

**MINUTES
PLANNING AND ZONING COMMISSION
JULY 11, 2001**

A regular meeting of the Village of Powell Planning and Zoning Commission was held on July 11, 2001, and called to order at 7:30 p.m. by Chairman Don Emerick. Other Planning and Zoning Commissioners present were Dave Lackey, Dan Wiencek, Kelvin Trefz, Tom Counts, Roger Coville, and Robert Cohen. Also present were David Betz, Director of Development; Dawn Nauman, Planning and Zoning Clerk; Shawn Leininger, Development Planner, residents and representatives of the press.

HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA

Commissioner Emerick asked that those speaking limit their comments to 3 minutes, as dictated by the rules of the Planning and Zoning Commission.

Ron Beach, 217 Paddock Circle, spoke in favor of La Tavola's application for outdoor dining, which was heard at the last meeting. He said he doesn't think outdoor dining will cause a great deal of disturbance. He said he lives about a block and a half away from the facility. He said that La Tavola has been a big addition to the community, and he would like to keep it there. He said he is in favor of keeping residential areas residential and business areas business. He said this facility has "been that way for awhile," and he doesn't see a big change with outdoor dining. He said he loves to eat outside, and restaurants typically are not that noisy.

Larry Everhart, 300 Glen Village Court, said he lives one block from the restaurant in question, and he is also in support of outdoor dining. He said he has been to the restaurant and it is not a disruptive place. He said that as a rule, the people of Powell have not been very supportive of some of the merchants, but that these are good people with a class operation. He said this facility provides their kids with a place to work. He said it is appropriate to be supportive of businesses.

There being no further public comment, the public hearing was closed.

APPROVAL OF MINUTES

The minutes of June 13, 2001 were approved as printed.

COMPREHENSIVE PLAN DISCUSSION

David Betz, Director of Development, reviewed that the current Comprehensive Plan was adopted last in 1995. Since that time, there have been additions, such as the Lakes of Powell and the Murphy Property. He said he wants to talk about updating the plan. He said the plan is a policy document that can change over time as the community changes. He said that Powell and the surrounding county has experienced tremendous growth in the last decade. He said that Powell will not grow much beyond its boundaries, and consideration should be given to how to make the community the best it can be at its total build out. He said how that build out will happen should be considered. Mr. Betz reviewed a land-use plan for the city. He noted that much of the planning will focus on areas toward the center of town. He noted adjacent undeveloped land to the north of the City, and said it should be considered. He said he would like to hear the Commission's view on this issue and begin to develop a procedure for updating the Comprehensive Plan.

Commissioner Emerick opened this item to public comment. Hearing none, he closed the public comment session.

Commissioner Wiencek suggested that consideration be given to breaking up into sub-committees during this process so that individual issues can have more in-depth discussion prior to large public hearings.

Commissioner Emerick asked if the public hearing process will be similar to the 1995 Comprehensive Plan process. Mr. Betz said it will. He said that comprehensive planning is a big issue.

Commissioner Lackey said that the fact that areas surrounding the City have built out doesn't eliminate the possibility for expansion on a smaller basis. Mr. Betz said that is true. He said consideration could be given to establishing a growth boundary for the community, and considering what it is desirable to contribute in services. Commissioner Lackey said he thinks it makes sense to analyze the economic impact of businesses. He said he

would like to see plans to continue the bike paths and complete the park system. He said he sees this as a joint effort with Parks and Rec., Planning and Zoning, and everyone else. He said that the pathway connectors for vehicular traffic should also be considered, such as the Ashmoore/Nathan Lane cut-through to Sherbourne Mews. He said consideration should be given to how much are they needed, and what are the priorities.

Commissioner Emerick said that consideration should be given to what type of businesses are desirable for Powell, especially in the downtown area. Commissioner Counts said that Liberty Road should be studied. He said that most of the planned growth is along Olentangy Street, and Liberty Road has been neglected both north and south. He said he would also like to consider how Bennett Farm will be developed. Commissioner Lackey said that the Bennett's have said that it will always be a farm, and it would be wonderful for that to happen. Mr. Betz said that it does have development rights for 40-41 homes, based on the annexation.

Commissioner Counts said that the impact of commuter traffic on the railroad should be considered.

