

CITY OF POWELL COUNCIL

July 23, 2002

A regular meeting of the City of Powell Council was held on July 23, 2002, and called to order at 7:34 p.m. by Art Schultz. Other Council members present were George Kaitsa, Dave Lackey, Jim Seta, and Mark Klein. Dan Wiencek was absent. Richard Cline was on military duty. Also present were Stephen A. Lutz, City Manager; Dawn Nauman, Clerk of Council; Shawn Leininger, Development Planner; Ken Molnar, Director of Law; residents and representatives of the press.

EXECUTIVE SESSION UNDER ORC SECTION 121.22 (G) (1): BOARDS AND COMMISSIONS INTERVIEWS.

MOTION: Mr. Kaitsa moved to adjourn to Executive Session at 7:30 p.m. to discuss Personnel Issues under ORC Section 121.22 (G) (1): Board and Commission interviews. Mr. Klein seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Kaitsa moved to adjourn from Executive Session at 8:20 p.m. Mr. Klein seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Kaitsa moved to reconvene in regular open session at 8:20 p.m. Mr. Klein seconded the motion.

VOTE: Y 5 N 0

CITIZEN PARTICIPATION

Kathleen Quirk, President, Powell Chamber of Commerce, thanked Council for the recent attention they have paid to the downtown shopping district with the installation of the flowers and the formation of the Downtown Task Force. She said the downtown is fortunate to have a business mix that includes 8 antique shops, 16 specialty and gift shops, and numerous professional offices. However, there are several ongoing major maintenance issues that need to be addressed. She said that this enforcement is often difficult since 12 out of the 16 gift shops downtown are leased rather than owner-occupied. She said that Moon over Xelaju actually leased from 3 locations in downtown Powell over a two-year period before finally relocating to German Village. She said that shops with leased spaces have the freedom to move when the business climate is unacceptable. Ms. Quirk said that two shop owners who own their buildings in Powell and have invested time and money in downtown Powell have a situation that only City Council can resolve. She said she would like to keep Amy's Designs located at 32 E. Olentangy Street in downtown Powell, as they are an asset to the entire community.

Dottie Horn, Amy's Designs, said that their store is an upscale gift shop. In the almost 6 years they have been there, they have been very frustrated with the property to the west of theirs. She said it is a rental property occupied by "not very good people" over the last six years. She said they have had Dobermans jumping up on the chicken wire fence, terrorizing her customers as they park in the back lot and walk to the front door. She said there is trash in the back and side yards and junk stacked on the front porch. She expressed concern that the dishwasher or washer drains onto their driveway. She said that there is a new tenant there right now, and instead of bones and cans, there is now "baby junk all over the backyard" because there are a lot of children.

Ms. Horn said she understands from the previous tenant that the basement fills with water which attracts both mice and snakes. She said there is a black walnut tree next to their driveway that has hundreds of walnuts falling onto their driveway, and several customers have fallen. She said they try to take care of it, but they can't keep up with it. She said basically, this property is a dump, and she doesn't think it would be tolerated elsewhere in the City. She said they have seriously considered moving, but right now they are in the process of renovating the shop. She said they would like a solution to this problem, and that a privacy fence is a good solution.

Amy Horn, Amy's Designs, added that there is a large tree on the adjacent lot that blocks their sign from the four corners. She said they aren't allowed to put a sign on their building that "sticks out to the street," like the other shops can that are right next to the street. She expressed concern that they've been promised signage at the four corners identifying that there are more stores on the east side of town. She noted that there are ten beautiful lampposts on this side of town, and none from Liberty to Grace Drive. She said that evidently, Grace Drive is "the beginning of Powell," and she thinks lampposts are needed. She said that a crosswalk is needed from Rare Possessions to her shop because that is where the mail boxes are located. She said that Powell is not just antiques anymore. She said that she almost gave up on Powell, but she is willing to work with the City if they work with her. She suggested lampposts, nice big baskets of flowers "like other communities have." She

said that the City keeps building bikepaths, and stuff like that, which is great, but she would like some work to be done on her side of the street.

Mr. Seta said that there has been a lot of discussion with the downtown community and working toward the streetscape from Liberty to Grace Drive. He said the Service Committee is working on that, but there are financial issues that need to be considered. He said that the taskforce was developed to clean up the downtown. He said he doesn't have an immediate answer at this time.

Mr. Lackey asked Shawn Leininger, Development Planner, if he has inspected the property. Mr. Leininger said that this property has quite a bit of history, especially recently. He said that he has sent notices to the property owner of violation of the property maintenance code when it was vacant, and the owner was required to bring several areas into compliance before re-occupying this home. Mr. Lackey asked if Staff is aware of any existing violations. Mr. Betz said that Staff will go out there tomorrow. Mr. Lackey asked if Ms. Horn is asking Council to cut down the tree that blocks their sign. Ms. Horn said that it is overgrown, and needs to be trimmed.

