



## STAFF REPORT

### PLANNING & ZONING COMMISSION

Village Green Municipal Building, Council Chambers

47 Hall Street

Wednesday, December 11, 2019

7:00 P.M.

#### 1. MAJOR AMENDMENT TO DEVELOPMENT PLAN TEXT

Applicant: The Retreat Association, an HOA c/o Dan O'Brien, President  
Location: The Retreat Subdivision  
Existing Zoning: Planned Residence District (PR)  
Proposed Zoning: Planned Residence District (PR)  
Request: To rezone the Retreat Subdivision from PR to PR with a new zoning text.

Aerial Site Image: <https://goo.gl/maps/PMCVMRGRkY4Y6RBR6>

#### Project Background

This is the second review by P&Z. The first time P&Z saw this proposal was on October 9, 2019. At that meeting P&Z as well as members of the public provided comments to the applicant. After the meeting, the applicant held a second open house on November 11 to discuss the text further with concerned neighbors. The applicant(s) took the comments they heard from these meetings and revised the development text. They are now resubmitting for review.

*From the previous staff report:*

Developed in 1974, The Retreat Section 1 was zoned into a straight R-2 Zoning District. Since that time, there have been several Zoning Code re-writes and area-wide zoning map amendments. Most recently in 1990, when the whole Zoning Code and Zoning Map were revised, placed the Retreat area within the PR, Planned Residence District. Our current code is based upon that change, with many amendments in between. The Retreat was developed in Sections, each with its own set of Deed Restrictions and Covenants. We are told all restrictions expire at the end of the year so that is the impetus of the Retreat HOA submitting this request.

Representatives from The Retreat met with staff almost a year ago to determine what could be done to have some regulations in place to protect the look, feel, and character of the Retreat and Cardinal Hill subdivisions. Staff determined the major amendment process was the appropriate avenue. Over the course of many months the HOA drafted a document that staff provided some guidance on. The HOA finalized the document and submitted it for review to P&Z on September 24.

In the meantime, the HOA set up an open house on October 2 that Staff attended. The purpose of the open house was to provide residents with the ability to comment on what the HOA representatives drafted. The open house had good attendance and there was great discussion amongst the residents. There were residents in favor of the text and others who had concern ranging from specific details within the text to whether the text was need at all. Staff, at the request of the HOA, is keeping the development text on the agenda for P&Z review with the understanding that changes will be made to the text to help address the concerns that were heard at the meeting.

#### Proposal Overview

All of the property within the area in question is zoned PR, Planned Residence District. This action is not technically rezoning the property, but merely placing an overlay text on top of the existing PR, Planned Residence District, which creates a new Planned Residence District for The Retreat.

### Changes Since the Last Submission

The applicant revised the Retreat Development Text document since the last submission. Most of the changes to the draft involve reorganizing and rewording portions of the document. Major changes to the document include:

- Article 1
  - Addition of Section 1.2 (f), (g), (h)
  - Addition of Section 1.5
- Article 2
  - New details added for homes that are constructed after January 1, 2019
- Article 3
  - Addition of Section 3.2
  - Addition of Section 3.6
- Article 4
  - Addition of Section 4.1
  - Addition of Section 4.4
  - Addition of Section 4.5
  - Addition of Section 4.7 (e), (f), (g), (h)
  - Addition of Section 4.13 (b), (c), (d)
  - Deletion of Section 4.7
  - Deletion of Section 4.13 (e)
  - Deletion of Section 4.19
  - Deletion of Section 4.26
- Article 5
  - Addition of Section 5.1 (a), (b)

### Ordinance Review

This application is being handled as a Rezoning, as it is creating a zoning text overlay of the existing PR, Planned Residence District for the area described in the application and map. This item is required to be reviewed, and approved, by this Commission and City Council in order to take affect. It is creating an amended development plan just the same, and Staff, with City Council's approval, created a new fee process for reviewing Development Text plan changes only, as there are no physical changes that are being proposed to the existing layout of streets, lots, open spaces, etc. This text is providing for rules and regulations that are, in part, similar to existing Powell Code and, in part, more restrictive than Powell Code. Once approved and effective, the City will take responsibility for enforcement. Also, this does give the property owner the ability to appeal decisions made by the City for enforcement purposes to the Board of Zoning Appeals.

