

**Minutes  
Planning and Zoning Commission  
August 14, 2002**

A regular meeting of the City of Powell Planning and Zoning Commission was held on August 14, 2002, and called to order at 7:30 p.m. by Vice Chairman Tom Counts. Other Planning and Zoning Commissioners present were Kevin Futryk, Dan Wiencek, Don De Palma, and Brian Murphy. Chairman Don Emerick and Roger Coville were absent. Also present were David Betz, Director of Development; Shawn Leininger, Development Planner; Dawn Nauman, Clerk to the Planning and Zoning Commission; residents; and representatives of the press.

**HEARING OF VISITORS FOR ITEMS THAT ARE NOT ON THE AGENDA**

There were none.

**APPROVAL OF MINUTES**

The minutes of July 10 were amended and approved.

**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 Junior Academy)

Dounesh Alcott, Village Academy School, presented some color renditions of the proposed signs. He noted that they are now proposing a brick base that wasn't on the original proposal, and he feels that makes it look better. Mr. Alcott said that they are proposing a sign to identify the kindergarten at the corner of Seldom Seen and Village Park Drive, and another to identify the preschool building. He said that Staff recommended a sandblasted sign rather than wood with vinyl lettering as they are proposing, and they oppose this because it increases the cost of the sign a great deal.

Shawn Leininger, Development Planner, gave his Staff Report on this item. Mr. Alcott noted the sign that they prefer of the three that they submitted to the Commission. Mr. Leininger expressed concern that one of the proposed locations is very close to the Wolf Commerce Park marquis signs. He said that the current location of the temporary signs close to the building may be better for the permanent signs. He said that the signs would require a distance. Mr. Alcott expressed concern that that wouldn't be visible from the road. Mr. Leininger continued with his Staff Report (Exhibit). Mr. Leininger said that Staff is concerned with the wood sign and vinyl lettering. Mr. Alcott presented the type of vinyl lettering they are proposing. Mr. Leininger said it is more appropriate than vinyl stick-on letters. Mr. Leininger said that the owners of Wolf Commerce Park have asked that the standards applied to the sign at Powell Prep Academy also be applied here, particularly for the brick base.

Claire Jolliff, property owner, said that the other signs in Wolf Commerce Park are internally lit. He said the applicant has indicated that they do not need that at this time, but she would like the opportunity for future tenants to have a lit sign. Mr. Leininger said that could be a condition of approval. He said such lighting is not prohibited by code.

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

Mr. Leininger expressed concern that one sign is proposed in a location where there is already a marquis sign. Mr. Dounesh said they need two signs because there are two different addresses and phone numbers and two different facilities. Commissioner De Palma asked if the two buildings create confusion for the parents. Mr. Alcott said after the first day, they know where they are going. He said that is why the signs are needed.

Commissioner Futryk asked about the landscaping proposed by Staff. Mr. Alcott said that they have no problem completing the landscaping. Commissioner Futryk asked if there is any reason why they are opposed to a backlit sign that will match what is already in the development. Mr. Alcott said he thinks a backlit sign would look worse, but if the Commission prefers it, he will install one. Ms. Jolliff said she doesn't have a problem with the sign design because these buildings are of a different style than the office warehouse buildings in this development. She said she does like the idea of a sign for each building from a leasing standpoint because the future tenants may be two different companies. She agreed with Mr. Leininger that the proposed location is close to the directory sign, and it could be placed closer to the building and at an angle. Ms. Jolliff noted that the brick at Wolf Commerce Park is much softer than that in the drawing.

Commissioner Wiencek asked if the signs are dimensionally identical. Mr. Alcott said they are. Commissioner Wiencek asked what the signs are made of. Mr. Alcott said they are MDO plywood with painted lettering made of 1/4" pvc. Commissioner Wiencek said that he assumes this sign will show wear. Emil Slavik, Architecture Advisor, said that it is a standard material and that wear will only show on the edges in about 10-12 years. Ms. Jolliff said that this type of sign also allows them to replace the whole panel in the event of a new tenant.

Commissioner Wiencek agreed with Staff's concern about the temporary sign location being the appropriate spot for the signs. He said he didn't have any difficulty spotting the temporary signs.

Mr. Futryk asked how the signs are attached if the panel is replaceable. Mr. Alcott said that the sign is attached to the brick base on poles.

