

## Planning and Zoning Commission

July 14, 2004

A regular meeting of the City of Powell Planning and Zoning Commission was held on July 14, 2004 and called to order at 7:35 p.m. by Chairman Don Emerick. Other Commissioners present were Eric Ireland, Roger Coville, Tom Counts, Kevin Futryk, Don Grubbs, and Richard Fusch. 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.

### EXECUTIVE SESSION IN ACCORDANCE WITH ORC SECTION 121.22 (G) (1): Board and Commission Interviews

This executive session originally scheduled for 7:00 p.m. was not held.

### OATH OF OFFICE

Dawn Nauman, Clerk of Council, swore in Eric Ireland as the newest member of the Planning and Zoning Commission.

### HEARING OF VISITORS FOR ITEMS NOT ON AGENDA

There was none.

### APPROVAL OF MINUTES

The minutes of June 9, 2004 were amended and approved.

The minutes of June 23, 2004 were amended and approved.

### SKETCH PLAN

**Applicant:** Ohio Equities  
**Location:** 2.731 acres on the east side of Sawmill Parkway and the south and west side of Galloway Drive (9595 Galloway Drive)  
**Existing Zoning:** Liberty Township PC, Planned Commercial District  
**Proposed Zoning:** City of Powell PC, Planned Commercial District  
**Request:** Review of Sketch Plan for proposed annexation of 2.731 acres and the development of a Dairy Queen restaurant including drive thru and another drive thru restaurant use.

Attorney, Smith and Hale, was present to discuss this proposal. He said they are looking for some feedback on this plan to determine feasibility of a potential annexation into the City from Liberty Township. He said the zoning would be PC, Planned Commercial, and developed with a Dairy Queen (DQ) as well as another comparable but non-competing restaurant-type use.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit). He reviewed the site, adjacent uses, and the site plan.

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

Commissioner Fusch said that he doesn't have a problem with the DQ design as shown and he thinks it is a good use of the site. He said he has two concerns. The first is the ingress and egress issue which seems to be something that needs to be resolved. He said if it is on the northeast corner, and there is a right-in right-out only in order to get onto Sawmill, one will have to come back to the intersection of Powell Road. Mr. Betz said it may not need to be a right-in right-out only, but the current proposal is problematic. Commissioner Fusch said that Galloway Drive is already a cut through. He said his second concern is the unknown nature of that which will be built on the south side of the property. He said he knows this is a sketch plan and not written in stone, but he thinks another drive through restaurant could be a real problem. He said that the size of the building on the south of the site doesn't seem to be as large as would be necessary for this location.

Commissioner Grubbs said he has the same concerns regarding the unknown future use on the south lot. He asked if there are any ideas for potential tenants. He asked why the future development shows two buildings.

Thomas E. Turk, Developer, said that they don't know what they are going to have there. It will be compatible to the Grill and Chill but not competitive with it. He suggested a Kentucky Fried Chicken, Chipotle, something

that is complimentary and not in direct competition. He said that the Grill and Chill has a patio that provides 48 outdoor seats, so the restaurant is much larger than any DQ one is used to seeing. He said the future building size could be appropriate.

Chris Turk, Developer, said that the future development was picked as an "atypical building to stick in there." He said they aren't going to need the whole lot, and they wanted it to be clear that something will be added later when they express their interest to annex. Commissioner Grubbs said the use of those buildings will affect a lot of other things on the site such as traffic and parking, and it raises a lot of questions. He said that if they are talking about another drive through restaurant, that will cause the traffic and access problems. In addition, there may not be enough parking for a sit down restaurant. He said one thing he doesn't like about the plan is that it seems to convert a lot of green space into asphalt. He said some of that could be mitigated with landscaping.

Chris Turk said there are rather unusually large setbacks on Sawmill Parkway, like 100 feet of frontage. He said the actual percentage that would be taken with blacktop is on the low end of what he understands is normal. He said that the second site as drawn on the plan really isn't that small, but rather there are challenges in designing the building space given the site restrictions and the fact that there is no concrete tenant. He said there is a possibility that would not even be a restaurant. He said that the plan for whatever is put in there will have to go through the Planning and Zoning Commission when the use is more definite. Thomas Turk said that considering the cost of land, a restaurant is the most obvious choice. Discussion ensued.

