



**CODE ENFORCEMENT REPORT**

*February 2021 – Nothing to Report.*

**PLANNING AND ZONING COMMISSION**

*February 24, 2021 – Draft Minutes Attached*

**CERTIFICATE OF APPROPRIATENESS (Case 2021-01CA)**

Applicant: The Hessenauer Corporation c/o Michael Hessenauer  
Location: 8 N. Liberty Street  
Zoning: (DB) Downtown Business District  
Request: Review and approval of a revised parking plan.

\*Request Not Approved

**CERTIFICATE OF APPROPRIATENESS (Case 2021-02CA)**

Applicant: Pulte Homes of Ohio, LLC c/o Todd Kellner  
Location: 4448 Ruppert Trail & 4451 Coyote Crossing  
Zoning: (PR) Planned Residence District  
Request: Review and approval of temporary fencing for model homes.

\*Request Approved

**REZONING & PRELIMINARY DEVELOPMENT PLAN (Case 2021-03Z/PDP)**

Applicant: Liberty Reserve, LLC c/o Aaron L. Underhill, Esq.  
Location: 4026 Home Road  
Existing Zoning: (FR-1) Farm Residence District, Liberty Township  
Proposed Zoning: (PR) Planned Residence District, City of Powell  
Request: To amend the Zoning Map from Liberty Township Farm Residence District to City of Powell Planned Residence District and review a Preliminary Development Plan for a residential subdivision of 21 buildings containing 42 twin-single residential units on approximately 8.601 acres.

\*Request Approved

**HISTORIC DOWNTOWN ADVISORY COMMISSION**

*February 18, 2021 – Draft Minutes Attached.*

**CERTIFICATE OF APPROPRIATENESS (Case 2021-04CA)**

Applicant: Huli Huli  
Location: 26 W. Olentangy Street  
Zoning: (DB) Downtown Business District  
Request: To review a proposal for patio improvements at the rear of an existing building pursuant to Zoning Code Section 1143.18(j).

**BOARD OF ZONING APPEALS**

*February 2021 – No Meeting Held.*



Historical Downtown Advisory Commission  
Tom Coffey, Chairman  
Larry Coolidge, Vice Chairman  
Brad Coomes      Deb Howell      Erin Wesson

**MEETING MINUTES**

February 18, 2021

**CALL TO ORDER/ROLL CALL**

Chairman Tom Coffey called a meeting of the Historic Downtown Advisory Commission to order on Thursday, February 18, 2021 at 6:30 p.m. via Zoom. Commissioners present included Erin Wesson and Brad Coomes. Commissioners Deb Howell and Larry Coolidge were absent. Also, present were Jeff Tyler – Community Development Director, Claudia Husak – Director of Planning, Elise Schellin – Development Planner, Karen Mitchell – City Clerk, Pam Friend – Planning & Zoning Clerk, Steve Reynolds – Shyft Collective and interested parties.

Note: Larry Coolidge arrived near the end of the meeting.

**SWEARING IN OF NEW COMMITTEE MEMBERS**

Karen Mitchell, City Clerk swore in new member Brad Coomes and reappointed member Erin Wesson.

**APPROVAL OF MINUTES (November 14, 2019)**

Motion: Chairman Coffey moved to approve the minutes of November 14, 2019. Commissioner Wesson seconded the motion. By unanimous consent of the Commission members present, the minutes approved as written.

**INTRODUCTION OF NEW STAFF**

Jeff Tyler introduced the staff present including new staff to the City of Powell.

**CERTIFICATE OF APPROPRIATENESS**

Applicant: Huli Huli – Dustin Sun, Owner  
Location: 26 W. Olentangy Street  
Existing Zoning: (DB) Downtown Business District  
Request: To review a proposal for patio improvements at the rear of an existing building pursuant to Zoning Code Section 1143.18(j).

This application is a request for input and feedback back from HDAC to the Planning & Zoning Commission for a Certificate of Appropriateness for the conversion of a temporary outdoor patio to a permanent patio as a part of an existing restaurant and bar.

**APPLICANT PRESENTATION**

Greg Bertison, CCS Construction: Dustin came to us with a proposal to add a canopy to the back of the building. We have had several meetings with Steve Reynolds, Shyft Collective, City of Powell Staff and the Chamber to try to adapt this to how it should blend in and be part of the Historical District. It is a canopy with an outdoor bar and seating area using a lot of the features and qualities from inside the restaurant.

Dustin Sun, Huli Huli: We just want to make sure we follow the guidelines for the Historical District. It was a long process to get the original plan approved and we are trying to have the addition be similar to the front because with the Keep Powell Moving initiative perhaps in the future the back could be a front entrance.

Mr. Bertison: As you can see on the drawing, we have tried to take the existing rooflines and mimic those as best we can to a smooth transition to an outdoor canopy.

Paul Butler, CCS Construction: As Greg pointed out we have made several renditions and worked with staff, Steve specifically, to step that down so it is more proportionate to scale. Making the back of the building somewhat smaller and following the guidelines set forth by HDAC. We appreciate all the time from staff and input from Steve Reynolds providing comments.

Chairman Coffey: Is this a three-season space? Is there going to be heat?

Mr. Butler: Correct there are radiant heaters in the ceiling, accessory heat to get you through October, but certainly not to provide heat for the wintertime.

Mr. Bertison: As Paul said we have tried to incorporate everyone's comments, met with Jeff and Elise. Steve met us on site, which was helpful. We continue to grow the plan so that it matches up and becomes a good part of the Historic District.

Chairman Coffey: Can you talk about the materials for the project?

Mr. Bertison: We are going to transition much of the look inside to the outside using the bamboo finishes. The bar will be somewhat modified with a concrete bar top. The festoon lighting will go across the open area of the patio and inside there will be pendant lights. Any part that is attaching to the existing structure will have matching materials and colors. The standing seam metal roof previously approved through HDAC guidelines.

Commissioner Coomes: The pendant lights are all underneath the roof covering, correct.

Mr. Bertison: Yes, that is correct.

#### **STAFF REPORT**

Ms. Schellin presented the staff report.

Steve Reynolds – Architectural Advisor – City of Powell: The applicant has taken quite a bit of time to make changes to their previous submission so I will just provide some context for what they have put together. As far as the massing of the roof and canopy, it is a unique roof structure so what they have done is stepped the scale down slightly but mimicked the existing rooflines so that they align with the aesthetic. Regarding the materiality, what they have presented here today is in line with the downtown guidelines and tying in with the existing building. One advantage with the addition they are essentially hiding the condensing units and exterior cooler with that new enclosure that will house the TV and/or outdoor beverage area.

#### **HEARING OF VISITORS**

Chairman Coffey opened the floor for public comment. Hearing no public comments, Chairman Coffey closed the public comment session.

Commissioner Coomes: I do not see any issues with it at all. It seems in line with the downtown district aesthetically. I think it will be good for the business owner and community. I think we should advance to move this forward.

Commissioner Wesson: I would agree with Brad, it looks very much in line and staff has reviewed it. I think it is good that they have been through a few iterations to get them where they are today. I would agree to move forward as well.

Chairman Coffey: I think it is a nice solution. It covers up some eyesores at the back of the building. I love the fact that they are able to duplicate that odd roof shape. This looks like it is part of the building; it does not look like an addition, which is what it always wants to be. I wanted to ask if it is going to be DORA friendly.

Mr. Sun: DORA actually expanded back to the carryout property. It will definitely be DORA friendly where people can order from the back.

Chairman Coffey: I want to see the materials and theme continued to this area, but I guess one of the things I have concerns about is the lights being too bright or obtrusive. I want to caution you not to make it too much light for the atmosphere.

Mr. Sun: We will probably look at different colored LED lights, but they will have dimmers so we can adjust the lights down.

Chairman Coffey: I am assuming the gutters and downspouts will be the half round to match the existing.

Mr. Bertison: The gutters and downspouts will match existing.

Chairman Coffey: As long as everything matches, I think we are good. The exterior along W. Olentangy is beautiful and you are kind of making this a two-sided building that is going to look great.

Mr. Butler: Staff was extremely helpful, especially Steve, Elise and Jeff. They made themselves available for phone calls and on-site meetings. I think the product looks a lot better than what we started with so hats off to staff for all their assistance.

Chairman Coffey: That is great to hear and I appreciate our Commission having some input on the project. Dustin we wish you luck and it is nice to see you expanding in these trying times.

Commissioner Coomes: This is my first meeting but it seems like the City staff has really come through and assisted to get this project to where it is an easy decision and ready to move forward.

Chairman Coffey: I know Dustin would like to get started on the project as soon as possible. I know we were another clog in your timing and it has to go back to P&Z.

Mr. Butler: Is it possible to submit our full construction documents for plan review since that is 30-days?

Mr. Tyler: I do not have a problem with submitting at this point but you have to understand that we cannot issue any approvals until such time we get through the Planning Commission.

**OTHER COMMISSION BUSINESS**

Claudia Husak gave a presentation on internal organization changes.

**ADJOURNMENT**

Chairman Coffey moved to adjourn the meeting. With unanimous consent, the meeting adjourned at 7:30 p.m.

**DATE MINUTES APPROVED:**

\_\_\_\_\_  
Tom Coffey  
Chairman

Date

\_\_\_\_\_  
Pam Friend  
Planning & Zoning Clerk

Date



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

Shawn Boysko

Ed Cooper

Trent Hartranft

Shaun Simpson

Elizabeth Bailik

## MEETING MINUTES February 24, 2021

Chairman Donald Emerick called a meeting of the Powell Planning & Zoning Commission to order on Wednesday, February 24, 2021 at 7:00 p.m. via Zoom. Commissioners present included Elizabeth Bailik, Ed Cooper, Donald Emerick, Bill Little, Trent Hartranft and Shaun Simpson. Commissioner Shawn Boysko arrived after minutes were approved. Also present were Andy White – City Manager, Jeffrey Tyler – Community Development Director, Claudia Husak – Director of Planning, Elise Schellin – Development Planner, Pam Friend – Planning & Zoning Clerk, Chris Huber – Assistant City Engineer and interested parties.

