

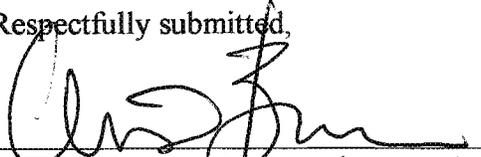
BRUCE L. INGRAM (0018008)
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*Council for Intervenors The Center at Powell
Crossing LLC and Donald R. Kenney, Jr.*

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Respectfully submitted,



CHRISTOPHER BURCH (0087852)

Counsel of Record

Callender Law Group

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Columbus, OH 43215

T: (614) 300-5300

F: (614) 324-3201

chris@callenderlawgroup.com

Counsel for Relators

Brian Ebersole, Sharon Valvona,

and Thomas Happensack

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing *Volume I of Evidence of Relators* was served by hand delivery this 2nd day of September, 2014, upon the following counsel:

Eugene Hollins
Jennifer B. Croghan
Frost Brown Todd
10 W. Broad Street, Suite 2300
Columbus, OH 43215-3484

Counsel for Respondents
City Council of Powell, Ohio
and City Clerk of Powell, Ohio

Bruce L. Ingram
Joseph R. Miller
Christopher L. Ingram
Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
Columbus, OH 43216

Council for Intervenors The Center at Powell
Crossing LLC and Donald R. Kenney, Jr.



CHRISTOPHER B. BURCH

Counsel for Relators

Exhibit A



City of Powell, Ohio

ORDINANCE 2014-10
Adopted June 17, 2014

AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR THE CENTER AT POWELL CROSSING LLC, A DEVELOPMENT OF 14,000 SQ. FT. OF RETAIL IN TWO BUILDINGS, PRESERVING THE OLD HOUSE FOR COMMERCIAL USE, AND DEVELOPMENT OF 64 APARTMENT RESIDENTIAL UNITS ON 8.3 ACRES, LOCATED AT 147 W. OLENTANGY STREET.

WHEREAS, the Planning and Zoning Commission of the City of Powell has recommended approval of the Final Development Plan for The Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street; and

WHEREAS, the Final Development Plan has been submitted to City Council by the Planning and Zoning Commission pursuant to the provisions of Section 1143.11 of the Codified Ordinances of Powell; and

WHEREAS, City Council has determined that the implementation and approval of the Final Development Plan, which is attached hereto as Exhibit "A" and incorporated herein by reference, is in the best interest of the residents of the City of Powell;

NOW THEREFORE BE IT ORDAINED BY THE CITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

Section 1: That the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is accepted and approved by the Council of the City of Powell, subject to and contingent upon the following conditions as recommended by the Planning and Zoning Commission:

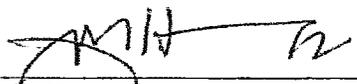
1. That the applicant shall construct a left hand turn for westbound traffic and the turn lane shall provide 150 feet of storage, provide a 50' taper into the turn lane and a 60' taper for westbound traffic;
2. That a pedestrian path along the property right-of-way shall be completed;
3. That an effective right-in/right-out shall be provided at the eastern access point that will facilitate on-site traffic for eastbound Olentangy Street;
4. That a multi-use path shall be provided for the Murphy Parkway neighborhood to provide a pedestrian path to this development and the remainder of the Downtown Powell area;
5. That streetscape improvements shall be added to slow and calm traffic;
6. That all engineering aspects related to this plan are subject the review and approval of the City Engineer;
7. That the applicant shall continue to work with City Staff on designing and implementing the West Olentangy Street improvements as coordinated by the City Engineer;
8. That the City Staff shall update the Planning & Zoning Commission within 6 months of this date regarding the status of the solution to the railroad issues in relationship to this development.

9. That the applicant shall work with City Staff to construct an appropriate barrier along the eastern edge of the property to discourage pedestrian traffic across the railroad tracks at non-designated locations.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: That this Ordinance shall take effect on the earliest period allowed by law.

VOTE ON ORDINANCE 2014-10: Y 4 N 3 (Lorenz, Bennehoof, Bertone)



Jim Hrivnak
Mayor

7-1-14
Date

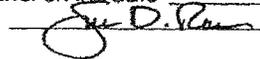


Sue D. Ross
City Clerk

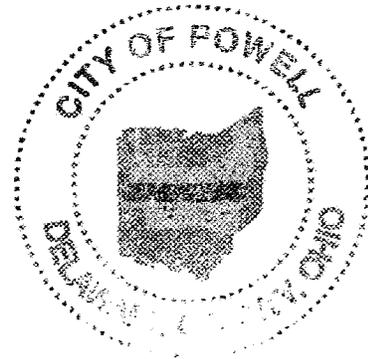
7-2-2014
Date

EFFECTIVE DATE: July 17, 2014

This legislation has been posted in accordance with
the City Charter on this date 7-3-2014.



Sue D. Ross
City Clerk



City Council

Jim Hrivnak, Mayor

Jon Bennehoof

Frank Bertone

Richard Cline

Tom Counts

Mike Crites

Brian Lorenz

Exhibit B

July 9, 2014

Clerk of Council Susie Ross
Mayor Jim Hrivnak
Vice Mayor Brian Lorenz
Councilman Frank Bertone
Councilman Jon Bennehoof
Councilman Richard Cline
Councilman Tom Counts
Councilman Mike Crites
47 Hall St.
Powell, OH 43065

RECEIVED
JUL 09 2014
BY: *PER*
9:27 AM

Dear Ms. Ross and Members of Powell City Council:

I am writing on behalf of a committee of Powell residents to notify you that we are planning to circulate and submit initiative and referendum petitions regarding the Powell Comprehensive Plan and City Ordinance 2014-10.

Enclosed with this letter are our three petitions, including: (1) an initiative petition for a Powell City Charter amendment to create a new Comprehensive Plan (also known as the "Master Plan"); (2) a referendum petition for City Ordinance 2014-10; and (3) an initiative petition for legislation repealing City Ordinance 2014-10. I have also enclosed certified copies of the original proposed City Charter amendment and the original proposed ordinance. In addition, please find enclosed a certified copy of City Ordinance 2014-10. The enclosed documents and this letter are intended to satisfy any and all filing requirements for initiative and referendum petitions under the Powell City Charter and any other applicable Ohio laws.

Please notify me immediately at the address below if, upon review of the enclosed petitions, you see any infirmities or defects. If there are no infirmities or defects with our petitions, please notify me to that effect as well. Your timely response is much appreciated in light of the short 30-day window for referenda under the Powell City Charter.

We believe that popular accountability is necessary here because City Council has collectively lost touch with residents regarding the Powell community identity. Particularly with regard to economic development, Powell must take a more thoughtful direction. City Council's controversial 4-3 vote to fundamentally alter the landscape of Downtown Powell with unpopular high-density apartments is clear evidence of its disconnect with Powell residents. Of course I am referring to City Ordinance 2014-10 passed on June 17, 2014.

At stake is the core identity of the Powell community in years to come. We, as residents, must make a long-term commitment to the sense of community that attracted so many families to Powell in the first place. Our prior efforts to communicate popular opinion to City Council through written and verbal correspondence have apparently fallen on deaf ears, at least for a majority of City Council. Among other thoughtful efforts to communicate, we have given

extensive public testimony before the Powell Zoning Commission and Powell City Council. At the City Council meeting on June 17, 2014, residents even presented City Council with petitions reflecting signatures of approximately 400 Powell residents who object to City Ordinance 2014-10 (for purposes of clarity, the petitions presented at the June 17, 2014 City Council meeting are separate and distinct from the petitions enclosed herein).

Compounding and further demonstrating disconnect with Powell residents, City Council has taken the incorrect position that unpopular City Council actions going to the very core of local government in Powell are shielded from popular referendum. We cannot find any language in the Ohio Constitution or Powell City Charter to support this position. Likewise, we cannot identify any purpose for immunizing controversial legislation such as City Ordinance 2010-14 from referendum, particularly where, as here, the legislation fundamentally alters our daily personal and professional lives in and around the City of Powell. We urge City Council to reconsider its position with a more reasoned approach.

Against this background, we believe that it is necessary to turn to the popular initiative and referendum, which, regardless of outcome at the ballot box, allows Powell residents to meaningfully weigh-in on important public decisions.

In order to correct the direction of the City of Powell moving forward, we are planning the following legislative actions:

First, and most fundamental to our long-term concerns, we are planning an initiative for a Powell City Charter amendment instructing City Council to adopt a new Comprehensive Plan. The 1995 Comprehensive Plan for *the Village of Powell* is outdated as applied to *the City of Powell* in 2014, given growth, technological development, and many other changes to the community over the past 20 years or so. City Council further appears to have lost sight of the dated 1995 Comprehensive Plan, given that recent actions of Council including Ordinance 2014-10 are inconsistent with the 1995 Comprehensive Plan that embraces Powell's small town charm and identity as a "Greenbelt Town."

Pursuant to our proposed Charter amendment, City Council will be instructed to adopt a new Comprehensive Plan pursuant to objective criteria. Among other objective criteria, the new Comprehensive Plan will make the needs and desires of Powell residents the paramount consideration, limit traffic congestion on Powell roads, discourage high-density housing, and expressly prohibit the Final Development Plan approved through Ordinance 2014-10. We feel that our proposed Charter amendment is necessary to protect the long-term interests of the Powell community.

Second, we are planning a referendum on Ordinance 2014-10 and an initiative for legislation repealing Ordinance 2014-10. Again, we are puzzled not only with your unwillingness to heed popular opinion, but also with your stance that Ordinance 2014-10 is not subject to initiative and referendum. Particularly in light of our long-term commitment to Powell, we can see no reason to shield this legislation from a popular vote.

We understand that City Council has taken the hypertechnical position that City Ordinance 2014-10 is an administrative action shielded from popular accountability. Respectfully, the sheer importance, extensive public deliberation, and divided 4-3 Council vote on Ordinance 2014-10 clearly proves otherwise. City Council enacted Ordinance 2014-10 as a legislative body and the action is subject to popular initiative and referendum.

To the extent that City Council is arguing that Ordinance 2014-10 is merely implementing a Planned Unit Development ("PUD"), we question City Council's authority to adopt PUDs in the first place. Article IV, § 7 of the Powell City Charter enumerates with great specificity the legislative powers of City Council. While Article IV, § 7 provides City Council with the power to adopt conventional lot-by-lot zoning laws, conspicuously absent from the enumerated powers of Council are any mention of PUDs. And, there are no default Ohio statutes authorizing PUDs where the Powell City Charter is silent. By contrast to R.C. 303.022 and R.C. 519.021 authorizing PUDs for *counties* and *townships*, the *municipal* zoning enabling legislation, namely R.C. 713.06 through R.C. 713.15, does not authorize PUDs. Meck & Pearlman, Ohio Planning and Zoning Law, § 11:26 (2014 ed.).

In light of the popular concern over Ordinance 2014-10 and our enclosed initiative and referendum petitions, no party, public or private, has yet developed a reasonable reliance interest based upon Ordinance 2014-10. We propose that all construction and preparation for construction relating to Ordinance 2014-10 should be halted pending the outcome of the initiative and referendum. We further stress that the property in question will remain economically viable for other uses before, during, and after this popular accountability process.

In closing, please respond to me at the address below as soon as possible regarding the legal compliance of our enclosed petitions. I would prefer that our future correspondence be in writing.

Best regards,



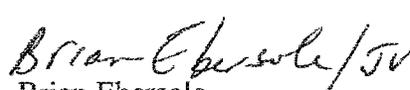
Sharon Valvona
225 Squires Ct.
Powell, Ohio 43065

Committee Member



Thomas Happensack

Committee Member



Brian Ebersole

Enclosure

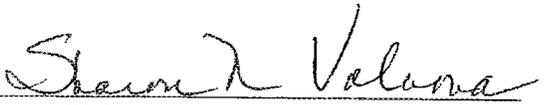
Exhibit C

CERTIFICATION STATEMENT OF SHARON VALVONA

I, Sharon Valvona, do hereby certify the following:

1. I am a resident of the City of Powell, Ohio.
2. I am a member of a citizens committee that will circulate an initiative petition for an amendment to the City Charter for the City of Powell, Ohio.
3. Attached to this certification statement is a true and exact reproduction of the original proposed amendment to the Powell City Charter, which will be circulated to Powell residents with an initiative petition.

I have hereunto set my hand this 08 day of July, 2014.


Sharon Valvona, Resident
City of Powell, Ohio

Signed before me, James Romans, notary public by Sharon Valvona on
July 8th, 2014.



JAMES E. ROMANS
Notary Public, State of Ohio
My Commission Expires
November 28, 2017


NOTARY
FRANKLIN
OHIO

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

Article 4, Section 14: No later than February 1, 2015, the City Council of Powell, Ohio shall organize a Comprehensive Plan Commission to draft a Preliminary Comprehensive Plan for zoning and development in the City of Powell, Ohio. The Comprehensive Plan Commission shall consist of the following five members: (1) the President of the Bartholomew Run Homeowners Association or such person's designee; (2) the President of the Olentangy Ridge Civic Association or such person's designee; (3) the President of the Grandshire Homeowners Association or such person's designee; (4) the President of the Liberty Lakes Homeowners Association or such person's designee; and (5) the President of the Murphy Park Homeowners Association or such person's designee.

Article 4, Section 15: In drafting the Preliminary Comprehensive Plan, the Comprehensive Plan Commission shall take the following three procedural steps: Phase I, to make findings regarding the current state of the Powell community's character and identity in light of current socioeconomic conditions; Phase II, to draft a composite plan identifying specific zones and/or districts that reflect the natural, cultural, and visual elements of the City of Powell; and Phase III, to make recommendations to City Council through the creation of a Preliminary Comprehensive Plan.

Article 4, Section 16: The Comprehensive Plan Commission shall hold at least two public workshops between January 1, 2015 and June 30, 2015 to receive public input and encourage public deliberation regarding the creation of the Preliminary Comprehensive Plan.

Article 4, Section 17: The Comprehensive Plan Commission shall submit the Preliminary Comprehensive Plan to the City Council of Powell, Ohio no later than September 30, 2015.

Article 4, Section 18: The City Council of Powell, Ohio shall consider the Preliminary Comprehensive Plan, make adjustments as necessary consistent with the Phase I findings of Comprehensive Plan Commission, and pass an ordinance no later than March 31, 2016 legislatively adopting a Final Comprehensive Plan.

Article 4, Section 19: The Final Comprehensive Plan shall be in compliance with the following objective criteria: (1) the needs and desires of the residents of Powell are the paramount consideration; (2) preserve the natural, cultural, and visual elements of the City of Powell; (3) limit traffic congestion on Powell roads; (4) balance residential and non-residential land use in Powell based upon the scope and cost of existing City services and level of tax revenues; (5) land in Powell should be available for parking in retail areas; and (6) real property in the Powell "Downtown Business District" shall not be developed with "high-density housing."

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "high-density housing" includes but is not limited to the following real property: (a) residential real property improved with building(s) greater than two-stories in height; (b) real property improved with dwellings containing more than one family; (c) leased real property improved with dwellings containing more than one family; and (d) vacant land that will be used for dwellings containing more than one family.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "family" means an individual living alone or a group of related or unrelated individuals living together in a household.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "Downtown Business District" shall refer to the real property identified as the "Downtown Business District" on the "City of Powell Zoning Districts Map 2014" as of June 17, 2014.

Article 4, Section 20: All Ordinances of the City of Powell must comply with the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV.

Article 4, Section 21: The Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV shall not be compatible with Ordinance 2014-10 and/or the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street.

Uncodified: No party, public or private, shall take any actions, including but not limited to construction activity, in reliance upon Ordinance 2014-10 and the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street. The subject property for the Ordinance 2014-10 Final Development Plan shall remain economically viable for other uses, including residential and non-residential uses, notwithstanding this amendment to the City Charter of Powell, Ohio.

Uncodified: This Charter Amendment shall take effect on the earliest period allowed by law.

Exhibit D

[Print](#)

[Close](#)

Initiative and Referendum Petitions

From: **Susie Ross** (SRoss@cityofpowell.us)
Sent: Thu 7/10/14 1:10 PM
To: **Brian Ebersole** (brianebersole@msn.com)

Dear Ms. Valvona, Mr. Happensack and Mr. Ebersole,

The City Law Director has advised me to not respond to your request to review your Initiative and Referendum petitions for infirmities or defects. I would suggest you refer to the requirements set forth in the City Charter. You may wish to seek the advice of others if you so choose.

Your petitions are being held at the front desk of the municipal offices. Please feel free to pick them up at your convenience.

Thank you.

Susie

Sue D. Ross, CMC

City Clerk

City of Powell

47 Hall Street

Powell, OH 43065-8357

614.885.5380, ext. 1002

sross@cityofpowell.us

Exhibit E

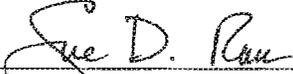
City of Powell
47 Hall Street
Powell, Ohio
43065-8357



www.cityofpowell.us
614.885.5380 tel
614.885.5339 fax

CERTIFICATION

I, Sue D. Ross, being the duly appointed City Clerk of the City of Powell, Delaware County, Ohio, do hereby certify that the attached is a true and correct copy of the 12 part petitions, without Exhibit 3, which were filed with my office on July 17, 2014, regarding the initiative petition for a proposed Charter Amendment.



Sue D. Ross
City Clerk

8/20/2014
Date

INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully propose to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014, the following amendment to the City Charter of Powell, Ohio, which is incorporated herein and attached hereto as Exhibit 1.

Attached hereto as Exhibit 2 is the "City of Powell Zoning Districts Map 2014," which is incorporated herein and identifies the area of Powell, Ohio referenced as the "Downtown Business District" in the proposed charter amendment attached hereto as Exhibit 1.

Attached hereto as Exhibit 3 is City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed charter amendment attached hereto as Exhibit 1.

RECEIVED
JUL 17 2014
BY: AV 8:18 am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1 Cory L. Hixson		7/11/14	253 O'Quinn Ct.	Powell, OH 43065	Delaware	Powell C
2 Sarah Lambert		7/13/14	7504 7010 Ln R	Powell, OH 43065	Delaware	Powell J
3 Lori Hixson		7/14/14	253 O'Quinn Ct.	Powell, OH 43065	Delaware	Powell C
4 Juanita Bahuscha		7/14/14	267 O'Quinn Ct.	Powell, OH 43065	Delaware	Powell C
5 Mike Norton		7-14-14	259 O'Quinn Ct.	Powell, OH 43065	Delaware	Powell C
6 James Dickerson		7-14-14	251 O'Quinn Ct.	Powell, OH 43065	Delaware	Powell C

7	Pat Kiederer	Pat Kiederer	7-14-14	251 O'Quinn Ct	Powell OH	Delaware	Powell C
8	Rodney Spence	Rodney Spence	07/14/14	240 O'Quinn Ct	Powell OH	Delaware	Powell C
9	Patricia O'Donnell	Patricia O'Donnell	7/14/14	248 Briar bend	Powell OH	Delaware	Powell C
10	Amy MacMillan	Amy MacMillan	7-14-14	186 Briar bend	Powell OH	Delaware	Powell C
11	Jim MacMurtrei	Jim MacMurtrei	7-14-14	186 Briar bend	Powell OH	Delaware	Powell C
12	Phil Estey	Phil Estey	7-14-14	189 BRIAR BEND	Powell OH	Delaware	Powell C
13	Renee Downhouse	Renee Downhouse	7-14-14	219 Briar bend	Powell OH	Delaware	Powell C
14	JIM DOWNHOUSE	JIM DOWNHOUSE	7-14-14	219 BRIAR BEND	POWELL, OH	DELAWARE	POWELL C
15	Julie Flowers	Julie Flowers	7-14-14	229 Briar bend Blvd	Powell OH	Delaware	Powell C
16	Justin Flowers	Justin Flowers	07/14/14	229 Briar bend Blvd	Powell OH	Delaware	Powell C
17	Jennifer Sweet	Jennifer Sweet	7-14-14	235 O'Quinn Ct	Powell OH	Delaware	Powell C
18	Ann Urbant	Ann Urbant	7-14-14	249 O'Quinn Ct	Powell OH	Delaware	Powell C
19	Laura Savage	Laura Savage	7/14/14	240 O'Quinn Ct	Powell OH	Delaware	Powell C
20	Mary Carter	Mary Carter	7-14-14	240 O'Quinn Ct	Powell	Delaware	Powell C
21							
22							

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

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Article 4, Section 15: In drafting the Preliminary Comprehensive Plan, the Comprehensive Plan Commission shall take the following three procedural steps: Phase I, to make findings regarding the current state of the Powell community's character and identity in light of current socioeconomic conditions; Phase II, to draft a composite plan identifying specific zones and/or districts that reflect the natural, cultural, and visual elements of the City of Powell; and Phase III, to make recommendations to City Council through the creation of a Preliminary Comprehensive Plan.

Article 4, Section 16: The Comprehensive Plan Commission shall hold at least two public workshops between January 1, 2015 and June 30, 2015 to receive public input and encourage public deliberation regarding the creation of the Preliminary Comprehensive Plan.

Article 4, Section 17: The Comprehensive Plan Commission shall submit the Preliminary Comprehensive Plan to the City Council of Powell, Ohio no later than September 30, 2015.

Article 4, Section 18: The City Council of Powell, Ohio shall consider the Preliminary Comprehensive Plan, make adjustments as necessary consistent with the Phase I findings of Comprehensive Plan Commission, and pass an ordinance no later than March 31, 2016 legislatively adopting a Final Comprehensive Plan.

Article 4, Section 19: The Final Comprehensive Plan shall be in compliance with the following objective criteria: (1) the needs and desires of the residents of Powell are the paramount consideration; (2) preserve the natural, cultural, and visual elements of the City of Powell; (3) limit traffic congestion on Powell roads; (4) balance residential and non-residential land use in Powell based upon the scope and cost of existing City services and level of tax revenues; (5) land in Powell should be available for parking in retail areas; and (6) real property in the Powell "Downtown Business District" shall not be developed with "high-density housing."

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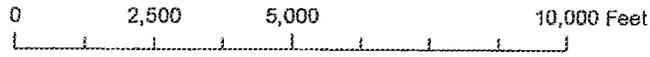
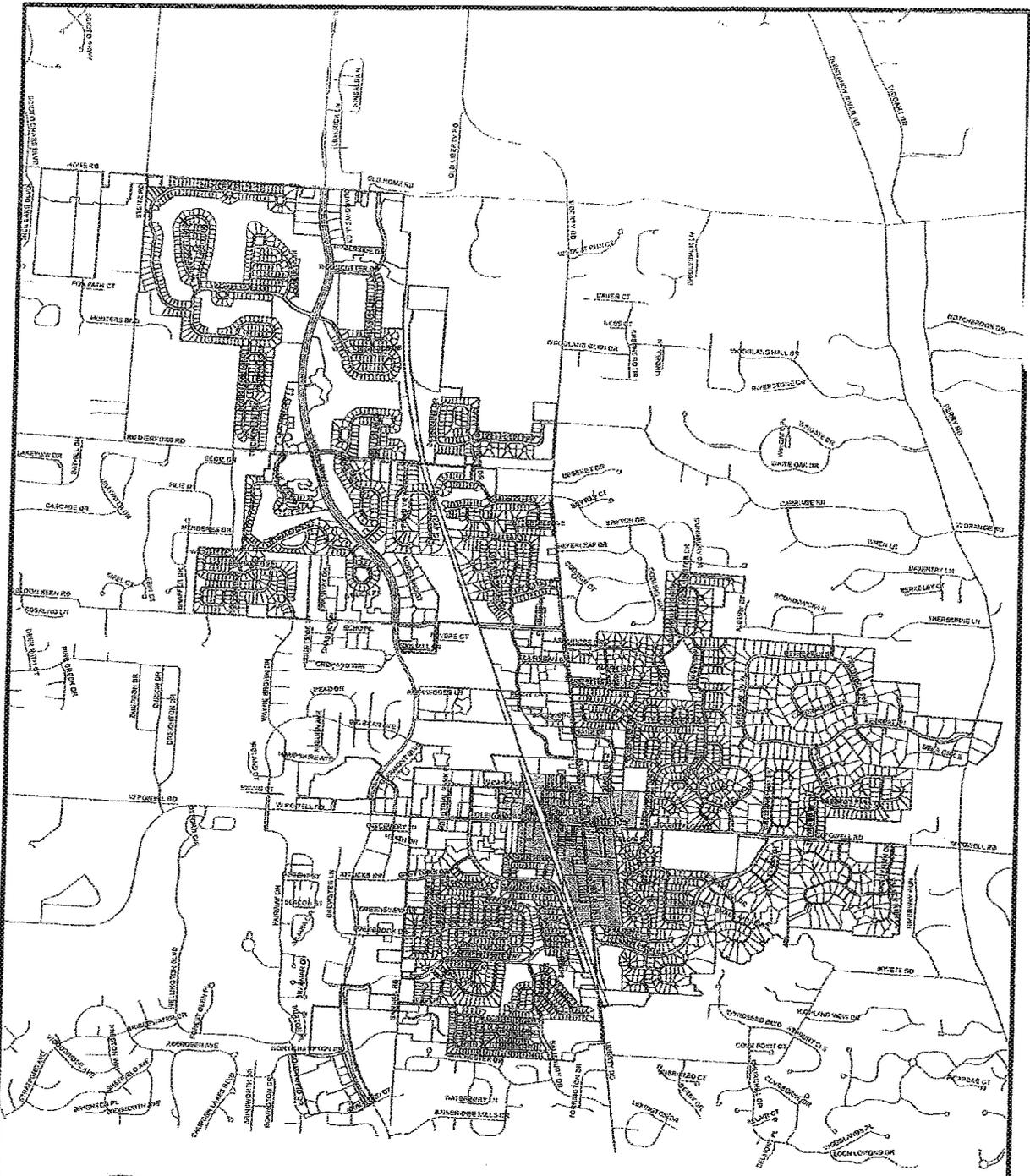
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Article 4, Section 21: The Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV shall not be compatible with Ordinance 2014-10 and/or the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street.

Uncodified: No party, public or private, shall take any actions, including but not limited to construction activity, in reliance upon Ordinance 2014-10 and the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street. The subject property for the Ordinance 2014-10 Final Development Plan shall remain economically viable for other uses, including residential and non-residential uses, notwithstanding this amendment to the City Charter of Powell, Ohio.

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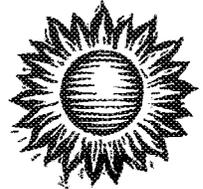
ZONING

-  DOWNTOWN BUSINESS DISTRICT
-  DOWNTOWN RESIDENCE DISTRICT
-  LIBERTY TOWNSHIP FARM RESIDENCE DISTRICT
-  LIBERTY TOWNSHIP PLANNED COMMERCIAL DISTRICT
-  PLANNED COMMERCIAL DISTRICT
-  PLANNED INDUSTRIAL DISTRICT
-  PLANNED OFFICE DISTRICT
-  PLANNED RESIDENCE DISTRICT
-  RESIDENCE DISTRICT

-  Streets
-  Parcels
-  Powell Boundary

City of Powell
 Zoning Districts
 Map 2014

Development Department
 47 Hall Street
 Powell, Ohio 43065
 (614) 885-5380
 (614) 885-5339 fax
www.cityofpowell.us



June 29, 2014 09:27:04 AM
 Geospatial Data Source: Delaware County Auditor's
 Office (DAUS Project)
 Date: 2/28/2014
 GIS Project: Planning Powell GIS/MapServer/2014_Map_2014_05_11/14

INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully propose to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014, the following amendment to the City Charter of Powell, Ohio, which is incorporated herein and attached hereto as Exhibit 1.

Attached hereto as Exhibit 2 is the "City of Powell Zoning Districts Map 2014," which is incorporated herein and identifies the area of Powell, Ohio referenced as the "Downtown Business District" in the proposed charter amendment attached hereto as Exhibit 1.

Attached hereto as Exhibit 3 is City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed charter amendment attached hereto as Exhibit 1.

RECEIVED
JUL 17 2014

BY: AV 8:18am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Barbara Stealy	[Signature]	7/13/14	224 Britannia Blvd	Powell, OH 43065	Delaware	L
2	CLIVE STENSON	[Signature]	7/13/14	224 Britannia Blvd	Powell, OH 43065	DELAWARE	C
3	CHRIS HILL	[Signature]	7/13/14	192 McCrory Ct	Powell, OH 43065	Delaware	C
4	KAREN HILL	[Signature]	7/13/14	192 McCrory Ct	Powell, OH 43065	Delaware	C
5	STEPHEN FULTON	[Signature]	7/13/14	226 McCrory Ct.	POWELL, OH 43065	DELAWARE	C
6	LYNN FULTON	[Signature]	7-13-14	226 McCrory Ct	Powell, OH 43065	DELAWARE	C

7	Nathan Fisher	Nathan Fisher	7-13-14	226 McCreary Ct.	Powell, OH 43065	Delaware	C
8	Jim Cummins	Jim Cummins	7-13-14	177 Spins Court	Powell, OH 43065	Delaware	C
9	Paula Cummins	Paula Cummins	7-13-14	177 Spins Ct	Powell, OH 43065	Delaware	C
10	Jennifer Medcalf	Jennifer Medcalf	7-13-14	221 McCreary Ct	Powell, OH 43065	Delaware	C
11	Linda Medcalf	Linda Medcalf	7-13-14	221 McCreary Ct	Powell, OH 43065	Delaware	C
12	Michael Beime	Michael Beime	7-13-14	191 Squires Ct	Powell, OH 43065	Delaware	C
13	Kristina Beime	Kristina Beime	7-13-14	191 Squires Ct	Powell, OH 43065	Delaware	C
14	John Beime	John Beime	7-13-14	140 Squires Ct.	Powell, OH 43065	Delaware	C
15	Sharon Beime	Sharon Beime	7-13-14	140 Squires Ct	Powell, OH 43065	Delaware	C
16	CHRIS WINTER	Chris Winter	7-13-14	103 SQUIRES CT	POWELL, OH 43065	DELAWARE	C
17	MICHAEL WINTER	Michael Winter	7/13/14	103 SQUIRES	POWELL, OH 43065	DELAWARE	C
18	ELLEN Conklin	Ellen Conklin	7/13/14	154 Squires Ct.	Powell, OH 43065	Delaware	C
19	Leslie Yost	Leslie Yost	7/13/14	196 Squires Ct	Powell, OH 43065	Delaware	C
20	Karen Burns	Karen Burns	7/13/14	220 Squires Ct	Powell, OH 43065	Delaware	C
21	Matthew Buis	Matthew Buis	7/13/14	220 Squires Ct	Powell, OH 43065	Delaware	C
22	NANCY Jacobs	Nancy Jacobs	7-13-14	176 McCreary Ct	Powell, OH 43065	Delaware	C

23	MICHAEL Barnhart	Michael Barnhart	7-13-14	212 McCreary Ct	Powell OH 43065	Delaware	C
24	Jeanie Wallace	Jeanie Wallace	7-13-14	184 Squires Ct.	Powell, OH 43065	Delaware	C
25	John Wesley DANIEL GAMBLE	John Wesley DANIEL GAMBLE	7-13-14	184 Squires Ct	Powell, OH 43065	Delaware	C
26	Joseph Valbona SHARON N. VALBONA	Joseph Valbona SHARON N. VALBONA	7-13-14	149 SQUIRES CT	Powell, OH 43065	Delaware	C
27	Brian Ebersole	Brian Ebersole	7/13/14	225 Squires Ct	Powell, OH 43065	Delaware	C
28	Sarah Ebersole	Sarah Ebersole	7/13/14	225 Squires Ct	Powell, OH 43065	Delaware	C
29	Brian Ebersole	Brian Ebersole	7/15/14	215 Squires Ct.	Powell, OH 43065	Delaware	C
30	Sarah Ebersole	Sarah Ebersole	7/15/14	215 Squires Ct	Powell, OH 43065	Delaware	C
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF DELAWARE

I, Joseph Valvona, Jr (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 30 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Joseph Valvona, Jr
(Signature of Circulator)

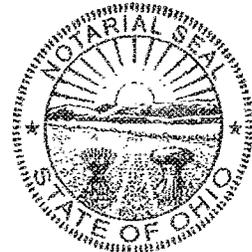
225 SQUIRES CT
(Permanent residence street address)

POWELL, OH 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 10th day of July, 2014.

My Commission Expires:
[Signature]

[Signature]
Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

Article 4, Section 14: No later than February 1, 2015, the City Council of Powell, Ohio shall organize a Comprehensive Plan Commission to draft a Preliminary Comprehensive Plan for zoning and development in the City of Powell, Ohio. The Comprehensive Plan Commission shall consist of the following five members: (1) the President of the Bartholomew Run Homeowners Association or such person's designee; (2) the President of the Olentangy Ridge Civic Association or such person's designee; (3) the President of the Grandshire Homeowners Association or such person's designee; (4) the President of the Liberty Lakes Homeowners Association or such person's designee; and (5) the President of the Murphy Park Homeowners Association or such person's designee.

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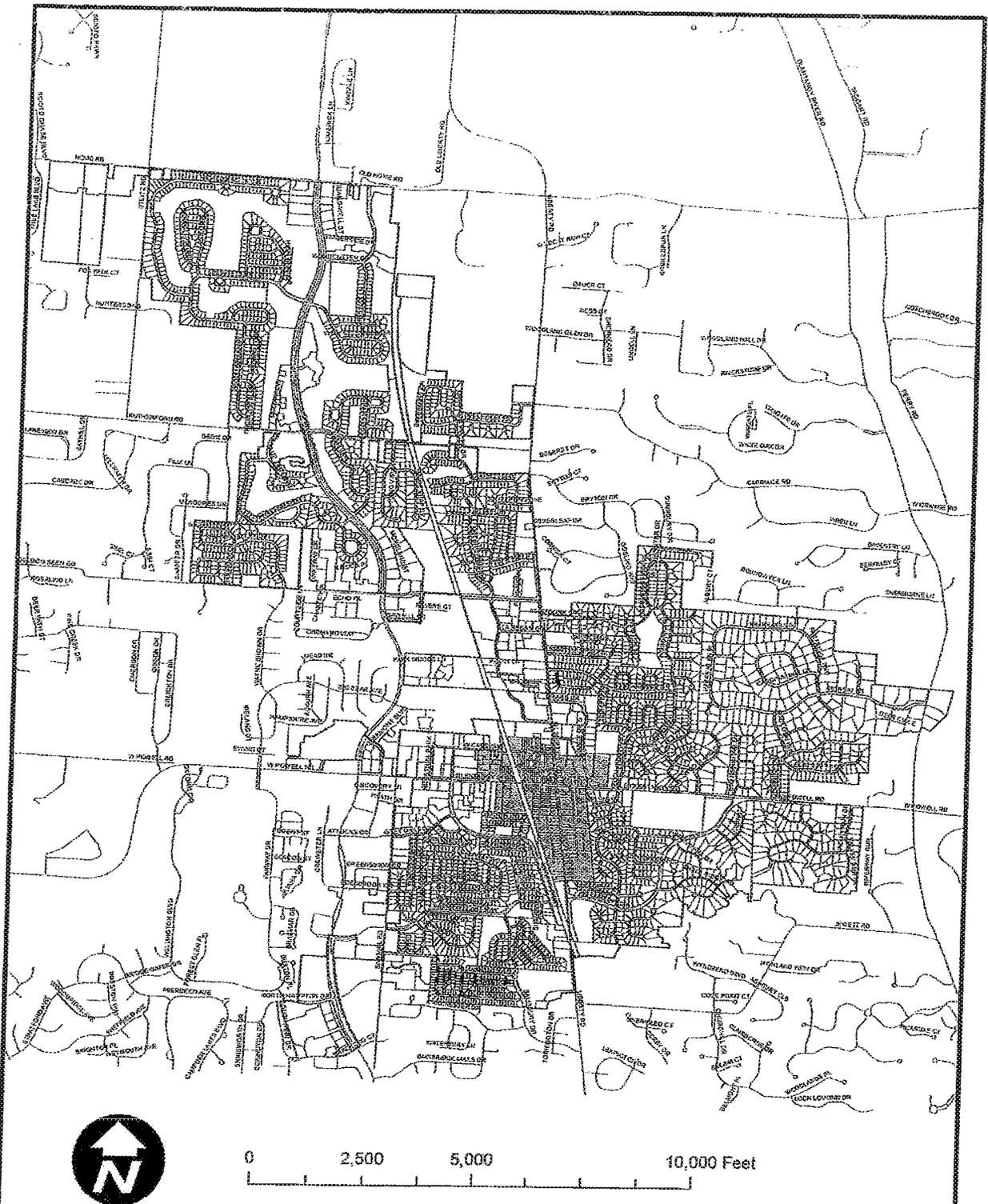
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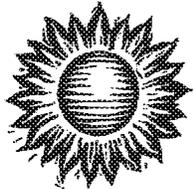


ZONING

-  DOWNTOWN BUSINESS DISTRICT
 -  DOWNTOWN RESIDENCE DISTRICT
 -  LIBERTY TOWNSHIP FARM RESIDENCE DISTRICT
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-  Streets
 Parcels
 Powell Boundary

City of Powell
 Zoning Districts
 Map 2014

Development Department
 47 Hall Street
 Powell, Ohio 43065
 (614) 885-5380
 (614) 885-5339 fax
www.cityofpowell.us



Date: 01/14/14 09:42 AM
 DelWalsh Data Services - Delaware County Auditor's
 Office (DACS) Project
 Source: P10
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INITIATIVE PETITION

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Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Bobbie Spiers	Bobbie Spiers	7/15/14	230 Glenwagh Ct	Powell OH 43065	Delaware	C
2	Jim Brackley	[Signature]	7/15/14	242 Glenwagh Ct	Powell OH 43065	Delaware	C
3	Molly St. Pierre	[Signature]	7/15/14	267 Glenwagh Ct	Powell OH 43065	Delaware	C
4	Mark Gessler	[Signature]	7/15/14	282 Weatherburn Ct	Powell OH 43065	Delaware	C
5	Jill Danker	[Signature]	7/15/14	279 Weatherburn Ct.	Powell, OH 43065	DELAWARE	C
6	MOLLY ST. PIERRE	[Signature]	7/15/14	266 Weatherburn Dr.	Powell, OH 43065	Delaware	C

7	SUSAN JOYINKMAN	<i>[Signature]</i>	7/15/14	137 Charterhouse Ct	POWELL OH 43065	Delaware City	C
8	JOHN DANIEL	<i>[Signature]</i>	7/15/14	279 WEST HILL BURTON CT	POWELL OH 43065	DELAWARE	C
9	MIKE ST. PIERRE	<i>[Signature]</i>	7/15/14	266 WETHERBURN DR	POWELL OH 43065	Delaware	C
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF DELAWARE

I, BRENDAN JAMES NEWCOMB (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 9 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Brendan James Newcomb
(Signature of Circulator)

239 WEATHERBURN DRIVE
(Permanent residence street address)

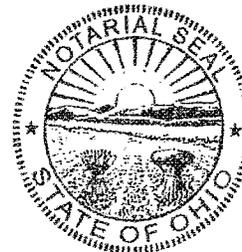
POWELL, OHIO 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 14th day of July, 2014.

My Commission Expires:

[Signature]

[Signature]
Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

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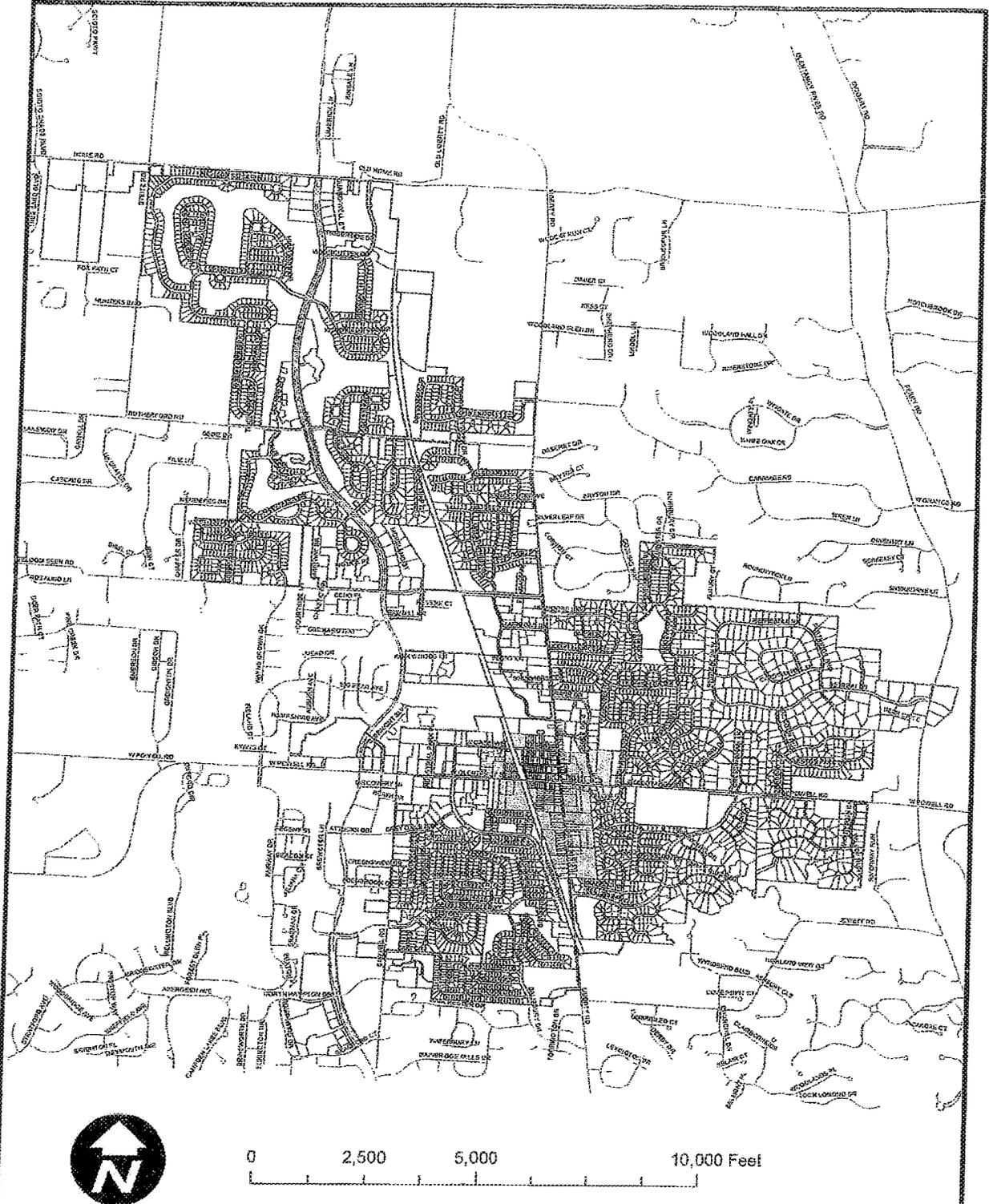
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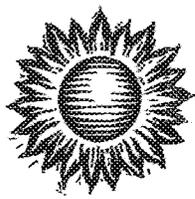


Fulton

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City of Powell Zoning Districts Map 2014

Development Department
47 Hall Street
Powell, Ohio 43065
(614) 885-5380
(614) 885-5339 fax
www.cityofpowell.us



Date Shown: 01/02/2014 08:42:04
 Original Data Source: Delaware County Auditor's
 Office CADIS Project
 Date: 01/04/2014
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INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully propose to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014, the following amendment to the City Charter of Powell, Ohio, which is incorporated herein and attached hereto as Exhibit 1.

Attached hereto as Exhibit 2 is the "City of Powell Zoning Districts Map 2014," which is incorporated herein and identifies the area of Powell, Ohio referenced as the "Downtown Business District" in the proposed charter amendment attached hereto as Exhibit 1.

