

MEMORANDUM

TO: PLANNING AND ZONING COMMISSION

FROM:  **DAVID BETZ, AICP
DIRECTOR OF DEVELOPMENT**

DATE: APRIL 25, 2002

SUBJECT: GRACE PLAZA

A restaurant is locating in Grace Plaza that would like to obtain a liquor permit. The approved development plan for Grace Plaza contains a condition that no restaurant be permitted to maintain a Class D liquor permit as shown on the attached minutes. It is my opinion and the opinion of our Law Director Ken Molnar that this condition is not legal (see attached pages from *Ohio Planning and Zoning Law*, Meck and Pearlman, pp. 232-233). Therefore, we are asking the Commission through an Administrative Review to adopt a motion removing that condition from this approved development plan.

Please let me know if you have any questions.

cc: Your Financial Community
Mike's Barbecue and Ribs

KENNETH J. MOLNAR
ATTORNEY AT LAW
21 MIDDLE STREET
P.O. BOX 248
GALENA, OHIO 43021

April 25, 2002

Dave Betz
Development Director
City of Powell
47 Hall Street
Powell, Ohio 43065

✓ FAX: 614-885-5339

RE: Grace Plaza Restaurant

Dear Dave:

In accordance with our discussion, I was able to review the *Development Plan* for Grace Plaza Restaurant. I concur that we really have no business limiting the class of liquor license at any restaurant. I would further suggest that we should modify the *Plan*, and the most desirable way of accomplishing that modification is through an Administrative Review.

If you need any additional assistance from me, please advise.

Very truly yours,


Kenneth J. Molnar

KJM/sb

CC: S. Lutz

The Village of Powell
47 Hall Street
Powell, Ohio 43065
(614)885-5380 phone
(614)885-5339 fax

Powell Development Department

To: Ken Molnar

Fax: 1-740-965-2718

From: David Betz, AICP

Date: April 24, 2002

Re: Grace Plaza, Restaurant, Liquor License Pages: 04

CC: Steve Lutz

Urgent For Review Please Comment Please Reply Please Recycle

Notes: Dear Ken,

I had an inquiry by a new restaurant owner about getting a liquor license in Grace Plaza (formerly Liberty Plaza Phase III). One condition of the development plan indicated that restaurants cannot have a class D"D" liquor license (see P&Z minutes). State law and court decisions does not allow municipalities to restrict sale of alcohol in this way. How should I enforce this condition? I believe it is illegal for us to do so. Please advise.

SEE ATTACHED

OHIO PLANNING & ZONING
Law; p. 232-233.

PLANNING AND ZONING COMMISSION

Mr. Huffinan, stated that a service road was needed for the Fire Department to provide safety access and for emergency medical management.

Chairman Airey then suggested a 5-foot or 6-foot service sidewalk access across the back with a service entrance and a service door for deliveries.

Mr. Betz stated that under the fire code they will be able to have access with free clearance around three sides. He thought the fire code would be met.

Commissioner Teich liked the walkway in the back of the building.

Commissioner Schultz spoke regarding extending the fence and how it would relate to the existing storm system that runs along Grace Drive. The Engineer would need to review that issue.

Mr. Costanzo wanted the service road at the rear of the building. He agreed to build a mound with a 7-foot fence at rear of the structure. The residents then stated that they wanted a 4-foot mound and a 4-foot fence.

Mr. Betz wanted the applicant to revise the plan subject to his approval before the Development Plan would be referred to Council; 4-foot mound with no more than a 3:1 slope and a 4-foot fence. He also recommended that hedges in front of the building be 3 feet high which would help block headlights on Grace Drive.

MOTION: Commissioner Flahive moved to approve the request from Your Financial Community of Ohio, Inc., for a Combined Preliminary and Final Development Plan for a 15,600 square foot retail and office building subject to conditions: 1) uses shall be limited to retail sales, professional office service and personal services. ~~No restaurant shall be permitted to maintain a Class-D liquor license.~~ 2) the applicant shall provide a revised plan to be submitted to the Zoning Administrator to Exhibit A which among other issues eliminates the service road on the north; 3) there shall be a 4-foot mound along the north side of the property with no more than a 3:1 slope on the mound and there shall be a 4-foot fence on top of the mound; 4) applicant shall submit a landscape plan that shall be subject to the Planning and Zoning Commission's approval; 5) the north side of the building shall have a service sidewalk no more than 8 feet in width. Commissioner Schultz seconded the motion. Roll call was held and the motion was unanimously approved: Commissioners Airey, Schultz, Emerick, Flahive, Teich.