Commissioner De Palma said that the wording of the sign seems to be redundant. Mr. Alcott said that the name of the facility on each sign corresponds to that on their other advertising.

Discussion ensued regarding the proper placement of the signs. Mr. Betz recommended a one-sided sign parallel to the road so that it faces Village Park Drive. Mr. Alcott said they like the catty-corner placement because it is visible to those coming from Seldom Seen Road. Mr. Leininger said that the marquis sign is also parallel to the street. Commissioner Wiencek said it comes down to the primary function of the sign, and that is not really advertising, but rather directing, and he agrees with Staff's recommendation. Discussion was held regarding having one monument sign in between the two buildings, identifying both of them. Ms. Jolliff expressed concern that that could be a problem for future tenants. Commissioner Wiencek said he is fine with Staff's proposal for the location, or the position where the temporary signs are currently. He said he is inclined to leave it to Staff's discretion. He said he is more concerned with how they look than where they are. Ms. Jolliff said she would like to work with Staff on determining the location.

**MOTION: Commissioner Wiencek moved to approve the Certificate of Appropriateness with the following conditions:**

1. That the sign location be approved by Staff.
2. That a brick monument sign be utilized with the brick matching that of the buildings and existing marquee sign.
3. That the lettering materials be approved by Staff.
4. Landscaping be added to the base of the signs and be approved by Staff.
5. That a letter of approval from the property owner be submitted to Staff prior to construction.
6. That future ground lighting is approved subject to approval by Staff and in compliance with the Zoning Code in place at the time of installation.

Commissioner Futryk seconded the motion. The motion was approved. Yes: De Palma Futryk, Murphy, Wiencek, Counts

#### SKETCH PLAN

**Applicant:** Powell United Methodist Church  
**Location:** 825 East Olentangy Street  
**Current Zoning:** PR, Planned Residence District/FR-1, Farm Residence District (Liberty Township Zoning)  
**Proposed Zoning:** PR, Planned Residence District  
**Request:** Review of Proposed 23,667 sq. ft. Addition and 204 Parking Space Addition of Parking Area on Additional 2.06 acres

Gary Bruck, and Phil Harren, Sullivan and Bruck Architects, were present to discuss this plan. Mr. Bruck said that they met with Staff to present their design to expand the size of the church, which he says is growing. He said that they presently average about 350 people per service, and they are expanding that to be able to deal with 800 people per service, with the seat count recommended by the church. He said their proposal has the minimum amount of variances that they think is required. He said that the church feels that additional parking is necessary. He reviewed that the church has purchased the property to the east and plan to remove or demolish the house to provide parking. He said the church currently is in a parking crunch in that it provides 231 parking spaces but has 350 attendees per service. Commissioner Wiencek asked if the parking crunch they describe occurs during services with 350 people in attendance. Mr. Bruck said it is, and that the overlap between services (fellowship time, Sunday school) is the problem.

Mr. Bruck reviewed the elevation of the proposed church. He said the existing education wing had a tall barrel vault in the middle. They chose to take the addition, which is a standard nave configuration and repeat the

element on a larger scale with a large window at the top with limestone and detailing. He noted the variances identified in the Staff Report (Exhibit). He said that the parking variance is actually behind the existing parking.

Phil Harren said that the line of parking on the eastern edge has been revised in the new site plan, and is actually at 62 feet rather than 68 feet. He said that they are proposing that the entry drive be moved eastward by 64 feet. He said that a traffic study has been commissioned to determine the impact of this move. Mr. Harren presented an outline that shows where the parking will be replaced, expanded, and relocated to the newly acquired land. He said that he believes the parking is actually less than what the Zoning Code requires. He said that the Code identifies two methodologies for calculating the parking, one using one space for every permanent seat plus classrooms, and one for square feet. He said that Staff considered the seating in new space, but because they anticipate using the new space and old simultaneously, both must be considered. He said that the current sanctuary will become the fellowship hall, and the space should be included in the calculations as such:

<b>Current sanctuary/future fellowship hall</b>	<b>approximately 3,872 sq. ft.</b>
<b>The new sanctuary space including balcony</b>	<b>8,296 sq. ft.</b>
<b>Narthex</b>	<b><u>3,113 sq. ft.</u></b>
<b>Total</b>	<b>15,281 sq. ft.</b>