Attached hereto as Exhibit 3 is City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed charter amendment attached hereto as Exhibit 1.

RECEIVED
JUL 3 7 2014
BY: AY 8:18 am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Edward Meixner	Edward Meixner	7/14/14	339 Briarhead Blvd.	Powell OH 43065	Delaware	Powell-C
2	Sarah Meixner	Sarah Meixner	7/11/14	239 Briarhead Blvd	Powell OH 43065	Delaware	Powell-C
3	Sondra Zoog	Sondra Zoog	7/12/14	238 Briarhead Blvd	Powell, 43065	Delaware	Powell-C
4	John Zoog	John Zoog	7/12/14	238 Briarhead Blvd	Powell 43065	Delaware	Powell-C
5	Vicki Anthony	Vicki Anthony	7/14/14	247 Briarhead Blvd	Powell OH 43065	Delaware	Powell-C
6	Cynthia Ottino	Cynthia Ottino	7/14/14	365 Thornbury Lane	Powell 43065	Delaware	Powell-B

7	Kristi Kouskouni's Expenditures	7-14-14	281 Bluff Edge Ct.	Powell Oh	Delaware	Powell C
8	Alicia Nolan	7-14-14	175 Cressingham Ln	Powell OH	Delaware	Powell B
9	HANNAH MEXNER J.R.M.E	7/14/14	239 BRIMSEND CLVD	POWELL, OH	DELAWARE	POWELL C
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF Delaware

I, Edward A. Meixner (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 7 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Edward A. Meixner
(Signature of Circulator)

239 Briarhead Boulevard
(Permanent residence street address)

Powell, OH 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 16th day of July, 2014.

My Commission Expires:

May 15, 2018

Adam Hatton
Notary Public



ADAM HATTON
Notary Public, State of Ohio
My Commission Expires
May 15, 2018

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

Article 4, Section 14: No later than February 1, 2015, the City Council of Powell, Ohio shall organize a Comprehensive Plan Commission to draft a Preliminary Comprehensive Plan for zoning and development in the City of Powell, Ohio. The Comprehensive Plan Commission shall consist of the following five members: (1) the President of the Bartholomew Run Homeowners Association or such person's designee; (2) the President of the Olentangy Ridge Civic Association or such person's designee; (3) the President of the Grandshire Homeowners Association or such person's designee; (4) the President of the Liberty Lakes Homeowners Association or such person's designee; and (5) the President of the Murphy Park Homeowners Association or such person's designee.

Article 4, Section 15: In drafting the Preliminary Comprehensive Plan, the Comprehensive Plan Commission shall take the following three procedural steps: Phase I, to make findings regarding the current state of the Powell community's character and identity in light of current socioeconomic conditions; Phase II, to draft a composite plan identifying specific zones and/or districts that reflect the natural, cultural, and visual elements of the City of Powell; and Phase III, to make recommendations to City Council through the creation of a Preliminary Comprehensive Plan.

Article 4, Section 16: The Comprehensive Plan Commission shall hold at least two public workshops between January 1, 2015 and June 30, 2015 to receive public input and encourage public deliberation regarding the creation of the Preliminary Comprehensive Plan.

Article 4, Section 17: The Comprehensive Plan Commission shall submit the Preliminary Comprehensive Plan to the City Council of Powell, Ohio no later than September 30, 2015.

Article 4, Section 18: The City Council of Powell, Ohio shall consider the Preliminary Comprehensive Plan, make adjustments as necessary consistent with the Phase I findings of Comprehensive Plan Commission, and pass an ordinance no later than March 31, 2016 legislatively adopting a Final Comprehensive Plan.

Article 4, Section 19: The Final Comprehensive Plan shall be in compliance with the following objective criteria: (1) the needs and desires of the residents of Powell are the paramount consideration; (2) preserve the natural, cultural, and visual elements of the City of Powell; (3) limit traffic congestion on Powell roads; (4) balance residential and non-residential land use in Powell based upon the scope and cost of existing City services and level of tax revenues; (5) land in Powell should be available for parking in retail areas; and (6) real property in the Powell "Downtown Business District" shall not be developed with "high-density housing."

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "high-density housing" includes but is not limited to the following real property: (a) residential real property improved with building(s) greater than two-stories in height; (b) real property improved with dwellings containing more than one family; (c) leased real property improved with dwellings containing more than one family; and (d) vacant land that will be used for dwellings containing more than one family.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "family" means an individual living alone or a group of related or unrelated individuals living together in a household.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "Downtown Business District" shall refer to the real property identified as the "Downtown Business District" on the "City of Powell Zoning Districts Map 2014" as of June 17, 2014.

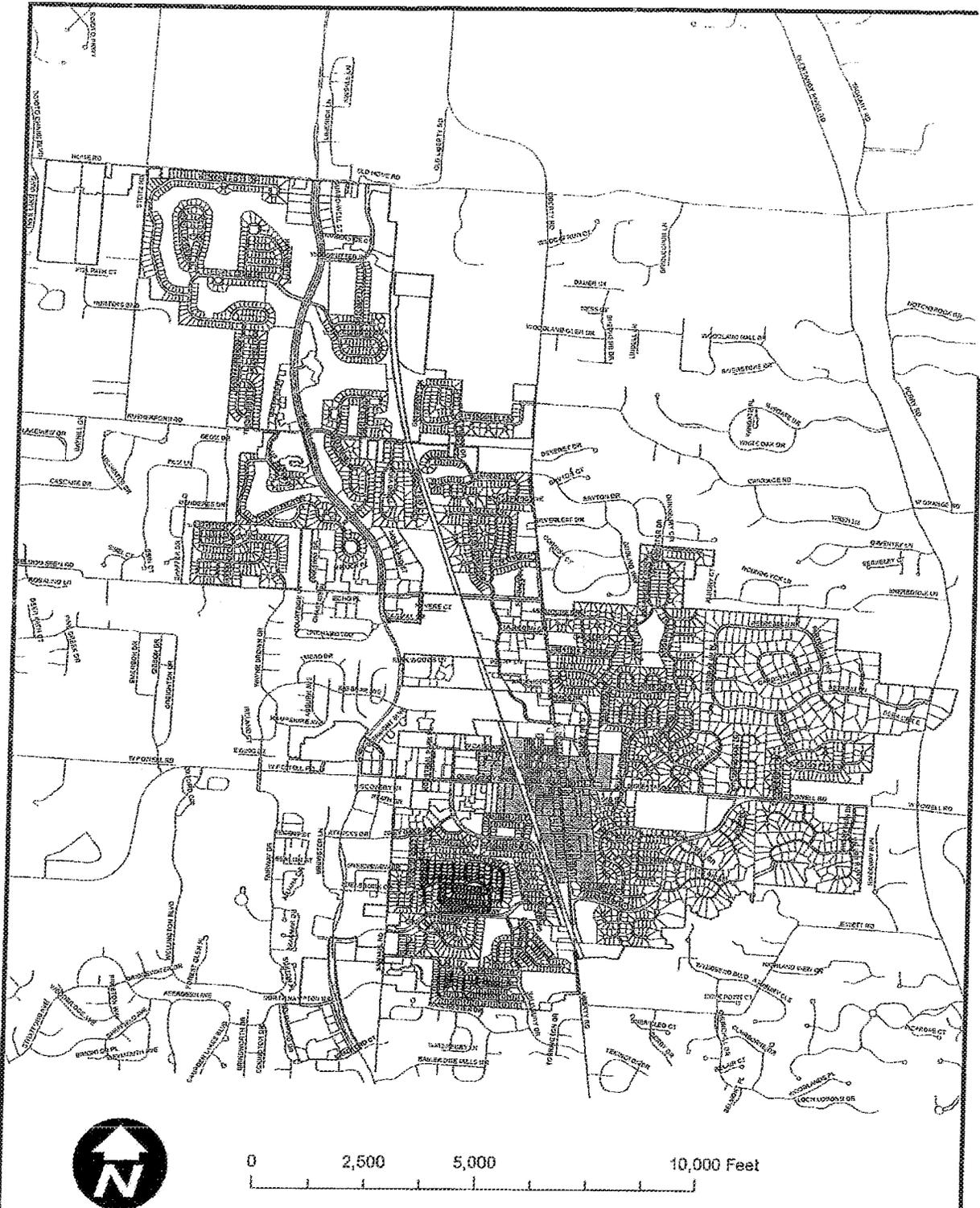
Article 4, Section 20: All Ordinances of the City of Powell must comply with the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV.

Article 4, Section 21: The Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV shall not be compatible with Ordinance 2014-10 and/or the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street.

Uncodified: No party, public or private, shall take any actions, including but not limited to construction activity, in reliance upon Ordinance 2014-10 and the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street. The subject property for the Ordinance 2014-10 Final Development Plan shall remain economically viable for other uses, including residential and non-residential uses, notwithstanding this amendment to the City Charter of Powell, Ohio.

Uncodified: This Charter Amendment shall take effect on the earliest period allowed by law.

07.1.13

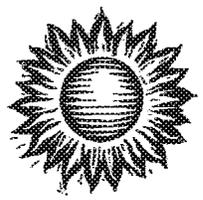


0 2,500 5,000 10,000 Feet

- ZONING**
- DOWNTOWN BUSINESS DISTRICT
 - DOWNTOWN RESIDENCE DISTRICT
 - LIBERTY TOWNSHIP FARM RESIDENCE DISTRICT
 - LIBERTY TOWNSHIP PLANNED COMMERCIAL DISTRICT
 - PLANNED COMMERCIAL DISTRICT
 - PLANNED INDUSTRIAL DISTRICT
 - PLANNED OFFICE DISTRICT
 - PLANNED RESIDENCE DISTRICT
 - RESIDENCE DISTRICT
- Streets
 Parcels
 Powell Boundary

City of Powell Zoning Districts Map 2014

Development Department
47 Hall Street
Powell, Ohio 43065
(614) 885-5380
(614) 885-5339 fax
www.cityofpowell.us



071325-0000 07/13/2014 1:13:22 PM
 Cadastre Data Source: DeLorme County Auditor's
 Office DMLIS Project
 Date: 07/13/2014
 071325-0000 - Planning Dept's Plans: 071325-0000-0017.mxd

INITIATIVE PETITION

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Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Chris Mann	<i>[Signature]</i>	7-14-14	227 SMOKEWOODS RD.	POWELL, OH 43065	DELAWARE	G
2	Joseph Mosenko	<i>[Signature]</i>	7-14-14	256 WATSON WAY	POWELL, OH 43065	DELAWARE	G.
3	Charlotte Rossi	<i>[Signature]</i>	7/14/2014	243 Smokewood Rd	Powell, Ohio 43065	Delaware	G
4	Alan Rossi	<i>[Signature]</i>	7/14/2014	243 Smokewood Rd	Powell, OH 43065	Delaware	G
5	Brian Swadlow	<i>[Signature]</i>	7/14/2014	150 Briarbond Blvd	Powell OH 43065	Delaware	C
6							

CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF Delaware

I, SHARON W. VALVONA (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 5 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Sharon W. Valvona
(Signature of Circulator)

225 Squires Court
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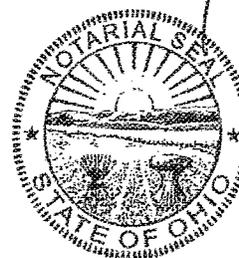
Powell, OH 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 16th day of July 2014.

My Commission Expires:

[Signature]

[Signature]
Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

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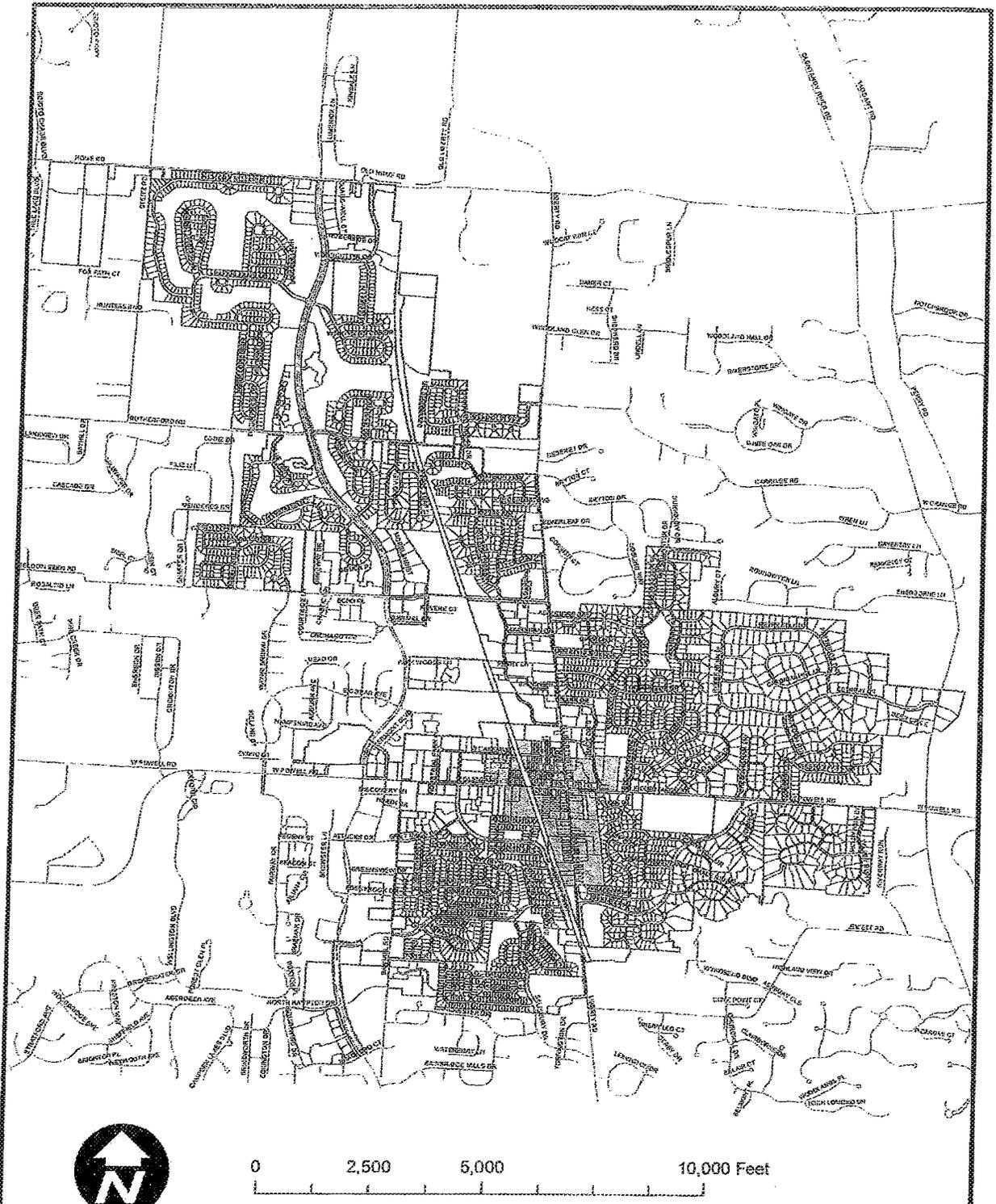
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Exhibit 2

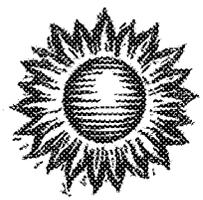


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 -  RESIDENCE DISTRICT
-  Streets
 -  Parcels
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City of Powell
Zoning Districts
Map 2014

Development Department
47 Hall Street
Powell, Ohio 43065
(614) 885-5380
(614) 885-5339 fax
www.cityofpowell.us



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Created by: Gabe Gannon, Delaware County Auditor
Office: 04/15/15 Project
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INITIATIVE PETITION

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2	Brian Ebersole	B Ebersole	7/13/14	126 Kellys Ct	Powell OH 43065 Delaware	Delaware	C
3	Peterin Creek	Peterin Creek	7/13/14	126 Kellys Ct	Powell OH 43065 Delaware	Delaware	C
4	Erin Dobozy	Erin Dobozy	7/13/14	146 Kellys Ct.	Powell OH 43065	Delaware	C
5	Jeff Dobozy	A	" "	" "	" " 43065	" "	C
6	Holly Happensack	Holly Happensack	7/16/14	127 Kellys Ct	Powell OH 43065	Delaware	C

7	Martha Cornett	Martha A. Cornett	7/13/14	168 Keeleyp Ct Powell	Powell, Ohio 43065	Del.	C
8	Mike Cornett	Mike Cornett	7/13/14	168 Keeleyp Ct	Powell, Ohio 43065	Del.	C
9	Chris Cornett	Chris Cornett	7/13/14	168 Keeleyp Ct.	Powell, Ohio 43065	Del.	C
10	Monica Reneker	Monica Reneker	7/13/14	28 Bartholomew Blvd	Powell Ohio	Del	C
11	John Reneker	John Reneker	7/13/14	28 Bartholomew Blvd	Powell Ohio	Del	C
12	Rodney Flannery	Rodney Flannery	7/13/14	52 Bartholomew Blvd	Powell OH	Del	C
13	Melissa M. Flannery	Melissa M. Flannery	7/13/14	52 Bartholomew Blvd	Powell Oh	DEL	C
14	Nicolette Hyland	Nicolette Hyland	7/13/14	40 Bartholomew Blvd	Powell OH	DEL	C
15	Aike Hyland	Aike Hyland	7/13/14	40 Bartholomew Blvd	Powell OH	DEL	C
16	Don Charles	Don Charles	7/13/14	82 Bartholomew Blvd	Powell	DEL	C
17	Judith Cruss	Judith Cruss	7/13/14	96 Bartholomew Blvd	Powell	Del	C
18	MAPY HARTURE	MAPY HARTURE	7/13/14	150 GLEN ABBEY CT	POWELL	DEL	C
19	DAVID HARTURE	DAVID HARTURE	7/13/14	150 GLEN ABBEY CT	POWELL	DEL	C
20	Anastasia Britt	A. Britt	7-13-14	135 Glen Abbey Ct	Powell	Del	C
21	Jodie Amaroia	Jodie Amaroia	7-13-14	142 Glen Abbey Ct	Powell	Del	C
22	Renee Morris	Renee Morris	7/13/14	148 Glen Abbey Ct	Powell	Del	C

23	Robert Morris	Bob Morris	7/13/14	145 Glen Abbey Ct	Powell	Del	C
24	John McEgan	John McEgan	7/13/14	141 Glen Abbey Ct	Powell	Del	C
25	Herb Youce	Herb Youce	7/13/14	171 Kellys Ct	Powell	Del	C
26	Susan Brown	Susan Brown	7/13/14	131 Kellys Ct	Powell	Del	C
27	Michael Towne	Mike Towne	7/13/14	131 Kellys Ct	Powell	Del	C
28	Fritz M. Pichers	Fritz M. Pichers	7/14/14	160 Glen Abbey Ct	Powell	Del	C
29	Nancy Pickens	Nancy Pickens	7/14/14	160 Glen Abbey Ct	Powell	Del	C
30	HATHA KERR	HATHA KERR	7/14/14	95 Bartholomew	Powell	Del	C
31	Sam Sprizzi	Sam Sprizzi	7/14/14	112 Bartok Lane	Powell	Del	C
32	Andy Sprizzi	Andy Sprizzi	7/14/14	112 Bartok Lane	Powell	Del	C
33	Scott Eckhardt	Scott Eckhardt	7/14/14	107 Glenlivet Pl	Powell	Del	C
34	Cathleen D. Eckhardt	Cathleen D. Eckhardt	7/14/14	107 Glenlivet Pl	Powell	Del	C
35	Lori Suddler	Lori Suddler	7/14/14	87 Glenlivet Pl	Powell	Del	C
36	Jen Suddler	Jen Suddler	7/14/14	87 Glenlivet Pl	Powell	Del	C
37	Dean Appelman	Dean Appelman	7/14/14	90 Glenlivet Pl	Powell	Del	C
38	Charlene Appelman	Charlene Appelman	7/14/14	90 Glenlivet Pl	Powell	Del	C

39	Tyler Joel Happensack		7/14/14	127 Kelly's Court	Rowell OH	Delaware	C
40	Victor Amosa		7-15-14	142 Glen Abbey Ln	Rowell OH	Delaware	C
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STATE OF OHIO

COUNTY OF DELAWARE

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Thomas J. Happensack
(Signature of Circulator)

127 KEWYS CT
(Permanent residence street address)

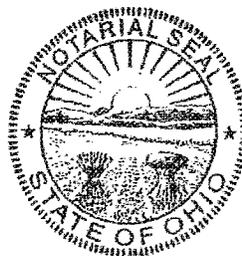
POWELL, OHIO, 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 16th day of July, 2014.

My Commission Expires:

Ø

Christopher B. Burch
Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

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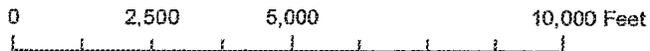
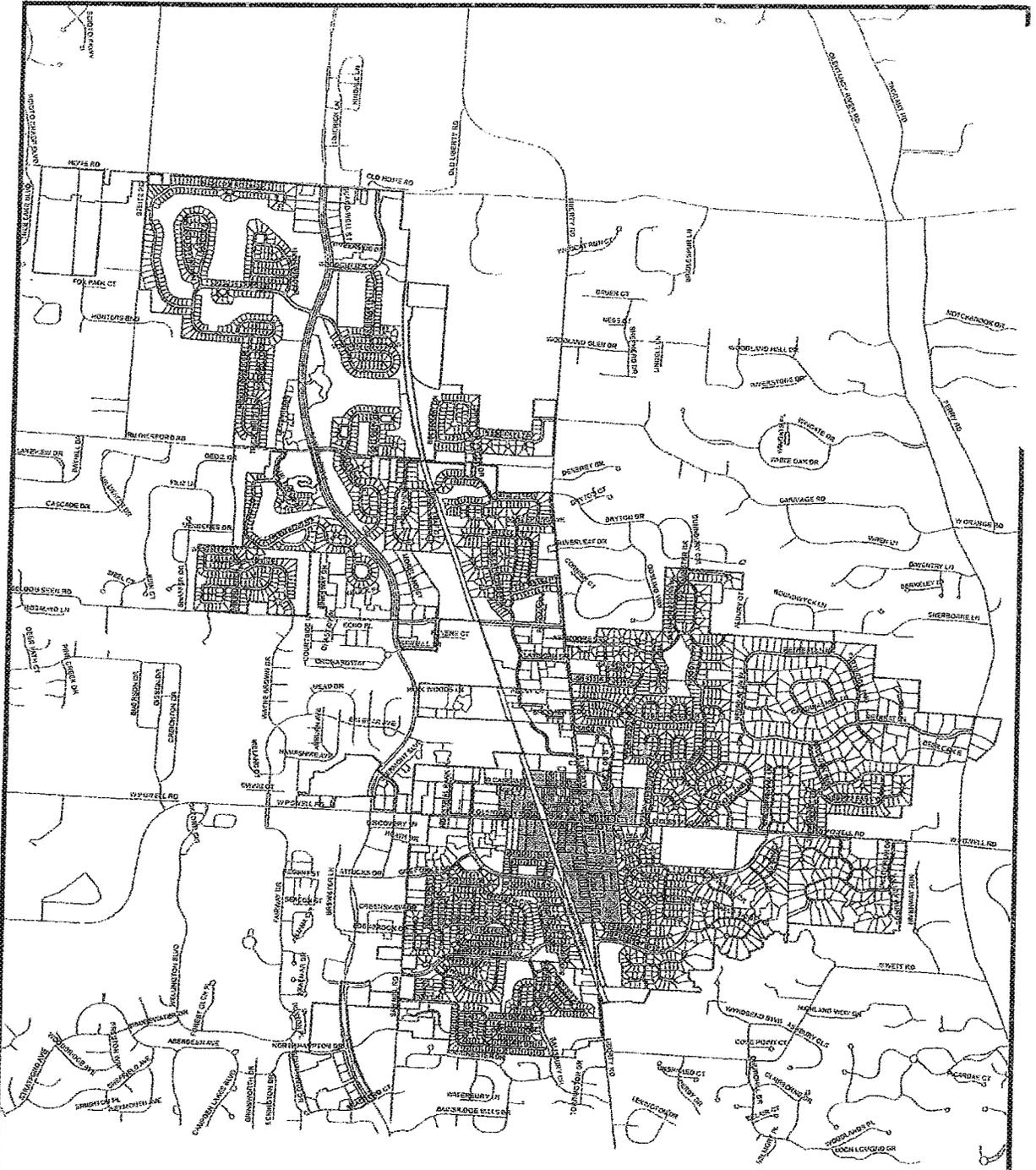
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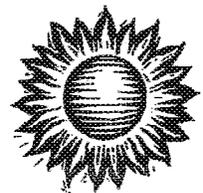
ZONING

-  DOWNTOWN BUSINESS DISTRICT
-  DOWNTOWN RESIDENCE DISTRICT
-  LIBERTY TOWNSHIP FARM RESIDENCE DISTRICT
-  LIBERTY TOWNSHIP PLANNED COMMERCIAL DISTRICT
-  PLANNED COMMERCIAL DISTRICT
-  PLANNED INDUSTRIAL DISTRICT
-  PLANNED OFFICE DISTRICT
-  PLANNED RESIDENCE DISTRICT
-  RESIDENCE DISTRICT

-  Streets
-  Parcels
-  Powell Boundary

City of Powell
Zoning Districts
Map 2014

Development Department
 47 Hall Street
 Powell, Ohio 43065
 (614) 885-5380
 (614) 885-5339 fax
www.cityofpowell.us



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INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully propose to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014, the following amendment to the City Charter of Powell, Ohio, which is incorporated herein and attached hereto as Exhibit 1.

Attached hereto as Exhibit 2 is the "City of Powell Zoning Districts Map 2014," which is incorporated herein and identifies the area of Powell, Ohio referenced as the "Downtown Business District" in the proposed charter amendment attached hereto as Exhibit 1.

Attached hereto as Exhibit 3 is City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed charter amendment attached hereto as Exhibit 1.

RECEIVED
JUL 17 2014
BY: A.V. 8:18am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Sharon Valvona	<i>[Signature]</i>	7/11/14	863 Powell	0443065 Delaware	Delaware	G
2	Robert Sori	<i>[Signature]</i>	7/11/14	863 Middlebury Court	Powell OH 43065	Delaware	G
3	Lauren Riner	<i>[Signature]</i>	7/11/14	874 Middlebury Ct.	Powell OH 43065	Delaware	G
4	Barbara Under	<i>[Signature]</i>	7/11/14	874 Middlebury Ct.	Powell, OH 43065	Delaware	G
5	Kimberly Macstein	<i>[Signature]</i>	7/11/14	116 Watson Way	Powell OH 43065	Delaware	G
6	Michelle Morris	<i>[Signature]</i>	7/11/14	75 Watson Way	43065	Delaware	G

7	Tom Adams	Tech	7-11-14	75 Watson Way	Powell 43065	Delaware	G
8	De Messier	BA	7-11-14	95 Watson Way	Powell 43065	Delaware	G
9	Sharon Dantes	Ed	7-11-14	125 Watson Way	Powell 43065	Delaware	G
10	Kara Sullio	Karen	7-12-14	136 Watson Way	Powell 43065	Delaware	G
11	Allye Stearns	Jim A	7-12-14	126 Watson Way	Powell 43065	Delaware	G
12	in & Moeslein	Wendy	7-12-14	116 Watson Way	Powell 43065	Delaware	G
13	David Lust	David	7-12-14	106 Watson Way	Powell 43065	Delaware	G
14	Lucinda Cole	Al Cole	7-12-14	106 Watson Way	Powell 43065	Delaware	G
15	Angie Jeffrey	Randy	7-12-14	56 Watson Way	Powell 43065	Delaware	G
16	Tom Nank	Tom	7-12-14	16 Nank Way	43065	Delaware	G
17	Patty Casey	Patty	7-12-14	3 Spawence Ave	43065	Delaware	G
18	MARGARET VAN DER HURST	Walter	7-12-14	51 Swadlow Ave	43065	Delaware	G
19	James Neslie	James	7-12-14	50 Swadlow Ave	43065	Delaware	G
20	Sharon Miller	Sharon	7-12-14	66 Sanderling	43065	Delaware	G
21	Dale Mills	Dale	7-12-14	60 Sanderling	43065	Delaware	G
22	Ann Barack	Ann	7-12-14	70 Sanderling	43065	Delaware	G

23	MEISSA MILLER	MICHAEL MILLER	7-13-14	80 SUNDRIE WAY	POWELL OH 43065	Delaware	G
24	Michael Schmel	Michael Schmel	7-13-14	864 Middlebury Ct	43065	Delaware	G
25	Dave Meade	Dave Meade	7-13-14	853 Middlebury Ct	43065	Delaware	G
26	Billie Louisa Billie	Billie Louisa Billie	7/13/14	843 Middlebury Ct	43065	Delaware	G
27	Tal-Hua Belmont	Tal-Hua Belmont	7/13/14	843 Middlebury Ct	43065	Delaware	G
28	Tiffany Hunter	Tiffany Hunter	7/13/14	71 Sandring Ave	43065	Delaware	G
29	Renee Rice	Renee Rice	7/13/14	61 Sandring Ave	43065	Delaware	G
30	Danielle Rice	Danielle Rice	7-13-14	61 Sandring Ave	43065	Delaware	G
31	Ryan Neeks	Ryan Neeks	7-13-14	41 Sandring Ave	43065	Delaware	G
32	Kimberly Isabel	Kimberly Isabel	7-13-14	41 Sandring Ave	43065	Delaware	G
33	Scott Joseph	Scott Joseph	7-13-14	105 Watson Way	43065	Delaware	G
34	Hans Jerome	Hans Jerome	7-13-14	125 Watson Way	43065	Delaware	G
35	Ruschel	Ruschel	7-13-14	140 Watson Way	43065	Delaware	G
36	Victoria Smith	Victoria Smith	7-13-14	136 Watson Way	43065	Delaware	G
37	Raenee Gross	Raenee Gross	7-14-14	236 Woodland Dr	43065	Delaware	A
38	R. Joseph Tarrant	R. Joseph Tarrant	7/14/14	238 Rdx Side	43065	Delaware	A

39	Renee Marie	Renee Marie	7/14/14	308 Ridge Side Dr	Powell Ohio 43065	Delaware	A
40	Jehn Morris	Jim Morris	7/14/14	309 Ridge Side Dr	Powell OH 43065	Delaware	A
41	Bryan Russell	Bryan Russell	7-14-14	308 Ridge Side Dr	Powell OH 43065	Delaware	A
42	(NAME) TRACIA MORFITT	Tracy	7/14/14	343 Whitford Dr	Powell	Delaware	A
43	CATHARINE CIRTY	Cathy Cirty	7/14/14	385 Hopewell Dr	Powell	DELAWARE	A
44	Debra	Debra	7/14/14	316 Wickford Ave	Powell &	Delaware	A
45	PAUL VERLIND	Paul Verline	7/14/14	144 Meadow Ridge Ct	Powell, OH 43065	Delaware	A
46	Wanda	Wanda	7/14/14	144 Norton Forge	Powell OH	Delaware	A
47	G.T. Leonard	G.T. Leonard	7/14/14	124 TRAM EDGE CIR	Powell OH 43065	Delaware	A
48	TRACIA MORFITT	Tricia Morfitt	7/14/14	309 Ridge Side Dr	Powell OH 43065	Delaware	A
49	Sarah Liberty	Sarah Liberty	7/14/14	332 Wheatstone Drive East	Powell, OH	Delaware	A
50	Angie Kelley	Angie Kelley	7/14/14	319 Glenview Circle	Powell OH	Delaware	A

51	Jim Coleman	James E. Coleman	7/14/14	334 1/2 Elk Island Rd	Powell OH 43065	Delaware	A
52	Mandy Oberly	Mandy	7/14/14	312 Ridge Side Dr	Powell OH 43065	Delaware	A
53	Alison Shackley	Alison Shackley	7/14/14	236 Woodley Cir E	Powell, OH 43065	Delaware	A
54	Anthony Shackley	Anthony Shackley	7/14/14	236 Woodley Cir E	Powell, OH 43065	Delaware	A
55	William Terry	William Terry	7/14/14	241 Pulaski Dr	Powell, OH 43065	Delaware	D
56	Matthew A. Telick	Matthew A. Telick	7/14/14	1160 Amaranthus Dr.	Powell, OH 43065	Delaware	G
57	Raemond E. Telick	Richard E. Delick	7/14/14	1160 Amaranthus Dr.	Powell OH 43065	Delaware	G
58	Candi Joseph	Candi Joseph	7/14/14	105 Watson Way	Powell OH 43065	Delaware	G
59	Caren Kruest	Caren Kruest	7/14/14	86 Watson Way	Powell, OH 43065	Delaware	G
60	STEVE KUEST	Steve Kuest	7/14/14	86 Watson way	Powell, OH	Delaware	G
61	Sarah Blake	Sarah Blake	7/16/14	234 Smokewood Rd	Powell OH	Delaware	G
62	Elizabeth Grzebick	Elizabeth Grzebick	7/16/14	115 Watson Way	Powell OH	Delaware	G
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF Delaware

I, Elizabeth S. Grzelak (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 62 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Elizabeth S. Grzelak
(Signature of Circulator)

115 Watson Way
(Permanent residence street address)

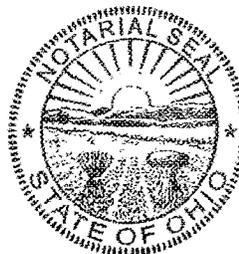
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Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
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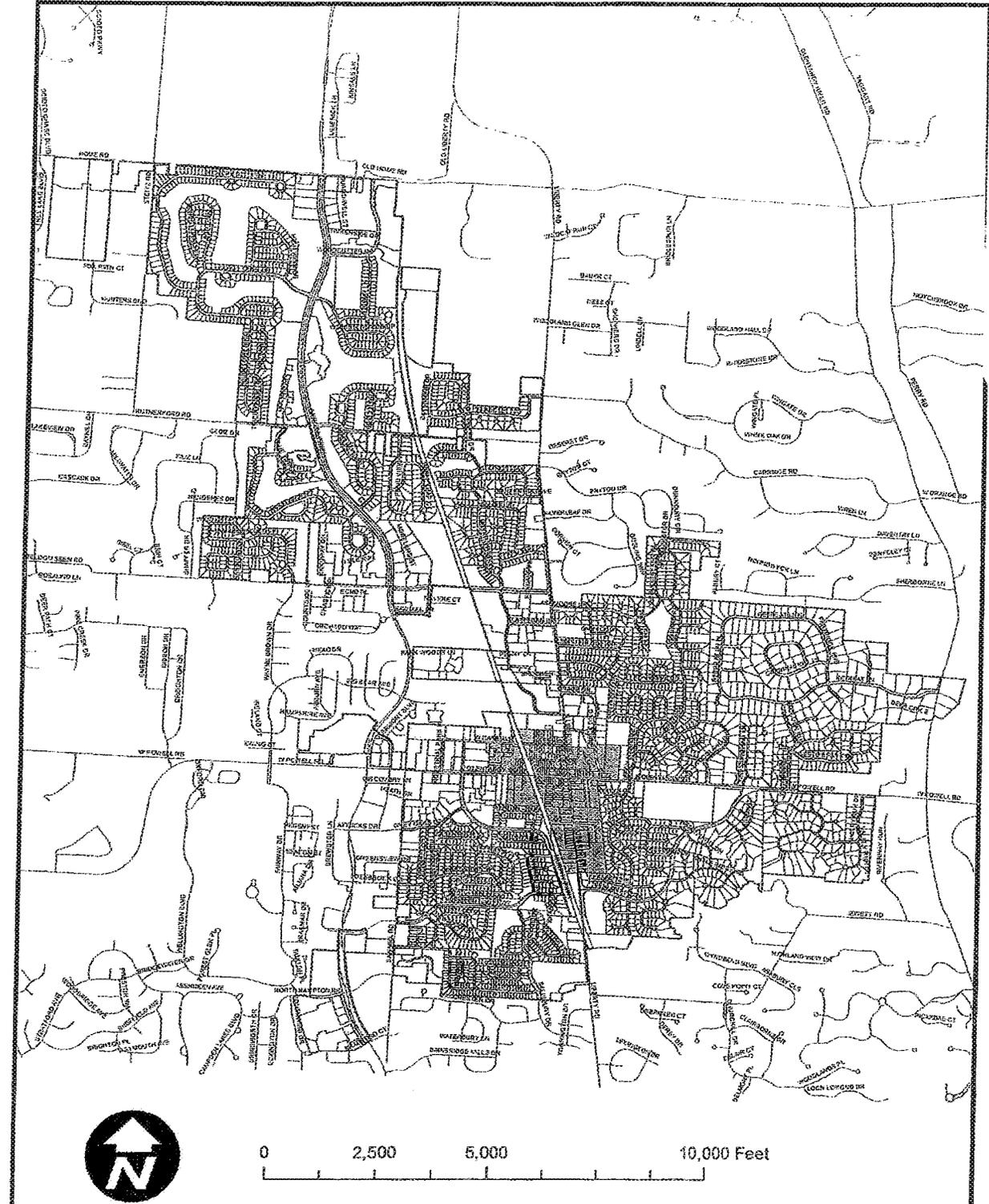
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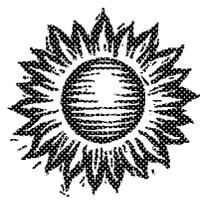
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- ZONING**
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 - DOWNTOWN RESIDENCE DISTRICT
 - LIBERTY TOWNSHIP FARM RESIDENCE DISTRICT
 - LIBERTY TOWNSHIP PLANNED COMMERCIAL DISTRICT
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 Powell Boundary

City of Powell
 Zoning Districts
 Map 2014

Development Department
 47 Hall Street
 Powell, Ohio 43086
 (614) 885-5380
 (614) 885-5339 fax
www.cityofpowell.us



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INITIATIVE PETITION

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BY: AV 8:18am

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Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Charles H. Cook	<i>Charles H. Cook</i>	11/14/2014	300 Beech Trail Ct	Powell, Ohio 43065	Delaware	Powell A
2	Dennis Wibe	<i>Dennis Wibe</i>	12/9/14	220 Beech Trail Ct	Powell OH 43065	Delaware	Powell
3	Sharon A. Cook	<i>Sharon A. Cook</i>	11/12/14	300 Beech Trail Ct.	Powell OH 43065	Delaware	Powell A
4	HEATHER BLAIR	<i>Heather Blair</i>	7/12/14	309 Beech Trail Ct	Powell OH	DELAWARE	Powell A
5	Katharina Beynon	<i>Katharina Beynon</i>	7.12.14	184 Glenway Pl. 43065	Powell Oh	Delaware	Powell A
6	Lynn Beck-Ferry	<i>Lynn Beck-Ferry</i>	7/12/14	194 Glenway Pl. 43065	Powell OH 43065	Delaware	Powell A

7	Patty Resatha	Pat Resatha	7-12-14	204 Olenfanty ridge dr	Powell, OH 43065	Delaware	Powell A
8	ERIC MASZKUSKI	Eric Maszki	7-12-14	204 Olenfanty Ridge Dr.	Powell, OH 43065	Delaware	Powell A
9	SAROS PATEL	Sarosh Patel	7/12/14	264 OLENTANSY RIDGE PL	POWELL OH 43065	DELAWARE	POWELL A
10	SHISHIR KATER APRESH	Shishir Kater	7-12-14	270 ANDOVER DR	POWELL OH 43065	Delaware	Powell F
11	PATEL	Nupur Patel	7.12.14	264 OLENTANSY RIDGE PL	POWELL OH 43065	DELAWARE	Powell A
12	Erin Vedra	Erin Vedra	7-12-14	249 Olenfanty ridge PL	POWELL OH 43065	delaware	Powell A
13	ERIC HINTERSCHEID	Eric Hinterschied	7-12-14	303 Olenfanty ridge PLACE	POWELL OH 43065	Delaware	Powell A
14	Valerie Hinterschied	Valerie Hinterschied	7-12-14	303 Olenfanty Ridge Place	POWELL OH 43065	Delaware	Powell A
15	JAY & SUSANNE	Glenn & Susanne	7-12-14	283 Hopewell pr	POWELL OH 43065	Delaware	Powell A
16	DOUG MEEKER	Lynn Meeker	7/12/14	284 HOPEWELL DRIVE	POWELL OH 43065	DELAWARE	POWELL A
17	Margaret Meeker	Margaret Meeker	7/12/14	284 Hopewell Dr.	POWELL OH 43065	Delaware	Powell A
18	ROGER OVERBERG	Lynne Overberg	7-12-14	274 Beech Ridge CT	POWELL OH 43065	Delaware	Powell A
19	Lynne Overberg	Lynne Overberg	7-12-14	142 Beech Ridge Dr.	POWELL OH 43065	Delaware	Powell A
20	Kocher David	Kocher David	7-12-14	142 Beech Ridge Dr	POWELL OH 43065	Delaware	Powell A
21	Michael Wible	Michael Wible	7-12-14	226 Beech Trail Ct.	POWELL OH 43065	Delaware	Powell A
22	Thomas Veola	Thomas Veola	7-12-14	296 Olenfanty RIDGE PL	POWELL OH 43065	Delaware	Powell A

23	Mary Kuenl	Mary Kuenl	7-13-14	234 Beech Ridge Dr	Powell OH 43065	Delaware	Powell A
24	Matthew Kuehl	Matt Kuehl	7-13-14	236 Beech Ridge Dr.	Powell OH 43065	Delaware	Powell A
25	Ferri Bischoff	Ann Bischoff	7-13-14	208 Beech Ridge Dr	Powell OH 43065	Delaware	Powell A
26	ED Bischoff	Ed Bischoff	7/13/14	208 Beech Ridge Dr	Powell OH 43065	Delaware	Powell A
27	Nerly Haddon	Nerly Haddon	7/13/14	179 Beech Ridge Dr	Powell, OH 43065	Delaware	Powell A
28	Ann Haddon	Ann Haddon	7/13/14	179 Beech Ridge Dr	Powell, OH 43065	Delaware	Powell A
29	Mary S. Wood	Mary S. Wood	7/13/14	166 Beech Ridge Dr	Powell 43065	Delaware	Powell A
30	Barbara Wood	Barbara Wood	7/13/14	157 Beech Ridge Dr	Powell 43065	Delaware	Powell A
31	Mark Kuehl	Mark Kuehl	7/13/14	154 Beech Ridge Dr	Powell 43065	Delaware	Powell A
32	Alyson Kuehl	Alyson Kuehl	7/13/14	154 Beech Ridge Dr	Powell 43065	Delaware	Powell A
33	Jane M. Kuehl	Jane M. Kuehl	7/13/14	154 Beech Ridge Dr	Powell 43065	Delaware	Powell A
34	Stephen Mackler	Stephen Mackler	7-13-14	158 Beech Ridge Dr	Powell 43065	Delaware	Powell A
35	Shiley Letere	Shiley Letere	7/13/14	225 Glen Village Ct	Powell 43065	Delaware	Powell A
36	INDRA VERMA	Indra Verma	7/13/14	254 Glen Village Ct	POWELL 43065	Delaware	Powell A
37	ERWIN GRANISMA	Erwin Granisma	7/13/14	278 Glen Village Ct	POWELL 43065	Delaware	Powell A
38	Joan Nae	Joan Nae	7/13/14	284 Glen Village Ct	Powell 43065	Delaware	Powell A

39	Andrew Nue	ANUE	7/13/2014	2846 Len Village Ct	Powell On 4365 Delaware	Powell A
40	Robert Saurman	Robert Saurman	7/13/14	243 Glen Village Ct #2	Powell/Ohio Delaware	Powell A
41	Pierre Santiago	Dianne Santiago	7/13/14	2426 Len Village Ct #1	Powell, OH Delaware	Powell A
42	Shelley Harper	Shelley Harper	7/13/14	Station Village	Powell OH Delaware	Powell A
43	Scott Dickworth	Scott Dickworth	7/13/14	109 Beach Ridge	Powell, OH Delaware	Powell A
44	Jeremy Cole	Jeremy Cole	7/13/14	89 Beach Ridge Dr.	Powell, OH Delaware	Powell A
45	Amanda Cole	Amanda Cole	7/13/14	89 Beach Ridge Dr	Powell, OH Delaware	Powell A
46	Laurie	Laurie Gillman	7/13/14	300 Ridgely side Dr	Powell, OH Delaware	Powell A
47	Joe Ferry	Joe Ferry	02/13/2014	194 Olmsted Rd PI	Powell OH Delaware	Powell A
48	Brad Fowler	Brad Fowler	7/13/14	170 Oakley Ridge PI	Powell OH Delaware	Powell A
49	Mari V. J. Gattler	Mari V. J. Gattler	7/16/14	234 Muladore Dr	Powell OH Delaware	Powell A
50	Kandice Perika	Kandice Perika	7/17/14	278 Muladore Dr	Powell OH Delaware	Powell D.