### APPROVAL OF MINUTES

**MOTION:** Commissioner Cooper moved to approve the minutes of January 13, 2021 with one amendment regarding meeting date and adjournment time. Commissioner Hartranft seconded the motion. By unanimous consent of all Commission members present, the minutes were approved as amended.

**VOTE:**            Y – 6    N – 0            (Commissioner Boysko – Arrive After Approval)

### STAFF ITEMS

Jeff Tyler: I would like to recognize staff with us this evening including Andy White our City Manager, Claudia Husak – Planning Director, Elise Schellin – Development Planner, Chris Huber – City Engineer and Pam Friend – Planning & Zoning.

### CERTIFICATE OF APPROPRIATENESS (Case 2021-01CA)

Applicant:            The Hessenauer Corporation c/o Michael Hessenauer  
Location:            8 N. Liberty Street  
Zoning:                (DB) Downtown Business District  
Request:              Review and approval of a revised parking plan.

Chairman Emerick: Our first case this evening is #2021-01CA. Is the applicant, Mr. Hessenauer giving a presentation?

Commissioner Simpson: Mr. Chairman since this building is where I have my office is located, I will recuse myself.

Michael Hessenauer, The Hessenauer Corporation, 6100 Memorial Drive, Dublin, OH: I did not realize I would be speaking tonight, so I do not have a presentation.

Mr. Tyler: If you would like for me to present the case, then you can provide any follow-up information?

Mr. Hessenauer: Yes, I would be glad to talk but I do not have anything prepared, but will answer any questions.

Mr. Tyler: What we are doing here is try to provide a *Certificate of Appropriateness* for a new tenant to be in this location. It is a sushi restaurant and because of Ordinance 2007-34, there is a requirement that if the building was going to be used for a restaurant that P&Z would have to approve a parking plan. You did approve a parking plan in January of 2008 and I believe that was for the Jeni's Ice Cream space, which Jeni's has moved out of this location.

This restaurant would like to move in and as part of that we felt it was necessary to bring the parking plan back to you. There was a provision in the original agreement in Section 3 that called for a zoning certificate to be issued for full-service sit-down drinking establishment and along with that a valet parking plan would have to be submitted to the Zoning Administrator. Tonight we are reviewing the original parking plan with the change from a 5 year plan, to a 2 year agreement. The reason for this is quite frankly the parking issues that are downtown, have not fully been vetted by staff at this point. I know that there was a parking analysis done back in 2017 and finalized in 2018, which I have reviewed, however since that time there has been no activity on that particular plan. We as staff feel that we need a little bit more time to vet that particular plan to come up with recommendations on how to execute that plan and it is going to be multifaceted to be honest with you. There is going to be some valet parking as a part of that and we originally talked about, but are kind of backing off of right now, the thought of pay for parking. We really need to do a little more work on that as well. We are looking at the allocating of parking and shared parking spaces throughout the district. Frankly, I have only been here for three months, so I don't know that I have had enough time to actually solve those problems for you. The thought process here was to go with the original plan with a 2 year time frame that would give us enough time to vet the plan, work the recommendations, make sure that we have solid recommendations to move forward and then come back to this particular agreement to make sure it's in line with the new parking strategy that we will put in place.

Chairman Emerick: Do we have any public comments?

Claudia Husak: We did not receive any public comment.

Elise Schellin: It looks like we have one attendee who has raised their hand to speak.

Ralph Renninger, Kimberly's Diamond Corner, 1 N. Liberty Street Powell: For 35 years, we have had a store right across from the proposed sushi place. I would love to have a sushi restaurant of that style there if it doesn't inhibit our parking. We all feel there is not enough parking downtown. The question is how many people did Jeni's have per day? Their time frame was usually 2 p.m. until 8 p.m. How many people does it take to support a sushi restaurant? We all thought when a 4,000 square foot building was built with only 3 parking spaces it just did not seem right. Jeni's would probably still be there if they were prosperous and probably one of the reasons they weren't was due to parking. We may continue to go down this same road because the use of the building is not positive for an establishment that needs a lot of parking. I have had to talk to the City of Powell about the parking spaces on Liberty Road being used by staff that are parking there from 12 p.m. until they finish work, not people that are patronizing the businesses. Again, we need parking for our clients, we don't need much but we do not need to have people take them that are going in to work at businesses. I have voiced this opinion several times that if we do something like this we need some type of an arrangement, whether it's a card we can put on cars or we go to the different establishments once or twice a year and say your employees can't park there. We have talked in the past about employees not parking in on street parking spaces, they have to park in established lots that are for employees only. If they park on the street it is very convenient for them, but we lose patrons coming into our store. Again, we have been there 35 years, I know we are land locked and do not have any parking so we have to try to work with this and do the best we can. When is the City going to put money into buying a parking lot and or do an arrangement with the old drive-thru, which I don't know what it is going to be, but some place like that? If we would do something like that then I would feel more positive about a restaurant, because I don't want to find out in 2 years that the parking isn't working. We already have many people coming into the store and say this is a tough place to get to and I had to drive around the block two or three times. I know you as the City feel we don't have a parking problem, that is what we hear all the time, but when you go into the stores and talk to the establishments we usually say there definitely is a parking problem so that is my concern. I don't think Jeni's took quite as many parking spaces away than what a sushi restaurant would. I wonder if there has been any due diligence done on how many people do we need to come in on a daily basis to make the place go? I am sure they are paying a lot of rent, so how many patrons do you need to support a several thousand dollars a month rent? So what are we going to do about the negative impact the businesses feel because of the parking? If Jeni's took up 20 parking spaces a day, how many is a sushi restaurant going to take up? I would think 60 or 70 spaces throughout the day?

Mr. Tyler: Mr. Renninger, thank you for your response this evening and for attending the meeting. We definitely hear you and there is a parking problem. We have taken a look at the study and it tends to show us that it is a management issue that needs to be addressed.

Mr. Renninger: I appreciate that but to say you need to address and then to addressing it are two different things.

Mr. Tyler: I understand, but what I would tell you is that we have been in the midst of Covid and a lot of us are new in our positions so we are going to address it. I will tell you we are not going to address it with a one size fits all type solution either. I think there are several different ways to look at this and frankly we are going to need your input as a business owner. We haven't had that opportunity as of yet because of the Covid situation, but as we break through that I am going to want to sit down with business owners such as yourself to talk about this and really get some ideas

to put some meat on the actual report that I have seen. The report itself is numbers and that is good but we need the anecdotal responses to go along with that so we can really get a full picture as to what the issues and problems are downtown. I think there is room for a multi-pronged approach to the parking issues. We just have to figure out what the best solutions are and what is the timing of those solutions. This is the whole reason I am suggesting that this agreement should be short-term, which gives us enough time to look into the issues and start to implement strategies. Then make sure not only is this business viable, but all the other businesses downtown as well. Hopefully we have begun to answer your question and certainly look forward to having further dialog with you.

Mr. Renninger: I would hate to give a 2 year lease to anybody and then in 2 years then there is leverage on the owner to say I've got \$100,000 tied up in that building so you have to give me something. Then we give a little bit and we should not. It would be nice to do it right the first time and not have to go back and address it later on. Again, the City needs to put some money into the parking. Whether it's on the alley behind us, which we have talked about for 15 years or it's the lot behind the carryout. It's not going to be cheap, but we should look at buying some of those and/or repaving part of that alley. I would feel better that at least we've got 20 more parking spots, which probably isn't even enough for the sushi place. Jeni's took up enough parking and now that it's going to be a sushi restaurant it will take up even more as people will be staying longer to enjoy their meal. I hope we can work it out because it is probably going to be a good situation if worked out properly. I would love to talk with you and do a meeting downtown.

Mr. Tyler: Absolutely, I have your contact information and I will give you a call.

Andy White, City Manager: Mr. Renninger, I want to follow up on what Jeff has said. We do recognize that there are issues and we are working through them right now. Our engineer is on this call and he has been quarterbacking the efforts to improve transportation through the plan we have right now. One of the critical issues we have is resource allocation and the ability to invest in infrastructure. Staff is primarily at the position of knowing that we need to do that and it's a matter of how and when we do it. I think one of the things we have talked about and we are looking at for this evening is direction not only from the Commission to talk with Council, but also from the business community. Is parking in the downtown for the public good? Because this really becomes a question of economics and if there's enough parking in the right spaces or there is not. Jeni's has been vacant for some time now and I would think some of that is attributed to the difficulties that Mr. Renninger has just described with access. If we as a community want a vibrant downtown, which I know that we all do, then we need to be coordinated and sophisticated with a strategic effort on how we are going to lay that out. I know that the consideration that we are talking about tonight isn't going to solve all those issues, especially the immediate ones that have been talked about, but I like the way that staff, under Jeff's direction, has come up with a 2 year proposal. I do believe it gives us time to work on not only the answer, but how to finance the answer, which will be critically important. One of the challenges we've had over the last several years is that we have not had the resources to invest there. I would be happy to take the time to meet with you and staff to learn more. I wanted to provide my thoughts to the Commission as well, I think this is a policy question broader than the applicant at hand. It is a question of what is going to be the best decision for downtown Powell and what we have is a challenge that needs to be looked at now.

Chairman Emerick: Do we have any other public comments?

Claudia Husak: We have not been contacted by anyone else from the public via email.

Chairman Emerick: We will move on to the Commission for their comments.

Commissioner Boysko: I have a few questions or clarifications for the applicant. The term of the lease for the sushi restaurant is how long?

Mr. Hessenauer: We have a 10 year lease in place.

Commissioner Boysko: Thank you. Today we are asked to approve the Certificate of Appropriateness for essentially to renew the parking spaces as originally submitted in 2008. Is that accurate?

Mr. Hessenauer: I believe so, yes.

Commissioner Boysko: The question I have for staff is can you tell me what the current parking requirements would be based on current zoning code for this space?