Thomas Turk said that the hipped roof is needed because in addition to being a restaurant, this is a manufacturing operation because they make their own ice cream on site. There are 12 pieces of equipment mounted on the roof, almost of all which are compressors that can't be enclosed without developing a heat problem. Commissioner Grubbs said he thinks the building looks wonderful, but he does agree with Staff's comments regarding some gabling. He said that the Graeters/City BBQ building in this area has a mixed look rather than just a flat roof. Otherwise, he said the development looks great and the use is appropriate. Tom Turk said that this is a brand new concept for Dairy Queen. There aren't many of this type of store in this area at all. He said it is much more upscale than a normal Dairy Queen inside and out. He said the focus is more on food. He said that DQ is about the 6<sup>th</sup> largest fast food facility in the country. He said that this design is a major change and will go throughout the entire system.

Commissioner Futryk asked Mr. Turk to describe the facility. Thomas Turk said that is the trade name, and the difference is that there is an expanded menu. He said the buns are baked at the facility. He said the order is placed but the food is brought out. He said the interior design is different with slate walls and different flooring. Chris Turk said that a new burger will be introduced by DQ in the next 7 months. The Grill and Chill moves DQ into the quick-service restaurant, somewhere in between a DQ Brazier and TGI Fridays. There is tableside service where the order is placed, the customer gets their own drink, and the food is brought out. The menu is upscale but the original ice cream treats are included. He said there are currently 31 such restaurants in various locations. They are moving slowly but doing well, and this will be the first in this area.

Commissioner Futryk said he also has concerns regarding the flat roof, and the Planning and Zoning Commission has worked on this issue with other types of businesses. Chris Turk said that the pitched roof and overhang as designed creates a roof that is actually 4 ½ feet lower than the flat spot. He reviewed the 7-8 pieces of compressor equipment that will be mounted on the roof in addition to air conditioners, coolers, etc. He said they have more remote condensers and compressors than most fast food places. He said they have had the same problem in Westerville where they wanted a pitched roof as well, and discussions during that process resulted in the design being presented this evening.

Commissioner Futryk said that if one looks in front of Kroger's, there is a horrendous traffic situation created by Wendy's and traffic stacking onto the service road out onto Powell Road. He said there is the same situation with Arby's. He said that he is concerned with the traffic flow with Graeters, City BBQ, DQ, and another fast food restaurant. He doesn't believe the "pork chop" in that area has been designed properly. He said there is also a problem with a blind spot for traffic traveling northbound on Sawmill Parkway. He said he is concerned about traffic flow. He said that Chipotle in particular would double this problem, as it is very popular. Tom Turk said that Wendy's runs about 7 minutes per car through the drive thru, and they anticipate the DQ having a

speed of service at 1 minute. He said most business is done between 12-2, and the faster people move through, the more business can be done. He said that they also want the access to be uncomplicated.

Commissioner Counts asked about the letter from the homeowners of Village of Clermont and a setback change from 15 to 30 feet. He asked if that is a variance request. Mr. Betz said that the property was originally laid out using the Liberty Township Zoning Code, but that the setbacks proposed comply with the Powell Zoning Code. Commissioner Counts asked if it is correct that there are no variances necessary. Mr. Betz said the lot coverage is fine, depending on what will be done with the second site. He said the things identified in the staff report are things that can be overcome. Chris Turk said the only reason the second site is brought into play is because something will be done with it at some point and they want that clear during the annexation consideration. That future development will come before the Planning and Zoning Commission. Commissioner Counts asked if there has been any calculation of the square footage of the future building and parking. Mr. Betz said there hasn't because it is unclear what it will be. Commissioner Counts asked if the signs will be externally lit. Mr. Betz said that internally lit signs would be permitted with the code. Commissioner Counts said that is something that the Commission should think about.

Commissioner Counts asked if the intersection of Sawmill Parkway and Galloway Drive would ever require a stop light. Mr. Betz said that is controlled by the County Engineer, and if the warrants are met, it is possible. Commissioner Futryk asked if there is a reason why Galloway Drive is right in and right out only, especially if there is going to be a traffic signal at Sawmill Road. Mr. Betz said that would create too many signals in close proximity which would cause a variety of problems.

