthy meeting, Staff didn't do additional research on pool covers. We will bring it back at another meeting. Mr. Betz said we have all winter now.

ADJOURNMENT

MOTION: Chairman Emerick moved at 10:13 p.m. to adjourn the meeting. By unanimous consent, the meeting was adjourned.

DATE MINUTES APPROVED: October 23, 2019

 10/23/19
Donald Emerick
Chairman

 10/23/19
Leilani Napier
Planning & Zoning Clerk

