



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

Shawn Boysko

Ed Cooper

Shaun Simpson

Elizabeth Bailik

MEETING MINUTES April 14, 2021

Chairman Don Emerick called a meeting of the Powell Planning & Zoning Commission to order on Wednesday, April 14, 2021 at 7:03 p.m. via Zoom. Commissioners present included Bill Little, Elizabeth Bailik, Shawn Boysko, Ed Cooper, Trent Hartranft, Shaun Simpson and Don Emerick. Also present were Andrew White, City Manager (late); Jeffrey Tyler, Community Development Director; Claudia Husak, Planning Director; Elise Schellin, Development Planner; Yazan Ashrawi, Law Director; Karen J. Mitchell, City Clerk; and interested parties.

MOTION: Commissioner Simpson moved to accept all the documents into the record. Commissioner Cooper seconded the motion. By unanimous consent of the remaining Commission members present, the documents were accepted.

APPROVAL OF MINUTES – March 24, 2021. The draft minutes were not completed and approval will be deferred to the next meeting.

PLAT REVIEW (Case 2021-16_FP and Case 2021-17_FP)

Applicant: John Crawford of CT Consultants, Inc., on behalf of Len Pivar of Arlington Homes
Location: Barrington Place
Zoning: DR - Downtown Residence District
Request: Review and recommendation of approval to City Council of 2 revised final plat phases for Harper's Pointe.

Chairman Emerick advised that there was a clerical error on the originals and the front setback measurements. It does not affect anything out in the field. This is just a note on the plans that needs to be corrected. There will need to be two motions, one for each phase.

John Crawford, CT Consultants, 7965 N. High St., Columbus: We had a typo on the face of the plat where the front setback was listed at 10 feet from the right-of-way where it should have been 10 feet from the back of curb. We changed that text to read 8.5 feet from the right-of-way. The intent does not change on either plat. It is still the same distance from the centerline of the road for the buildings so nothing there changed, just how we are describing it.

Claudia Husak, Planning Director: We agree with Applicant that it is a clerical error that has no bearing as to how the building will be located in the field. Elise and I looked through the Ordinance and, unfortunately, we found no other way to correct this other than to re-plat this through the process with the Commission as well as City Council. We are recommending approval of both of those re-plats, which will then go on to Council at their next meeting on April 20th. We have no conditions.

Chairman Emerick stated that there were no comments from the architectural advisor.

Chairman Emerick opened the matter up for public comments. Hearing none, Chairman Emerick closed the public comment session and opened the floor for comments and questions from the Commission.

There were no comments from the Commission.

MOTION: Commissioner Little moved to approve a revised the plat plan for Phase 1 for the property known as Harper's Pointe, as represented by John Crawford of CT Consultants, Inc. on behalf of Len Pivar of Arlington Homes. Commissioner Cooper seconded the motion.
VOTE: Y-7 N-0

MOTION: Commissioner Little moved to approve a revised the plat plan for Phase 2 for the property known as Harper's Pointe, as represented by John Crawford of CT Consultants, Inc. on behalf of Len Pivar of Arlington Homes. Commissioner Boysko seconded the motion.
VOTE: Y-7 N-0

MINOR AMENDMENT TO AN APPROVED DEVELOPMENT PLAN (Case 2021-18_AM)

Applicant: Sadie Webb, SHYFT Collective
Location: 41 Depot Street
Existing Zoning: DB – Downtown Business District
Request: Review and approval to permit an accessory structure to be located within the front building setback.

Sadie Webb, Shyft Collective, 152 E. Gay St., Suite 2A, Columbus, Applicant: Last month we came before you for a Certificate of Appropriateness for the outdoor pour station for Nocterra and that was approved. Today we are here for the minor amendment to the development plan.

The project scope is really for DORA and is meant to serve the DORA customers outside of Nocterra to alleviate any congestion inside of the physical space as well as to provide an extra area to order beer outside. People will be able to order beer in the beer garden and not go inside the building.

The DORA map was provided to you as a reference and it shows the location of Nocterra and the ideal location for the pour station. The proposed site plan for the outdoor pour station was provided in your packet.

Some of the things we heard last time were ideas about queuing for the patrons that are outside of the beer garden so people are not congesting Depot Street. There was also a concern about being near the fire pits, so we moved it away from the fire pits on the other side within the fence line and allowed for a marked off DORA zone that would then allow for queuing while the pour station is open. The DORA zone would be a no park zone and a way to alleviate any congestion in the street. Placing this along the fence line does two things: It is closer for the DORA patrons; and it still allows the maximum amount of space in the beer garden. It alleviates any congestion around the fence gate for people that are exiting.

Elise Schellin, Development Planner: This is a minor amendment for the approved development plan of Nocterra at 41 Depot St. This is zoned as Downtown Business District. Any new additions of commercial structures in this district requires you to approve of the structure.

As mentioned, this is a pour station for DORA. You saw this in March as a certificate of appropriateness to review the design of the structure. They are coming back today because the location has changed a little bit. Liberty Township Fire requires at least 15 feet between the gas line of the fire pit and the structure, so that has been moved a bit to the south to accommodate that. They will also need your approval of the 3-foot divergence of that front setback line.

Staff recommends approval of the amendment to an approved development plan to permit an accessory structure to be located within the front building setback and forward of the principal structure.

Chairman Emerick opened the matter up for public comments. Hearing none, Chairman Emerick closed the public comment session and opened the floor for comments and questions from the Commission.

Commissioner Cooper: One of the reasons you moved this pouring station was because of a gas line for the fire pit?

Ms. Webb: Yes. The structure needed to be outside of the 15 foot radius of the fire pit.

Commissioner Cooper: Could it be moved to the left rather than going out and into the setback line or is this the only place you could put it?

Ms. Webb: Ideally we are hoping for ease of access for the Nocterra staff. We want to keep it as close to the main structure as possible because staff will be going back and forth to the main building, but we also wanted to keep it out of proximity of the fire pit. We felt this was the best location for that.

Commissioner Simpson: I know the previous one was encroaching on the setback line anyway, so I don't have too much of a problem as long as it is also not effecting the parking. I actually think this works pretty well at the proposed location. I have no issues with it.

Commissioner Boysko: I know we had some discussion on this issue before. I am still concerned with Depot St. The width of the right-of-way at Depot St. to the width of the paving at Depot St. is only 20 feet. The right-of-way is 40 feet. That edge of the right-of-way, or the property line, goes right up to the building, right up to the fence line. So the idea behind this is really just to satisfy the DORA and to make it easier for them to serve beer during the DORA, is that correct?

Ms. Webb: Yes.

Commissioner Boysko: So what happens when there is no DORA? How is that area treated?

Ms. Webb: It is for DORA, and it also helps alleviate any congestion inside of Nocterra. Outside of DORA, patrons could then use it during normal business hours at the beer garden.

Commissioner Boysko: So the side that faces the fence would be closed down or shut off in some way?

Ms. Webb: Yes. You wouldn't be able to order from there outside of DORA. All other times when this establishment is open, you would be able use it from the beer garden side.

Commissioner Boysko: Does Staff have any concerns about the future development of Depot Street and how the placement of this structure would impact the expansion and development of Depot Street?

Ms. Schellin: No, we do not feel this structure is substantial enough to really change any future plans we would have.

Commissioner Boysko: I still have reservations about the location and placement of this. The fact is that during DORA you will be eliminating 4-5 parking spaces just to accommodate the DORA and the staging of the patrons lining up to be served. That is a concern because of possible backing up into the street. It is nice to say that you are going to have staff there to try to manage that, but that is not always the best solution.

Chairman Emerick: Elise, correct me if I am wrong, but did I hear that even though we are looking at this as a permanent structure, it could still be portable enough that it could be moved, if necessary?

Ms. Schellin: I believe so. It is small enough that it does not need a building permit, so we are really just looking at the zoning here. I am not sure what Nocterra's plans are for moving this thing around, but I do not think it has a really substantial foundation that it could not be moved if needed to.

Commissioner Hartranft: I think the new location actually works out pretty well. It has changed the way the queuing is and I think it is a good change. I was concerned about the fire pits before, but I am glad you got some clarification from Liberty Township Fire, so that is good.

I have been in Nocterra and congestion is something that I think this will definitely help with. I have been in there when the line has been all the way through the bar and out the back door onto the yard with patrons trying to order beverages from the bar. I can see where this would be beneficial for that purpose. I think it will be great during DORA, so I am in favor of this proposal. Good job.

Commissioner Bailik: I also like the location a little bit better. It provides less congestion at the gate opening as well. I have no concerns.

Commissioner Little: I think this is a more appealing approach. They are already operating, there is no foundation so it could be moved if necessary. Given their immense popularity and the addition of DORA, it is something that needs to be done.

One of the things that might have contributed to this is that I don't think we had really good documented surveying data for the downtown area and we might be just talking about a line that got drawn in the sand. Along those lines, we should probably clean all that up when we extend or improve Depot Street in the future. But I am good with it.