Commissioner Counts said that he is not as concerned as other members of the Commission regarding the gabled roof, because he would like the area to have some variation in the look of the buildings.

Commissioner Coville said he thinks everyone agrees that traffic is going to be a concern. He said limiting this to one access will cause problems, but an additional access on the eastern side might be desirable. He said he likes the look of the building, which is sharp and upscale from what he thinks is a typical DQ. He said he wasn't aware of the identity associated with the chimney. He asked if the chimney could be modified. Thomas Turk said the chimney design is actually copyrighted.

Commissioner Ireland said that the landscaping along the west side of the lot looks kind of thin, and he would like to see more in this area. Mr. Betz said that a certain number of trees will be required, and Staff will work with the applicant to upgrade that area. He said the whole landscaping plan will come up as part of the development plan. He said that the adjacent residents need to be considered and there is room for improvement along Sawmill Parkway. Mr. Betz said there is some white fencing and landscaping along Powell Road and along Sawmill Parkway. He said that may be a consideration that needs to be made for this development along Sawmill Road. Chris Turk said that it is his understanding that the fence is required as landscaping, and they have no problem beefing that up.

Commissioner Emerick suggested that the applicant look at other possibilities for design along the top edge of the roof to make it a bit more decorative. Thomas Turk said they have been working with the designer of Big Bear to come up with this design and they will try to incorporate some elements to meet the comments discussed this evening.

Commissioner Counts summarized that he thinks the Commission is in agreement regarding traffic concerns and the future use on the property. He asked about the roof and whether the Commission wants a gabled roof or feels the concept proposed is acceptable. Mr. Grubbs said he would like them to make an effort to make it a little closer to other area facilities. Thomas Turk said that if nothing else, they can provide the Commission with photographs of the beginning proposal for this design and the progress that has been made. Commissioner Grubbs said if nothing else, the applicant could convince Staff there is nothing else they can do. Mr. Betz said that Staff needed to bring this up as a concern because it is one issue that didn't meet code. He said it is important to make sure that the mechanical units are covered by the parapet. Staff would like the dimensions of those units before the design is determined. He said he likes Commissioner Emerick's suggestion for a design feature at the top of the parapet. Thomas Turk said they will not be visible. Commissioner Futryk said that is

important as the Commission has made sure that such mechanicals don't show on other buildings throughout the City. He said he would like some creative touches used to break up the roofline.

#### **COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN**

**Applicant:** 3 Pillar Homes, Zenios Michael Zenios

**Location:** 50 South Liberty Street

**Zoning:** OPPCR, Old Powell Planned Commercial and Residence District

**Request:** Approval of Combined Preliminary and Final Development Plan for a mixed-use development consisting of approximately 4,555 sq. ft. restaurant, 14,040 sq. ft. retail, and 17,905 sq. ft. office on the second story in the first phase and future residential condominium townhomes to be approved at a later date

*(Tabled from June 23, 2004 and June 9, 2004 meeting)*

Brian Kinzelman, Kinzelman Kline Planners and Architects, was present to discuss this application. He said they have been tabled the last two meetings as they have pursued some issues with regards to traffic and the site plan. He said they agree to the 5 conditions outlined in the Staff Report. He reviewed items 2-5 and then addressed item 1, which is a condition regarding traffic. He said that his client is willing to enter into negotiations with City Staff and enter into an agreement to shoulder his fair share of the intersection improvements at the four corners intersection.

David Betz, Director of Development, reviewed the site layout and access plan. He gave his Staff Report on this item (Exhibit). He reviewed the traffic study that was presented regarding this plan (Exhibit 2).

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

Commissioner Fusch said that he has been on the record at a number of meetings expressing his support for the design and the use. He said he likes the landscape plan, and so on. He said he doesn't have many other comments other than he'd like to see this go forward.

Commissioner Grubbs asked if there is any difference in this week's Staff Report than the last one. Mr. Betz said that he has changed the first recommended condition. Commissioner Grubbs asked about the maximum lot coverage being identified at 30% in the Staff Report. Mr. Betz said that the lot coverage is not a concern, as it currently stands at 19%. He apologized that the Staff Report wasn't updated to show that calculation.