2. **Applicant:** Shepherd of Peace Lutheran Church
 Location: 542 Village Park Drive
 Zoning: Lots 1981, 1982 Wolf Commerce Park plus additional land
 Request: Approval of a Combined Preliminary and Final Development
 Plan to allow construction of a church.

Mr. Donald Clemens, representative for the applicant, stated that the following had been accomplished: 1) eliminated the access drive onto Seldom Seen Road; 2) eliminated parking spaces on the north side of the property toward Seldom Seen; 3) street trees every 50 feet on Village Park Drive by a 3-inch caliber tree (red maple) and other trees for landscaping (red buds, 10 2-inch honey locust); 4) parking lot - eliminated all but two lights; 5) sign will look like the building - parallel to Seldom Seen Road and perpendicular to Village

of wells from various uses. In *St. Croix Ltd. v. Bath Twp.*,³⁸¹ an appeals court noted that OAC 1501:9-1-05 prohibited wells from being drilled closer than 100 feet to an inhabited structure. The court ruled that this prevents a township from promulgating a distance requirement of 300 feet from an inhabited building.

6.39 Uses exempt from regulation—Alcoholic beverages

Ohio regulates the sale of alcoholic beverages both on-premises (bars and restaurants) and off-premises (carryout) through the Department of Liquor Control.³⁸² RC 303.211 (counties) and RC 519.211 (townships) bar counties and townships from prohibiting, through their zoning power, the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted. Under *City of Westlake v. Mascot Petroleum Co.*,³⁸³ the Ohio Supreme Court held that where a business operating in a commercial or industrial district has been issued a valid permit for the sale of alcoholic beverages by the department, a municipality is without authority to extinguish privileges arising from it through the enforcement of zoning regulations.

Mascot Petroleum modified an earlier Supreme Court decision, decided prior to the 1987 amendments to RC Chapter 4303, which had held that a municipality was not preempted by state law from promulgating and enforcing zoning ordinances limiting the retail sale of alcoholic beverages within its boundaries.³⁸⁴ Under RC 4303.292(A)(2)(a) and RC 4303.26, as amended, the Department of Liquor Control may not refuse to issue a new, renewed, or transferred liquor permit based on noncompliance of the proposed permit premises with local zoning regulations which prohibit the sale of beer or intoxicating liquor in an area zoned for commercial or industrial use.³⁸⁵ Several lower court decisions have also blocked municipalities' power to restrict the sale of alcoholic beverages for on-premises consumption through the zoning power.³⁸⁶

The situation, however, is different where residential areas are involved. Affirming a trial court decision, an appellate court ruled that the denial of a new liquor permit by the Ohio Department of Liquor Control for a gas station located in

³⁸¹*St. Croix Ltd. v. Bath Twp.*, 118 Ohio App.3d 438, 693 N.E.2d 297 (Summit 1997).

³⁸²RC Ch. 4303.

³⁸³*Westlake v. Mascot Petroleum Co.*, 61 Ohio St.3d 161, syl. 2, 573 N.E.2d 1068 (1991), limiting *Ridgley, Inc. v. Wadsworth Bd. of Zoning Appeals*, 28 Ohio St.3d 357, 503 N.E.2d 1036 (1986), and construing and applying RC 4303.26 and RC 4303.292. Cf. *BP America, Inc. v. Council of City of University Heights*, 2000 WL 1177508, No. 76438 (8th Dist. Ct. App., Cuyahoga, 8-17-00).

³⁸⁴*Westlake v. Mascot Petroleum Co.*, 61 Ohio St.3d 161, 573 N.E.2d 1068 (1991).

³⁸⁵*Westlake v. Mascot Petroleum Co.*, 61 Ohio St.3d 161, 166-68, 573 N.E.2d 1068, 1072-73 (1991). For detailed rules, including requirements of notice to local governments and certain affected uses, see RC 4303.26 and RC 4303.292.

³⁸⁶See *City of Canton v. Imperial Bowling Lanes, Inc.*, 7 Ohio Misc. 292, 220 N.E.2d 151 (Mun., Canton 1966) (holding zoning ordinance that prohibited sale of intoxicating liquor in a "light industrial" district unconstitutional as being in conflict with state laws); *City of Lyndhurst v. Compola*, 112 Ohio App. 483, 169 N.E.2d 558 (Cuyahoga 1960) (holding zoning ordinance that prohibited sale of alcoholic beverages by the drink in restaurant, where owner had been issued state liquor permit for on-premises consumption, to be preempted by state law).

a residential zoning district was not improper.³⁸⁷ The City of Willoughby Hills had granted a use variance for the continued operation of a gas station in the residential district and the plaintiff attempted to argue that the land was no longer residential but zoned commercial and the city could not prohibit the sale of alcoholic beverages in such a district. The appeals court reiterated that the use variance did not change the zoning of the property and the city had a valid ordinance prohibiting the sale of alcoholic beverages in residential districts. The court distinguished the situation from that of *Mascot Petroleum* by noting that in *Mascot Petroleum* the premises for which the sale of alcohol was prohibited were zoned commercial, unlike the subject property in this case.