Chairman Emerick: I am fine with application as well. I have no concerns.

MOTION: Commissioner Little moved to approve the Minor Amendment to an Approved Development Plan for the property located at 41 S. Depot Street, known as Nocterra Brewing Company, as represented by Sadie Webb of SHYFT Collective, for the purpose of adding an accessory structure to facilitate outdoor service, subject to the following condition:

1. The Applicant shall work with Staff to gain approval for any signage associated with the new structure.

Commissioner Cooper seconded the motion.

VOTE: Y-6 N-1 (Boysko)

REZONING & PRELIMINARY DEVELOPMENT PLAN (Case 2021-05Z/PDP)

Applicant: Redwood USA, LLC
Location: 3041 Home Road.
Existing Zoning: PI – Planned Industrial, City of Powell, and I – Liberty Township Industrial District
Proposed Zoning: PC – Planned Commercial District, City of Powell
Request: Review and recommendation of approval to City Council of a Zoning Map Amendment with Preliminary Development Plan from Liberty Township Industrial District & City of Powell Industrial District to Planned Commercial District for a mixed-use development on +/- 70 acres.

Stephen Martin, Esq., 50 N. Sandusky St., Delaware, Attorney for Applicant: We have been working on this for the last 2 ½ years and met with various committees. The site plan been in front of Development Committee and P&Z Commission twice and before City Council with the pre-annexation agreement. Currently on annexation, 35 acres of this project is already in the City of Powell. The north 35 acres is not. It is in Liberty Township. On the northern parcel, there are some dilapidated structures that will have to be razed. It has been zoned Industrial since beginning of Liberty Township zoning and is the only thing that has been on the site.

The southern 35 acres were exchanged with the City of Powell a number of years ago after it got that ground and the 12 acre preserve to the south from M/I Homes for the Woods of Powell development. On these parcels are wetlands areas, and at one time, a pull-off site for northbound railroad cars which resulted in a polluted site that had to be remediated. These 35 acres was zoned by the City in 2005 as Planned Industrial. That specific zoning provided the secondary access would not be needed and took no consideration of the stream crossings or the wetlands, both of which are necessary today.

This is probably one of the most difficult large site, 70 total acres, to access any place in the county because the railroad sits to the west, to the south there is the 12-acre wooded preserve with wetlands, to the east are the public entities, and to the north is Home Road with the overpass. The overpass relocated the drive from this parcel from Home Road to the far eastern boundary of the property. On the far eastern boundary, the level of Home Road is approximately 10 feet above the level of the rest of the ground. In the northwest corner, it is about 30 feet because of the overpass. The overpass creates very limited sight conditions.

The county engineer has indicated that there will not be a traffic light there under any circumstances. So this is the access issue. Under today's fire code, a secondary access is required. We spent a ton of time exploring options, starting with Liberty Township, to get an access through the park. That was not successful. I was also told by your former Development Director a few years ago that there was no way I could get access through the preserve on the south side. We also spoke with CSX about possibly utilizing the old maintenance road, but they would not allow it. Fortunately we are able to negotiate and have an agreement and easement, which I am holding in escrow, for a secondary access paved road with bollards that runs from the middle-school parking lot to the tract of land to provide that necessary access. Maintaining that road and the parking lot is in the pre-annexation agreement so that the Fire Department and any other emergency vehicles can get in there when needed.

This is the second annexation petition we filed. We filed an annexation petition 2 years ago and the time was just not working. We had a number of things we still needed to work out, so we withdrew that annexation. In January of this year, we worked out a pre-annexation agreement and refiled the annexation petition. We worked long and hard with the City on a map for what could be at this site. If this goes through, you will now have a corridor to annexation to the north. The pre-annexation agreement has provisions for a TIF that will yield about \$14 million dollars to the City, \$1.2 million for off-site improvements for Redwood, \$12.8 million for the City to use elsewhere. It is a 75%, 10-year TIF. Although the apartments are residential, under the TIF statutes, rentals are considered commercial.

We are not annexing all the way to Home Road, so Home Road will still be the county's responsibility. The sewer extension is just to the site. It is to the east and has to come under Home Road. These estimates were provided by Bill Lafayette's economic study who used this site plan and was also the economist used on the City's Comprehensive Plan.

Todd Foley, POD Design, 100 Northwoods Blvd., Ste. A, Columbus: We are the planning consultant and landscape architect for the project. We highlighted that we have been at this for quite some time. We have had multiple meetings with Staff, we have been before this body with a Sketch Plan. Right now we are at this stage to request a Zoning Map Amendment and Preliminary Development Plan approval through the Commission with the hopes of getting a recommendation to move on to City Council. From there, assuming we are approved at City Council, it would allow us to come back to you with a final development plan.

This is a multi-phase, multi-mixed use project with commercial components along with a multi-family neighborhood component as well. Redwood is going to be developing Subarea B. Subarea A, as presented in our application, we have Foundations Health Systems with us, and then there is a third parcel not spoken for at this point.

Subarea A is an 11-acre commercial component. Throughout the process and past discussions, the idea behind this was what kind of user - commercial, industrial, or office - what is this site really going to attract? It hasn't been successful in attracting anything for an extended period of time. We have been fortunate through this evolution process to provide an appropriate amount of commercial ground to create a new tax base, securing a future growth pattern for the City, and with the multi-family component preserving some of the natural space.

We are proposing 327 units. The density is 5 ½ units per acre. We tried to break the project down into smaller neighborhoods. Our phase lines are located around the existing stream areas that go east-west, respecting the corridor-protected zone that was required and providing appropriate buffers to protect those corridors. Things like architecture, landscape, street layout, and open space and sidewalk locations will allow us to create some modest but effective details and help break the scale down and keep it a more aesthetically pleasing community. While we are required to have 20% open space, we are providing close to 43% open space.

Coming back to subarea A, right now there is a shared private street that will come through the project. That street will provide access to the commercial area. Right now that commercial area is comprised of a skilled nursing facility (approximately 80 rooms) and an assisted living facility (approximately 54 rooms) with a memory support building. There will be another shared drive that comes back through to the remaining commercial parcel in the back. We believe these proposed commercial uses are a great use for the site by providing an appropriate level of visibility from a marketing perspective, these uses complement each other, and there is a long term synergy with the type of residents that tend to live in Redwood communities. These buildings will be appropriately landscaped, have quality architecture that is in harmony with what Redwood provides. We think it is a great opportunity to have all that on one parcel.

Right now we will have a public drive that comes through this project. It will be landscaped. There will be a sidewalk connection all the way out to Home Road. There will be a variety of planted trees, but will be focused on a maple species. There are four different building types constructed by Redwood. The architectural intent is to not build the same building over and over again for 327 units. For example, some of the buildings will have front porches centered around a green open space area with path connections. Another building, along the south and railroad, will have screened in porches. There will be very specific tree and landscape pallets to signify that you are crossing over into another neighborhood. Our emergency access will connect at the southeast part of the site. Our retention basin will have a walking trail around it.

Our streets are concrete and are proposed at 26 feet wide. Redwood provides a 22 foot wide drive aisle. There is a four-foot on street sidewalk connection. The streets are all concrete and do not have curbs. The on street sidewalk is poured separately but it is an integral cross section with the street and is stained a contrasting color so that it stands out as a dedicated walking path.

On the Subarea B portion, it is all single-story, market rate apartments. There are no 2-story units. These are all units that are owned and maintained by Redwood who is a vertically integrated company that own and maintain their portfolios. Right now that portfolio is upwards of 13,000 units across many states and there is a wait list on them. Redwood is entrenched in the central Ohio area so there are plenty of opportunities to visit some of their other sites.

Every unit is a 2 bedroom, 2 bath, with a 2 car attached garage. Some end units have a four season room attached and there are at least four different open-floor layouts within each of the four building types. They are all FHA and ADA compliant. There is no on-street parking for the entire project. There will be parking areas spaced out throughout the site. These predominantly attract empty nesters over age 50 who tend to be long-term residents. There will be young professionals as well. Monthly rental rates are expected to be about \$1,650 to \$2,200 per month. Applicants are required to have a credit and background check.

Shawn Goodwin, Engineer, American Structure point, 2550 Corporate Exchange Drive, Columbus: I manage our Ohio civil group in Columbus. As previously mentioned, we have been working on this for 2 ½ years. We have had numerous conversations with the county engineer, the City, as well as the Fire Department.

We coordinated with the Fire Department in a couple of meetings and they recently provided a letter of service. They are accepting of the way we have staged access to the site. We have full curb cut on the road and, in the southeast corner, we have the secondary emergency access to the middle school. The Fire Department is okay with the layout and density. The only thing that remains is that we need to provide water demand calculations and some additional fire truck movement exhibits which we can do. They are good with everything we have provided so far.