Mr. Harren said the Zoning Code would require 340 spaces for that amount of space, and they have proposed 347 to meet the requirement of 8 handicap spaces. He said the parking spaces are designed to be 9x22 with 22 foot aisles, which is more than the Zoning Code requires, but will accommodate all sizes of vehicles. He reviewed that the setback from the parking to the property lines varies from 24 feet to 40 feet. Mr. Harren reviewed that the plan is to depress the parking lot, landscape around it, and include the bike path. He said that the church has spoken with members of the Deer Run community regarding this proposal and they would like to have a member of that community comment on the design of that landscape.

Emil Slavik, Architectural Advisor, asked how much parking the client wants. Mr. Harren said they want more than what they are proposing.

An unidentified resident began to ask questions of the applicant. Mr. Counts noted that there will be time for public comment.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit). He reviewed the existing site and the expansion site plan that was approved prior to acquisition of additional property. He reviewed photographs of the site. He said that Staff has identified some alternatives to the parking lot as proposed. He said that the existing trees on the recently-acquired site must be considered with any development. Mr. Betz reviewed the adjoining property owners and those across the street, some of which have wooded lots. He reviewed the proposed site plan, and the bikepath that will be continued across the new property to Valley Run Drive with white fencing, mounding, and landscaping. He expressed a desire to see the traffic study identifying the impact of shifting the access drive as part of a preliminary development plan. Mr. Betz reviewed alternatives to the parking lot that is proposed. Mr. Betz reviewed Staff's report regarding the requirements for parking as identified in the Staff Report. Mr. Betz said that Staff's main concern is that there is too much on this site. He said that this addition is much larger than that previously approved. He said that while the additional land helps, there are still many variances required. He reviewed parking lot alternatives that Staff feels meet both the parking lot design requirements and the needs of the church.

Commissioner De Palma asked if Staff has a preference between Options A and B for parking that they have proposed. Mr. Betz said that there are benefits to each. Commissioner Futryk asked if either parking lot will require removal of the tree stand. Mr. Betz said that they will, but a tree survey will be needed during the preliminary plan to identify how much. He said there are basically two lines of trees one along the property line and one along the east of the house. He said that some of the parking lot islands may be big enough to keep some trees, but the survey is needed.

Commissioner Wiencek asked if the balcony is considered in the seating calculations for parking. Mr. Betz said they did, as they considered any permanent seat.

Commissioner De Palma asked where Mr. Betz feels 10 feet could be removed from the sanctuary and narthex to meet the setback requirement. Mr. Betz said that a portion couldn't simply be cut off. He identified the location of the variance. He said that one option is to make the narthex 10 feet shorter and push everything back. Commissioner De Palma asked what is the proposed dimension of that space. Mr. Harren said it is 32 feet on the

plan.

Emil Slavik, Architectural Advisor, said he has reviewed the blue prints, and the rendering helps a lot in understanding the space, concept, materials, and elevation design. He said the biggest concern is that the height and scale of the proposed roof is substantially higher than the current building. He said that the other concern is that the steeple is gone in this plan and the imagery of the church is shown in the bell tower, which he thinks is an asset to Powell. He said the City has many steeples, and this is a wonderful, different design. Mr. Slavik said that there is a concern about the "front elevation" versus the S.R. 750 elevation, which actually is not the front. He said the bell tower leads to the entrance of the site and he likes its location relative to S.R. 750 and the hill. Mr. Slavik said the parking lot will not be visible, but he expressed concern that too much mounding could restrict the view of a wonderful new building at one of the gates in Powell. Mr. Slavik said he thinks the building has an elegant elevation. He has concerns with the side elevation. He said the barrel vault has been accented more with this plan because of the metal roof. He asked why the circle became so big in the exterior of the new building. He said his only real criticism is that the current addition on the church will end up looking like an old addition with the new development as proposed. He said something may need to be done to the most recent addition to make it fit.

Commissioner Counts opened this item for public comment.

Joseph French, 18 Sycamore Ridge, said that they share a common property boundary to church. His house looks into the parking lot. He noted his concern with the increase of both membership and parking. He said he is president of the Deer Run homeowners' association. He expressed concern that these plans were submitted without reviewing them with his neighborhood first, which the church said they would do. He said that the neighborhood intends to participate in every step of the process. He asked that Council not authorize any plans tonight but table them so that the residents have an opportunity for a thorough review.

