



CODE ENFORCEMENT REPORT

August 2020 – Report Attached.

PLANNING AND ZONING COMMISSION

August 12, 2020 – Meeting minutes attached.

EXTENSION OF DEVELOPMENT PLAN APPROVAL

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

- *Request reviewed and denied.*

MINOR AMENDMENT TO APPROVED DEVELOPMENT PLAN

Applicant: Harpers Pointe Land Co LLC
Location: 159 Chedworth Row
Existing Zoning: (DR) Downtown Residence District
Request: To change the setback requirements for lot 3977 on the recorded Plat for Harpers Pointe.

- *Request reviewed and approved with conditions.*

CERTIFICATE OF APPROPRIATENESS

Applicant: Jess Howard Electric
Location: 62 Clairedan Dr
Existing Zoning: (PC) Planned Commercial District
Request: To review the addition of parking lot lighting.

- *Request reviewed and approved.*

HISTORIC DOWNTOWN ADVISORY COMMISSION

August 2020 – No Meeting Held.

BOARD OF ZONING APPEALS

August 2020 – No Meeting Held.

August Code Enforcement Report 2020

Date	Violation Description	Address	Name	Phone	Notes	Resolved Date
	8/10/2020 property maintenance violation	77 S Liberty St	Steven Hoagland		outhouse falling over towards bikepath	discussed over phone 8/24
	8/10/2020 landscaping violation	77 Olentangy St	Daniel McClurg		overgrown weeds/landscaping	8/11/2020
	8/13/2020 sign violation	27 S Liberty St	Finn & Roe		installed sign without permit	haven't picked up or paid fees
	8/19/2020 work without a permit	333 Ashmoore Cir E	Michael & Jennifer Mulligan		basketball court installation without permit	8/20/2020
	8/31/2020 recreational structure violation	298 Weatherburn Ct	Shaun & Cara Castorano		basketball hoop in cul-de-sac ROW	
on going	property maintenance violation	951 Retreat Ln	Umesh Vazaraní			
on going	property maintenance violation	180 Briarbend	Tom Smith			
on going	landscaping violation	Old Pond Ln vacant lot	David Brehm			



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

Shawn Boysko

Ed Cooper

Shaun Simpson

Elizabeth Bailik

MEETING MINUTES

August 12, 2020

Chairman Donald Emerick called a Zoom meeting of the Powell Planning & Zoning Commission to order on Wednesday, August 12, 2020 at 7:10 p.m. Commissioners present included Donald Emerick, Elizabeth Bailik, Shawn Boysko, Trent Hartranft, Bill Little and Shaun Simpson. Also, present were Elise Schellin, Development Planner, Pam Friend, Planning & Zoning Clerk, Megan Canavan, Communications Director and interested parties. Commissioner Ed Cooper was absent.

APPROVAL OF MINUTES

MOTION: Commissioner Bill Little moved to approve the minutes of July 15, 2020. Commissioner Hartranft seconded the motion. By unanimous consent of all Commission members present, the minutes were approved as written.

Vote: Y - 6 N - 0

(Absent – Ed Cooper)

EXTENSION OF DEVELOPMENT PLAN APPROVAL

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

Gene Rodriguez representing The Day Dream Inn, LLC: It is good to see you all again, I certainly never expected to be asking for additional forbearance. Things had been moving along progressively at the end of the year. We had several interested parties about the development of The Day Dream Inn, but by February they all dissipated and I think that you understand that I have been affected just as we all have by the uncertainty caused by the current Covid situation. I am asking that I get another year extension on this and in hindsight I believe it might have been a boon to actually develop the property after this kind of an incident to conform to the new normal we all expect. If it is alright with you I asked for another year's extension.

Commissioner Emerick: Elise will you give the Staff report.

Elise Schellin: I won't spend a lot of time going through this proposal since you have all seen it a few times. The project was originally approved in 2014 and the Development Plan has been granted several extensions. Staff believes this was a good plan at the time but there is a lot that has changed around the area including the shopping plaza, the adoption of the Keep Powell Moving Plan and the new light at Grace Drive and Olentangy Street. Staff feels that it might be time to take a new look at this plan and make some updates, however, we cannot pretend that Covid is not happening and the setbacks that may have occurred from it. We are suggesting that either the plan is approved with the same conditions that it was last year when it was extended for 12-months and the applicant demonstrates a valid commitment and shows some progress or the alternative recommendation is that if the Commission does not support the extension the proposal is brought back through the full process.