Ms. Schellin: I have some calculations that were done but keep in mind that the final development plan is not exactly what the code would state. The building itself is 5163 square feet so this calculation is based on an assumption that the restaurant, the dental school and the real estate office are all taking up an equal amount of space of 1721 square feet. Basically, per code the restaurant would be 25 spaces, the dental school upstairs would be 18 spaces and the

real estate office would be 9 spaces, which comes out to a total of 52 parking spaces for the entirety of the 8 N. Liberty building. This does not take into account the Planning & Zoning Commissions discretion to divide that number in half because it is in the downtown district.

Commissioner Boysko: I was not a member of the Commission when the project first came through but I assume the code was more lenient than it is now. In any case, if we evaluate this based on current zoning parking requirements it says that this building needs 26 spaces and today we are asked to approve the continued agreement for a Certificate of Appropriateness for 12. In my opinion, that is a pretty significant difference and I am struggling to understand why. I understand the need to table this for 2 years, but I would suggest that we make a decision that instead of a 2 year approval maybe it's more like 12 months or less. For this to continue, if there is that significant of a deficit where code really requires 26 spaces, and we are only approving 12 spaces with 3 of those on site, and the rest are offsite down the road. I would agree with Ralph's comments that this proves the point there is a significant parking problem and we are not helping it by extending this for 2 years. We are talking about a 10 year lease, so whatever permanent parking plan we put in place needs to address the term of that lease for that sushi restaurant because that's what is really driving the parking. I don't think it's the dental or real estate offices. In my opinion, it should be reevaluated based on current codes and that is how we should structure this. If we are looking for a temporary solution my recommendation is maybe 12 months or less until we can work through a more appropriate solution.

Mr. Hessenauer: We are not going to need anywhere near 26 spaces for this sushi restaurant. These numbers are very high. We have had this parking lot back there for 14 or 15 years now, so it is not a new situation. We have only used 5 or 6 parking spaces for all that time and for the Jeni's we never needed anymore. We've never even had to use the 12, so there is no way we are going to need 26. We feel if we had 8 parking spaces it would be adequate for this sushi restaurant we don't need these huge numbers. It's a small space, under 2,000 square feet, so there will not be that many people in there a one time. It's going to be a fine dining restaurant where people come in and have a meal and be there an hour or so. It's not a quick carry-out or a quick casual type of restaurant. There will never be 20 cars needing to park there. The needs are going to be 7 or 8 spots maximum for that restaurant so I think the expectations for parking are way too great for this restaurant. These people are not new to the business they have 50 restaurants nationwide and is a national operator. They know what they need through experience and they will never need 26 spaces.

Commissioner Boysko: Understood, so the 26 spaces was the calculation based on where you are at in the central business district, but that is for the entire building not for the sushi restaurant.

Mr. Hessenauer: The real estate office doesn't use any, literally they never use it. The dental school upstairs work off hours with classes being mostly in the evenings. According to what they tell me they don't use it either. It's not used all that much. The sushi restaurant would use it and need 7 or 8 parking spaces to make this work and we went over this with them before they even signed the lease. Actually, Jeni's used more parking than the restaurant will use because they had a lot of people coming and going all the time. There would be 30 people in Jeni's at once. There will never be that many people in the sushi restaurant. They will stay longer to eat a full meal but there will be less people there at one time. It is not going to be a big parking burden for Powell.

Commissioner Hartranft: How many tables are they planning on having since you are saying there isn't going to be that much of a burden?

Mr. Hessenauer: I don't have the exact figure for you, but around 7 or 8 tables that is it.

Commissioner Hartranft: If there is 4 people at each table you are looking at 32 people there at the most at one time plus staff?

Mr. Hessenauer: We are going to provide the valet parking so that people can just pull up and have their car parked for them. Even with 32 guest, most will be couples so no way there would be more cars.

Commissioner Hartranft: I agree with the other comments that we have had parking issue in Powell it's nothing new to people who have been here for a bit. I look forward to hearing any kind of input particularly from business owners and Jeff your willingness to reach out to them is encouraging, as well as all the staff that is involved, so thank you. I would like to hear some of the things that business owners have tried in the past. I know it is one thing for them to tell us there is a problem but maybe they have come up with some solutions in the past that have not been drawn out looking at it from the City point of view. With the business owner being here for 35 years he has probably seen a lot of change in traffic patterns and parking spaces, so I think they can be a good resource. As far as this goes tonight I am fine with having the 2 year period and seeing where things go.



Commissioner Cooper: I have a little bit of personal experience with this parking lot as my real estate office used to be at 44 N. Liberty. We rarely had more than 4 cars in the parking lot and it was many times impossible to park there. If you go down there today there are 18 stripped spaces, you might be able to sneak in another space in towards the cemetery and call it 19. Cutler Real Estate has all but one of the back row and that would be 7 to 8 spaces signed for their use exclusively. There is one handicap parking space back there so that leaves 12 other spaces. There is just not enough room in that parking lot. If you want to call that public parking, you are only leaving 1 or 2 spaces for the public to park back there. I just have a problem with this and would hate to sign a lease to give this restaurant the parking back there regardless of how long it is and then turn around after our study and whatever else we do with the parking, which we all know we need to do something, and tell them you can't have this anymore. What is that going to do to their business then? I just don't think this is appropriate. We are requiring 52 parking spaces down there, so if we cut it in half that's 26, so we are still 8 short. I'm sorry, I have a problem with it.

Mr. Hessenauer: I go down to that parking lot about every other day or every third day. I always park back there and walk the block over to our building and those signs that we have are not just for Cutler Real Estate, they are for all of our tenants. I just wanted to say that as long as I have been going down there I have never had a problem parking there and there has never been a full lot. It seems that the lot has not really been used very much by the public for whatever reason. We have the Chamber of Commerce right there and several shops but people do not use that lot so it's not like it is over flowing and you can't get a space. We are coming off a long term lease of over 10 years and that kind of came with the building so we are just trying to renew it again.

Commissioner Cooper: Well, from previous experience I would beg to differ. I had to park across the street as did my secretary in the carryout parking lot with their permission because there were no parking spaces there. I understand that right now we are in the dead of winter and we have had this pandemic which has certainly reduced the number of people we will have downtown using that parking lot. I have been down there multiple times and it was very difficult to park there if not impossible.

Commissioner Bailik: We have existing businesses and we want to retain those but we also don't want vacant buildings because when you have vacant buildings you have fewer people coming downtown and being exposed to those businesses. I think bringing a new business in for a vacant property is important. If they have a 10 year lease and this is a renewal of what came with the building originally, and they are willing to do a 2 year agreement for the parking, and we have management at the City that is more than willing to reach out to the business owners then I think all the business owners would agree with that management style. If they are part of the conversation then everyone is going to benefit. I think that the 2 year agreement is reasonable. I would hate to say no because that would prohibit a new business from coming downtown. I think Mr. Renninger is totally valid in his concerns, but I do believe what I am hearing from the City is that they are reaching out and want business owners involved in the conversation regarding the parking. I think the olive branch has been extended and the City is serious about talking with you. I think if you get all the businesses together you are going to come up with a better solution overall. I just have a hard time saying no to a brand new business that wants to come downtown when businesses are fighting to stay open.

Commissioner Little: I am going to try to address this from a post Covid standpoint because I think what we are seeing today is not necessarily reflective of what we might have seen prior to the pandemic. From a personal standpoint, I think the need for this type of restaurant exists, that being said, parking is the issue that I really need to understand. There is a long history with this location, just like a few others, even the actual approval to this building hinged on a whole lot of discussion and feedback from other business owners other than Ralph about parking and I am actually surprised they are not here tonight. I do agree with Jeff's comments that we have a traffic management problem in the City. I don't think we have a parking problem but as I said with Huli Huli I think we are close. I think if we allow a lot more to come in, I think we will find that we might have a parking problem but I think it's manageable. I think another thing I would like to explore is the valet solution. This building is sitting on the four corners and we all know that we have tried to keep traffic moving in Powell, so I am not sure how I envision the valet solution working without impeding the traffic. If you get a little bit of stack up and then you have to get back out onto Olentangy Street I would really be interested to have the City Engineer chime in on whether you think that flow is sustainable as the solution that is being proposed for not having enough parking spaces to make this business functional. I'm a process guy by nature so I want to walk through some calculations and figure out how many parking spots we should have, how many parking spots we do have and whether we think there are other parking spots that we can better manage to allow this proposed business to be approved at this location.

Chris Huber, City Engineer: Before I could comment, I would need to at least see the valet parking plan, because I have not actually seen their plan on how they are going to park the cars and their route. My first gut reaction, if it is only 8 cars and its right turns out of that establishment to that parking lot that would probably be the best way versus turning left out of there.

Commissioner Little: When we look at the proposed restaurant I like to talk about an agreed upon number of seats. We roughly got to a number there but I'm not sure we got solid numbers and for the owner of the building do your number of seats include the number of people that will sit on the patio or is that an additional number?

Mr. Hessenauer: We are the owner of the building and the tenant is doing the work on these things so we are not really involved with those decisions. I have just had discussions with them about how many tables they would have and they did mention the 7 or 8 tables. I don't know if that included the patio, but I don't think so.

Ms. Husak: Municipalities don't usually require parking to accommodate patio spaces, I should say pre-Covid, mainly because people that would typically set inside the building would prefer a patio space so your inside would be more open. We can certainly check the code on that particular issue to see if patios are required to be part of the parking requirement.

Commissioner Little: Again, I sort of fall back on things have to be functional, particularly at this corner with the traffic issues we have historically in Powell. If we look at Elise's numbers and she thought for it to function we would need 52 parking spaces. We have the discretion as Planning & Zoning to divide that by 2 or some other number should we deem that appropriate, but when we approved this building we were really concerned and thinking that if the proposal were to move to a high-use restaurant then we really will have an issue with parking. All of that being said and we go with 52, then a question I have for the owner, since the tenant is not here, is will there be take-out at this facility?

Mr. Hessenauer: Most restaurants do some take-out, so it would not be a usual thing to prohibit for us. They would be able to, but that is certainly not the purpose for this restaurant. It is going to be fine dining and fairly expensive so I don't think a lot of people will be getting carry-out because the prices are based on the whole ambiance of the experience. It's not the prime purpose here at all but they would be allowed to do it just like any other restaurant.