Commissioner Grubbs said that it seems like this study addresses typical traffic study issues. He said that he likes Staff Report condition 1 the way it is written because it meets the intent of the Commission. He said that this development is a great experiment in an area that already has a traffic problem. He said the traffic issues at the four corners will only become worse with this development's success, and it is only fair that the developer will pay his fair share of the increased burden on traffic. He said he appreciates the difficulty in quantifying the problem, but he acknowledges that this is the direction that it is desirable to go. He said he still needs to give the traffic study further attention but he will address all of this at Council as well. Mr. Betz said that the back up there is not going to be as bad as the four corners but it is getting worse. He said that Murphy Parkway will help alleviate some of the traffic concerns.

Commissioner Grubbs said that he understands there are studies on left turn lanes at the four corners but no quantifying costs. Mr. Betz said that it has been considered and it is tricky. He said it will be hard to get ADA compliant ramps. He said the sidewalks will become narrower. Street parking between Liberty and Hall streets will be removed. Head in parking on the south side north of the intersection will be removed. Commissioner Counts asked if it is possible to do this without removing buildings. Mr. Betz said it is, but everything sort of shifts to the south, which is another problem. Commissioner Grubbs said he still sees a problem with traffic from 4-7 p.m. He asked if the left turn restriction has had any affect on this problem and how a left turn lane would improve the situation.

Gary Wilcox, Traffic Engineering Services (TES), said there is no apples to apples comparison because left turns aren't allowed now from 4-7. He said there are factors in the real world that aren't necessarily quantifiable in how traffic is analyzed, and one is the railroad which often comes through and creates a longer than normal

queue that takes awhile to get back to "normal." On-street parking also creates back ups in traffic so that the actual delays at this intersection may not correspond to the delays measured in the analytical process. He agreed that the actual situation may be a little worse than the numbers reflect. He said there are sometimes big discrepancies in measured delays and software projections. Commissioner Grubbs asked if the measured delays are studied in peak times. Mr. Wilcox said they are measured during the peak 15 minutes. Mr. Betz said that he found it interesting that with Murphy Parkway and turn lanes combined, the level of service didn't change dramatically. He said it may be desirable to see how the Murphy Parkway connector affects the flow at the four corners before decisions are made regarding turn lanes. Mr. Grubbs expressed concern about that because Murphy Parkway will most likely not happen until 2006 or later.

Commissioner Futryk said the more time he has spent looking at this, the more excited he is. He thanked the applicant for working with the Commission to address concerns regarding design, landscaping, and parking. He said he appreciates the traffic study, but he, too, wishes they got it sooner. He said he understands how the Murphy Parkway connector will help northbound traffic turning west on Olentangy, but with all development going on to the north, he is a little concerned about a left turn southbound into the facility. He asked, since the turn lane isn't warranted, whether the City can work on signage saying not to block the driveway, etc., in order to open up an access and keep traffic from backing up in the opposite direction. Mr. Betz said they can work on that.

Commissioner Counts asked if Staff will review this study. Mr. Betz said the City Engineer will have reviewed this by the time it gets to Council.

Commissioner Counts asked when the Murphy Parkway is estimated to be installed. Mr. Betz said the engineering will be done this year and probably built in 2006. Commissioner Counts asked about turn lanes on Olentangy Street. Mr. Betz said that would be much farther down the road because of design and alignment issues and funding. Commissioner Counts asked when the applicant anticipates everything going on line with this project. Mr. Zenios said he is planning it for the end of 2005. Mr. Betz said it probably won't be fully occupied until 2006. Commissioner Counts said there is a potential for a year under the "case one scenario." Mr. Betz said that is correct. He noted that the study was done contemplating full build out and full occupancy. He said that this project will be built in phases.

Commissioner Counts asked about "case 3" which had turn lanes and identified a decrease in the increase in traffic caused as a result of the project. He said that is with the turn lanes, and it doesn't seem right to him. With Murphy Parkway, there is an 8.5% increase in traffic and with the turn lanes there is only a 7.5% increase. Mr. Wilcox said the site traffic basically remains constant. With Murphy Parkway, the amount of traffic going through the intersection is less. Commissioner Counts pointed out that the increase through the four corners has been constant since 1998, but if one wants to have a downtown, there will be traffic.