Commissioner Emerick: Since there is no public comment we will start with Shaun Simpson.

Commissioner Simpson: I feel like two years ago I was apprehensive about extending it and here we are again. I know the property was for sale again in January and expired. I am not sure what the intent is, whether it's to sell the property or develop it. I am a little apprehensive since so much has happened since this was approved.

Commissioner Boysko: I can sympathize with the applicant, I have been working on a five story Hilton in Florida for about two years now and it has taken a significant delay because of Covid and because the hospitality industry has taken a big hit. I know there are challenges with getting lenders onboard with committing to any type of hospitality let alone such a unique project. So I am sympathetic, but this is the third or fourth extension that has been requested. If the Board is inclined to grant an extension, I think we would be looking for something more definitive that there is progress and I am wondering if the applicant can speak to if you have got a lender committed, a term sheet or if you have an operator on board.

Mr. Rodriguez: I have altered the ownership structure of the property to include participation of a commercial development company. We have entertained some conversations with other large commercial developers before this hysteria began in the spring and they are still interested. I do not think anyone is ready to commit until things become a little bit clearer in terms of how things are going to go and that is why I think another year is in order. As I pointed out, we have people that are vested in the property who are commercial developers now. I have a confirmed commitment from Columbus Hospitality, a company that is headed up by Charles Lagrace who operates the North Point Hotel on 23 and Powell Road, the Crown Plaza among many, many others that are willing to operate the property once it is up and going. It is a unique property, it is kind of too small for many people but I still think it has a very large potential and I think given we will open it in the wake of this situation means we can probably have some success. Honestly, if I had opened this a year or two ago I would probably be in bankruptcy at this point. I am not saying I saw this coming but providence is an interesting phenomenon. So, I have made progress and continue to make progress, I am only asking for the forbearance, which has been allowed many others here given the situation.

Commissioner Little: The fact Mr. Rodriguez has incorporated keeping the existing house in the development is crucial, if you understand the history of the house, so I think that is positive. Honestly, I don't really know whether anyone is suffering any harm by Mr. Rodriguez continuing to have an approved Development Plan and I would speculate that it would put him in a better position should he decide to sell the property with the approved Development Plan. I don't think we are causing any harm or grief to anybody by extending for another year. I may change my mind between now and then but I think as far as today goes I am good with it. All things considered with the Covid situation and lack of certainty where any of us are going in the near future.

Commissioner Bailik: I really don't have any other comments than what I have already heard. I do think if we have any opportunity to take another look at it that never hurts anything. I was not around for the other three or four times this came in front of the Board. I guess if I have the opportunity then I would like to go back to step one.

Commissioner Hartranft: Like many of the comments, I am glad that the plan is there and we have been hopeful for a while now. I know Gene is probably more hopeful than all of us on the call, so I understand the frustration and where he is at. I would be fine with extending it another 12-months in light of what is going on in the world and where things are at and I don't think there is any push to change that particular property. I think the plan that was designed and approved is a good one that will be a very unique opportunity and business in the City of Powell if it does come to light. If there is chance to do it then we should continue with it.

Commissioner Emerick: Mr. Rodriguez is the property currently for sale?

Mr. Rodriguez: It is advertised for sale in an effort to reach potential interested parties in the development project more than anything else.

Commissioner Emerick: It sold earlier in the year to Mr. Matt Cooper who is a realtor, correct?

Mr. Rodriguez: Matt Cooper is a partner essentially, he now has the equity stake and I have a right to the title under that arrangement, I did that to satisfy my previous land contract with Paul Kirkham. He is quite supportive of the plan.

Commissioner Emerick: Here is my position, we have extended this a number of times and said the last time that it would be the last extension so I think we are at the point where we say no further extensions. You can continue to work on getting a lender agreement or whatever you need to do the project and then come back in and reapply to go through the process again. I think it has been long enough if you go through the timeline that Staff provided us, we just cannot keep extending this in the hopes that something is going to happen. We said the last time that we needed definitive progress by a financial lending agreement for us to move forward with it and we are not at that point so my vote would be no at this point.

Mr. Rodriguez: May I respond to that comment?