### Comprehensive Plan Consistency

The Comprehensive Plan suggests that the City support the maintenance of existing residential areas. One way of doing so is to keep ahead of the curve, so to speak, on regulations that will help older neighborhoods continue to improve over time. While the City updated its Zoning Code recently, it is difficult for subdivisions to do the same with their restrictions and covenants, which oftentimes requires 100% of the households to approve of changes. By creating a new zoning text for the area, all of the requirements for the neighborhood are getting updated under current zoning standards and even more so creating some restrictions that go beyond current zoning code requirements.



## Staff Comments

Staff did a comparison of the current zoning code requirements and the proposed text changes. See the chart on the following page:

Retreat Zoning Text as Proposed	Current Powell Zoning Regulations
Lot Maintenance	The City is more specific, 7-inches.
Building Exteriors	Maintenance the same; materials and colors have no regulations.
Hard surface paved driveways	Same
Lawn equipment storage indoors or out of sight	Same
Parking of Commercial Vehicle	Same
Solar Panels OK	Same
Recreational Structures OK	Same
Utilities underground	Same
Satellite dishes up to a meter OK	Same
No Above ground pools	Same
Outside building materials wood, stone, Hardi-plank, etc.	Same
No Dumping of materials	Same
No changes to streams and areas	Same
Temporary signs	Same
Home Occupations	Same
Parking during construction	Same
Obnoxious or nuisance uses (subjective)	Same
Parking vehicles generally	Same
Outside storage tank up to 20 gallons	Similar
Trash receptacle placement	Similar
Holiday decorations down within 90 days	The City does not regulate this at present.
No outside buildings for pets	The City allows buildings for pets.
Outbuildings (gazebo, pool bldgs., detached garage, accessory bldgs.)	The City allows outbuildings.
Temporary roof covering due to storms, etc.	The City does not have regulations for this.
Trash receptacles out 24 hrs. before pick up, put away 24 hrs. after pick up	The City does not regulate this at present.
Electric Generators	The City has no specific regulations for generators.
Fencing	The City is not as specific on this item.
Accumulation of household items outside (e.g. furniture)	The City is not as specific on this item.
No plastic mailboxes	There are no architectural requirements for mailboxes.

As one can see from this comparison, there are not a whole lot of differences from what the current zoning code regulates. Some minor differences exist but the main difference between the City zoning code and the proposed regulations is the provision for an Architectural Review Board (ARC), who will make recommendations for improvements to properties within the area. This is not unusual for the City of Powell where the majority of subdivisions have some sort of review authority. At the open house residents asked that details of the ARC be fleshed out. Namely, who sits on the board and what exactly they look at when reviewing applications.

### Staff Recommendation

It is hard to predict how things might be different if this proposal is not approved. Although there are but a few differences between this proposal and the City's existing zoning code, the largest difference being that this text gives authority to an Architectural Review Board to make recommendations to homeowners that are proposing to make exterior changes. This can be very helpful for neighbors to exchange ideas about what is good for each other as they consider exterior remodeling, it is all in how this is implemented that is the key. As written, this committee makes recommendations...it is not intended to be the heavy hand that there may once have been. There is, of course, the 30 day limitation within our Zoning Code that allows the City to go ahead and issue Zoning Certificates for areas that have Architectural Review Authority and they cannot come up with plans that are mutually agreeable.

An Approved Development Plan Text such as what is proposed lays a firm groundwork toward keeping a neighborhood such as The Retreat the nice place that it is today, without really providing that much over burdensome regulations that otherwise would hinder people's choices.

Expiring covenants and restrictions is a unique situation and Staff appreciates residents taking a proactive approach to addressing it. This is a grassroots effort that the City is aiding through the process. Ultimately, Staff has no problem with the request as long as the details of the Architectural Review Committee review authority are clear and there is support by the residents to whom this applies.