Commissioner Coville asked if it is correct that this is the worst 15 minutes of the day. Mr. Wilcox said it is the pm peak hour, and he can't say for absolute certain. He said there is the existing traffic and the site traffic. It represents the peak time for the site traffic and the amount of traffic going through the intersection at noon, which was less than it, was during this time period. He said that they did mechanical counts and then picked a peak time between 4-6 p.m. Commissioner Coville asked if the delay is given in seconds. He said he thinks 37 seconds seems fast. Mr. Wilcox said that is the average delay per vehicle. Some don't stop at all, if there is a green light. Commissioner Coville asked if that is an average of all directions. Mr. Wilcox said it is. Mr. Betz said in all likelihood, the north and south are getting through and canceling out some of the east and west. Commissioner Coville asked what the sense is regarding the actual and the projected. Mr. Wilcox said there isn't. Discussion ensued.

Commissioner Coville said he is cautiously excited about the project.

Commissioner Ireland said he is excited. He said this is a terrific edition. He said regarding the foundational data, he thought the 8.4% increase in traffic through the 4 corners since 1998 seems intuitively low. Mr. Wilcox said that the reason for this is because the north approach has actually declined, and he thinks that may be because of the Sawmill Parkway extension. He said the traffic there was reduced by about 12%.

Commissioner Ireland asked if the studies in 1998 and now were taken during the same dates. Mr. Wilcox said they were within a week of each other. He said that he thinks summer time is a slightly higher than average traffic period. Mr. Ireland asked if school traffic wouldn't actually be higher. Mr. Betz said that the peak is in the evenings, generally after kids are home from school. In June, a lot of people are leaving the zoo and Wyandot Lake and driving through Powell.

Commissioner Counts asked if the 5 year time period for the applicant paying his share of the improvements to the four corners is realistic. Mr. Betz said he pulled that time period out of a hat but felt that within 5 years, plans for the four corners regarding turn lanes would be clear.

Commissioner Emerick had no further comments.

Commissioner Grubbs asked if it was determined that this project at opening day would add 169 trips to the four corners. Mr. Wilcox said that is correct, at the peak hour. He reviewed the standards by which they determine peak 15 minute periods and peak hours. Commissioner Grubbs asked if they followed the type of study that is typical for a new development. Mr. Wilcox said they did.

**MOTION:** Commissioner Counts moved to approve the Combined Preliminary and Final Development Plan with the following conditions:

1. That the developer (and/or its successors and assigns) provide, as determined through a separate Roadway Agreement agreed to by the City Law Director, Staff and the developer, its fair share toward any improvement of the Olentangy Street/Liberty Street intersection that is desired by the City within the next five years. This is based upon the identified impact this development has upon this intersection and agreed to by the developer.
2. That the applicant work with City Staff and the appropriate utility companies to provide a solution to the utility pole locations that are currently along the frontage. The intent is to move the utilities to a less visually intrusive location.
3. That the "streetscape" improvements be altered to reflect as near a design compatibility with existing streetscape improvements downtown, including on street parking, street lighting, street trees and street furniture.
4. That the parking lot design meet zoning code standard for parking stall size (9' X 19') and drive aisle width (22').
5. That a walkway be provided on the easternmost parking lot island to provide access from future residential uses.

Commissioner Fusch seconded the motion.

VOTE: Y 7 N 0

**COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN**

**Applicant:** Tran, LLC, Dr. Thomas Ritchie  
**Location:** South side of West Olentangy Street approximately 225 feet east of the intersection of Murphy Parkway and West Olentangy Street  
**Zoning:** PC, Planned Commercial District  
**Request:** Approval of a Combined Preliminary and Final Development Plan for a proposed 6,513 square feet veterinary clinic (without boarding) with future 4,000 square foot office expansion on 1.41 acres

Dr. Thomas Ritchie was present to discuss this plan. He said that they were here two months ago to discuss this plan, and there were several concerns, one was that the north elevation of the building was a little bit plain, particularly given that it faces Powell Road. There was also concern about the water line mark and the way the cement structure was put in. He said they have changed that to brick. He reviewed their intent to possibly add to their facility in the future. He said they originally had a fenced exercise yard on the west side of this building, but at this point since there is no specific addition planned, they are moving the exercise yard to the other side so it doesn't look too crowded. He said there is more green space on the east side. He said the last time they were here they only had two elevations, and they now have all four. The east side is the most plain because of the intention for a future addition. He said they have included increased landscaping, particularly on the north side.