51	JOHN R. KALMARE	J R Kalmare	7/13/14	225 BEECH TRAIL CT.	43065 Powell, OH	DELAWARE	POWELL A
52	Cathy Mielke	Cathy Mielke	7/13/14	238 Beech Trail Ct.	43065 Powell, OH	Delaware	Powell A
53	Stephanie Mielke	Stephanie Mielke	7/13/14	238 Beech Trail Court	43065 Powell, OH	Delaware	Powell A
54	Eileen Kalmare	Eileen Kalmare	7/13/14	225 Beech Trct	43065 Powell, OH	Delaware	Powell A
55	Gloria Great	Joine Frost	7/13/14	286 BEECH TRAIL CT.	43065 Powell, OH	Delaware	Powell A
56	ANDREW WOOD	Andrew Wood	7/13/14	106 Beechway Dr.	Powell, OH	Delaware	Powell A
X	Carol Jones	Carol Jones	7/13/14	285 Beech Street Ct.	Powell, OH	Delaware	Powell A
58	Carol W.	Carol W.	7/13/14	285 Beech Street Ct.	Powell, OH	Delaware	Powell A
58	Kennedy Jones	Kennedy Jones	7/13/14	285 Beech Trail Ct.	43065 Powell, OH	DELAWARE	Powell A
60	Rosario J. Jones	Rosario J. Jones	7/13/14	297 Beech Trail Ct	Powell, OH	Delaware	Powell A
61	Trisha Smoak	Trisha Smoak	7/13/14	297 Beech Trail Ct	Powell, OH	Delaware	Powell A
62	MICHAEL CHAMBERLAIN	MICHAEL CHAMBERLAIN	7/13/14	297 Beech Trail Ct	Powell, OH	Delaware	Powell A
62	THOMAS W. TURNER	THOMAS W. TURNER	7/13/14	309 Beech Trail Ct	Powell, OH	Delaware	Powell A
63	LAWRENCE J. WILSON	LAWRENCE J. WILSON	7-13-14	271 BEECH TRAIL CT	Powell, OH	DELAWARE	Powell A
64	Rhonda Reedy	Rhonda Reedy	7-13-14	262 Beech Trail Ct	Powell, OH	Delaware	Powell A
65	Mark A. Werner	Mark A. Werner	7/13/14	262 Beech Trail Ct	Powell, OH	Delaware	Powell A
66	Tracy MacDowell	Tracy MacDowell	7/13/14	393 Astorville Cir. E	Powell, OH	Delaware	Powell A
67	Frances Gardner	Frances Gardner	7/13/14	283 Magnolia Trail S.W.	43065 Powell, OH	Delaware	Powell A
68	Alicia Caskey	Alicia Caskey	7/13/14	2070 Francine Ln	43065 Powell, OH	Delaware	Powell A
69	PAL L. VAGNER	PAL L. VAGNER	7/14/14	121 Glenkangy Ridge Place	43065 Powell, OH	Delaware	Powell A
70	Anne P. Dimmick	Anne P. Dimmick	7/14/14	218 Muldore Dr.	Powell, OH	Delaware	Powell A

71	JAMES A. DIMMICK	J. Colozza	7/14/14	218 MUNDARE DR	POWELL, OH 43065	DELAWARE	POWELL D
72	PETER A. KUNK	Peter A. Kunk	7/14/14	205 PADDOCK CIR W	POWELL, OH 43065	DELAWARE	POWELL D
73	Christine A. Kunk	Christine A. Kunk	7/14/14	205 Paddock Cir W	Powell OH 43065	Delaware	Powell D
74	SARA FERRY	Sara Ferry	7/16/14	261 Muladore Dr.	POWELL OH 43065	Delaware	POWELL D
75	Tom Stausman	Tom Stausman	7/16/14	241 Muladore Dr	Powell OH 43065	Delaware	Powell D
76	Doreen Motika	Doreen Motika	7/16/14	196 Muladore Dr.	POWELL OH 43065	Delaware	POWELL D
77	Michael Motika	Michael Motika	7/16/14	196 Muladore Dr	POWELL OH 43065	Delaware	POWELL D
78	Laura Rutzky	Laura Rutzky	7/16-14	211 Muladore Dr	POWELL OH 43065	Delaware	POWELL D
79	SWANNA HILL	Swanna Hill	7/16/14	199 Paddock Cir W	POWELL OH 43065	Delaware	POWELL A
80	Bryan Medina	Bryan Medina	7/16/14	262 Westview Dr	POWELL OH 43065	Delaware	POWELL A
81	Karen Giallo	Karen Giallo	7/16/14	228 Paddock Cir W	POWELL OH 43065	Delaware	POWELL A
82	Janet DeBore	Janet DeBore	7/16/14	238 Paddock Cir W	POWELL OH 43065	Delaware	POWELL A
83	Marlene McEllich	Marlene McEllich	7-16-14	237 Paddock Cir	POWELL OH 43065	Del	POWELL A
84	Gregory Vargo	Gregory Vargo	7-16-14	187 Muladore Dr.	Powell OH 43065	Del.	Powell D
85	Karen Vargo	Karen Vargo	7/16/14	179 Muladore Dr	Powell OH 43065	Del	Powell A
86	Katherine M. Edrington	Katherine M. Edrington	7-16-14	2311 Whitestone Dr. W	POWELL OH 43065	Del	Powell A
87	James L Berger	James L Berger	7-16-14	294 Glen Village Ct	POWELL OH 43065	Del	Powell A
88	Kathleen C Berger	Kathleen C Berger	7-16-14	294 Glen Village Ct	POWELL OH 43065	Del	Powell A
89	Timothy M. Burke	Timothy M. Burke	7/16/2014	238 Beech Trail Ct	POWELL OH 43065	Delaware	Powell A
90	Karen Sanford	Karen Sanford	7/16/2014	273 Woodbine Cir W	POWELL OH 43065	Delaware	Powell A

PRINT VOTER NAME	Sign	Date	Address	CITY STATE ZIP	COUNTY	PRECINCT
91	Brenda Tillot	7/16	62 Forest Ridge	Powell, OH 43065	Del.	Powell A
92	Scott Tillet	7/16/14	62 Forest Ridge	Powell, OH 43065	Delaware	Powell A
93	Leslie Lopes	7/16/14	207 Woodedge Cir. W	Powell, OH 43065	Del	Powell A
94	KENIN LOPES	7-16-14	207 WOODEDGE CIR. W	POWELL, OH 43065	DEL	POWELLA
95	Jana Cassidy	7-16-14	239 Ridge Side Dr	Powell, Oh.	Del	Powell A
96	Herbert Cassidy	7/16/14	239 Ridge Side Dr.	Powell, OH,	Del.	Powell A
97	Sherné Hartley	7-16-14	180 Beech Ridge Dr.	Powell, Oh	Del	Powell A
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF Delaware

I, Denise A. Wible (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 96 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Denise A. Wible
(Signature of Circulator)

226 Beech Trail Court
(Permanent residence street address)

Powell OH 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 16th day of July, 2014.

My Commission Expires:

3/20/2016

Carol L. Wheeler
Notary Public



CAROL L. WHEELER
Notary Public, State of Ohio
My Commission Expires
3-20-16

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

Article 4, Section 14: No later than February 1, 2015, the City Council of Powell, Ohio shall organize a Comprehensive Plan Commission to draft a Preliminary Comprehensive Plan for zoning and development in the City of Powell, Ohio. The Comprehensive Plan Commission shall consist of the following five members: (1) the President of the Bartholomew Run Homeowners Association or such person's designee; (2) the President of the Olentangy Ridge Civic Association or such person's designee; (3) the President of the Grandshire Homeowners Association or such person's designee; (4) the President of the Liberty Lakes Homeowners Association or such person's designee; and (5) the President of the Murphy Park Homeowners Association or such person's designee.

Article 4, Section 15: In drafting the Preliminary Comprehensive Plan, the Comprehensive Plan Commission shall take the following three procedural steps: Phase I, to make findings regarding the current state of the Powell community's character and identity in light of current socioeconomic conditions; Phase II, to draft a composite plan identifying specific zones and/or districts that reflect the natural, cultural, and visual elements of the City of Powell; and Phase III, to make recommendations to City Council through the creation of a Preliminary Comprehensive Plan.

Article 4, Section 16: The Comprehensive Plan Commission shall hold at least two public workshops between January 1, 2015 and June 30, 2015 to receive public input and encourage public deliberation regarding the creation of the Preliminary Comprehensive Plan.

Article 4, Section 17: The Comprehensive Plan Commission shall submit the Preliminary Comprehensive Plan to the City Council of Powell, Ohio no later than September 30, 2015.

Article 4, Section 18: The City Council of Powell, Ohio shall consider the Preliminary Comprehensive Plan, make adjustments as necessary consistent with the Phase I findings of Comprehensive Plan Commission, and pass an ordinance no later than March 31, 2016 legislatively adopting a Final Comprehensive Plan.

Article 4, Section 19: The Final Comprehensive Plan shall be in compliance with the following objective criteria: (1) the needs and desires of the residents of Powell are the paramount consideration; (2) preserve the natural, cultural, and visual elements of the City of Powell; (3) limit traffic congestion on Powell roads; (4) balance residential and non-residential land use in Powell based upon the scope and cost of existing City services and level of tax revenues; (5) land in Powell should be available for parking in retail areas; and (6) real property in the Powell "Downtown Business District" shall not be developed with "high-density housing."

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "high-density housing" includes but is not limited to the following real property: (a) residential real property improved with building(s) greater than two-stories in height; (b) real property improved with dwellings containing more than one family; (c) leased real property improved with dwellings containing more than one family; and (d) vacant land that will be used for dwellings containing more than one family.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "family" means an individual living alone or a group of related or unrelated individuals living together in a household.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "Downtown Business District" shall refer to the real property identified as the "Downtown Business District" on the "City of Powell Zoning Districts Map 2014" as of June 17, 2014.

Article 4, Section 20: All Ordinances of the City of Powell must comply with the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV.

Article 4, Section 21: The Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV shall not be compatible with Ordinance 2014-10 and/or the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street.

Uncodified: No party, public or private, shall take any actions, including but not limited to construction activity, in reliance upon Ordinance 2014-10 and the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street. The subject property for the Ordinance 2014-10 Final Development Plan shall remain economically viable for other uses, including residential and non-residential uses, notwithstanding this amendment to the City Charter of Powell, Ohio.

Uncodified: This Charter Amendment shall take effect on the earliest period allowed by law.

INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully propose to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014, the following amendment to the City Charter of Powell, Ohio, which is incorporated herein and attached hereto as Exhibit 1.

Attached hereto as Exhibit 2 is the "City of Powell Zoning Districts Map 2014," which is incorporated herein and identifies the area of Powell, Ohio referenced as the "Downtown Business District" in the proposed charter amendment attached hereto as Exhibit 1.

Attached hereto as Exhibit 3 is City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed charter amendment attached hereto as Exhibit 1.

RECEIVED
JUL 17 2014

BY: AV 8:18 am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Jeanne Conite	Jeanne Conite	7/14/14	371 Shyanne Dr.	43065 Powell, OH	Delaware	E
2	JOSEPH CONITE	Joseph Conite	7/14/14	571 Shyanne Dr.	43065 Powell, OH	Delaware	E
3	Kevin Cui	Kevin Cui	7/14/14	345 Safford Way	Powell Ohio	Del.	E
	JITEN RAJAREL	Jiten Rajareel	7/15/14	356 Inglelight Ln Powell	Powell 43065	Delaware	E
4	YICANG XING	J. Xing	7/15/14	374 Shyanne Dr.	Powell, OH 43065	Delaware	E
5	Xiaohua Cai	Xiaohua Cai	7/15/14	374 Shyanne Dr.	Powell OH 43065	Del.	E
6	Patricia Robb	Patricia Robb	7/15/14	387 Shyanne A.	Powell 43065	Delaware	E

Print

	Name	Signature	DATE	VOTING RESIDENCE	CITY/STATE ZIP	COUNTY	PRECINCT
7	Stanley Linn	<i>Stanley Linn</i>	7/15/14	162 Wagon Trails	Powell 43065	Delaware	E
8	JEFFREY Linn	<i>Jeffrey Linn</i>	7/15/14	162 Wagon Trails S	Powell 43065	DELAWARE	E
9	Caren A Belt	<i>Caren A Belt</i>	7/15/14	278 Shyanne Ct.	Powell 43065	Delaware	E
10	Bryan D Belt	<i>Bryan D Belt</i>	7/15/14	276 Shyanne Ct	Powell 43065	Delaware	E
11	Deb Edwards	<i>Deb Edwards</i>	7/15/14	285 Shyanne Ct	Powell 43065	Delaware	E
12	Kaci Gibson	<i>Kaci Gibson</i>	7/15/14	361 S. S. Fieldway	Powell 43065	Delaware	E
13	J. Michael Stanley	<i>J. Michael Stanley</i>	7-15-14	350 Shyanne Dr	Powell 43065	Delaware	E
14	Averylyn Stanley	<i>Averylyn Stanley</i>	7/15/14	350 Shyanne Dr	Powell 43065	Delaware	E
15	Douglas Wernett	<i>Douglas Wernett</i>	7/15/14	342 Shyanne Dr.	Powell 43065	Delaware	E
16	Nathan Young	<i>Nathan Young</i>	7/15/14	366 Shyanne Dr	Powell 43065	Delaware	E
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF DELAWARE

I, JOSEPH F. CONTI (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 16 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Joseph F. Conti
(Signature of Circulator)

371 Shyanne Dr.
(Permanent residence street address)

Powell, Ohio 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 14th day of July, 2014.

My Commission Expires:

03/21/2018

[Signature]

Notary Public



JONATHAN STEWART
Notary Public, State of Ohio
My Commission Expires 03/21/2018
Recorded in Franklin County

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

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Article 4, Section 18: The City Council of Powell, Ohio shall consider the Preliminary Comprehensive Plan, make adjustments as necessary consistent with the Phase I findings of Comprehensive Plan Commission, and pass an ordinance no later than March 31, 2016 legislatively adopting a Final Comprehensive Plan.

Article 4, Section 19: The Final Comprehensive Plan shall be in compliance with the following objective criteria: (1) the needs and desires of the residents of Powell are the paramount consideration; (2) preserve the natural, cultural, and visual elements of the City of Powell; (3) limit traffic congestion on Powell roads; (4) balance residential and non-residential land use in Powell based upon the scope and cost of existing City services and level of tax revenues; (5) land in Powell should be available for parking in retail areas; and (6) real property in the Powell "Downtown Business District" shall not be developed with "high-density housing."

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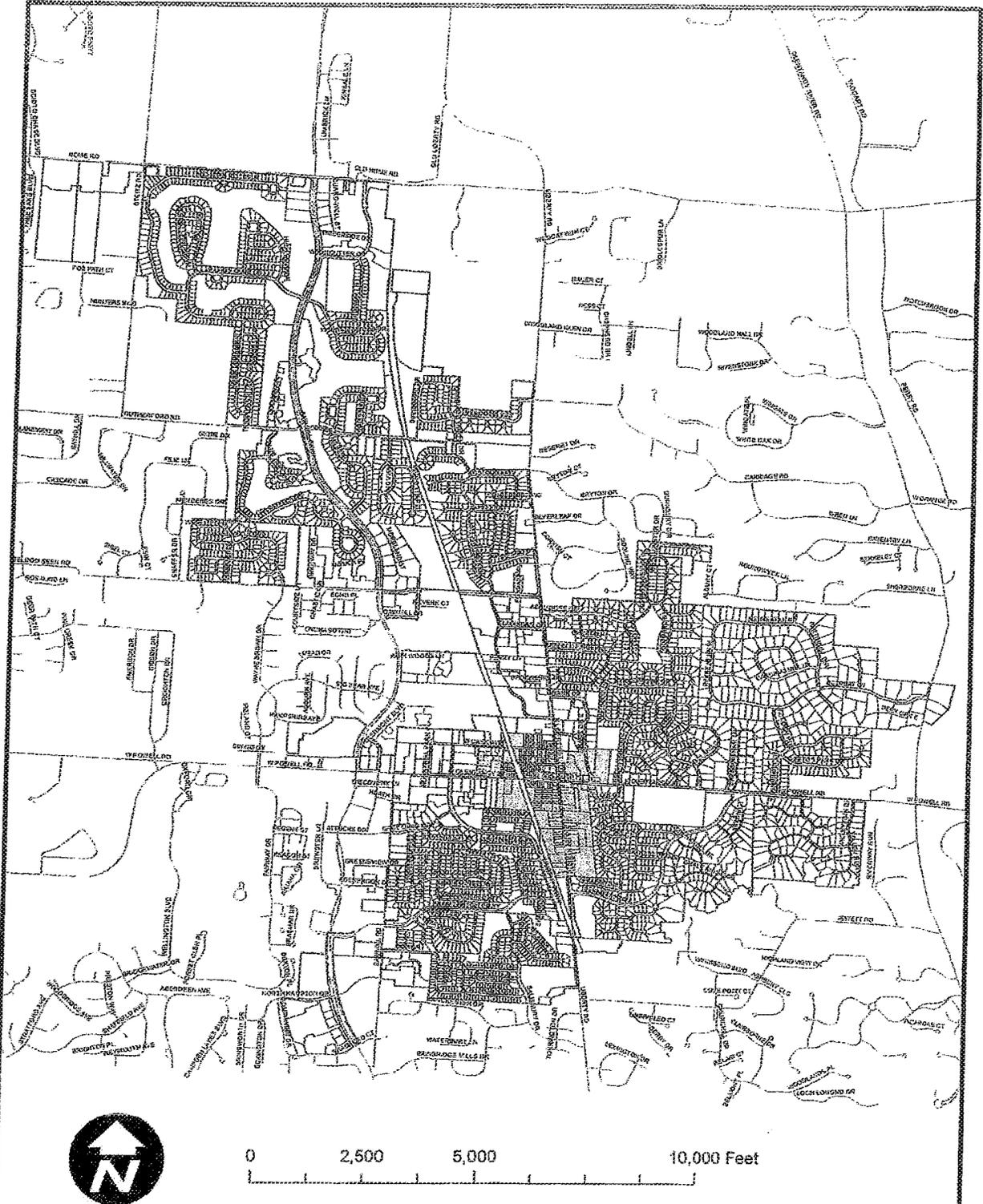
For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "Downtown Business District" shall refer to the real property identified as the "Downtown Business District" on the "City of Powell Zoning Districts Map 2014" as of June 17, 2014.

Article 4, Section 20: All Ordinances of the City of Powell must comply with the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV.

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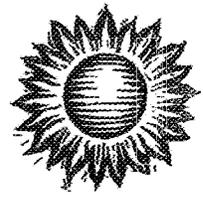
Uncodified: This Charter Amendment shall take effect on the earliest period allowed by law.



- ZONING**
- DOWNTOWN BUSINESS DISTRICT
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 - RESIDENCE DISTRICT
- Streets
 - Parcels
 - Powell Boundary

City of Powell
 Zoning Districts
 Map 2014

Development Department
 47 Hall Street
 Powell, Ohio 43085
 (614) 885-5380
 (614) 885-5339 fax
www.cityofpowell.us



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 City of Powell, Ohio - Geocode County Auditor's
 Office GIS Project
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 © 2014 Powell - Planning & Zoning Department, Powell, Ohio, 2014 04 17 09:17

INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

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To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully propose to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014, the following amendment to the City Charter of Powell, Ohio, which is incorporated herein and attached hereto as Exhibit 1.

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RECEIVED
JUL 17 2014
BY: AV 8:18 am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

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Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Stacey Hanes	<i>Stacey Hanes</i>	7/12/14	125 Gairway Ct	Powell OH 43065	Delaware	E
2	Allison Kelly	<i>Allison Kelly</i>	7/14/14	418 Rosewood Ct	Powell OH 43065	Delaware	F
3	Laurie Hoffmeyer	<i>Laurie Hoffmeyer</i>	7/14/14	240 Valley Run Pl	Powell OH 43065	Delaware	C
4	Jason Barton	<i>Jason Barton</i>	7/14/14	259 Wagon Tail N.	Powell OH 43065	Delaware	E
5	Jessica Barton	<i>Jessica Barton</i>	7-14-14	259 Wagon Trail N	Powell, OH 43065	Delaware	E
6	Courtney Lee	<i>Courtney Lee</i>	7-14-14	115 Gairway Ct	Powell OH 43065	Delaware	F

7	Emily Hone	Emily Hone	7/14/14	125 Gainsway Ct	Powell OH 43065	Delaware	E
8	Ron Minto	Ron Minto	7-14-14	497 Eagleview Ct	Powell, OH 43065	Delaware	F
9	Jamie Alme	Jamie Alme	7/14/14	125 Gainsway Ct	Powell, OH 43065	Delaware	E
10	Lindsey King	Lindsey King	7-14-14	116 Gainsway Ct	Powell, OH 43065	Delaware	E
11	Josiah Walker	Josiah Walker	7-14-14	96 Gainsway Ct	Powell, OH 43065	Delaware	F
12	Sarah Minto	Sarah Minto	7-14-14	497 Eagleview Ct	Powell, OH 43065	Delaware	F
13	Kathy Detrasco	Kathy Detrasco	7-14-14	246 Wagon Trl N.	Powell 43065	Delaware	E
14	Nick DeFenese	Nick DeFenese	7/14/14	246 Wagon Trl N.	Powell 43065	Delaware	E
15	Jeff DeGibee	Jeff DeGibee	7/14/14	277 Downhill Ave	Powell 43065	Delaware	E
16	Kevin Gray	Kevin Gray	7-14-14	116 Gainsway Ct	Powell 43065	Delaware	E
17	Kimberly Phipps	Kimberly Phipps	7-14-14	500 DeLaney's Cir	Powell 43065	Delaware	E
18	Eric P. Pata	Eric P. Pata	7/14/14	500 DeLaney's Cir	Powell 43065	Delaware	E
19	Diana Lopez	Diana Lopez	7/14/14	133 Hartland Ct	Powell 43065	Delaware	E
20	Heidi Buehler	Heidi Buehler	7/15/14	122 Residential Pkwy	Powell, OH	Delaware	E
21	John Harvey	John Harvey	7-15-14	1325 Lawrence Ct	Powell, OH	Delaware	E
22	Shara Rakousky	Shara Rakousky	7-10-14	304 Rosewood Cr	Powell	Delaware	F

23	Susan Sadaukaskas	Susan Sadaukaskas	7/16/14	111 Tiller Dr	Powell, OH 43068	Delaware	F
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EXHIBIT 1

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AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

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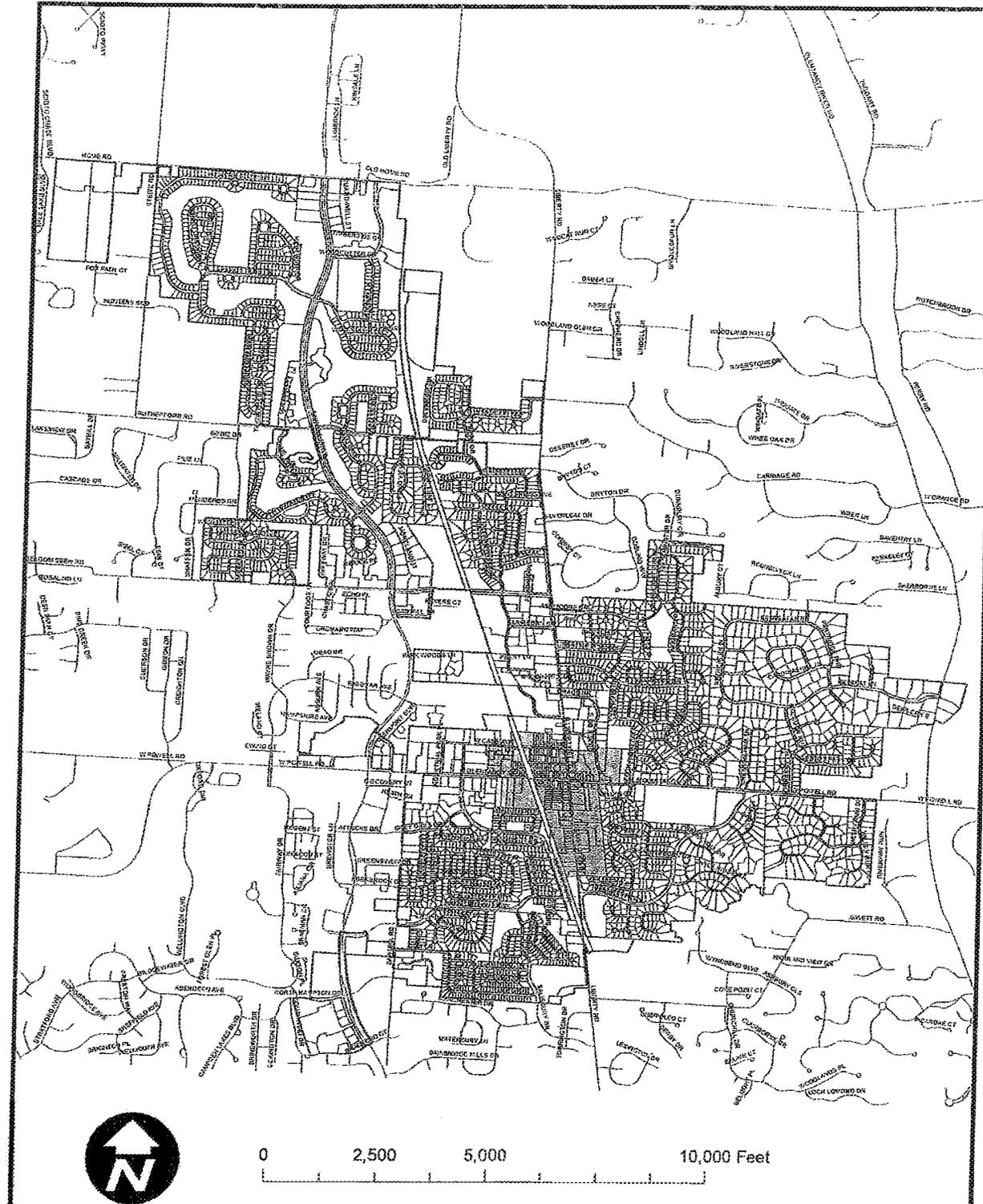
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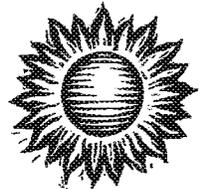
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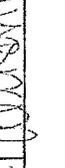
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Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Emilie Duncan		7/12/14	301 Weatherburn Ct.	Powell, OH 43065	Delaware	Powell C
2	Randy Duncan		7/12/14	301 Weatherburn Ct	Powell, OH 43065	Delaware	Powell C
3	Tara Schmitz		7/13/14	287 Weatherburn Ct	Powell OH 43065	Delaware	Powell C
4	Joe Schmitz		7/13/14	287 Weatherburn Ct.	Powell 43065	"	"
5	Kipley Dockery		7/13/14	253 Weatherburn Ct.	Powell 43065	Delaware	Powell C
6	Allison Ward		7/13/14	233 Weatherburn Ct.	Powell 43065	Delaware	Powell C

7	Robert Wood	Mike Wong	7/13/14	233 Weatherburn Ct	Powell 43065	Delaware	Powell C
8	Brian Lyell	Bob Lyell	7/13/14	243 Weatherburn	Powell 43065	DELAWARE	POWELL
9	Kathryn Barton	Bob Barton	7/13/14	203 Weatherburn Ct.	Powell 43065	DELAWARE	Powell C
10	Josh Barton	Josh Barton	7/13/14	263 Weatherburn Ct	Powell 43065	DELAWARE	POWELL C
11	Thomas O'Brien	Thomas O'Brien	7/13/14	309 Weatherburn Ct	Powell 43065	Delaware	Powell C
12	Ann Kalline	Ann Kalline	7/13/14	295 Weatherburn Ct	Powell 43065	Delaware	Powell C
13	Farida Kazem	Farida Kazem	7/13/14	295 Weatherburn Ct	Powell 43065	Delaware	Powell C
14	Mary Schur	Mary Schur	7/13/14	223 Weatherburn Ct	Powell 43065	Delaware	Powell C
15	Teresa Powell	Teresa Powell	7/13/14	239 Weatherburn Dr	Powell 43065	Delaware	Powell C
16	Rete Johnson	Rete Johnson	7/13/14	229 Glenworth Ct	Powell 43065	Delaware	Powell C
17	Amy Carrawe	Amy Carrawe	7/13/14	197 Weatherburn Dr	Powell 43065	Delaware	Powell C
18	Abby Johnson	Abby Johnson	7/13/14	229 Glenworth Ct	Powell 43065	Delaware	Powell C
19	John Cruise	John Cruise	7/13/14	197 Weatherburn Dr	Powell 43065	Delaware	Powell C
20	Amber Clark	Amber Clark	7/13/14	278 Glenworth Ct	Powell 43065	Delaware	Powell C
21	Perry Clark	Perry Clark	7/13/14	278 Glenworth Ct	Powell 43065	Delaware	Powell C
22	Ann Kalline	Ann Kalline	7/13/14	217 Glenworth Ct	Powell 43065	Delaware	Powell C

23	Karen Meyer	Karen Meyer	7/13/14	277 Glenworth Ct	Powell OH 43065	Delaware	Powell C
24	Natalie McClosky	Natalie McClosky	7/13/14	134 Briar bend Blvd	Powell OH 43065	Delaware	Powell C
25	PATRICK FINNANE	PAFF -	7-13-14	288 Glenworth ct	Powell OH 43065	Delaware	Powell C
26	Lisa Fineran	Lisa Fineran	7-13-14	288 Colenworth	Powell OH 43065	Delaware	Powell C
27	ADON	Jill O'Brien	7/13/14	309 Weatherburn Dr	Powell OH 43065	Delaware	Powell C
28	Victoria Harper	Victoria Harper	7/13/14	280 Weatherburn Dr.	Powell OH 43065	Delaware	Powell C
29	Karen Gilbert	Karen Gilbert	7/13/14	269 Weatherburn Dr	Powell OH 43065	Delaware	Powell C
30	Rick Gilbert	Rick Gilbert	7/13/14	269 Weatherburn Dr	Powell OH 43065	Delaware	Powell C
31	Tom Meyer	Tom Meyer	7-14-14	241 Weatherburn Dr.	Powell OH 43065	Delaware	Powell C
32	Taryn Kope	Taryn Kope	7-14-14	171 Whitaker Ct.	Powell OH 43065	Delaware	Powell C
33	Trek Ruard	Trek Ruard	7-14-14	115 Walsend Ct	Powell OH 43065	Delaware	Powell C
34	Scott Harper	Scott Harper	7-14-14	789 Birchwood Blvd	Powell OH 43065	Delaware	Powell C
35	HILLI HARPER	HILLI HARPER	7-14-14	384 Briarland Blvd	Powell OH 43065	Delaware	Powell C
36	DAVID PAO	DAVID PAO	7/14/14	402 Briarland Blvd	Powell OH 43065	Delaware	Powell C
37	Michelle Pato	Michelle Pato	7/14/14	402 Briarland Blvd	Powell OH 43065	Delaware	Powell C
38	Jennifer Hecker	Jennifer Hecker	7-14-14	315 Weatherburn Dr.	Powell OH 43065	Delaware	Powell C

39		BRAD BECKER	7/14/14	215 WINTERBURN DR	POWELL OH 43065	DELAWARE	POWELL C
40	CHRISTINA TALENKO		7-14-14	725 WOODS HOLLOW LANE	POWELL OH 43065	DELAWARE	POWELL C
41	TRACY RUPPE		7-14-14	725 WOODS HOLLOW LN	POWELL OH 43065	DELAWARE	POWELL C
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF Franklin

I, Emilie Duncan (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 41 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.



(Signature of Circulator)

301 Weatherburn Ct.
(Permanent residence street address)

Powell, OH 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 16th day of July 2014.

My Commission Expires:

DEC. 7, 2014

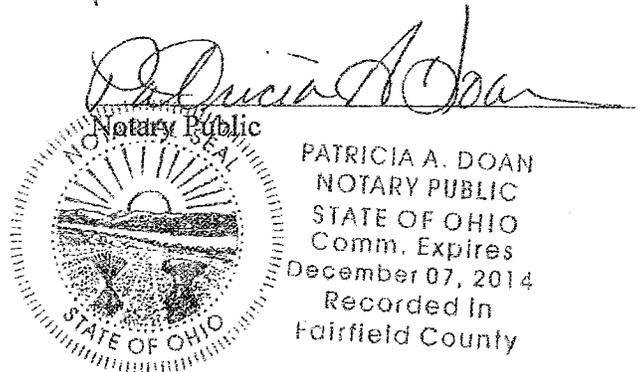


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City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

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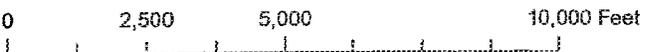
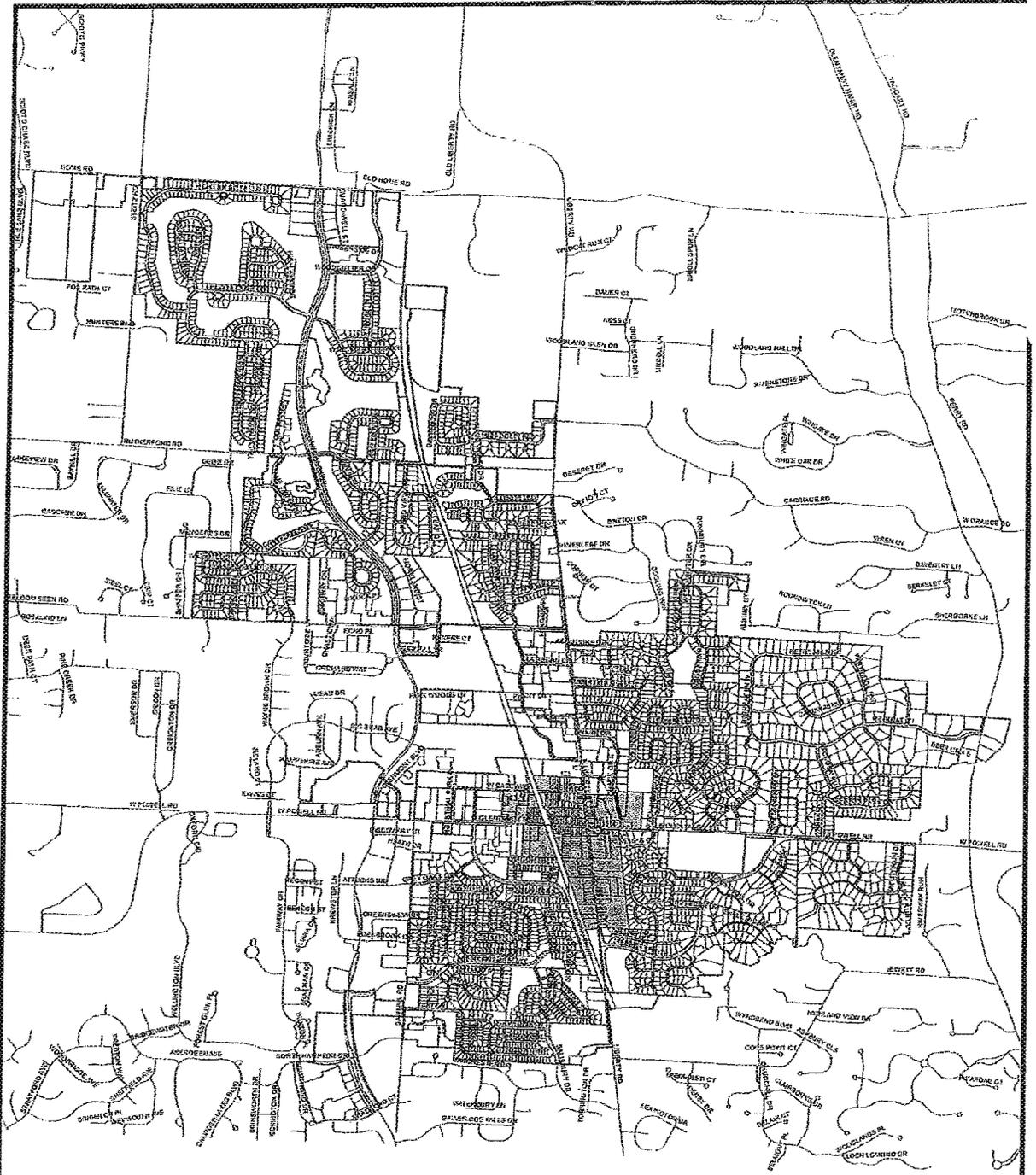
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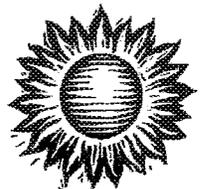
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 Drawn by: J.P.M.
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Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Charles Gerhold	<i>[Signature]</i>	7-11-14	236 Briar bend Blvd	Powell, OH 43065	Delaware	C
2	Christa Gerhold	<i>[Signature]</i>	7/11/14	256 Briar bend Blvd	Powell OH 43065	Delaware	C
3	Andrew M. Archer	<i>[Signature]</i>	7/11/14	36 Watson Way	Powell 43065	Delaware	G
4	Shelly M. Archer	<i>[Signature]</i>	7/11/14	36 Watson Way	Powell 43065	Delaware	G
5	Ernest Kirkish	<i>[Signature]</i>	7/13/14	156 Briar bend Blvd	Powell 43065	Delaware	C
6	Nancy Kirkish	<i>[Signature]</i>	7-13-14	156 Briar bend BLVD	Powell 43065	Delaware	C

7	JAMES EMERY	James Emery	7/13/14	165 Briarland Blvd	Powell 43065	Delaware	C
8	FELYN P. McINTYRE	Felyn P. McIntyre	7/13/14	165 Briarland Blvd.	Powell 43065	Delaware	C
9	ERIC HYOVI	Eric Hyovi	7/13/14	177 Briarland Blvd	Powell 43065	Delaware	C
10	AUDREY ESKES	Audrey Eskes	7-13-14	189 Briarland Blvd.	Powell Oh. 43065	IL	D
11	PAUL	Paul	7/13/14	183 Briarland Blvd	Powell 43065	Delaware	C
12	MARCELE KENNEDY	Marcelle Kennedy	5/13/14	46 Murphy Vista Pl	Powell 43065	Delaware	E
13	MARCI REIMUND	Marci Reimund	5/13/14	48 Murphy View Pl.	Powell 43065	Delaware	E
14	BRIANNE	Brianne	7/13/14	284 Murphy's Green	Powell 43065	Delaware	E
15	MARY MILLER	Mary Miller	7/13/14	284 MURPHY'S GREEN	POWELL 43065	DELAWARE	E
16	PETE TOMASEK	Pete Tomasek	7/13/14	249 Ogden Ct	Powell 43065	Delaware	C
17	BRYAN JELLIK BENDAN NEWCOMB	Bryan Jellik	7/13/14	5181 Emerald	Powell, 43065	Delaware	Power F
18	PIESS, HELGA	Helga Piess	7/13/14	239 W EATHERBURN DRIVE	POWELL 43065	DELAWARE	C
19	CYNTHIA AFFHOLM	Cynthia Affholm	7/13/14	777 Wesleyan Park Dr.	43065 Powell, OH	Delaware	B
20	LEE AN CONTI	Lee An Conti	7/13/14	249 W. Wesleyan Dr	Powell, OH 43065	Delaware	C
21	WILLIAM A. VAN FOSTAN	William A. Van Fostan	7-13-14	94 Glenlivet Pl.	Powell 43065	Delaware	C
22			7-13-14	98 Glenlivet Pl	Powell 43065	Delaware	C

	Raymond S. Caputo					
23	[Signature]	7/14/14	199 Briarwood Blvd	Powell	Delaware	C
24	Carol Caputo	7/14/14	199 Briarwood Blvd	Powell	OH	C
25	John M. Intyre	7/14/14	158 Kellys Ct	Powell	OH	C
26	John M. Intyre	7/14/14	158 Kellys Ct	Powell	Delaware	C
27	Fred Weinamp	7/14/14	225 Winter Hill	Powell	OH	E
28	Jiang	7/14/14	225 Winter Hill	Powell	OH	E
29	Carol Hostrup	7/14/14	146 Bair Bend	Powell	OH	C
30	Tracy Hill	7/14/14	161 Briarwood Blvd	Powell	Delaware	C
31	Margaret Hill	7/14/14	161 Briarwood Blvd	Powell	Delaware	C
32	Crystal Swallow	7/14/14	150 Briarwood Blvd	Powell	Delaware	C
33	Susan Beacn	7/14/14	138 Briarwood	Powell	Delaware	C
34	David Deacon	7/14/14	138 Briarwood Blvd	Powell	Delaware	C
35	Hua Zhang	7/15/14	8848 Calumet Dr.	Powell	Delaware	H
36	Colinda Starles	7/15/14	277 Briarwood Blvd	Powell	Delaware	C
37	Deb Howell	7/15/14	236 S Liberty St	Powell	Delaware	C
38	Dan Crumling	7/15/14	236 S Liberty St	Powell	Delaware	C

39	Lori Fialla	Lori Fialla	7/15/14	293 Murray Cir	Powell	Delaware	E
40	MARK FAILLA	Mark Fialla	7/15/14	303 Murray Green	Powell	Delaware	E
41	David Bower	David Bower	7/15/14	225 Thornbury Lane	Powell	Delaware	B
42	WZ Prestel	WZ Prestel	7/15/14	158 Wagon Train	Powell	Delaware	E
43	Ryan Prestel	Ryan Prestel	7/15/14	158 Wagon Train	Powell	Delaware	E
44	WALTER GAUB	Walter Gaub	7/15/14	280 Briarwood Blvd	Powell	"	C
45	Laura Gaub	Laura Gaub	7/15/14	280 Briarwood Blvd	Powell	"	C
46	Amanda Jellicoe	Amanda Jellicoe	7/15/14	10719 Southwind Dr	Powell	Delaware	F
47	Patricia DiDonati	Patricia DiDonati	7/15/14	248 Briarwood Blvd	Powell	Delaware	C
48	Alana Dempsey	Alana Dempsey	7/15/14	407 Hopewell Dr	Powell	Delaware	A
49	Anthony Dempsey	Anthony Dempsey	7/15/14	407 Hopewell Dr	Powell	Delaware	A
50	George Kivett	George Kivett	7/15	286 Winter Hill Pt	Powell	"	E
51	Kath Johnson	Kath Johnson	7/15	296 Winter Hill Pt	Powell	Delaware	E
52	Kara Kivett	Kara Kivett	7/15/14	286 Winter Hill Pt	Powell	Delaware	E
53	Susan Sumburg	Susan Sumburg	7/15/14	2670 Oakcrest	Powell	Delaware	C
54	Martha Rindfleisch	Martha Rindfleisch	7/15/14	395 Shandon Ct	Powell	Delaware	F
55	Mat Rindfleisch	Mat Rindfleisch	7/15/14	395 Shandon Ct	Powell	Delaware	F
56	Kathryn Malwesky	Kathryn Malwesky	7/15/14	157 Glen Abbey Ct	Powell	Delaware	C
57	MARTIN MACWESKY	Martin Malwesky	7/15/14	157 Glen Abbey Ct	Powell	Delaware	C

CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF DELAWARE

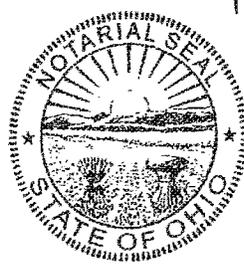
I, Brian Swadwell (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 57 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Brian Swadwell
(Signature of Circulator)
150 Briarwood Blvd
(Permanent residence street address)
Powell OH 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 10th day of July 2014.