In *Kraincic v. City of Willoughby Board of Zoning Appeals*,³⁸⁸ an appellate court disagreed with an assignment of error arguing that state law preempted the application of a local ordinance establishing a minimum acreage for restaurants, including those selling alcoholic beverages. The court found that the ordinance did not seek to prohibit the sale of beer or intoxicating liquor in an area zoned for commercial or industrial uses and the court further indicated that the minimum lot size provision established by the city was not inconsistent with the rule established in *Mascot Petroleum*.³⁸⁹ The distinction, presumably, between *Kraincic* and *Mascot Petroleum* is that in *Kraincic* there was no absolute prohibition on the location of an establishment selling alcoholic beverages in a commercial district.

An early appeals court case, *Carnabuci v. City of Norwalk*,³⁹⁰ prefigured *Mascot Petroleum* and held that a state permit to operate a commercial winemaking enterprise on premises zoned residential at the time of the permit cannot be valid. The court noted that "it [the state] and the city must each take cognizance of the lawful exercise of the power and authority possessed by the other."³⁹¹

6.40 Junkyards and salvage motor vehicle pools

The Revised Code expressly allows municipalities to regulate and even prohibit junkyards.³⁹² RC 4737.09 requires a fence around junkyards to be "kept in good order and repair."

In *Joe Horisk's Salvage Pool Systems of Ohio v. City of Strongsville*,³⁹³ an appeals court held that, given that the state law did not specifically preempt local regulation of motor vehicle salvage pools, the issue was whether local zoning regulation prohib-

³⁸⁷*Service Station Holdings, Inc. v. Liquor Control Comm'n*, 1995 WL 578125, No. 95APE03-346 (10th Dist. Ct. App., Franklin, 9-28-95).

³⁸⁸*Kraincic v. Board of Zoning Appeals of Willoughby*, 1995 WL 914713, No. 94-L-113 (11th Dist. Ct. App., Lake, 8-18-95).