Commissioner Counts noted that this is the first step in the development plan process. Tonight is merely the sketch plan, and the Commission doesn't vote on it but rather provides feedback for the applicant. He said there are two additional steps, the preliminary and final plan, and Staff is recommending those be separate rather than combined.

Jon Airy, 575 Woods Hollow, said he is a former Trustee of Deer Run subdivision and former member and chairman of the Planning and Zoning Commission. He said that his subdivision has had difficulty getting the church to follow through with their landscaping plan from the late 1980's. He urged the Commission to be cautious and requested that the Commission continue the sketch plan process to allow the homeowners to have discussion before moving forward to the preliminary plan. He said that he knows that when churches have been developed in Powell, the Commission has worked aggressively to reduce the parking rather than expand it. He said he thinks Mr. Betz has laid out a great theme in that there is too much on too small of a site. He said that the height of building, coverage of lot, and amount of parking are all grave concerns. He said this is an appropriate proposal for a 10-12 acre tract someplace else, not to be crowded into an existing residential area in Powell.

Denise Albert Meszaros, 1820 W. Powell Road, said her driveway is across from the driveway from the church, and while she has a wooded front lawn, it is deciduous trees and she can see the traffic when the trees are bare. She said that she "was not given mounding or trees" to buffer the traffic lights, but she didn't bring that up years ago because she was not notified of the development. Ms. Meszaros cautioned the Commission to be careful of what the church promises. She expressed concern that she has had direct experience with this church and she spoke to "a person named John" three years ago who promised the landscaping would be taken care of and it was not. Ms. Meszaros expressed concern about the increased traffic the increased parking could create, and she said that could create a "mile long" traffic line on Powell Road. She said she thinks a left turn lane is appropriate for this church, as she has witnessed several rear-end accidents at this site.

Drew Dimaccio, 680 Woods Hollow Lane, asked where the bikepath will "finally end." He asked how those occupying the bike path (along S.R. 750) will be protected. He said he agrees that this is placing a square peg in a round hole. He echoed comments that there is too much parking. He said that while he thinks it is a nice idea to create a visually pleasing building for those who come up over the hill, the people who own homes there and look at it every day don't see it as a scenic route. They are seeing a 20-foot tower in their back yard that goes over the top of the buildings there. He said the people who live there should be considered before those who are driving by. Mr. Dimaccio said that it seems like there are variances on either side of the building with the new parking lot and the old parking lot. He suggested putting the parking in the front and creating a connector from the east lot to the west. He said that may go against the intent for green space, if the green space in the front is

sacrificed, it could make the development less intrusive to the adjacent property owners.

Doug Meszaros, 1820 Powell Road, re-emphasized his wife's comments regarding the distance from this access drive to S.R. 315 and the fact that it could create a mile-long line three times every Sunday morning. He said it is often difficult for them to exit their driveway.

Mr. Dimaccio asked what will happen to the intersection of S.R. 315 and S.R. 750. Mr. Betz said that that was an ODOT project, and while there was originally a proposal to install turn lanes, the scenic rivers representatives from Ohio Department of Natural Resources has put a kabash on it. He said that any improvement to that intersection is a long way off.

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

Commissioner Murphy echoed concerns that there is too much proposed for this site. He said he is very interested in seeing the traffic study impact, because this area is a natural bottleneck, and is certainly more so on Sundays. He asked what will happen on S.R. 750 if the capacity of the church is tripled. He said that he likes "Option B" for the parking as proposed by Staff. He said he doesn't know if this site is suitable for the expansion. He said is in favor of the recommendation to table the sketch plan as recommended by one of the residents.

Commissioner Wiencek noted that Mr. Slavik commented that he felt a bell tower was architecturally a good component. He said that his concern is that it adds to the mass of an already massive building. He asked if it can be removed from the plan. Mr. Slavik said he thinks it is vital. He said if it were removed, the result would be a long, flat, warehouse with one low and one high roof. He said the bell tower or some type of steeple is extremely important because it takes the eye vertical on what is a long elevation. Commissioner Wiencek said he feels the front elevation is what faces S.R. 750, and he agreed that something needs to be done with the northern elevation.