With respect to traffic, the Home Road overpass creates a challenge for larger trucks. We provided a traffic impact study, which was formally submitted to the City and county for the second time yesterday. We have shown that with semi traffic the sight distance as you look west is problematic as you get blocked up by the overpass. If you are predominantly vehicular traffic like we expect here, we had solid sight distance from the proposed curb cut location. This is one of the reasons why Delaware County made it clear to us that a traffic signal would not be supported here. They do not want to have another traffic signal along their Home Road corridor. As a result, we do not want to put a lot of slow moving traffic at that curb cut on Home Road. Fortunately, Delaware County has a large CIP project in the works for Home Road, they are in stage 3, and will be going out to bid shortly. They take care and mitigate for every improvement that we may be responsible for along Home Road. The only thing required as part of our project in addition to what they are going to be providing is a right turn lane into the site. We have a westbound left turn lane into the sight, but that will be handled by Delaware County's project, and a potential extension of an eastbound right turn lane at the Liberty Road intersection. In early conversations with the county, they indicated that they would not want us to extend that turn lane any further than they already have it designed. One of the reasons they stopped it short was to avoid impact to an existing driveway that is on the south side of Home Road, so we may or may not need that improvement.

Storm water management stream corridor protection zones. We submitted our stream water report to the City Engineer as stream corridor protection zone calculations. We had a conversation with them a few weeks ago, made some edits, and resubmitted that back and met all stream corridor protection zone and storm water management requirements for the City of Powell.

The last thing I will mention is the utilities. We have been talking to Delaware County Regional Sewer District as well as DELCO Water. Both have the ability to service this site and we have letters of serviceability from both of them. Gravity sewer will be coming from the north of Home Road and can service the entire site with gravity. Water would also be coming from the north of Home Road.

Mr. Foley: Let's now talk about the architectural proposals. The front building is a two story building. The third outparcel, which there is not a user for at this time, is in the back and we are not providing any detail for it now. The variety of architecture features give it a very residential feel. The commercial buildings complement each other and the proportions are great. The predominant accent element is stone on the building and, along with accent pieces on the roof, window configurations, etc., create some variety and different styles to those two uses.

With the Redwood product, there are four different building types. This site will have configurations ranging from 4 units to 8 units. Each of the 327 units are nicely sized with a unique architectural pallet within the four building types. There are 7 design upgrades to help build the variety of architectural styles. These are the standard elevations, so there is a stone water table, horizontal siding and we utilize Shake siding for the peaks of the roof. It is all a high quality vinyl product with different color palettes to help with variety and the combined upgraded elements to dilute the impact. The square footage ranges from 1,294 to 1,381. Those units that have a sun room have square footage around 1,600. We are at a preliminary development stage and so are not final with our elevations so there is further opportunity to discuss options, but I wanted to make the point that we have tools in our tool belt to create an aesthetically pleasing design package and support this neighborhood concept that we have.

Through the interior part of the site, there will be granite countertops, upgraded cabinetry, luxury vinyl tile flooring, and everything is energy efficient with 2x6 exterior walls and R19 insulation. Redwood is a very green company. This is a top of the line feel as you come into the units. Every building will have extensive landscaping. There will not be any ribbon parking lots so every unit is going to have a 2 car garage and each driveway will be large enough to have an additional 2 parking spots.

We are not required at this stage to have a detailed landscape plan but we thought it was important that we highlighted that we are already thinking about landscaping. It is going to be a big part of this project. There is a lot of acreage and natural features to celebrate. We are envisioning a landscape buffer that would separate the commercial uses from the Redwood community. We want an entry with street trees and up lighting. We will be required to do a tree survey at the final development plan stage, but we thought it was important to highlight that as a design element.

We have already taken a look and feel it is important that this mixed use PUD has a common element for things like signage and lighting, etc. We have traditional pedestrian sidewalks that are going to exist in the commercial area.

There are more walking elements to provide an extensive network throughout the entire community with an opportunity to connect with the park next door. We still have to do some more homework on that issue, but it would be a huge benefit.

There are several big picture benefits for the community. Some are more land based. The idea of this rezoning and annexation will allow the back acreage to come into Powell, allow for growth opportunity that the City doesn't currently have because the parcel lives in Liberty Township, and allow for continued connection to the north to help support economic growth. We believe this mixed-use project will bring viable users to the table. This site has been dormant for a long time because it was not marketable. This project will provide real economic benefits, the TIF, the income tax and jobs that are created, and a housing stock that is not readily available currently but would allow those that grew up in Powell and want to stay in Powell after downsizing to do so.

Ms. Husak reviewed the Staff Report. Mr. Reynolds, due to some technical difficulty, was unable to stay on the call. However, his comments are incorporated into the architectural paragraph of the Staff Report. Staff recommendations are contained in Staff Report.

Staff is not comfortable recommending approval at this time and recommended the Commission table this request to a future meeting, including the Zoning Map Amendment request as well as the approval of the Preliminary Development Plan to City Council with those eleven items outlined.

Chairman Emerick opened the matter up for public comments. Hearing none, Chairman Emerick closed the public comment session and opened the floor for comments and questions from the Commission.

Commissioner Simpson: That was quite an in-depth presentation and I appreciate that. I know we have gone through the use of this before a couple of years ago. Originally I had a problem with the frontage with it being commercial. From a use standpoint, I now think this is about as good a use as we can get for this site with it being commercial up front and residential in the back. I am not sure there is any other use for that in the back. I think we can all agree that having some commercial in there is a benefit from an income tax/business stand point. It is also going to feed well into some of the other sites, whether it is the future Kroger site, the Ohio State Hospital and their outbuildings, and the potential commercial sites the Township is looking at right now.

Density at 5.5% is strong. I do have concerns with the entering and exiting of that space, but the current plan with the county helps to alleviate a lot of those as well. The one thing I want to make sure is that there are occupancy limits of some sort in these units as it seems like the target is to have young professionals and older residents who would not have a very strong impact on our schools, which we are sensitive to right now. There are many little things that I know we can see later that are supposed to be on the final development plan, so I can wait on those. I was a little concerned, since this was an active site, on the connectivity to other parts of the City, so I would like to see those addressed. Outside of that, I appreciate all the time with this. It is very comprehensive and about as a highest and best use as is out there for us.

Commissioner Bailik: I agree with Shaun regarding connectivity with the bike/walking paths. My biggest concern is the lack of access. You call it an emergency access, but is that just for emergency vehicles? I would have concerns not just for access emergency vehicles, but access for the people living there. It seems like there is a lot of little dead ends and I can imagine traffic jams coming out of that location. From a safety standpoint it is not just emergency vehicles, but providing the residents two means of egress from that development as a preference.

I would also have concerns with any unresolved issues with the Fire Department. If they have additional recommendations or concerns those should also be addressed. I would agree that it is a very difficult site to develop, but based on the proposed occupants, older individuals, young professionals, and people that need care, I do think it needs to have two access points to serve that type of community. I think that sums up where I am at.

Commissioner Cooper: I really don't know that I can add a thing, or ask anything, that hasn't already been asked. I would actually agree, for a change, with Staff's recommendation that we table this matter until we get some more information and move forward. I think this is a great start though.

Commissioner Boysko: I think Stave Martin, Todd Foley, and Shawn Goodwin did a fabulous job presenting the project. We have seen this for a long time. We have seen this grow and develop into what it is now. This is a very difficult site with all the obstacles and challenges they have with the site. Between the wetlands, the brown lands, the mediation that had to be done, the railroad along the western border, the Home Road overpass; you name it, this project has every little bit of all these challenges.

Initially I did agree with Beth when this project first came on about two means of egress, or access points. But this sight is landlocked. It is landlocked on Home Road, along the railroad tracks, and for this to be a viable site, there really is only one access point available. I am very surprised that Steve Martin was able to get an easement through the schools and that is a feat in itself to get that access through their property. I think that goes a long way. I don't know if one of you can address the two means of egress and the feasibility of having that be a public access.

Mr. Martin: The school was absolutely adamant that they did not want public use for that. There will be bollards on it at both ends and basically it will only be used by emergency vehicles on a need basis. The school has the option, should they change their mind, to that put back to the ball diamonds. Their present plan is not to, but I could honestly see them using that for maintenance vehicles. We have assumed that it is an excellent walking path since it is large enough to handle a fire truck to connect to the trails that run from the south up to Home Road and through the park.

We would love to have two access points. There is only one feasible public road access point and that is due south through the 12 acre Liberty Preserve. One could build a road through the 5 acres of wooded wetlands and then the 12 acres the City has, but in the initial conversation I had with Staff in the fall of 2018, I was told that this was an absolute no, not even for a trail connecting through there. You are familiar with the situation between Liberty Township and Powell in certain instances. We could not even get emergency access through Liberty Park. Fortunately we were able to work out something with the school. It is pretty much a landlocked island. We can revise the plan if the City would let us put a road through and connect to the street in Woods of Powell, but I think you would have some problems with some of the residents there.

Commissioner Boysko: Steve, the other point Beth made that I think is valid and was brought up before is the volume that these types of developments create. There was a traffic study done and effect that this has on that connection to Home Road. I don't know if that traffic impact study speaks to the volume of traffic that is coming in and out of that development.