Mr. Klein asked if the tree is on someone's property. Mr. Betz said it is a big pine tree, and is owned by the adjacent private property owner. He said it isn't in the right of way, and isn't yet a hazard, so there is nothing the City can do. Mr. Klein said he has been to Amy's shop many times and he would like to try to find a way to encourage people to use the shops on this part of town. He said that because the streetscape doesn't go as far, people have the tendency to "just stop." He said he thinks Council should take a look at expanding the streetscape. He said that sadly, that is not a short process, because it includes engineering, cost estimates, and funding. He asked Staff to see if there is something that can be done to provide a crosswalk. He said that he would like to look into some short-term solutions to improve access for potential shoppers in that area.

Mr. Kaitsa said that when Council set priorities, one of his was to see curb, gutter, and sidewalk extended to Grace Drive. He said that is a longer-term process with funding, right of way issues, etc. He said that would do a lot to dress up that section of the City. He said that he thinks an accumulation of trash on the property in question would be a violation of an ordinance. Mr. Betz said that once in awhile, there is accumulation on that property, and the owner is notified. Ms. Horn expressed concern about snakes and rats on the property.

Mayor Schultz asked what was cleaned up prior to the current occupancy. Mr. Leininger said it was painted, some windows were replaced, a non-conforming fence was removed, doors leading to the cellar were repaired, and the property was cleaned up. Mr. Kaitsa asked if the Health Department needs to be contacted. Mr. Lutz said they have been contacted, primarily because of the bubbling and the sanitary issue. Mr. Betz said the drain lines are connected now.

After further discussion, Mayor Schultz summarized that Staff will look at the property and report back to Council. Mr. Lutz said that Staff will also work with the Horns.

CITIZEN PARTICIPATION

Denise Flint, 353 Rosewood Court, said that the bikepath in the Woods of Sawmill subdivision runs along the back of her property. She said she was disturbed by a young boy on a motorized scooter who was driving back and forth at quite a high rate of speed. She said she called the Police Department to find out if such vehicles are permitted on the bikepath, and was told that there is nothing that can be done. She expressed concern that this type of vehicle is not appropriate for such a pathway where there are a lot of young pedestrians. She said that she is also concerned about the liability of homeowners with these paths on their properties and the maintenance of such paths. Ms. Flint added that she is also concerned that these are very noisy vehicles and disturb her enjoyment of the yard.

Mayor Schultz said that Council discussed this item a few meetings ago and are trying to take control of this issue. Mr. Lackey noted that item 15 on the agenda is an ordinance that would prohibit these vehicles on the bikepaths. Mr. Lutz said that the ordinances currently prohibit these vehicles on sidewalks, but only on bikepaths if it is posted that it is prohibited. Tonight, Council will consider an ordinance that would prohibit the use of these vehicles on bikepaths.

Mr. Seta said that he recently saw on the news that the City of Gahanna went through a huge issue with this because they have a "scooter gang."

There was no public comment on any additional non-agenda items.

APPROVAL OF MINUTES

The minutes of July 9, 2002 were amended and approved.

FINANCIAL REPORTS

Nan Metz, Finance Director, reviewed the Monthly Report. She noted the income tax collections are right on track, and the City will probably meet its budget. She said that development fees are ahead of that budgeted, but that could also mean more expenditures. The Accounts Payable Report was received.

OTHER REPORTS

The Monthly Planning and Zoning report was received. David Betz, Director of Development, added that there was an article in the Olentangy Valley News that brought a response of about 16 people who would like to be on the Comprehensive Plan steering committee. He said that he would like two Council representatives on that Committee, and he asked Council to think about who would like to be involved. Mayor Schultz said when he was involved with this for the last plan, about 10 years ago, there was an open invitation that anyone from Council or the Planning and Zoning Commission could attend, so you needn't be on the Committee to be part of the process. He said that Council members should consider the time commitment before they volunteer, and added that Council should pay attention to the meeting minutes of these meetings, because the committee will be working hard, and can't wait until the end to get input from Council.

The Monthly Police Report was received. Chief of Police Gary Vest added that there were more accidents than usual this month. He noted that the ordinance proposed regarding motorized vehicles on the bikepaths meets the needs of the police from an enforcement standpoint. Mr. Klein asked if Officer Mack is still being used throughout the City. Chief Vest said that Office Mack has been damaged, and is no longer in use.

The Monthly Parks and Recreation Report was received.