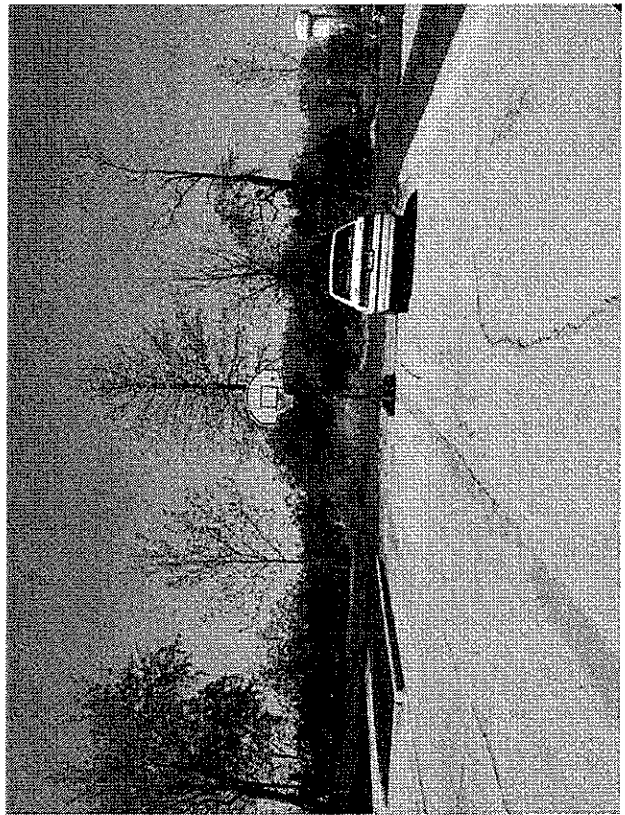
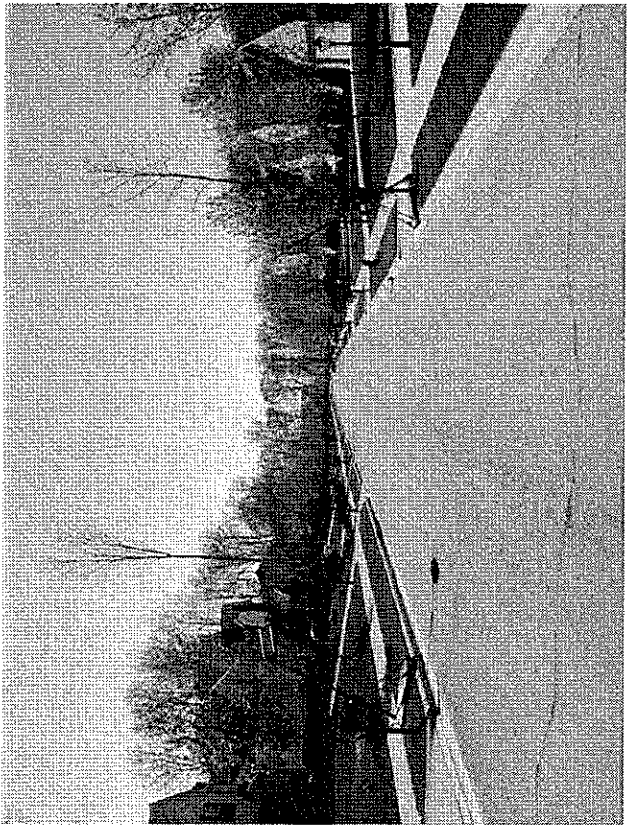
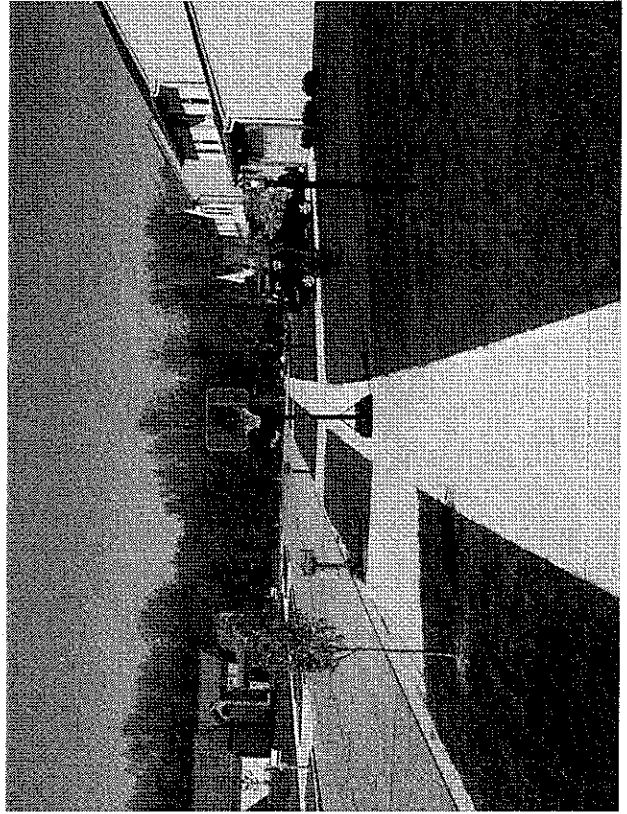
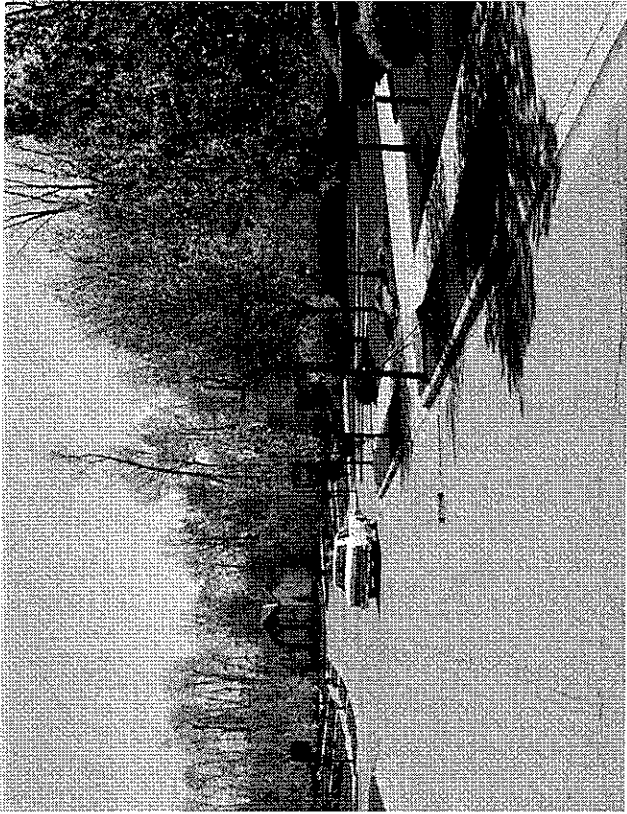
³⁸⁹In an earlier case, *Kraincic v. City of Willoughby Hills Bd. of Zoning Appeals*, 1990 WL 28674, No. 88-L-13-207 (11th Dist. Ct. App., Lake, 3-16-90), the court found that a city can decide that an establishment serving alcohol and food is a restaurant, not a bar, and require conformity to its zoning regulations.