Commissioner Trefz said that at some point during discussion about moving the Police Department, there was some thought about extending the police services out to cover part of the Township. Mr. Betz said that one thing that was discussed was the need to have enough room to expand the Police Department. He said the department is being designed to serve the City of Powell.

Mr. Betz asked if site-specific examination should be completed. He noted that the Villagescape plan took a close look at different quadrants downtown, but that not much has happened in the south or southeast quadrant.

Commissioner Wiencek asked if it would be appropriate to set up zones to make it easier to discuss development. Commissioner Lackey said that different zones would be needed for different purposes, such as businesses, park areas, etc. He said that he has gathered examples of Comprehensive Plans for Willoughby, Cleveland, and Columbus, in case anyone is interested in reviewing them. He noted that Willoughby plans on an almost lot-by-lot basis. Mr. Betz said the level of detail can vary.

Commissioner Counts said this is difficult in that the Commission is not talking about the quantity of zoning but the quality. He said that it will be difficult to put into writing how to improve the quality of the community through zoning. Mr. Betz said there are many tools that can be used besides zoning, such as a Capital Improvement Plan. He said the community needs to identify how much service it wants. He said that only one portion of streetscape has been completed, and that there is more planned downtown.

Mr. Betz asked if the current plan should be reviewed and updated, or if the entire plan should be reconsidered.

Commissioner Trefz said that now that the City is surrounded, consideration should be given to the pressures from the surrounding community on Powell parks, pathways, roadways, and services.

Commissioner Emerick said he would like to follow the same premise of the current Comprehensive Plan. Commissioner Counts said the same issues still apply.

Commissioner Wiencek suggested that a member of the Commission work with Mr. Betz to develop a plan for this. Commissioner Emerick asked how many public hearings were held on the 1995 plan. Mr. Betz said that he thinks there were more than 6. Mr. Betz said it may be possible to complete this in-house using the resources of the Regional Planning Commission. He said they have been doing a lot of Comprehensive Plan work with Orange and Berlin Township. He said they have a similar GIS system, and can do some mapping.

Mr. Betz suggested, if sub-committees are formed, that members of Council also attend. He said that the Comprehensive Planning is the charge of the Commission according to the Charter and Ohio Revised Code, but he suggested that Council remain informed.

A brief discussion was held regarding the Planning and Zoning representative on the Development Committee. Commissioner Trefz is the Planning and Zoning representative. Mr. Betz said if anyone else is interested in serving on the Committee, they should let him know.

ZONING CODE AMENDMENTS

The Commission reviewed the following possible Zoning Code Amendments.

New Section 1147.15: Recreational structures

Mr. Betz reviewed that this section would set new standards for recreational structures. These standards would not require a permit. The language of this proposal would require that such structures be out of the right of way, and also, not impede drainage areas. He said that often, portable basketball units are left in the street or along the sidewalk so that they impede pedestrian traffic, and Staff does not have the means to require they be moved. He said he would hate to see one fall on a car or sidewalk.

Commissioner Lackey expressed concern that Section C indicates that placing structures in the right of way or easement would be permissible with the proper zoning certificate. He suggested that such placement be totally prohibited.

Commissioner Wiencek suggested keeping these items out of the sideyard setbacks to keep the play structures in the yards of those that own them. He said that basketball poles are typically on the driveway and will be within those setbacks. Commissioner Counts said that when he was on the Board of Zoning Appeals, he had to deal with those sideyard setbacks. He said the BZA took the approach that if a structure impeded light, view, and openness, that was a problem. He said he thinks imposing sideyard setback standards would be a real problem for enforcement and for the BZA. Commissioner Wiencek said he thinks this is an aesthetic issue, in that they are brightly colored.

Commissioner Lackey said it is nice to put them close to other houses so kids can play together and share.

Commissioner Wiencek asked if there should be conditions that it not be dilapidated, falling over, or rusty. He said he would like to make sure it is in good condition and safe.

Commissioner Trefz asked what happens if someone erects one of these on a park site. Mr. Betz said that structures cannot be erected on municipal property.

Commissioner Coville said he thinks addressing the sideyard setback is a good idea. Mr. Betz said that could be a problem with basketball hoops, because driveways are permitted in the setback. Mr. Betz said that the rear sideyard setback could be addressed if that is the concern. Mr. Coville said it is more an issue with play structures. Mr. Betz said that the fence code allows for placement in setbacks with signatures of adjoining neighbors. Mr. Trefz said that he thinks residents should have a good understanding about where these structures are permitted.