My Commission Expires:
[Signature]

[Signature]
Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

Article 4, Section 14: No later than February 1, 2015, the City Council of Powell, Ohio shall organize a Comprehensive Plan Commission to draft a Preliminary Comprehensive Plan for zoning and development in the City of Powell, Ohio. The Comprehensive Plan Commission shall consist of the following five members: (1) the President of the Bartholomew Run Homeowners Association or such person's designee; (2) the President of the Olentangy Ridge Civic Association or such person's designee; (3) the President of the Grandshire Homeowners Association or such person's designee; (4) the President of the Liberty Lakes Homeowners Association or such person's designee; and (5) the President of the Murphy Park Homeowners Association or such person's designee.

Article 4, Section 15: In drafting the Preliminary Comprehensive Plan, the Comprehensive Plan Commission shall take the following three procedural steps: Phase I, to make findings regarding the current state of the Powell community's character and identity in light of current socioeconomic conditions; Phase II, to draft a composite plan identifying specific zones and/or districts that reflect the natural, cultural, and visual elements of the City of Powell; and Phase III, to make recommendations to City Council through the creation of a Preliminary Comprehensive Plan.

Article 4, Section 16: The Comprehensive Plan Commission shall hold at least two public workshops between January 1, 2015 and June 30, 2015 to receive public input and encourage public deliberation regarding the creation of the Preliminary Comprehensive Plan.

Article 4, Section 17: The Comprehensive Plan Commission shall submit the Preliminary Comprehensive Plan to the City Council of Powell, Ohio no later than September 30, 2015.

Article 4, Section 18: The City Council of Powell, Ohio shall consider the Preliminary Comprehensive Plan, make adjustments as necessary consistent with the Phase I findings of Comprehensive Plan Commission, and pass an ordinance no later than March 31, 2016 legislatively adopting a Final Comprehensive Plan.

Article 4, Section 19: The Final Comprehensive Plan shall be in compliance with the following objective criteria: (1) the needs and desires of the residents of Powell are the paramount consideration; (2) preserve the natural, cultural, and visual elements of the City of Powell; (3) limit traffic congestion on Powell roads; (4) balance residential and non-residential land use in Powell based upon the scope and cost of existing City services and level of tax revenues; (5) land in Powell should be available for parking in retail areas; and (6) real property in the Powell "Downtown Business District" shall not be developed with "high-density housing."

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "high-density housing" includes but is not limited to the following real property: (a) residential real property improved with building(s) greater than two-stories in height; (b) real property improved with dwellings containing more than one family; (c) leased real property improved with dwellings containing more than one family; and (d) vacant land that will be used for dwellings containing more than one family.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "family" means an individual living alone or a group of related or unrelated individuals living together in a household.

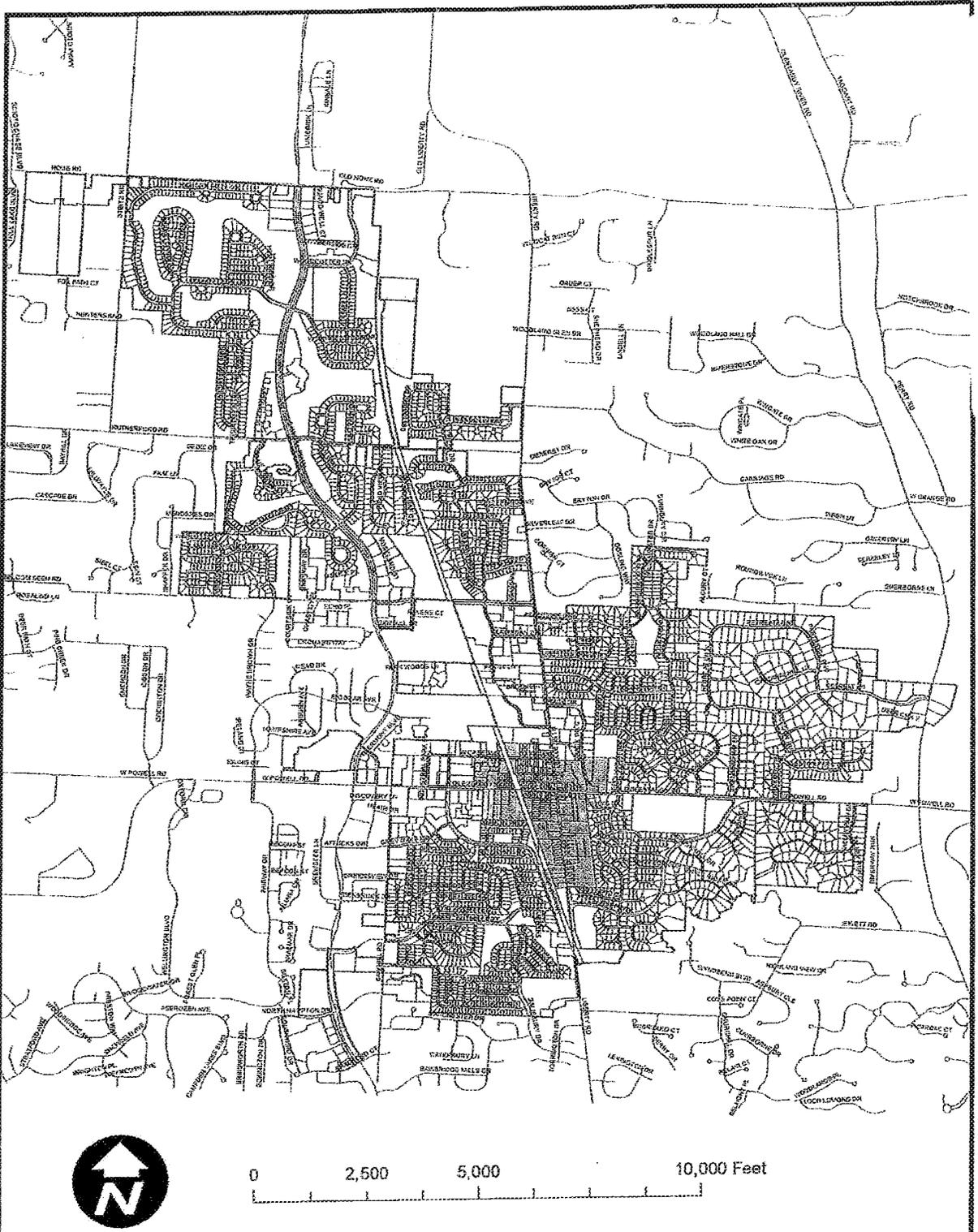
For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "Downtown Business District" shall refer to the real property identified as the "Downtown Business District" on the "City of Powell Zoning Districts Map 2014" as of June 17, 2014.

Article 4, Section 20: All Ordinances of the City of Powell must comply with the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV.

Article 4, Section 21: The Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV shall not be compatible with Ordinance 2014-10 and/or the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street.

Uncodified: No party, public or private, shall take any actions, including but not limited to construction activity, in reliance upon Ordinance 2014-10 and the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street. The subject property for the Ordinance 2014-10 Final Development Plan shall remain economically viable for other uses, including residential and non-residential uses, notwithstanding this amendment to the City Charter of Powell, Ohio.

Uncodified: This Charter Amendment shall take effect on the earliest period allowed by law.



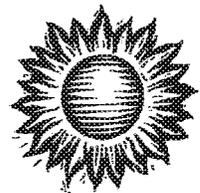
ZONING

-  DOWNTOWN BUSINESS DISTRICT
-  DOWNTOWN RESIDENCE DISTRICT
-  LIBERTY TOWNSHIP FARM RESIDENCE DISTRICT
-  LIBERTY TOWNSHIP PLANNED COMMERCIAL DISTRICT
-  PLANNED COMMERCIAL DISTRICT
-  PLANNED INDUSTRIAL DISTRICT
-  PLANNED OFFICE DISTRICT
-  PLANNED RESIDENCE DISTRICT
-  RESIDENCE DISTRICT

-  Streets
-  Parcels
-  Powell Boundary

City of Powell
Zoning Districts
Map 2014

Development Department
47 Hall Street
Powell, Ohio 43065
(614) 885-5380
(614) 885-5339 fax
www.cityofpowell.us



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Carter & Davis, Inc. DeWitt County Auditor's
Office DALLAS Project
Document Path
G:\GIS\Projects\GIS\Zoning\Power\MGAP\Map_2014_May_2014_08.17.mxd

Exhibit F

July 17, 2014

Clerk of Council Susie Ross
47 Hall St.
Powell, OH 43065

Dear Ms. Ross:

Enclosed with this letter are three signed petitions, including: (1) an initiative petition for a Powell City Charter amendment to create a new Comprehensive Plan (also known as the "Master Plan"); (2) a referendum petition for City Ordinance 2014-10; and (3) an initiative petition for legislation repealing City Ordinance 2014-10 with 408, 414 and 410 signatures, respectively. As you were notified in my letter of July 9, 2014, and as explained in the petitions, we, the petitioners, are filing these petitions for purposes of placing issues on the November 4, 2014 ballot. Please accept these petitions and perform your legal duties under the Powell City Charter that are triggered upon receipt of these petitions.

Separately, as you are aware, I filed several documents with you on July 9, 2014 prior to circulating the three petitions that we are submitting today. I specifically filed the following documents with you: (1) a certified copy of our proposed charter amendment; (2) a certified copy of City Ordinance 2014-10; and (3) a certified copy of a proposed ordinance repealing City Ordinance 2014-10; (4) blank copies of each of the three petitions; and (5) a cover letter requesting that you accept the filing of certified documents and review the petitions for any defects.

When I filed the documents with you on July 9, the desk clerk at your office file-stamped and initialed the original and also file-stamped and initialed my own copy which I still have in my possession. By email dated July 10, you notified Brian Ebersole that the Powell City Law Director advised you not to review the petitions and, further, encouraged Mr. Ebersole to retrieve our filing of July 9. Mr. Ebersole did not retrieve the documents filed on July 9. Then on July 11, an employee of your office encouraged me to retrieve the original package of documents when I was at your office to pick up other documents pursuant to a public records request. I respectfully declined to accept the package.

Next, you personally sought out Tom Happensack at a Powell City Council meeting on July 15, 2014 to give him the documents that we filed with you on July 9, 2014. Specifically, you gave to Mr. Happensack the three blank petitions, the certified proposed charter amendment, the certified proposed ordinance, and the certified City Ordinance 2014-10. However, you did not return the cover letter that you file-stamped when I filed the documents with you on July 9, 2014.

Finally, Tom Happensack gave me the returned documents exactly as they were filed originally and exactly as you gave them to him, so that I could return them to you exactly as Mr. Happensack gave them to me.

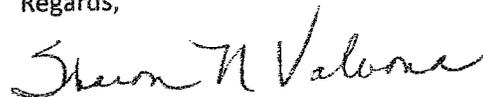
RECEIVED
JUL 17 2014
BY: AV 8:18 am

When you gave Mr. Happensack the documents that we filed with you on July 9, 2014, you violated your clear legal duty to accept the certified documents that we filed with you on July 9, 2014. Pursuant to the Powell City Charter, state law governing municipalities governs initiative petitions where the City Charter is silent. R.C. 735.32, in turn, contains pre-circulation filing requirements. As we stated in our cover letter accompanying the documents filed on July 9 (which you presumably still have in your possession), the certified documents enclosed with our July 9 filing were intended to satisfy any and all legal filing requirements.

Again, I am now returning these documents to you exactly as they were originally filed, exactly as you gave the documents to Tom Happensack at the July 15, 2014 City Council meeting, and exactly as Mr. Happensack gave them to me. Specifically, I am returning the following documents: (1) a certified copy of our proposed charter amendment; (2) a certified copy of City Ordinance 2014-10; (3) a certified copy of a proposed ordinance repealing City Ordinance 2014-10; and (4) the three blank petitions that were provided to you on July 9, 2014. Please accept these documents as originally filed on July 9, 2014.

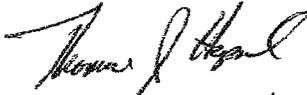
Lastly, pursuant to R.C. 731.35, I am submitting three itemized statements for myself, Brian Ebersole, and Tom Happensack. You have a clear legal duty to accept these itemized statements as well.

Regards,



Sharon Valvona
225 Squires Ct.
Powell, Ohio 43065

Committee Member



Thomas Happensack

Committee Member



Brian Ebersole

Enclosure

Exhibit G

**BEFORE THE BOARD OF ELECTIONS
DELAWARE COUNTY, OHIO**

IN RE: REFERENDUM AND :
INITIATIVE PETITIONS : **Hearing Requested on or before August 4, 2014**
CONCERNING CITY OF :
POWELL ORDINANCE 2014-10 :
ADOPTED JUNE 17, 2014 :

NOTICE OF PROTEST

Pursuant to Section 3501.39 of the Ohio Revised Code, The Center at Powell Crossing, LLC and Donald R. Kenney, Jr. (collectively, the "Protesting Party") gives notice of protest to the Delaware County Board of Elections concerning the referendum and initiative petitions (collectively, the "Petitions") transmitted to the Delaware County Board of Elections on July 25 and July 28, 2014 from the City of Powell. The Protesting Party specifically requests that the Board of Elections follow the City of Powell's Charter and Ohio law which require the Board to reject the facially invalid Petitions. The Protesting Party also requests a hearing on this protest before the full Board of Elections, as required by R.C. § 3501.39, at the earliest opportunity, but no later than August 4, 2014. A Memorandum in Support of this protest is attached.

Respectfully submitted,



Bruce L. Ingram (Ohio Bar # 0018008)
Joseph R. Miller (Ohio Bar # 0068463)
Christopher L. Ingram (Ohio Bar # 0086325)
Vorys, Sater, Seymour and Pease LLP
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clingram@vorys.com

Counsel for the Protesting Party

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- Exhibit 2 – Exemplar Referendum Part-Petition
- Exhibit 3 – Exemplar Repeal Initiative Part-Petition
- Exhibit 4 – Exemplar Charter Initiative Part-Petition
- Exhibit 5 – Powell City Charter
- Exhibit 6 – 2014-07-10 Email from Sue Ross

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

This matter concerns an illegal attempt to reverse an administrative decision made by Powell City Council on June 17, 2014 regarding the redevelopment of the City's Downtown Business District. Facing certain defeat in any court of an appeal of that administrative decision, Petitioners¹ now seek to block the redevelopment effort by submitting three petitions all seeking the same outcome – reversal of Council's June 17, 2014 administrative decision memorialized in Ordinance 2014-10. As set forth below, Petitioners' effort is facially invalid and contrary to law.

The Center at Powell Crossing, LLC ("Powell Crossing") seeks to redevelop approximately 8.3 acres of land located at 147 West Olentangy Street in the City of Powell's Downtown Business District (the "Property"). Consistent with the Property's current zoning, Powell Crossing will construct a new mixed-use development with 14,000 sq. ft. of retail space and sixty-four (64) residential units, all while preserving an old house for commercial use (the "Project"). Powell Crossing worked with local officials to ensure the Project realizes the maximum potential for this property consistent with its zoning and the City's Comprehensive Plan. Both the City's Planning and Zoning Commission and City Council approved the Project's final development plan pursuant to the Property's existing zoning classification. City Council approved the Project's final development plan on June 17, 2014 in Ordinance 2014-10. Council's decision was subject to appeal to the Delaware County Court of Common Pleas under R.C. § 2506.04. But, upon information and belief, no appeal of the decision has been filed.

¹ As herein referred, "Petitioners" include the "Committee for Referendum of Powell City Ordinance 2014-10"; the "Committee for Initiative for proposed Ordinance for Repeal Powell City Ordinance 2014-10"; and the "Committee for Initiative for Powell Comprehensive Plan Charter Amendment." Upon information and belief, all three Committees consist of three common members: Brian Ebersole, Thomas J. Happensack, and Sharon Valvona.

Instead, Petitioners now improperly seek to appeal City Council's administrative decision through this forum. Petitioners have filed three petitions that each single out Council's June 17, 2014 administrative decision for inclusion on this year's general election ballot, including a[n]:

- (1) Referendum Petition for City Ordinance 2014-10, (the "Referendum");
- (2) Initiative Petition to repeal City Ordinance 2014-10, (the "Repeal Initiative"); and
- (3) Initiative Petition to amend Powell's Charter to effectively repeal Ordinance 2014-10 and spot zone the Property, (the "Charter Initiative").

As a matter of law and fact, the Delaware County Board of Elections cannot accept any of the Petitions. First, Petitioners failed to submit sufficient valid signatures for any of the Petitions. Second, the Petitions are an illegal attempt to circumvent the established process for appeals of administrative decisions under R.C. 2506. Finally, the Petitions themselves are facially misleading, incomplete, and illegal.

Accordingly, Powell Crossing and Donald R. Kenney, Jr.² respectfully request that the invalid Petitions be rejected.

II. FACTUAL BACKGROUND

A. The Property at Issue.

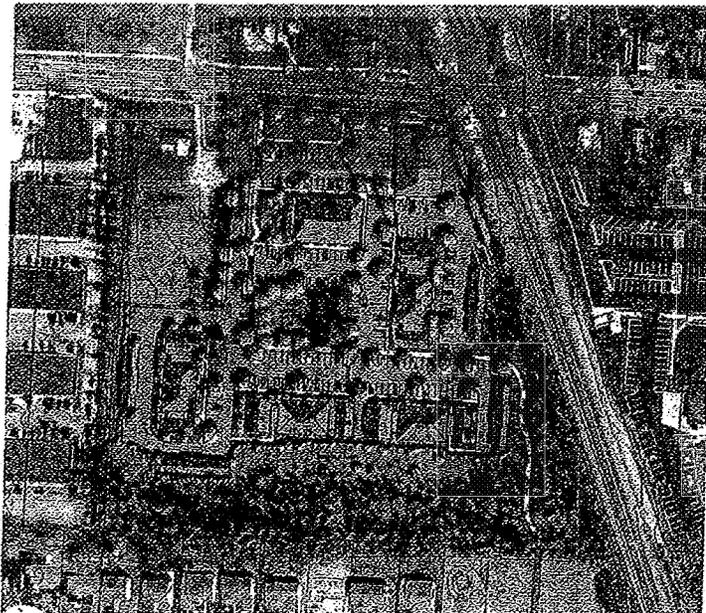
The property singled out in Petitioners' Petitions is an 8.3 acre tract of land located south of West Olentangy Street between Sawmill Parkway and Liberty Street that is owned by Powell Crossing. Currently, the Property is largely undeveloped other than an existing structure that serves as a combined dwelling and small, local business.

² Mr. Kenney is a registered elector of the City of Powell.

B. Powell Crossing's Proposed Development Project.

Located within the City's Downtown Business District, a planned district, the Property is expressly permitted to be used for retail and multi-family dwellings under the Powell Zoning Code ("PZC"). PZC §§ 1143.08, 1143.16.2(b). The Downtown Business District was created to promote "mixed use pursuits ... adaptive reuse of older commercial and office structures, and those constructed originally as residences ... [through] a fine-grained intermixture of small-scale residential, office, and retail uses..." PZC § 1143.16.2(b) (emphasis added). Powell Crossing's Project was designed specifically to realize this vision.

Specifically, the Project will transform a largely undeveloped property into a mixed use development that intermixes approximately 14,000 sq. ft. of retail space with sixty-four (64) multi-family dwelling units and preserves the historic Dr. Campbell House by reusing it for office and retail. The Project also adds several public amenities, including a park-like green square along the Property's frontage, improved streetscapes, and additional bike paths:



C. The Administrative Approval of Powell Crossing's Development Project.

The City of Powell's Planning and Zoning Commission applied the PZC to the Project's Final Development plan and unanimously recommended its approval. Pursuant to PZC § 1143.11, the Planning and Zoning Commission's recommendation approving the Final Development Plan was submitted to Powell's City Council for review.

City Council approved the Final Development Plan on June 17, 2014 pursuant to the Property's existing zoning in a planned district. City Council's final decision was memorialized as Ordinance 2014-10.

D. The Invalid Petitions.

Foregoing an administrative appeal of City Council's final decision, Petitioners have devised a misguided three-pronged petition plan to reverse Council's decision. On July 17, 2014, Petitioners submitted their Petitions to Ms. Sue D. Ross, Clerk of Council for the City of Powell. As set forth below, each Petition was required to be supported by 238 valid signatures. Notably, each Petition was sponsored by a committee of the same three individuals, circulated by the same circulators, and purportedly signed by nearly identical lists of people. Not surprisingly, and as summarized in the chart below, common defects and failures recur throughout the part-petitions,³ rendering all three Petitions invalid:

³ A true and accurate copy of the petition review conducted by the undersigned is attached as Exhibit 1. An exemplar of each Petition's part-petition is attached as follows: Referendum Part-Petition as Exhibit 2, Repeal Initiative Part-Petition as Exhibit 3, and Charter Initiative Part-Petition as Exhibit 4.

Summary of Powell Petitions' Shortfall			
Valid Signatures Required for Ballot:		238	
Petition	Potentially Valid	Invalid	Shortfall
Referendum Petition [to repeal Ord. 2014-10]	143	270	95
Initiative Petition [to repeal Ord. 2014-10]	143	268	95
Initiative Petition [to amend Powell's Charter to repeal Ord. 2014-10]	146	263	92

Moreover, despite the City Charter's requirement that each referendum petition "shall contain the number, a full and correct copy of the title and date of passage of the [subject] ordinance..." Charter § 6.05 (emphasis added),⁴ not one of the Referendum Petition's part-petitions contains the title and date of passage of Ordinance 2014-10. *See, e.g.,* Ex. 2, Referendum Part-Petition (omitting the actual title of Ordinance 2014-10).

Likewise, the City Charter also requires that "each of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure." Ex. 5, Charter § 6.05 (emphasis added). Yet, every one of the Repeal Initiative Petition's part-petitions fails to contain the actual title or text of the proposed ordinance. *See, e.g.,* Ex. 3, Repeal Initiative Petition Part-Petition (stating only that the Repeal Initiative concerned a "proposed Ordinance" without stating either the proposal's title or text). The defect is again repeated in the Charter Initiative, wherein not one of its part-petitions contain the title or text of the proposed measure. *See e.g.* Ex. 4, Charter Initiative Part-Petition (disclosing only that an "amendment to the City Charter of Powell, Ohio" was sought without stating either its title or text).

⁴ A true and accurate copy of Article VI of Powell's City Charter is attached as Exhibit 5.

Additionally, both the Repeal Initiative Petition and Charter Initiative mislead the City's electorate as they purport to be new legislative measures when instead they are attempts to referendum an administrative decision Petitioners chose not to appeal.

Finally, the Charter Initiative is a futile and illegal attempt to spot zone one landowner's property and to deprive that landowner of its vested right to the Property's zoning.

As a result of these defects and flaws, the Protesting Party requests that the Referendum Petition submitted to the Delaware County Board of Elections on July 25, 2014 and that the Repeal Initiative and Charter Initiative submitted on July 28, 2014 be rejected.

III. LAW & ARGUMENT

A. Standard of Review – Strict Compliance with Election Laws Required Unless Expressly Stated Otherwise.

In its review of the Petitions, the Delaware County Board of Elections must require strict compliance with the relevant election procedure unless that procedure expressly states that a lower standard applies. Specifically, the Supreme Court of Ohio instructs that: “[t]he settled rule is that **election laws are mandatory and require strict compliance** and that substantial compliance is acceptable only when an election provision expressly states that it is.” *State ex rel. Comm. for the Referendum of Lorain Ordinance No. 77-01 v. Lorain Cty. Bd. of Elections*, 96 Ohio St.3d 308, 2002-Ohio-4194, ¶ 49 (emphasis added), citing *State ex rel. Phillips v. Lorain Cty. Bd. of Elections*, 93 Ohio St.3d 535, 539, 757 N.E.2d 319 (2001). Thus, unless a requirement expressly states that some lower standard is necessary, the Board must require strict compliance with the mandate.

Additionally, because the Petitions are cast as both referenda and initiatives concerning the City of Powell, the City's prescribed Initiative and Referendum rules and requirements govern. The Ohio Constitution expressly vests each municipality with the authority to regulate

local initiatives and referenda. Ohio Constitution, Article II, Section 1(f) (“The initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized by law to control by legislative action.”) (emphasis added). The City of Powell’s legislated initiative and referenda procedures are set forth in Article VI of its Charter. The Charter establishes two things: (1) that the Charter’s enumerated requirements and procedures are the default procedures, and (2) that Ohio law must be followed where the Charter is silent. Ex. 5, Charter § 6.05 (“Where the Charter is silent ... the laws of the State of Ohio shall be followed....”).

Accordingly, unless a lower standard is expressly stated, the Petitions must strictly comply with the requirements set forth in the City Charter or with the requirements of Ohio law. Because the Petitions fail to strictly comply with these requirements, the Petitions must be ruled invalid.

B. On Their Face, the Petitions Fail To Satisfy the City Charter’s Mandatory Requirements.

The Petitions fail to satisfy the minimum standards to qualify for the ballot. Petitioners failed to observe the City Charter’s requirement that each signer of a petition state his or her ward and precinct. This and other defects cause the Petitions to fall far short of the number of valid signatures required. The Petitions also fail to comply with the City Charter’s title and date and title and text requirements for referenda and initiatives. Worse, the Repeal Initiative and Charter Initiatives caption and content are intentionally misleading and conceal that both are referendums on Ordinance 2014-10. Additionally, the Charter Initiative improperly combines an Initiative and Referendum in the same petition. Any one of the foregoing defects warrant invalidation; taken together, there can be no dispute that the Board must invalidate the Petitions.

1. The Petitions Fail to Satisfy the City Charter's Ward and Precinct Requirement.

Among other defects, many of the part-petitions fail to comply with the City Charter's absolute requirement that each elector specify the elector's ward and precinct. Ex. 5, Charter § 6.05.

The City of Powell's Charter could not be more clear: "Each signer of any [initiative or referendum] petition . . . shall place on such a petition, after his name . . . his place of residence, including street and number, and the ward and precinct." *Id.* (emphasis added). Ward and precinct requirements like the one in the City's Charter, have been challenged and expressly upheld by the Ohio Supreme Court. Where "the law is clear that the ward and precinct, whether written in by the signer himself or by someone else under his direction, must follow the signature of the signer in a petition[,] . . . a signature not followed, amongst other requirements, by the ward and precinct of the signer does not comply with [the ward and precinct requirement], and, therefore, cannot be held to be a valid and sufficient signature." *State ex rel. Poor v. Addison*, 132 Ohio St. 477, 481-82 (1937) (agreeing with rejection of proposed amendment to Columbus City Charter on ward/precinct requirement); *see also State ex rel. Corrigan v. Perk*, 19 Ohio St. 2d 1, 3 (1969) ("We find no federal constitutional provision or principle which is offended [by a ward/precinct requirement]. . ."); *Bliss v. Monagan*, 9th Dist. No. 3080, 1980 Ohio App. LEXIS 14061 (Lorain County Dec. 3, 1980) (rejecting a Constitutional challenge to a ward/precinct requirement).

The part-petitions at issue fail to provide any place for an elector to provide his or her ward. *See e.g.*, Ex. 4, Referendum Part-Partition. Nonetheless, more than one third of the electors provided their correct ward and precinct. *See* Ex. 1, Petition Review. Nearly two-thirds did not. *Id.* "Accordingly, those signatures of municipal residents which were filed . . . without

[the] ward and precinct designation, are invalid.” *State ex rel., Corrigan v. Perk*, 19 Ohio St.2d at 4.

2. The Petitions Lack the Required Number of Signatures.

a. Each Petition Must Contain 238 Valid Signatures of Powell Electors.

As a matter of law, each petition must contain at least 238 valid signatures by electors of the City of Powell. Pursuant to the Charter and the Ohio Constitution, the Board must rely upon the total votes cast by the City of Powell’s electors during the 2013 general election to determine the amount of signatures that are necessary for each petition:

- (1) The Referendum Petition’s signature requirement is set forth in Charter § 6.04. This provision requires every referendum petition to be “signed by electors of the City, not less in number than ten (10) percent of the total votes cast at the **last preceding general municipal election**, is filed with the Clerk of Council . . .” Ex. 5, Charter § 6.04 (emphasis added).
- (2) The Repeal Initiative’s signature requirement is stated in Charter § 6.02. Pursuant to this provision, an “initiative petition must be signed by electors of the City equal to ten (10) percent of the total number of votes cast at the **last preceding regular municipal election**.” Charter § 6.02 (emphasis added). The Charter does not define a “regular municipal election.” However, the Revised Code imputes that a “regular municipal election” means “the election held on the first Tuesday after the first Monday in November in each odd-numbered year.” R.C. § 3501.01.
- (3) The Charter Initiative’s signature requirement is enumerated in Article 18 of the Ohio Constitution. As required by the Constitution, Charter amendments petitions must be “signed by ten per centum of the electors of the municipality.” Ohio Constitution, Article XVIII, Section 9. Further, “[t]he percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the **last preceding general municipal election**.” Ohio Constitution, Article XVIII, Section 14 (emphasis added).

Thus, each of the Petitions is required to have signatures of an amount that reflects at least 10% of the total number of votes cast in the City’s 2013 general election. 2,379 total votes were cast

in the 2013 General Election.⁵ Accordingly, Petitioners were required to obtain 238 valid signatures from electors in the municipal corporation of Powell for each of their three Petitions. Petitioners failed to do so.

b. Each Petition Fails to Include the Required Number of Valid Signatures.

Pursuant to the City Charter's and Ohio law's petition requirements, the Petitions fail to contain sufficient valid signatures.

The Petitions must satisfy the requirements set forth in Charter § 6.05 and R.C. §§ 731.31 and 3501.38. *See supra* Sec. III.A. Accordingly, each part-petition and its contents must meet the following requirements:

- Each signer of a petition must be an elector of the City of Powell. Charter § 6.05.
- Each signer must place "after his name, the date of signing, his place of residence, including street and number, and the ward and precinct." *Id.*
- The signature must match the signature on file with the board of elections. Each signature which is found to be irregular must be rejected. R.C. §§ 731.31, 3501.011.
- Each signature must be in ink. R.C. § 3501.38(B).
- Each signer must state the date of signing of the petition. R.C. § 3501.38(C).
- Each signer's address must match the address appearing in the registration records at the board of elections. R.C. § 3501.38(C).
- If a petition contains the signature of an elector two or more times, only the first signature shall be counted. R.C. § 3501.38(D).
- A circulator must not sign his or her part petition. If done, the circulator's signature is invalid. *Mercer Dev. LP v. Mercer Cnty. Bd. of Elections*, 3d Dist. Mercer No. 10-10-08, 2010-Ohio-4071, ¶ 4.
- A circulator must accurately state the number of valid signatures contained on the part-petition. Charter § 6.05; R.C. § 3501.38(E)(1). If the circulator states the part-petition contains a fewer number of signatures than the actual number of signatures

⁵ According to the Board's results, total ballots cast in the 2013 General Elections were as follows: Powell A – 232, Powell B – 233, Powell C – 326, Powell D – 236, Powell E – 327, Powell F – 253, Powell G – 234, Powell H – 167, Powell I – 130, and Powell J – 241.

on the part-petition, the entire part-petition is invalid. *Rust v. Lucas Cty. Bd. of Elec.* (2005), 108 Ohio St.3d 139, 141.

- If a circulator knowingly permits an unqualified person to sign a petition paper or permits a person to write a name other than the person's own on a petition paper, that petition paper is invalid. R.C. § 3501.38(F).

Applying the foregoing requirements (and the City Charter's express requirements), a review of the Petitions demonstrates that each falls well short of the requisite 238 signatures. Ex. 1, Petition Review (setting forth reason for disqualifying each signature). When the invalid signatures are removed from the Petitions, the Referendum Petition contains, at most, 143 potentially valid signatures; the Repeal Initiative Petition contains, at most, 143 potentially valid signatures; and the Charter Initiative Petition contains, at most, 146 potentially valid signatures. *Id.* Thus, Petitioners failed to obtain the sufficient number of valid signatures.

Because the "number of valid signatures is found to be less than the total number required" for each of the Petitions, the Board must invalidate all three. Ex. 5, Charter § 6.05.

3. Every Part-Petition Fails to Notify Electors of the Requisite Title and Date or Title and Text as Required for Referenda and Initiatives By the City's Charter.

The City's Charter also expressly requires all initiative and referendum petitions to identify the specific measure or ordinance that is the subject of the petition with specified particularity. Despite being cautioned in writing to consult the City's Charter requirements prior to circulation of the Petitions, Petitioners failed to adhere to the City Charter's strict requirements. *See* email from Clerk of Council to Petitioners dated July 10, 2014, a true and accurate copy is attached as **Exhibit 6**.

Regarding Referendum Petitions, the Charter expressly requires that "any referendum petition **shall** contain the number, a full and correct copy of the **title** and date of passage of the [subject] ordinance. . . ." Ex. 5, Charter § 6.05. Importantly, strict compliance is required. *State*

ex rel. Comm. for the Referendum of Lorain Ordinance No. 77-01 v. Lorain Cty. Bd. of Elections, 96 Ohio St.3d 308, 2002-Ohio-4194, ¶ 49. As the Supreme Court has found, “[m]ore so than the text, **the title immediately alerts signers to the nature of [the measure].**” *State ex rel. Esch v. Lake Cnty. Bd. of Elections*, 61 Ohio St.3d 595, 597 (1991) (rejecting initiative petitions that lacked the relevant title) (emphasis added).

Yet, nowhere on the face of any of the Referendum part-petitions does the title of the subject ordinance appear. *See e.g.* Ex. 2, Referendum Part-Petition (omitting the full and correct title of Ordinance 2014-10 which should have read: **“AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR THE CENTER AT POWELL CROSSING LLC, A DEVELOPMENT OF 14,000 SQ. FT. OF RETAIL IN TWO BUILDINGS, PRESERVING THE OLD HOUSE FOR COMMERCIAL USE, AND DEVELOPMENT OF 64 RESIDENTIAL UNITS ON 8.3 ACRES, LOCATED AT 147 W. OLENTANGY STREET”** (emphasis in original)).

Likewise, the City Charter also requires that each part “of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure.” Ex. 5, Charter § 6.05. Efforts made to dismiss or overlook a verbatim title and text requirement in R.C. § 731.31 as overly technical, have been repeatedly rejected by the Supreme Court of Ohio. *See e.g., State ex rel. Esch v. Lake Cnty. Bd. of Elections*, 61 Ohio St.3d at 597 (citing cases); *State ex rel. Becker v. City of Eastlake*, 93 Ohio St. 3d 502, 507 (2001) (“Omitting the title of a proposed measure is a ‘fatal defect because it interferes with the petition’s ability to fairly and substantially present the issue and might mislead electors.’”) (citations omitted); *State ex rel. Burech v. Belmont Cnty. Bd. of Elections*, 19 Ohio St.3d 154, 155 (1985) (holding that title and text requirement must be strictly enforced).

In *State ex rel. Esch*, the Board of Elections argued that “the lack of a title is a technical defect and that strict compliance with this R.C. § 731.31 requirement is not necessary.” *Id.* The Supreme Court disagreed. The Court explained that strict compliance is required and that it is erroneous to hold a petition to a lesser standard. *Id.* at 597-598.

Nor can the Petitions here be held to some lesser standard. In both the Repeal Initiative and the Charter Initiative, neither the full and correct title, nor the text of the Ordinances appear on the face of any of the part-petitions. The Initiative part-petitions each merely refer to a “proposed Ordinance” rather than providing electors with the title that conveys the immediate nature of what the “proposed Ordinance” seeks to legislate or the actual text itself. Similarly, the Charter Initiative’s part-petitions vaguely reference an “amendment to the City Charter of Powell, Ohio,” rather than including the Initiative’s title and text.

While Petitioners may argue they substantially complied with the Referendum’s title and date and Initiatives’ title and text requirements, the City Charter does not permit substantial compliance. Worse, there is no evidence that any of the purported exhibits mentioned in any of the Petitions’ part-petitions were actually circulated with each part-petition. Not one circulator’s statement covers any of the purported exhibits that *follow* his or her statement. Rather, each circulator only swore of the content *preceding* their statement. *See e.g.*, Ex. 4, Charter Initiative Part-Petition.

Accordingly because the Petitions all fail to strictly comply with the title and date and title and text requirements from the City’s Charter, the Petitions are invalid on their face.

4. The Repeal Initiative and Charter Initiative Are Invalid Because of their Misleading Captions and Content.

a. Both Purported Initiatives Are Referenda on City Council's June 17, 2014 Administrative Decision Concerning the Property, But Neither Is Captioned as a Referendum.

Contrary to the Repeal Initiative and Charter Initiative's captioning as "Initiative Petition[s]," both initiatives are referenda on Ordinance 2014-10. As a result of this error, the electorate was misled and both initiatives fail to follow the City Charter's distinct referendum procedures.

As a matter of law, referenda initiatives and their concomitant procedures and timing cannot be circumvented by merely labeling a referendum an initiative – as Petitioners have done here. *State ex rel. Cody v. Stahl*, 8th Dist. No. 83037, 2003-Ohio-6180, ¶ 15 (explaining that an initiative petition is invalid if the petition is a referendum). In *Stahl*, the Eighth District Court of Appeals determined that where a petition is captioned as an "Initiative Petition," but "seeks repeal of an ordinance," the petition is a referendum petition. *Id.* Failure to properly caption such a petition as a "Referendum Petition" thus, "fails properly and immediately to alert signers as to its full nature." *Id.*

Here, within Petitioners captioned the Repeal Initiative as an "Initiative Petition" on the face of each part-petition and merely state that the Initiative is for a "proposed Ordinance." Perhaps most misleading of all, the face of each of the Repeal Initiative's part-petitions mentions Ordinance 2014-10, but fails to disclose that the entire point of the Initiative is to repeal that Ordinance. *See e.g.*, Ex. 3, Repeal Initiative Part-Petition ("Attached ... is a full and correct copy of ... Ordinance 2014-10, **which is referenced in the proposed Ordinance...**" (emphasis added)). If anything, this reference insinuates that the proposed Ordinance expands upon or operates in tandem with Ordinance 2014-10 – not that the sole effect is to repeal that

Ordinance. Not until one is afforded the opportunity to actually read the Initiative's proposed title and text is there any hint that the initiative is actually a referendum on Ordinance 2014-10. Such gamesmanship fails to "properly and immediately to alert [petition] signers as to [the petition's] full nature." *State ex rel. Cody v. Stahl*, 2003-Ohio-6180 at ¶ 15. Such misleading petitions are invalid.

The Charter Initiative suffers the same fatal flaw. It too is captioned as an "Initiative Petition" and merely claims on the face of each part-petition that "[a]ttached ... is City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed charter amendment. . . ." See e.g. Ex. 4, Charter Initiative Part-Petition. Only after reading the text of the purported "Initiative" is it revealed that it operates as a repeal of Ordinance 2014-10:

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed **Ordinance 2014-10** approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio **Ordinance 2014-10 is not in the best interests of the people** of the City of Powell, Ohio.

Article 4, Section 20: All Ordinances of the City of Powell must comply with the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV.

Article 4, Section 21: The Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV **shall not be compatible with Ordinance 2014-10 and/or the Final Development Plan for the Center at Powell Crossing LLC**, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street.

Uncodified: No party, public or private, shall take any actions, including but not limited to construction activity, in reliance upon Ordinance 2014-10 and the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street. The subject property for the Ordinance 2014-10 Final Development Plan shall remain economically viable for other uses, including residential and non-residential uses, notwithstanding this amendment to the City Charter of Powell, Ohio.

Id. In sum, the Charter Initiative singles out Ordinance 2014-10 to render it dead letter. Under the proposed Charter Initiative, Powell Crossing is expressly prohibited from taking further action to effectuate its property rights memorialized in Ordinance 2014-10 now and would never be able to finish the Final Development Plan in the future despite its prior administrative approval. Thus, the Charter Initiative is invalid for the same reason the Repeal Initiative is invalid -- both are a referendum disguised as an initiative.

The Charter Initiative is even more misleading for the additional reason that even if its title were included on the face of each part-petition, the title is misleading and incomplete. R.C. § 731.36. The Charter Initiative's title utterly fails to acknowledge or in any way mention that it is repealing Ordinance 2014-10 or otherwise subjecting that Ordinance to a referendum.⁶ Nor does the title accurately state that Ordinance 2014-10 is declared "incompatible" to some non-existent, future comprehensive plan. Such omissions are patently misleading and should invalidate the Charter Initiative Petition on their own accord.

⁶ Instead, the full title of the Charter Initiative only discloses that it is: "AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO." Ex. 4, Charter Initiative Part-Petition (emphasis in original).

b. The Charter Initiative Petition Is Also Invalid Because It Combines an Initiative and Referendum In the Same Petition Contrary to the City Charter's Petition Procedures.

The Charter Initiative Petition is also invalid on its face for the additional reason that it improperly combines both an initiative to amend the City's Charter and a referendum into a single petition. However, the City's Charter does not permit this incompatible effort. *See Ex. 5, Charter §§ 6.01, et seq.*

There is simply no provision that permits the combination of a referendum and initiative into a common initiative under Powell's City Charter. Combined multi-subject initiative and referendum petitions that are not permitted by a municipality's charter are invalid. *State ex rel. Cody v. Stahl*, 8th Dist. No. 83037, 2003-Ohio-6180, ¶ 8 (discussing Law Director's conclusion that the petition improperly joined an initiative petition with a referendum petition under the City's Charter). Indeed, the City of Powell's initiative and referendum procedures are mutually exclusive and subject to differing procedures. *Compare Ex. 5, Charter § 6.02 with Charter § 6.04.* Moreover, no provision within the Charter permits the consolidation or combination of an initiative and referendum or addresses how the differing procedures for each should be reconciled. Strict compliance with the Charter's provisions is required. *State ex rel. Comm. for the Referendum of Lorain Ordinance No. 77-01 v. Lorain Cty. Bd. of Elections*, 96 Ohio St.3d 308, 2002-Ohio-4194, ¶ 49. Accordingly, the Charter Initiative is procedurally invalid.

C. Ordinance 2014-10 Cannot Be Subject To Referenda Because It Was An Administrative Act.

Ordinance 2014-10 cannot be subject to the Petitions' referendum because City Council's approval of the Powell Crossing's Final Development Plan was an administrative act. Because the Petitions are an illegal referendum on an administrative action, the Board of Elections must invalidate the Petitions.

1. The Board Cannot Validate Petitions Seeking a Referendum of City Council's Administrative Acts.

A Board of Elections is not only authorized to determine whether a referendum is invalid because it improperly seeks to impose a referendum on an administrative action, it is the legal duty of this Board to do so. *State ex rel. City of Upper Arlington v. Franklin Cty. Bd. of Elections*, 119 Ohio St.3d 478, 484 (2008) (holding that a board of elections abused its discretion by failing to invalidate a referendum on an administrative act). Based on well-settled law, there can be no dispute that Ordinance 2014-10 was an administrative act and therefore, cannot be the subject of Petitioners' three referendum Petitions.