CLERK OF COUNCIL CORRESPONDENCE

Dawn Nauman, Clerk of Council, noted that Council has been provided proposed amendments to the meeting room rules that she would like to put into effect before the school year starts. Mayor Schultz said that the Service Committee has been working on this issue with Ms. Nauman, and their suggestions have been incorporated.

Mr. Klein said that the meeting room gets an intensive amount of use, which is a really good thing. However, with all of that activity, Ms. Nauman discovered a few problems and inequities that needed to be addressed with a new set of rules. One thing that was discovered was that the word got out about the room, people would get their friends in Powell to rent it for them at the Powell resident rate. These new rules would require the applicant to be present when the room is rented, because it is paid for by and should be available to residents, not people outside the community. If they are outside the community, it is a much different rate, and they should pay it.

Mayor Schultz added that the rental period has been cut back to 4 hours, and deposit is required within 3 days for reservations to be made. He said they did add sporting teams to the group that may use the room free of charge. Ms. Nauman said that is correct. It seemed unfair that a sporting team that used the fields all year couldn't use the room for free for a pizza party, but a boy scout troop could.

Council gave a unanimous thumbs-up to the new regulations. Mayor Schultz thanked Ms. Nauman. He noted that he knows this is a lot of work, and he appreciates her keeping on top of this.

RESOLUTION 2002-15: A RESOLUTION INITIATING AN AMENDMENT TO SECTION 1147.14 OF THE POWELL ZONING CODE REGULATING RECREATIONAL STRUCTURES

Stephen A. Lutz, City Manager, reviewed that at the last meeting, Council discussed problems with the ordinance regulating recreational structures, specifically in regard to swing sets, trampolines, etc. He said that Council suggested that they revisit this item and take a look at the setbacks and legal nonconforming uses, and consider whether to grandfather some existing structures. He said this Resolution is required by the Zoning Code. Council doesn't have the authority to make those changes. Since it is in the Zoning Code, it has to go to Planning and Zoning Commission for study, review, and recommendation. The intent is for the Planning and Zoning Commission to begin reviewing this issue at their August 14 meeting. Residents who are in violation of the current recreational structure ordinance have been notified that the current law will not be enforced pending the Planning and Zoning Commission's consideration of the ordinance.

Mr. Lackey questioned the section of the Resolution regarding a 5-foot setback. He said he still thinks a 10-foot setback is reasonable. Mr. Betz said that this Resolution reflects discussion at the last meeting. He said the ordinance was for a 10-foot setback. Mayor Schultz said that this is going to the Planning and Zoning Commission for their consideration, and they may come back with 15. This resolution just initiates the action. Mr. Kaitsa suggested that the Resolution indicate a need to review the rear yard setback rather than consider 5 foot.

Mr. Seta asked if Council is getting a lot of complaints about the rear yard setback. He asked if there is a need for one, or if it could be "done away with totally." Mr. Betz said that the City has received complaints from time to time about structures that are close to the property line so that kids end up playing in the adjacent yard. Mr. Seta said the original intent was for safety. Mr. Lackey disagreed. He said the intent regarding the basketball goals in the right of way was safety, but the intent regarding the recreational structures was aesthetics. Mayor Schultz agreed with Mr. Lackey. He said that Council has discussed splitting the ordinance into two, one that addresses safety, and one aesthetics.

Mayor Schultz opened this item to public comment. Hearing none, he closed the public comment session.

Mr. Klein said the way this reads, Council is initiating amendment. Mr. Betz said that they are initiating the process. The Planning and Zoning Commission will consider the issue, rewrite the ordinance, and come back to Council with a revised ordinance. Mr. Klein said that specific things are included in this request, so the Planning and Zoning Commission is being given direction. He said that at the last meeting, it was pointed out that it is not difficult to move a trampoline. He asked if this ordinance will cover trampolines. Mr. Betz said that yes, trampolines will be considered a recreational structure, but it is not clear what the regulations will be. Mayor Schultz said they could be only limited by 5 feet, or grandfathered in.

Mr. Kaitsa said the issue was whether the ordinance should apply to all structures the same way, and the consensus was that all structures should be governed by the same regulations. Mr. Lackey said the legal issue brought up by the residents at the last meeting was that regulations set because of aesthetic concerns shouldn't have retroactive application. Mr. Klein said it seems to him that temporary structures should be moved. Mayor Schultz said he is sure this will be discussed further when the ordinance comes back.