Mr. Goodwin: It does and we submitted that to the City and the county. It has a queuing analysis in there so you can see that the queuing potential is in the a.m. and p.m. peak. There are no issues with queuing on our northbound entrance on Home Road. We do not impact Home Road at all. They have right of access, so we have to wait for that to clear, but it is not showing any issues with stacking.

Commissioner Boysko: You mentioned off-site improvements of a right turn lane going east on Home Road onto your property?

Mr. Goodwin: Yes. So there is a right-turn lane eastbound at the main entrance and then a westbound left-turn lane at the main entrance.

Commissioner Boysko: And the westbound is going to be done as part of the Home Road improvements that Delaware County's doing?

Mr. Goodwin: Yes and it is actually already a two-way left turn lane there. With Delaware's improvements they are going to maintain it.

Commissioner Boysko: Someone mentioned connectivity and I agree that there is an opportunity for connectivity. I understand Jim Frye's developments and how they are independent of anything else. I know you have a connection through the roadway easement through the school property. I think there is a real opportunity as you get past the 11 acre commercial development that it could connect and there's a good opportunity to connect a stronger pedestrian connection to Liberty Park right where one of the pavilions are. I know that the overpass is oversized and it also has an addition 10-12 feet on the other side of the stripe for bikes. Is there an opportunity to connect some type of trail along Home Road to make some hike-bike connection to Liberty Park?

Mr. Goodwin: We agree. That was actually where we initially wanted to have a secondary emergency access. Any help with Liberty Township to get that done would be fantastic. I don't see any reason why we couldn't.

Mr. Martin: There is an OPALS trails master plan that is on Liberty Township's website and prepared by Liberty and Preservation Parks. They are going to have the trail on the north side of Home Road. If you look at the trails within Liberty Park as they go to Home Road, there are two points where they hit Home Road, and one is at the traffic light at Liberty and one at the traffic light at the park. I think under no circumstances would we want to put a trail to Home Road when the trail is going to be on the north side of Home Road and we do not have a traffic light. We will try to connect to the trail within the park.

Commissioner Boysko: Normally I may take exception to the density but because you are really isolated by the railroad tracks and Home Road, Liberty Park, etc., I really don't have an issue with the density or the type of housing that is being proposed. The one story developments, the ADA/FHA types of units I do think lend themselves more toward senior level people, so that would minimize the traffic impact and the impact on the schools. They will see a large impact already with all the POD development to the north.

I do have a few other questions about the commercial development. You showed some footprints and elevations of the skilled nursing and assisted living. Is there an operator identified for them yet or is this still conceptual?

Mr. Martin: Redwood is in contract with Foundation Health. Foundation Health has appeared before the Development Committee a few times. They own about 57 facilities and are the largest operator in the state. That is where the payroll numbers came from that are in Bill Lafayette's report.

Commissioner Boysko: Steve, do you see the phasing happening as it is shown where it progresses from north to south and the commercial development happens first?

Mr. Martin: The phasing is on the map. There are three phases. My guess is Foundations might start after Redwood. Redwood is here and ready to go.

Mr. Foley: We are at a point now where we are presenting the cumulative vision for the sight. The Foundation Group and that commercial entity will have their own Final Development path. The Redwood would mostly likely be the first thing in the ground. The trick with the site is the ability to development it because there is no second access point, but right now the plan is north to south and you would see Phase 1 for Redwood first and the Foundation folks would be on their own timeline but in that same neighborhood.

Commissioner Boysko: I know Jim Frey has a great development to the north in Delaware. I am curious to see how that is progressing. That has been open for some years I think.

Mr. Foley: The one behind Kohl's? [Commissioner Boysko: Yes.] I am glad you brought that up. That is a project that has a lot of parallels to what we are discussing here tonight. At the time it was the largest one they had in Central Ohio, a three phase project, and it is under construction now. They have developed through an evolution of their product on that site so from their Phase 1 compared to their Phase 3 product you can see their growth and commitment to redesigning and proving their product. That is a booming area and they have a wait-list on that project.

Commissioner Boysko: I knew it was large, but is there a risk of over-saturating the market with these two developments so close together?

Mr. Foley: I do a tremendous amount of work with Redwood and they are surgical with their market research. They are in tune with the demographics and saturation of the area. They have been targeting this area for a long time, so we would not have an application in front of you if there was a concern with that.

Commissioner Boysko: With regards to Staff's comments on storm water management, do you see any concerns with meeting any of those requirements?

Mr. Goodwin: No concerns. Everything is sized for the storm water. We made a couple of adjustments based on some comments from the City Engineer and resubmitted that back [audio issues] and we are able to accommodate all the setback requirements.

Commissioner Boysko: How do we spend that \$12.8 million dollars? Does this Board get to determine how or where that is utilized? Can you explain some of the restrictions on how that TIF money and where that TIF money is applied?

Jeffrey Tyler, Community Development Director: We are entering into some discussions on a five-year CIP plan. That plan will be developed over the next few months. This discussion will be a part of the development of that plan. Once that plan comes out, then I think we will be able to report back more intelligently on how we are going to spend these funds.

Commissioner Boysko: I think this is fabulous. I have seen this evolve over the past few years and am glad to see this finally get some momentum to get this started. I am a big proponent of this. For this entire 70 acre development, if our only concerns are some connectivity and pathways, materials and finishes, then I think you have done a great job getting us to this point and I am comfortable moving on to the next phase of a final development plan.

Andrew White, City Manager: I think that is a good question, Shawn, about the income. The dollars that we have available right now that will come in, if the structure is successfully adopted, will definitely be invested back into that infrastructure. I think it is key to work it out and to have it on the record that Council has already addressed that this is what they would like to do with a portion of these proceeds.

Commissioner Boysko: We too have talked in previous applications about the development at the intersection of Liberty Road and across from the middle school and the potential roundabout there because of all the development that is happening, the traffic concerns that this creates, it would be great if some of the TIF funding could go toward that roundabout development.

Mr. White: Absolutely, I 100% agree.

Commissioner Hartranft: I want to thank the Redwood team and everyone that came back. We have been through this for quite a while now and appreciate the details you have put forward to us tonight. You have been hard at work during the time off since you were last in front of us.

I think one thing that really stood out to me is that Redwood still has ownership in their communities. I think that is a big deal. We approved a huge development off of Sawmill Parkway and Seldom Seen Road, and now a few years later, it has been sold to another company and things are not as smooth after that happened. I appreciate a company that comes in and wants to stay in communities they develop and wants to partner with the community they build in.

Secondly, the variance in the buildings cannot be understated. We appreciate that. You have a lot of different buildings, a lot of different variances. I appreciate the architect's input. I think the more variety on the dormers or the shed dormers makes a difference to the community, so I would support those variances as well and those changes in the buildings.

With regards to walkability and connection, I actually think that the way it is set up now with that connection into the middle school, if you have ever walked that path, that path actually connects all the way to the downtown from the middle school path.

As to the traffic study, I understand that that is a problem or an area that will be seen as someplace that probably was not designed the best when that overpass was put in. They really extended that overpass to a point where that property is very much at a deficit compared to the properties that are around it. It is not anything you had anything to do with, but I think it was the county and the way it was designed. Regardless of where it is at now, you guys are making the best of that area. For people that have not been involved in this as long as others, that property has been sitting empty, vacant, and for sale for about 10 to 15 years. No one has been able to go into that property, it has just been sitting there becoming dilapidated and overgrown. If there would have been something that could have been viable in that area over those past 10-15 years, I think it would have already gone in. Now that the overpass is in there, I think it is at a greater disadvantage. So having a company come in that has this plan and can bring this tax base to our community and has this reputation and wherewithal to do what they want to do, I think it is a great alternative for that property.

The thing we also need to keep in mind as a Commission is that if we drag our feet, they can go to Liberty Township and annex the entire section into the Township and that cuts us off from any kind of annexation going north. That has already happened catty-corner off of Home Road. That developer came in front of us, didn't like what we had to say, and went to the Township. As you can tell, they have a huge development of apartments in there now. At this point, it looks like it is our only avenue to go north of Home Road if we want this to work.

The eleven items that Staff brought up are well pointed out, but I don't think they would be something that couldn't be worked out prior to a final development. I do not see any reason why we would need to delay this at this point. These eleven items are things that are sometimes already asked of an Applicant and required to be presented at a final development plan, so I think they are onboard with this. I wouldn't see the need to table this motion and I think I would approve Redwood to move forward and be comfortable with it.

Commissioner Little: Thanks for coming back. I agree with Staff's comments. As I stated before, I have mixed emotions about rezoning this property because it is one of the few industrial zoned properties that we have in the City. In our Comprehensive Plan we wanted to keep it that way and add further industrial properties and/or commercial development along the railroad. That, in turn, would help us with our financial base, improve our overall revenue flows to the City. But then the Township nixed that with the POD. The Home Road overpass, as already mentioned, makes it a difficult property to promote. So regardless, I believe it is in the best interest of the City to annex the northern most property that is in this proposal to give us that further link going north. I am open to changing the use of the property from the current zoning.