Article II, Section 1(f) of the Ohio Constitution provides that only municipalities' legislative acts are subject to referendum. *State ex rel. City of Upper Arlington*, 119 Ohio St.3d at 481-82. "The test for determining whether the action of a legislative body is legislative or administrative is whether the action taken is one enacting a law, ordinance or regulation [which is legislative], or executing or administering a law, ordinance or regulation already in existence [which is administrative]." *Id.* quoting *Donnelly v. Fairview Park*, 13 Ohio St.2d 1 (1968), paragraph two of the syllabus. Thus, legislative acts have general, prospective application, prescribing what the law shall be in future cases arising under its provisions. *Buckeye Community Hope Found. v. City of Cuyahoga Falls*, 82 Ohio St.3d 539, 545 (1998). *See also Shaheen v. Cuyahoga Falls City Council*, 2010-Ohio-640 at ¶ 23 (9th Dist. 2010) ("Legislative [acts] are normally generalizations concerning a policy or state of affairs: they 'do not usually concern the immediate parties but are general facts which help the tribunal decide questions of law, policy, and discretion.'"). Whereas actions which merely carry out a policy or apply an existing law to a set of circumstances is an administrative action. *See City of Upper Arlington*,

119 Ohio St.3d at 482; *State ex rel. Oberlin Citizens for Responsible Development v. Talarico*, 106 Ohio St.3d 481, 486 (2005).

Importantly, simply because a city council memorializes an administrative decision as an ordinance, does not somehow convert its administrative action into a legislative one. *City of Upper Arlington*, 119 Ohio St.3d at 483; *Buckeye Community*, 82 Ohio St.3d at 544 (“the city’s position that the approval of the site plan was a legislative action because the council took action via an ordinance (rather than by resolution or other means) is in error”). Thus, just because City Council’s approval of Powell Crossing’s Final Development Plan was embodied in a City Ordinance does not transform Council’s approval of the plan from an administrative act to some general legislative enactment.

2. Ordinance 2014-10 Was an Administrative Act By City Council and Therefore Cannot Be Subject to Any Referendum.

Council’s action approving Powell Crossing’s Final Development Plan that was consistent with the Property’s existing Downtown Business District zoning was an administrative act. As set forth in its approval, Council merely administered existing laws, including the Property’s existing zoning. Indeed, Council’s action did not change the zoning classification of the Property nor did it alter the City’s Zoning Code.

Ohio courts have consistently held that municipal zoning decisions remain administrative unless a property’s zoning classification is amended or the zoning code is altered by the decision. *See State ex rel. Marsalek v. Council of the City of South Euclid*, 111 Ohio St.3d 163, 165-66 (2006) (explaining that an action is legislative where it effects “a zoning change to the propert[y]”); *Talarico*, 106 Ohio St.3d at 486 (holding an ordinance was an administrative act because it did not “constitute an amendment of the zoning of the property”); *State ex rel. Committee for Referendum of Ordinance No. 3844-02 v. Norris*, 99 Ohio St.3d 336, 343 (2003)

(holding an ordinance that adopted a final development plan in a planned commercial district (“PCD”) was an administrative act because it did not cause a “zoning change” to the property); *Gross Builders v. City of Tallmadge*, 2005-Ohio-4268, at ¶ 18 (9th Dist.) (holding city council’s denial of a conditional zoning certificate was administrative because it did not alter “the zoning classification for the property [or] the zoning code”); *Supervalu Holdings, Inc. v. Jackson Center Assoc.*, 2004-Ohio-4314, at ¶ 16 (12th Dist. 2004) (holding a township’s approval of an amendment to a site plan was administrative because it “did not amount to a legislative rezoning of the property”).

“Where specific property is already zoned as a [planned development district (“PDD”)] area, approval of subsequent development as being in compliance with the existing [PDD] standards is an administrative act.”⁷ *Norris*, 99 Ohio St.3d at 342; *Supervalu*, 2004-Ohio-4314, at ¶ 16; *Speedway Super America, LLC v. Granville Village Council*, 2003-Ohio-6951, at ¶ 10 (5th Dist. 2003). *See also More v. Bd. of Twshp. Trustees of Batavia Twshp.* (12th Dist. 2003), 2003-Ohio-1265, at ¶ 3 (holding a modification to an existing development plan in a PUD was an administrative act); *Lofino’s, Inc. v. City of Beavercreek, Ohio City Council*, 2009-Ohio-4404 (2d Dist. 2009) (treating city council’s approval of a major modification to a PUD – a 60,000 square foot expansion – as an administrative act).

In *Norris*, property already zoned PCD was permitted to be developed pursuant to a new development plan. 99 Ohio St.3d at 342. The Supreme Court of Ohio found a city council’s adoption of the final development plans and final plats in a PCD was an administrative act. *Id.* at 342. The Court reasoned that the legislative act occurred when the zoning on the property

⁷ In *State ex rel. Crossman Communities of Ohio, Inc. v. Greene Cty. Bd. of Elections*, it was held that a city council’s resolution adopting a final development plan for a PUD constituted a legislative act. (1999), 87 Ohio St.3d 132, 136-37. That holding, however, was later reversed by the Supreme Court of Ohio in *Norris*. 99 Ohio St.3d at 343-44.

changed from residential to PCD. *Id.* at 342-43. The ordinances passed by city council adopting the development plans – as here – merely applied the preexisting PUD regulations to the property and were therefore administrative. *Id.*

Likewise, in *Buckeye Community*, the Supreme Court of Ohio found a city council’s approval of a site plan for an apartment complex on land that was already zoned for multifamily use was an administrative action. 82 Ohio St.3d at 545. The Court explained that – as here – the ordinance passed by city council merely approved the planning commission’s application of existing zoning regulations to the plan submitted by the developer. *Id.* The Court concluded that “[t]he passage by a city council of an ordinance approving a site plan for the development of land, pursuant to existing and other applicable regulations, constitutes administrative action and is not subject to referendum proceedings.” *Id.*

In *Supervalu*, the Twelfth District Court of Appeal also found a township’s approval of a major amendment to a site plan to construct a Wal-Mart store in a PDD was an administrative act. 2004-Ohio-4314, at ¶ 16. The Court of Appeals reasoned that the property had already been zoned as a PDD and the site plan had already been approved. *Id.* at ¶ 15. As such, the township’s action – as here – was administrative because “the township was not legislating, but was regulating the ‘subsequent use or development of the property’ within the already established [PDD].” *Id.* at ¶ 16. In other words, “[t]he township’s decision to approve the amendment did not amount to a legislative rezoning of the property.” *Id.*

Finally, in *Speedway*, the Fifth District Court of Appeals found the village’s denial of a developer’s application for approval of development plan for a Speedway gas station in a PCD was an administrative act. 2003-Ohio-6951, at ¶ 17. The Court of Appeals explained that the enactment of the PCD to allow this use was a legislative act, but that approval of a specific

development plan in the existing PCD was an administrative act. *Id.* at ¶ 17. The court rejected the village's argument that its decision was a legislative act because the developer submitted a development plan in connection with its application that created use restrictions and development regulations that would apply to the property. *Id.* at ¶ 13. The court explained that the developer was required to submit the development plan in connection with its application and that, contrary to the village's suggestion, the development plan "was not an attempt to rezone the property." *Id.* at ¶¶ 16-17. Thus, the village's denial of the development plan was an administrative act. *Id.* at ¶ 17. *See also King v. Village of Granville*, 1997 Ohio App. LEXIS 4941, at *7-8 (holding the village's approval of development plans in a PCD was an administrative act).

In this case, the actions taken by Powell's City Council mirror those taken in *Supervalu*, *Speedway*, *Norris*, and *Buckeye Community*. The Property was previously zoned for all uses permitted within a planned commercial district, the Downtown Business District. As set forth in Ordinance 2014-10, Council's approval of the Final Development Plan was consistent with this existing zoning classification and did not require altering the Zoning Code. Thus, approval of Ordinance 2014-10 was an administrative act and cannot be the subject of a referendum. Accordingly, the Referendum Initiative and both the Repeal Initiative and Charter Initiative are illegal attempts to subject Ordinance 2014-10 to a referendum.

D. The Charter Initiative Is Unconstitutional and Therefore Invalid.

In addition, proposed Charter amendments that are facially defective should not be placed on the ballot as such measures waste time and local resources. Indeed, all Charter and statutory requirements must be fairly met before such petitions can be advanced to the ballot. "City council is not required to submit a proposed charter amendment to the electorate unless it is satisfied with the sufficiency of the initiative petition and that all statutory requirements are fairly

met.” *State ex rel. Baker v. City of Brook Park*, 8th Dist. Cuyahoga No. 98991, 2012-Ohio-5043, ¶ 8 (citing *State ex rel. Becker v. Eastlake*, 93 Ohio St.3d 502, 506 (2001)). Such scrutiny includes inquiry into questions apparent on the fact of the petitions themselves. *Id.* (citing *Morris v. City Council of Macedonia*, 71 Ohio St.3d 52, 56, 641 N.E.2d 1075 (1994)). Because the Charter Initiative contains numerous patent violations of law, the Initiative should be invalidated.

1. The Charter Initiative Is Illegal “Spot Zoning.”

As evidenced from its face, the Charter Initiative seeks to illegally “spot zone” Powell Crossing’s Property. *See Pilla v. City of Willowick*, 11th Dist. Lake No. 8-243, 1982 Ohio App. LEXIS 13454 (December 23, 1982). “Spot zoning” occurs when a property or its owner(s) are singled out through discriminatory zoning practices. *See id.* at *11. Inquiring into whether discriminatory zoning is at work in election initiatives, including referendums, has been held to be specifically appropriate. *See id.* (“[W]hether the result achieved by [an] ordinance [is] discriminatory ... may be made even in the case of a referendum is specifically provided for in *City of Eastlake v. Forest City Enterprises, Inc.*, 426 U.S. 668 (1976).”).

Here, the Charter Initiative singles out and discriminates against Powell Crossing and its Property. Article 4, Section 21 and “uncodified” provisions target Powell Crossing and its Property specifically to limit its current zoning. These provisions do not affect other similarly situated properties that share the same zoning classification. As a result, unlike its identically zoned Downtown Business District neighbors, Powell Crossing will no longer be able to make full use of its vested property right in the Final Development Plan and the full reach of uses permitted by the Property’s current zoning. Such discriminate deprivation violates Powell Crossing’s right to equal protection under the law.

2. The Charter Initiative Is Unconstitutionally Vague.

As evident from the face of the Charter Initiative, the Initiative fails to provide any standard or regulation that articulates what zoning applies to the Property if the current permitted uses under for the Property's Downtown Business District zoning are curtailed without also providing which uses are still permissible. Article 4, Section 21 and "uncodified" provisions. "A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law." *Wedgewood Ltd. P'ship I v. Twp. of Liberty*, 456 F. Supp. 2d 904, 937 (S.D. Ohio 2006) (citation omitted); *Columbus v. Thompson*, 25 Ohio St.2d 26, 30 (1971). Stated differently, a regulation that gives unfettered discretion to governmental officials is unconstitutionally vague because it allows arbitrary and discriminatory enforcement. *See Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) ("A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.")

By failing to specify which uses remain permissible, the Initiative leaves enforcement of the Property to arbitrary and discriminatory enforcement of a standard-less regulation. Such vague delegation violates the Due Process clause of the United States and Ohio Constitutions.

3. The Charter Initiative Is An Unconstitutional Retroactive Law.

Because Powell Crossing's right to the Property's current zoning has already vested, the Initiative cannot now retroactively deprive Powell Crossing of its vested property right. Powell Crossing's right vested in its current zoning the instant it submitted the Final Development Plan to City Officials for their consideration. *See Gibson v. City of Oberlin*, 167 N.E.2d 651 (1993). Once an application is submitted, the applicant is protected from future attempts to impose

legislative changes on the Property's zoning because such changes would constitute retroactive zoning. *See id.* Yet, that retroactive zoning is precisely the Charter Initiative's aim.

The "uncodified" provision purports to now prohibit any activity or reliance on uses consistent with Powell Crossing's right to use the Property under its current zoning – a fundamental property right that has already vested. It is an elementary principal of law that a municipality cannot give retroactive effect to its laws. *See, e.g., Save the Lake v. Schregardus*, 141 Ohio App. 3d 530, 539 (2001) (“[T]he Supreme Court of Ohio reaffirmed the notion that a municipality may not give retroactive effect to an ordinance in order to deprive a property owner of a substantial right.”). Thus, the Initiative simply cannot retroactively deprive Powell Crossing of its right to develop the Property. Accordingly, the Initiative suffers from yet another obvious Constitutional infirmity. Petitioners had the opportunity to dispute Council's approval of the Final Development Plan through an administrative appeal. Foregoing that opportunity, Petitioners cannot retroactively undo that decision here.

4. The Charter Initiative Impermissibly Delegates City Council's Legislative Power to a Commission.

Finally, the Charter Initiative's requirement that “all ordinances of Powell must comply with the final comprehensive plan adopted pursuant to Section 18 of this article IV,” constitutes an unconstitutional and impermissible delegation of legislative power to an administrative commission. City Council's legislative authority cannot be diminished by an administrative commission:

In accordance with settled principles that no American legislative body can constitutionally and validly delegate to administrative officers an exercise of discretionary power which is arbitrary, it is established that any municipal ordinance which vests an arbitrary discretion in public administrative officials with reference to the rights, property, or business of individuals, without prescribing a uniform rule of action, making the enjoyment of such rights depend upon arbitrary choice of the officers without reference to all persons of the class to which the

ordinance is intended to be applicable, and without furnishing any definite standard for the control of the officers, **is unconstitutional, void, and beyond the powers of a municipality.**

State ex rel. Selected Properties, Inc. v. Gottfried, 163 Ohio St. 469, 473 (1955) (quotations omitted) (emphasis added). Thus, the Charter Initiative's attempt to circumscribe all future Powell ordinances, that particularly concern citizens' property rights, cannot be delegated to some administrative commission. Such attempts are facially unconstitutional and void. *Id.*

For this and the reasons previously stated, the Charter Initiative is invalid on its face and should be rejected by the Board of Elections.

IV. CONCLUSION

For the foregoing reasons, the Petitioners' three separate attempts to subject City Council's final administrative decision set forth in Ordinance 2014-10 to a referendum must fail. The Referendum Initiative, Repeal Initiative and Charter Initiative are invalid and must be rejected by the Delaware County Board of Elections.

Respectfully submitted,



Bruce L. Ingram (Ohio Bar # 0018008)

Joseph R. Miller (Ohio Bar # 0068463)

Christopher L. Ingram (Ohio Bar # 0086325)

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Counsel for the Protesting Party

CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of the foregoing was served via hand delivery upon the Delaware County Board of Elections and via electronic mail to the City of Powell's Clerk of City Council, Sue D. Ross, sross@cityofpowell.us, this 28th day of July, 2014.



Christopher L. Ingram

Summary of Powell Petitions' Shortfall			
Valid Signatures Required for Ballot:		238	
Petition	Potentially Valid	Invalid	Shortfall
Referendum Petition [to repeal Ord. 2014-10]	143	270	95
Initiative Petition [to repeal Ord. 2014-10]	143	268	95
Initiative Petition [to amend Powell's Charter to repeal Ord. 2014-10]	146	263	92

EXHIBIT 1

Referendum Part-Petition: A		
Circulator:	Cory L. Hixson	Valid: 15 Invalid: 5
Line No.	Reason Signature is Invalid	
1	Circulator also signed petition as petitioner	
2	Signature not genuine	
6	Not registered	
14	Not registered	
16	Signature not genuine	

Referendum Part-Petition: B		
Circulator:	Joseph Valvona, Jr.	Valid: 0 Invalid: 30
Line No.	Reason Signature is Invalid	
1-30	Fails to include the ward and precinct	

Referendum Part-Petition: C		
Circulator:	Brendan James Newcomb	Valid: 0 Invalid: 9
Line No.	Reason Signature is Invalid	
1-9	Fails to include the ward and precinct	

Referendum Part-Petition: D		
Circulator:	Edward A. Meixner	Valid: 8 Invalid: 1
Line No.	Reason Signature is Invalid	
1	Circulator also signed petition as petitioner	

Referendum Part-Petition: E		
Circulator:	Sharon N. Valvona	Valid: 0 Invalid: 5
Line No.	Reason Signature is Invalid	
1-5	Fails to include the ward and precinct	

Referendum Part-Petition: F	
Circulator: Thomas J. Happensack	Valid: 0 Invalid: 40
Line No.	Reason Signature is Invalid
1-40	Fails to include the ward and precinct

Referendum Part-Petition: G	
Circulator: Elizabeth S. Grzelak	Valid: 0 Invalid: 62
Line No.	Reason Signature is Invalid
1-62	Fails to include the ward and precinct

Referendum Part-Petition: H	
Circulator: Denise A. Wible	Valid: 83 Invalid: 15
Line No.	Reason Signature is Invalid
2	Circulator also signed petition as petitioner
9	Signature not genuine
15	Signature not genuine
28	Signature not genuine
31	Not registered
39	Signature not genuine
40	Signature not genuine
49	Invalid Address
50	Illegible
60	Signature not genuine
66	Signature not genuine
76	Signature not genuine
88	Signature not genuine
95	Signature not genuine
97	Fails to include the ward and precinct

Referendum Part-Petition: I	
Circulator: Stacey Haney	Valid: 0 Invalid: 24
Line No.	Reason Signature is Invalid
1-24	Fails to include the ward and precinct

Referendum Part-Petition: J		
Circulator:	Joseph F. Conte	Valid: 1 Invalid: 16
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-16	Fails to include the ward and precinct	

Referendum Part-Petition: K		
Circulator:	Brian Swalwell	Valid: 0 Invalid: 58
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-58	Fails to include the ward and precinct	

Referendum Part-Petition: L		
Circulator:	Emilie Duncan	Valid: 36 Invalid: 5
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1	Circulator also signed petition as petitioner	
4	Fails to include the ward and precinct	
7	Signature not genuine	
16	Not registered	
20	Signature not genuine	

Repeal Initiative Part-Petition: A		
Circulator: Cory L. Hixson	Valid: 15	Invalid: 5
Line No.	Reason Signature is Invalid	
1	Circulator also signed petition as petitioner	
2	Signature not genuine	
6	Not registered	
14	Not registered	
16	Signature not genuine	

Repeal Initiative Part-Petition: B		
Circulator: Joseph Valvona, Jr.	Valid: 0	Invalid: 30
Line No.	Reason Signature is Invalid	
1-30	Fails to include the ward and precinct	

Repeal Initiative Part-Petition: C		
Circulator: Brendan James Newcomb	Valid: 0	Invalid: 9
Line No.	Reason Signature is Invalid	
1-9	Fails to include the ward and precinct	

Repeal Initiative Part-Petition: D		
Circulator: Edward A. Meixner	Valid: 8	Invalid: 1
Line No.	Reason Signature is Invalid	
1	Circulator also signed petition as petitioner	

Repeal Initiative Part-Petition: E		
Circulator: Sharon N. Valvona	Valid: 0	Invalid: 5
Line No.	Reason Signature is Invalid	
1-5	Fails to include the ward and precinct	

Repeal Initiative Part-Petition: F		
Circulator:	Stacey Haney	Valid: 0 Invalid: 24
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-24	Fails to include the ward and precinct	

Repeal Initiative Part-Petition: G		
Circulator:	Denise A. Wible	Valid: 83 Invalid: 14
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
3	Circulator also signed petition as petitioner	
9	Signature not genuine	
15	Signature not genuine	
23	Signature not genuine	
24	Signature not genuine	
28	Signature not genuine	
31	Not registered	
39	Signature not genuine	
40	Signature not genuine	
49	Illegible	
60	Signature not genuine	
65	Signature not genuine	
74	Signature not genuine	
92	Signature not genuine	

Repeal Initiative Part-Petition: H		
Circulator:	Elizabeth S. Grzelak	Valid: 0 Invalid: 62
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-62	Fails to include the ward and precinct	

Repeal Initiative Part-Petition: I		
Circulator:	Thomas J. Happensack	Valid: 0 Invalid: 39
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-39	Fails to include the ward and precinct	

Repeal Initiative Part-Petition: J		
Circulator:	Emilie Duncan	Valid: 37 Invalid: 4
Line No.	Reason Signature is Invalid	
1	Circulator also signed petition as petitioner	
7	Signature not genuine	
16	Not registered	
21	Signature not genuine	

Repeal Initiative Part-Petition: K		
Circulator:	Brian Swalwell	Valid: 0 Invalid: 58
Line No.	Reason Signature is Invalid	
1-58	Fails to include the ward and precinct	

Repeal Initiative Part-Petition: L		
Circulator:	Joseph F. Conte	Valid: 0 Invalid: 17
ENTIRE PART PETITION IS INVALID B/C THERE ARE 17 SIGNATURES BUT ONLY 16 WERE VERIFIED BY CIRCULATOR.		
Line No.	Reason Signature is Invalid	
1-16 and *	Fails to include the ward and precinct	

Charter Initiative Part-Petition: A		
Circulator:	Cory L. Hixson	Valid: 15 Invalid: 5
Line No.	Reason Signature is Invalid	
1	Circulator also signed petition as petitioner	
2	Signature not genuine	
6	Not registered	
14	Not registered	
16	Signature not genuine	

Charter Initiative Part-Petition: B		
Circulator:	Joseph Valvona, Jr.	Valid: 0 Invalid: 30
Line No.	Reason Signature is Invalid	
1-30	Fails to include the ward and precinct	

Charter Initiative Part-Petition: C		
Circulator:	Brendan James Newcomb	Valid: 0 Invalid: 9
Line No.	Reason Signature is Invalid	
1-9	Fails to include the ward and precinct	

Charter Initiative Part-Petition: D		
Circulator:	Edward A. Meixner	Valid: 8 Invalid: 1
Line No.	Reason Signature is Invalid	
1	Circulator also signed petition as petitioner	

Charter Initiative Part-Petition: E		
Circulator:	Sharon N. Valvona	Valid: 0 Invalid: 5
Line No.	Reason Signature is Invalid	
1-5	Fails to include the ward and precinct	

Charter Initiative Part-Petition: F		
Circulator:	Thomas J. Happensack	Valid: 0 Invalid: 40
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-40	Fails to include the ward and precinct	

Charter Initiative Part-Petition: G		
Circulator:	Elizabeth S. Grzelak	Valid: 0 Invalid: 62
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-62	Fails to include the ward and precinct	

Charter Initiative Part-Petition: H		
Circulator:	Denise A. Wible	Valid: 85 Invalid: 11
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
2	Circulator also signed petition as petitioner	
4	No signature	
9	Signature not genuine	
15	Signature not genuine	
28	Signature not genuine	
31	Not registered	
39	Signature not genuine	
48	Illegible	
50	Signature not genuine	
60	Signature not genuine	
65	Signature not genuine	

Charter Initiative Part-Petition: I		
Circulator:	Stacey Haney	Valid: 0 Invalid: 23
<u>Line No.</u>	<u>Reason Signature is Invalid</u>	
1-23	Fails to include the ward and precinct	

Charter Initiative Part-Petition: J	
Circulator: Joseph F. Conte	Valid: 0 Invalid: 17
ENTIRE PART PETITION IS INVALID B/C THERE ARE 17 SIGNATURES BUT ONLY 16 WERE VERIFIED BY CIRCULATOR.	
<u>Line No.</u>	<u>Reason Signature is Invalid</u>
1-16 and *	Fails to include the ward and precinct

Charter Initiative Part-Petition: K	
Circulator: Brian Swalwell	Valid: 1 Invalid: 56
<u>Line No.</u>	<u>Reason Signature is Invalid</u>
1-16	Fails to include the ward and precinct
18-57	Fails to include the ward and precinct

Charter Initiative Part-Petition: L	
Circulator: Emilie Duncan	Valid: 37 Invalid: 4
<u>Line No.</u>	<u>Reason Signature is Invalid</u>
1	Circulator also signed petition as petitioner
7	Signature not genuine
16	Not registered
21	Signature not genuine

REFERENDUM PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully order that Ordinance No. 2014-10 passed by the City Council of Powell, Ohio on the 17th day June, 2014, be submitted to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014.

A full and correct copy of the title and text of Ordinance No. 2014-10 is attached hereto as Exhibit 1, and incorporated herein.

RECEIVED
JUL 17 2014
BY: AV 8:18 am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Cheryl Susi	<i>[Signature]</i>	7/11/14	803 Middlebury Court Powell	OH 43065	Delaware	G
2	Robert Susi	<i>[Signature]</i>	7/11/14	803 Middlebury Court Powell	OH 43065	Delaware	G
3	Kimberly Anderson	<i>[Signature]</i>	7/11/14	874 Middlebury Ct. Powell	43065 Delaware	Delaware	G7
4	Brandon Absher	<i>[Signature]</i>	7/11/14	874 Middlebury Ct. Powell	43065 Delaware	Delaware	G
5	Kimberly Miesler	<i>[Signature]</i>	7/11/14	116 Watson Way Powell	OH 43065 Delaware	Delaware	G.
6	Michelle Miesler	<i>[Signature]</i>	7/11/14	75 Watson Way Powell	OH 43065 Delaware	Delaware	G

7	Tom Morris	Tom Morris	7-11-14	75 Watson Way	43065	Delaware	B.
8	Robt. Marwick	Robt. Marwick	7-11-14	95 Watson Way	43065	Delaware	C
9	Sharon Durand	Sharon Durand	7-11-14	125 Watson Way	43065	Delaware	G
10	Kara Snilko	Kara Snilko	7-12-14	136 Watson Way	43065	Delaware	G
11	Angie Stearns	Angie Stearns	7-12-14	176 Watson Way	43065	Delaware	G
12	Mike Messier	Mike Messier	7-12-14	116 Watson Way	43065	Delaware	G
13	David Lusk	David Lusk	7-12-14	106 Watson Way	43065	Delaware	B
14	Lucinda Cole	Lucinda Cole	7-12-14	106 Watson Way	43065	Delaware	G
15	Ann Darrington	Ann Darrington	7-12-14	56 Watson Way	43065	Delaware	G
16	Tom Marwick	Tom Marwick	7-12-14	16 Watson Way	43065	Delaware	G
17	Ray Green	Ray Green	7-12-14	31 Sandering Ave	43065	Delaware	A
18	MARGARET	MARGARET	7-8-14	51 Sandering Ave	43065	Delaware	G
19	JAMES NOBLE	JAMES NOBLE	7-12-14	50 Sandering Ave	43065	Delaware	G
20	Sharon Miller	Sharon Miller	7-12-14	46 Sandering Ave	43065	Delaware	G
21	Dale Miller	Dale Miller	7-12-14	60 Sandering Ave	43065	Delaware	A
22	Annikarrick Ann Korman	Annikarrick Ann Korman	7-13-14	70 Sandering	43065	Delaware	G

23	Melissa Miller	Melissa Miller	7-13-14	80 Sandorling Ave	43005	Delaware	G
24	Michael Schme	Michael Schme	7-13-14	864 Middlebury Ct	43065	Delaware	G
25	Derek	Derek	7-13-2014	803 Middlebury Ct	43065	Delaware	G
26	Bill Helminger	Bill Helminger	7/13/2004	843 Middlebury Ct	43065	Delaware	G
27	Lytha Kelting	T.H. Kelting	7/13/14	843 Middlebury Ct	43065	Delaware	G
28	Jeffrey Hunter	Jeffrey Hunter	7/13/14	71 Sandorling Ave	43065	Delaware	G
29	Dave Rice	Dave Rice	3/13/14	61 Sandorling Ave	43065	Delaware	G
30	Danielle Rice	Danielle Rice	7-13-14	61 Sandorling Ave	43065	Delaware	G
31	Ryan Neeks	Ryan Neeks	7-13-14	41 Sandorling Ave	43065	Delaware	G
32	Kimberly Niemi	Kimberly Niemi	7-13-14	41 Sandorling Ave	43065	Delaware	G
33	Scott Joseph	Scott Joseph	7-13-14	105 Wagon Way	43065	Delaware	G
34	Harris Jurewicz	Harris Jurewicz	7-13-14	125 Wagon Way	43065	Delaware	G
35	Daniel	Daniel	7-13-14	141 Wagon Way	43065	Delaware	G
36	Justin Smith	Justin Smith	7-13-14	136 Wagon Way	43065	Delaware	G
37	Raeneé Gross	Raeneé Gross	7-14-14	236 Woodland Dr	43065	Delaware	A
38	R. Joseph	R. Joseph	7/14/14	238 Ridge Side Dr	43065	Delaware	A

39	Renee M. Mott	Renee Mott	7/14/14	308 Ridge Side Dr	Powell 43065	Delaware	A
40	John M. Moffitt	John M. Moffitt	7/14/14	309 Ridge Side Dr	Powell 43065	Delaware	A
41	TRACY JORDAN	[Signature]	7/14/14	343 WHETSTONE DR	Powell 43065	Delaware	A
42	Emma Kessler	Emma Kessler	7-14-14	308 Ridge Side Dr	Powell 43065	Delaware	A
43	Dana Louise	Dana Louise	7-14-14	310 Dickins Dr E	Powell 43065	Delaware	A
44	CATHY GALT	Cathy Galt	7/14/14	385 Hesperall Dr	Powell, OH	Delaware	A
45	Wendy N. Nolin	[Signature]	7/14/14	144 Meadow Ridge Ct.	Powell, OH 43065	Delaware	A
46	Sara Kessler	[Signature]	7/14/14	144 Meadow Ridge Ct.	Powell, OH 43065	Delaware	A
47	G.T. Lessner	[Signature]	7/14/14	126 TRAIL EDGE CIR	Powell 43065	Delaware	A
48	TRICIA MOFFITT	Tricia Moffitt	7/14/14	309 Ridge Side Dr	Powell, OH 43065	Delaware	A
49	Sarah Libby	Sarah Libby	7/14/14	332 Whetstone Dr. E	Powell, OH	Delaware	A
50	Carolyn Kelly	Carolyn Kelly	7/14/14	319 Christen Dr	Powell, OH	Delaware	A

51	Jones Coleman Mandy	Jeanne Coffey Mandy	7/14/14	334 W. Watson Rd. 312 Ridgeside Dr.	Powell OH 43065 Powell, OH 43065	Delaware Delaware	A A
52	Mason Shackley	Olivia Shackley	7/14/14	236 Coronado Cir E	Powell, OH 43065	Delaware	A
53	Anthony Shackley	Anthony Shackley	7/14/14	236 Coronado Cir E	Powell, OH 43065	Delaware	A
54	William Terry	William Terry	7/14/14	261 Muldare Dr.	Powell, OH 43065	Delaware	D
55	Rachael E. Telick	Rachael E. Telick	7/14/14	1100 Amaranthus Dr.	Powell, OH	Delaware	G
56	Matthew A. Telick	Matthew A. Telick	7/14/14	1160 Amaranthus Dr.	Powell, OH 43065	Delaware	G
57	Carold Joseph	Carold Joseph	7/14/14	105 Wilson Way	Powell, OH 43065	Delaware	G
58	Caren Kruess	Caren Kruess	7/14/14	86 Watson Way	Powell, OH 43065	Delaware	G
59	STEVEN KRUSS	STEVEN KRUSS	7/14/14	86 WATSON WAY	POWELL, OH	DELAWARE	G
60	Sarah Blake	Sarah Blake	7/14/14	234 Smokedale Rd	Powell, OH	Delaware	G
61	Elizabeth Greath	Elizabeth Greath	7/14/14	115 Watson Way	Powell, OH	Delaware	G
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INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully order that the attached proposed Ordinance, attached hereto as Exhibit 1 and incorporated herein, be submitted to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014.

Attached hereto as Exhibit 2 is a full and correct copy of the title and text of City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed Ordinance attached hereto as Exhibit 1.

RECEIVED
JUL 17 2014
BY: AV 8:18 am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Sharon Valvona	<i>[Signature]</i>	7/11/14	803 Middlebury Court Powell	Powell OH 43065	Delaware	G
2	Robert Susi	<i>[Signature]</i>	7/11/14	863 Middlebury Court	Powell OH 43065	Delaware	G
3	Kimberly Needler	<i>[Signature]</i>	7/11/14	874 Middlebury Ct.	Powell 43065	Delaware	G
4	Brian Ebersole	<i>[Signature]</i>	7/11/14	374 M. Haggerty Ct.	Powell 43065	Delaware	G
5	Thomas Happensack	<i>[Signature]</i>	7/11/14	116 Watson Way	Powell OH 43065	Delaware	G

6	Michelle, Nancy	Michelle Green	7-11-14	75 Watson Way	43065	Delaware	G
7	Tom	Tom	7-11-14	75 Watson	43065	Delaware	B
8	Pete	Pete	7-11-14	95 Watson Way	43065	Delaware	C
9	Sharon	Sharon	7-11-14	125 Watson Way	43065	Delaware	G
10	Kara	Kara	7-12-14	130 Watson Way	43065	Delaware	G
11	Krista	Krista	7-12-14	136 Watson Way	43065	Delaware	G
12	Mike	Mike	7-12-14	116 Watson Way	43065	Delaware	G
13	David	David	7-12-14	106 Watson Way	43065	Delaware	G
14	Lucinda	Lucinda	7-12-14	106 Watson Way	43065	Delaware	G
15	Ann	Ann	7-12-14	51 Watson Way	43065	Delaware	G
16	Tom	Tom	7-12-14	116 Watson Way	43065	Delaware	G
17	Pam	Pam	7-12-14	31 Sanderling Ave	43065	Delaware	G
18	James	James	7-12-14	51 Sanderling Ave	43065	Delaware	G
19	Dale	Dale	7-12-14	50 Sanderling Ave	43065	Delaware	G
20	Sharon	Sharon	7-12-14	60 Sanderling Ave	43065	Delaware	G
21	Ann	Ann	7-12-14	60 Sanderling Ave	43065	Delaware	G
22	Ann	Ann	7-12-14	70 Sanderling Ave	43065	Delaware	G

23	MURISSA MILLEN	MURISSA MILLEN	7-13-14	50 Samserville Ave	43065	Delaware	G
24	Michael Schnee	Michael P. Sch	7-13-14	864 Middlebury Ct	43065	Delaware	G
25	Daniel Meds	Daniel Meds	7-13-14	853 Wood Johnson Ct	43065	Delaware	G
26	Bill Helmsing	Bill Helmsing	7/13/14	843 Middlebury Ct	43065	Delaware	G
27	Gailtha Jenkins	Gailtha Jenkins	7/13/14	843 Middlebury Ct	43065	Delaware	G
28	Tiffany Hunter	Tiffany Hunter	7/13/14	71 Sandalwood Ave	43065	Delaware	G
29	Zoe Rice	Zoe Rice	7/13/14	61 Sandalwood Ave	43065	Delaware	G
30	Danielle Rice	Danielle Rice	7-13-14	61 Sandalwood Ave	43065	Delaware	G
31	Ryan Meekis	Ryan Meekis	7-13-14	41 Sandalwood Ave	43065	Delaware	G
32	Kimberly Wilson	Kimberly Wilson	7-13-14	41 Sandalwood Ave	43065	Delaware	G
33	Scott Boyd	Scott Boyd	7-13-14	105 Wilson Way	43065	Delaware	G
34	Hans Johnson	Hans Johnson	7-13-14	125 WATSON WAY	43065	Delaware	G
35	Dustin Johnson	Dustin Johnson	7-13-14	144 Watson Way	43065	Delaware	G
36	Justin Sivillo	Justin Sivillo	7-13-14	136 Watson Way	43065	Delaware	G
37	Pranee Gross	Pranee Gross	7-14-14	236 Woodland Dr	43065	Delaware	A
38	Rachel Bennett	Rachel Bennett	7/14/14	228 Ridge Side Dr	43065	Delaware	A

39	Renee Marie Powell	7/14/14	308 Ridge Side Dr	Powell 43065	Delaware	A
40	John McFitt	7/14/14	309 Ridge Side Dr	Powell 43065	Delaware	A
41	Byron Russell	7-14-14	318 Ridge Side Dr	Powell 43065	Delaware	A
42	Traci Jordan (NAME)	7/14/14	343 Wicketstone Dr	Powell 43065	Delaware	A
43	Doreen CATHARINE GRAY	7/14/14	346 Wicketstone Dr E	Powell 43065	Delaware	A
44	Paul Worthing	7/14/14	385 Hopwell Dr	Powell, DE	Delaware	A
45	Jennifer Worthing	7/14/14	144 Meadow Ridge	Powell, DE 43065	Delaware	A
46	Paul Worthing	7/14/14	144 Meadow Ridge	Powell, DE 43065	Delaware	A
47	G.T. Larson	7/14/14	126 TRAIL ROCK CIR	Powell OH	Delaware	A
48	TRECIA MORRIS	7/14/14	309 Ridge Side Dr	Powell, OH	Delaware	A
49	Debra Abby	7/14/14	332 Wicketstone Dr E	Powell, OH	Delaware	A
50	Carlynn Kelley	7/14/14	319 Glenview Circle	Powell, OH	Delaware	A

51	James Williams	James Williams	7/14/14	337 W. Watson Blvd	Powell, OH	43005	Delaware	H
52	Mandy Boyson	Mandy	7/14/14	312 Rimesi ADR.	Powell, OH	43005	Delaware	A
53	Alison Shockey	Alison Shockey	7/14/14	236 Woodedge Cir E	Powell, OH	43005	Delaware	A
54	Ashley Shockey	Ashley Shockey	7/14/14	236 Woodedge Cir E	Powell, OH	43005	Delaware	A
55	William Perry	William Perry	7/14/14	201 Muldare Dr	Powell, OH	43005	Delaware	D
56	Matthew A. Telick	Matthew A. Telick	7/14/14	1160 Amaranthus Dr.	Powell, OH	43005	Delaware	G
57	Rachael E. Telick	Rachael E. Telick	7/14/14	1160 Amaranthus Dr.	Powell, OH	43005	Delaware	G
58	Candi Deegh	Candi Deegh	7/14/14	105 Watson Way	Powell, OH	43005	Delaware	G
59	Caren Kruest	Caren Kruest	7/14/14	86 Watson Way	Powell, OH	43005	Delaware	G
60	STEVE KNEST	Steve Knest	7/14/14	86 WATSON WAY	POWELL, OH	43005	DELAWARE	G
61	Swan Blake	Swan Blake	7/16/14	224 Smokewood Rd	POWELL, OH	43005	Delaware	G
62	Elizabeth Green	Elizabeth Green	7/16/14	115 Watson Way	Powell, OH	43005	Delaware	G
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF Delaware

I, Elizabeth S. Orzelak (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 62 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Elizabeth S. Orzelak
(Signature of Circulator)

115 Watson Way
(Permanent residence street address)

Powell OH 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 16th day of July, 2014.

My Commission Expires:

[Signature]

[Signature]
Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT 1

City of Powell, Ohio ORDINANCE

AN ORDINANCE REPEALING CITY OF POWELL ORDINANCE 2014-10 AND REJECTING THE FINAL DEVELOPMENT PLAN FOR THE CENTER AT POWELL CROSSING LLC, A DEVELOPMENT OF 14,000 SQ. FT. OF RETAIL IN TWO BUILDINGS, PRESERVING THE OLD HOUSE FOR COMMERCIAL USE, AND DEVELOPMENT OF 64 APARTMENT RESIDENTIAL UNITS ON 8.3 ACRES, LOCATED AT 147 W. OLENTANGY STREET.

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO, AS FOLLOWS:

Section 1: That City of Powell, Ohio Ordinance No. 2014-10 is hereby repealed.

Section 2: That the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street, is rejected by the people of the City of Powell, Ohio.

Section 3: That this Ordinance shall take effect on the earliest period allowed by law.

INITIATIVE PETITION

NOTICE. Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

NOTICE: WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

To the Clerk of Council of the City of Powell, Ohio:

We, the undersigned, electors of the City of Powell, Ohio respectfully propose to the electors of Powell, Ohio for their approval or rejection at the general election to be held on the 4th day of November, 2014, the following amendment to the City Charter of Powell, Ohio, which is incorporated herein and attached hereto as Exhibit 1.

Attached hereto as Exhibit 2 is the "City of Powell Zoning Districts Map 2014," which is incorporated herein and identifies the area of Powell, Ohio referenced as the "Downtown Business District" in the proposed charter amendment attached hereto as Exhibit 1.

Attached hereto as Exhibit 3 is City of Powell, Ohio Ordinance 2014-10, which is referenced in the proposed charter amendment attached hereto as Exhibit 1.

RECEIVED
JUL 17 2014
BY: AV 8:18am

We hereby designate the following petitioners as a committee to be regarded as filing this petition:

COMMITTEE OF NOT LESS THAN THREE PETITIONERS	ADDRESS
Sharon Valvona	225 Squires Ct. Powell, Ohio 43065
Thomas Happensack	127 Kellys Ct. Powell, Ohio 43065
Brian Ebersole	215 Squires Ct. Powell, Ohio 43065

Signatures on this petition must be written in ink.