Commissioner Little: The reason I asked that question is I don't think people should they be ordering carry-out are going to valet park. Elise, how many parking spaces do we currently have on the property?

Ms. Schellin: There are 2 or 3 in the alley directly north of the building and I believe 12 in the 44 N. Liberty for all three of the businesses in total, so the dental school, real estate office and restaurant will have 12 spaces.

Commissioner Little: Give that we have these three businesses at this location now and given the amount of patrons we have discussed here, what are the number of handicap spaces that are required to be on location?

Ms. Schellin: That may be a better question for Chris, but I believe it is one handicap van accessible space per 25 parking spaces.

Commissioner Little: In theory if you follow my logic 2 of the spaces are handicap and you might have to keep one open for valet and/or carry-out, so we really are down to the 12 spaces at 44 N. Liberty I think. I agree with Ed, pre-Covid you can't park in that parking lot, you can park under the trees, you can park in the dirt, and people park everywhere because that lot is overflow when we are running a normal non-pandemic operation. All that being said and if my math is correct in order to be functional we still need 40 more parking spaces for this building. The way we have historically done business, we would state or imply that those 40 spaces will be covered by City parking. That being said, does City staff believe that we have adequate parking so that we don't have the situation that has historically happened where people in that building might find parking in the Antique store next door, which that does not play well or they might find Local Roots as a popular place to park and that does not play well. So with all that being said does the City believe we have the capacity to support the 40 additional spots for this type of business to be functional in that building?

Mr. Tyler: Let me try it a different way. I think there are two issues here. I think if you look at the City's parking lot, which is at 47 Hall Street, there is potentially capacity in that lot. However, if you look at the parking analysis begins to erode away at some of that capacity at peak times. I can't necessarily answer whether it's 40, 35 or 20 but I do know that there is capacity within the 47 Hall Street parking lot. I think that's one issue, but I think the second issue is we have a building whose agreed upon parking, even to your own admission Bill, was obsolete when it was approved. So what we are trying to do is find a way to allow for a business to use that particular building until such time as we really come up with parking strategies that are going to benefit the entire district and not just this particular instance. If we look at the building itself, unfortunately it is obsolete for any particular use if we use those numbers, you can't put anybody in there. I think if we look at a strategy that says we are going to give them a short term parking agreement, which is consistent with what was approved previously and the out in that agreement was the fact that they would have to provide valet parking if you look at subsection 3 and do it for a time frame that is consistent with trying to resolve a downtown parking strategy completely then I think that is the decision that has to be made at this point. If we decide to look at this building singularly we are pretty much going to penalize this owner and any tenant that would choose to go into that space because right now under those parking requirements I don't know that there is any tenant that could

meet our requirements as shown in the zoning ordinance, however, I think that we have an opportunity to fix that but fixing it means an entire parking strategy not penalizing one building.

Commissioner Little: I agree with that and I think as we move forward it is important that should things get approved that we document the math that we used to approve it so that when we do have a management plan down the road we know for example that 8 N. Liberty was short 40 parking spots and we said they are going to park somewhere on the street or in the City lot. My personal opinion is there has to be valet parking because if you don't do that we are going to have all kinds of problems with existing businesses, which we don't want to take business away from those existing businesses. If the restaurant is as successful as we would hope it would be I don't necessarily see the traffic flow as purposed as being successful. For example, at Prohibition we included a route to the City lot in anticipation of future valet parking so we didn't introduce the traffic back to Olentangy Street. So from my perspective, I tend to agree with Shawn if we were to go forward it should be 12-months or less on the parking agreement. I think we should designate for example that the owner is providing for 2 handicap spaces at their location and if they are going to have carryout they leave one spot so that wipes out their whole parking lot. We are going to have to approve a variance because they can't meet the existing Historic District requirements if we do divide by 2. I think as we have talked about in the past that the tenant should have signage at their door that patron parking shall be limited to 44 Liberty or to public parking up to and including the City lot so that when patrons come in they know if they parked at the antique store next door they run the risk of getting towed. I think the City needs to review how the valet parking process will work and decide whether it is functional in order to maintain the spirit of Keep Powell Moving. I think we should have a review here in 30, 60 or 90 days after Certificate of Occupancy to decide whether we've created a monster or it is all good. I think the stipulation should still exist if the tenant were to expand within the other offices in the building, I think we need to review the traffic and parking plans as we state in the current ordinance. That is where I stand and I think I would vote not on this proposal.

Ms. Husak: Do we have a projected opening date for the restaurant?

Mr. Hessenauer: They wanted to be open already and signed a lease in September. They have been paying rent since September so it is a very difficult situation for the tenant already. They have spent a lot of money without even being able to start their plans, which are all approved by the building department for the build-out. If we get this approved they will open as soon as possible.

Mr. White: Bill you summarized a lot of the valid points that demonstrate why this is difficult and Ed with the experience that you had that is helpful too and now here comes a group of new perspectives and I think from staff's point of view we want to get this correct for the Commission, the businesses and the community. I think it is important for the Commission to consider also the grander picture here where we are basically trying to horse trade parking spots. We've got trails from some community businesses to a public municipal lot, which is comprehensive and large. We own 44 Liberty and the Chamber of Commerce occupies it and they pay the City a lease and with that lease comes an expectation of all sorts of deliveries from the City. I go back to the point I was trying to make earlier in that is public parking a public good? Yes, I think that it is and if it was up to me I would present to the City Council, Finance Committee and everyone else a parking plan to coordinate all of this together. I don't see how we are going to be able to do that in the short time period we have, which is again when I go back to try to coordinate everything that has been said tonight in a shorter term agreement that allows for some flexibility in understanding because as I set here tonight I have my opinions but I won't actually know what the impact of any of this is going to be until I go there and sit on the patio and where people are parking and what it does to the intersection so I think the short term agreement is an effort by staff to accommodate what we all want to see, which is businesses coming into the City. I think it is also important that the businesses that come in have some level of expectations as well. I think it is important to note the agreement that was established in 2007 was with another entity and those agreements don't transfer when properties sell. There needs to be an additional level of work by the current owner to sit down with the City and I think what we are looking at now and Bill I will go back to the point you made there is a lot to unwind there that probably should be born into some type of legal agreement that's gone through by the Law Director's office for review through the Council in party to an amended and restated ordinance to make sure that the things that we are talking about have a binding impact so that if we get to a scenario that you've outlined and someone's not playing by the rules we tell them we have an authorized path forward to do so. I just think the 2-year term is a stab at an imperfect solution. I will support it and I am on board with it and understand everything that has been said but I just don't see how we can turn a business away especially with the historic layout of this use. In fairness to the surrounding businesses we don't provide everyone parking in the City and there are examples of business owners within the downtown that have invested significantly to provide parking so I think it is also a question of equity. Again, I go back to square one if we as a community want to have a vibrant downtown we are going to have to have some dedicated parking, in my opinion that is going to require an investment that is just not possible to be made tonight. I hope that is helpful for your consideration as we move forward, but I did want to restate my support for the short term and appreciate the consideration from the Commission.

Chairman Emerick: What are the purposed hours of operation for the restaurant? Will they be open for lunch and

dinner?

Mr. Hessenauer: I do not know the answer to that question. I would think typical restaurant hours for lunch and dinner.

Chairman Emerick: Theoretically at dinner time they me more parking spaces available at 44 N. Liberty but at lunch time that would not be the case is what I am getting at. I am sure Jeff that you have looked at the shopping center along Grace Drive that has a nice size parking lot that is very much underutilized. It would be great if we could somehow figure out how to use that as part of the solution to our parking downtown. It's just far enough away that people do not want to park there and walk.

Mr. Tyler: Just for the board's consideration, I am actually in talks with a valet operator to help us understand how to negotiate valet throughout the district, not just this particular location. One that I have worked with in the past who can help us to outline, to Mr. Little's point, where would the valet stations be, where would the right locations be, where would the parking be, those types of things. We are just in our initial discussions with that particular operator with no guarantees at this point.

Chairman Emerick: That is part of my concern to because we don't want to impede traffic at the four corners with a valet operation.

Mr. Hessenauer: I can tell you a little about the plan for the valet parking. All the valet parking would be done on the wraparound road. None of it would be done on Olentangy or Liberty Street. They would make a right hand turn off of Liberty into that wraparound road, stop their vehicle there and the valet people would take it away. When they leave they would make a right hand turn on to Olentangy.

Commissioner Little: I think related to that is where I think the City Engineer should look at whether we will have a stacking issue. That would impede the traffic going northbound on Liberty Street in my opinion.

Chairman Emerick: Any other comments from the Commission?

Commissioner Cooper: I have a question for Jeff, Andy and Claudia. I know you have not been here that long and I know it has been a weird time with Covid, but what appears to be a whole lot of parking at the City offices sometimes is not a whole lot of parking. There have been many nights when we have gone over there at 7 p.m. to have our in person meetings and there was no place to park. Keep in the back of your minds during normal times that lot is not going to be as vacant as you have seen it.

Ms. Husak: Yes, of course. Elise and I have had a lot of conversation about how on a Thursday or Friday night at 4 p.m. people are starting to circle around or are waiting for the staff members to leave so they can park there. I have been indoctrinated into what you are all dealing with regarding the parking and as Jeff said we have both come out of a community that has been dealing with this. It is hard to deal with this perception versus the reality and management of it all. Jeff has been looking at all the research that has been done in the past and we are well equipped to move forward with this in the next six to nine months.

Commissioner Little: Keep in mind those people you are seeing circling at 4 or 5 p.m. a lot of them are the establishments employees that don't have parking or where they may have parking but the instruct their employees to not to park in their lots so that they have parking available for the patrons, which is the next wave that comes a 6 to 7 p.m. time frame.

Ms. Husak: Yes and you have a beautiful amenity there as well where even during the snow days families going to the park even though it is freezing and cold. We will have to find a way to manage it somehow and as we said we have some background in that and associates to hopefully help us with it.