Commissioner Wiencek asked if a traffic study will consider the impact of 300 parking spaces verses 200. Mr. Betz said that he thinks the study can look at various stages, spaces, and capacities. Commissioner Wiencek said he thinks that is vital.

Commissioner Wiencek said that lighting concerns should be addressed in the preliminary plan, and that the appropriate, muted-down lighting should be reviewed. He said that the Commission recently asked the Village Academy to look at its existing lighting, and he would like to do the same here. Commissioner Wiencek asked how long of a left turn lane it will take to address the amount of incoming traffic, knowing the short period of time it will be used. He asked for statistics on the number of residents who visit the church and whether they are residents of the Powell area or the City of Powell. He said his primary concern is Powell and Powell residents.

Commissioner Wiencek asked how far the parking lot will be depressed. Mr. Burk said it will be about 5 feet. Commissioner Wiencek said the existing sidewalk is not in the best repair, and it should be improved, but that may be an annexation issue. Commissioner Wiencek asked if it is appropriate for the Commission to reconsider the current landscaping and other elements on the existing structure because of the plan for expansion. He said he knows the back has no landscaping plan. Mr. Betz said he would believe that is appropriate and noted that they are also adding land. Commissioner Wiencek said he is looking to do anything to beautify the parking lot. Commissioner Wiencek said that he thought the intention for the education wing was to create an "orchard" kind of look, and it is not there yet. He said he would like to address that further. He said the existing education wing needs to tie into the new building, and he suggested that the applicant consider a limestone wainscoting or similar feature to help. He said it is not a good looking building, and there is a ways to go on that.

Commissioner Wiencek said that it has been mentioned that the church would like to have multiple events at the same time, using the old and new sanctuary at the same time. He said the more parking is provided, the more that behavior is encouraged. For that reason, he is inclined to limit the parking and ask the church to live within the boundaries of whatever parking is permitted. He said he would like information regarding the current spacing and typical Sunday event calendar. He said that if there are events at 8, 11, and 2:00, that is good spacing, but 8, 9, and 10:00 leaves less room for activities.

Commissioner Futryk said that the original plan that was approved was for 5,740 sq. ft., and this one is 8,296. He asked if the congregation has grown that much since approval of the education wing. Tom Anderson, Chairman of the Church Building Committee, said that it has grown, but part of the reason is the intent to complete this with the correct architecture. Commissioner Futryk asked what is the increase in permanent seats between the two

expansion plans (this one and the one previously approved). Mr. Anderson said they can look that up. Commissioner Futryk asked what is the maximum parishioners allowed in the church. Mr. Slavik said the limitation will be based on occupancy. Commissioner Futryk asked if this proposal is based on the current membership or what they anticipate 5 years from now. Mr. Anderson said it is what is being projected.

Commissioner Futryk asked what is the proposed use for the "gathering space." Mr. Anderson said that it could be used for funerals, and fellowship before and after church.

Commissioner Futryk asked if the architect has any other design alternatives that were considered and might address some of the concerns expressed this evening regarding massing. Mr. Anderson said that their overall thought process is to make a statement for Powell, for the church, and the entryway into the city and Deer Run. He said that they want to make people feel good about the building, and noted that they currently have the ability to install a chapel and a sanctuary on their current land. He said that they are only proposing to increase the parking spaces by 113. He said that with that in mind, they have purchased 2.1 acres of additional land and got the impression from Staff that this would help them do a nicer building and entryway for the parishioners and the entryway to Powell. He said that without this improvement, the parishioners will leave because the church is not suitable as it is. He said it is not aesthetically pleasing. He said that he wasn't part of the committee that worked on the education wing for the City, but he agrees they didn't fulfill the landscaping obligations for their neighbors. He said they would like to do that in this development. Commissioner Futryk asked if the building committee considered alternatives to this design that the Planning and Zoning Commission may prefer based on the comments from residents and the Commission. Mr. Anderson said that they can work on some plans but they can't downsize them to the point that it would make more sense to build somewhere else. Commissioner Futryk asked if there were alternative plans. Mr. Anderson said there are plans that were reviewed that were more of a Georgian style, but it didn't work with the current education wing, so they went with this design. Commissioner Futryk expressed a desire to review the plans that are currently approved for an expansion.