Section 1147.12 Preservation and Enhancement of Community Residential Character

Mr. Betz reviewed that the Historic District Commission has approved the use of Hardiplank in Old Powell, and that Fiori Homes has been approved to use the material on two different condominium developments in the City. He asked if the Planning and Zoning Commission would like to add the material to the list of approved materials.

Commissioner Lackey said he would prefer to wait and see how the material looks and behaves on the Fiori developments. He said he was recently in North Carolina, and they had Hardiplank on the building they were in. He said while it was a great material to handle the sea air and wind, he could tell it was Hardiplank. He said he thinks a natural look is desirable in Powell, and "Hardiplank is not there yet." Commissioner Wiencek, Emerick, and Trefz agreed.

Commissioner Counts said he thinks that anyone that doesn't know what the material is would have no idea it is not wood. He said the city allows artificial stone, and one can tell what that is. He said that stucco is no different than cement fiber in terms of application. He said that the house in Ashmoore has had Hardiplank for close to two years, so there is some history on that.

Seasonal Sales Ordinance 1147.13.

Mr. Betz said that a Christmas Tree lot in the Powell Center the last two years was required to get a variance to allow for seasonal sales. He said this Ordinance would outline requirements to receive a Zoning Certificate for seasonal sales.

Commissioner Wiencek asked if Girl Scout cookies, chocolate bars for the local band, or sports team mulch sales would be impacted by this legislation. Mr. Betz said the regulations would not apply to non-profit or religious organizations, but rather those that are for-profit.

Commissioner Lackey said that the Ordinance defines seasonal sales, and then regulates them using the term "sales stand." He suggested that be defined.

Commissioner Cohen asked if the second part of the first sentence in Section C would allow for commercial seasonal sales in a residential district or just in a residential district on property that is owned or leased by a non-profit organization. He asked if Section A allows that any non-profit organizations would be permitted to have seasonal sales anywhere or on land they own or lease. Mr. Betz said they would be permitted on land they own or lease. Mr. Betz suggested changing the language to make it clear that for-profit seasonal sales is a permitted use in commercial or industrial districts.

Commissioner Wiencek asked what is the maximum permitted length for seasonal sales. Commissioner Counts said it is 60 days. Commissioner Wiencek asked if 60 days is sufficient for a vendor to start selling pumpkins and finish with Christmas Trees. Mr. Betz said it would require a different company or a different permit. Commissioner Wiencek asked if a facility could operate "year round," if they got a permit every 60 days. Mr. Betz said that there are other regulations in the Code that would prohibit it. Commissioner Wiencek suggested limiting the permits to no more than two in any one calendar year.

Commissioner Wiencek asked how this compares to the Agricultural Sales Requirements. Mr. Betz said that agricultural uses require a Conditional Use Permit. He said it would only apply to land zoned for agricultural use, and would allow for roadside sales of products grown there. Commissioner Wiencek asked about The Grove, which had agricultural sales. Mr. Betz said they raised their goods at a farm elsewhere. He said that the proposed amendments to **Section 1147.11, Agricultural-Related Uses**, would allow for a Zoning Certificate rather than a Conditional Use Permit.

Commissioner Coville suggested that the requirements for signage be specific and comply with other such requirements.

Commissioner Counts asked if agricultural products are defined in the code. Mr. Betz said that agriculture is defined on page 73. Commissioner Counts expressed concern that pumpkins are considered seasonal in this legislation, but they are an agricultural product. He said he thinks that may make it difficult. Commissioner Wiencek said that Christmas Trees are also agricultural. Commissioner Lackey said it is difficult, because two code sections could apply. Mr. Betz said the roadside stands (Section B) restrictions could be removed from the agricultural products section, and applied to the seasonal sales. Commissioner Counts noted that there is a farm stand at Linworth Road and S.R. 161, and that such a stand does fit with the "rural greenbelt community."

Storage Outside of Enclosed Structures

Mr. Betz said that this change would remove a loophole that allows someone to park a Recreational Vehicle for 48 hours at a time, over and over again. He said they would like to add a 10-day limited time frame for such storage.