Chairman Emerick: Thank you. Do we have a motion at this point?

Commissioner Little: We do and I have written it as such that it's a little lengthy, sorry about that. Part of the mindset is to document how things were allocated so that down the road we can add all of these up and know where we stand. I do have an administrative question. Shawn Boysko had purposed that we have a 12-month agreement as opposed to a 2-year agreement. If we query the Commission where do you stand on that?

Chairman Emerick: I'm ok with a 2-year agreement.

Commissioner Bailik: I'm ok with a 2-year.

Commissioner Hartranft: I'm good with 2.

Commissioner Cooper: I'm not good.

Commissioner Little: We will leave it at a 2-year and go from there. Bear with me here and if this doesn't make sense I am more than happy to modify it.

**MOTION:** Commissioner Little moved for an approval of a Certificate of Appropriateness for the property located at 8 N. Liberty Street as represented by the Hessenauer Corporation, subject to the following conditions:

1. City Council shall approve a 2-year parking agreement allowing for 12 reserved spaces at 44 N. Liberty Street prior to issuance of a Certificate of Occupancy.
2. The owner shall provide for 2 "Handicap Only" onsite parking spaces at 8 N. Liberty Street.
3. The owner shall provide signage designating 1 space as "Take-Out Parking Only" at 8 N. Liberty Street unless there will be no take-out business at that location.
4. A variance shall be granted whereas the existing property does not have sufficient parking to meet Historic District parking requirements. Approximately 40 public parking spaces are allocated to make this plan work.
5. The tenant shall provide clear signage at the door that "Patron Parking" shall only be allowed at 44 N. Liberty Street or public parking, including the City lot.
6. The tenant shall provide valet parking sufficient to ensure a smooth flow of traffic during all open hours of operation.
7. The tenant shall work with staff to ensure that the valet parking process will not impede traffic in the area and staff must approve and monitor that proposal.
8. Staff shall report back to Planning & Zoning 90-days after Certificate of Occupancy and provide a report on the effectiveness of the parking and valet processes.
9. In the event that the tenant chooses to expand within the current building for the sake of operating a restaurant they shall be required to return to Planning & Zoning to ensure adequate parking has been provided.
10. In addition, any changes in tenants that are deemed to be a higher end-use shall be required to return to Planning & Zoning to ensure that adequate parking has been provided.

Note - Discussion before the vote.

Ms. Husak: I know you have a motion on the floor right now but I want to remind the Commission that a 3 to 3 tie would fail the motion.

Ms. Schellin: On your condition #4 regarding a parking variance, the approved development plan from back in 2007 only required 10 parking spaces both on and off site. Claudia correct me if I am wrong, that development plan then becomes that effective zoning for the parking, so they really are only required to have 10 parking spaces if the development plan supersedes the code.

Commissioner Little: I hear what you are saying so I might question whether the clause "should a high-use business be brought to that location" that might open up that conversation for the purpose of that clause is mute.

Ms. Schellin: Under Section E – Parking & Loading – 1 It says, "irrespective of use the property owner shall under take reasonable efforts to provide a total of 10 combined parking spaces both on and off site".

Ms. Husak: In terms of irrespective of use we interpreted this to mean that regardless of whether it was an ice cream shop where people were coming in and out versus a sit down restaurant we considered it to be under the umbrella of irrespective of use.

Mr. Tyler: The sit down restaurant component was taken care of in the agreement with the valet plan.

Commissioner Little: Assuming the City Law Director would agree with that I can modify number four by striking that a variance shall be granted, but leaving the statement that approximately 40 public parking spots are allocation to make this plan work.

Ms. Husak: Yes.

Ms. Schellin: Yes.

Mr. Tyler: Yes.

Commissioner Little: Claudia does bring up an important point for the owner, not knowing how the Commission will vote and knowing that there are a lot of open potential questions, you either take the vote and see where it lands or you table it until some of the issues have been resolved.

Commissioner Boysko: If the motion fails can a new motion be brought up?

Chairman Emerick: Yes. Is there a second to this motion?

Commissioner Hartranft: I'll second the motion.

Shawn Boysko – No  
Ed Cooper – No  
Bill Little – No

Trent Hartranft – Yes  
Don Emerick – Yes  
Elizabeth Bailik – Yes

Commissioner Simpson – Recused

**Vote: Y – 3 N – 3**

**Motion failed**

Commissioner Bailik: Would anybody change their mind if we met in the middle and did 18-months instead of 2-years or 12-months? I think 12-months goes pretty quickly when you are trying to put together resources to come up with a strategy, but would anybody be willing to look at 18-months?

Ms. Husak: I really wish we would have legal counsel here to advise us on what happens after the motion has been made because there are certain ways that a Commissioner can bring back a motion. I think as of tonight we are probably done.

Mr. Tyler: I would agree with Claudia on that I don't know that you can change the motion and the acceptance of the decision on the floor.

Commissioner Little: From a personal standpoint I think if the owner wants to come forward with us again, which I would expect that you would, I would advise having the tenant here that can answer the basic questions as to how many seats will there be in the restaurant and be able to have some sense of engineering confidence that operating a valet service in that tight area will not impede overall flow of traffic in the City of Powell.

Commissioner Boysko: Agreed.

Ms. Husak: Mr. Hessenauer we can touch base tomorrow and discuss this further.

Mr. Hessenauer: Very quickly, this is a catastrophe for us. I don't know any other way to put it. We have done everything we could do to get this approved. I feel like we should be given a chance to get this through. You are dooming this building to be vacant by doing this and we have got a national operator here who would like to take this space. We have made them wait now 6 months and now we are going to tell them it was rejected. I am afraid that we are not going to be able to get past this, would you consider at all some kind of middle ground of 18-months so that we can get this off the ground. We are in the middle of a pandemic and it is not easy to bring a restaurant into any location. Restaurants are closing down now everywhere.

Ms. Husak: Mr. Hessenauer we have a meeting on March 10, which is likely the best way to address this at this point. Since the vote has been taken we should not engage in additional conversations right now.

Mr. Hessenauer: Ok, thank you.

Chairman Emerick: That was going to be my recommendation as well. I would suggest you meet with staff and make plans for the March 10 meeting.

Commissioner Little: As I stated, for me it's not whether it's 12-months, 18-months or 24-months, it's ensuring that we are able to have that building function the way you are purposing to use it and we need basic information that the tenant should be able to provide.

#### **CERTIFICATE OF APPROPRIATENESS (Case 2021-02CA)**

Applicant: Pulte Homes of Ohio, LLC c/o Todd Kellner  
Location: 4448 Ruppert Trail & 4451 Coyote Crossing  
Zoning: PR – Planned Residence District  
Request: Review and approval of a revised parking plan.

Ms. Schellin: If I may, I see that we have a couple of attendees that have raised their hands and I just want to address that you will have time to speak but you have to do it during the public comment portion of the Agenda. When our chair Mr. Emerick calls for public participation that is when you can speak for 3 minutes. Please address us with your full name and address and then you will be able to speak.

Todd Kellner, Pulte Homes of Ohio, LLC 475 Metro Place South, Dublin: The Carpenters Mill community is located off Steitz Road. We are located on both the east side and west side of Steitz. Our model homes are located on the west side. We have recently opened up a second model home at this location, so now we have side by side model homes. Those model homes are served by off street parking within the community. What we are trying to accomplish is to put in fencing to direct customers into the sales offices, to ensure that no one is unattended in the secondary models, for the customer's sake, the safety of the environment as a whole. There are a couple of photos that were submitted with the application demonstrating what some of our other multi-model locations look like with the fencing. The fencing is black aluminum, temporary in nature but permanently installed while the model is in use. At the time we convert the homes back to single family residences we would remove that fencing along with removing the parking lot. Customers would park in the model parking lot and enter the garage sales office in the model home on the right. The fencing would allow them to exist one of the doors in the sales office and proceed down the walkway to the secondary model.

Ms. Husak: The site outline in the pink shows where the fences are to be located. The fence is a very high-end rod-iron type fence that meets the height requirements. Our recommendation is that the fencing be removed once the model homes are no longer in operation. Being temporary in nature and for wayfinding staff deemed it appropriate.

Chairman Emerick: Do we have any public comments on this project?

Ms. Husak: We did not received any comments prior to this meeting.

Ms. Schellin: There are no hands raised to speak on this project.

Commissioner Bailik: I have no comments, it looks good.

Commissioner Hartranft: I am good, I think it works well on these sites.

Commissioner Simpson: As someone who walks through their landscaping to get to the houses, putting a fence there is a good idea.

Commissioner Boysko: I think this is great. I would recommend to staff that for Certificates of Appropriateness that are minor in nature and temporary could this be approved on a staff level that doesn't need to come before the Planning Commission.

Ms. Husak: I have a list of certain code amendments that we could potentially do administratively, so I appreciate your comment. We would bring them before you to have those amendments approved. There are a couple of items that seem a little bit burdensome on applicants and developers that could be done administratively.

Commissioner Little: I'm good, but have one question. From a Pulte standpoint when the HOA takes over this development do your current deed restrictions help them reinforce the fence coming down?

Mr. Kellner: I don't know that the deed restrictions necessarily address that, however, this particular approval would address that and require it come out.

Ms. Husak: Ultimately it is a City responsibility in terms of if someone would file for occupancy for the home that is something that we would catch.

Chairman Emerick: I am fine with this as well.

Commissioner Cooper: I have no problem with it.

**MOTION**: Commissioner Little moved to approve a Certificate of Appropriateness for the properties located at 4448 Ruppert Trail and 4451 Coyote Crossing as represented by Pulte Homes to provide for temporary model home fencing subject to the following condition:

1. Front yard fences shall be removed once the model homes are no longer in operation and have been purchased by a homeowner.

Commissioner Cooper seconded the motion. By unanimous consent, the motion passed.