Commissioner Emerick: I am not asking for a response at this point, that is just my thoughts on it. I think we are at the point where the commission needs to take a vote.

Commissioner Boysko: I understand your position and the history of this. I think we all agree this project has great potential but it has been extended for a long period of time. At the risk of trying to re-write the approvals that are already in place, is there a compromise or a hybrid solution because it has been what five years or so since we first saw this?

Chairman Emerick: 2014.

Commissioner Boysko: So it has been six years and now it will be seven if it comes back a year later. Do we have the ability to come back at the end of the 12-months and you are ready to develop this that you come back to the Planning & Zoning Commission for a final, Final Approval and that gives us one opportunity to reevaluate this project?

Chairman Emerick: I do not think our Code is written that way but we accomplish the same purpose by denying the extension at this point and just having him come back and start at ground zero again.

Commissioner Boysko: Yes, you are absolutely right but I think the only thing this would save is a Preliminary Review or go right to a Final Approval.

Chairman Emerick: We could combine a Preliminary and Final Review at that point if we so desired.

Commissioner Boysko: True, I am just throwing out options for the Board to consider.

Commissioner Little: So my interpretation here would be that I go ahead and make a motion to approve the extension. In the event we approve the extension then we have done just that. In the event the Commission by vote chooses not to approve the extension we have in affect said we are starting over.

Chairman Emerick: Yes.

MOTION: Commissioner Little moved to extend an existing Development Plan for the property located at 80 E. Olentangy Street represented by Day Dream Inn, LLC subject to the following condition(s):

1. The extension shall be for 12-months.
2. That the applicant shall demonstrate a valid commitment within the 12-month extension that a pathway to completion exists.
3. The Planning & Zoning Commission shall accept a proof of financing as an indication of said commitment.

Commissioner Hartranft seconded the motion. Motion failed.

Vote: Y – 3 N – 3 Simpson, Emerick, Bailik (Absent – Ed Cooper)

Chairman Emerick: I believe that means the motion fails to pass.

Commissioner Boysko: Gene if it is any consolation I think the Board feels that it is a positive project and if you did come back, I think there are ways to expedite the approval process as Don mentioned. I don't want to speak for the whole Board but I think there are options available to you.

Commissioner Little: I would agree with that statement.

Chairman Emerick: I would agree as well and I think everyone on the Commission from the outset has thought it would be a great project if it can be pulled off.

Mr. Rodriguez: We have all had eight months of lockdown so how can I not get some consideration for that?

Chairman Emerick: We have been giving lots of consideration for six years.

Mr. Rodriguez: Yes, but you gave me a year and the last eight months it has been a complete shutdown. It seems absurd that I cannot get an extension based on that alone.

Chairman Emerick: The Commission has voted and the motion has failed to pass so that is where we are at.

Mr. Rodriguez: What does that mean? It is three to three so where does that leave me?

Chairman Emerick: That means the Commission can consider another motion tonight if someone wants to make one.

Commissioner Little: From what standpoint?

Chairman Emerick: I am not sure I have an answer for that.

Commissioner Little: I think we need four to pass, right?

Chairman Emerick: Yes.

Commissioner Boysko: If it was a question of a shorter duration of the extension, I don't know if that would sway any of the Board Members. I am not sure what other options would be available.

Commissioner Hartranft: Gene, would six months be any more of an extension than you would need?

Mr. Rodriguez: It certainly is better than nothing, but as I said, I don't think things are going to be clear for many people until the end of the year in terms of committing to any projects of significant size. I would certainly take it in lieu of anything else. Furthermore, I totally planned to revisit the design of the Day Dream Inn materialistically in terms of enhancing its sanitation qualities rather than its luxury qualities to try to appeal to what people are going to want going forward in the future as far as safety and what have you. Again, it is almost a godsend that I did not try to build this thing two years ago because it would probably be suffering the fate of a lot of hospitalities. As they say "Rome was not built in a day" and I know it has been six or seven years. I certainly did not expect things to play out the way they have, though I accept them for what they are. I am still here trying to get this thing done and if it's not going to hurt anybody's feelings or anything just give me back the year I have lost to Covid.

Commissioner Emerick: If you are planning on revising the design anyhow it is exactly what you would be able to do by coming back through the approval process again.