Commissioner Lackey noted a typo in Section B, which should read "unused" rather than "used." Commissioner Counts noted that there are two Section B's.

Commissioner Wiencek asked if a resident would be able to load on the front and back end of a week's vacation. Mr. Betz said that the deed restrictions for most subdivisions permit 48 hours in a 10-day period. Shawn Leininger, Development Planner, said that in Ashmoore, it is 30 days.

Housing for Elderly

Mr. Betz said these regulations are for assisted living facilities, nursing homes, and residential care facilities. He said that more work needs to be done and some of it needs to be reviewed with the Ohio Revised Code. He said there is no separate area in the Zoning Code for this type of use. He said there is going to be more of a need for these types of facilities all over country, and there should be some kind of standards.

Commissioner Cohen asked if there is a multi-family zoning sub-category to residential zoning. Mr. Betz said there are multi-family regulations, but they don't deal with such a difference in land use. Commissioner Cohen said that Section C says that this type of facility is allowed in any residential district, but he feels it should be in multi-family districts. Mr. Betz said there is no separate multi-family district. Commissioner Cohen said that his problem is that one can't put elderly facilities in residential districts because they can't meet the density restrictions. He said that such facilities are the equivalent of apartments to adjoining homes. Mr. Betz said it is a different land use, and there would be specific standards, such as locating closer to a commercial district, parkway, or park rather than a single-family subdivision. Commissioner Cohen said that requires that all applicable Zoning Code requirements have to be met, but they would qualify for bonus points for density. Mr. Betz said he thinks that is the only way to get anywhere. The maximum lot size would be 10 acres, and other criteria would need to be met.

Commissioner Lackey said he is all for the concept, and feels that elderly housing should be promoted, but he is concerned about some of the language. He questioned whether Section B.1 should indicate people of the "same immediate family." He questioned what record of impairment one must have to qualify for housing. He noted several typos in Number 5. He noted that "qualified permanent resident" is defined, but not used in the code. He reviewed other clarifications in Section C to remove extra quotation marks and to change commercial and medical facilities to and/or. He suggested that the term "density bonus" be used consistently. He asked if elevators should be required for all of these types of units, as they may be prohibitive and not always necessary.

Commissioner Lackey suggested a change to the section about "sensitivity and preservation."

Commissioner Wiencek asked if it should address 2 or more stories, with the City's maximum 35-foot height.

Commissioner Wiencek asked if the building code has the same requirements for windows first floors and those built into a hill. He questioned whether that might help determine whether something is 3 stories.

Commissioner Trefz asked about the 54-inch sidewalk requirement. He asked if the city's sidewalk requirement is for 5 feet. Mr. Betz said that requirement is for a public street, and these describe those within the facility.

Commissioner Counts said consideration should be given to make sure that these regulations work well with those for group homes.

Mr. Betz suggested that Staff work on this language and bring it back. He suggested that public hearings be held on the Recreational Structures, Seasonal Sales and Agricultural, and Storage Outside an Enclosure amendments.

Commissioner Coville asked what is the concern with recreational structures on a stub street. Commissioner Lackey said that gets people used to using stubs as a playground. Then when they come in to connect it, there are complaints that people's children play in those streets. Mr. Betz said that is a concern not only in the City, but at the Delaware County Regional Planning Commission as well.

Commissioner Wiencek asked if the intent is to wait for a complaint or try to enforce this. Mr. Betz said that Staff is really concerned about the safety issue of having a basketball hoop between the sidewalk and the curb. He said that Staff will probably send informational letters before violation letters are sent. He reviewed violation would be handled under the normal penalty. He said that if people want to move them down and use them, they can, but they should move them back. Commissioner Wiencek said that there have been more than a handful of claims at Nationwide where these structures have blown over in the wind and injured property or people.

Sign Guidelines

Mr. Betz said that when the portable sign procedures were approved, Staff was to develop guidelines. They have submitted them to Council this evening (Exhibit).

OTHER COMMISSION BUSINESS

Commissioner Wiencek asked if the Commission should address the issue of requiring a Preliminary Development Plan with a Zoning Map Amendment. He said that the Commission has been struggling with whether it is fair to require such a plan when all they are trying to do is change the zoning. He said that it has been handled in a way that less than a full preliminary plan is reviewed with the expectation that a full preliminary development plan will