Commissioner De Palma agreed with comments of other Commission members. He said that the Commission tends to accommodate religious organizations as much as possible, but it is important to remain objective and review this as one would a secular organization. He asked that the homeowners on Powell Road be included in part of the planning process as those in Deer Run subdivision have been. He asked if the church purchased the land with the assumption that their development would be approved. Mr. Anderson said they thought it would help their cause. Commissioner De Palma said that applicants often go through the process before a final sale in case its not approved. Mr. Betz said that Staff felt it would be a good idea to add land and parking, but certainly not to the extent that so many variances would be required. Commissioner De Palma questioned the safety of the bikepath on Sundays. Mr. Anderson said that they will defer to the Commission's desire on the bikepaths. Commissioner De Palma said he would also like to see how many church members are Powell residents. He said he is anxious to see the results of the traffic study.

Commissioner Wiencek asked that the Commission members be provided the minutes of the previous sanctuary expansion application. He asked if that approval has an expiration date. Mr. Betz said that the architecture would have to come back to the Commission.

Commissioner Counts said that the applicant could build a sanctuary of a certain square feet, but he asked about additional parking. Mr. Betz said that was reviewed with the seating capacity of that application, and the Commission determined the current parking to be sufficient.

Commissioner Counts asked if there have been discussions about adding additional services, such as Saturdays. Mr. Anderson said they have tried Saturday evenings, but they were not well received. Commissioner Counts asked about the fundraising process. Mr. Anderson said that knowing it is a \$4 million project, they need to raise \$2.5 million, and they have pledges of \$1.8 million. He said knowing everything they have in front of them, the annexation and working with Deer Run, they are hoping for a spring/summer groundbreaking. Commissioner Counts said that when he saw the education wing being built, he was somewhat dismayed, and not architecturally pleasing. He said two things could help. The first is the front variance. As much as variances are not desirable, bringing the sanctuary out will obscure that a little bit. He said that additional landscaping is essential for the entire development, to soften the educational wing and the proposed structure.

Mr. Slavik suggested violating the setback from S.R. 750 so that no intersection is created within the parking areas. He said it would allow several cars to stack up and exit more quickly. Commissioner Wiencek said it may be desirable to slow down traffic rather than speed it up. Mr. Betz said it sounds like a good idea, and they will

consider it.

Mr. Betz reminded those in attendance to sign in on the sign in sheet so that they are notified of the next meeting even if they weren't notified of this one.

#### **AMENDMENT TO APPROVED DEVELOPMENT PLAN**

**Applicant:** Newbury Homes  
**Location:** 3843 Village Club Drive  
**Zoning:** PR, Planned Residence District  
**Request:** Approval of a Minor Modification to the Golf Village Development Plan to allow for signs for model home locations.

Bruce Sommerfelt, Signcom, was present to discuss this item. He reviewed their proposal for signage for Newbury Home's model homes.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit).

Commissioner De Palma asked if all model home signs will look like this. Mr. Betz said that they will all have the same Zoning Code requirements, but the design for each may be different. He said Staff will review future signs and if they fall within the guidelines, approve them. Commissioner De Palma said that this is an attractive sign. Commissioner Wiencek asked how long the signs can stay in place. Mr. Betz said that they will remain until the facility is no longer occupied as a sales office.

Commissioner Futryk asked if most signs in the City say "model." He said his only concern with this is that it doesn't indicate that it is a model home. Mr. Sommerfelt said he doesn't think Newbury Homes thinks it is necessary. Mr. Betz said that model homes are usually obvious because they don't have garage doors installed.

**MOTION:** Commissioner Wiencek moved to approve the minor modification to the Golf Village Development Plan to allow signs for model home locations with the standards outlined by Staff. Commissioner De Palma seconded the motion. The motion was approved. Yes: Futryk, Murphy, Wiencek, Counts, De Palma.

#### **ZONING TEXT AMENDMENT**

David Betz, Director of Development, gave his Staff Report on this item (Exhibit). He reviewed the language that has been revised and scheduled for the September 11 meeting. He noted that the Commission is being asked to consider rescheduling the September 11 meeting, and this could be heard at the September 25 meeting. He said that residents who were concerned about this issue were notified of this evening's meeting but are not present.