Coming into the City of Powell, I would like to see Redwood put forth a proposal that meets our typical architectural expectations in the City of Powell. I think working with Staff and the Architectural Advisor, you can choose to get there.

Regarding Claudia's comment about the third sub-lot, or whatever you chose to call that, I think when you come forward, it would be to give us some sort of rendering of what you would envision going on at that spot so that we can, in turn, improve the overall spirit of the development, if that is what the Commission chooses. That way you would come back later with the specificity of what you want to put on that particular parcel, but I think it is important that we understand the guidelines of what you are envisioning going there. Given the size of this and a lot of the open issues, I personally believe that tabling at this point seems to make sense.

One comment about bollards. There is a development, a condo association in the middle of Scioto Reserve that decided that bollards could be good to stop cut-through traffic. They have experienced that high school kids and bollards don't play well together, so what you propose to put there should be something that is substantial that may require some effort to remove it. Eventually we need to understand things like mail, trash, all the materials the City would expect in the development, along with the landscaping.

I think it is important to connect to the pathways within the park. It really is unfortunate that the Township won't give you access to the park and/or the traffic light at Home Road. I think any bicycle and/or pedestrian traffic should be encouraged to go through the park where you have the light available to cross over Home Road. From a traffic study standpoint, I don't know if you looked at projections of where Home Road is going to be going. Once Home Road becomes a 5 lane major connector, I don't know if your traffic studies have taken that into account.

Mr. Goodwin: The County Engineer made us do a 20-year projection so it includes our traffic and projected traffic from the area. They made us analyze the existing condition as the current plan that they are getting ready to build. So not only did we take into account what they are going to build, but we took into account a 20-year projection beyond just us, so everything in the area along Home Road.

Commissioner Little: Ok, so we can look at those numbers. With the whole relationship between the City and the Township, I would encourage you to plan as if you may eventually be able to get that access to the park along Home Road with a sub-road that would, in turn, allow a second access point at the traffic light at the park. I think once Home Road moves to 5-lanes, once everybody understands the situation and hopefully relationships get better, at least plan in your engineering that you can make that connection in the future.

Given the size and all the details that are involved, I think some more work addressing the issues that have been brought up by Staff, we table it and come back.

Chairman Emerick: I don't have new questions that haven't already been asked. My comments pretty much align with what Bill has just said.

Commissioner Simpson: If we table this tonight, I'm assuming we would come back in two weeks, correct?

Ms. Husak: It will have to be a month because we have to have time to meet the notification deadlines.

Chairman Emerick: The next scheduled meeting would be May 12, 2021.

Ms. Husak: Yes, that is correct and the submission deadline for that meeting would be Friday, April 23 which gives the Applicant about a week and a half to work with us to potentially maybe also simplify some of the submission materials.

MOTION: Commissioner Little moved to table a proposal for a Zoning Map Amendment for the property located at 3041 Home Road, as represented by Redwood USA, LLC, until concerns are addressed that are identified at the time of the initial Preliminary Development Plan submittal. Commissioner Cooper seconded the motion.

VOTE: Y-4 N-3 (Boysko, Hartranft, Simpson)

MOTION: Commissioner Little moved to table a proposal for a Preliminary Development Plan for the property located at 3041 Home Road, as represented by Redwood USA, LLC, until concerns are addressed that are identified by Staff at the time of the initial Preliminary Development Plan submittal. Those concerns include:

1. That the Applicant work with the Liberty Township Fire Department to address concerns regarding the geometry of the private drives and gain assurance the site can be sufficiently served in case of an emergency;
2. That a phasing plan be provided that aligns with the subarea boundaries, including identifying the proposed offsite improvements and the schedule/phasing of construction and implementation.

3. That the Applicant provide a sketch/concept plan to indicate how a commercial component would be laid out on Lot 3;
4. That a storm water feasibility study demonstrating proper storm water availability is provided as part of the final development plan;
5. That the Applicant agree, as part of the final development plan, to submit a revised Traffic Impact Study in coordination Delaware County;
6. That the Applicant work with Staff and Liberty Township to provide a dedicated public pathway system connecting the eastern property boundary to the Woods of Powell neighborhood;
7. That the Applicant demonstrate the proposed private roadway and sidewalk combination has been implemented in other projects;
8. That the Applicant provide, at the Final Development Plan step, adequate information to demonstrate a one year pre-developed storm will be detained for the 100 year post-developed event;
9. That the Applicant work with Staff to identify opportunities for a shared-use path along the east side of the development;
10. That the Applicant investigate potentially paving a short section of gravel path in the Township to make a path connection;
11. That the Applicant satisfactorily address all comments within the staff report in regard to the proposed development text, particularly pertaining to divergences, lot coverage, building materials and architecture.

Commissioner Cooper seconded the motion.

VOTE: Y-5 N-2 (Boysko, Hartranft)

CERTIFICATE OF APPROPRIATENESS (Case 2021-11_CA)

Applicant: GB 8 N. Liberty St., c/o Michael Hessenauer
 Location: 8 N. Liberty Street
 Existing Zoning: DB – Downtown Business District
 Request: Review and recommendation of approval to City Council of a new parking agreement.

Commissioner Simpson recused himself.

Michael Hessenauer, Hessenauer Corporation, Dublin, OH, Applicant: I, along with your group a few months back, ran through some of the details but we didn't have a lot of the information in front of us at that time. We have owned this building since 2014. At the time we got it, Jeni's Splendid Ice Cream was there as well as Cutler Real Estate. There was an empty space that was later rented to First Impressions who train dental hygienists. Jeni's went out of the business at this location during the pandemic. We came across the Applicant, Xuegong Chen, who is the owner of the restaurant that will replace Jeni's. We had a presentation last month, he was not here, and we did not have all the details about his operation. He is here tonight and can answer those questions. We have ordered a parking study to see the impact of this restaurant on parking for the immediate area. That was completed by Williams-Shepherd Architects. We have a representative from their office, Dan O'Connor, here tonight as well to answer questions.

We had a 10 year lease on this property that went through 2020. It expired in December 2020 and we are asking for renewal – we had hoped to get a 10 year renewal – but after going through this, we understand that Powell is going through a transition because we started this under Dave Betz [retired Development Director] originally, and so we are working with a whole new Staff, so they want to limit this to a two-year lease. That is fine for us. We know that it is going to work out and we just want to get it started and we will be able to show you after two years that everything is working out. We will maintain the lot over there, and seal and stripe it this spring.

The old agreement gave us 12 spaces. We only used 4 of them for Jeni's. Now that we have a full service restaurant coming in and we plan to use all 12 spaces. I don't want to talk too long since you have been here so long. What a great public service you do by working so late like this. It is amazing.

Xuegong Chen, Restaurant Owner: I am the founder for Poke Bros. We have 40 some locations throughout the United States. I also have a few restaurants in downtown Delaware City. My partner is a sushi chef of Typhoon Asian Fusion Bistro in Delaware City. He came to me, said he wanted to do a sushi restaurant, and we decided to partner to look for a location within the Powell downtown. We drove through downtown to see that Jeni's went out of business and we thought this was a very nice area to put our restaurant. We thought this was something the downtown didn't have and offered a healthy alternative.

At the last meeting, I did not know I should have been here so I am here now to answer any questions you might have.

Daniël O'Connor, Williams-Shepherd Architects, 1500 W. 3rd Ave., Columbus, Architect: We did a parking study at 8 N. Liberty Street. I can answer any questions on the parking there and go into as much detail as you would like. But I can say that this restaurant will have less of a parking impact than Jeni's Splendid Ice Cream.

Mr. Tyler reviewed the Staff Report.

Chairman Emerick opened the matter up for public comments.

Vincent Margello, 1900 W. Powell Road: I have been a resident up here for 43 years. I have expressed myself to Staff, to Councilmembers, and certain zoning members. This property had a term agreement for over 12 years and during that time, you would have thought the landowner would have somehow tried to secure property to facilitate this property. We have had several problems when Jeni's Ice Cream was there with people parking in the parking lot across the street that I own. The 12 spaces granted at that time has expired and has been expired since December 31st. There must have been a reason for that expiration otherwise at that time they would have given them a 99 year lease. There was a reason because they probably figured the landowner would try to acquire more parking spaces for that building.

I have several commercial properties in this town that are zoned for many things. It was my decision when I put these businesses in not to put a burden on other people's properties. I have one business down there where Oxford Automotive is that I could put a soil and peat moss plant in if I wanted to because it is zoned for that. But that would cause unbelievable harm to the community.

What I am asking tonight is to table this until Staff looks into this more because we definitely have a parking problem in the downtown. To put a high use business in this space is somewhat ridiculous because all you are doing is putting a hardship on the property across the street, Local Roots. It will cost the tenants a hardship of parking space that is taken, almost \$100 to \$200 a space when that parking space is being utilized by another business. We had numerous problems with the previous tenant and the owner wants to put a high density place in there. In the 1980s, I invested over \$2 million dollars on that property across the street. I made sure that the property had ample parking for that building and I did not encumber any other businesses in the area.