MOTION: Mr. Kaitsa moved to amend Resolution 2002-15 so that section 1 reads: "That pursuant to Section 1131.03(b) of the Codified Ordinances of Powell, City Council hereby initiates amendments to Section 1147.14 to provide for a review of the rear yard setback and to provide for "legal nonconforming" status for those recreational structures installed prior to January 1, 2002, except for recreational structures in public right-of-way and easements, which, because of public health and safety issues, should be prohibited for those areas altogether." Mayor Schultz seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Kaitsa moved to adopt Resolution 2002-15 as amended Mayor Schultz seconded the motion.

VOTE: Y 5 N 0

SECOND READING: ORDINANCE 2002-29: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH EDSALL & ASSOCIATES LLC FOR THE PURPOSE OF CONDUCTING PARK SITE RECONNAISSANCES, UPDATING PARK DEVELOPMENT MASTER PLANS AND UPDATING PARK CONSTRUCTION ESTIMATES.

Stephen A. Lutz, City Manager, said the City is ready to undertake a 7 million dollar park development program, and will need professional services to assist it in this process. At the last meeting, Council decided that the Development Committee should review and discuss this further. The Committee recommended that the City receive proposals that are broken down into the planning and construction phases. The City received the proposals on July 17 to put together concept plans and attend up to 6 public meetings. Edsall and Associates proposal was to complete the work for \$32,900, and Schmidt's was for \$115,900. Staff recommends that the City enter into an agreement with Edsall & Associates for an amount not to exceed \$32,900.

Mr. Lackey, Development Committee, said that Mr. Edsall did help the Committee with this. They removed the Powell Place Park, as it is not part of the bond and the City doesn't own it. They discussed removal of the Black Oak Park but decided that because of the minimal funding required, the improvement could be completed by a local civic group. He said the original concern was that there were apples to oranges quotes, and the development committee determined to ask for quotes for the planning and then the construction phase. He said

that both groups did submit revised bids. He said that Mr. Edsall was going to attend last evening's planning meeting. Mr. Lutz said he did. Mr. Lackey asked if a representative of Schmidt also attended. Mr. Lutz said they did not. Mr. Seta said without a doubt, that is the group to go with.

Mayor Schultz opened this item to public comment.

Garry Swackhamer, 76 Scioto Street, asked if the concept plan for the Village Green is the one proposed by NBBJ. Mr. Seta said that the three meetings will discuss all parks, and they are all open for public input. He said that the plans will be mounted on the wall and are not set in stone. Mayor Schultz said that by the same token, NBBJ spent a lot of time, and gathered a lot of public input, and the expectation is that they won't radically alter the basic concepts of those plans. Some plans were done with a lot less details than others. The Village Green was a big process, and he would be surprised to see it change "a whole lot." He said he does expect Edsall to review this plan and compare it to others in the City.

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

Mr. Kaitsa said that he was concerned at the last meeting that the two proposals were not "apples to apples." He said he didn't see the \$115,000 figure in Schmidt's proposal. Mr. Lutz said that page 4 identifies the design costs for each park, and he added them together for the total. Mr. Kaitsa asked if these two groups were asked to respond to the same scope of work. Mr. Lutz said that they were. Edsall provided it as a lump sum, and Schmidt broke it down. Mr. Kaitsa said that it still bothers him that the City "has to do the math, rather than the consultant."

Mr. Klein said the current process is to seek and gather final comment on the parks, and then build them on a timely manner. He said that he would like to suspend the rules and move forward. He noted this consultant has already started to perform services contained in the contract. He said the goal is to begin construction next year, which may be difficult.

MOTION: Mr. Klein moved to suspend the rules on Ordinance 2002-29. Mr. Kaitsa seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Klein moved to adopt Ordinance 2002-29. Mr. Kaitsa seconded the motion.

VOTE: Y 5 N 0

SECOND READING: ORDINANCE 2002-34: AN ORDINANCE MODIFYING APPROPRIATIONS FOR THE CALENDAR YEAR 2002.

Stephen A. Lutz, City Manager, reviewed that this appropriation ordinance would provide for the contract indicated in the previous ordinance and for other expenses, such as the Citywide mailing, notification, etc.

Mayor Schultz opened this item to public comment. Hearing none, closed the public comment session.

MOTION: Mr. Kaitsa moved to suspend the rules on Ordinance 2002-34. Mr. Klein seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Kaitsa moved to adopt Ordinance 2002-34. Mr. Klein seconded the motion.