	PRINT NAME	SIGNATURE	DATE OF SIGNING	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, STATE, ZIP CODE	COUNTY	PRECINCT
1	Sharon Valvona	<i>[Signature]</i>	7/11/14	863 Woodberry Court	Powell OH 43065	Delaware	G
2	Robert Sori	<i>[Signature]</i>	7/11/14	863 Middlebury Court	Powell OH 43065	Delaware	G
3	Lawrence R. Under	<i>[Signature]</i>	7/11/14	874 Middlebury Ct.	Powell OH 43065	Delaware	G
4	Brandon Under	<i>[Signature]</i>	7/11/14	874 Middlebury Ct.	Powell OH 43065	Delaware	G
5	Kimberly Moorslein	<i>[Signature]</i>	7/11/14	116 Watson Way	Powell OH 43065	Delaware	G
6	Michelle Martin	<i>[Signature]</i>	7/11/14	75 Nelson Way	43065	Delaware	G

7	Tina Marks	Tina	7-11-2014	75 Watsonway	Powell 43065	De/Annap	G
8	Pete Merrill	Pete	7-11-14	95 Watson Way	Powell 43065	Delaware	G
9	Sharon Dando	Sharon	7-11-14	125 Watson Way	Powell 43065	Delaware	G
10	Kara Sillis	Kara	7-12-14	136 Watsonway	Powell 43065	Delaware	G
11	Angie Stearns	Angie	7-12-14	126 Watson Way	Powell 43065	Delaware	G
12	John de Moester	John	7-12-14	116 Watson way	Powell 43065	Delaware	G
13	David Lust	David	7-12-14	106 Watson Way	Powell 43065	Delaware	G
14	Lucinda Cole	Lucinda	7-12-14	106 Watson Way	Powell 43065	Delaware	G
15	Amy Dreyfus	Amy	7-12-14	126 Watson Way	Powell 43065	Delaware	G
16	Tom Mando	Tom	7-12-14	16 Sanderling	43065	Delaware	G
17	Tom Casey	Tom	7-12-14	31 Sanderling Ave	43065	Delaware	G
18	James West	James	7-12-14	51 Sanderling Ave	43065	Delaware	G
19	James West	James	7-12-14	50 Sanderling	43065	Delaware	G
20	Sharon Miller	Sharon	7-12-14	60 Sanderling	43065	Delaware	G
21	Dale Miller	Dale	7-12-14	60 Sanderling	43065	Delaware	G
22	Ann Kaseck	Ann	7-12-14	70 Sanderling	43065	Delaware	G

23	Melissa Miller	Melissa Miller	7-13-14	80 Sandalwood Ave	Powell, OH 43065	Delaware	G
24	Michael Schwei	Michael Schwei	7-13-14	864 Middlebury Ct	43065	Delaware	G
25	Dave West	Dave West	7-13-14	855 Middlebury Ct	43065	Delaware	G
26	Bill Helming	Bill Helming	7/13/14	843 Middlebury Ct	43065	Delaware	G
27	Tatiana Williams	Tatiana Williams	7/13/14	843 Middlebury Ct	43065	Delaware	G
28	Tiffany Hunter	Tiffany Hunter	7/13/14	71 Sandalwood Ave	43065	Delaware	G
29	Ross Rice	Ross Rice	7/13/14	61 Sandalwood Ave	43065	Delaware	G
30	Danielle Rice	Danielle Rice	7-13-14	61 Sandalwood Ave	43065	Delaware	G
31	Ryan Meeks	Ryan Meeks	7-13-14	41 Sandalwood Ave	43065	Delaware	G
32	Kimberly J. King	Kimberly J. King	7-13-14	41 Sandalwood Ave	43065	Delaware	G
33	Scott Joseph	Scott Joseph	7-13-14	165 Woodrow Way	43065	Delaware	G
34	Hans Jerome	Hans Jerome	7-13-14	125 Watson Way	43065	Delaware	G
35	Auschel	Auschel	7-13-14	140 Watson Way	43065	Delaware	G
36	Nestor Smith	Nestor Smith	7-13-14	136 Watson Way	43065	Delaware	G
37	Raenee Gross	Raenee Gross	7-14-14	236 Woodland Dr	43065	Delaware	A
38	R. Joseph Papant	R. Joseph Papant	7/14/14	238 Rock Side	43065	Delaware	A

39	Renee M. Moore	Renee M. Moore	7/14/14	308 Ridge Side Dr	Powell	Delaware	A
40	John Moffitt	John Moffitt	7/14/14	309 Ridge Side Dr	Powell, OH 43065	Delaware	A
41	Bryan Russell	Bryan Russell	7-14-14	308 Ridge Side Dr	Powell OH 43065	Delaware	A
42	(NAME) TRACI LEBLANC	(NAME)	7-14-14	343 Whitcomb Dr	Powell	Delaware	A
43	CATHARINE GRAY	CATHARINE GRAY	7/14/14	385 Hopewell Dr	Powell	Delaware	A
44	Diana Trunk	Diana Trunk	7/14/14	316 Whitcomb Dr E	Powell &	Delaware	A
45	PAUL VERLIND	PAUL VERLIND	7/14/14	144 Meadow Ridge Ct	Powell, OH 43065	Delaware	A
46	MANIKER NOLAN	MANIKER NOLAN	7/14/14	144 Meadow Ridge Ct	Powell, OH 43065	Delaware	A
47	G.T. Leonard	G.T. Leonard	7/14/14	124 Tamar Edge Cir	Powell, OH 43065	Delaware	A
48	TRACI MOFFITT	TRACI MOFFITT	7/14/14	309 Ridge Side Dr	Powell, OH 43065	Delaware	A
49	Sarah Liberty	Sarah Liberty	7/14/14	332 Willetstone Drive East	Powell, OH	Delaware	A
50	Chris Kelley	Chris Kelley	7/14/14	379 Glenview Circle	Powell, OH	Delaware	A

51	Jim Coleman	James Coleman	7/14/14	934 Lake Island Blvd	Powell, OH 43065	Delaware	A
52	Mandy O'Brien	Mandy	7/14/14	312 Ridge Side Dr	Powell, OH 43065	Delaware	A
53	Alison Shackley	Alison Shackley	7/14/14	236 Woodley Cir E	Powell, OH 43065	Delaware	A
54	Anthony Shackley	Anthony Shackley	7/14/14	236 Woodley Cir E	Powell, OH 43065	Delaware	A
55	William Terry	William Terry	7/14/14	241 Buckeye Dr	Powell, OH 43065	Delaware	D
56	Matthew A. Teich	Matthew A. Teich	7/14/14	1160 Amaranthus Dr	Powell, OH 43065	Delaware	G
57	Rachel E. Teich	Richard E. Teich	7/14/14	1160 Amaranthus Dr	Powell, OH 43065	Delaware	G
58	Candi Joseph	Candi Joseph	7/14/14	105 Watson Way	Powell, OH 43065	Delaware	G
59	Caren Kruest	Caren Kruest	7/14/14	86 Watson Way	Powell, OH 43065	Delaware	G
60	STEVE HUEBET	Steve Huebet	7/14/14	86 Watson Way	Powell, OH 43065	Delaware	G
61	Sarah Blake	Sarah Blake	7/16/14	234 Smokewood Rd	Powell, OH 43065	Delaware	G
62	Elizabeth Grzeban	Elizabeth Grzeban	7/16/14	115 Watson Way	Powell, OH 43065	Delaware	G
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CIRCULATOR STATEMENT

STATE OF OHIO

COUNTY OF Delaware

I, Elizabeth S. Grzelak (printed name of circulator), being first duly sworn, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing 62 (number) signatures; that I witnessed the affixing of every signature to the foregoing part petition; that to the best of my knowledge and belief each person who signed the foregoing part petition is an elector of the City of Powell and qualified to sign; that to the best of my knowledge and belief each person who signed the foregoing part petition signed with knowledge of the contents thereof; and that every signature contained in the foregoing part petition is to the best of my knowledge and belief the genuine signature of the person whose name it purports to be.

Elizabeth S. Grzelak
(Signature of Circulator)

115 Watson Way
(Permanent residence street address)

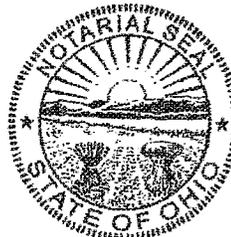
Powell, OH, 43065
(Permanent residence City, State, Zip Code)

Subscribed and sworn to before me this 16th day of July, 2014.

My Commission Expires:

Ø

Christopher B. Burch
Notary Public



Christopher B. Burch, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT 1

City of Powell, Ohio AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

WHEREAS, the people of the City of Powell, Ohio have determined that the Comprehensive Plan for the Village of Powell, Ohio of December 1995 is in need of wholesale revision because it is outdated as applied to the economic growth, technological advancement, and social conditions that shape the City of Powell, Ohio in the year 2014;

WHEREAS, on June 17, 2014, City Council of the City of Powell, Ohio passed Ordinance 2014-10 approving a Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 Sq. Ft. of retail in two buildings, preserving the Old House for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street;

WHEREAS, the people of the City of Powell, Ohio have determined that the approval of the Final Development Plan pursuant to City of Powell, Ohio Ordinance 2014-10 is not in the best interests of the people of the City of Powell, Ohio.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF POWELL, DELAWARE COUNTY, OHIO TO ADOPT THE FOLLOWING AMENDMENTS TO THE CITY CHARTER OF POWELL, OHIO:

Article 4, Section 14: No later than February 1, 2015, the City Council of Powell, Ohio shall organize a Comprehensive Plan Commission to draft a Preliminary Comprehensive Plan for zoning and development in the City of Powell, Ohio. The Comprehensive Plan Commission shall consist of the following five members: (1) the President of the Bartholomew Run Homeowners Association or such person's designee; (2) the President of the Olentangy Ridge Civic Association or such person's designee; (3) the President of the Grandshire Homeowners Association or such person's designee; (4) the President of the Liberty Lakes Homeowners Association or such person's designee; and (5) the President of the Murphy Park Homeowners Association or such person's designee.

Article 4, Section 15: In drafting the Preliminary Comprehensive Plan, the Comprehensive Plan Commission shall take the following three procedural steps: Phase I, to make findings regarding the current state of the Powell community's character and identify in light of current socioeconomic conditions; Phase II, to draft a composite plan identifying specific zones and/or districts that reflect the natural, cultural, and visual elements of the City of Powell; and Phase III, to make recommendations to City Council through the creation of a Preliminary Comprehensive Plan.

Article 4, Section 16: The Comprehensive Plan Commission shall hold at least two public workshops between January 1, 2015 and June 30, 2015 to receive public input and encourage public deliberation regarding the creation of the Preliminary Comprehensive Plan.

Article 4, Section 17: The Comprehensive Plan Commission shall submit the Preliminary Comprehensive Plan to the City Council of Powell, Ohio no later than September 30, 2015.

Article 4, Section 18: The City Council of Powell, Ohio shall consider the Preliminary Comprehensive Plan, make adjustments as necessary consistent with the Phase I findings of Comprehensive Plan Commission, and pass an ordinance no later than March 31, 2016 legislatively adopting a Final Comprehensive Plan.

Article 4, Section 19: The Final Comprehensive Plan shall be in compliance with the following objective criteria: (1) the needs and desires of the residents of Powell are the paramount consideration; (2) preserve the natural, cultural, and visual elements of the City of Powell; (3) limit traffic congestion on Powell roads; (4) balance residential and non-residential land use in Powell based upon the scope and cost of existing City services and level of tax revenues; (5) land in Powell should be available for parking in retail areas; and (6) real property in the Powell "Downtown Business District" shall not be developed with "high-density housing."

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "high-density housing" includes but is not limited to the following real property: (a) residential real property improved with building(s) greater than two-stories in height; (b) real property improved with dwellings containing more than one family; (c) leased real property improved with dwellings containing more than one family; and (d) vacant land that will be used for dwellings containing more than one family.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "family" means an individual living alone or a group of related or unrelated individuals living together in a household.

For purposes of the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV, "Downtown Business District" shall refer to the real property identified as the "Downtown Business District" on the "City of Powell Zoning Districts Map 2014" as of June 17, 2014.

Article 4, Section 20: All Ordinances of the City of Powell must comply with the Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV.

Article 4, Section 21: The Final Comprehensive Plan legislatively adopted pursuant to Section 18 of this Article IV shall not be compatible with Ordinance 2014-10 and/or the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street.

Uncodified: No party, public or private, shall take any actions, including but not limited to construction activity, in reliance upon Ordinance 2014-10 and the Final Development Plan for the Center at Powell Crossing LLC, a development of 14,000 sq. ft. of retail in two buildings, preserving the old house for commercial use, and development of 64 apartment residential units on 8.3 acres, located at 147 W. Olentangy Street. The subject property for the Ordinance 2014-10 Final Development Plan shall remain economically viable for other uses, including residential and non-residential uses, notwithstanding this amendment to the City Charter of Powell, Ohio.

Uncodified: This Charter Amendment shall take effect on the earliest period allowed by law.

ARTICLE VI
RECALL, INITIATIVE, REFERENDUM

6.01 REMOVAL BY RECALL

No petition for removal of an elected officer of the Municipality shall be filed until such officer has served for at least six (6) months of the term during which such officer is sought to be recalled. Any elected officer of the City may be removed from office by the electors of the City. The procedure to effect such removal shall be:

(A) A petition signed by electors equal in number to at least fifteen (15) percent of the total votes cast at the last preceding regular municipal election, as defined by the Ohio Revised Code, and demanding the election of a successor to the person sought to be removed, shall be filed with the Delaware County Board of Elections. Such petition shall contain a general statement in not more than two hundred (200) words of the grounds upon which the removal of the person is sought. The form sufficiency, and regularity of any such petition shall be determined as provided by the laws of the State of Ohio.

(B) If the petition is sufficient, and if the person whose removal is sought does not resign within five (5) days after the sufficiency of the petition has been determined, Council shall thereupon order and fix a day for holding an election to determine the question of his or her removal, and for the selection of a successor to each officer named in said petition. Such an election shall be held not less than thirty (30) days nor more than forty (40) days from the time of the finding of the sufficiency of such a petition. The Delaware County Board of Elections shall publish notice and make all arrangements for holding such an election.

(C) The nomination of candidates to succeed each officer sought to be removed shall be made without the intervention of a primary election, by filing with the Delaware County Board of Elections, at least twenty (20) days prior to such a special election, a petition proposing a person for each office, signed by electors equal in number to ten (10) percent of the total votes cast at the last preceding regular municipal election.

(D) The ballots at such a recall election shall be in such form as the Board of Elections for Delaware County, Ohio shall proscribe and shall, with respect to each person whose removal is sought, submit the questions: "Shall (name of person) be removed from the office of (name of office) by recall?"

Immediately following each such question, there will be printed on the ballots, the two propositions in the order set forth:

"For the recall of (name of person)."

"Against the recall of (name of person)."

Under each of such questions shall be placed the names of the candidates to fill the vacancy. The names of the officers whose removal is sought shall not appear on the ballot to succeed such officer. The Board of Elections may modify said ballot for its administrative purposes.

In any such election, if a majority of the votes cast on the question of removal are affirmative, the person whose removal is sought shall be removed from office upon the announcement of the official canvass of that election, and the candidate receiving the plurality of the votes cast for the candidates for that office shall be declared elected. The successor of any person so removed shall hold office during the unexpired term of his predecessor.

In any such election where a majority of votes cast on the question of removal are negative, no further recall petition shall be filed against such incumbent for a period of one year.

(E) If no one is elected, the removal of any elected officer of the City by recall shall constitute a vacancy of the office previously held by that elected officer and such vacancy shall be filled as provided for in this Charter. (Amended 5-7-13)

6.02 INITIATIVE.

Ordinances and other measures providing for the exercise of any powers of government granted by the Ohio Constitution or the laws of the State of Ohio, may be proposed by initiative petition. Such initiative petition must be signed by electors of the City equal to ten (10) percent of the total number of votes cast at the last preceding regular municipal election. The Clerk of Council shall receive the petitions for all initiatives.

When a petition is filed with the Clerk of Council signed by the required number of electors proposing an ordinance or other measure, such Clerk shall, after ten (10) days, transmit a certified copy of the text of the proposed ordinance or measure to the Delaware County Board of Elections. The Clerk of Council shall transmit the petition to the Board of Elections together with the certified copy of the proposed ordinance or other measure. The Board shall examine all signatures on the petition to determine the number of electors of the City of Powell who signed the petition. The Board of Elections shall return the petition to the Clerk of Council within ten (10) days after receiving it, together with a statement attesting to the number of such electors who signed the petition.

Upon receipt of the statement from the Board of Elections, the Clerk of Council shall submit the petition, the proposed ordinance, and the statement to the Council on the date of its next regular meeting. If the petition and proposed ordinance are determined by the Council to be sufficient and valid, the Council shall, at such regular meeting, read and act upon the same. Council may adopt the ordinance in its original form. Should the Council fail to take action or reject the proposed ordinance, in whole or in part, the Clerk of Council shall provide for the submission of the proposed ordinance in its original form to a vote of the electors of the City at the next succeeding general election.

Upon receipt of the proposed ordinance, the Board of Elections shall submit such proposed ordinance or measure for approval or rejection of the electors of the City at the next succeeding general election occurring subsequent to seventy-five (75) days after receipt of the proposed ordinance. (Amended 5-7-13)

6.03 REPEALING ORDINANCES; PUBLICATION

Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the Council as herein provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published as in the case of other ordinances.

6.04 REFERENDUM

Any ordinance passed by the Council shall be subject to referendum, except emergency ordinances passed pursuant to Section 5.06 of this Charter and as otherwise provided by any applicable section of the Revised Code, including without limitation Section 731.30. The effective date of ordinances is governed by Section 5.09 of this Charter. If a petition signed by electors of the City, not less in number than ten (10) percent of the total votes cast at the

last preceding general municipal election, is filed with the Clerk of Council within thirty (30) days after passage of an ordinance subject to referendum, requesting that any such ordinance be repealed or submitted to a vote of the electors of the City, the ordinance shall not take effect until the steps indicated herein have been taken.

The Clerk shall, within ten (10) days after the filing of a referendum petition, transmit a certified copy of the petition to the Delaware County Board of Elections. The Board shall examine all signatures on the petition to determine the number of electors of the City who signed the petition. The Board shall return the petition to the Clerk of Council within ten (10) days after receiving it, together with a statement attesting to the number of such electors who signed the petition. Upon receipt of the statement from the Board, the Clerk of Council shall submit the petition and the statement to the Council on the date of its next regular meeting. Council shall determine the sufficiency and validity of the petition. If the petition is determined by Council to be sufficient and valid, the Council shall, at such regular meeting, read and act upon the same. Council may repeal the ordinance subject to referendum. Should Council fail to take action or fail to repeal the ordinance subject to referendum, the Clerk of Council shall provide for the submission of such ordinance to a vote of the electors of the City. The Board of Elections shall submit the ordinance to the electors of the City, for their approval or rejection, at the next general election occurring subsequent to seventy-five (75) days after receipt of such ordinance from the Clerk of Council.
(Amended 5-7-13)

6.05 INITIATIVE AND REFERENDUM PETITION PROCEDURES

Any initiative or referendum petition may be presented in separate parts, but each of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure. Each part of any referendum petition shall contain the number, a full and correct copy of the title and date of passage of the ordinance or other measure sought to be referred.

Each signer of any such petition must be an elector of the City in which the election, upon the ordinance or other measure proposed by such initiative petition or the ordinance or measure referred to by such referendum petition, is to be held, and shall place on such a petition, after his name, the date of signing, his place of residence, including street and number, and the ward and precinct.

Each part of such petition shall contain the affidavit of the person soliciting the signatures thereto, which shall state the number of signers of each such part and that, to the best of his knowledge and belief, each of the signatures contained on such part is the genuine signature of the person whose name it purports to be, that he believes such persons are electors of the City, and that they signed such petition with knowledge of the contents thereof.

Upon receipt of a statement from the Delaware County Board of Elections, pursuant to Chapter 731 of the Revised Code, attesting to the number of electors who signed such petition, Council by resolution shall determine the sufficiency and validity of the petition. In determining the validity of any such petition, all signatures that are found to be irregular shall be rejected, but no petition shall be declared invalid in its entirety when one or more signatures are found to be invalid except when the number of valid signatures is found to be less than the total number required.

The petition and signatures upon such petition shall be prima facie presumed to be in all respects sufficient. No ordinance or other measure submitted to the electors of the City and

receiving an affirmative majority of votes cast thereon, shall be held ineffective or void on account of the insufficiency of the petitions by which such submission of the ordinance or measure was procured, nor shall rejection, by a majority of the votes cast thereon, of any ordinance or other measure submitted to the electors of such City be held invalid for such insufficiency.

Ordinances proposed by initiative petition and referendums receiving an affirmative majority of the votes cast thereon, shall become effective as provided by the laws of the State of Ohio. Where the Charter is silent concerning initiative and referendum petition procedures, the laws of the State of Ohio shall be followed, except the statutory functions and duties of the City Auditor shall be performed by the Clerk of Council. (Amended 5-7-13)

6.06 APPROVAL OR REJECTION

(A) Ordinances submitted to the Council by petition and passed by the Council as herein provided, shall be subject to the referendum in the same manner as other ordinances.

(B) Ordinances rejected or repealed by an electoral vote shall not be re-enacted, in whole or in part, except by an electoral vote.

(C) Ordinances approved by an electoral vote shall not be repealed, amended or supplemented, except by an electoral vote.

(D) The adoption or rejection of ordinances submitted to an electoral vote shall take effect as provided by the laws of the State of Ohio.

(Enacted 5-7-13)



Susie Ross

From: Susie Ross
Sent: Thursday, July 10, 2014 1:10 PM
To: 'Brian Ebersole'
Subject: Initiative and Referendum Petitions

Dear Ms. Valvona, Mr. Happensack and Mr. Ebersole,

The City Law Director has advised me to not respond to your request to review your Initiative and Referendum petitions for infirmities or defects. I would suggest you refer to the requirements set forth in the City Charter. You may wish to seek the advice of others if you so choose.

Your petitions are being held at the front desk of the municipal offices. Please feel free to pick them up at your convenience.

Thank you.

Susie

Sue D. Ross, CMC
City Clerk
City of Powell
47 Hall Street
Powell, OH 43065-8357
614.885.5380, ext. 1002
sross@cityofpowell.us

Exhibit H

*PETITIONS FOR REFERENDUM, CHARTER AMENDMENT,
AND INITIATIVE TO REPEAL POWELL ORDINANCE 2014-10*

PROCEEDINGS

August 01, 2014



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Reply Ex. 3

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DELAWARE COUNTY BOARD OF ELECTIONS

MEETING RE: PETITIONS FOR REFERENDUM, CHARTER
AMENDMENT, AND INITIATIVE TO REPEAL POWELL
ORDINANCE 2014-10

PROCEEDINGS

TAKEN BEFORE ME, ANGELA R. STARBUCK, RPR, CRR,
CCP, A NOTARY PUBLIC IN AND FOR THE STATE OF
OHIO, AT DELAWARE COUNTY BOARD OF ELECTIONS,
2079 U.S. HIGHWAY 23N, DELAWARE, OHIO 43015, ON
AUGUST 1, 2014, AT 9:01 A.M.

1 BOARD MEMBERS IN ATTENDANCE:
 2 SHAWN STEVENS
 3 ED HELVEY
 4 BRUCE BURNWORTH
 5 JOSH PEDALINE, DIRECTOR
 6 KARLA HERRON, DEPUTY DIRECTOR

1 SO WELCOME. SO THE FIRST ITEM ON THE
 2 AGENDA IS TO DETERMINE THE NUMBER OF ELECTORS,
 3 CITY OF POWELL, WHO SIGNED THE REFERENDUM AND
 4 INITIATIVE PETITIONS.
 5 BEFORE WE GET INTO THAT, MR. BETTS, IS
 6 THERE ANY ADVICE FOR THIS BOARD?
 7 MR. BETTS: YES, THANK YOU,
 8 MR. CHAIRMAN. AS WE SAID, MY NAME'S CHRIS
 9 BETTS. I'M WITH THE DELAWARE COUNTY
 10 PROSECUTOR'S OFFICE. I'M AN ASSISTANT
 11 PROSECUTING ATTORNEY. AND THIS IS ANDREW KING,
 12 WHO'S ALSO AN ASSISTANT PROSECUTING ATTORNEY.
 13 YOU HAVE ESSENTIALLY TWO THINGS IN FRONT
 14 OF YOU TODAY THAT FIT IN TWO BROAD CATEGORIES.
 15 ONE ARE THE PETITIONS THAT WERE RECEIVED
 16 CONSISTING OF A REFERENDUM PETITION AND TWO
 17 PETITIONS THAT WERE FILED WITH THE CITY OF
 18 POWELL.
 19 SECONDLY, YOU HAVE BEFORE YOU A PROTEST
 20 THAT WAS FILED. THAT WAS FILED ON BEHALF OF THE
 21 CENTER AT POWELL CROSSING, LLC, AND DONALD R.
 22 KENNEY, JUNIOR.
 23 I WANTED TO KIND OF LAY OUT KIND OF
 24 PROCEDURALLY WHERE THIS -- WHERE THIS WOULD GO,

1 MR. STEVENS: I WOULD LIKE TO CALL THE
 2 DELAWARE COUNTY BOARD OF ELECTIONS MEETING TO
 3 ORDER. TODAY'S FRIDAY, AUGUST 1ST -- WOW --
 4 9:00, A.M., AND IT'S A MEETING OF THE SPECIAL --
 5 IT'S A SPECIAL MEETING OF THE BOARD OF
 6 ELECTIONS. I GUESS SINCE WE HAVE AN AUDIENCE
 7 TODAY, I'D LIKE TO DO SOME INTRODUCTIONS.
 8 MY NAME IS SHAWN STEVENS. I'M THE
 9 VICE-CHAIRMAN OF THE BOARD. OUR CHAIRMAN,
 10 MR. CUCKLER, IS SERVING HIS COUNTRY IN THE
 11 UNITED STATES ARMY TODAY, SO I WILL BE ACTING
 12 CHAIRMAN.
 13 TO MY LEFT IS ED HELVEY, BOARD MEMBER;
 14 BRUCE BURNWORTH --
 15 MR. BURNWORTH: ANY OLD NAME WILL WORK.
 16 MR. STEVENS: -- BOARD MEMBERS; CHRIS
 17 BETTS FROM THE COUNTY PROSECUTOR'S OFFICE, AND,
 18 I'M SORRY --
 19 MR. KING: ANDREW.
 20 MR. STEVENS: ANDREW FROM THE
 21 PROSECUTOR'S OFFICE. TRACI SHALOSKY FROM OUR
 22 OFFICE, DON'T ASK ME TO SPELL IT; KARLA HERRON,
 23 WHO'S THE DEPUTY DIRECTOR; AND JOSH PEDALINE,
 24 WHO IS OUR DIRECTOR OF THE BOARD OF ELECTIONS.

1 BUT BEFORE I GET TO THAT, THERE ARE TWO THINGS
 2 AT PLAY HERE IN TERMS OF THE LAW AND IN TERMS OF
 3 WHAT THE BOARD'S CONSIDERING AND THE PROCEDURE.
 4 FIRST OF ALL WOULD BE THE CITY OF
 5 POWELL'S CHARTER. THAT ACTS AS THE PRIMARY
 6 GUIDE FOR US TODAY, AND WHERE THAT IS SILENT OR
 7 THAT DOES NOT SPEAK TO AN ISSUE, THEN OHIO LAW,
 8 THROUGH THE OHIO REVISED CODE, PICKS UP THAT
 9 GAP.
 10 IN FOLLOWING THE GUIDELINES THAT ARE SET
 11 OUT BY THOSE TWO PARTICULAR SOURCES OF LAW, THIS
 12 IS THE -- THIS IS THE WAY THAT THE PROCEDURE
 13 SHOULD GO: INITIALLY THE PETITIONS WERE
 14 PROVIDED TO OR FILED WITH THE CITY OF POWELL.
 15 THE CLERK OF CITY COUNCIL THEN TRANSMITTED THOSE
 16 TO THE BOARD OF ELECTIONS.
 17 BOARD OF ELECTIONS IS THEN CHARGED WITH
 18 DETERMINING THE VALIDITY OF THE SIGNATURES THAT
 19 ARE ON THOSE PETITIONS. LET ME READ
 20 SPECIFICALLY WHAT THAT SAYS BECAUSE THAT'S THE
 21 STAGE THAT WE'RE AT TODAY. THAT'S WHY WE'RE
 22 HERE TODAY FOR THIS MEETING.
 23 THE CHARTER SPECIFICALLY SAYS, THE BOARD
 24 SHALL EXAMINE ALL SIGNATURES ON THE PETITION TO

1 DETERMINE THE NUMBER OF ELECTORS OF THE CITY OF
 2 POWELL WHO SIGNED THE PETITION. THAT'S THE
 3 STATEMENT. ASSUMING THAT, YOU KNOW, THE BOARD
 4 MAKES THAT DETERMINATION, THEN THE CHARTER SAYS
 5 THAT THE BOARD OF ELECTIONS SHALL RETURN THE
 6 PETITION TO THE CLERK OF COUNCIL WITHIN TEN DAYS
 7 AFTER RECEIVING IT TOGETHER WITH A STATEMENT
 8 ATTESTING TO THE NUMBER OF SUCH ELECTORS WHO
 9 SIGNED THE PETITION. AND THEN IT GOES ON FROM
 10 THERE.

11 BUT THAT'S GENERALLY THE PROCEDURE AND
 12 THE PLACE THAT WE ARE AT TODAY. THE BOARD IS
 13 HERE FOR A VERY LIMITED PURPOSE. THAT IS TO
 14 DETERMINE THE VALIDITY OF SIGNATURES THAT ARE ON
 15 THESE PETITIONS THAT HAVE BEEN FILED, THE THREE
 16 THAT I MENTIONED PREVIOUSLY. THE VALIDITY WOULD
 17 BE DETERMINED IN ACCORDANCE WITH STATE LAW.

18 AND I BELIEVE AT THIS POINT THAT THE
 19 STAFF HAS HAD A CHANCE TO REVIEW THE PETITIONS
 20 AND MAKE THAT DETERMINATION, SO THEY'LL BE
 21 PROVIDING THAT TO YOU HERE IN A LITTLE BIT.

22 WE ARE ALSO WITHIN THAT TEN-DAY TIME
 23 FRAME. THAT'S WHY WE ARE HERE SO QUICKLY, IS
 24 THE REFERENDUM WAS FILED A WEEK AGO, WHICH I

1 BELIEVE WAS THE 25TH OF JULY, AND THE TWO
 2 INITIATIVES WERE FILED ON THIS MONDAY, WHICH
 3 WOULD HAVE BEEN THE 28TH, IF MY DATES ARE
 4 CORRECT. SO WE ARE WITHIN THAT TEN-DAY TIME
 5 FRAME THAT WOULD HAVE EXPIRED ON THE 4TH, WHICH
 6 IS THIS COMING MONDAY.

7 SO ONCE THE BOARD MAKES THE
 8 DETERMINATION ABOUT THE SIGNATURES, AGAIN, THEY
 9 PROVIDE A STATEMENT TO THE CLERK OF CITY COUNCIL
 10 FOR THE CITY OF POWELL, AND AT THAT POINT, IT
 11 GOES TO CITY COUNCIL OR IS PUT ON THE AGENDA FOR
 12 THE NEXT MEETING FOR CITY COUNCIL TO TAKE THE
 13 FIRST PASS AT THE SUFFICIENCY AND VALIDITY OF
 14 THOSE PETITIONS.

15 THE CHARTER PROVIDES THE CITY COUNCIL
 16 WITH A COUPLE DIFFERENT CHOICES. THEY CAN
 17 EITHER ACT ON THOSE PETITIONS, WHICH WOULD BE TO
 18 SAY THAT THEY COULD SAY EITHER - IF IT'S A
 19 REFERENDUM, TO REFEREND THAT LAW, OR IF IT'S IN
 20 THE CASE OF AN INITIATIVE, ENACT A LAW. THEY
 21 CAN ALSO LOOK AT THE VALIDITY AND SUFFICIENCY OF
 22 THE PETITIONS AND RETURN THOSE TO THE BOARD OF
 23 ELECTIONS. AND I SUPPOSE THE FINAL OPTION COULD
 24 BE TO DO NOTHING AND RETURN THEM.

1 BUT IN ANY EVENT, THE CITY COUNCIL HAS
 2 THE FIRST PASS AT LOOKING AT THE VALIDITY AND
 3 SUFFICIENCY, WHICH WOULD BE THE FORM OF THE
 4 PETITION, IN TERMS OF THE REQUIREMENTS THAT THEY
 5 HAVE TO MEET IN TERMS OF THE CITY CHARTER AND
 6 STATE LAW, BUT IN PARTICULAR, THE CITY CHARTER.
 7 CITY CHARTER DOES HAVE SOME SPECIFIC ITEMS IN IT
 8 THAT ARE REQUIRED OF PETITIONS BUT, AGAIN, THOSE
 9 ARE NOT THE THINGS THAT YOU'RE LOOKING AT TODAY.
 10 THEY MAY BE RAISED TODAY, BUT THEY'RE NOT WHAT
 11 THE BOARD IS HERE FOR.

12 AGAIN, TODAY, ONLY DECIDING ON THE
 13 SIGNATURES. THE BOARD IS NOT GOING TO BE
 14 DECIDING WHETHER OR NOT TO ACCEPT THESE
 15 PETITIONS OR NOT ACCEPT THESE PETITIONS, CERTIFY
 16 THESE PETITIONS OR NOT CERTIFY THESE PETITIONS.
 17 IT'S NOT A QUESTION OF WHETHER IT'S GOING ON THE
 18 BALLOT OR NOT GOING ON THE BALLOT, IT'S SIMPLY A
 19 QUESTION OF DETERMINING THE VALIDITY OF
 20 SIGNATURES AND PASSING THAT TO CITY COUNCIL SO
 21 THEY CAN DETERMINE THE VALIDITY AND SUFFICIENCY
 22 OF THE PETITIONS.

23 IF AND WHEN THEY ARE RETURNED TO THE
 24 BOARD OF ELECTIONS, DEPENDING ON WHAT THE CITY

1 COUNCIL DOES, AT THAT POINT, THIS BOARD WOULD
 2 THEN ACCEPT THOSE PETITIONS. AT THAT POINT,
 3 THEN THE PROTESTS THAT HAVE BEEN FILED WOULD BE
 4 RIPE FOR CONSIDERATION BY THE BOARD. I DON'T
 5 THINK THE PROTEST IS RIPE TODAY IN ACCORDANCE
 6 WITH THE SCHEME THAT'S SET OUT OR THE PROCEDURE
 7 THAT'S SET OUT THROUGH THE CHARTER.

8 SO IF IT COMES BACK, THEN IT WOULD BE A
 9 POINT OF ACCEPTANCE, THEN WE WOULD ENTERTAIN THE
 10 PROTESTS AND THERE WOULD BE THE OPPORTUNITY TO
 11 PRESENT TESTIMONY AND EVIDENCE AT THAT POINT AS
 12 TO WHETHER THOSE PETITIONS SHOULD BE ACCEPTED
 13 FOR THE BALLOT. THE BOARD WOULD HAVE TO EXAMINE
 14 EVERYTHING THAT'S PRESENTED TO IT AND MAKE THE
 15 DETERMINATION AT THAT POINT.

16 MR. HELVEY: I DON'T AGREE WITH THAT.

17 MR. BETTS: OKAY.

18 MR. HELVEY: I DON'T AGREE THAT WE HAVE
 19 THAT AUTHORITY TO DETERMINE WHETHER THE
 20 PETITIONS ARE VALID OR NOT, BUT THAT IT RESTS
 21 WITH THE CITY CHARTER WITH THE CITY OF POWELL.

22 MR. BETTS: I THINK THE CITY OF POWELL
 23 HAS THE FIRST BLUSH AT IT. LET ME EXPLAIN WHY I
 24 THINK THAT THIS BOARD THEN HAS TO COME BACK AND

1 TAKE A LOOK AT IT IN TERMS OF ACCEPTANCE. I
 2 THINK THAT GOES ALONG WITH STATE LAW.
 3 IF YOU RECALL, WHEN I FIRST STARTED
 4 TALKING ABOUT THAT, THERE'S AN INTERPLAY HERE
 5 BETWEEN STATE LAW AND THE CITY OF POWELL'S
 6 CHARTER. UNDER THE CITY OF POWELL'S CHARTER, IT
 7 DOES NOT SAY ANYTHING ABOUT WHAT THE BOARD OF
 8 ELECTIONS REALLY DOES WHEN IT COMES BACK TO THE
 9 BOARD. IT SAYS THAT IT COMES BACK TO THE BOARD
 10 AND THE CLERK IS TO MAKE SURE THAT IT IS
 11 PRESENTED TO THE BOARD OF ELECTIONS FOR
 12 PLACEMENT ON THE BALLOT.
 13 HOWEVER, STATE LAW, WHEN YOU INTERMESH
 14 THAT AND TRY AND BLEND THOSE TWO THINGS TOGETHER
 15 SO THAT IT MAKES SENSE OF BOTH, IT SAYS UNDER
 16 THERE -- AND I BELIEVE IT'S UNDER -- LET ME
 17 CHECK THE NUMBER OF THE STATUTE HERE. GIVE ME
 18 ONE SECOND.
 19 IT'S UNDER --
 20 MR. HELVEY: REGARDLESS, WE'RE NOT GOING
 21 TO DEAL WITH THAT TODAY.
 22 MR. BETTS: NO.
 23 MR. HELVEY: BUT I DON'T AGREE WITH YOUR
 24 SUMMATIVE STATEMENT THAT IT DOES REFLECT THE

1 ALWAYS TIMELINES FOR THE PROTESTS? NOT ONLY TO
 2 BE FILED, BUT TO BE HEARD. SINCE THEY'VE
 3 ALREADY FILED A PROTEST, AND ASSUMING POWELL
 4 TAKES A WHILE TO MEET AND DO WHATEVER THEY HAVE
 5 TO DO, WILL THE PROTESTORS, WILL THEY NEED TO
 6 REFILE, OR CAN WE NULL AND VOID THIS -- I THINK
 7 WE'LL BE BEYOND THE TIMELINE OF THIS PARTICULAR
 8 PROTEST BY THE TIME POWELL GETS DONE.
 9 MR. BETTS: I THINK -- I THINK THAT THE
 10 PROTEST IN THIS PARTICULAR CASE IS -- I THINK IT
 11 WAS FILED PREMATURELY, BUT I THINK IT CAN BE PUT
 12 ON HOLD BECAUSE YOU DO HAVE TO CONDUCT A HEARING
 13 WITH IT AT SOME POINT.
 14 MR. BURNWORTH: I WOULDN'T WANT TO
 15 CONDUCT A HEARING FOR THAT IF POWELL HASN'T
 16 EVEN --
 17 MR. BETTS: CORRECT. I THINK AT THIS
 18 POINT ALL YOU'RE DOING IS REVIEWING THE
 19 SUFFICIENCY -- I SHOULDN'T SAY -- DETERMINING
 20 THE VALIDITY OF THE SIGNATURES.
 21 MR. BURNWORTH: OKAY.
 22 MR. BETTS: AND I THINK THAT THE PROTEST
 23 ACTUALLY COMES LATER AFTER THE CITY OF POWELL
 24 HAS HAD THAT FIRST BLUSH. I AGREE WITH

1 WHOLE BOARD'S POSITION.
 2 MR. BURNWORTH: WHAT PART?
 3 MR. HELVEY: THE PART THAT WE THEN COME
 4 BACK AND HAVE A SECOND PASS AT RULING AT THE
 5 SUFFICIENCY OF THE PETITION. I THINK THAT THE
 6 CITY CHARTER RESERVES TO THE CITY THE RIGHT TO
 7 DEEM WHETHER A PETITION IS SUFFICIENT.
 8 MR. BURNWORTH: SO IF IT COMES BACK TO
 9 US, THEN WE'RE JUST GOING TO ACCEPT IT?
 10 MR. HELVEY: WE ACCEPT IT FOR THE BALLOT
 11 LIKE WE DO A LOT OF THE OTHER --
 12 MR. BURNWORTH: I SEE.
 13 MR. BETTS: I APPRECIATE YOUR POSITION.
 14 LET ME JUST FINISH ON WHAT I WAS GOING TO SAY,
 15 WHICH IS THAT REVISED CODE 3501.39 SPECIFICALLY
 16 SAYS THAT WHERE A PROTEST IS FILED, THAT THIS
 17 BOARD HAS TO CONVENE A HEARING ON THAT PROTEST.
 18 THAT'S WHERE I'M COMING AT IN DETERMINING
 19 VALIDITY AND SUFFICIENCY.
 20 IF IT WERE JUST PRESENTED BACK TO YOU
 21 AND YOU DIDN'T HAVE A PROTEST, I WOULD AGREE
 22 WITH YOUR STATEMENT.
 23 MR. BURNWORTH: WHICH BRINGS TO MIND
 24 ANOTHER QUESTION I HAVE. REMEMBER HOW IT WAS

1 MR. HELVEY'S STATEMENT TO SAY THAT ABSENT A
 2 PROTEST BEING FILED THAT IT WOULD JUST BE SIMPLY
 3 ACCEPTED. BUT WITH THE PROTEST, I THINK STATE
 4 LAW REQUIRES THAT THERE BE A HEARING.
 5 MR. BURNWORTH: OKAY.
 6 MR. BETTS: AND I THINK THAT THAT
 7 HEARING IS MORE APPROPRIATELY HELD AFTER THE
 8 CITY OF POWELL HAS HAD THEIR OPPORTUNITY TO
 9 REVIEW THE VALIDITY AND SUFFICIENCY. SO I'M
 10 SAYING THAT RESPECTFULLY, JUST TO EXPOUND UPON
 11 WHAT YOU SAID, MR. HELVEY.
 12 BUT I THINK THAT THAT IS KIND OF THE
 13 PERSPECTIVE AT THIS POINT IN TERMS OF PROCEDURE
 14 AND WHERE THIS SHOULD GO.
 15 SO IN SUM, TODAY'S HEARING WOULD BE VERY
 16 LIMITED JUST TO LOOK AT THE SUFFICIENCY AND
 17 VALIDITY OF THE SIGNATURES, MAKE THAT
 18 DETERMINATION IN ACCORDANCE WITH THE STATE LAW,
 19 AND PROVIDE A STATEMENT TO THE CLERK OF CITY
 20 COUNCIL THAT INDICATES THE NUMBER OF THOSE
 21 SIGNATURES THAT THIS BOARD DETERMINES TO BE
 22 VALID AND LET THE CITY PROCEED TO DETERMINE
 23 VALIDITY AND SUFFICIENCY.
 24 MR. STEVENS: THANK YOU, MR. BETTS.

1 I WOULD LIKE OUR STAFF MAYBE TO GIVE US
 2 THEIR RECOMMENDATIONS BASED ON THE PETITIONS
 3 THAT YOU REVIEWED.
 4 MR. PEDALINE: WHY DON'T WE START OUT
 5 WITH THE REFERENDUM.
 6 MR. STEVENS: BEFORE YOU DO THAT, JUST
 7 SO YOU FOLKS KNOW, WHAT I WOULD LIKE TO DO IS
 8 HEAR STAFF RECOMMENDATIONS ABOUT THE PETITIONS,
 9 AND THEN SINCE YOU GUYS -- I ASSUME YOU DIDN'T
 10 COME UP HERE TO HAVE A SWEET BUN AT THE
 11 HAMBURGER INN THIS MORNING, SO I'M GOING TO
 12 ALLOW A FEW BRIEF COMMENTS WITH THE
 13 UNDERSTANDING THAT WE ARE GOING TO VOTE ON THE
 14 VALIDITY OF SIGNATURES THIS MORNING AND THAT'S
 15 ALL WE'RE GOING TO BE VOTING ON.
 16 AND THEN I'LL TAKE A -- I'LL TAKE A
 17 MOTION AND WE'LL VOTE ON IT. GOOD? SORRY.
 18 MR. PEDALINE: NO, NO. LOOK AT YOUR
 19 HANDOUT THAT WE HAVE GIVEN YOU HERE. I GUESS
 20 JUST TO GIVE YOU SOME OF THE HIGHLIGHTS, THE
 21 TOTAL NUMBER OF REQUIRED SIGNATURES IS 238. AS
 22 FAR AS THE REFERENDUM, THE TOTAL NUMBER WAS 376.
 23 DO YOU WANT TO ADD TO THAT, KARLA?
 24 MR. HELVEY: JOSH, MAYBE IT WOULD BE

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 1 CITY, OUR SYSTEM WOULD AUTOMATICALLY TRIGGER AN
 2 INVALID LINE.
 3 MR. STEVENS: SO THE NUMBER OF VALID
 4 SIGNATURES THAT YOU'VE INDICATED FOR THIS FIRST
 5 REFERENDUM PETITION ARE CITY OF POWELL
 6 RESIDENTS' SIGNATURES MATCH THE SIGNATURES ON
 7 FILE?
 8 MR. PEDALINE: CORRECT.
 9 MR. STEVENS: AND THEN THAT TOTAL NUMBER
 10 IS --
 11 MR. PEDALINE: 376.
 12 MS. HERRON: AND CHAIRMAN, JUST TO NOTE,
 13 THERE WERE ZERO INVALID PETITIONS. ALL 12 WERE
 14 VALID.
 15 MR. BURNWORTH: POINT OF QUERY, I GUESS,
 16 ON A COUPLE OF THEM. WHERE THE SIGNATURE
 17 DOESN'T MATCH, IF -- AND MAYBE FOR THE
 18 AUDIENCE'S BENEFIT, THAT IF IT WERE A CLOSE
 19 COUNT, AND WE'VE HAD CASES WHERE PETITIONERS
 20 HAVE COME IN AND RECTIFIED THEIR SIGNATURE;
 21 THEY'RE ALLOWED A HEARING TO CLARIFY THEIR
 22 SIGNATURES. THIS ISN'T ONE OF THOSE CASES; IT'S
 23 NOT VERY CLOSE. BUT THERE ARE TIMES WHEN WE
 24 HAVE UPDATED OUR SIGNATURES PAGES.

