

MINUTES
PLANNING AND ZONING COMMISSION
October 6, 2004

A special meeting of the City of Powell Planning and Zoning Commission was held on October 6, 2004 and called to order at 6:30 p.m. by Chairman Don Emerick. Also present were Tom Counts, Kevin Futryk, Don Grubbs, Eric Ireland, and Richard Fusch. Roger Coville was 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 NOT ON AGENDA

There was none.

APPROVAL OF MINUTES

The minutes of September 22, 2004 were amended and approved.

Discussion on Proposed Zoning Code Amendment Section 1147.15

David Betz, Director of Development, reviewed that after the last meeting with the subcommittee formed to discuss this issue and with Liberty Township Planning Board member Curt Sybert and Delaware County Regional Planning Director Phil Laurien, Staff was able to prepare new amendments related to the limitation of buildings to 65k sq. ft. He said they reviewed the Township's documents and made an effort to make these restrictions consistent with them. He said that the changes from the last time this was reviewed are included and highlighted in the proposal before the Commission tonight.

Mr. Grubbs asked what would a minimum building separation be with the proposed amendments. Mr. Betz said it would be 50 feet. If parking were needed between buildings, it would be greater.

Commissioner Fusch clarified that under this ordinance, the maximum distance between liner buildings and larger buildings would be 25 feet. Mr. Betz said that through this process, there was much discussion regarding out-lot type uses. He said that keeping liner buildings close to the larger buildings may help distract the eye.

Mr. Betz identified another diagram which outlined desirable architectural details. He said that much of the design suggestions came from examples in Fort Collins, Colorado. He identified pockets of parking areas that are desirable, but noted that there should be more green space.

Mr. Betz reviewed the regulation to meet the requirements of a planned district. Commissioner Grubbs asked about making it clear that there is a legislative act required to receive a special permit.

Mr. Betz said the new regulations clarify the language regarding the community impact analysis.

Commissioner Futryk asked if there is anything setting forth the timelines for review of special use permits. Mr. Betz said that the timeline is consistent with the development plan process.

Mr. Betz said that Staff did make additional minor adjustments throughout the document. He noted the change to requirement for repeating pattern intervals on building facades. He said that on page 8, section 13, they made the amount of impervious surface versus green space regulations consistent between the City and the Township. At this time, Powell's minimum green space is 20%, so in relation, it is being increased by 20%. The lot coverage maximum remains at 20% per lot. The maximum building size is still identified at 65,000 sq. ft.

Mr. Betz pointed out that in Section 19, they have amended the language requiring an adaptive reuse plan agreement. They are trying to take into account Mr. Count's recommendations from the last meeting and also include some factors that should be considered. He said they removed language that was too restrictive and would be a "deal killer" for a developer shopping the Township and the City.

Commissioner Fusch asked how many years a developer could leave a building empty with the proposed reuse requirements. Mr. Betz said it would be two years. He said that leaving it longer would be a zoning violation as well as a breach of contract with the City, but he is slightly concerned about enforcement. Commissioner Fusch asked if there would be a point at which the City could tear a building down. Mr. Betz said that he thinks there would need to be such consideration in the reuse agreement, and it would also depend on the situation. If it is

bankruptcy or foreclosure that is one thing, but not being able to find someone to reuse their building is another.

Mr. Betz said they tried to make amendments based on discussions at the last meeting and coordinating with Liberty Township. Commissioner Counts asked about Liberty Township's intention. Mr. Betz said he thinks they are moving forward. He said they have a meeting on October 14 at which time it will go from the Planning Commission to the Trustees. He said they are limited statutorily, but they are doing what they can. He noted that the City's process and design standards will be handled in a completely different manner than the Township. Commissioner Grubbs said that the Township is adding design standards, and that is as close as they can come to the special use permit. Discussion ensued.

Mr. Betz noted that the ordinance refers to a design guide which will include a variety of details.

Commissioner Counts asked about existing developments that were approved in Powell that would fall under these regulations for a special use permit if they are over 20k sq. ft. Mr. Betz said the warehouse structures on Case Avenue are each less than 20k sq. ft., but the Recreations Outlet building under construction on Powell Road is over. Mr. Betz said that Aeroflex Lintek would exceed the threshold. He said that Liberty Plaza and Powell Center would be fewer than 20k sq. ft. Commissioner Counts asked if it is correct that the larger facilities couldn't be built on Liberty Road. He said much of these conversations have been in the context of retail, but there are impacts on other uses. Mr. Betz said that it is correct that the large non-residential establishments are not permitted except for main arterials as identified on the county thoroughfare plan. He said those are Powell Road, Sawmill Parkway and Home Road, and not Liberty Road. He said there is a parcel on the corner of Seldom Seen and Liberty Road that could be developed with a larger development, but there is currently a plan for a school there and they are exempt to these regulations. Commissioner Counts asked about the future GFS structure. He asked if that could come under these regulations. Mr. Betz said it could, given the acreage, but not given the current plan.

