

**MINUTES
PLANNING AND ZONING COMMISSION
January 12, 2005**

A regular meeting of the City of Powell Planning and Zoning Commission was held on January 12, 2005 and called to order at 7:30 p.m. by Chairman Don Emerick. Also present were Tom Counts, Kevin Futryk, Don Grubbs, Eric Ireland, Roger Coville, 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.

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

Commissioner Futryk nominated Tom Counts to serve as Chair of the Planning and Zoning Commission. Commissioner Grubbs seconded the nomination.

VOTE: Y 7 N 0

Commissioner Futryk nominated Don Emerick to serve as Vice-Chair of the Planning and Zoning Commission. Commissioner Grubbs seconded the nomination.

VOTE: Y 7 N 0

HEARING OF VISITORS FOR ITEMS NOT ON AGENDA

Dan Wienczek, Mayor, said that he is aware of the lack of architectural advisor available to the Commission for the last year or so and he reviewed his request that the Finance Committee consider the possibility of hiring someone to serve in that capacity since Council has not received any applications for volunteers to serve in such a post.

APPROVAL OF MINUTES

The minutes of December 8, 2004 were amended and approved.

ZONING TEXT AMENDMENT PUBLIC HEARING

Review and approval of new zoning text section creating Section 1143.14 Downtown Zoning District which sets forth regulations for a new Downtown Zoning District.

Shawn Leininger, Development Planner, said this issue has been discussed a number of times, and Staff determined it was desirable to re-notify the public and re-set a public hearing on this issue because of the changes that have been made through the process. He reviewed the power point presentation regarding this issue that was previously presented to the Planning and Zoning Commission for the benefit of residents who have come tonight to participate in this process (Exhibit). He also presented his Staff Report on this issue (Exhibit).

David Betz, Director of Development, said that one of the main issues with this, especially for the property owners, is that even though the colors on the map are changing, the requirements aren't changing that much in relation to setbacks, site changes, buffer zones, etc. He said that these regulations do provide more opportunities for commercial users, such as allowing for some greater flexibility for development, including making the buildings bigger.

Commissioner Counts opened this item to the public comment.

Elaine Warren, 62 Scioto Street, said she lives on the north side of Scioto Street, and she is opposed to commercial zoning on the south side of this street. She said she doesn't want businesses across from her home.

Larry Coolidge, 78 W. Olentangy Street, echoed Mrs. Warren's comments. He said many residents on Scioto Street have spent a lot of money restoring these homes for residential use. He said he sees no need currently for development in that area. He said one of the problems on the Historic District Commission is that people come in with incomplete drawings and are unaware of or choose to ignore the regulations for that district, and that is what slows the process. He said that if they are given a set of guidelines when they pick up an application they won't come into the first meeting and waste everyone's time.

Roger Chanyon, 62 Scioto Street, also spoke against businesses on the south side of Scioto Street, particularly because there is already a parking problem on that street. He said he is 74 years old and he has lived all over this country from Alaska to Florida and in small communities and from his experience, main streets will carry quality businesses. As soon as you get off the main street, the businesses become second-class. He said he doesn't want to be looking at a video shop across the street from him that "deals in x-rated movies." He said though he doubts Planning and Zoning Commission intends to approve such uses, over time, they have a way of sneaking in. He said that Powell has plenty of room for commercial businesses without rezoning residential.

Dan Wiencek, Mayor, 351 Whetstone Drive, said that one of the main original intentions of the Kinzelman Kline study for downtown was to simplify the process for those working on buildings within the downtown. He said that Staff took a stab at a reorganization to simplify the process, but he would like to provide an alternative. He said this is a cumbersome process even with the changes spoken to. They still would require that the applicant visit multiple boards. He recommended that the duties of the HDC be assumed by the Planning and Zoning Commission with the exception of single family residences and remodels, which are things that directly effect residents. He suggested that a subcommittee be created made up of an architectural advisor, Staff, a member of Planning and Zoning Commission, and a member of the community to review those. If approval is not given from that subcommittee, they can appeal through the Planning and Zoning Commission process. He said this gives the developer one body to talk to and allows one board to look at the entire application. He said that many things the Planning and Zoning Commission asks of applicants turn out to be a trade off, and that is difficult to do with two bodies. He said the Historic District guidelines for the City are not terribly complex and the interpretation could fall into the duties of the architectural advisor. He said the models that Staff pointed out are for Worthington and Dublin, but Powell is not the same because the historic district is much smaller. He said the City needs to encourage development in a good manner and not put impediments.

Jan Wartman, 130 S. Liberty Street, referred to the "Kelsick" development on South Liberty Street that has been considered a zoning mistake in Powell. She said she has been in Powell since 1949, so she may refer to things the old way. She said that more of those developments are going to happen. She said these regulations aren't following what the residents need, but rather are geared toward commercial development. She expressed displeasure that she is required to have a buffer zone for Bartholomew Run subdivision but people are building right next to her and she is not provided the same courtesy. She said she wants better protection for the residents.