Mr. Rodriguez: Well you take a lot of the motivational marketing out of the project for people who may be willing to finance it, if it's in jeopardy like that. If we can keep the position of approvals in place I can endeavor to bring forward improved designs, which we would submit as needed. Jim Clark is our architect and I think he is in the audience. He has already reviewed the drawings and began to suggest improvements. Unless somebody needs the property for some reason, what's the harm? I have invested a lot in this and I certainly don't want to see it washed away but honestly I did not want to repeat my performance from the last time I came to see you and was determined not to but there was nothing I could do as people fell away like melting snowballs. Nobody is interested in doing anything and it has been that way for the last few months. Again, I did do some very dramatic restructuring of the property and brought in some more powerful partners that have contacts and resources in commercial real estate and other aspects of construction so if six months is the best you can do then I would take it.

Commissioner Little: We can either talk about it or I can just make another motion and we can see if there is any movement. I would argue that this would be the last motion that we do.

Chairman Emerick: I would concur with that.

Commissioner Simpson: When is the current approval expiring?

Mr. Rodriguez: This month, August.

SECOND MOTION: Commissioner Little moved to extend an existing Development Plan for the property located at 80 E. Olentangy Street represented by Day Dream Inn, LLC subject to the following condition(s):

1. The extension shall be for 6-months.
2. That the applicant shall demonstrate a valid commitment within the 6-month extension that a pathway to completion exists.
3. The Planning & Zoning Commission shall accept a proof of financing as an indication of said commitment.

Commissioner Boysko seconded the motion. Motion failed.

Vote: Y – 3 N – 3 Simpson, Emerick, Bailik (Absent – Ed Cooper)

Chairman Emerick: We are still three to three, which means the motion failed to pass.

Commissioner Little: Mr. Rodriguez I truly look forward to you bringing back your proposal for the Day Dream Inn. It is an extremely well thought out project.

Mr. Rodriguez: So that is it?

Chairman Emerick: That is it for tonight. If you can make significant progress towards those requirements then feel free to bring it back. I think we would all be willing to take another look at it but everyone was pretty adamant at the last meeting that there would be no more extensions.

Mr. Rodriguez: That was before this disaster, I mean how can you ignore that?

Chairman Emerick: The vote has been taken and that is where we are at. Thank you.

Mr. Rodriguez: Thank you.

MINOR AMENDMENT TO APPROVED DEVELOPMENT PLAN

Applicant: Harpers Pointe Land Co LLC
Location: 159 Chedworth Row
Existing Zoning: (DR) Downtown Residence District
Request: To change the setback requirements for lot 3977 on the recorded Plat for Harpers Pointe.

Ms. Schellin: We are looking at one specific lot 3977 for Harpers Pointe. Due to the shape of the lot with the cul-de-sac and the utility easement, they are not able to fit any of the model homes designed for the development on this site, so they are proposing the 5' setback to be reduced to 2' to allow for a model home to fit on the lot. This would still allow for the 10' in between buildable areas in between the lot lines. Staff would recommend that this is approved under the condition that the revised plot plan come through the building department with wording on it stating that the setback encroachments were approved by the Planning & Zoning Commission of the City of Powell dated August 12, 2020. I have one additional condition that there be a 5' access easement created between lot 3977 and 3978 to allow for house maintenance on the home that would be built on lot 3977. That would just allow for maintenance for a ladder should the home need painted or windows be put in, etc.

Chairman Emerick: Is there any discussion on this?

Commissioner Bailik: I have a question on the definition of buildable area. Is that solely limited to the structure itself or does the buildable area include landscaping.

Ms. Schellin: It would just include the home structure.

Commissioner Bailik: I looked at some of the plans and they all include landscaping around the corners so how would you mitigate that setback while still allowing lot 3977 to put in landscaping?