VOTE: Y 5 N 0

SECOND READING: ORDINANCE 2002-28: AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN FOR NEWBURY HOMES, FOR 16.454 ACRES LOCATED 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. ADVERTISED PUBLIC HEARING

David Betz, Director of Development, reviewed this development. He noted that there was quite a bit of discussion already at the last meeting. He reviewed the location of the property, and noted that part of the site is in the City and one acre is in the process of annexation to the City. He reviewed the adjacent properties, Lakes of Powell, Zion Drive, Wedgewood, and Sawmill Business Park. Mr. Betz reviewed the net densities for the areas surrounding this property. He reviewed that this property also includes Zion Christian Church, and there will be some parking lot improvements for the church as part of the overall plan. He said the Planning and

Zoning Commission did reduce the density and require a greater buffer. He said this is considered a transitional development. He reviewed a proposal of how single-family homes of similar density to Lakes of Powell could be developed on the same site. He noted a great deal of trees would have to be removed. Mr. Lackey questioned the density in Mr. Betz model. Mr. Betz said he is not assuming such a density would be permitted. He's just using it as a scenario to show how condominium development, preserving buffer zones and open space, can be more desirable for a particular piece of land.

Mr. Betz reviewed the site plan. He reviewed the setbacks and the buffer zone which he said is much greater than code requires. He reviewed the tree stand, retention pond, and bikepath linkage to the site and to the pond area. He noted that Staff is still trying to work with the applicant to continue the path along Zion Drive and Sawmill Road. He noted that the bikepath continues into the development as a private pathway that ties into the private roadway in the development.

Mr. Betz reviewed the plan to redevelop the church parking lot. He noted the emergency access drive which will be a large gravel base underneath soil and grass so that it is not obvious. He reviewed the landscaping plan. He noted that this development was extensively discussed with the neighboring property owners. At the last meeting, this development was supported by neighboring property owners. He said that the adjacent property owners were notified of tonight's meeting, as well. Mr. Betz reviewed the proposed elevation and the materials of stone and Hardiplank siding. He said there are different elevations and that some of the garages are in the front and some side-load. He said a few were identified to be three bedroom units as the rear view is a little upgraded with dormers.

Samantha Shuler, attorney for the applicant, said that she doesn't have a lot to add. She said that she knows there was a lot of discussion about the setbacks, buffering, and building orientation so that the back of buildings aren't facing the sight lines of the homes. Homes that were in the sight lines were designated as 3 bedroom units so that there is some variety on the back. Ms. Shuler said they are proposing a quality design, a good looking building which will sell for around \$225,000. She said she thinks the big issue has been the density. She said their density is 2.98 d.u./acre which is consistent with the surrounding development, particularly the Lakes of Powell, which has the biggest border to this development, and a density of 3.56 d.u./acre. She said their density is also consistent with other developments in Powell. She said in order to justify the density bonus, they have moved the pond to along Zion Drive to make it more of a public amenity. She said they put a path around the pond so that residents of the whole community can enjoy it. She said if easements can be obtained, they will finish the bikepath along Zion Drive and Sawmill Road. She said that last week they were asked to make a contribution in the event that such a bikepath can't be constructed, and they agreed to \$15,000. She said that there has been discussion as to whether there has been significant justification for the density bonus, but she would like to point out realities about this property that can't be changed. She said those include that there is a density of 3.56 d.u./acre on one side of this, a church on the other, and commercial development across the street. She said this property wouldn't be marketable at a low density, with big houses on big lots. She said that this is a reasonable alternative. She said that all of the development standards were worked out with 3-5 meetings with neighbors and the Planning and Zoning Commission. She said that the bikepath is being provided, and this development recognizes the transitional nature of this piece.

Mr. Klein asked if there is any concern that the condominium association that owns the pond could determine at some point not to allow access. Mr. Betz said they are dedicating an easement to the City of Powell to allow access. Ms. Shuler said it would be a perpetual easement. Mr. Betz said the path will go from the property line where it currently ends to their private area, and they couldn't deny access.

Mayor Schultz asked about the parking lot buffer now that the buildings have been pushed closer. Mr. Betz said that there are some variances in the landscape and mounding, as the condominium units were pushed closer to the church to provide a greater buffer to the adjacent single family development. Mayor Schultz said that there have been several instances in the City where bikepaths continue onto private property and it is identified as such. He asked how they will discourage people from using it. Mr. Shuler said they don't think there will be a gate or anything initially. If people cut through and the condo association determines it's a problem, they could install a gate. Mr. Betz said there have been no such problems at the Woods at Big Bear Farms.

Mayor Schultz opened this item to public comment. Hearing none, he closed the public comment session.

Mr. Kaitsa asked when it will be determined that the \$15,000 contribution will be paid instead of the bikepath constructed. Mr. Betz said that they have been working with the property owners who would have to provide the

easement for the path and received no response. He suggested that the easement be required at the time the development is turned over to the condominium association, as that is how they usually handle such items administratively. A lengthy discussion ensued.