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

Dr. Ritchie reviewed that they are proposing to use one color of red or orange-red brick in combination with Hardiplank siding. He said it appears on the elevation drawing they will be using a different brick under the windows but they will not.

Mr. Betz said that they do have more parking than the Zoning Code requires. He reviewed a plan to reduce the parking by 7 spaces so that there is not parking backed up to the common access drive. He showed a plan with a different alignment and landscaping bays. He said there will be two different areas of parking in between the landscaping and there will be a driveway back to the dumpster.

Dr. Ritchie expressed concern that the elimination of 7 spaces would cause problems if they decide to expand. He said that they have proposed 30 spaces. He said they have up to 12 employees working at one time and 6 exam rooms plus people waiting for those exam rooms. He said that the access drive is more of a driveway than a roadway. Mr. Betz said they now have 49 spaces, and that will be reduced to 42. Dr. Ritchie anticipated that they will use 30 of those, and that could narrow down what is available for a future addition.

Commissioner Ireland asked if the seven spaces don't go in, whether they can go in later. Mr. Betz said that if it is desirable to do 49 spaces, then the layout should be done as is.

Commissioner Futryk asked how many spaces would be added if they put parallel parking along the eastern buffer of the landscape island. Mr. Betz said he anticipates 3 could be added.

Dr. Ritchie reviewed the relocation of the exercise area and the intention to move it to the west side should they expand their facility. He said that dogs in that area will be hospitalized animals walked outside on a leash.

Commissioner Coville asked if it makes sense to combine the two 24-foot driveways into one in the middle. Mr. Betz expressed concern that it would take up more space but the circulation pattern wouldn't be good and there would be no parking immediately adjacent to the building.

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

Commissioner Fusch said it seems that Staff's biggest concern is the parking issue. He asked what is the width of the space between the parking on the east side and the lot line boundary on the west side. Mr. Betz said there is still have a 12 foot driveway, and the property line splits the access drive. Commissioner Fusch asked if the concern is people backing out of the parking spaces into the access drive. Mr. Betz said that is correct. The concern isn't with maneuvering but rather backing into the shared drive. He said he thinks that Staff's proposed layout is more desirable and still meets the Zoning Code.

Commissioner Grubbs commended the applicant on a very detailed plan. He asked if, putting the parking concerns aside, the applicant is comfortable with the other 5 staff conditions. Dr. Ritchie said they are. Commissioner Grubbs said he likes the design of the building and that they are moving the exercise yard. He said he agrees with Staff regarding the parking. He said he can't imagine any addition of less than 4,000 sq. ft. needing more parking than what will be provided. He reviewed that with 10 exam rooms, and 6 exam rooms and 6 people waiting, that would mean 22 spaces being used, leaving 20 for future use. He said that he would support Staff's suggestion for reducing the parking.

Commissioner Futryk said he appreciates the changes to the design. He asked if there is any clue what will be in a future addition. Dr. Ritchie said he doesn't know, although it could be an extension of their business. Commissioner Futryk asked if the entrance will still be off the south side of the building if there is a new use. Dr. Ritchie said it will. Mr. Betz said that a sidewalk could be added to the front if it were an office use. Commissioner Futryk said that even at peak times, it is apparent that there will still be 20 spaces available for another use, so he would support Staff's recommendation for moving the parking.

Commissioner Counts concurred that he likes Staff's parking plan. He asked if there has been any thought to adding dormers on the northern elevation. Dr. Ritchie said he did consider that. He agreed with comments

regarding the proportions on the dormers. Commissioner Counts said he'd like to see them on the north side. He asked if the signs are appropriate, one on the building, and one out toward the street. Mr. Betz said they are.

Commissioner Counts asked about the type of fence identified as the enclosure for the exercise yard. Mr. Betz showed examples of a shadowbox fence. Commissioner Counts asked if they move that fence, will it come before the Commission. Mr. Betz said that the Planning and Zoning Commission would review the addition, which would be the reason for moving it. Commissioner Counts said that if that happens, he would like to see additional landscaping between the fence and the sidewalk, which would require reducing the size of the exercise area. Dr. Ritchie agreed. Commissioner Coville agreed with Commissioner Counts that it is undesirable to have the fence on the edge of the sidewalk.