Keith Hake, Home Designer – Harpers Pointe: That access is a radial arm that actually allows the driveway to go into lot 3978. The house really will not be getting any closer to the house on lot 3978, which is a courtyard style home. The 3977 is one of the narrowest lots that has this little side yard easement that is keeping us from putting one of our houses on it. We have sixteen different houses that fit on the forty-seven lots and this one because of that little 3' area that we need for the square part of that house. The landscaping is taken care of by the Home Owners Association, so each individual house does not have its own landscaping. The landscaping will actually flow between the houses and there will be bushes and little partition walls that will go from house to house to make it feel like it is one large community. It is going to be done in an English style with the roses and hedges, but the little area is really that upper left or right hand corner that will allow for a building to go on there. We have sixteen different houses for all the various lot sizes and if we allow the 3' corner here it will allow for three of the different house plans to fit on this lot otherwise it would have to be designed specifically for that lot, which we are trying to stay away from because we have already developed the sixteen plans. Some of houses do fit on two to three lots and some will fit on four to five lots but each lot is completely different, which has allowed us to develop a whole lot of different houses that will hopefully sell and look beautiful.

Chairman Emerick: Are there any other questions or comments from the Commission?

MOTION: Commissioner Little moved to approve a Minor Amendment to an Approved Development Plan for the property located at 159 Chedworth Row, known as lot 3977 as represented by Harpers Pointe Land Company LLC for the purpose of changing the setback requirements for lot number 3977 subject to the following condition(s):

1. The applicant shall bring forth the revised plot plan through the building department with wording on it stating "setback encroachments approved by the Planning and Zoning Commission of the City of Powell dated August 12, 2020".
2. A 5' access easement shall be granted for the sake of maintenance between lots 3977 and 3978. Applicant will work with Staff to finalize the details of the easement.

Commissioner Simpson seconded the motion. By unanimous consent of all Commission Members present, the motion passed. **Vote: Y – 6 N – 0 (Absent – Ed Cooper)**

Chairman Emerick: Motion passes. Thank you.

CERTIFICATE OF APPROPRIATENESS

Applicant: Jess Howard Electric
Location: 62 Clairedan Drive
Existing Zoning: (PC) Planned Commercial District
Request: To review the addition of parking lot lighting.

Ms. Schellin: Todd Barcus from Jess Howard Electric should be on here, but it looks like he is muted so I will give the Staff report. We are looking at the property located at 62 Clairedan Drive, which is a commercial building and their tenant is Ohio Health Primary Care. The tenant is asking for the addition of lighting in the parking lot for increased safety, especially in the winter months. They are proposing to add four new lighting poles for the parking lot and Staff recommends approval of the proposal as submitted. There really is not any light emission that goes further than the property line. All of the lighting will be kept on the site.

Chairman Emerick: Thank you. Any questions from the Commission? In that case since no one is speaking up, Bill do we have a motion?

MOTION: Commissioner Little moved to approve a Certificate of Appropriateness for the property located at 62 Clairedan Drive represented by Jess Howard Electric for the purpose of adding lot lighting.

Commissioner Hartranft seconded the motion. By unanimous consent of all Commission Members present, the motion passed. **Vote: Y – 6 N – 0 (Absent – Ed Cooper)**

OTHER COMMISSION BUSINESS

Commission discussed dropping the optional meeting for the remainder of the year due to the staffing transitions in the Development Department and agreed to only schedule the second Wednesday of each month for Planning and Zoning meetings. In the event an item would need a follow-up review then the optional meeting could be added. The Commission praised Staff for their hard work in preparing for and participating in the meeting.

Commission asked staff a zoning question regarding a sign in the window of the new barbershop at the four corners that completely covers the window and is in violation of the code. Staff responded that they were not aware of the sign but have had issues in the past with them putting up signs without submitting a permit or not picking and paying for their permit. Staff thanked the Commission for bringing it to their attention.

Commission asked staff if Prohibition came to the City asking for permission to block off their parking lot to set up tables for outdoor seating. Staff responded that the Ohio Liquor Control is allowing patios to be extended during Covid for social distancing. Staff believes they received administrative permission prior to Dave Betz retiring.

Commission asked about the plan to recognize Joe Jester for his service to the Planning & Zoning Commission. Staff responded that Joe had wanted to push that back. Commissioner Little will reach out to Joe's son for an update on when they would like to do that

Commission asked about Powell Green starting their next phase. Staff responded that they have not heard from them but that they are talking with engineering.

Commissioner Emerick: The next meeting is scheduled for September 9, 2020.

ADJOURNMENT

MOTION: Chairman Emerick moved at 8:00 p.m. to adjourn the meeting. By unanimous consent, the meeting adjourned.

DATE MINUTES APPROVED:

Donald Emerick
Chairman

Date

Pam Friend
Planning & Zoning Clerk

Date