Commissioner Counts asked if there are any calculations to determine how much land would be necessary to max out on all of these requirements. Mr. Betz said that in order to break the 20k sq. ft. threshold and require a special use permit, about 3 acres are needed. He estimated that there are 8 parcels in the area that are appropriate for such development. He said there is a site behind Aeroflex Lintek that could provide such a development in a way that it would hardly be seen, but it would fall under these regulations. He said that the threshold of 20k sq. ft. should probably be raised to allow the corporate office user.

Mr. Counts asked about height requirements. Mr. Betz reviewed that the maximum is 35 feet, and most single family houses are under that size. He said he believes the Township has a 44 foot requirement. Commissioner Counts asked if that means that there will be nothing above two stories. Mr. Betz said that is correct. Commissioner Counts asked, if someone wanted the maximum size building, what size parcel would be needed. Mr. Leininger said it would be over 13 acres. Mr. Counts asked if there are any parcels of this size. Mr. Betz said there is one in Golf Village, but there are restrictions associated with that because of the CEDA.

Commissioner Ireland asked if requiring the impact studies will limit the number of applications for developments in the City. Mr. Betz said that he would imagine that anyone developing a site to this extent would already have that preliminary economic impact information.

Commissioner Futryk asked if 120k sq. ft. is a high enough cap for building size. Mr. Betz said without such a cap, there is a 13+ acre parcel at the corner of Powell and Sawmill, that could be developed with a 220k sq. ft. project. Commissioner Futryk asked if developers could use a lot split and two separate developments in order to get around the cap. Mr. Betz said that he doesn't think that a lot split would be necessary to do two separate developments on that parcel.

Commissioner Counts asked why, if you are going to have a maximum square footage for buildings, that an individual user is being limited to 65k sq. ft. Commissioner Futryk said that the intention is that so you don't have a large user installing two facilities adjacent to one another at 65k sq. ft. that are only separated by a wall. Commissioner Counts said that he isn't sure what the "maximum size of one structure means", and he questions whether the impact isn't the same with a group of buildings totaling more than the maximum. He said it is the

same number of customers coming in, so he questions limiting one user to 65k sq. ft. and the rest of the space going to smaller tenants. Commissioner Futryk said he thinks the intent is to allow for big box, but not in excess of 65k sq. ft.

Commissioner Counts said his concern is if the impact of many small developments is the same as one large one, why is there a desire to set an arbitrary maximum square footage requirement. Commissioner Grubbs said it is not arbitrary but based on research and consistency with Liberty Township. He said that 65k sq. ft. is consistent with the large grocery stores that already exist in the area. He said that size requirement is designed to address the concern of having a single big box user. He said that there is not the same impact with several buildings of a smaller size compared to the regional draw of a single user that is very large. He said that the Kroger development is a good example because the Kroger itself is 65k sq. ft., but there are still individual users included in that development as a whole. These regulations would allow that. Commissioner Futryk said that such regulations also promote liner buildings, specialty shops and restaurants that are different from a large user and don't draw the same type of customer as a Wal-Mart, etc.

Commissioner Fusch said it also allows for a mixed-use development, which has a different impact, particularly if half were residential. Discussion ensued.

Commissioner Counts said that he disagrees with the assumption that anything over 65k sq. ft. is a regional draw. Commissioner Futryk said another reason for the upper limit was because of review of a proposal by Frank Elmer, who created a mixed-use model for development in this area with one concept including 170k sq. ft. of mixed-use development that had a ton of commercial use, and that was a concern. The upper limit was determined to try to prevent that concept. While he thinks mixed-use developments are great, some of Elmer's proposals would have a greater impact on the community than many things discussed here. He agreed that whether the figure of 120k sq. ft. total development is appropriate still needs to be determined. He said that there are two issues to consider. First that no single user can be greater than 65k sq. ft, and the second is that the total building can't be greater than 120k sq. ft.

Mr. Betz said that you can only regulate so much. It all depends on what users go into each part. A movie theatre, for example, would draw from more than the community itself.

Commissioner Emerick opened this item to public comment.