Mr. Coolidge disagreed with the Mayor's suggestion. He said he feels the HDC is necessary, and what it does is good. He said they deliberate long on these applications and they have a lot of different expertise. He said that while the City may not be a Worthington, Dublin, or Westerville, it is not an Obetz either. This is a community that cares. There is a downtown and historic core. The State of Ohio has set up many of these communities. He questioned why Planning and Zoning Commission is needed, and why Council can't do everything if the HDC isn't needed. He said regarding the Village Green office condos, which Ms. Wartman referred to as the Kelsik project, that was one of the reasons he got on HDC. It is not reflective of what should be in Powell.

Mark Miriello, 65 Olentangy Street, said that with all the growth in the area, now is a critical time for Powell. There is pressure from all around, and it is up to the community to make sure it is made better and the integrity is protected. He said that professionals should be working on these projects to protect the downtown. He said people throw about the word inconvenience related to the processes, but it is basically just that people don't have an understanding of the importance of the architecture in preserving and making the downtown better.

Dave Williams, Blackberry Patch Antiques, said his business is located on the corner of Depot Street and an alley. He asked if the Commission will vote on the entire 12 page document. Mr. Counts said they will. Mr. Williams expressed concern that item 12 in section 1143.62.2 prohibits outdoor storage and display of merchandise. He said they have owned the shop for about a year and a half. He asked if there is a grandfather clause or if they would be subject to these regulations. Mr. Leininger said that outdoor storage is an issue that some people support and some do not. He said that if these regulations were put in place, his products could remain outside, but once an item sells, Mr. Williams wouldn't be able to replace them. Mr. Betz noted that there is a provision that an application could be made to the Downtown Commission for approval to store things outside.

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

Commissioner Fusch began as he has served on the HDC. He said he agrees with Mr. Coolidge that everyone that serves on the HDC cares about the downtown and desires to maintain the historic quality of that area of the City. At the same time, he is concerned about developing a recusal policy of some sort, because some of the members of the Commission are either residents of the district or business owners and when a development is going to effect them, they need to recuse themselves from action on those particular items. At the same time, he agrees with the Mayor that the current proposal remains too complex and it needs to be simplified. He said this proposal still forces residents to go before these groups that do not work together.

Commissioner Grubbs agreed with Commissioner Fusch and said the mayor's proposal has a lot of appeal but in order to make the plan the Mayor proposes work the Charter may be needed. Dawn Nauman, Clerk to the Planning and Zoning Commission, said that it is correct that currently members of the Planning and Zoning Commission must be electors in the municipality, and if it would be desirable to have members of the Planning and Zoning Commission that are business owners in the downtown that reside elsewhere such as currently exist on the HDC, the Charter would have to be amended. Commissioner Grubbs said that currently there are too many people needed to hear plans for anything other than a simple remodel, and it would be desirable to have one body hear the requests. He said the biggest challenge is to find some way to combine the two.

Mr. Betz said a way around that is creating a separate commission by ordinance that includes members of the Planning and Zoning Commission with the addition of other qualified people. Commissioner Futryk said that it could be a subcommittee set up like the Development Committee that makes recommendations to another body. Mr. Betz said that is true, but it would still be a two-body process. Discussion ensued.

Commissioner Grubbs said he doesn't feel strongly about rezoning Scioto Street.

Commissioner Futryk said he likes Staff option number 3 for the approval process, when the HDC would be an advisory board to the Planning and Zoning Commission. He said he believes that has worked in Worthington, and Dublin, which both have very vibrant downtowns. He said the Mayor's proposal is intriguing. He said that he questions whether it would be desirable to have Scioto Street part commercial and part residential.

Commissioner Futryk asked if the residential development behind the 3 Pillar Homes development on South Liberty Street would remain residential. Mr. Leininger said it is proposed as zoned for the downtown business district, but that allows residential uses. Commissioner Futryk said that the 3 Pillar Homes originally had condominiums in that area. Mr. Leininger said that is correct.

Commissioner Emerick agreed with Commissioner Futryk that his original thinking was that option 3 was desirable, where the HDC advises the Planning and Zoning Commission. But he likes the Mayor's proposal. If the goal is to make the process as simple as possible, this is the simplest proposal yet. He said the Planning and Zoning Commission has the capability and ability of taking on the architectural standards without much additional burden. He said that the more bodies that are put into this process, the more confusing it is. He agreed that if there is no real pressing need to make South Scioto St. commercial, there is no need to do it.

Commissioner Futryk asked if the assumption is that there will be an architectural advisor to assist with this process. Mayor Wiencek said that is correct.

Commissioner Ireland said he agrees with the Mayor's suggestions, but he questioned whether the volume could be handled by the Planning and Zoning Commission. Mr. Leininger said that the volume varies, and most recently, both commissions have been reviewing the same applications, just at different times. He said there are usually 6-10 applications annually in the district, many of which are signs, color changes, and other things that Staff can address. Commissioner Ireland said if the Planning and Zoning Commission can handle the volume, then he is in favor of the mayor's suggestion.