Mr. Lackey asked about the request for a rules suspension. Ms. Shuler said they can withdraw that request. She added that they would be willing to pay the \$15,000 at the time of occupancy if the easement isn't obtained. Mayor Schultz suggested, that since this will be going to a third reading, that that condition can be modified at that time.

Mr. Seta asked if any property owners in the area of this development are present this evening.

Denise Flint, 353 Rosewood Court said that something is going to be put there, so it might as well be this. She said she is glad they took time to work with these residents. She said many people bought their property there being told that nothing would ever be built there, including the Lakes of Powell. She said that she like the location of the pond. Mr. Seta said his biggest concern is making sure that adjacent property owners know.

Mr. Lackey reiterated his comments from the last meeting. He said that there are justifications for the higher densities in other Powell developments, and comparing this to those is comparing apples to oranges. He said that each has provided public good, such as parkland, parkways, and other things that are needed in the community. He said that the applicant has offered justification for the density in this development in that it is close to higher density single-family housing, namely Lakes of Powell, but they have higher density for a reason, and that is the school site. Mr. Lackey said the Woods of Sawmill is adjacent to this, and there are single family homes on large lots. He said that there are also open areas near this development that could develop at a lower density in the future. He said that this could set a precedent. He expressed concern that the City may allow a higher density because the lot is not easily developable, and its going to ignore its standards.

There being no further comment, this item was taken to a third reading.

FIRST READING: ORDINANCE 2002-31: AN ORDINANCE ADOPTING A ZONING MAP AMENDMENT FOR TRIANGLE PROPERTIES INC., ET AL FROM LIBERTY TOWNSHIP PR, PLANNED RESIDENCE DISTRICT AND PC, PLANNED COMMERCIAL AND OFFICE DISTRICT TO CITY OF POWELL PR, PLANNED RESIDENCE DISTRICT, PC, PLANNED COMMERCIAL DISTRICT AND PI, PLANNED INDUSTRIAL DISTRICT FOR 935.92 ACRES, RECENTLY ANNEXED INTO THE CITY OF POWELL.

Stephen A. Lutz, City Manager, recommended taking this item to a public hearing at the next meeting. He said that this is more or less an administrative issue regarding the zoning of Golf Village. When land is annexed into the City, the City is required to change the zoning from the Township to City zoning. He said that this rezoning will meet the requirements of the CEDA and pre-annexation agreement. He said that the annexation ordinance for this property will also appear on the next agenda.

David Betz reviewed a map showing the Zoning Districts.

Mayor Schultz opened this item to public comment.

Garry Swackhamer, 76 Scioto Street, asked if the City will have any say on improvements to Sawmill Parkway when they annex this property. He said that he has heard that sections of Sawmill Parkway are unsafe. He expressed concern about the safety of the portion of Sawmill Road near Presidential Parkway. Stephen A. Lutz, City Manager, said that the portion of road to which Mr. Swackhamer refers is considerably south of the Golf Village Development. He said that this development would include Sawmill Parkway from Seldom Seen to Home Road. He said that the northern part of the parkway was designed much differently. He said the County Engineer is currently studying the safety of the intersection of Seldom Seen and Sawmill Parkway, as that will remain in under the control of the County.

There being no further comment, this item will be taken to a second reading and public hearing at the next meeting.

FIRST READING: ORDINANCE 2002-32: AN ORDINANCE APPROVING THE COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR THE GODDARD SCHOOL, FOR AN 8,000 SQ. FT. PRESCHOOL/DAYCARE BUILDING ON 1.23 ACRES AT 419 WEST OLENTANGY STREET.

Stephen A. Lutz, City Manager, reviewed that there will be a public hearing on this item at the next meeting.

David Betz, Director of Development, gave a brief presentation and noted that there will be further presentation at the next meeting. He reviewed the location and adjacent properties, Colonial Fireplaces, Rutherford Funeral Home across the street, and a vacant parcel to the east. To the south of this development is the Murphy Park site. He reviewed the parking access from Olentangy Street and Murphy Parkway. He reviewed that this site is heavily treed and the applicant is determined to preserve a major portion of them in the rear, nearest the park. He said the parking lot requirement has been reduced by two spots in order to accommodate this. He reviewed the elevation, and the proposed brick and stone materials.

Mayor Schultz opened this item to public comment. Hearing none, he closed the public comment session.

Mayor Schultz noted that the applicant has requested a rules suspension. Mr. Klein said that this is an area that doesn't have a lot around it currently. He asked if there was any input from surrounding property owners. Mr. Betz said there was not a lot of public input, but a lot of discussion by the Planning and Zoning Commission regarding the building design. He said that there was one resident of the adjacent condominium development who was concerned with playground noise. However, they are about 600 feet away. Mr. Klein asked if there is anything to buffer the playground. Mr. Betz said there is the park, and additionally a 4-foot fence to be built around the side and back of the lot for the playground area.