1 HELPFUL IF YOU COULD REVIEW MECHANICALLY WHAT
 2 HAPPENS IN -- WHEN THE PAPER HITS THE FRONT DESK
 3 AND HOW THE SIGNATURES ARE VALIDATED AND WHO
 4 REVIEWS AND ALL THAT KIND OF STUFF.
 5 MR. PEDALINE: ABSOLUTELY. IT'S A VERY
 6 EXHAUSTIVE PROCESS FOR OUR BOARD, AND WE REALLY
 7 TAKE A LOT OF PRIDE IN WHAT WE DO. IT COMES
 8 ACROSS THE COUNTER AND TRACI, OUR OFFICE
 9 MANAGER, ENTERS THIS INTO OUR SYSTEM, AND THEN
 10 WE HAVE THE BIPARTISAN TEAM THAT REVIEWS EACH
 11 SIGNATURE. AND WE ACTUALLY HAVE ALL --
 12 EVERYONE'S SIGNATURES ON FILE IN OUR VOTER
 13 REGISTRATION DATABASE. AND IT'S REVIEWED NO
 14 LESS THAN TWO TIMES, AND IF THERE'S EVER ANY
 15 QUESTION, IT'S ALWAYS REVIEWED BY KARLA AND
 16 MYSELF, AND WE GO THROUGH GREAT PAINS TO MAKE
 17 SURE WE'RE VERY THOROUGH.
 18 DO YOU HAVE ANYTHING YOU WANT TO ADD TO
 19 THAT?
 20 MS. HERRON: THE ONLY THING I WOULD ADD
 21 IS OUR SYSTEM, WE DO PUT IN THE PARAMETERS
 22 THAT'S BEEN LAID OUT. IN THIS CASE, THEY HAVE
 23 TO LIVE WITHIN THE CITY OF POWELL, AND IF
 24 SOMEONE WOULD SIGN IT THAT LIVES OUTSIDE THE

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 1 THE LAST ONE WHERE THE ADDRESS DOESN'T
 2 AGREE, THERE'S ONLY THREE IN THIS CASE, BUT
 3 THAT'S CONSIDERING THE RECENT MERGE WITH THE
 4 MOTOR VEHICLE DATABASE AND THE STATEWIDES.
 5 MR. STEVENS: IF ANYBODY'S INTERESTED IN
 6 THE NUMBERS THAT WE'RE LOOKING AT, I'M GOING TO
 7 HAVE JOSH GIVE YOU A COPY SO --
 8 MR. BURNWORTH: OH, GOOD POINT.
 9 MR. STEVENS: IT SPELLS OUT ON THE
 10 BOTTOM -- IT SPELLS OUT ON THE BOTTOM THE
 11 RESULTS OF THE SIGNATURES, THE ONES THAT WERE
 12 INVALID.
 13 MR. BURNWORTH: OKAY. TO CONTINUE, JUST
 14 TO QUESTION -- MAKE SURE THAT I THINK IT'S CLEAR
 15 IN EVERYBODY'S MIND HERE, IS THAT AN ELECTOR CAN
 16 COME IN AND VOTE WITH A STATE-ISSUED ID CARD OR
 17 SOMETHING THAT DOES NOT MATCH OUR RECORDS, BUT
 18 THEY HAVE OTHER DOCUMENTATION TO SHOW THAT THEY
 19 CURRENTLY LIVE WITHIN THE GOVERNMENTAL UNIT OR
 20 THE PRECINCT. IN OTHER WORDS, YOU DON'T HAVE TO
 21 CHANGE YOUR DRIVER'S LICENSE EVERY TIME YOU
 22 MOVE; YOU CAN STILL VOTE.
 23 SO THESE THREE ADDRESSES DO NOT AGREE,
 24 WE GET THAT FROM MERGING OUR OLD INFORMATION

1 THAT THE VOTER GAVE US WITH THE BUREAU OF MOTOR
 2 VEHICLE'S INFORMATION, STATEWIDE DATABASES, AND
 3 IT STILL DIDN'T MATCH, SO THAT'S WHY WE TARGET
 4 THOSE.
 5 MR. STEVENS: IF YOU GUYS WANT TO FOLLOW
 6 ALONG, WE'RE GOING TO MOVE TO PAGE 2. JOSH, CAN
 7 YOU GIVE US A SYNOPSIS OF THIS INITIATIVE?
 8 MR. PEDALINE: AND JUST SO YOU'LL NOTE,
 9 AT THE TOP LEFT, WE HAVE OUR OWN INTERNAL
 10 CLASSIFICATION, BUT THIS ONE IS FOR THE
 11 INITIATIVE FOR THE NEW COMMENTS OF PLANNED
 12 ZONING DEVELOPMENT, PAGE 2. AGAIN, SAME
 13 REQUIREMENT, 238 VALID SIGNATURES WERE REQUIRED
 14 AND THE NUMBER WAS 350.
 15 YOU'LL NOTE, MR. CHAIRMAN ON THIS ONE,
 16 THERE WAS ONE INVALID PART PETITION WITH 16
 17 SIGNATURES THAT WERE NOT COUNTED. AND ONE VALID
 18 PART PETITION, YES.
 19 MR. STEVENS: SO THAT'S ASSUMING THAT WE
 20 USED THE SAME GUIDELINES WE WOULD USE ON A
 21 SECRETARY OF STATE FORM?
 22 MR. PEDALINE: CORRECT, YES.
 23 MR. HELVEY: LET ME ASK --
 24 MR. STEVENS: I'M SORRY, GO AHEAD.

1 IT IS THE 350. IT'S JUST THE REASON ALL OF THE
 2 SIGNERS -- THE REASON TO NOTE THERE WAS ONE THAT
 3 WOULD INVALIDATE IT IS BECAUSE NONE OF THE
 4 SIGNATURES ARE ACTUALLY CONSIDERED VALID WHEN
 5 THAT HAPPENS. A NUMBER DOESN'T REALLY MATTER ON
 6 A PETITION. IT CAN BE NUMBERED, IT DOESN'T HAVE
 7 TO BE NUMBERED. IN STATUTE, IT'S JUST HOW MANY
 8 SIGNATURES ARE PUT ON THOSE PIECES OF PAPER. WE
 9 COUNT THEM IN.
 10 MR. HELVEY: IF WE'RE IN THE VALIDATING
 11 PROCESS FOR A PETITION AS FAR AS FORM AND
 12 SUBSTANCE --
 13 MS. HERRON: CORRECT.
 14 MR. HELVEY: -- AND NOT MERELY COUNTING
 15 SIGNATURES.
 16 MS. HERRON: CORRECT. IN THIS CASE,
 17 THOUGH, IT INVALIDATES ALL SIGNATURES ON THAT
 18 PART PETITION.
 19 MR. HELVEY: IF WE'RE IN THAT PARADIGM.
 20 IF WE'RE NOT IN THAT PARADIGM, HOW MANY
 21 SIGNATURES OF THAT PART PETITION WERE THERE?
 22 MS. HERRON: I'M NOT SURE HOW TO ANSWER
 23 THAT BECAUSE ALL OF OUR GUIDANCE IS IF THERE'S
 24 MORE THAN WHAT THEY ATTESTED TO FOR IT TO BE

1 MR. HELVEY: WHY WAS THAT -- WHY WAS THE
 2 PART PETITION FOUND INVALID?
 3 MR. PEDALINE: TRACI, CAN YOU FILL IN ON
 4 THAT?
 5 MS. SHALOSKY: ON THESE PETITIONS,
 6 SOMETIME, SINCE SOMEBODY MADE THEM UP, THEY HAD
 7 A LINE THAT DIDN'T HAVE A NUMBER ON IT, AND SO
 8 SOMEBODY SIGNS IN THAT LINE, WHICH THREW THE
 9 NUMBERS OFF. SO THE CIRCULATOR WOULD WRITE DOWN
 10 THE BOTTOM NUMBER THAT THEY SAW, BUT ACTUALLY
 11 THERE WAS AN EXTRA SIGNATURE IN PLACE, SO WE HAD
 12 TO DISQUALIFY THE WHOLE THING BECAUSE YOU SAID
 13 YOU ONLY VALID -- OR SAW 16 SIGNATURES AND THERE
 14 WERE 17, SO WE HAVE TO INVALIDATE THE WHOLE PART
 15 BECAUSE THERE'S SOME SIGNATURE ON THERE THAT YOU
 16 SAID, YOU KNOW, YOU DIDN'T SEE.
 17 MR. HELVEY: BUT THAT GOES TO THE ISSUE
 18 OF WHETHER WE HAVE -- WHETHER WE HAVE THE
 19 AUTHORITY TO VALIDATE A PETITION WHEN OUR TASK
 20 TODAY IS JUST TO REPORT TO THE CITY OF POWELL
 21 THE NUMBER OF VALID SIGNATURES.
 22 DO WE KNOW HOW MANY VALID SIGNATURES
 23 WERE ON THAT PART PETITION?
 24 MS. HERRON: NO, THAT'S EXACTLY RIGHT.

1 VALID, THE CIRCULATOR HAS TO ATTEST TO THE FACT
 2 THAT THEY SAW THAT AND WITNESSED IT FOR THAT
 3 LINE TO BE VALID OR THAT SIGNATURE TO BE VALID.
 4 I DO HEAR WHAT YOU'RE SAYING, AND WE CAN
 5 TELL YOU HOW MANY WAS ON THERE. IF THAT
 6 WOULD -- IF THAT'S WHAT YOU WOULD LIKE FOR US TO
 7 NOTE.
 8 MR. STEVENS: JUST SO I UNDERSTAND, THE
 9 350 VALID SIGNATURES ARE -- ARE NET OF THAT PART
 10 PETITION THAT YOU SAY IS INVALID?
 11 MS. HERRON: UH-HUH.
 12 MR. STEVENS: THEY WERE NOT COUNTED?
 13 MS. HERRON: THEY WERE NOT COUNTED.
 14 MR. STEVENS: I BELIEVE THAT NUMBER'S
 15 WRONG THEN.
 16 MS. SHALOSKY: IT IS. IT DOES NOT
 17 INCLUDE THE ONES ON THE INVALID PART.
 18 MR. STEVENS: I AGREE WITH MR. HELVEY
 19 THAT IF WE WERE ONLY TO LOOK AT THE VALIDITY OF
 20 SIGNATURES TODAY, THEN WHETHER OR NOT THE --
 21 MS. SHALOSKY: THIS ONE --
 22 MR. STEVENS: YOU CAN CHIME IN,
 23 MR. BETTS, IF YOU HAVE DIFFERENT --
 24 MS. SHALOSKY: THIS IS NOT THE INVALID

1 ONE. WE ARE LOOKING AT THE ONE THAT'S YELLOW,
 2 RIGHT?
 3 MR. PEDALINE: YES.
 4 MR. STEVENS: THANK YOU.
 5 MR. HELVEY: IT'S 705.
 6 MS. SHALOSKY: WELL, THAT 705 HAS 12
 7 PARTS TO IT.
 8 MR. STEVENS: WHILE SHE'S DOING THAT, DO
 9 YOU WANT TO MOVE MAYBE TO THE THIRD ONE. SO IF
 10 YOU'RE FOLLOWING ALONG, PAGE 3 --
 11 MS. HERRON: I DON'T THINK -- IT'S THE
 12 SAME --
 13 MR. STEVENS: OH, YOU HAVE ANOTHER --
 14 MS. HERRON: THERE WAS TWO AND THEY HAVE
 15 ONE SIGNATURE THAT WAS ATTESTED TO.
 16 MS. SHALOSKY: HERE'S THE INVALID PART,
 17 AND IT ACTUALLY HAD 16 VALID SIGNATURES ON IT.
 18 MR. STEVENS: SO LET'S BACK UP, THEN. I
 19 APOLOGIZE, FOLKS. WE'LL STAY ON THE FIRST
 20 INITIATIVE, WHICH IS ON PAGE 2 IN YOUR HANDOUT.
 21 SO I JUST WANT TO MAKE SURE BEFORE WE --
 22 TRACI?
 23 MS. SHALOSKY: YES.
 24 MR. STEVENS: CAN YOU COME HERE. SO

1 STATE LAW.
 2 I THINK, YOU KNOW, WHERE THE NUMBER
 3 IS -- OF SIGNATURES ON THE PETITION IS LESS THAN
 4 THE NUMBER THAT'S WRITTEN IN THE CIRCULATOR'S
 5 STATEMENT, IT DOES INVALIDATE ALL OF THE
 6 SIGNATURES ON THAT PETITION BECAUSE
 7 THEORETICALLY THERE WAS ONE THAT WAS NOT
 8 WITNESSED.
 9 SO IN TERMS OF DETERMINING NOT THE
 10 PETITION BUT THE VALIDITY OF THOSE SIGNATURES, I
 11 THINK THAT THE DIRECTOR AND THE DEPUTY DIRECTOR
 12 AND THE STAFF MADE THE DETERMINATION IN
 13 ACCORDANCE WITH STATE LAW IN DETERMINING THE
 14 VALIDITY OF THOSE SIGNATURES BASED ON HOW THEY
 15 WERE PLACED ON THE PETITION BUT NOT -- NOT ON
 16 THE PETITION ITSELF.
 17 MR. HELVEY: I THINK THAT'S THE PURVIEW
 18 OF THE POWELL CITY COUNCIL TO STEP UP AND SAY
 19 THIS PART OF THE PETITION IS INVALID BECAUSE THE
 20 CIRCULATOR STATED IT WAS INVALID. WHEN YOU READ
 21 THE CHARTER, OUR JOB IS MERELY TO LOOK AT
 22 SIGNATURES AND VERIFY THAT THEY ARE ELECTORS OF
 23 THE CITY OF POWELL.
 24 MR. BETTS: THE CHARTER IS VERY LIMITED.

1 THERE'S 16 ON THIS THAT YOU INITIALLY COUNTED AS
 2 INVALID?
 3 MS. SHALOSKY: AS VALID. OH, THEY'RE
 4 INVALID RIGHT NOW, YES.
 5 MR. STEVENS: OKAY.
 6 MS. SHALOSKY: BECAUSE THEY HAVE THIS
 7 LINE RIGHT HERE.
 8 MR. BURNWORTH: OR IS THERE 17?
 9 MS. SHALOSKY: THERE'S 17 SIGNATURES,
 10 RIGHT, BUT THE CIRCULATOR SAID THERE WAS 16
 11 BECAUSE SOMEBODY WROTE OFF THE LINE.
 12 MR. STEVENS: OKAY.
 13 MS. HERRON: IN ORDER FOR US -- JUST TO
 14 NOTE, BY OHIO LAW, IN ORDER FOR US TO BEGIN
 15 CHECKING SIGNATURES, THAT IS ONE OF THE
 16 REQUIREMENTS IS WE LOOK AT THAT TIME -- I
 17 KNOW --
 18 MR. HELVEY: I UNDERSTAND.
 19 MS. HERRON: I KNOW YOU DO.
 20 MR. BETTS: MR. VICE-CHAIRMAN, IF I
 21 MIGHT, FOR JUST A MOMENT, I KNOW THAT AS THE
 22 DIRECTOR AND DEPUTY DIRECTOR INDICATED, THEY
 23 CHECKED THE SIGNATURES IN ACCORDANCE WITH THE
 24 NORMAL WAY THAT THEY WOULD IN ACCORDANCE WITH

1 I WILL AGREE WITH YOU ON THAT.
 2 MR. STEVENS: I TEND TO AGREE WITH
 3 MR. HELVEY.
 4 MS. HERRON: THERE'S NO PROBLEM TO JUST
 5 VALIDATING IT AND RERUNNING THE REPORTS. IT'S
 6 AS EASY AS THAT. I WILL NOTE, EITHER WAY, THEY
 7 HAD ENOUGH, COUNTING THE --
 8 MR. STEVENS: RIGHT. CORRECT.
 9 MS. HERRON: BUT WE CAN REDO THAT.
 10 MR. BURNWORTH: SO WHY DON'T YOU ADD 17
 11 TO 350 AND RUN A NEW --
 12 MR. PEDALINE: 16.
 13 MR. BURNWORTH: THERE'S 17.
 14 MR. HELVEY: THE CIRCULATOR SAID THERE
 15 WAS 16, BUT THERE'S ACTUALLY 17.
 16 MR. STEVENS: WE'LL BE ADDRESSING THAT
 17 AGAIN, I BELIEVE, IN THE FUTURE.
 18 MS. HERRON: YOU WILL.
 19 MR. STEVENS: OKAY. LET'S MOVE TO THE
 20 THIRD PAGE.
 21 MR. PEDALINE: YES. IN THIS NEXT ONE,
 22 THE NEXT ONE IS THE INITIATIVE TO THE PROJECTED
 23 DEVELOPMENT PLAN FOR THE CENTER AT POWELL
 24 CROSSING. AGAIN, SAME REQUIREMENT, 238 REQUIRED

1 SIGNATURES. AGAIN, USING OUR PREVIOUS STANDARD,
 2 THAT WAS AT 326 SIGNATURES. AGAIN, EXCEEDING
 3 THE REQUIRED NUMBER. HOWEVER, THERE WERE TWO
 4 PART PETITIONS THAT WERE INVALIDATED FOR SIMILAR
 5 REASONS, AND THAT COUNTS -- IT'S 55 ADDITIONAL
 6 SIGNATURES.
 7 MR. HELVEY: OR IS IT 57?
 8 MR. PEDALINE: IT WOULD BE 57, BASED ON
 9 THAT STANDARD.
 10 MR. BURNWORTH: FOR THE SAME REASON,
 11 YEAH. WHY ARE WE -- WHY IS THERE A BLANK LINE
 12 WITHOUT A NUMBER? IS THAT A STATE ISSUE OR
 13 FORM?
 14 MR. HELVEY: NO.
 15 MR. HELVEY: SEE, THEY WROTE UP HERE --
 16 MR. BURNWORTH: OKAY. GOT IT.
 17 MR. HELVEY: THEY STARTED BEFORE THE
 18 ACTUAL NUMBER.
 19 MR. BURNWORTH: OKAY. GOT IT.
 20 MS. HERRON: AND WE'LL RERUN THE NUMBERS
 21 AND GIVE THEM TO YOU.
 22 MR. STEVENS: DO YOU NEED THE NUMBERS TO
 23 MAKE A MOTION?
 24 MR. HELVEY: I DON'T THINK SO.

1 BELIEVE MR. BETTS SAID EARLIER, THAT UNDER
 2 3501.39(A), THIS BOARD IS PROHIBITED FROM
 3 ACCEPTING ANY PETITIONS ONCE A WRITTEN PROTEST
 4 IS FILED. WE HAVE DONE THAT. MY UNDERSTANDING
 5 IS THIS BOARD IS NOT ACTING TO ACCEPT OR CERTIFY
 6 ANY OF THESE PETITIONS TODAY.
 7 AM I UNDERSTANDING THAT CORRECTLY,
 8 MR. CHAIR?
 9 MR. HELVEY: THAT'S CORRECT.
 10 MR. STEVENS: THAT'S OUR INTENTION.
 11 MR. MILLER: BECAUSE WHEN THESE PART
 12 PETITIONS ARE PRESENTED AGAIN, WE WOULD ASK AND
 13 STATE OBVIOUSLY THAT BY STATE LAW, WE'RE
 14 ENTITLED TO A HEARING ON ALL THE GROUNDS WITHIN
 15 THE PROTEST BY A STRICT COMPLIANCE STANDARD. I
 16 WOULD STATE THIS MORNING THAT ARGUMENTS WE'VE
 17 MADE IN THAT PROTEST RELATED TO THE INCORRECT
 18 PRECINCTS PLACED ON PETITIONS, THE FORM OF THE
 19 PETITION, AND THE LACK OF TITLE AND TEXT COULD
 20 BE CONSIDERED BY YOU TODAY. I'M UNDERSTANDING,
 21 HOWEVER, THAT YOU ARE MERELY LOOKING AT
 22 SIGNATURES; IS THAT CORRECT?
 23 MR. HELVEY: THAT'S CORRECT.
 24 MR. BURNWORTH: CORRECT.

1 MS. HERRON: WE'LL JUST GET THEM FOR THE
 2 REPORT.
 3 MR. HELVEY: RIGHT. WE KNOW HOW MANY
 4 THERE ARE.
 5 MS. HERRON: WE DO.
 6 MR. HELVEY: IT'S JUST NOT ON THIS PIECE
 7 OF PAPER RIGHT NOW.
 8 MS. HERRON: CORRECT. THEN IT WILL
 9 READJUST THE REASON WHY SOME ARE INVALIDATED,
 10 WHETHER THEY'RE NOT REGISTERED --
 11 MR. HELVEY: RIGHT.
 12 MR. STEVENS: OKAY. SO NOW I UNDERSTAND
 13 THE THREE PETITIONS. I GUESS I WOULD LIKE TO
 14 OPEN IT UP FOR VERY BRIEF DISCUSSION FROM FOLKS
 15 WHO WOULD LIKE TO.
 16 MR. MILLER: THANK YOU, MR. CHAIRMAN.
 17 I'M JOE MILLER, VORYS SATER SEYMOUR & PEASE, ON
 18 BEHALF OF THE PROTESTING PARTY. I AGREE WITH
 19 YOUR COUNSEL THAT THIS BOARD IS STILL REQUIRED
 20 TO REVIEW, EXAMINE, AND CERTIFY THE SUFFICIENCY,
 21 VALIDITY OF THE PETITIONS. THE CITY CHARTER
 22 DOES NOT TAKE AWAY THE DUTY UNDER 3501.11(K) TO
 23 DO THAT.
 24 AND I'D JUST AMPLIFY OR REITERATE WHAT I

1 MR. MILLER: AND THAT WE WILL BE ABLE TO
 2 RENEW AND MAKE ALL THOSE ARGUMENTS AT A TIME
 3 WHEN THE PART PETITIONS, IF THEY ARE, ARE
 4 PRESENTED TO YOU?
 5 MR. STEVENS: YEP.
 6 MR. HELVEY: AND I WOULD SUGGEST THAT
 7 THE FIRST OPPORTUNITY YOU HAVE TO ATTACK THAT
 8 WOULD BE AT THE POWELL CITY COUNCIL. THEY GET
 9 FIRST BLUSH AT THIS.
 10 MR. MILLER: OKAY. WITH THOSE
 11 ASSURANCES, THEN, THAT OUR PROTEST WILL BE
 12 INDEED HEARD ON ALL THOSE GROUNDS, IF NECESSARY,
 13 WE LOOK FORWARD TO APPEARING BEFORE YOU AGAIN.
 14 MR. STEVENS: THANK YOU. IS THERE
 15 ANYBODY ELSE?
 16 MR. BURCH: I'M CHRISTOPHER BURCH. I'M
 17 COUNSEL FOR THE PETITIONERS. IT'S ALWAYS
 18 HELPFUL WHEN THE COUNTY PROSECUTOR IS MAKING
 19 WHAT YOU THINK IS A HELPFUL ARGUMENT ON YOUR
 20 BEHALF AND YOU DON'T HAVE A CHANCE TO SPEAK MUCH
 21 OR PREPARE MUCH FOR A HEARING. PETITIONERS
 22 OBVIOUSLY FOUND OUT YESTERDAY --
 23 MR. STEVENS: THIS ISN'T A HEARING.
 24 MR. BURCH: MEETING. PETITIONERS ARE

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1 COMFORTABLE SAVING THEIR ARGUMENTS FOR THE
 2 APPROPRIATE FORUM. PETITIONERS DON'T THINK THIS
 3 IS THE APPROPRIATE FORUM AT THIS TIME AND WILL
 4 RESERVE THOSE FOR THE CITY COUNCIL.
 5 HOWEVER, HAVING REVIEWED THE
 6 DEVELOPER/PROTESTOR'S BRIEF, WE WOULD ASK ONLY
 7 FOR THE BOARD TO MAKE SOME SORT OF STATEMENT ON
 8 THE RECORD WITH RESPECT TO WHETHER OR NOT THERE
 9 ARE WARDS IN THE CITY OF POWELL.
 10 THIS IS AN ISSUE THAT WE BELIEVE CAN BE
 11 CLARIFIED BY THE BOARD PRIOR TO THE HEARING BY
 12 THE CITY IN ORDER TO -- TO REVIEW BRIEF, TO
 13 REVIEW LEGAL ARGUMENTS, AND SO I KNOW THAT THAT
 14 IS NOT DIRECTLY BEFORE THE BOARD AT THIS TIME;
 15 HOWEVER, IT'S NOT -- IT'S NOT TOO FAR OF A
 16 STRETCH TO SEE WHERE IT'S GOING, AND WE WOULD
 17 LIKE TO JUST SEE THAT ON THE RECORD.
 18 MR. HELVEY: IT'S MY UNDERSTANDING,
 19 COUNSEL, THAT WE DON'T SET WARD LINES. FOR
 20 INSTANCE, THE CITY OF DELAWARE DETERMINES WHAT
 21 THE WARD LINES IS BY CONGLOMERATING PRECINCTS
 22 TOGETHER, SO THAT'S NOT OUR DETERMINATION
 23 EITHER. WE ARE NOTIFIED WHEN A WARD IS
 24 ESTABLISHED.

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1 MR. MILLER: AND JUST FOR CLARITY'S SAKE
 2 FOR THE BOARD, I UNDERSTAND YOU'RE NOT TAKING --
 3 OUR POSITION IS OBVIOUSLY THAT ON THOSE
 4 PETITIONS, THE PRECINCTS ARE INCORRECT AND THAT
 5 CAN INVALIDATE THE SIGNATURES. THE PRECINCTS
 6 WERE INCORRECTLY IDENTIFIED.
 7 MR. HELVEY: WE'LL LEAVE THAT FOR
 8 ANOTHER DAY.
 9 MR. MILLER: UNDERSTOOD.
 10 MR. STEVENS: ARE THERE ANY OTHER --
 11 MR. HOLLINS: MR. VICE-CHAIRMAN, MEMBERS
 12 OF THE BOARD, THANK YOU FOR YOUR TIME THIS
 13 MORNING. GENE HOLLINS, THE LAW DIRECTOR OF
 14 POWELL, AND JENNIFER CROGHAN FROM MY OFFICE
 15 HERE. A, HERE TO ANSWER ANY QUESTIONS. B, LET
 16 ME STATE THE ASSISTANCE WE'VE RECEIVED FROM YOUR
 17 STAFF HAS BEEN EXCELLENT, AND IT ALWAYS IS. SO
 18 THANK YOU FOR THE HELP.
 19 THANK YOU, MR. BETTS, FOR HELPING US
 20 THROUGH THIS PROCESS, AND THANK YOU FOR THE
 21 CLARIFICATION AS TO THE FUTURE HEARING MORE OR
 22 LESS ON THE MERITS OF SOME OF THESE ARGUMENTS.
 23 WE WILL TAKE THIS UP ON TUESDAY TO LET
 24 THE BOARD KNOW, BY OUR CHARTER, WE HAVE TWO OF

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1 THESE THAT HAVE TO BE HANDLED BY RESOLUTION, ONE
 2 THAT HAS TO BE HANDLED BY ORDINANCE. ORDINANCES
 3 GO FOR TWO READINGS UNLESS SUSPENSION OF THE
 4 RULES OCCURS. THAT PROBABLY WON'T OCCUR BECAUSE
 5 WE ONLY HAVE SIX MEMBERS ON TUESDAY.
 6 I DON'T KNOW IF WE'LL HAVE -- I HAVEN'T
 7 HAD A CHANCE TO MEET WITH MY CLIENT YET ABOUT
 8 THIS, THIS HAPPENED SO FAST. MY CLIENT BEING
 9 COUNCIL. I DON'T KNOW IF WE'LL HAVE A CLEAR
 10 MAJORITY ON ANY OF THESE PETITIONS NEXT TUESDAY
 11 TO SEND THEM BACK TO YOU AT THAT POINT. SO
 12 WE'LL HAVE THEM ON THE AGENDA.
 13 WITH THAT IN MIND, IF THE ATTESTATIONS
 14 OF THE SIGNATURES COULD BE DONE EITHER TODAY OR
 15 MONDAY, IT WOULD BE VERY HELPFUL. IF WE RECEIVE
 16 THEM TUESDAY, I THINK IT'S NOT CLEAR WHETHER
 17 THEY GO ON THAT AGENDA OR AN AGENDA TWO WEEKS
 18 FROM NOW, ET CETERA, ET CETERA.
 19 SO IF THERE'S A POSSIBILITY OF GETTING
 20 THEM TODAY OR MONDAY, THAT WOULD BE HELPFUL AND
 21 WE KEEP THE TIMELINE...
 22 MR. BURNWORTH: QUESTION FOR YOU, IF YOU
 23 DON'T MIND, HOW OFTEN DOES THE COUNCIL MEET?
 24 MAYBE THEY DO SPECIALS, BUT --

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1 MR. HOLLINS: IT MEETS EVERY TWO WEEKS,
 2 BUT IT HAS TO BE -- PER OUR CHARTER, IT HAS TO
 3 BE PRESENTED TO THEM AT A REGULAR MEETING.
 4 MR. BURNWORTH: OKAY. WHICH TIES TO THE
 5 QUESTION FOR JOSH AND KARLA, IS THAT WE'RE FACED
 6 WITH A DEADLINE TO AFFIRM THE BALLOT IF
 7 SOMETHING WERE TO GO ON THE BALLOT. WHAT'S OUR
 8 TARGET DATE THERE FOR THE AUDIENCE TO KNOW?
 9 MS. HERRON: PER OHIO REVISED CODE, IT'S
 10 90 DAYS BEFORE AN ELECTION, WHICH IS NEXT
 11 WEDNESDAY, WHICH IS AUGUST THE 6TH. AND WE HAVE
 12 ASKED FOR GUIDANCE FROM THE PROSECUTOR'S OFFICE
 13 AS FAR -- AS I BELIEVE THE CHARTER SAYS 75 DAYS.
 14 MR. BETTS: I WOULD JUST CLARIFY THAT
 15 THE AUGUST 6TH DATE IS THE DATE THAT IT HAS TO
 16 BE FILED WITH THE BOARD OF ELECTIONS. THERE'S A
 17 LATER DATE, I THINK MAYBE YOU TOLD ME IT WAS THE
 18 18TH OF AUGUST, IS ACTUALLY WHEN EVERYTHING
 19 WOULD HAVE TO BE -- THE CERTIFICATION WOULD HAVE
 20 TO BE COMPLETE AS FAR AS WHAT'S GOING ON.
 21 MS. HERRON: OUR BOARD DOES, YEAH.
 22 MR. BURNWORTH: THE REASON THAT'S
 23 IMPORTANT, YOU'RE FAMILIAR WITH UOCAVA, THE
 24 UNIFORMED AND OVERSEAS MILITARY VOTING ACT, WE

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1 HAVE TO SEND THOSE OUT, I THINK IT'S 45 DAYS
 2 PRIOR. THEY GET AN EXTRA 15 DAYS OR SO TO VOTE
 3 THAN THE GENERAL PUBLIC HAS.
 4 MR. HOLLINS: I UNDERSTAND.
 5 MR. BURNWORTH: SO IF YOU'VE GOT POWELL
 6 RESIDENTS THAT ARE OUT, YET REQUEST A BALLOT AND
 7 WE HAVEN'T RESOLVED THIS, IF SOMETHING GOES TO
 8 THE BALLOT, THEY'RE NOT GOING TO GET THAT
 9 OPPORTUNITY.
 10 MR. HOLLINS: PRACTICALLY SPEAKING, OUR
 11 PRIOR EXPERIENCE WITH THE BOARD OF ELECTIONS,
 12 THERE'S A DATE YOU HAVE TO SEND STUFF TO THE
 13 PRINTER. NOT ONLY US, BUT THE COURTS ARE ALWAYS
 14 WORKING AROUND TRYING TO GET THESE THINGS
 15 RESOLVED BEFORE YOU HAVE TO SEND STUFF OUT TO
 16 THE PRINTERS.
 17 WE WILL CONTINUE TO WORK WITH YOU ON
 18 WHAT DAY THAT IS, BUT IT WILL PROBABLY BE --
 19 WELL, WHO KNOWS WHAT WILL HAPPEN IN TERMS OF
 20 GETTING OUT OF OUR COURT, BACK TO YOUR COURT,
 21 POTENTIALLY BACK TO THE COURTS, AND THEN TRY AND
 22 MEET YOUR DEADLINE FOR GETTING BALLOTS PRINTED.
 23 MR. BURNWORTH: JUST THOUGHT I'D MENTION
 24 ALL THAT.

1 MS. HERRON: WE WOULD LOVE TO WORK THAT
 2 OUT WITH YOU TO SEE WHAT WOULD WORK BEST FOR
 3 YOU.
 4 MR. HOLLINS: I KNOW MRS. CROGHAN IS ON
 5 VACATION AND PROBABLY HAS NOTHING ELSE PLANNED
 6 FOR THE REST OF THE --
 7 MS. HERRON: WE WOULD APPRECIATE THAT
 8 VERY MUCH.
 9 MR. HOLLINS: THANK YOU FOR YOUR TIME
 10 THIS MORNING.
 11 MR. STEVENS: IS THERE ANY OTHER
 12 COMMENTS? I'D LIKE TO ENTER --
 13 MR. HELVEY: YEAH, I'D LIKE TO MAKE
 14 THREE DIFFERENT MOTIONS. WE'LL SEPARATE ALL
 15 THREE ISSUES. WE WILL START WITH THE REFERENDUM
 16 ON THE REPEAL OF 2014-10 IDENTIFIED BY OUR
 17 RECORDS AS PETITION ID 140704, AND THE MOTION
 18 WILL BE THAT THE BOARD HAS VALIDATED THAT 376 OF
 19 THE SIGNATURES PRESENTED ARE OF ELECTORS WITHIN
 20 THE CITY OF POWELL, AND THAT THE STAFF BE
 21 DIRECTED TO NOTIFY THE CITY OF POWELL THAT 376
 22 SIGNATURES ARE VALID ELECTORS.
 23 MR. BURNWORTH: DO YOU WANT TO INCLUDE
 24 THE NUMBER REQUIRED?

1 MR. HOLLINS: YEAH, IT'S A PRACTICAL
 2 DIFFICULTY, BUT MY GUESS IS THIS ONE'S GOING TO
 3 BE RESOLVED WITH THE COURTS EVENTUALLY.
 4 MR. BETTS: THE VERY FIRST THING THAT
 5 YOU SAID -- MAY NOT HAVE BEEN THE VERY FIRST,
 6 BUT CLOSE -- WAS IN TERMS OF GETTING A STATEMENT
 7 BACK FROM THIS BOARD IN TERMS OF THE NUMBER OF
 8 VALID SIGNATURES, AND I KNOW THAT KARLA AND JOSH
 9 WERE DOWN THERE SHAKING THEIR HEAD, BUT THERE
 10 WASN'T A VERBAL ANSWER TO THAT.
 11 FOR THE SAKE OF THE RECORD, I KNOW IN
 12 SPEAKING WITH THE DIRECTOR AND DEPUTY DIRECTOR
 13 PREVIOUSLY -- AND THEY'RE SHAKING THEIR HEADS
 14 OVER THERE -- PREVIOUSLY THAT I THINK THEIR
 15 INTENT IS GETTING THAT STATEMENT OUT LATER
 16 TODAY.
 17 MR. PEDALINE: YES.
 18 MR. BETTS: AM I RIGHT IN SAYING THAT?
 19 I DON'T WANT TO SPEAK FOR YOU, BUT I THINK WE
 20 HAD THAT DISCUSSION.
 21 MR. PEDALINE: YES.
 22 MS. HERRON: THAT'S CORRECT.
 23 MR. HOLLINS: WILL IT BE HAND-DELIVERED
 24 OR SHOULD I SEND SOMEBODY TO PICK IT UP?

1 MR. HELVEY: NO.
 2 MR. STEVENS: MOTION'S BEEN MADE BY
 3 MR. HELVEY.
 4 IS THERE A SECOND?
 5 MR. BURNWORTH: SECOND.
 6 MR. STEVENS: IS THERE ANY DISCUSSION?
 7 (NO RESPONSE.)
 8 MR. STEVENS: ALL IN FAVOR, SAY AYE.
 9 (ALL SAID AYE.)
 10 MR. STEVENS: OPPOSED?
 11 (NO RESPONSE.)
 12 MR. STEVENS: THANK YOU.
 13 MR. HELVEY: MR. CHAIRMAN, IN REGARDS TO
 14 PETITION ID 140705, WHICH IS THE INITIATIVE OF
 15 THE NEW COMPREHENSIVE PLAN FOR ZONING AND
 16 DEVELOPMENT AND REPEAL OF 2014-10, THAT THE
 17 BOARD HAS VALIDATED 367 SIGNATURES AS BEING
 18 ELECTORS OF THE CITY OF POWELL AND THAT THE
 19 STAFF BE DIRECTED TO NOTIFY THE CITY OF POWELL
 20 THAT 367 SIGNATURES ARE VALID.
 21 MR. BURNWORTH: SECOND.
 22 MR. STEVENS: MOTION'S BEEN SECONDED BY
 23 MR. BURNWORTH. IS THERE ANY DISCUSSION?
 24 MR. BURNWORTH: UNLESS YOU WANT TO

1 SECOND SOME OF THIS STUFF.
 2 MR. STEVENS: ALL IN FAVOR, SAY AYE.
 3 (ALL SAID AYE.)
 4 MR. HELVEY: WE'LL STEP DOWN FOR A
 5 SECOND.
 6 MS. SHALOSKY: KARLA, IN ORDER TO PUT
 7 THOSE NUMBERS BACK IN, THOSE PETITIONS ARE GOING
 8 TO HAVE TO BE RE-ENTERED BECAUSE THEY -- WHEN
 9 YOU -- WHEN I INVALIDATE THEM, IT TOOK ALL THE
 10 WORK WE HAD DONE OUT OF THE COMPUTER.
 11 MS. HERRON: OKAY. SO COULD YOU RUN THE
 12 NEW NUMBERS THEN?
 13 MS. SHALOSKY: WE CAN'T JUST RUN THEM
 14 QUICKLY, THE NUMBERS HAVE TO BE RE-ENTERED --
 15 OH, I CAN ADD THEM UP, YES. GOTCHA.
 16 MS. HERRON: THANK YOU.
 17 MR. BURNWORTH: I DON'T KNOW ABOUT THIS
 18 ONE. THE LAST ONE THEY SAID THEY WERE, BUT
 19 NOBODY SPOKE TO THIS ONE.
 20 (PAUSE IN PROCEEDINGS.)
 21 MR. HELVEY: MR. CHAIRMAN, I HAVE A
 22 MOTION IN REGARDS TO PETITION ID 140706, WHICH
 23 IS TO AMEND THE POWELL CHARTER, AND IT'S AN
 24 INITIATIVE TO AMEND THE POWELL CHARTER. I MOVE

1 THAT MR. MILLER USED, THAT IT'S AN INITIATIVE --
 2 I WAS USING THE SHORTHAND THAT MR. MILLER USED,
 3 THAT IT'S AN INITIATIVE PETITION, AND IN PARENS,
 4 TO AMEND POWELL'S CHARTER TO EFFECTIVELY REPEAL
 5 ORDINANCE 2014-10.
 6 IS THAT CORRECT, MR. MILLER?
 7 MR. MILLER: YES. WHAT I HAVE BEFORE ME
 8 FOR THE POWELL CHARTER, THOUGH, INDICATES 367
 9 SIGNATURES. I THINK THAT WAS THE POINT
 10 MR. BETTS WAS TRYING TO MAKE.
 11 MR. BURNWORTH: OH, THAT'S THE SECOND
 12 ONE.
 13 MR. HELVEY: ON PAGE 3 --
 14 MR. BURNWORTH: 14706.
 15 MR. HELVEY: ON PAGE 3 THERE WERE TWO
 16 PART PETITIONS THAT WERE NOT COUNTED. WE ARE
 17 NOW ADDING IN THOSE VALID SIGNATURES BECAUSE
 18 WE'RE NOT INVALIDATING THE PART PETITIONS, AND
 19 THAT THE TOTAL NUMBER IS 378.
 20 MR. MILLER: AGREED. UNDERSTOOD.
 21 MR. HELVEY: OKAY. IS EVERYBODY CLEAR
 22 ON THE MOTION?
 23 MR. STEVENS: IS THERE A SECOND?
 24 MR. BURNWORTH: I'LL SECOND.

1 THAT WE HAVE VALIDATED 378 SIGNATURES AS
 2 ELECTORS OF THE CITY OF POWELL AND THAT STAFF
 3 NOTIFY THE CITY OF POWELL THAT WE HAVE VALIDATED
 4 378 SIGNATURES.
 5 MR. STEVENS: IS THERE A SECOND?
 6 MR. MILLER: CHRIS, I'M WITH YOU.
 7 MR. BETTS: IT'S NOT ON THE REPEAL.
 8 MR. HELVEY: I'M ON PAGE 3, THE
 9 INITIATIVE.
 10 MR. BETTS: ONE OF THEM IS THE CHARTER,
 11 WHICH IS THE ONE YOU DID, YOUR SECOND MOTION.
 12 THE OTHER ONE'S THE REPEAL.
 13 MR. HELVEY: FIRST ONE'S REPEAL.
 14 MR. BETTS: CORRECT.
 15 MR. HELVEY: SECOND ONE IS THE
 16 INITIATIVE ON THE ZONING PLAN, AND THE THIRD ONE
 17 IS AN INITIATIVE, AS WELL; IS THAT CORRECT?
 18 MR. BETTS: YES, BUT IT'S AN INITIATIVE
 19 WITH A REPEAL IN IT. THAT'S -- I'M READING UP
 20 HERE.
 21 MR. PEDALINE: TO CLARIFY, MR. HELVEY
 22 AND MR. CHAIRMAN, IT'S TO REJECT THE DEVELOPMENT
 23 PLAN FOR THE CENTER AT POWELL CROSSING, LLC.
 24 MR. HELVEY: I WAS USING THE NOTATION

1 MR. STEVENS: ANY DISCUSSION?
 2 (NO RESPONSE.)
 3 MR. STEVENS: ALL IN FAVOR, SAY AYE.
 4 (ALL SAID AYE.)
 5 MR. STEVENS: OPPOSED?
 6 (NO RESPONSE.)
 7 MR. STEVENS: OH, I'M SORRY, AYE. I
 8 VOTED AYE. IS THERE ANY OTHER --
 9 MR. HELVEY: I MOVE WE ADJOURN,
 10 MR. CHAIRMAN.
 11 MR. BURNWORTH: SECOND.
 12 MR. STEVENS: ALL IN FAVOR, SAY AYE.
 13 (ALL SAID AYE.)
 14 MR. STEVENS: MEETING IS ADJOURNED.
 15 THANK YOU SO MUCH, EVERYBODY, FOR COMING.

16
 17 THEREUPON, THE PROCEEDINGS OF AUGUST
 18 1, 2014, WERE CONCLUDED AT 9:52 A.M.
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CERTIFICATE

I, ANGELA R. STARBUCK, RPR, CRR, CCP,
A NOTARY PUBLIC IN AND FOR THE STATE OF OHIO, DO
HEREBY CERTIFY THAT I REPORTED THE FOREGOING
PROCEEDINGS AND THAT THE FOREGOING TRANSCRIPT OF
SUCH PROCEEDINGS IS A FULL, TRUE AND CORRECT
TRANSCRIPT OF MY STENOTYPY NOTES AS SO TAKEN.

I DO FURTHER CERTIFY THAT I WAS CALLED
THERE IN THE CAPACITY OF A COURT REPORTER AND AM
NOT OTHERWISE INTERESTED IN THIS PROCEEDING.

IN WITNESS WHEREOF, I HAVE HEREUNTO
SET MY HAND AND AFFIXED MY SEAL OF OFFICE AT
COLUMBUS, OHIO, ON THIS 7TH DAY OF AUGUST, 2014.

Angela R. Starbuck

ANGELA R. STARBUCK, RPR, CRR, CCP
NOTARY PUBLIC, STATE OF OHIO.