**VOTE: Y – 7 N – 0**

**REZONING & PRELIMINARY DEVELOPMENT PLAN (Case 2021-03Z/PDP)**

Applicant: Liberty Reserve, LLC c/o Aaron L. Underhill, Esq.  
Location: 4026 Home Road  
Existing Zoning: FR-1 – Farm Residence District, Liberty Township  
Proposed Zoning: PR – Planned Residence District, City of Powell  
Request: To amend the zoning map from Liberty Township Farm Residence District to City of Powell Planned Residence District and review a Preliminary Development Plan for a residential subdivision of 21 buildings containing 42 twin-single residential units on approximately 8.601 acres.

Aaron Underhill, Attorney – Underhill & Hodge – 8000 Wolten Parkway, New Albany: This is a project that you have seen previously as a Sketch Plan phase. City Council has annexed the site recently and have seen the Sketch Plan and received some good feedback from them. Last May we went before the Development Sub Committee of the Council. We have taken into account everything we have heard to date and I wanted to walk through where we are at the moment and seek your approval this evening. The site location is in close proximity to the OSU medical facility. We think this will be a great place for when we are fortunate enough for those jobs to come to Powell and for those nurses and doctors to live at least on a temporary basis before they find a permanent home here. Elise, Claudia and I actually had a meeting today with the residential project to the north. They has questions on where we are with the project and it was a very productive meeting. OSU is still in touch with us and hopefully that project will get started. If you look at the site and what's going on around it you will see the Liberty Grand project that is being developed. In the grand scheme of things we are a small part of this area. We are 8.601 acres and Liberty Grand actually has 900+ units, so in context here this certainly fits well with what is planned and approved for the north as a part of their zoning. One of the reasons this site is so nice is the park land that they just planned next to us and was committed to in that zoning. On the right is the Beautiful Savior Church that we have made some site plan modifications to try to address some of their concerns that were raised at a previous meeting. These are 42 twin-single units, 2100 square foot that includes a finished basement, two bedrooms and a den. Relatively high rent with an average tenant annual income of \$110,000, which we have experienced with Tom Bell's other projects, so we expect those trends to continue. Home Road is on the south side, the Church is on the right side. We have an interior loop street that we do intend to be a one-way directional, which was one of the questions in the staff report. Mr. Bell can speak to that if there are any questions, but he has found it to be easily navigated in his other communities. We are planning for those to be private roads, so the owner of the project would be responsible for maintaining the roads, clearing the snow, etc. We would connect to the north to the planned community there, which M/I Homes has purchased and is getting ready to develop. We are working with Chris Huber on the transition there between a public street and a private one, which is a bit of an odd condition, but we will continue as we move towards Final Development Plan to work out those details. We have calculated 43% open space. We are providing a relatively large area on the southeastern portion, on the left side of entry point from Home Road and then in the northeast corner there is another significant open space with a basin. I think when we get the Final Development Plan we will certainly address staffs comment that they would like to see some benches and other amenities there that will make it something the community can enjoy. In the center of the site there is a green area that we expect to be a real gathering place, so plenty of opportunities for green space within the community. I wanted to show you the original plan we brought before you and some of the things we have done with our new plan. We heard that the Church next door runs a pre-school/daycare so we wanted to provide some sensitivity to them so the first thing we've done is increase the setback from 25 feet to 30 feet. In determining how to modify our plan we did some research on what is going on with the Church property in regards to an existing stormwater drainage easement on the Church property that is loosely behind these units that is 30 foot wide and runs in favor of the County. As we started trying to modify the site plan we determined not only on our side of the line where we provide the 30 feet and some screening, but on the other side we are confident that no other building are going to be there in the future so there will actually be another 30 feet on the other side of the line. On the landscaping plan you can see that we have a mix of evergreens, deciduous trees and shrubs we are placing here. If you look just south of that bottom most orange line there is a mound there that we are purposing and that mound has actually been elongated since our previous presentation in an effort to provide further screening there. We think that with some plantings on top of it, Todd Faris our landscape architect is here and can talk more about the specifics of that, we believe that is providing a little bit more buffering as well. Also, on the new plan we have reconfigured where the units that are closest to the Church building are located, the big change was modifying the one on the left closest to the building so that it is a little bit further away and accommodates that mound there and also as a side elevation that faces the Church property rather than a rear elevation, which probably is good for this unit anyway backing up to that open space. We had a plan earlier with the central green space that didn't really define where we would have pedestrian circulation so we have provided that within the new plan and expect to have even more details in the Final Development Plan about what will go on



there. We made some slight modifications to how the entry roads present to the each of the north and south. On the south at Home we have a little bit more of a bend and on the north we have also provided more of a bend there. If we have cut through traffic there we think this will provide a little bit of traffic calming before that intersection. We have sort of elongated that loop in order to accommodate the units that are placed there. We have provided four different model types with alternate elevations and we have provided along with this plan a matrix of where each of these can be located on the site so that there is some variety of the facades as you go through the neighborhood. In addition, we have provided an elevation with more detailing. There is some stone around the garages, we have strategically place some architectural design elements to sort of upgrade some of the facades that may be seen from offsite such as Home Road. In general, density hasn't changed, use hasn't changed. We believe we have made some improvements to the plan and the architecture. Again, I think this is a great fit for the community given what is going on to the north.

Ms. Schellin: This proposal is for a new residential subdivision for the property at 26 Home Road. This project has been reviewed by the Commission as a Sketch Plan on December 9, 2020 and the land was annexed into the City of Powell from Liberty Township on January 5, 2021 with the approval of Ordinance 2020-31. Submitting a Preliminary Development Plan is the second step in Planning and Zoning's review. You already saw this with the Sketch Plan, which is the first step. After this review the applicant will take into consideration all staff and Commission comments and come back for a Final Development Plan review, which will then go to Council for readings and will allow for public comment. This proposal hasn't change too much to change the Comprehensive Plan consistency, which we went over in the Sketch Plan. Overall the proposal is in line with the Planned Residence District Code, which is Section 1143.13, however there are three divergences that I want to note; first the 30 foot requirement between buildings and this is met for all buildings except between buildings 17 and 18, and buildings 19 and 20. Secondly, the minimum rear yard setback per code is 40 feet and the applicant is proposing either 25 feet or 30 feet setbacks depending on which perimeter the buildings back up against and number three is the code also requires that the building height cannot be more than 35 feet and the principal building shall not be more than two stories. The applicant is proposing buildings at two and a half stories but still not taller than 35 feet. Everything else including density, setbacks, lot coverage, etc. are met per code. Staff comments consist of additional clarification that need refinement before Final Development Plan review and the Planning & Zoning Commission should make two motions tonight; one for the zoning map amendment and the other would be for the Preliminary Development Plan approval. Staff recommends approval for the zoning map amendment and staff also recommends approval of the Preliminary Development Plan subject to the conditions outlined in the staff report, which are item one that the developer take into account staff recommendations for engineering related items; item two that the developer create a retention basin that is more natural in shape and item three that the developer explore open space amenities around the basin subject to staff approval. Lastly that the developer determine one-way or two-way traffic for the proposed roadways and provide additional details for on street parking.

Chairman Emerick: Do we have any public comments on this application?

Les Wibberley 5005 Bayhill Drive: I work with the Opal Trails Committee and I would like to commend the developer for including a section of the Home Road trail along the south side of the development. I just want to verify that it is still 10 foot trail, which will connect with the property to the west. I wanted to mention that we have achieved funding for the Home Road trail, which will connect from this property going east all the way to Olentangy-Liberty High School.

Mr. Underhill: That is in fact correct.

Chairman Emerick: Are there any other public comments?

Ms. Schellin: There are no other public comments.

Chairman Emerick: We will close the public comments and look to the Commission for their comments.

Commissioner Boysko: I do have a few comments with the first regarding the one-way traffic that goes counter clockwise. What kind of devices or signage do you have to direct people in the right direction?

Todd Faris: Obviously, signage is an important component and we will rely heavily on the signage. We will have two-way at the street coming from the north as well as from Home Road. It's just the central portion that's one-way and I know Tom has found in his other developments that it just seems to work better for him. If I am not incorrect, Tom is it mainly signage that you utilize to direct the traffic.

Commissioner Boysko: When you talk about signage is it just striping on the street or are there road signs that direct drivers one-way?

Mr. Faris: I believe they are one-way signs with arrows. When you get to that fork in the road it will tell you to go to the

right.

Commissioner Boysko: I really don't have a problem with the one-way traffic, I just think there could be cause for concern if they come in off of Home Road and take a left instead of right and go the wrong way? Is there an opportunity to pull-off and go the right way?

Mr. Faris: There is because these streets are actually wide enough to have parking on one side and two-way traffic, so they do meet the fire code from that standpoint.

Commissioner Boysko: It looks like you changed the curb cuts. Instead of a right in or right out you've got ability to make a left out. My biggest concern with those pork chops is it's a good tool to try to deter traffic, to try to direct them right in or right out, but a lot of times they don't work. I guess I question the value of even having the pork chop or restricting access into this property because there is a center turn lane. What is in the traffic study that is preventing you from full access?

Mr. Faris: I believe that is part of Chris Huber's recommendation.

Mr. Huber: My recommendation from the traffic study they calculated 285 feet for left turn into that site. If my memory serves me correctly they have 215 feet within that dual left turn lane, so my recommendation is to just simply move that further to the east to achieve the 285 feet that the traffic engineer specified and that would get it further away from Steitz Road striping and allow that geometry to exist.

Commissioner Boysko: Is it currently at the correct location or are you saying it has to move to the east more?

Mr. Huber: I believe it would have to move further east from what you are seeing here tonight.

Commissioner Boysko: So if they do that, they could have full access? Or if the plan prevents them from it or they don't want to then they could keep it where it is and still have that restricted access?

Mr. Huber: Correct.

Commissioner Boysko: Chris is that all because you have concern about the distance and the stacking of cars turning left into the site?

Mr. Huber: It's not so much the stacking, it's to slow down, this is a 55 no mark speed zone in the County so they do need time to decelerate then get into the left turn lane so you are not impeding the thru traffic on Home Road. Also, I expect more traffic to be at Steitz and Home Road with that que so we don't want to interfere with the major intersections queuing with combining the two ques to close together.