Steve Moeberger, Applicant, said they are asking for a rules suspension because it is late in the year and with starting construction roughly at the end of September, they are concerned with being able to install the asphalt.

Mayor Schultz expressed concern that the City could make sure the facility is a subdued stone and brick building but that "fluorescent" play structures could be added. Mr. Betz said that condition number nine of the ordinance requires that the Planning and Zoning Commission review them later. Mayor Schultz said that if Council isn't going to see it, he would like the Commission to know that that is a concern. Mr. Moeberger said that he doesn't think earth tone colors are a problem. Mr. Lackey noted that the structures are pushed back and not as visible from the street.

Mr. Lackey said it looks like a good project. Mr. Seta asked about the signage standards. Mr. Betz said that they are allowed one wall sign and one monument sign, and they are proposing just one on the front elevation. Mr. Seta noted a monument sign on the plan that looks like it is in the right of way. Mr. Betz said that is new to the plan, and they will work with them on the location.

Mr. Seta said that he does like the elevation.

Mayor Schultz asked if the sign on the front of the building will be lit. Mr. Moeberger said he doesn't believe that it will be. Mayor Schultz said that is good.

There being no further comments, this item was taken to a second reading. Mayor Schultz asked if there is any opposition to a rules suspension at the next meeting. No members present expressed opposition to the rules suspension.

FIRST READING: ORDINANCE 2002-36: AN ORDINANCE AMENDING SECTIONS 301 AND 331.37 OF THE CODIFIED ORDINANCES OF THE CITY OF POWELL.

Stephen Lutz, City Manager, reviewed that this Ordinance would allow the City to enforce

- (a) **No person shall drive or operate any vehicle, other than a bicycle, upon a sidewalk, sidewalk areas, or bike path except upon a permanent or duly authorized temporary driveway.**
- (b) **No person shall drive or operate any vehicle on a street lawn, curb of a street, or bike path except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.**

Mr. Lackey asked if it is true that this would limit use of scooters to driveways. Mr. Lutz said the law would require them to be used on private property. Mr. Lackey asked if this would prohibit non-motorized scooters from bikepaths. Ken Molnar, Director of Law, said he thinks it does. Mr. Lackey expressed concern that this amendment could prohibit baby strollers.

Mayor Schultz suggested that motorized vehicles be addressed rather than just vehicles. Mr. Klein said that he would like to identify that motorized equipment is excluded with the exception of wheelchairs for the handicapped.

Mayor Schultz opened this item to public comment.

Denise Flint, 353 Rosewood Court agreed that regular scooters should not be prohibited, as half of the community would be at the next meeting in protest. She said the issue is speed and noise, and that is what needs to be addressed.

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

Mr. Lackey said that he has done a little research on this. He said that motorized scooters or "go-peds" have gas or electric-powered engines and can reach top speeds of 25 mph. Aside from being hazards to riders, pedestrians, and animals, they are also noisy and they create a nuisance. He said that they are a nuisance to residents who have donated easements to bikepaths on their property. He said that these vehicles could prohibit some citizens from enjoying the use of their own property and impair the City from obtaining future donations of land or easements for pathways.

Mr. Seta asked if it should be stipulated that the reason for this ordinance is safety. Mr. Kaitsa said that if this is adopted for safety reasons, then it can be adopted as an emergency. Discussion ensued regarding amending the language to address motorized vehicles with the exception of those aiding the handicapped.

Mr. Lackey recommended going to another reading so that there can be public comment on this item. Mr. Klein said that it can be re-worded for the next reading. Mr. Kaitsa asked what is the distinction between paragraphs a and b. Mr. Molnar said that with the changes being discussed, those two can probably be combined.

There being no further comment, this item was taken to a second reading.

Mr. Klein said that when this issue was originally discussed, he was neutral on this. He said he has been convinced by Mr. Lackey's arguments that this needs to be done and he is in support of this ordinance.

FIRST READING: ORDINANCE 2002-37: AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE OHIO RAIL DEVELOPMENT COMMISSION FOR THE PURPOSE OF RECEIVING FINANCIAL SUPPORT IN THE AMOUNT OF FIFTY PERCENT (50%) OF THE COST TO INSTALL PEDESTRIAN GATES AT THE RAILROAD CROSSINGS OF SELDOM SEEN ROAD, WEST OLENTANGY STREET AND SOUTH LIBERTY STREET.