Commissioner Wiencek asked if the Law Director has reviewed this language. Mr. Betz said he hasn't yet. Commissioner Futryk asked how pre-existing structures will be identified. Mr. Betz said that a receipt will be helpful. He said that whether a structure should be grandfathered will be addressed on a case by case basis. He said that this ordinance is enforced largely on a complaint basis. Commissioner Murphy asked what is the reason for this reconsideration. Mr. Betz said that Staff received a complaint about a structure very close to someone's property line, and sent notice of violation. He said that that property that was in violation was very displeased and felt that there should be a grandfather clause in the ordinance for regulations that were of an aesthetic concern rather than a safety concern. He noted that Staff feels these could be safety and even trespass concerns when they are placed so close to adjoining properties.

Commissioner Wiencek said that he would rather keep the original rear sideyard setback at 10 feet. Commissioner Futryk asked why the new language has it reduced to 5 feet. Mr. Betz said that Council asked the Commission to look into that. Commissioner Wiencek said that that issue is primarily driven by pre-existing conditions. In his mind, allowing preexisting structures to stay deals with the concerns of the rear sideyard setback. He said he doesn't think 10 feet is out of line. Commissioner Futryk agreed.

Commissioner Murphy asked what is the objective of that sideyard setback. Commissioner Murphy said it would prohibit a property owner from putting their play structure at the back corner of the lot so that they don't have to look at it but the neighbors do. Mr. Betz said that a reasonable distance is desirable so that when children use it, they aren't accessing it from their neighbors yard.

Commissioner Counts said that he was concerned with this ordinance when it was passed that it is overbroad.

He said that most lots are not square, and he lives on a corner lot. He said that his play structure would require a variance if it is installed new. He said that he thinks this amendment would require a lot of requests for variances from the BZA. He said he did not hear a huge cry about playground structures to begin with, and he thinks this amendment would create more of a problem. Commissioner De Palma asked if he is opposed to the whole ordinance. Commissioner Counts said he would probably agree to a reduction in the rear sideyard setback. Commissioner De Palma said he is ambivalent as to whether 5 or 10 feet is appropriate. He said they voted not to change what Council had approved the last time with the basketball hoops, and he would be inclined to do the same now. Mr. Betz said this still keeps the language regarding the basketball hoops but makes the issue of the grandfather clause much easier to understand.

Mr. Slavik expressed concern that homeowners may install these incorrectly because they are unaware of such requirements. Commissioner Murphy asked how these violations will be enforced. Mr. Betz said that regarding basketball goals in the right of way, they are a public safety issue and will be enforced when noticed. He said that recreational structures will typically be done on a complaint basis, however, Staff is out on zoning inspections weekly, and they may need to address others.

Mr. Betz said that the Commission always has the ability to recommend removal of the recreational structures guidelines. Commissioner Wiencek said that he thinks regulations regarding the setback allow "aggrieved neighbors" a resource for their concerns about location of these "fairly massive structures." Commissioner De Palma agreed. He said he wouldn't want one of these right on the property line. Commissioner Murphy said that he feels 10 feet is reasonable, but he thinks that such concerns can be addressed by selecting a neighborhood that has such restrictions in place. Commissioner De Palma said that he feels these issues can cause "neighborhood warfare," and he would support 5 feet.

#### **OTHER COMMISSION BUSINESS**

- Mr. Betz reviewed that the work load because of the Golf Village annexation has necessitated an additional meeting in the month of August. However, two staff Members are unavailable for the second meeting date. The Commission agreed to review their calendars for availability on Thursday, August 29.
- Commissioner Wiencek noted that Council has asked Staff to look into limiting development-related ordinances to two readings. Mr. Betz said that there are charter issues with that recommendation. Commissioner Wiencek said he brings this up because such a consideration may have a trickle-down effect on the Planning and Zoning Commission and how it handles public hearings.
- Mr. Betz reviewed that the City Council is holding a public hearing regarding the proposed zoning text amendment regarding cement-fiber siding. Any Planning and Zoning Commission members interested in discussing this item,

#### **ADJOURNMENT**

The Commission adjourned at 10:15 p.m.

**DATE MINUTES APPROVED: September 25, 2002**

 10-23-02

**Don Emerick**  
Chairman

**Date**