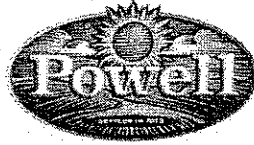
³⁹⁰*Carnabuci v. City of Norwalk*, 70 Ohio App. 429, 46 N.E.2d 773 (Huron 1942).

³⁹¹*Carnabuci v. City of Norwalk*, 70 Ohio App. 429, 431, 46 N.E.2d 773, 774 (Huron 1942).

³⁹²RC 4737.07; see also OAC 4501:1-4-04 (motor vehicle salvage dealers, salvage pools, and auctions).

³⁹³*Joe Horisk's Salvage Pool Sys. of Ohio v. City of Strongsville*, 91 Ohio App.3d 121, 631 N.E.2d 1097 (Cuyahoga 1993), jurisdictional motion overruled, 69 Ohio St.3d 1406, 629 N.E.2d 1367 (1994).





**STAFF REPORT
PLANNING AND ZONING COMMISSION
MAY 8, 2002**

**ZONING TEXT AMENDMENT (Reconsideration)
Section 1147.14 Recreational Structures**

Memorandum and reference materials are attached to this Report. Please refer to that information for the opinion of Staff.

PRELIMINARY DEVELOPMENT PLAN (Tabled at April 10, 2002 Meeting)

Applicant: Newbury Homes
Location: 10331/10571/10441 Sawmill Road
Zoning: PR, Planned Residence District
Request: Approval of a Preliminary Development Plan for 16.454 acres on the east side of Sawmill Road and west of Lakes of Powell for 15 two unit condominium buildings (30 units) on 10.4 acres and an existing church on 6.25 acres

Since the Preliminary Development Plan review at last month's meeting, the applicant has revised their proposal to try to address the concerns raised by the Commission and the public. The site plan has been changed by the removal of another two unit building and rearranging the layout to create an even greater amount of buffer space and preserve as many trees as possible.

The subject property was part of the original annexation of 65 acres that included Lakes of Powell Sections 1-4 and the Tyler Run Elementary School site. At the time of the annexation and zoning in 1996, the property was placed in the PR, Planned Residence District as a church site as the site had already been partially developed for the church. Church membership has declined over the years, so they would like to sell a portion of their property. Newbury Homes originally submitted a plan for a condominium development that includes 17 two-unit buildings, for a total of 34 dwelling units. The revised plan being submitted at this time includes 15 buildings for a total of 30 dwelling units. Access to the site is provided from Sawmill Road, which will be the only way into and out of the development. The remainder of the church property will remain a church with the parking lots redeveloped as shown on the preliminary development plan.

The property totals 16.454 acres. The site area for the condominiums is 10.4 acres, so the residual for the church is about 6 acres. The density of the proposed condominium development is now at 2.88 dwelling units per acre. This is the net density of the subject 10.4 acre tract. As a comparison, the Lakes of Powell Section 1-4 net density is 3.56 dwelling units per acre. Surrounding land uses include Zion Drive and Woods of Sawmill subdivision (1.8 du/ac net) to the north, Lakes of Powell to the east, Wedgewood Place subdivision to the south, the Zion Church and Sawmill Business Park to the west. There are also two existing homes fronting Sawmill Road on either side of the entrance, one of which is in very poor condition.

The property is well suited for residential development, being adjacent to existing subdivisions. It will be important to determine the proper density and housing type for this property. The applicant is proposing to build two unit condominiums. The buildings are one story plans utilizing stone and Hardiplank siding as exterior materials. Each unit has two bedrooms, a den or spare bedroom,

two baths and a screened in porch. There will also be some units with the option to have a third bedroom. Condominium developments have been popular in this area and have sold quickly.

Staff studied the property for possible single family development. The only possible scenario is to have a cul-de-sac developed off of Sawmill Road and curve around to utilize the entire property. A retention pond open space area can also be preserved. This scenario would create 30 single family home sites with the same lot sizes within the Lakes of Powell. If a single-family subdivision were to be favored over condominiums, it will be important to create a subdivision that will be desirable for the community as a whole, and desirable for the potential residents who will live there. It does not make sense to have a subdivision developed where the density will be so low and the lot sizes so large. It would have to command a higher lot price and home price than what the market will find desirable for this location (due to the land uses adjacent to this parcel at its entrance and having the church so close on two sides). If a single family subdivision is preferred, something similar to Staff's single-family layout is appropriate.