Commissioner Counts asked if any condition needs to be set regarding the future addition and the setback. Mr. Betz said it should be made sure that the future addition has a setback of 25 feet unless the code changes. Dr. Ritchie asked if there is a requirement for dormers on the north side. There was no consensus regarding that issue.

**MOTION:** Commissioner Counts moved to approve a Combined Preliminary and Final Development Plan subject to the following conditions:

1. That the parking layout and access drive be revised as recommended by Staff.
2. That the sidewalk along the access drive be extended to the bike path and be made from concrete.
3. That the final bike path and fence location be reviewed and approved by Staff through the engineering plan review process.
4. That the City Engineer review and approve the site utility, storm water management and grading plan.
5. That a sign plan be reviewed and approved by the Planning and Zoning Commission.
6. That a lighting plan be reviewed and approved by Staff.
7. That the future addition be subject to a 25 foot sideyard setback.
8. That there be a landscape buffer between the sidewalk and the future fenced in exercise yard if that exercise yard is moved.

Commissioner Futryk seconded the motion.

VOTE: Y 7 N 0

**SUBDIVISION PLAT**

Applicant: R.D. Zande Assoc. for Virginia Homes  
Golf Village Section 5 Phase B

Location: North of Rutherford Road and west of Sawmill Parkway, just north of Section 5 Phase A

Zoning: PR, Planned Residence District

Request: Approval of a Subdivision Plat for 15.835 acres of land

Mary Sherrets, R.D. Zande and Associates, was asking for approval of the final plat for Golf Village Section 5 phase B, was present to ask for final approval of this plat for 42 single family homes, and one open space. This section connects Section 5 phase A to the south, which is currently being developed by Centex Homes, with Golf Village Section 7 Phase C to the north.

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

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

**MOTION:** Commissioner Counts moved to approve this plat with the following condition:

1. That the Plat meets the requirements of the City Engineer for all easements, lot numbers, addresses and any other item that he deems appropriate.

VOTE: Y 7 N 0

David Betz, Director of Development, reviewed that this proposed Zoning Code change identifies a maximum floor area for commercial development. He said the Commission needs to set a public hearing for this item and that can be held at the August 11 meeting. In preparation of debate on this item, Staff has prepared a discussion paper that takes a look at the issues involved, many of which come from the original Resolution prepared by Commissioner Grubbs and presented to Council. He said that Staff has also emailed the Commission various links to research that a couple of interns are helping them with.

Commissioner Grubbs passed out additional information for the Commission to review, including previous Council legislation opposing Wal-Mart, minutes, correspondence, and the first attempt made at a Resolution prompting study of this issue. He said that 105 people signed in at the June 1 Council meeting when this issue was discussed. He said he anticipates a lot of public comment at the Planning and Zoning Commission hearing. He said he feels the email links are very useful. He added that he just found out today that Liberty Township is considering similar legislation, and he has a draft of their proposal. He said part of the goal is to create restrictions similar between the City and Liberty Township so that developers aren't going back and forth between the two communities.

Commissioner Futryk asked where the 65,000 sq. ft. size comes from. Commissioner Grubbs said in this area, the largest structure is the Kroger, which is roughly that size. Commissioner Futryk asked if the Commission is limited to considering the 65,000 sq. ft. issue. Mr. Betz said they aren't. Section 2 identifies the variety of issues the Planning and Zoning Commission is being asked to consider.

Commissioner Futryk said he would like to see what other communities are doing. Mr. Betz said they have some of that information. Granville has a straight 6,000 sq. ft. limit. Westerville and Dublin base their decisions on design and site use rather than square footage.

Commissioner Ireland asked to see how other thresholds are meaningful, for example, does 40,000 sq. ft. bring more traffic than 65,000 sq. ft. Mr. Betz said that one study looked at traffic impacts from a discount retailer vs. home improvement use. He said the home improvement use created significantly less traffic although the size of the building was the same. He said it is what is inside the building, not the size.