MY COMMISSION EXPIRES: DECEMBER 10, 2014

Exhibit I

Board meeting

August 1, 2014

Valid signatures for Powell City

Petition # 140704 Referendum

Valid signatures 376

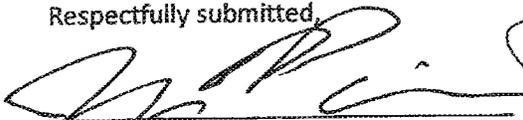
Petition # 140705 Initiative

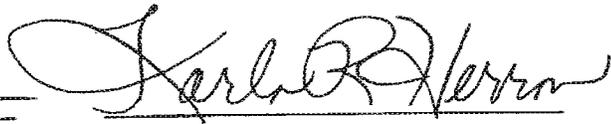
Valid signatures 367

Petition # 140706 Initiative

Valid Signatures 378

Respectfully submitted,



Josh Pedaline, Director

Karla Hetron, Deputy Director

Exhibit J

August 4, 2014

Eugene L. Hollins
One Columbus, Suite 2300
10 West Broad Street
Columbus, Ohio 43215-3484

Dear Mr. Hollins:

I understand that the Powell City Council has a meeting on Tuesday, August 5, 2014 at 7:30 p.m. to determine the “sufficiency and validity” of the form of the initiative and referendum petitions submitted to the Powell City Clerk on July 17, 2014. I also understand that the developer, The Center at Powell Crossing LLC, and Donald R. Kenney have improperly raised many incorrect arguments about the substance of the proposed ballot issues.

In your role as Law Director and legal counsel for Powell City Council, please inform each and every member of the Powell City Council of the limited scope of their authority at the meeting on Tuesday. The lawfulness of the proposed charter amendment and the proposed ordinance is *not* presently before City Council. Such substantive issues may not be challenged unless and until the electors of Powell approve these measures. *Morris v. Macedonia City Council*, 71 Ohio St.3d 52, 55 (1994).

In addition to the limited scope of review on Tuesday, please inform each and every Powell City Council member of City Council’s clear legal duty to decide the “sufficiency and validity” of the charter amendment initiative petition “forthwith.” Ohio Const. Art. XVIII § 8, 9. “Forthwith means immediately.” *State ex rel. Concerned Citizens for More Professional Govt. v. City of Zanesville City Council*, 70 Ohio St.3d 455, 459 (1994).

Given that City Council has had the opportunity to review the form of the petitions since they were filed on July 17, 2014, 19 days prior to Tuesday, City Council must decide whether the petitions are sufficient and valid on Tuesday. To delay City Council’s decision on the charter amendment (and submission to Powell voters) would be unconstitutional under *Zanesville City Council* and other controlling Ohio Supreme Court precedent. *State ex rel. Jurcisin v. Cotner*, 10 Ohio St.3d 171 (1984); *State ex rel. Citizens for a Better Portsmouth v. Sydnor*, 61 Ohio St.3d 49 (1991).

The petitioners of the three petitions submitted to the City on July 17 will be making a written filing with the City to explain that the petitions are valid and address the issues that The Center at Powell Crossing LLC and Donald R. Kenney raised in a written “Notice of Protest” to the Delaware Board of Elections. This letter is merely a courtesy to confirm with you particularly important procedural issues. The petitioners reserve the right to rebut any and all objections to the petitions, including but not limited to those raised in the aforementioned “Notice of Protest.”

Thank you for your attention to this matter.

Regards,

Sharon Valvona
225 Squires Court
Powell, OH 43065

CC: Sue Ross, Clerk of the City of Powell, Ohio, at sross@cityofpowell.us

Exhibit K

August 5, 2014

VIA HAND DELIVERY

Clerk of Council Susie Ross
47 Hall St.
Powell, OH 43065

Dear Clerk Ross:

On behalf of the petitioners who filed three petitions with you on July 17, 2014, please accept the enclosed Position Statement of Petitioners as filed with respect to the Protest filed by The Center at Powell Crossing, LLC and Donald R. Kenney Jr. on August 1, 2014.

Please notify each and every member of Council of this filing and provide them with electronic or hard copies of the Petitioners' Position Statement. An electronic copy was served upon Powell Law Director Eugene Hollins earlier today.

Best regards,

/s/ Christopher B. Burch

Christopher B. Burch (0087852)
Callender Law Group LLC
20 S. Third St. Suite 261
Columbus, OH 43215
(614) 300-5300
Chris@callenderlawgroup.com

Counsel for Petitioners

Enclosure

RECEIVED
AUG 05 2014
BY: 11:50

**BEFORE THE
CITY COUNCIL OF POWELL, OHIO**

IN RE: REFERENDUM AND
INITIATIVE PETITIONS CONCERNING
THE CITY OF POWELL, OHIO
FILED WITH THE CITY CLERK
ON JULY 17, 2014

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POSITION STATEMENT OF PETITIONERS

I. INTRODUCTION

Pursuant to Powell City Charter § 6.05, this is a proceeding to determine the “sufficiency and validity” of the form of two initiative petitions and a referendum petition that citizens of Powell filed with the City Clerk on July 17, 2014.

The three petitions independently address land-use and development in Powell. One initiative petition proposes an amendment to the Powell City Charter for a new comprehensive plan for zoning and land use in Powell. The referendum petition calls for the repeal of Powell City Ordinance 2014-10, which attempts to authorize The Center at Powell Crossing, LLC to develop 64 high density residential apartment units in Downtown Powell. The other initiative petition proposes an ordinance to repeal Ordinance 2014-10. The petitioners have designated Powell citizens and electors Sharon Valvona, Thomas Happensack, and Brian Ebersole as members of a committee for each petition.¹

¹ The committee for each petition is referred to as follows: the “Committee for Referendum of Powell City Ordinance 2014-10”; the “Committee for Initiative for proposed Ordinance for Repeal Powell City Ordinance 2014-10”; and the “Committee for Initiative for Powell Comprehensive Plan Charter Amendment.”

At the present proceeding, City Council cannot consider the subject matter of these petitions when performing its limited role to determine the sufficiency and validity of the form of the petitions. *State ex rel. Citizens for a Better Portsmouth v. Sydnor*, 61 Ohio St.3d 49, 53 (1991). A petition may be deemed invalid only if there are defects on its face. “[City Council] cannot inquire into questions not apparent on the face of the petitions themselves or which require the aid of witnesses to determine.” *Morris*, 71 Ohio St.3d at 55.

Objections based on the substance of these petitions are not ripe at this juncture. *State ex rel. DeBrosse v. Cool*, 87 Ohio St. 1, 6 (1999) (“Any claims alleging the unconstitutionality or illegality of the substance of the proposed ordinance, or actions to be taken pursuant to the ordinance when enacted, are premature before its approval by the electorate.”). As with measures proposed by a legislative body such as city council, substantive challenges to measures proposed by initiative petition may be brought after enactment and only then in a court of law. There is currently no case or controversy and as such, substantive challenges are not ripe for review at this time.

Nonetheless, in an attempt to defeat the measures proposed by the petitions, “The Center at Powell Crossing, LLC” and “Donald R. Kenny, Jr.” (“the Developer”) have raised claims with the petitions through a Notice of Protest filed with the Delaware County Board of Elections. See, Notice of Protest, at 7-17, attached hereto as Exhibit A.² The Developer’s arguments create plenty of smoke, but no fire.

At most, the Developer has raised four issues with the form of the three petitions (and even some of these arguments may be substantive and improperly raised at this time). The only arguments the Developer has raised, that may be potentially viewed as a challenge to the form, not substance, of the petitions are the following: (1) the petitions fail to satisfy the City Charter’s “ward

² Though the Developer filed another protest with City Council in the present proceeding on August 1, 2014, that protest was not provided to the petitioners until the evening of August 4, 2014. Thus, this position statement will address the Developer’s claims in its Notice of Protest filed with the Board of Elections on July 28, 2014 and note any additional arguments raised in the August 4, 2014 protest.

and precinct” requirement; (2) the petitions lack the required number of signatures; (3) every part petitions lacks the requisite title and date for referendum petitions or title and text for initiative petitions; and (4) the initiatives have misleading captions and content.

As explained in greater detail in Part III below, these arguments, and the Developer’s substantive arguments, are all without merit. First, the petitions may not be invalidated for signers’ failure to list his or her ward because there are simply no wards in Powell, and a review of the “precinct” listed by the signatories shows that they correctly listed their precincts. Second, the petitions clearly attached to each part petition and specifically incorporated therein the text and title of the proposed measures. Third, as the Board of Elections found, the petitions contain far more than the requisite 238 valid signatures. See, Delaware County Board of Elections Signature Report, attached hereto as Exhibit B. Fourth, the captions and content of the proposed measures are not misleading; in fact, the each circulator of a part petition provided a sworn affidavit stating that signers signed with knowledge of the contents of the petitions.

As provided in the City Charter, moreover, there is a presumption that the petitions are valid and should be submitted to voters to decide the issues. Section 6.05 of the City Charter specifically provides as follows: “The petition and signatures upon such petition shall be prima facie presumed to be in all respects sufficient.” The three petitions must be found sufficient and valid.

In addition to the limited scope of review, City Council must act immediately. Council has a clear legal duty to decide the “sufficiency and validity” of the charter amendment initiative petition “forthwith.” Ohio Const. Art. XVIII § 8, 9. As the Ohio Supreme Court has held, “forthwith means immediately.” *State ex rel. Concerned Citizens for More Professional Govt. v. City of Zanesville City Council*, 70 Ohio St.3d 455, 459 (1994). The process in the City Charter for reading ordinances at two separate meetings under the City Charter on two different days may be dispensed with through a vote of council or through passage of an emergency ordinance. Powell City Charter §§ 5.03, 5.04.

For the reasons that follow, and those already mentioned, the petitioners respectfully demand that City Council find that its three petitions are indeed sufficient and valid pursuant to Powell City Charter §§ 6.02, 6.04. For the charter amendment initiative, City Council must act to submit the proposed charter amendment to electors of the City of Powell. For the proposed ordinance initiative, City Council must either adopt the ordinance in its original form or submit the ordinance to electors. For the referendum petition, City Council or must repeal City Ordinance 2014-10 or submit City Ordinance to a vote of Powell electors.

II. FACTS

This matter arises from the citizens of Powell, Ohio and their long-term concerns for land use and development in the City of Powell, Ohio. The existing disconnect between the action of the City Council and Powell's citizens came to a head when, on June 17, 2014, City Council passed Ordinance 2014-10 to fundamentally alter the landscape of Downtown Powell. By a controversial 4-3 vote, City Council passed Ordinance 2014-10 to approve a high-density apartment building project downtown. Ordinance 2014-10 approves a final development plan for The Center at Powell Crossing, LLC, to develop 64 residential apartment units on 8.3 acres of land located at 147 W. Olentangy Street, Powell, Ohio, 43065.

The passage of Ordinance 2014-10 makes clear that Powell citizens' efforts to communicate popular opinion to City Council fell on deaf ears, at least for a majority of City Council. Among other thoughtful efforts to communicate with City Council in recent weeks and months, citizens gave extensive public testimony before the Powell Zoning Commission and Powell City Council. At

the City Council meeting on June 17, 2014, citizens even presented City Council with an informal petition of about 400 Powell residents objecting to Ordinance 2014-10.³

On July 9, 2014, Sharon Valvona filed a certified copy of the charter amendment proposed by initiative petition, a certified copy of Ordinance 2014-10, and a certified copy of the proposed ordinance to repeal Ordinance 2014-10 with the City Clerk. From July 11, 2014 through July 16, 2014, circulators gathered over 400 signatures for each of the three petitions. Then on July 17, 2014, the petitioners filed the petitions with the Clerk.

On July 25, 2014, the Clerk submitted the referendum petition to the Delaware County Board of Elections “to determine the number of electors of [Powell] who signed the petition.” Powell City Charter § 6.04. On July 28, 2014, the Clerk likewise submitted the two initiative petitions to the Delaware County Board of Elections “to determine the number of electors of [Powell] who signed the petition.” Powell City Charter § 6.02.

On July 28, 2014, the same day that the Clerk submitted the two initiative petitions to the Board of Elections, The Center at Powell Crossing, LLC and Donald R. Kenny, Jr., acting through counsel, filed a “Notice of Protest” with the Board of Elections.

Upon receipt of the petitions, the Board of Elections carried out its duty under the Powell City Charter “to determine the number of electors of [Powell] who signed the petition[s].” Powell City Charter §§ 6.02, 6.04. Having performed this function, the Board of Elections held a meeting on August 1, 2014 to announce the results.

The Board of Elections found that the petitions contain more than the requisite 238 signatures of Powell electors. In fact, the Board of Elections found significantly more than the 238 required valid signatures for each petition: 367 valid signatures for the proposed charter initiative; 378 valid signatures for the proposed ordinance initiative; and 376 valid signatures for the

³ For purposes of clarity, the petition presented at the June 17, 2014 City Council meeting is separate and distinct from the three petitions formally filed with City Clerk Sue Ross on July 17, 2014.

referendum petition. These petitions are now before Powell City Council to determine their “sufficiency and validity.” Powell City Charter §§ 6.02, 6.04.

III. LAW AND ARGUMENT

A. The petitions satisfy all form requirements for petitions under the Powell City Charter. As a consequence, City Council must submit the proposed measures to voters.

Powell City Charter, §§ 6.02, 6.04; *Morris v. Macedonia City Council*, 71 Ohio St.3d 52, 55 (1994) (“The city council’s constitutional authority to review the sufficiency of the petitions is limited to matters of form, not substance.”).

Under the Ohio Constitution and the Powell City Charter, City Council has very limited powers to review the “sufficiency and validity of the petitions.” Powell City Charter §§ 6.02, 6.04. The City Council has no authority to review the proposed measures within the petitions to determine whether they are lawful if ultimately approved by Powell voters. Rather, pursuant to the Ohio Constitution and the Powell City Charter § 6.05, City Council’s review is limited to matters of form apparent on the face of the petitions. *Morris v. Macedonia City Council*, 71 Ohio St.3d 52, 55 (1994); *State ex rel. N. Main St. Coalition v. Webb*, 106 Ohio St.3d 437, ¶¶ 30-31 (2005).

As the Ohio Supreme Court held in *Morris*, “council cannot inquire into questions not apparent on the face of the petitions themselves or which require the aid of witnesses to determine.” *Morris*, 71 Ohio St.3d at 55. This proposition of law is on particularly strong footing as applied to the petitioner’s proposed charter amendment initiative due to provisions in the Ohio Constitution for municipal charter amendments. Ohio Const. Art. XVIII, § 9 provides, in pertinent part:

Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted **by such legislative authority**. (Emphasis added.).

According to the Ohio Supreme Court, this constitutional language means that city councils perform a limited legislative role rather than a quasi-judicial role when reviewing charter amendment petitions for sufficiency and validity. *Morris*, 71 Ohio St.3d at 55. City Council therefore may not wade into judicial questions, but instead may consider only form requirements when determining the sufficiency and validity of the petition.

The Ohio Supreme Court has helpfully identified some limited situations where a city council reviewing petitions for “sufficiency and validity” may invalidate petitions:

where the signatures on certain petitions appeared to be invalid (State ex rel. Waltz v. Michell (1931), 124 Ohio St. 161, 177 N.E. 214);

where the petition did not contain a sufficient number of valid signatures (State ex rel. Poor v. Addison (1937), 132 Ohio St. 477, 9 N.E.2d 148);

and where the petitions did not disclose the identity of the committee of petitioners responsible for the circulation and filing of the petitions (State ex rel. Daniels v. Portsmouth (1939), 136 Ohio St. 15, 22 N.E.2d 913).

State ex rel. Polcyn v. Burkhardt, 33 Ohio St.2d 7, 9-10 (1973) (Emphasis, spacing, and underlining added). None of these situations are present with the petitions presently being reviewed.

Moreover, the three petitions have no defects in form and City Council must act upon the petitions pursuant to Powell City Charter §§ 6.02, 6.04. For the charter amendment initiative, City Council must act to submit the proposed charter amendment to electors of the City of Powell. Powell City Charter § 6.02. For the proposed ordinance initiative, City Council must either adopt the ordinance in its original form or submit the ordinance to electors. Powell City Charter § 6.02. For the referendum petition, City Council or must repeal City Ordinance 2014-10 or submit City Ordinance to a vote of Powell electors. Powell City Charter § 6.04.

City Council has, *at most*, the authority to review only the following four arguments contained in the Developer's protest:

- The Petitions Fail to Satisfy the City Charter's Ward and Precinct Requirement
- The Petitions Lack the Required Number of Signatures
- Every Part-Petition Fails to Notify Electors of the Requisite Title and Date or Title and Text as Required for Referenda and Initiatives By the City's Charter
- The Repeal Initiative and Charter Initiative Are Invalid Because of their Misleading Captions and Content

Notice of Protest, at page i (Table of Contents).⁴ At most, then, these are the only arguments properly considered at this time. Each of Developer's arguments regarding the form of the petitions are meritless.

First, Developer asserts that the petitions fail to satisfy the charter's "ward and precinct" requirement. Petitioners are dumbstruck by this argument. Since the Developer does not distinguish whether the objection is being made to the ward requirement or the precinct requirement, each will be reviewed.

Perhaps the most curious statement in the Developer's 27 page brief is that "The part-petitions at issue fail to provide any place for an elector to provide his or her ward." Notice of Protest at p. 8. Any attack on the petitions predicated on the *ward* requirement is frivolous on its face because, as the members of City Council are likely aware, there are no wards in the City of Powell. It strains the imagination to justify the invalidation of a petition signature for failing to list an elector's non-existent ward, yet this is the leading argument of the protestor's brief before the Board of Elections.

⁴ Even some of these arguments may be substantive in nature, and petitioners reserve the right to contest them on that basis.

Similarly, in the Protest filed with City Council, the Developer wrongly argues that the petitioners violated the *precinct* requirement. This argument is obviously incorrect and signatures that the Developer has identified in its Protest as invalid do not actually have wrong precincts listed. Circulators carried precinct maps with them while gathering signatures to ensure that each signatory was aware of his or her correct precinct and provided the correct precinct letter. Petitioners are left wondering what, exactly, is the basis for the Developer's belief that the petitions "fail to satisfy the City Charter's ward and precinct requirement." The entire line of argument simply makes no discernible sense.

Second, the petitions contain far more than the requisite number of valid signatures. In fact, the Delaware County Board of Elections found significantly more than the 238 required signatures for each petition: 367 valid signatures for the proposed charter initiative; 378 valid signatures for the proposed ordinance initiative; and 376 valid signatures for the referendum petition. See, Delaware County Board of Elections Signature Report, attached hereto as Exhibit B. There can be no question that the petitions contain more than enough valid signatures. Here again, the protestor is creating plenty of smoke but no fire.

Next, the Developer cites a Mercer County Court of Appeals decision for the proposition that "[a circulator] must not sign his or her part petition." Notice of Protest at p. 10, citing *Mercer Dev. LP v. Mercer Cnty. Bd of Elections*, 3d Dist. Case No. 10-10-08, 2010-Ohio-4071, § 4. In turn, *Mercer Dev.* cites a four-year-old Ohio Secretary of State directive to county boards of election to assist with determining the sufficiency and validity of petitions. See, SOS Directive 2010-001.

This directive is not applicable here because the Board of Elections does not determine the "sufficiency and validity" of the petitions under the Powell City Charter. Instead, City Council serves that function and is not bound by the Secretary of State's interpretation. More fundamentally, the Secretary of State's directive is invalid where, as here, it is contrary to law for

creating a non-textual basis for invalidating signatures. However, even assuming *arguendo* that the circulators cannot sign their own part petitions, Petitioners have submitted far more valid signatures than are necessary, and invalidating a handful of circulator signatures will make no meaningful difference because petitioners have far more than are needed.

Third, the Developer incorrectly argues that the petitions are invalid because the referendum does not include the “Title” of the ordinance being referred and, separately, the proposed ordinance and charter amendment petitions allegedly fail to include “Title and Text.” Notice of Protest at pp. 10-11. Once again, the Developer’s argument creates plenty of smoke, but still no fire.

The Powell City Charter instructs that initiative petitions “shall contain a full and correct copy of the title and text” of the proposed measure and that referendum petitions “contain the number, a full and correct copy of the title and date of passage of the ordinance” sought to be referred. Powell City Charter § 6.05. Notably, the Powell City Charter does not specify where these elements must be included in a petition, only that the petitions “shall contain” them.

Full and complete copies of City Ordinance 2014-10, the proposed ordinance to repeal City Ordinance 2014-10, and the proposed charter amendment were all physically attached to and specifically identified as “incorporated herein” into their respective petitions on the first page of each part petition.

To “incorporate” means to make something part of something else. *Acme Arsenia Co., Inc. v. J. Holden Constr. Co., Ltd.*, 8th Dist. Case No. 91450, 2008-Ohio-6501, ¶¶ 14-18; *McKenzie v. Cintas Corp.*, 12th Dist. Case No. 2012-11-110, 2013-Ohio-1310, ¶ 13.

Here, the title and text of the proposed ordinance and the proposed charter amendment were attached to the petitions and actually incorporated or incorporated by reference on the face of the petitions. The first page of each part petition for the proposed charter amendment specifically provides, in pertinent part: “the following amendment to the City Charter of Powell, Ohio *** is

incorporated herein and attached hereto as Exhibit 1.” The first page of each part petition for the proposed ordinance provides that the proposed ordinance is “attached hereto as Exhibit 1 and incorporated herein.”

Upon review of the proposed charter amendment and proposed ordinance attached and incorporated into the part petitions, moreover, they contain the title and text of the measures proposed. The title of the proposed charter amendment, made a part of each part petition, provides as follows:

AMENDMENT TO CITY CHARTER OF POWELL, OHIO

AN AMENDMENT TO THE CITY CHARTER OF POWELL, OHIO ESTABLISHING A DUTY FOR THE CITY COUNCIL OF POWELL, OHIO TO SUBSTITUTE THE COMPREHENSIVE PLAN OF THE VILLAGE OF POWELL OF DECEMBER 1995 WITH A NEW COMPREHENSIVE PLAN FOR ZONING AND DEVELOPMENT IN THE CITY OF POWELL, OHIO.

The title of the proposed ordinance, incorporated and made a part of each part petition, provides as follows:

ORDINANCE

AN ORDINANCE REPEALING CITY OF POWELL ORDINANCE 2014-10 AND REJECTING THE FINAL DEVELOPMENT PLAN FOR THE CENTER AT POWELL CROSSING LLC, A DEVELOPMENT OF 14,000 SQ. FT. OF RETAIL IN TWO BUILDINGS, PRESERVING THE OLD HOUSE FOR COMMERCIAL USE, AND DEVELOPMENT OF 64 APARTMENT RESIDENTIAL UNITS ON 8.3 ACRES, LOCATED AT 147 W. OLENTANGY STREET.

Likewise, there can be no doubt that the text, title, and date of City Ordinance was attached to each part petition and actually incorporated or incorporated by reference into the referendum petition on the first page of each part petition.

The first page of each part petition for the referendum states that it is a referendum for City “Ordinance 2014-10 passed by the City Council of Powell, Ohio on the 17th day of June, 2014,” and

further that “[a] full and correct copy of the title and text of Ordinance No. 2014-10 is attached hereto as Exhibit 1. A certified copy of City Ordinance 2014-10, including the text, title, and date of the ordinance was therefore incorporated and made a part of each part petition.

The Developer’s contention that the petitioners failed to satisfy title, text, and date requirements in Powell City Charter § 6.05 is simply not correct. The aim of these requirements is to give petition signatories knowledge of the contents of the petitions. Contrary to this purpose, the Developer is apparently suggesting, wrongly, that the petitions should list the title and text of the proposed measures *twice*, which would make the petitions confusing. Moreover, the petitioners here do understand the substance of the petitions. In fact, circulator affidavits provide sworn statements from each circulator that the signatories had knowledge of the contents of the petitions. There can be no serious question that the petitions have accomplished “strict compliance” with the Powell charter.

Fourth, the petitions are not invalid due to allegedly “misleading captions and content,” as the Developer claims. Notice of Protest at pp. 14-16. Again, each part petition incorporated, attached, and made available to each signatory the entirety of the documents discussed and referenced the simple matters discussed in the petitions. And again, each circulator provided a sworn affidavit to attest that to the best of their knowledge each signatory understood the contents of the petitions signed. Nonetheless, the Developer makes the completely baseless assertion that the petitioners were somehow “misled” through “gamesmanship.” Notice of Protest at p. 15.

The petitions, moreover, are not difficult to understand. The referendum petition repeals City Ordinance 2014-10, which had approved an apartment building complex. The initiative proposing and ordinance repeals City Ordinance 2014-10. The initiative for a charter amendment reaches far beyond City Ordinance 2014-10 to address Powell residents’ long-term concerns to adopt a process for a new comprehensive plan. The signers of the petitions were not misled.

The Developer continues on, arguing, wrongly, that the initiative petitions impermissibly operate as referendum petitions and combine initiative and referendum petitions. Notice of Protest at pp. 15-17. Developer could not find a single case where a petition was actually invalidated on this basis. Unfazed, the Developer cites an *unreported* Ohio court of appeals case, from *outside* of the relevant appellate district, invalidating petitions on *other grounds* and providing mere dicta expressing “doubt” about petitions because the petitions labeled initiatives may have been characterized referendum petitions. Notice of Protest at pp. 14-15, citing *State ex rel. Cody v. Stahl*, 2003-Ohio-6180 (not reported in N.E.2d). In other words, “the material relied upon . . . is Dicta, not the law of the case.” *Bd. of Ed. of City School Dist. of City of Cincinnati v. Walter*, 58 Ohio St.2d 368, 384 (1979).

The initiative petitions here are not actually referendum petitions, particularly the charter amendment petition that serves a fundamental purpose to address the long-term concerns of Powell residents. Powell residents have, time and again, presented these long-term concerns to City Council with responsive actions from their government. The Developer cannot rightly claim that the proposed charter amendment is actually a referendum simply because the Developer’s plans are not consistent with the long-term interests of Powell residents. The proposed charter amendment for a new comprehensive plan serves a fundamentally different purpose from simply repealing City Ordinance 2014-10.

Even assuming *arguendo* that the initiative petitions are *de facto* referendum petitions, this still would not invalidate the petitions. In *Stahl*, the Eighth District Court of Appeals merely stated that *de facto* referendum petitions must comply with timeliness requirements for referendum petitions, for example to file the petitions within 30 days of the passage of the referred ordinance. *Stahl*, 2003-Ohio-6180, at ¶ 18. Here, the initiative petitions were filed on July 17, 2014, *within* the 30-day period following the passage of City Ordinance 2014-10 on June 17, 2014 allowed for referendum petitions under the Powell City Charter. Thus, since the initiative petitions did not circumvent the 30-day

period for referendum petitions, they are valid even if a tribunal or other public body wrongly determined that they are *de facto* referendum petitions.

In a last ditch effort to invalidate the perfectly valid petitions, the Developer argues that the charter amendment initiative is invalid for combining an initiative and referendum petition. The charter initiative does no such thing, instead it is clearly an initiative only to address the long-term concerns of Powell residents. In addition, as a matter of law, the Developer cites no binding or persuasive authority for this position, textual in the Powell City Charter or otherwise. Instead, the Developer cite a passage in *Stabl* where the Eight District Court of Appeals observed that the City of Bedford Heights law director opined that petitions might be invalid under the Bedford Heights City Charter. *Stabl*, 2003-Ohio-6180, at ¶ 8.

In summary, the Developer has not identified any defects with the three petitions because there are none. Because there are no defects with the petitions, moreover, the petitioners respectfully demand that City Council act upon the petitions as discussed above. Controlling Ohio Supreme Court precedent interpreting the Ohio Constitution holds that City Council may not consider substantive issues with the petitions. *Morris v. Macedonia City Council*, 71 Ohio St.3d 52, 55 (1994).

B. Independently, City Council may not consider the substantive issues with the proposed measures because such issues are judicial determinations that are not ripe for review until the proposed measures have been approved by voters and enacted into law.

State ex rel. DeBrosse v. Cool, 87 Ohio St. 1, 6 (1999) (“Any claims alleging the unconstitutionality or illegality of the substance of the proposed ordinance, or actions to be taken pursuant to the ordinance when enacted, are premature before its approval by the electorate.”).

The Developer’s objections to matters other than the form of the petitions are premature and not ripe for review before any public body, let alone City Council. Unless and until the proposed measures are approved by voters and enacted into law, there is no actual case or

controversy to be protect by the courts. *Hillenbrand*, 103 Ohio St. 286, at 300 (“Of course if the electors adopt legislation which violates the Constitution it will be invalid, and all parties injuriously affected thereby will be protected by the courts.”). As the Ohio Supreme Court has explained the related ripeness doctrine, “the time for judicial relief is simply not yet arrived.” *State ex rel. Elyria Foundry Co. v. Indus. Comm. of Ohio*, 82 Ohio St. 3d 88, 89 (1998).

Thus, City Council may not review any of the Developer’s substantive arguments, including the meritless assertions that “Ordinance 2014-10 Cannot Be Subject To Referenda Because It Was An Administrative Act” and “The Charter Initiative is Unconstitutional and Therefore Invalid.” Notice of Protest, at 17-25.

Time and again, the Ohio Supreme Court has reiterated this bedrock principle. In *State ex rel. DeBrosse v. Cool*, the Court refused to prematurely consider whether a proposed ordinance violated substantive provisions of the Piqua City Charter regarding appropriations. 87 Ohio St. 1, 6 (1999), citing with approval *Cincinnati v. Hillenbrand*, 103 Ohio St. 286, syllabus (1921). In *State ex rel. Thurn v. Cuyaboga Cty. Bd. of Elections*, the Court refused to consider whether, if enacted, a proposed ordinance would violate substantive zoning ordinances. 72 Ohio St.3d 289, 293 (1995). Likewise in *Hillenbrand*, the Court refused to opine on the legality of the proposed measure under the contracts clauses of the Ohio and federal constitutions. In *Pfeifer v. Graves*, the Court found moot a question as to the illegality of a proposed state law prohibiting the shipment of liquor. 88 Ohio St. 473 (1913).

In the leading case of *Cincinnati v. Hillenbrand*, 103 Ohio St. at 300, the Ohio Supreme Court pointed out the obvious inconsistency with addressing the substantive legality of popularly proposed measures but not proposed ordinances of city council, as follows:

[I]f such an ordinance were introduced and pending in the city council, ‘the court would not pronounce a judgment or decree’ on the question whether it would be constitutional if passed, and the same rule applies under the same authority when the legislation is pending before the electors.

Measures proposed by the people should not be held to a higher standard than measures proposed by a city's legislative authority. See *State ex rel. Julnes v. S. Euclid City Council*, 130 Ohio St.3d 6 (2011) (presumption of liberty for the popular initiative and referendum: "duty to liberally construe municipal referendum provisions in favor of the power reserved to the people").

City Council has only the authority to consider issues that could not be addressed after Powell electors vote on the proposed measures. Consistent with this well-settled principle, the only post-election issues that the City Charter prohibits are those issues pertaining to the form of the petitions. See, the Powell City Charter, at § 6.05, specifically providing as follows:

No ordinance or other measure submitted to the electors of the City and receiving an affirmative majority of votes cast thereon, shall be held ineffective or void on account of the insufficiency of the petitions by which such submission of the ordinance or measure was procured, nor shall rejection, by a majority of the votes cast thereon, of any ordinance or other measure submitted to the electors of such City be held invalid for such insufficiency.

Issues with the form of the petitions must be addressed at present because they may not be addressed later.

The Developer's substantive claims, on the other hand, are all based on hypothetical facts that have not yet occurred. If and when voters approve the measures proposed through the three petitions, then there may be a justiciable controversy and, at that time, the Developer may bring a legal action to challenge the legality of the measures. At present, however, substantive issues are not ripe and a judicial determination of such issues amounts to an improper advisory opinion.

Opining on substantive legal issues with the proposed measures raises other public policy concerns as well. If proposed measures could be prematurely quashed on their substantive lawfulness, biased interests in opposition could simply hold up the petition process with complex substantive claims that take a long time to resolve. See e.g. *State ex rel. Citizens for a Better Portsmouth v. Sydnor*, 61 Ohio St.3d 49, 53 (1991). In addition, City Council members, as opposed to judges, do

not necessarily have the years of legal training and experience necessary to understand and decide complex and fact-intensive legal issues.

Turning now to the Developer's specific arguments, it is clear that they are not properly considered at present by a non-judicial body such as City Council acting legislatively to review the sufficiency and validity of petitions under Ohio Const. Art. XVIII §§ 8, 9.

First, the Developer claims that Ordinance 2014-10 is not subject to referenda are premature substantive claims. The fact-intensive inquiry into whether a law is administrative or legislative in nature depends upon the current and future applications of any given law. *Donnelly v. Fairview Park*, 13 Ohio St.2d 1 (1968) (“The test for determining whether the action of a legislative body is legislative or administrative is whether the action taken is one enacting a law, ordinance or regulation, or executing or administering a law, ordinance or regulation already in existence.”). For example, in this case, a judicial tribunal may need to apply law to make the factual determination as to whether there is a Planned Unit Development in Powell. The claim that Ordinance 2014-10 is an administrative act is a substantive one that should not be addressed prior to voter approval.

To be sure, the Ohio Supreme Court has stated that “[m]andamus will not lie to compel a *board of elections* to submit an ordinance proposed by initiative petition to the electorate if the ordinance does not involve a subject which a municipality is authorized by law to control by legislative action.” *State ex rel. N. Main St. Coalition v. Webb*, 106 Ohio St.3d 437, ¶ 34 (2005) (emphasis added). But this statement regarding a board of elections acting in a quasi-judicial role is far removed from the City Council acting legislatively pursuant to Ohio Const. Art. XVIII §§ 8, 9. *Id.* at ¶ 30. Here, City Council, as a municipality, is without the authority to consider anything but the form requirements for petitions. *Id.* at ¶¶ 30-31. In fact, City Council may not even consider “whether enactment of the proposed ordinance would constitute a vain act.” *Id.* at ¶ 31. The

Developer's arguments regarding the distinction between legislative and administrative decisions is barred at this juncture.

Second, the Developer's arguments that the substance of the proposed charter amendment are unconstitutional and illegal are unquestionably premature. Notice of Protest, at 22-26; *State ex rel. DeBrosse v. Cool*, 87 Ohio St. at 6. Though the Developer's unfounded constitutional arguments also fail on the merits, they are barred from consideration as a threshold matter. Specifically, City Council may not consider whether the proposed charter amendment is "spot zoning," "void for vagueness," "retroactive," or an unconstitutional delegation of legislative authority. These are all arguments about the substance of the proposed charter amendment that are premature under controlling Ohio Supreme Court precedent.

On this independent basis, the Developer's substantive arguments regarding the lawfulness of the proposed measures are not properly considered at this time.

- C. If City Council does address whether the substantive legal issue of whether the proposed measures are administrative or legislative in nature (it should not), the proposed measures are legislative acts that are properly subject to popular initiative and referendum.**

Powell City Charter § 4.07 (identifying "[a]doption and modification of the master plan for the City" as a legislative power).

There can be no serious question that the proposed charter amendment establishing a procedure for a new comprehensive plan for the City of Powell is a legislative function subject to popular initiative and referendum. In fact, the Powell City Charter expressly identifies it as such.

Section 4.07 of the Powell City Charter provides as follows:

All legislative powers of the City shall be vested in the Council, except as otherwise reserved to the people by this Charter. The legislative powers of Council include, but are not limited to, the following:

Adoption and modification of the master plan for the City as an official map of the City

(Emphasis added). Simply put, the comprehensive land use plan for the City of Powell is expressly identified as legislation. Pursuant to Ohio Const. Art. II, § 1f and the Powell City Charter, the initiative for a proposed charter amendment is unquestionably within the powers vested in the people of Powell.

By its silence, the Developer even agrees with this proposition. Nowhere in the Developer's Notice of Protest does the developer argue that the entire proposed charter amendment is invalid as an administrative act. The Developer's protest on this ground may then be concisely stated as the following: if City Council were to improperly consider this issue and improperly find that Ordinance 2014-10 is not subject to initiative and referendum, still the proposed charter amendment would be ineffective only as it applies to Ordinance 2014-10.⁵ And, as already noted, the proposed charter amendment that addresses the fundamental long-term concerns of Powell residents cannot be characterized as a referendum merely because it is not compatible with Ordinance 2014-10.

The Developer certainly has not sustained its burden to show that the referendum petition for Ordinance 2014-10 and the initiative petition to repeal Ordinance 2014-10 are not subject to popular accountability. There is a presumption of liberty in this context. *State ex rel. Julnes v. S. Euclid City Council*, 130 Ohio St.3d 6, ¶ 28 ("duty to liberally construe municipal referendum provisions in favor of the power reserved to the people"). The initiative petition exercises the *legislative* authority vested in the people of Powell pursuant to Ohio Const. Art. II, § 1f ("The initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized by law to control by *legislative action*"). As legislation, the proposed ordinance to repeal trumps Ordinance 2014-10 even if

⁵ Powell City Charter Section 12.02 provides as follows: "A determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid."

Ordinance 2014-10 is somehow determined to be an administrative act. If there is any doubt as to the meaning of this provision, the ambiguity should be resolved in favor of the people. *S. Euclid City Council*, 130 Ohio St.3d 6, ¶ 28; *see also Anderson/Malibio Partnership v. Levin*, 127 Ohio St.3d 178, ¶ 16 (strictly construing tax reduction statutes in derogation of the equal rights of all other taxpayers, *i.e.* the people).

Against this foundation, the facts and circumstances demonstrate that City Council made a legislative determination in enacting City Ordinance 2014-10. Following over three hours of deliberation and testimony from residents, City Council cast a controversial 4-3 vote to pass Ordinance 2014-10. Given the great public interest in the issue, there is no reason to shield Ordinance 2014-10 from a popular vote. Moreover, City Council goes beyond the administrative law distinction to seemingly argue that the vote on Ordinance 2014-10 is ministerial, without discretion to City Council. This is plainly false, otherwise there would be no need for City Council to vote in the first place.

Still further, the Developer has made no effort to show that the facts of this case show that Ordinance 2014-10 are administrative. The Developer has not even established that there is a Planned Unit Development district in this case. There are real factual issues present to determine whether Ordinance 2014-10 is an administrative or legislative act.

For these reasons, if City Council addresses whether the proposed measures are administrative or legislative in nature (it should not), City Council should nonetheless find that substance are the proper subject matter for initiative and referendum petitions.

D. If City Council addresses the Developer's substantive retroactivity issue (it should not), still City Council must find that the Developer has no vested right in the undeveloped property that is the subject of Ordinance 2014-10.

As a matter of law, it is clear that the retroactivity issue is not one that may be considered unless and until the people approve the proposed charter amendment. Without so stating, the

Developer is apparently arguing that the proposed charter amendment violates the retroactivity prohibition in Ohio Const. Art. II § 28. But the retroactivity ban operates only where the law at issue is *not* remedial or procedural. *ComTech Systems, Inc. v. Limbach*, 59 Ohio St.3d 96, 102 (1991). Thus, in order for the retroactivity prohibition to even potentially apply, the objection must be one of substance.

Taken together with the well-settled principle that a city council reviewing the sufficiency and validity of petitions may not review substantive issues, City Council clearly has no role to determine this issue. *Morris v. Macedonia City Council*, 71 Ohio St.3d 52, 55 (1994); *State ex rel. N. Main St. Coalition v. Webb*, 106 Ohio St.3d 437, ¶¶ 30-31 (2005).

And, like the Developer's other objections, the argument fails even if City Council prematurely addresses it. For the Developer to attain the vested right it claims, it must have an "existing nonconforming use." See Powell City Ordinance Chapter 1125 et seq. (providing procedures to establish an existing nonconforming use); R.C. 713.15. As the Ohio Supreme Court has explained:

Where no substantial nonconforming use is made of property, even though such use is contemplated and money is expended in preliminary work to that end, a property owner acquires no vested right to such use and is deprived of none by the operation of a valid zoning ordinance denying the right to proceed with his intended use of the property.

Smith v. Juillerat, 151 Ohio St. 424 (1954) (emphasis added). There must be some actual nonconforming *use* of property to create a vested right in that use.

Yet, still today, the land sits undeveloped and without *any* use, let alone a non-conforming use. At a minimum, the land will continue to sit vacant until the Developer begins construction at

some undetermined time *next year*.⁶ If no use were an existing nonconforming use, it is hard to imagine what property in the City of Powell would not have a vested right against zoning changes.

The Developer will nonetheless likely argue that it has a vested right because it claims to have fulfilled all the steps to submit a Final Development Plan. But filing an application, absent some use, does not establish a vested right. Moreover, the Developer did not actually take all the required steps to submit a Final Development Plan and its application is void *ab initio*.

Indeed, the Developer never verified the truth of its “Application for Planned Residence District,” which City Clerk Sue Ross certified is part of Ordinance 2014-10. See, Exhibit E, certified copy of Ordinance 2014-10. When asked to verify the truth of the statements contained in the application, the Developer failed to identify any natural person to verify the statement on behalf of the Developer. No natural person ever signed the application. Instead, the application provides as follows:

The applicant has reviewed the included information in the Preliminary Development Plan submittal and believes it to be true and correct to the best of the applicant’s knowledge.

See, Exhibit C (Final Development Plan application). This statement amounts to no verification at all and renders the application unfiled still today. Thus, even if an application were sufficient to make a vested right, there is no application in this case that could do even that.

E. The proposed charter amendment is not void for vagueness even if City Council exceeds its authority and examines the issue.

The proposed charter amendment is not vague or difficult to understand. As the descriptive title of the proposed charter amendment provides, the proposed charter amendment establishes a duty for City Council to adopt a new comprehensive plan. Circulators provided affidavits stating

⁶ Brian R. Ball, *Center at Powell Crossing construction expected to start in 2015*, COLUMBUS BUSINESSFIRST, Jun. 24, 2014, available at <http://www.bizjournals.com/columbus/news/2014/06/24/center-at-powell-crossing-construction-expected-to.html>.

that signers of the charter amendment petitions has knowledge of the contents of the petitions. The proposed charter amendment is simply not unconstitutionally vague.

F. The proposed charter amendment for a comprehensive plan for the entire City of Powell is not “spot zoning,” and again, not properly considered by City Council in this proceeding.

The proposed charter initiative is not illegal “spot zoning.” No property owner in Powell was “singled out through discriminatory zoning practices.” Notice of Protest, at 23. In fact, as already explained above, the proposed charter initiative for a new comprehensive plan addresses the long-term land use and development needs *for the entire City of Powell*. A new zoning map for the entire city is quintessentially general, not special, legislation that does not single out the Developer or any other entity or person.

G. The proposed charter amendment is not an unconstitutional delegation of legislative authority, and again, not properly considered by City Council in this proceeding.

The proposed charter amendment is not an unconstitutional delegation of legislative authority. The proposed charter amendment specifically provides for City Council, not the commission organized therein, to ultimately approve and enact the new comprehensive plan. Like the Developer’s other arguments, this one is meritless. Thus, the proposed charter amendment clearly does not unlawfully delegate legislative authority.

IV. CONCLUSION

Petitioners respectfully demand that City Council find that each of the three petitions are sufficient and valid pursuant to Powell City Charter §§ 6.02, 6.04. For the charter amendment initiative, City Council must act to submit the proposed charter amendment to electors of the City of Powell. For the proposed ordinance initiative, City Council must either adopt the ordinance in its

original form, or submit the ordinance to electors. For the referendum petition, City Council or must repeal City Ordinance 2014-10 or submit City Ordinance to a vote of Powell electors.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On this 5th day of August 2014, a copy of the foregoing Position Statement of Petitioners was served by hand delivery upon Clerk of Council Sue Ross at 47 Hall Street, Powell, Ohio, 43065, and by email upon the following:

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