Tom Raney, 10496 Buxton Place, Liberty Township/Powell Neighborhood Watch, thanked everyone for their efforts. He said this is consistent with the community which is opposed to big box development. He said that a comment was made regarding what Liberty Township is doing, and he agreed with Mr. Betz that under state statute there is very little the Township can do other than limit. The beauty of this approach is that it precludes an easy annexation to get into the city where development could be easier. He said he disagrees with comments made at the last meeting that indicated that ten 10k sq. ft. uses create the same problems as one 10k sq. ft. user. He said that many smaller users would have totally different peak hours than one larger user, totally different market areas (much smaller), and less of an impact on police issues and traffic. He said that there was also a concern that mixed-use means high-density residential development, and he disagrees with that. Mr. Elmer proposed upper-end users of retirees, upper-income people who want an office where they live, single users, etc. While the buildings may have a higher density, that doesn't necessarily mean more school children. He said he also heard comments that the Frank Elmer proposals included large buildings, but there wasn't any building in any of those plans larger than 40k sq. ft., but they are clustered together. He said that leads to a problem in what is being proposed now. A minimum 50-foot distance between buildings may be a problem and it may preclude the pedestrian-friendly mixed use development that is desirable.

Mr. Raney questioned what it means that requirements must be "greater than a planned district" He asked that the Commission consider in Section F adding a provision that adds to a reuse contract that after 2-3 years if a building isn't used that it reverts to the City to do with as they please.

Max Holzer, 4885 Paddington Way, echoed Mr. Raney's comments. He agreed that the Commission is doing a good job trying to develop appropriate regulations because it seems that the City's thoughts about what is desirable for development is more consistent with the feelings of the larger community beyond Powell and

Liberty Township. He questioned how to define what a non-residential structure is. Mr. Holzer asked if a commercial activity is held in a building but there are 1-2 residential units whether it would be considered non-residential building. He asked if there should be a ratio of 60-40% or the like. Mr. Betz said that non-residential establishments are defined as "any non-residential structure." Mr. Holzer expressed concern that you could have one residential unit and say "it's partially residential." He said he thinks that it should say to be residential, it has to have at least 40% residential or something like that. Commissioner Futryk asked how to address a building with retail on the first floor and loft apartments above. Commissioner Grubbs said that Mr. Betz has said if there is any non-residential use, it is a non-residential building. Mr. Betz said that is correct. Commissioner Grubbs agreed that it is not defined. Commissioner Fusch agreed. As soon as it has a use that is not residential, it is a non-residential building. Commissioner Counts suggested a sentence clarifying that.

Mr. Holzer asked how architectural review is approached in the City. He asked if there are people with architectural design experience and education involved in such a position in the City. Mr. Betz said that said that his background is in environmental design, and beside Staff, there is an architectural advisor position that is meant to advise the Planning and Zoning Commission. That position is currently open. He agreed that is very important. He said that there is also an intention to get people of a wide variety of backgrounds on Planning and Zoning. Mr. Holzer said that there really is visual pollution as he drives up and down Powell Road and sees an uncoordinated architectural feeling. He said he would like to see more deep architectural understanding and relationship between buildings. He noted that Mr. Elmer's designs created a civic entity. He said that is very popular in "old world" areas. Commissioner Fusch questioned what he means. He said in European cities, buildings span centuries and they lack architectural coordination, and that is what makes them exciting and visibly aesthetic. He said when he hears "architectural coordination," he hears "I want everything the same." Mr. Holzer said he doesn't want them the same, just compatible. He said you can't take a 50's architecture and merge it with 14th century. Commissioner Fusch said he thinks they do it in Europe all the time. Mr. Holzer said that as one drives down Powell Road now, there are some that are very attractive and others that are very harsh and without architectural attention.

Mr. Holzer said he thought Commissioner Ireland's questions regarding limiting opportunity by setting these limits was interesting. He said he doesn't think opportunity would be limited. He said that the limitation says a lot about what the City wants to be. He said that it is undesirable to be a Morse Road or a Sawmill Road, and these limitations represent what Planning and Zoning is all about.

Robert Mann 3614 Bainbridge Mills Drive, said he has been working with Mr. Raney and Mr. Holzer for approximately a year. He said that Mr. Holzer was a developer before he retired and Mr. Raney did acquisitions that has worked to the advantage of the Neighborhood Watch group in their efforts to coordinate and work with the Township and the City to try to work and make sure this stays a community that everyone is proud of and wants to live in. He thanked everyone for their hard work on the latest draft which he feels that is well drawn out with some of the comments made tonight. Mr. Mann said that his group believes the limitations and the review process identified in the document are keeping with the ideals of the citizens of both Liberty Township and Powell. He said such regulations protect the community and ensure that we don't become Morse Road and have a mini-mall or big box development at every intersection. He encouraged the Commission to finalize the document with the limits set forth therein. He said they are continuing to work with the Township to make sure that they pass matching limitations to protect the community and the development along Sawmill Parkway.