Comparing both plans, Staff prefers the proposed condominium concept for several reasons. The property is a transitional piece between existing single family residential uses and the commercial and office to the west side of Sawmill Road, and having another street, Zion Drive, along the north side of the property. The proposed condominium layout actually would provide for more green area and the buildings can be laid out to provide for more buffer and fewer buildings backing to the most affected subdivision Lakes of Powell. There is an existing stand of trees at the northeast corner of the site that can be better preserved with the condominium layout than the single family layout. Also, by having the development construct a private street owned and maintained by a condominium association rather than a public street owned and maintained by the City, there is less associated public cost to this development.

The Commission has asked Staff to cite other examples of condominiums being utilized as a transitional use and to see what affect, if any, this type of development would have on the community's tax base and what the resale aspects could be. The City has approved other condominium projects in the past as a transitional use from single family to commercial/office uses. The Murphy Park development plan includes condominiums as a transition. Also, the Village at Powell Condominiums at the northwest corner of Seldom Seen Road and Liberty Road is a transition from Powell Place single-family to Wolf Commerce Park office uses. The effect this development will have on the community's tax base will be minimal. Looking at minimum incomes needed to purchase a \$250,000 single family home versus a \$200,000 condominium, with everything else being equal, varies by about \$15,000 per year. This would make a difference of \$75 per year of income tax income to the City per dwelling unit. However, the City will have no maintenance liability and costs with regard to any public street with the condominium development. In relation to resale of condominiums, the City has historical resale information on the Woods of Big Bear Farms condominiums. Based on the Delaware County Auditor website, resale of five of those condominium units averaged an increase of \$12,675 in an average time period of 20 months. The average transfer value, base on the Delaware County Auditor, for the 14 Lakes of Powell homes adjacent to this site was \$222,595 (between 1998-2001)

At the previous meeting, there was concern with the density bonuses for this site based on no public improvements being provided. To help justify the 2.88 du/ac, Staff has suggested the applicant secure easements on the two Township properties that are adjacent this site and construct a bikepath that will extend from Zion Drive to the south property line of the church. Also, the way the proposed open space and pond are situated, a path could be developed around the pond and by placing a public access easement over this area, it could be utilized for public open space.

The development plan has been amended to create greater buffer areas between the buildings and the adjoining properties. The site plan has been reworked to provide a large open space area with a pond along Zion Drive so that no buildings back to Zion Drive. This has created a large buffer area and the pond is now a public amenity rather than a private amenity to the

Based on comments from the Commission and Staff at the April 10, 2002 meeting the applicant has revised the site plan and elevations of the proposed building. The applicant was provided copies of the approved elevations for the neighboring properties, HER Realtors and ASK Wastersports.

Access to the site has not changed. The porkchop access point at West Olentangy Street will need to meet the design specifications of the Engineering Department to ensure that a left turn in/out is not possible. The required parking is 32 spaces (four per classroom) including two handicap spaces. Although 32 spaces are provided, Staff recommends at least one space be eliminated at the southwest corner of the parking lot to save a 24-inch Oak and pull the dumpster pad/screening away from the 36-inch Maple. Also, the applicant is required by Section 1145.31 to add two landscaped parking bays, one on each side of the drive aisle. The provided parking will be 29 spaces with these changes. Staff feels that 29 spaces are sufficient for this use. Additionally, Staff feels the handicap ramp is in a poor location as it accesses directly from the top of the drive aisle. The ramp should be moved to the van accessible area.

The applicant has turned the building 90 degrees so that it fronts West Olentangy Street. The fenced recreation area has been modified so that it is only on the west and south sides of the building. Staff is concerned with the fence extending to the front building edge on the west and along the building on the east. Based on the elevations, the fence on the west side can be pulled back a 15 to 20 feet to the first classroom door. This will remove, or attempt to remove, the direct line of sight of the fence from Olentangy Street. Also, Staff questions the need for the fence along the east side of the building. The applicant states it is for safety reasons so that the children do not have direct access to the parking lot, which is understandable. However, it appears from the floor plan that access to the recreation area is available via a rear door. Additionally, the current layout removes any sidewalk access from the parking lot to the front entry. Visitors would be required to walk down the drive aisle to reach the front entry. Unless a better solution is proposed, access to the preschool recreation area should be from the rear door. Fence design detail needs to be submitted. Given, the location along Olentangy Street and adjacent to Murphy Park, Staff anticipates a decorative fence appropriate for the building and the area. The fence location could present a maintenance problem along west and south property lines. Either the fence should be moved to the property lines or sufficient area be provided that allows a mower access.