Stephen A. Lutz, City Manager, reviewed that last year, Delaware County took the role of seeking federal funds to provide more railroad crossing gates within the County. They surveyed all of the crossings and identified those that were of the highest priority for crossing. The County was fortunate to receive funding for gates and signals at the South Liberty and Seldom Seen railroad crossings. In addition, Steve Savon, from Delaware County, has been instrumental in looking at how to get pedestrian gates. He said that Dave Betz, Director of Development, and Rob Rice, City Engineer, have spent a lot of time working on this and they have been working with the Ohio Rail Development Commission on a plan to share the funding for pedestrian crossings at Seldom Seen, Olentangy Street, and South Liberty Street. He said installation will occur next year, and the \$65,000 cost could be included in next year's budget.

Mayor Schultz asked if one of the South Liberty Crossings is part of the approved crossings. Mr. Betz said the east side of Liberty Street has already been approved. It will be constructed by July of next year. Mayor Schultz asked when the other crossings will be installed. Mr. Betz said that the PUCO will order CSX to install them on their timeline. Mayor Schultz asked if there is any concern that CSX will not approve the new pedestrian crossing. Mr. Betz said that the City needs to provide the plan for connection and commit to the funding.

Mayor Schultz opened this item to public comment. Hearing none, he closed the public comment session.

Mr. Seta asked about the design for the South Liberty crossing. Mr. Betz said that Staff has reviewed it, and that the crossing will go away from the street a little, up the hill, and back along the road. Mayor Schultz said it is reasonable to have the crossing on the "library side" of the street. Mr. Betz said that the signal gate won't be perpendicular because the path will be coming to the road at the time. Mr. Seta asked if the auto crossing will be separate from the pedestrian crossing. Mr. Betz said there will be separate gates designed and engineered by CSX. He said they have been in touch with CSX and they know the plans are coming forward.

Mr. Seta said that it is important to provide safe crossing for residents of Lakes of Powell, Grandshire and Woods of Sawmill residents as well as for those who use the Seldom Seen crossing. Mayor Schultz commended Mr. Betz on pursuing this item. Mr. Betz said that Steve Savon has been instrumental in this process. Mayor Schultz said that the pedestrian crossings are important, but probably as significant are the vehicle gates for the Seldom Seen and South Liberty crossings.

Mr. Klein asked if the South Liberty crossing will be parallel to the road. Mr. Betz said that it will be perpendicular. He said the east side crossing is planned and will be paid for 100% by the County project. The west side gate is optional, and would be funded only by 50%. Mayor Schultz said the Seldom Seen crossing will be on one side of the road, and the West Olentangy Street crossing will have pedestrian access on both sides.

MOTION: Mr. Kaitsa moved to suspend the rules on Ordinance 2002-37. Mr. Lackey seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Kaitsa moved to adopt Ordinance 2002-37. Mr. Klein seconded the motion.

VOTE: Y 5 N 0

HEARING REGARDING PROPERTY MAINTENANCE VIOLATIONS PURSUANT TO CODIFIED ORDINANCE SECTION 1323.09 (c):

At the request of the Law Director, full transcripts of this hearing are attached. (Exhibit).

MOTION: Mr. Klein moved to continue this hearing until the next meeting. Mr. Kaitsa seconded the motion.

VOTE: Y 5 N 0

COMMITTEE REPORTS

The Committee reports were waived due to the late hour.

CITY MANAGERS REPORT

Stephen A. Lutz, City Manager, reviewed that last night, the Parks and Recreation Advisory Board held their first meeting for park planning, and it was well-attended by approximately 40 residents. The next meeting will be on August 1.

BOARD AND COMMISSION APPOINTMENTS

Mayor Schultz noted that the Commission met in Executive Session earlier this evening and elected to make the following appointments.

MOTION: Mr. Kaitsa moved to create the position of Strategic Marketing Advisor to the City and to appoint Steve Bissonnette to the position. Mr. Lackey seconded the motion.

VOTE: Y 5 N 0

MOTION: Mr. Kaitsa moved to appoint Roger Johnson to the Parks and Recreation Advisory Board to fill an unexpired term ending May 15, 2003.

VOTE: Y 5 N 0

OTHER COUNCIL MATTERS

Mr. Klein reviewed that the City has been working on Family Concerts in the Park. He asked how the flyer distributed this evening will be used. Mr. Lutz recommended that Jeff Snyder, Parks and Recreation Advisor, meet with the local press to get some coverage.

ADJOURNMENT

Council adjourned at 11:37 P.M.

DATE MINUTES APPROVED: August 6, 2002

Art Schultz
Art Schultz
Mayor

8/7/02
Date

Dawn Nauman
Dawn Nauman
Clerk of Council

8/6/02
Date