He said that the literature also indicates that community character restrictions make sense, i.e., in Granville, there are not many large buildings anyway. In Powell and Liberty Township, there are. He said that one may want to consider whether two commercial establishments which combined would equal 120,000 sq. ft. would cause the same traffic impact as one large big box establishment.

Commissioner Grubbs said that in addition to traffic, there is concern regarding the effect of big box establishments on existing smaller businesses. Mr. Betz agreed that some retailers create greater effects than others, depending on the products and services that they offer.

Commissioner Fusch asked what authority the City currently has to regulate these developments. Mr. Betz said under Ohio zoning law, the City has a pretty broad authority. However, restrictions must be in reason. He said he doesn't know of any Ohio test cases against buildings being open for 24 hours. He said he thinks regulating the timing of businesses is okay as well as the percentage of what businesses sell. For example, have a larger box but limit it to 10% groceries. Commissioner Futryk clarified that the Zoning Code would permit the City to approve a Wal-Mart if it wanted to. Mr. Betz said there are some practical limitations, and also some general language to limit its approval, but the City would need to be able to show the problem it is anticipated to create. Commissioner Fusch said it seems like the amendment is the easier way to go. He said that what Mr. Betz is describing is complex, that the City must somehow prove that a negative will occur. He said it is easier to solve the problem with the amendment. Mr. Betz said that the City has the right to regulate the intensity of use.

Commissioner Futryk said that the Resolution is asking the commission to consider issues such as size, architecture, design, etc. Commissioner Counts said that could help regulate other types of commercial backbones. Mr. Betz noted that this amendment only looks at the planned commercial district and he questioned whether it is desirable to look at industrial districts, which the City does have, though not a lot.

Commissioner Counts said that the words "big box" have a negative connotation, and people just say they don't want it. He said he thinks the Commission needs to consider what kinds of establishments are neighborhood establishments, and what are regional. He said that there is a Kroger store that butts up to a 65,000 sq. ft. limit, but who is to say that in 5 years, the typical grocery store won't be 80,000 sq. ft. He says grocery stores are neighborhood establishments that are desirable in the community to provide services to the community. He said he wants to know the service area radii of a variety of businesses.

Commissioner Emerick asked if there are any areas within Powell's control where big box development would be appropriate. He said there is a Wal-Mart in Hilton Head that is designed in a way that one doesn't even know it is there. Mr. Betz said the Commission can certainly control where larger retailers can go. Discussion ensued.

Commissioner Futryk said that when people discuss big box, they usually mean Wal-Mart, but he would like to know the square footage of other large facilities, such as Barnes and Noble, or specialty retail chains, etc. He said people say they want a bookstore but many of those that he has seen are large.

Commissioner Fusch said that he would like data on the financial impact of large-scale commercial enterprises. He said that most demand far fewer public services than residential property owners do and they pay a lot of money in taxes and put a lot of money into the community to support public services that communities are required to provide, such as police and fire. He said he thinks that is important. Commissioner Counts agreed. Commissioner Fusch said Kohl's generates \$175k in property taxes just for the schools and if they were in the City, they would pay income taxes. Commissioner Counts said that in a bedroom community with little industrial or commercial base, a situation that is only going to get worse, that should be considered. Commissioner Grubbs said that some of the research in the links talks about requiring a market analysis from large facilities. He said that the question is does it generate enough in income to offset the cost of infrastructure, etc.

Commissioner Fusch asked if there are requirements in the City for impact fees. Mr. Betz said that there are recreation and development fees, but those issues could be looked into. He said Staff is currently working on a study regarding development impacts.

Commissioner Fusch asked if the Commission would have to make a decision at the public hearing. Mr. Betz said they have 30 days. The Commission held a brief discussion regarding how to organize the public hearings.

It was discussed that an additional meeting may be required in August so that the Zoning Code changes alone can be discussed.

**MOTION:** Commissioner Counts moved to set the public hearing date for Zoning Code amendments related to City Council Resolution 2004-13, Proposed Zoning Code Change, Commercial Size Limit City Council Resolution 2004-18, Proposed Zoning Code Change, Downtown District, for August 11, 2003.

**VOTE:** Y 7 N 0

**ADJOURNMENT**

The Commission adjourned at 10:50 p.m.

DATE MINUTES APPROVED: August 14, 2004



Don Emerick  
Chairman

8-25-04  
Date