In the downtown right now, and Staff can't even answer these questions for me, they have no idea what the seating's for Kraft House is, which does not even have a paved parking lot. And they are apparently allowed to use the commercial parking. Now we have Prohibition that nobody knows what the seating is because of the outside patio, who just recently just blocked their parking lot so they have not even one parking space on premise. The other thing is that a lot of these properties downtown that you have given parking spaces to are not even paying the proper taxes because they are under land contracts. If the City would investigate into it, they would find out they are not even paying the proper price on their taxes. I pay over three quarter million dollars a year in Delaware County real estate taxes for commercial properties I own in the Powell and Liberty Township area. This is ridiculous you putting this burden on the Local Roots, Work and Nail, and Cigar Shop parking lot. I can guarantee you with a usage of a high volume restaurant going in there, we will have problems with their customers parking on our lot.

I have been a good steward of this community. I started your Chamber of Commerce. I gave you property for Tyler Run School and I have tried to be a good business/landowner by never burdening other people's properties. All I am asking you is this space can be utilized for other purposes. I am a landlord and can understand what he is trying to do which is get the best bang for his buck. This property could be used as a money marketing area or as an insurance agency, but it doesn't need to be used for a high volume business with zero parking. What I am asking for is some type of tabling on this until Staff can come back and say this is what we got downtown in the amount of seating and this is how many parking spaces we have so that my parking lot is not being abused that I put a lot of money into over the years to make sure that I did not burden other businesses downtown.

Ralph/Kim Renninger, Kimberly's Diamond, 1 N. Liberty Street: We owned building at 1 N. Liberty Street for 31 years and this building is directly across from 8 N. Liberty Street. We have seen many changes. I would almost ditto everything that Vince said. Seven or so years ago when this building went in and they put in 7,000 square feet and 3-4 parking spaces, at that time they did it with the idea that it was low use. I don't know if I agree with Dan's comment that it will not be bring in any more traffic than what Jeni's did, but it is definitely going to be a problem. That sort of high use for a building that was approved for low use is not a good idea. I don't think you understand the parking causes because you are not there every day, day in and day out. Go into the 25-30 buildings along Powell and Liberty Roads and ask them about that and try to get some up-front comments.

The owner mentioned there was only going to be seven tables in the business. To me that seems too low and I also wonder about the seating at the sushi bar, which usually there are 5-7 tables there and they stay for an hour. I also don't know if we have addressed outside patio seating, but that needs to be asked and will add into the amount of the people that are in there.

We talk about people or businesses that have spaces dedicated to them because they are landlocked. My building, which has been there since 1946, has been landlocked and I have work with it. Now if I want to do what is being proposed here, I would like to come before zoning and ask for 2 spots on North Liberty Street and also 2 spots dedicated to our building on Powell Road. This is basically what is taking place and if you set a precedent like that, then you give a person like myself and other businesses the right to dedicate and put a sign up for me also to say 'these two spaces are saved for Kimberly's.'

I would love to see the sushi restaurant go in there. I think it is fantastic. I would love to see it but not unless there is about 50 new parking spaces added. I'm not against the sushi restaurant itself, but I don't believe there is adequate parking. I also believe it should be tabled until this is addressed.

Jessi Iams, Local Roots, 15 E. Olentangy Street: I agree with everything Ralph and Vince said. One thing Ralph said that triggered me to raise my hand was the simple fact you don't see what I see every single day with people parking in my parking lot and walking to a different business. Every single time that happens, it's \$100 to \$200 dollars that I lose in sales that goes somewhere else. I feel like the City has always put the burden on the businesses and me because I have the parking. I don't think it is appropriate at this time. I don't mind the sushi restaurant, but with just 2 ½ parking spots, it is not a good call. If you are going to say they have 10 parking spots already designated to them, aren't those already being used by the dental hygienist and at the realtor's office? I don't think it is a smart choice at all and I think it should be tabled until the City has a good plan in place.

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

Commissioner Hartranft: I think we are faced with a parking situation that we are all aware of. I think coming into a building, knowing the business that you are getting into, knowing the capacity of the business, and knowing what is going to work for your business is on the person that is taking on the rent and the landlord and what they are able to make work for whatever business is coming in as a renter. The landlord and the tenant need to understand what restrictions are within the City, what restrictions are in that building and surrounding area, and be cognizant of the impact they may have not only on their business and that building, but the surrounding businesses and the area they will be located in. Right now I don't even think we have any information that says what the traffic is in this business and if we can find that out tonight, that would be great. I think the last time we heard, it was maybe 8 four-top tables, which is 32 patrons, and about 8 cars. I agree that 8 for that particular restaurant, when you have other businesses that are operating at that same time, it becomes a mathematics calculation and we need to look at and evaluate it. To get started tonight, since we do have the owner and person running the restaurant here, can you tell us what you are expecting as the number of patrons coming in on a regular basis during your hours of operations, is there a flow that you expect? Is there a number of tables that you need to make your business viable? We understand that not only do you have patrons coming in, but there is a certain amount of patrons you need coming in to make things work as a business. If the business owner can help us out with that information, I think that would go a long way.

Mr. Chen: We have 9 tables and 6 seats at the sushi bar. I do know how busy the downtown parking gets, but to me this is not a high demand use because it is only a 2,000 square foot restaurant after I take the kitchen out, it is only half of that room to have 9 tables maximum. I do not expect my restaurant to be super busy because I pay more attention to how much customers spend in my restaurant. I make everything high quality with higher prices, so, unlike a fast food restaurant, I do not need high volume traffic. I only need to have one rush to make the restaurant survive. I am not expecting to do much in lunch sales and that is when the neighboring businesses are using the parking spaces. Most of my sales come in at dinner time. That is when those other businesses are closed. That is how I come up with 12 parking spots over there.

Commissioner Hartranft: So you will have a lunch hour operation?

Mr. Chen: Yes. I will have a lunch hour operation, but that's a time I also have my kitchen staff in there to prepare for the dinner hour. My bigger operation will be in the evening.

Commissioner Hartranft: In the evening, you mentioned one seating. Is that normal or are you thinking 2-3 seating's coming in?

Mr. Chen: I think the peak time is 6:30 p.m. to 7:30 p.m. I don't expect to be busy at 5:00 p.m. or after 7:30 p.m. or 8:00 p.m., when it will start dying down.

Mr. White: I want to be careful here. The development text that exists right now requires the building to have 10 spaces for parking. That is the limitation I want to have you focus on. All these other iterations of concern are legitimate, but the Planning Commission is required to consider what exists in regulation and they are required to have 10 spots.

Commissioner Hartranft: Isn't the number of spots being dictated by the number of patrons they have coming into the building?

Mr. White: No. We have talked about this at Staff level. If we could get in a time machine and go back to 2008, we would write a different code, but no, 10 spaces.

Yaz Ashrawi, Law Director: To put a finer point on that, the development text, the zoning for the site, under the parking and loading section for this building, states that irrespective of the use, the property owner shall have 10 spots. So it is not determined by use, patronage, or peak hours, it is irrespective of the use. There needs to be 10 spots for the zoning.

Chairman Emerick: This goes back to what Jeff was mentioning earlier.

Commissioner Boysko: I strongly disagree with that interpretation. That was true in 2007 when that was approved for 10 spaces. The use has changed. This is an amendment to that development agreement. Because it is an amendment, I think we have the ability to apply current code to that building.

Mr. Tyler: I respectfully disagree. At this point you are not reviewing an amendment to a final development plan. The language in the Ordinance basically states that what you are to review per the Ordinance is a parking plan. Again, if you go back to the text, the text says that irrespective of use. So this is not a change of use. Even if it was a change of use, it says irrespective of use, 10 spaces. So while I understand the direction you are taking on this, from strictly a legal standpoint, this building has the right to use 10 spaces.

Mr. Ashrawi: The question before the Commission is not an amendment to a final development plan. It is a certificate of appropriateness based on Item 1 under Section 1 of the Ordinance which requires approval from the Commission for a parking plan. If there is a separate amendment to a development plan, I don't think that is what is before the Commission here tonight.

Commissioner Bailik: I agree that this is not up to us to determine how many parking spaces they need. We all may not agree with that, and the outline of the allocation of spaces might be outdated, but to hinder a viable business that could come downtown, I don't think we have anything to support that. If you are going to start telling businesses they can't come downtown, you have to have a really good reason. In this case, if that is the way the Code is written, we don't have a choice. I don't think moving from Jeni's to sushi is a big jump.

Although I think Powell does have a parking issue, I do think we need to step back and let the City manage that parking. I don't think that falls to us. We need to give the City an opportunity [to address that] and at the same time not tell a business they can't come downtown when the last business in there was very similar, in my opinion. At this point, I think we do not have any reason to tell them that it is not appropriate. Based on what I have heard, it is an appropriate use and they need 10 spaces.