A sidewalk is being proposed around the entire perimeter of the building. The location of the sidewalk makes it impossible to landscape 70% of the foundation as required Section 1145.32. Staff does not feel a divergence is necessary as the sidewalk can be pulled three to four feet away from the building and landscape area added in-between. A walk needs to be added to connect the building access to the bikepath system.

The applicant has provided a tree survey but it is inaccurate. Several trees are not shown on the survey. Also, the applicant is proposing to remove 166-inches of tree caliper from the recreation area; probably more with an accurate survey. The trees being removed are not exempt from being replaced and will be required to be planted elsewhere on-site or an arrangement made with park plantings or the Share-the-Cost tree planting program. Staff estimates to replace the 166-inches from the recreation area would cost \$24,900. Staff recommends only the dead, diseased, and poor condition trees be removed. These trees do not need replaced. Also, the applicant is proposing to remove a tree to install the front patio. Staff recommends the patio be redesigned to allow the tree to be saved. A landscape plan will be submitted with the Preliminary Development Plan submittal.

Staff appreciates the effort the applicant has made to provide a building design more appropriate for the area. The building now has a hipped gable roof with the mechanicals being located on the roof behind a decorative screening. More detail needs to be provided to ensure the mechanicals are truly hidden below and behind the roofline. The building materials are a combination of stucco stone, brick, and stucco. Staff recommends cement-fiber siding be used

neighborhood. Mounding and landscape screening is also proposed for this area, although this could probably be enhanced. Along the east-side, the buildings have been relocated to have a setback of 80 to over 173 feet from the property line. These buildings have also been sited so that the sides of the buildings face the subdivision. The large tree grouping at the northeast corner of the site has now mostly been saved, with the exception of the area where building numbers 8 and 10 are located. Although being a nice grouping of trees, there are not that many trees over six inches in diameter that will be affected by the development. The tree survey that has been submitted is accurate, and the placement of buildings 8 and 10 was done to minimize destruction of the better trees.

Since the Sketch Plan, the applicant has conducted an environmental assessment of the property; the final report is not yet complete but will need to be provided to Staff. Several wetland areas have been found on the site. The largest is in the area immediately off of Sawmill Road where the access drive and first three buildings are proposed. The second is at the east end of the property at the northeast corner with Zion Drive. The applicant will need to address these issues with Army Corps of Engineers and OEPA before completing the development plan approval process. Until Staff is provided with the report, we are unsure of the ecological significance of these wetlands.

Architecturally, the units have changes slightly. The rear elevations no longer reflect an upgraded look because no units face Zion Drive any longer. Also, the fireplace material has been changed from stone to some other material, likely stucco.

Some discussion took place at the last meeting regarding an access drive to Zion Drive. Staff has looked at this issue and recommends against such access with this revised plan. Sawmill Road is not much more of a collector street at this time the way it has been reconfigured with Sawmill Parkway. There will be very few vehicle trips coming to and from this development that will utilize going through Lakes of Powell to get to the east.

This development will require the removal and reconfiguration of the existing church parking lot. Although detailed parking information is not required, it is expected the provided parking will be less than required by the zoning code. Staff has no concerns with providing less parking than required, provided there are enough spaces for the current congregation and foreseeable future membership expansion. Several future parking expansion areas are noted on the site plan.

Staff wants to commend the applicant for listening to the concerns of the community and for revising the plan to address those concerns. This plan has been changed to provide as much buffer as possible, with minimum building separation of the condominium units, that it would be infeasible to create more buffer without removing more units. This is a very good plan now. Staff recommends approval of the Preliminary Development Plan with the following conditions,

1. That the applicant work with Staff on the alignment of the bike paths.
2. Determine the extent of the wetland delineation, provide Staff with a copy of the study, and determine how the applicant intends to mitigate.
3. That the applicant add landscaping to the landscape bays of the parking lot for the church.
4. That Staff approve the layout of underground utilities and that the utilities avoid treed areas.
5. That storm water feasibility calculations be provided to ensure the proposed retention pond is large enough to accommodate the development site, including the church.
6. That all units have fireplaces with stone chimneys.

SKETCH PLAN

Applicant: Steve Moberger, Construction One, Ltd. (Goddard School)
Location: 419 West Olentangy Street (Murphy Commercial)
Zoning: PC, Planned Commercial District
Request: Review of Proposed 8,000 sq. ft. Preschool/Daycare Building on 1.23 Acres

Staff has several concerns with this application. Powell Prep is the process to receive approval for a free-standing sign. This sign will be monument mounted with a monument design similar to the existing marquee monument for the development. This application makes no effort to simulate that design. Also, Staff does not feel that two signs are necessary at this location. The school does occupy two separate buildings, each with a slightly different use. However, they are the same business and need only one sign. Staff would recommend the face plate of the sign be similar to what is approved for Powell Prep, in material, lighting, and dimension. Finally, the development text for Wolf Commerce, as stated in the Powell Prep proposal, does not address free-standing signs other than the existing marquee sign. In the Powell Prep case, there was not any wall surface available for a wall sign and the proposal submitted did not meet the sign code requirements. The Commission should determine if Powell Prep was an exception to the rule due to hardships presented by the building design or if free-standing signs along Village Park Drive are desired. Each Village Academy building has an existing wall sign.