Commissioner Boysko: Chris, are the long-term improvements planned for Home Road going to continue further west and affect this area?

Mr. Huber: I'm not sure of any exact schedule with that but I have definitely been in contact with Delaware County engineers and can get that information for the long-term plans. I do know we have plans in the very near future for Home and Sawmill and part of Liberty Road near the OSU medical area, but I am not aware of anything west at this point.

Commissioner Boysko: I have some questions related to stormwater and I have been a big advocate that good development can help solve problems and we heard at the Sketch Plan review that the Church has some drainage challenges. They've done a great job with the landscape buffer and even the mounding along that eastern property line. I think that's a great solution, but does the landscape buffer help or hinder the stormwater drainage that I assume is going to flow eastward?

Mr. Faris: The way that our engineers are looking at this right now is that we are utilizing an outlet through the subdivision to the north instead of going to the east. We are doing that because the County want us to do that but I believe there will be adequate structures to tie into that location. Theoretically we are not shedding any water to the east so that landscape buffer is fine in that location.

Commissioner Boysko: Ok, great, so you've got a northern outlet from the detention pond to the north and you are directing water that used to drain to the east onto the Church property you are redirecting that with the buffer to the north to the detention pond?

Mr. Faris: Yes.

Commissioner Boysko: I'm curious to hear from either Todd or Aaron what your feeling is about shifting the access point on Home Road further east to improve that, is that something that could be considered.

Mr. Underhill: Yes, absolutely. I do think there is some interest on our part to investigate that because I think it is good for the project. I think we will do our best to see if we can get that done.

Commissioner Boysko: Great, I would be in favor of that as well. Other than that I think it is a great project and I am still in support of it.

Commissioner Simpson: I expressed a couple of concerns back when we reviewed the Sketch Plan, but really the more I looked into it, those are strong rents with a pretty big footprints and really it is a housing stock that we are thin on. I pulled up our old housing stock survey that shows we are still under 6% non-owner occupied housing in Powell, which is half of Delaware County's average and a quarter of Columbus's so there is definitely a need for this. Is there an occupancy limit on these?

Mr. Underhill: They are two bedrooms and a den.

Commissioner Simpson: Are they set up as houses or apartments because I know that is something people will bring up regarding the school impact. Are there going to be any entrance monuments or lighting?

Mr. Faris: Yes there will be a main sign from Home Road and we will have a secondary sign from the access to the north. It's a yard arm sign out front I believe and then a pillar at the back. The street lighting is fairly minimal and we usually put them at the intersections.

Commissioner Simpson: Will trash collection be per unit?

Mr. Fairs: Yes, per unit.

Commissioner Simpson: I think this is something that we need and it's on the higher end of a product like this so I welcome it.

Ms. Husak: Could the applicant address the question about how the units are set up? Are they like a house or half a house or is it an apartment where you walk up?

Mr. Faris: I don't think they can rent out rooms once they have rented their half.

Ms. Husak: So it's more like a townhouse?

Mr. Underhill: Yes.

Commissioner Cooper: I don't have any problems with it so I am looking forward to the Final Development Plan.

Commissioner Bailik: I don't really have too many comments. I do like the clarification on the sidewalks and access to the common area. Can you explain the benefits to the one-way?

Mr. Faris: The one thing Tom has told me over and over is it becomes much easier for people to understand that if they are going to park on the street that they are facing one direction. I am sure there are others like such as not having opposing traffic when children are out there, etc.

Commissioner Bailik: I do like the revised layout. I like the buffering between the Church and your efforts to provide a larger setback for them and I think you have done a nice job to incorporate our comments from before so I appreciate that.

Commissioner Hartranft: I agree with a lot of the other members that the changes you've made, particularly with the layout of buffering and the change to the entrance. Is it going to be a vinyl siding product? That's what is stated in the packet.

Tom Beers: At this time it is going to be a premium vinyl product.

Commissioner Hartranft: Does that mean it's going to have a backing to it? So that you can't push or bend it.

Mr. Beers: No not that premium, but it's an upgrade to a regular vinyl siding that we are looking at.

Commissioner Hartranft: Is it hollow?

Mr. Beers: Yes.

Commissioner Hartranft: That's not something we typically do is it?

Chairman Emerick: I believe vinyl siding is not allowed per our code.

Mr. Faris: Tom has that come up in your conversation with the City's architect?

Mr. Beers: I had thought that wood siding or a Hardy product was preferable that vinyl was still allowed.

Commissioner Simpson: Is Powell Grand Hardy plank?

Ms. Husak: Let's explore this in terms or maybe adding a condition to do either Hardy or vinyl siding with the backing.

Mr. Underhill: I think maybe at the time of Final Development Plan review but maybe we could try to prove to you that the quality of the product is such that it would support. One of the things I hear all the time from builders, owners and developers is that the cost component is certainly one thing but that's not driving this often times especially in a community like this it's the Hardy plan and those sorts of materials often times need to be painted and these vinyl products where better over time. Tom Beery is that true?

Mr. Beery: Maintenance is really dependent upon what you are buying. I do know that Tom Bell is committed to a quality vinyl on this project.

Ms. Husak: In terms of the Commission's thoughts do we defer that to the Final Development Plan? Can we do that?

Commissioner Simpson: I would love to have it deferred to the Final Development Plan if they can drop off a sample to the office.

Commissioner Little: We historically have not allowed vinyl siding in the City of Powell.

Chairman Emerick: There is only one development in the City of Powell that has vinyl siding and that is Lakes of Powell and that was a special consideration and all kinds of promises and they still had a problem with the oil canning affect that has been a traditional problem with vinyl siding.

Mr. Tyler: If I may add that a lot of times the issue with vinyl siding deals with the installation of the material and that is where you run into major problems with the wavy siding and oil canning. Just to say you are going to have a premium siding doesn't necessarily take away from the issue of installation.

Chairman Emerick: I would agree with that Jeff. The same problem with the Hardy siding, installation is the key.

Commissioner Little: When we approved Hardy plank, again we spent a lot of time trying to ensure that installation techniques were done in accordance with the manufacturers requirements.

Chairman Emerick: As well as proper storage on the job site.

Mr. Underhill: We certainly understand the concern and it's noted if we kind of want to make it that we have to prove it to you at the next stage.

Commissioner Hartranft: I'm fine with approval to move forward but like others have stated I won't approve it if it's part of the Final Development Plan.

Commissioner Cooper: I believe that I voted down the Powell Grand development on Seldom Seen because the three story building had vinyl siding on it. I'm not in favor of it and I don't like it or want it, but I think we have approved it before.

Commissioner Little: I think Ed is correct, I think at the time it was actually deemed to be a more premium type of vinyl than traditionally installed.

Commissioner Hartranft: I guess all we can do is see what the product is without having the product in front of us tonight, but I am open.

Ms. Husak: Maybe Elise can chime in regarding what the text allows.

Ms. Schellin: I actually do not know. I have not seen the restriction of vinyl siding in the code, but that does not mean that it is not there. I will do some background research and see what I come up with.

Chairman Emerick: It has been in there and I don't think it has been removed.

Commissioner Little: In the case of Powell Grand is the developer identified another development that had incorporated the material that they were proposing and the Commission members were then able to visit that other location and inspect the proposed material to be a more educated on what was being proposed.

Ms. Husak: Would you feel comfortable to move forward with it and then approve it at Final Development?

Commissioner Little: That's how it normally works anyway, materials are addressed at Final Development.

Commissioner Simpson: I will say that the connecting community is all vinyl.

Commissioner Little: At Final Development we should look at the lighting, mail delivery, trash, and signage that is better specified than what we have here. I do think that this sight lends itself to some cut through traffic issues so moving the access point helps with that and I have seen law enforcement ignore the pork chops but if it does impede some of the cut through traffic I tend to think that is good. I appreciate them incorporating our comments including the building layout changes, elevation changes, etc. Just a comment on the landscaping, I appreciate what you've done there. I feel like you kind of bear the burden of the City of Powell's typical landscaping expectations. Given the concerns of the gentleman that represented the Church at the last meeting, I encourage you to talk to him and get there input. Maybe moving a few things here and there would be helpful in establishing your relationship, but I went and looked at their property today and given the size of that property and what they have in landscaping, I am guessing that is the bare Township minimum. Literally a few bushes and a few trees, so I think you bear the burden of what Powell will typically require but I don't think you bear the burden of accommodating what they didn't do when they developed their own land.

Chairman Emerick: I would just echo the comments that have already been made, so I don't have anything new to add at this point other than to express appreciation for the fact that you have taken our comments into consideration and looking forward to what you do with the Final Development Plan. Bill are we ready for the two motions?

Commissioner Boysko: Have you shared these plans with the Church and received feedback?

Mr. Underhill: We have not Mr. Boysko, but we will make it happen before we come back to you. That's a fair request.

Commissioner Boysko: Has Tom had a chance to review this with the City architect yet?

Mr. Faris: I have been in contact with Steve for the past six months on this project, but I have not received any comment on this latest update. I will certainly get in touch with him before the next presentation and make sure everything is ok with him.

Commissioner Boysko: Usually we have some comments from Steve even on the Preliminary so I am surprised we don't have anything yet but I assume we will get those in the Final Development review.

Ms. Schellin: Steve wasn't able to make it tonight. If he has any comments he is going to get with Tom and make sure that everything is addressed before the Final Development Plan review.

#### **REZONING & PRELIMINARY DEVELOPMENT PLAN (Case 2021-03Z/PDP)**

Applicant: Liberty Reserve, LLC c/o Aaron L. Underhill, Esq.  
Location: 4026 Home Road  
Existing Zoning: (FR-1) Farm Residence District, Liberty Township

Proposed Zoning: (PR) Planned Residence District, City of Powell  
Request: To amend the zoning map from Liberty Township Farm Residence District to City of Powell for a residential subdivision of 21 buildings containing 42 twin-single residential units on approximately 8.601 acres.