Commissioner Cooper: I am not anti-business, but I do not know where 10 places are going to come from. As we talked about last time, there are only 18 spaces in that parking lot between 44 N. Liberty and the cemetery. You are saying 10 people, but also saying 9 tables with a bar to hold another 6-7 more seats so with a potential of over 40 people. In my book, that's at least 20 cars. I am not opposed to the business, but just don't know where the parking is going to come from. As we discussed before, there are other businesses there too. I think I read in the Staff Report that the training place is an evening type business which will complicate things even more. I don't know the solution and I don't know if the tenant can wait until Powell figures it out as big of a priority as it is right now, but I can't go with it.

Commissioner Boysko: I find myself in the unique position that I actually agree with Vince, Ralph and Jesse on this issue. I think they have been bearing the burden of parking in the downtown area. I disagree with how to achieve that or solving this. I would definitely support this business and landowner and their ability to fill that space with whatever tenant they think is appropriate – if that is a sushi restaurant or any other type of restaurant. I think that is great for the downtown. But the means that they achieve that approval, I think, is within Planning & Zoning's responsibility. Approving of a parking plan, I think, is within Planning & Zoning's responsibility. I understand the parking agreement falls to City Council, but I still believe the approvable is based on those uses. We can talk about whether those are high volume uses or not, whether they are used during or lunch or dinnertime, and the time of day. I think there could be some creative means to determining what the appropriate number of parking spaces is.

In my opinion, it is not 10 spaces for that building. I think we are handcuffed by a poorly written final development plan back in 2007 that says irrespective of the use. I understand the interpretation and I have concerns about any type of certificate of appropriateness if it is tied to 10 parking spaces. I don't think that is appropriate. I think this can be achieved if we can determine what the correct number of parking spaces are and allow for the adequate number of offsite parking spaces to accommodate those three uses, the dental school, the real estate space and the restaurant. In my opinion, common sense says 10 spaces is not adequate for those three uses.

But I understand today we are here just to approve a certificate of appropriateness and a parking plan.

Commissioner Little: I frequent Mr. Chen's restaurant in Delaware quite often and I can speak highly of the product, so I don't have a problem with that. I actually believe what is proposed can work if it is done right. But I am not sure we are there. In fact I know we are not. I know the quandary we are in, but there is a little bit of history that probably matters. Right, wrong or indifferent, the City calculated that given the businesses in this particular building, that we would normally expect there to be 52 parking spaces needed to support that.

So if we go back in history, we worked with Matt Sameroff and what he did for us is he tore down an existing structure that was loaded with asbestos and, in turn, he also gave us additional right-of-way on both Olentangy and Liberty Streets which puts us in a position should we want to do something to that intersection that we are now able to do that. The way the property was originally sitting, we didn't have that option. So there was a lot of give and take. At the time, we were very sensitive to the use because, from a parking standpoint, there's basically none. We were all very clear in our intentions. You can pull the minutes and see that if there was a change to a restaurant, specifically, we all agreed that it would demand more parking and we wanted that to come back to the Commission. At the same time, many of the downtown business owners were very much in tune with what we did in that situation.

Since the last meeting, it has come to my understanding that probably because of a few words that got stuck in the development plan that shouldn't have been there, my understanding from listening to what has been said, it's really out of the hands of the Planning & Zoning Commission and it is really up to Council. Regardless of that, I'm going to make my point: I don't believe there is an adequate plan in place to address the parking requirements for this proposed use. I don't believe it is in the interest of the spirit of the Keep Powell Moving Plan to allow valet parking at this property given potential stacking issues that will impede the traffic at the Four Corners. I do believe if it is approved, the tenant must have very clear signage that dictates where patrons can park and protects the business owners that are in the area. I believe it is the burden of the City to determine if valet parking on this site is feasible and, if so, it's the burden of the City to monitor whether the valet parking is working and/or whether or not we have a parking problem. I strongly believe the owner and/or tenant should continue to pursue shared parking agreements, and support the volume of parking demand generated by the current proposed uses of the building.

We are in this place where I am basically being told I can't do the right thing, which is a real important thing for me to be able to do. Because of some words that somebody screwed up, we find ourselves in this situation. Now what I did hear is today we are being asked to review a parking plan. I haven't seen one because the last one expired. So I am not sure whether we really have a plan to review and maybe we should table the motion.

Chairman Emerick: Jeff, would it be fair to say that the parking plan is the parking agreement that you are proposing to City Council?

Mr. Tyler: I will answer that in a couple of ways, so bear with me. I believe the parking plan is based on the 10 spaces. But I also believe that Council has the ability to enter into an agreement with this particular individual for whatever number that they need and it says in the agreement that there is 12 spaces. So in one sense, yes, but I believe that the way that the language is set up, it is P&Z's review of those 10 spaces that becomes the parking plan and that Council has the ability to say yay or nay as to whether they are going to agree to the shared parking agreement.

Chairman Emerick: I would agree with the comments that have been made. I think we all feel a sense of frustration here in that our hands are basically tied by old language that is not very helpful. I am not sure that tabling this will solve anything at this point because, as we all know, there is no quick, short term solution as Jeff has already mentioned. This is going to take a longer period of time to study what needs to be done and how to do that than what tabling this would give us. I think that we are at a point where Staff is working hard and diligently on this problem, more so than I think we have ever done before which makes me optimistic that we will come up with solutions that will help us in the long term. I am relying on the fact that we are going to work very hard on solving this problem and that, as far as this application goes, I would support it.

Commissioner Little: I can provide you with a proposed motion. I move for approve of a Certificate of Appropriateness for the property located at 8 N. Liberty Street, as represented by Hessenauer Corporation, subject to the following conditions:

1. City Council shall renew a two-year parking agreement for twelve (12) reserved parking spots at 44 N. Liberty for the use of 8 N. Liberty Street patrons prior to the issuing of the zoning permit.

Mr. White: No.

Commissioner Little: No?

Ms. Husak: It is not part of your responsibility to direct Council as to what their action ought to be. I think we want to be really...[Commissioner Little: We clearly, historically have made it very clear that Council has to take action in many cases for something to occur. Maybe we are changing how the direction of the City has operated, but that's historically quite frankly been quite often.] Historically, we are also now in this position that we are in because of decisions that were made. But it is not part of the request for the Planning Commission to direct Council. Council does not have to approve this [audio distortion] from my understanding.

Mr. Ashrawi: That is correct. The parking plan approval is here. The parking agreement that includes various terms outside of the parking plan itself is within Council's purview. To be clear, there was a word used, renew, and I think the agreement that was in the packet is a renewal of what was previously there. It may contain similar provisions, but it is a different agreement.

Commissioner Emerick: So what you are saying is that our motion needs to basically just say that we are recommending to Council that approval.

Mr. Tyler: That is correct.

Mr. White: Mr. Chairman I want to interject that the considerations that are being talked about are serious and we need to consider them, but Staff, City Council, and Planning Commission are bound by a decision that was made 13 years ago. We have to be very careful about that. The parking element, as I see it, is very relative to City Council oversight.

Commissioner Little: So if we don't have a valid parking plan in place now, where are the 10 spots?

Mr. White: Great question and on April 20th, the Applicant is responsible to come before Council and present where those spots are - if they are at 44 N. Liberty, across the street, where. That is not our call. The Applicant has to provide for the City the accommodation, but the accommodation is 10 spaces. That is why I want to be very careful to point that out. It is not 9 or 11, it's 10. That is documented.

Mr. Tyler: I would like to clarify my previous statement. This is not a recommendation to Council. It is an approval of a certificate of appropriateness.

Commissioner Little: Okay, so what do you want to do here. Do you want to make it real simple and simply move for approval of a certificate of appropriateness to the property located at 8 N. Liberty Street as represented by the Hessenauer Corporation?

Commissioner Bailik: I think that is what they are saying. What they are saying is that our only job at this point in time is to say, based on what's written in Code, we will approve a certificate of appropriateness along with 10 spaces. Then it is up to the Applicant to come to City Council and tell them where those 10 spaces are. We don't have any wiggle room based on what was written in the past. I think the point here is we either approve the certificate of appropriateness or we don't based on the 10 space requirement, which is irrespective of use.

MOTION: Commissioner Little moved to approve the Certificate of Appropriateness for the property located at 8 N. Liberty Street, as represented by Hessenauer Corporation, Commissioner Bailik seconded the motion.

VOTE: Y-3 N-3 (Boysko, Cooper, Little) (Simpson recused)

Ms. Husak: That motion failed again.

Chairman Emerick: Do we want to try another motion?

Commissioner Little: From my standpoint and the quandary we are in, I was okay with moving it to Council, but Council needs to be accountable for cleaning up the number of parking spots that are, in theory, required to be there based on some bad wording in a previous Ordinance.

Chairman Emerick: And how to we accomplish that?