Commissioner Grubbs said that in terms of language, Part C of the impact analysis requirements asks applicants to project long- and short-term tax revenues, including income tax. He asked if it would be beneficial to add real property and property tax. Mr. Betz said it should be added.

Commissioner Futryk asked about the 20k sq. ft. figure being changed to 40k sq. ft. Mr. Betz said that Staff has knowledge of parcels within the community that aren't adjacent to Powell Road, Home Road, or Sawmill Parkway, that are currently zoned PI or PC and could have office users that could go in at a size greater than 20k sq. ft. because of the current maximum lot coverage requirement of 20%. He said that therefore, current landowners would be affected by these regulations. Commissioner Counts suggested having one square footage requirement for retail and one for office, because clearly those parcels aren't going to be retail. Commissioner Futryk asked about having a non-residential retail establishment and a non-residential office establishment. Commissioner Fusch said that he is concerned that an extremely large office building could be

located in the parcels of concern and there would be no control. Commissioner Grubbs said that if the concern is that these parcels that already exist are not on main arterial roadways, then that portion of the requirement could be removed. Mr. Betz said that the existing parcels all have access to Liberty Road, even if it is indirect. Commissioner Fusch asked if Aeroflex Lintek would be subject to these regulations if it were passed now. Mr. Betz said they would be a large non-residential establishment and would have to have access to Home Road, Sawmill Parkway, or S.R. 750 to be larger than 20k sq. ft. Mr. Betz asked if the intent is to prohibit a regional draw, would this 20k sq. ft. apply in this instance. Commissioner Grubbs said that the intent is to require a permit for things under the 65k sq. ft. that are still big because there are impacts it is desirable to control.

Mr. Holzer said that there are two issues, size and use. He said that the City of Columbus has a variety of classifications to address the various impacts. He said the Zoning Code should evolve as the City grows.

Commissioner Futryk asked how many existing parcels there are that these regulations would apply to in the City. Mr. Betz said that he believes there are less than 10 over 3 acres.

Commissioner Ireland asked if there would be a huge problem with changing from 20k to 35k sq. ft. for the special use permit if there are already stringent development plan requirements that are going to need to be met. Commissioner Futryk said it can be raised to 35k to capture those parcels that are still in the pipeline and still adequately regulate the larger parcels. The Commission agreed that 35k sq. ft. would be practical.

Discussion ensued regarding a change to the definition of large non-residential establishment. Mr. Betz made the following recommendation:

"Large non-residential establishment includes any structure with more than 35k sq. ft. in non-residential usable floor area." He said that would capture the non-residential aspect but also the residential aspect. Commissioner Grubbs asked, if a building has 30k sq. ft. of retail on the bottom and 30k sq. ft. of residential on the second floor, if it wouldn't be covered by this. Commissioner Fusch said that is correct. Commissioner Counts agreed, but said it would be covered by the standard regulations. So much of what is in this amendment reflects to practices of the current commission and codifies them into accurate regulation. Commissioner Futryk added that the charge was to control big box, which they still do.

Mr. Betz summarized that the special use permit would apply at 35k sq. ft. and above, and the definition for large-non residential establishment will be amended per his suggestion. He noted they would add the property tax and real tax to the impact statements.

Commissioner Fusch asked about the 50-foot separation. If pedestrian-oriented is desirable, perhaps the buildings should be closer. Mr. Betz said that in an urban setting, that would be a large distance, but out here, it won't look so far apart. Mr. Betz said that amount could be varied through the development plan process if that is determined to be desirable.

Mr. Betz summarized an intention to change the text to indicate that the requirements are more restrictive than the current development plan rather than greater than.

Commissioner Grubbs suggested that the final document be circulated and voted on at the next meeting (October 13).

OTHER COMMISSION BUSINESS

Mr. Raney asked if the Planning and Zoning Commission would like a formal presentation of Mr. Elmer's designs for mixed use development other than big box development along Sawmill Parkway. Mr. Betz said that the next agenda may already be lengthy. Commissioner Fusch said that the Commission is farther down the road with the Zoning Code amendments and he questioned having him come forward now. He said the Commission is ready to vote on this. Commissioner Grubbs asked if it wouldn't be more appropriate for him to come before the City Council.

Mr. Betz reviewed the agenda for the October 13 meeting.