The development plan for Wolf Commerce Park originally had three ground signs approved; one at each entrance (Village Park Drive and Seldom Seen Road and Clairedan Drive and North Liberty Street) and one marquee sign at the main driveway entrance from Village Park Drive. These are monument type signs with a brick base, green background and white illuminated letters. The marquee sign was originally approved to provide signage for the individual occupants of the buildings on the west side of Village Park Drive. In fact, the Village Academy utilizes this sign. If the Commission feels it is desirable to have signs along Village Park Drive, then they should be similar in design to those already approved. Also, if these signs are approved for these three buildings (Village Academy 2 buildings and Powell Prep one building) then the marquee sign should be made smaller.

Given the extent of the concerns, Staff recommends this item be tabled until the next meeting or Staff be given detailed design instructions for the approval of the sign, similar to what was done for Powell Prep Academy.

ADMINISTRATIVE REVIEW

Applicant: Mike's BBQ and Ribs
Location: 24 Grace Drive
Zoning: PC, Planned Commercial District
Request: Removal of Final Development Plan Approval Condition Prohibiting Use of Class D Liquor License at Grace Plaza

Memorandum and reference materials are attached to this Report. Please refer to that information for the opinion of Staff.

OTHER COMMISSION BUSINESS

Discussion on cement-fiber siding

Staff has provided some information to the Commission regarding cement-fiber siding. Staff recommends that our ordinances reflect that this is an acceptable material.

Staff will show a portion of a video on Hardi-plank at the meeting.

instead of stucco and the stucco stone be laid to match HER. Also, a more decorative door should be used on the side elevations. The proposed doors are not appropriate for the building. The applicant needs to submit all elevations.

In future submittals, the applicant needs to submit scaled drawings with dimensions, building lines, easements, etc. clearly noted and as described in the Submittal Requirements, which the applicant has received.

Staff recommends that the applicant proceed with a Combined Preliminary and Final Development Plan and that the above concerns be addressed in that submittal.

CERTIFICATE OF APPROPRIATENESS

Applicant: Shepherd of Peace Lutheran Church
Location: 520 Village Park Drive
Zoning: PC, Planned Commercial District
Request: Approval of Fenced Recreation Area for Private School

The applicant recently received approval for a 4,000 square feet school addition to the existing church. With this application, the applicant is proposing to fence in a 3,250 square feet area to be utilized as a recreation area for the school.

After meeting with Staff, the applicant has moved the area from the north side of the addition to the east side. Staff feels this location is more appropriate. The applicant will provide a detailed fence design, with color sample at the time of the meeting. Staff recommends a four feet tall picket type fence be utilized. It is unclear if any recreational structures will be located in the enclosed area. The Commission has permitted recreational structures to be located at the neighboring Village Academy and Powell Prep Academy. As long as the recreational structures are consistent with those approvals, Staff has no concerns with the use.

Staff is somewhat concerned with the appearance along Seldom Seen Road. With Golf Village about to become occupied and the widening of Seldom Seen Road between the railroad and Liberty Street, Seldom Seen will become a more important collector street in the area. Staff recommends that landscaping, similar to the foundation plantings of the addition, be added to the north side of the fenced area. This will soften the appearance of the fence from Seldom Seen.

Staff recommends approval of the Certificate of Appropriateness for a fenced recreation area at 520 Village Park Drive with the following conditions;

1. That landscaping be added to the north perimeter of the fenced area.
2. That a picket style fence be utilized.

CERTIFICATE OF APPROPRIATENESS

Applicant: William and Pouneh Alcott, Village Academy School
Location: 525 Village Park Drive
Zoning: PC, Planned Commercial District
Request: Approval of Free-standing Signs for Private Schools (Preschool and Jr. Academy)

The applicant is proposing to erect two permanent free-standing signs. The signs have been erected under a portable sign permit and are located at the corners of the Junior Academy and Pre-school. At the time of the portable sign permit approval the applicant was made aware that for the signs to become permanent approval of the Planning and Zoning Commission would be required.

The signs are both post mounted aluminum signs. Although the enclosed application shows a griffin (mascot of Village Academy) graphic, the graphic was not and will not be utilized.