Commissioner Baillik: I think what we do is we decide whether or not to approve the certificate of appropriateness with the 10 spaces and we put our faith in City management and Council to work through these issues. I don't think, based on the language that we are tied to, that we can dictate a differential number of spaces, nor can we dictate to City Council what they need to do. I think what is in front of us ends up being very simple. Do we approve or not approve a restaurant going into that location with a parking plan of 10 spaces.

Chairman Emerick: One point that has not been brought up tonight that I think Yaz can advise us on, is whether or not this is a change of use?

Mr. Ashrawi: Our analysis says it is not a change of use. It is a restaurant use just like Jeni's was. Land uses aren't delineated with specificity as to the type of food place. It is a restaurant use period.

To clarify again what this Commission is doing or not doing and why the agreement with Council is something separate from what is being done here: The Applicant has come in with a parking plan. That parking plan being that our building is going to have 10 parking spaces before we operate and, based on the language that was, whether inadvertently or incorrectly included in the development text, that is the minimum requirement for parking spaces there. That Applicant after this process, can go to City Council and get a blessing or agreement to meet that 10 space requirement or that Applicant can, between now and before the operation begins, find 10 spaces anywhere else that would meet that parking plan requirement. That is why this decision making process here is not expressly tied to the agreement. The proposed agreement is proposed to go before Council. I think it was included in the packet as additional background as to what Staff has been doing to work with this landowner in an effort to provide options to meet this parking plan and the minimum parking requirements of 10 spots. In the past, that parking plan has been met with a similar agreement and so that option is on the table. But there are other options as well. The plan here requires 10 spots. The Applicant has indicated that is their plan to have 10 spots. Without 10 spots they cannot operate and it is incumbent upon them to secure those after receiving the certificate, if they receive it. I hope that clarifies a few things for you Mr. Chairman.

Mr. Tyler: My question is what is the correct procedure in moving forward at this point?

Mr. Ashrawi: There can be a reconsideration of the motion and there can be a new motion, but the first motion failed, so there was no certificate of appropriateness or approval of the parking plan granted as of right now. Based on the local rules, the motion can be reconsidered or a new motion can be put on the table.

Commissioner Boysko: In the absence of a new motion, I am not sure if that is going to solve our problem. I think Yaz already mentioned that the certificate of appropriateness is not tied to the parking plan. Is that correct?

[Multiple speakers]

Mr. Ashrawi: Correct.

Commissioner Boysko: So there's nothing stopping the Applicant from going to City Council with a parking plan or a different parking agreement, so they don't necessarily need our certificate of appropriateness to do that?

Mr. Ashrawi: No, and forgive me if I said that. The Ordinance that was provided in 2007 included a condition. That condition being that this Commission had to approve a parking plan. The parking plan is different and separate than the parking agreement. The parking agreement is memorializing a certain lease agreement that will help the Applicant achieve their parking plan of having those 10 minimum spots. Based on that condition, this Commission has the role to approve a parking plan before this can move forward.

Commissioner Little: So what is that plan?

Mr. Ashrawi: That plan is to have 12 spots as I believe the Applicants mentioned.

Mr. Tyler: Actually, that is 10 spots.

Mr. Ashrawi: Excuse me. 10 spots.

Commissioner Little: It was 12.

Mr. Tyler: Well, no. 12...[Chairman Emerick: In the proposed agreement.] That is correct. Again, we have to keep those two separate.

Chairman Emerick: It is 12 spots based on the development text from years ago.

Mr. Tyler: That is correct.

Commissioner Little: So let me ask an even broader question. So then why are we even discussing this certificate of appropriateness?

Mr. Tyler: That is a very good question. Again, the Ordinance required that this come back to you through the Ordinance language. If that language had not have been there, we would not even be here today [audio issues] it would have just been an agreement with City Council. It was the Ordinance that required it to come back to you.

Commissioner Little: Which in effect, we have no action to take because there cannot be a simpler motion than the second one I proposed.

Mr. Ashrawi: Right, which did not pass.

Chairman Emerick: So we either try it again and see if the vote comes out the same or figure out something else.

Commissioner Boysko: The motion failed. Unless you are going to propose a different motion we can't propose the same thing again.

Mr. Ashrawi: There is certainly a process to call it for reconsideration, but reading between the lines, it doesn't seem like the outcome will change.

Chairman Emerick: Among the Commission members. Has our discussion from the last few minutes had any impact upon any Commission member's thinking?

Commissioner Cooper: No.

Commissioner Boysko: No.

Commissioner Bailik: I think it depends on what Bill is proposing.

Ms. Husak: In addition, I think the cleanest thing to do would be to actually have a vote on a motion for reconsideration.

Commissioner Little: How about if I give you another one and you can decide that it is not okay as well?

Mr. Ashrawi: Are you proposing a new and different motion?

Commissioner Little: Yes.

Ms. Husak: With all due respect, it is not like I don't like your motion, we just want to make sure the City is protected and is on the right path.

Commissioner Little: Trust me, I don't take things personally. Let's try this and see where we are:

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

1. The owner/tenant shall present a plan for at least 10 (ten) parking spots for the approval of City Council;
2. The tenant shall provide clear signage at their entrance showing that patron parking is limited to either onsite, at a third party parking location, or in other City-owned locations;
3. The tenant shall work with Staff to ensure that if valet parking is implemented this process will not impede traffic in the area. Staff must approve and monitor that valet process;
4. Staff shall report back to the Planning & Zoning Commission ninety (90) days after Certificate of Occupancy to report on the effectiveness of the parking and valet service; and
5. The owner/tenant shall work in good faith with Staff to identify third party parking solutions to satisfy the parking demand generated by the uses of the tenants at 8 N. Liberty St.

Mr. Tyler: I am curious to know why the Applicant would have to report back within 90 days? What is the purpose of that statement?

Commissioner Little: Do we have a parking problem? Are things working out? Are we towing people? If we did valet, why is the Four Corners backed up? How are things working?

Mr. Tyler: Should that not be the responsibility of Staff to ensure that those things are taken care of?

Commissioner Little: That is what I said in the motion.

Commissioner Cooper: Staff is to report back.

Mr. Tyler: Ok. I understand.

Mr. White: I understand the mechanisms that we are talking about. What if the Applicant secures 35 spots somewhere other than City property?

Commissioner Little: That's fine. That would be a wonderful thing. That's what the intent of the last part of that motion is, but we have already been told in no uncertain terms that they only have to have 10 spaces.

Mr. White: I agree with that, but if they got 10, 11 or 12 that weren't tied to City property, then how does City Council have any vested interest other than going through this process?

Commissioner Little: Well, what I said was that owner/tenant shall present a plan for 10 parking spots for Council approval. Doesn't Council at least have to...who in this case is going to confirm that they have 10 spots?

Mr. White: That's a good question. If they have 10 spots, in my selfish interest, and we had nothing to do with this, that would be great. If there were 10 spots over there and 5 over there and they were all private, then we are out.

Commissioner Little: Sure. What if Council says no?

Mr. White: That's where I think the decision rests.

Mr. Tyler: Absolutely.

Commissioner Little: So do you want me to read that again for clarification or a second or let it die?

Chairman Emerick: Why don't you read it again Bill?

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

1. The owner/tenant shall present a plan for at least ten (10) parking spots for the approval of City Council;
2. The tenant shall provide clear signage at their entrance showing that patron parking is limited to either onsite, at a third party parking location, or in other City-owned locations;
3. The tenant shall work with Staff to ensure that if valet parking is implemented this process will not impede traffic in the area. Staff must approve and monitor that valet process;
4. Staff shall report back to the Planning & Zoning Commission ninety (90) days after Certificate of Occupancy to report on the effectiveness of the parking and valet service; and
5. The owner/tenant shall work in good faith with Staff to identify third party parking solutions to satisfy the parking demand generated by the uses of the tenants at 8 N. Liberty St.

Commissioner Cooper seconded the motion.

VOTE: Y-5 N-1 (Cooper) (Simpson recused)

Commissioner Baillik: I have one addition and I think it will cover the City's points. Instead of saying for 10 spots, the motion should say for at least 10 spots. At that point, if they come to Council with more spots, they have not violated what we just asked them to do and it would give them the ability to ask for more.

Commissioner Little: Okay. I will change that but it kind of goes against the spirit of they just have to have 10 spots. So I would amend the first condition to read, "The owner/tenant shall present a plan for at least 10 parking spots for approval by City Council."

OTHER BUSINESS

Ms. Husak: We are not sure what we are doing with the optional April meeting. We have a little bit of internal discussion to do before that agenda would be published on Friday.

ADJOURNMENT

By unanimous consent of all the Commissioners, the meeting adjourned at 10:35 p.m.

Commissioner Little: I received a notification during the meeting that Joe Jester passed away. Keep Joe and his family in your thoughts. If you met Joe's younger son, you know he is a reincarnation of Joe, so Joe will still be around via his son, Brad.

DATE MINUTES APPROVED:

		
Donald Emerick	DATE 5/17/2021	5/18/2021
Chairman		DATE