**MOTION:** Commissioner Little moved for approval of a Zoning Map Amendment for the property located at 4026 Home Road, known as Liberty Reserve, LLC from Liberty Township (FR-1) Farm Residence District to City of Powell (PR) Planned Residence District. Commissioner Boysko seconded the motion. By unanimous consent motion passed.

**VOTE: Y – 7 N – 0**

**MOTION:** Commissioner Little moved for approval of a Preliminary Development Plan for the property located at 4026 Home Road, known as Liberty Reserve, LLC for a subdivision of 21 buildings containing 42 twin-single homes on approximately 8.601 acres subject to the following conditions:

1. The developer shall incorporate staff recommended engineering requirements stated earlier by staff.
2. The developer shall create a retention basin design that is more natural in shape.
3. The developer shall explore more open space amenities around the basin subject to working with staff and gaining their approval.
4. The developer shall determine one-way or two-way traffic for the proposed roadways and provide additional detail for on street parking.
5. All divergences shall be finalized at the Final Development Plan.
6. All of the requirements required in the Final Development process shall be met at the next submission.
7. Please keep open lines of communication with the property to the east to ensure attempts at a good working relationship.

Commissioner Cooper seconded the motion. By unanimous consent motion passed.

**VOTE: Y – 7 N – 0**

## **OTHER BUSINESS**

### Planning & Zoning Re-Organization

Mr. Tyler: In October City Council passed a resolution to create a Community Development Department based upon the retirement of Dave Betz and the resignation of Rocky Kambo. This created an opportunity to re-look at what was the former Development Department and really consolidate all of our development operations under one roof. In November I accepted the Community Development Director's position and started to work on what this organization really should be and how it should function. I took information from previous documents that Dave had created, doing interviews with and department managers and then we brought Claudia to the discussion in December. The result you see in the organization chart is a culmination of those discussions and what the expectation is from City Council to reorganize this department into a more cohesive, consistent department that really is going to look at development issues from front to back. What we hope to do is provide better efficiencies in not only the development review process, but all the way through to the permitting process, which is sorely in need of updating to come up with a program and a strategy that is more responsive to our customers. Whether that be residential customers or commercial customers, as we had tonight. I presented a reorganizational plan to City Council through our Operations Committee, so they had a chance to review. We really looked at everything from the organization itself to staffing to potential issues, past issues, present issues, as well as some resolutions to those issues. What we hope to turn that into an action plan, so that not only is the expectation set with staff, but that City Council knows the direction and most important that our public will know what the expectation of this new department will be. I want to stress that I have only been here three months, I haven't solved all the issues and don't even want to give that impression. But what I hope to have done is start a foundation and then with that foundation hope to move forward with an action plan that will look and our needs in a more comprehensive fashion. For instance, the parking, I know that is a big issue. I have not been here during the summer of course, but I have already begun to make contacts to not only look at this from a Development Director's standpoint but pull in Planning & Zoning, Engineering, Building Department and Public Service to help create a more comprehensive solution to the problem. Again, it is going to be multi-faceted. It will not be a one

size fits all type solution, so you can't just say move parking from one area to another. It's going to take a look at as many of the aspects that we need to look at and try to come up with something that meets the needs of the community. We've got the Keep Powell Moving initiative that hopefully once we get that into a CIP format, if and when we get the income tax restructuring accomplished, we will begin to look at how to roll that out as well. Some of this is definitely going to be contingent upon resources. Resources we currently don't have but hopefully will have in the future. This is the start of the foundation with the blessing of City Council and our City Manager, Andy White being supportive of it as well. I wanted to give you an overview of what this new department entails and my door is always open if you have questions, comments or suggestions. I am looking for input because it is not my community it's the entire community and we want to make sure the needs are met appropriately.

Ms. Husak: I love what Jeff just said, it's not my community it's the entire community. One of the things that I have seen since I started my tenure here, is I really would love for you to take a look at the rules and responsibilities and for us to have some training opportunities that would potentially lead into changing some of the bylaws because Jeff and I are kind of in the realm of let staff take the first step and not have the applicant take the first step. It is in the bylaws that the applicant goes first, so we are hoping to discuss this in the future. Especially if you have a light meeting agenda where we could all sit down and figure out if there are appropriate updates to the bylaws. Also, our Law Director, Yaz Ashwari has some great presentations about Roberts Rules and Sunshine Laws and all the things that go along with conducting public meetings in an appropriate manner, which please do not think I'm say that you are not, but sometimes it is a good refresher especially when you have new members. Also, anything else you would want to talk about. Are our Staff Reports and Presentations good enough? Do you need more from us? We would love to have those conversations with you in some sort of training session outside of regular scheduled meetings.

Commissioner Hartranft: Thank Claudia, I appreciate the feedback. When you talk about having the staff take the lead can you give me an example?

Ms. Husak: What happens right now is the applicant presents their case and then we present sort of like a background, so I would like to flip that.

Commissioner Little: I think having the applicant involved allows us to get a sense perhaps of whether in our opinion they are trustworthy. Secondly, using tonight as an example, for the 8 N. Liberty presentation the applicant didn't think he needed to make a presentation and two he didn't have the basic, fundamental pieces of information that are appropriate for this kind of discussion.

Ms. Husak: So, I would love for staff to start there and then let the applicant fill in where we are missing pieces.

Mr. Tyler: If I can add to that the 8 N. Liberty discussion is a very good example. I will tell you we have had some issues trying to even get to this point with that applicant. To Claudia's point it would have been a lot nicer and I would have been much more prepared had I known that I needed to present the facts, not our opinion, but the facts of the case to the Commission so that you understood the background that we were seeing. After that, have the applicant fill in their issues, concerns to give you a bit more complete presentation. I thoroughly agree with you, that case unfortunately is a good example of how not to do it.

Commissioner Little: The way we currently operate is not a reflection on staff, but it does touch on both points is the applicant trustworthy and have they done the necessary due diligence and preparation so that we believe their plan is solid.

Ms. Husak: It is in your rules and regulations that the applicant goes first, but I would like to have a conversation about changing the order.

Commissioner Hartranft: So you are saying you want to go first and then have the applicant present?

Ms. Husak: Yes.

Mr. White: If I could jump in real quick, I think the premise would be staff provides a professional non-partisan viewpoint of what was presented to staff through the application process and how it relates specifically to the codified ordinances and zoning regulations. Whereas, if I am an applicant and I bought a very expensive lease for 10 years and never thought about parking and then realized I have a problem. Then I am going to come to the City and say you've got to fix this for me that should work much differently. I think staff's point of view here would be, we would just give you a neutral representation of how the application is reflected by the code and then introduce the applicants perspective. When a Board is addressed by the applicant as an advocate for their project it's impactful as an observer, then the neutral party explains the codified regulations.

Chairman Emerick: I think it might be helpful too if the applicant gets a good briefing from staff prior coming to us, saying be prepared to thoroughly present your case.

Ms. Schellin: We can definitely be make sure that comes across a little bit stronger and that they need to be prepared.

Commissioner Little: I think another thing to think about as we discuss this is there has usually been some give and take negotiations kind of things where we will give you this divergence but in turn we want you to finish the bike path, etc. We should probably figure out is that better off to have the City doing that or us doing it or is it a mutual thing because it is sort of give and take right now.

Ms. Husak: I would advise we use the code and follow whatever the code requires we would ask the applicant to do and whatever the code does not require we can have a conversation about with the applicant and the City. There are certainly minimum standards that the applicant has to do so negotiations ought to not happen in front of the Planning Commission that is not your role, not staff's role or the applicants role. I am looking at it from the code being fairly black and white and we ought to adhere to it and if it is not working we should fix it.

Commissioner Boysko: But that's a big part of what we do on more complex projects is that sort of horse trading that negotiation. They present their project and then we respond. Many times if there's divergences or variances that's being requested we ask for something in return. If we are going to give up something we want something in return and that is part of that discussion.

Ms. Husak: Absolutely, when you do the planned district applications that is completely appropriate.

Commissioner Little: I don't think it's a big issue but if it were a big issue the proposal that we just saw, which exceeds the two-story requirement that we have maybe we deem that not to be such a big deal but we would like them to put that nice Powell white fencing in the front of their property, hypothetically speaking.

Commissioner Bailik: It seems we have negotiated in the past. I've been in meetings in the past when we've seen a couple different versions of a motion, where if one doesn't pass we go and do another one. Claudia, just for clarification are you saying we should not be doing that? We should rule one time and then we are done until they come back?

Ms. Husak: I think if you have issues and there is a planned district in front of you then negotiation is completely an appropriate step to take. I would not motion twice in a meeting. I would table and have them come back and make sure they are doing what you want them to do. That is what my advice would be.

Commissioner Little: We do often times go the table route, which is why I brought it up tonight. If the applicant sitting in the meeting feels comfortable that they are going to get approval and they want to go forward, great but if they would like to table it because they recognize there might be some issues that really do need to get resolved then they can say I would like to table this so I can address those concerns.

Chairman Emerick: Most of the time they will ask us to table it and I was waiting for the applicant tonight to say he would like to table it and he said absolutely nothing.

Mr. Tyler: I can tell you that he was made aware of that option.

Ms. Husak: The longer we work with you and figure out what your desires are and how you are interpreting the code. I think that makes it so much easier for us to also advise the applicants before they come to you. That's really what my biggest concern is that our submission deadline and then coming to you is so short that we don't have a ton of negotiation time even in our office, but we will figure it out.

Chairman Emerick: Right, you are still figuring out how we think and what we tend to respond too or not respond too.

Commissioner Bailik: I have one other question as far as protocols go. When I first looked at coming on this Commission and applied and did not get it, I was put on an Appeals Commission, I am wondering because we didn't do anything for a whole year. Are you saying if they want to get a variance for something they should be going to an appeals commission?

Ms. Husak: Yes, that is what is in the code and they do that now. Elise and I have been talking to probably 10 residents the last couple of months and none of them have taken it seriously, but yes there is a Board of Zoning Appeals that can deal with certain issues. They also deal with conditional uses so it is not something that would come to you.