Commissioner Ireland asked for the rationale for suggesting commercial uses on Scioto Street. Mr. Leininger said he believes it was a suggestion from a resident during one of the Kinzelman Kline planning charettes. Commissioner Ireland asked to understand Ms. Wartman's concerns regarding the buffer. Ms. Wartman explained that she is required to accommodate the Bartholomew Run residents, and she asked how she would be protected. Mr. Betz explained the buffer zone about which Ms. Wartman is concerned. He identified her lot, and the 50 foot buffer zone along the eastern property line. He said she is concerned with page 12, paragraph 2, which is consistent with the existing zoning. It identifies that if this area were to develop residentially, there is a 50 foot buffer zone required. If there is commercial development here, a 75 foot buffer zone is required. He said the lot is 160-175 feet, so that leaves about 100 feet or so of area on which to develop. He said this zoning has been in place since 1991 and isn't proposed to change with this legislation. Commissioner Futryk asked if there are two separate lots in that area. Mr. Betz said there are 3, under 2 different owners. Ms. Wartman said there will be one owner soon. Commissioner Counts asked, if Ms. Wartman were to come in with a proposal to develop her land, would the Planning and Zoning Commission have the ability to review and modify the requirements for her parcel and permit a variance. Mr. Betz said they would have that ability, and depending on the situation, it may be appropriate. Discussion ensued. Mr. Betz identified a variety of scenarios for development of these lots in accordance with the regulations. Commissioner Coville clarified that these

amendments would not change the restrictions on the tracts just discussed. Mr. Betz said that is correct. Ms. Wartman disagreed, as she feels the buffer used to be 10 and now it is 25. Mr. Coolidge provided anecdotal information regarding the buffer required during the development of Bartholomew Run subdivision.

Commissioner Counts, said with respect to change in process, he understands the mayor's approach would be to eliminate the HDC. To him, option 3 the Staff Report would make the most sense, that the HDC would serve as an advisory board to the Commission. He said that P&Z has a history of reliance upon an architectural advisor to attend meetings and comment. Commissioner Grubbs asked when their advice would be interjected. Commissioner Counts said at the same time the architectural advisor would provide input, which is frankly at all three sessions. Commissioner Grubbs asked whether the applicant would have to go before the HDC. Mr. Counts said they would not. It would be no different than having an architectural advisor present at a meeting. Commissioner Grubbs questioned the functionality of a Commission taking the role of one person. Commissioner Counts said that he doesn't see a 5- or 7-member commission being required. He expressed a desire that the Commission include people with different expertise that can provide a variety of input, perhaps a group of 3. Commissioner Emerick said perhaps that group could meet the week before and send a representative to the meeting. Mr. Betz suggested a three member committee consisting of a downtown resident, a downtown business owner, and the architectural advisor. The architectural advisor, who will already be paid to be present at Planning and Zoning Commission could come before the Planning and Zoning Commission and express the opinion of that body. Commissioner Grubbs said that is desirable, as long as the applicant doesn't have to go before a whole other group.

Commissioner Counts asked if there is so much demand for commercial space downtown that providing more of it along Scioto Street is desirable. Mr. Betz said there is not. Commissioner Counts asked if there is a problem with people wanting to live in the homes in that area. Mr. Betz said that he is aware of none. Commissioner Counts said while adding commercial to that area is something to consider, he isn't sure that now is the time to consider that. He said he thinks there are enough in support of eliminating that. He asked if there is a consensus of commissioners interested in addressing the concerns of Mrs. Wartman, keeping in mind that the restrictions are not changing and the Planning and Zoning Commission has the opportunity for some flexibility in the future. Ms. Betz said that Staff may be able to work with the property owner regarding the ability to modify those buffers.

MOTION: Commissioner Futryk tabled this item until February 9, 2005. Commissioner Ireland seconded the motion.

VOTE: Y 7 N 0

Review and approval of a Zoning Text Amendment as it relates to political signs, Section 1151.05(d).

David Betz, Director of Development, said this item was discussed at the last meeting and Staff has made changes based on those. He gave his Staff Report on this item (Exhibit).

Commissioner Counts opened this item to public comment.

Janelle Mead, 473 Zion Drive, asked if it is correct that you can only place one sign per frontage or per house. Mr. Betz said they can have one sign per candidate or issue per frontage. If one was in favor of 80 candidates or issues, they could have that many signs.

Commissioner Futryk questioned the requirement that the name and address of persons charged with removal of the sign be included. Mr. Betz said without that restriction, it would fall back to the property owner. In the event that someone places a sign on someone's property without approval, there is no clear answer who should take it down. He said it is a requirement anyway for political signs to have it on there.

Commissioner Grubbs said this seems to be broader than the candidate requirement and there may be certain types of opinion signs not related to an election which may not have a campaign treasurer. Mr. Betz said the intent is to be able to notify someone that their sign is illegal. Commissioner Futryk questioned the ability to enforce that when many signs are printed for use throughout the country. Mr. Betz said that Staff needs to have the ability to notify someone besides the property owner.

Commissioner Grubbs said that paragraph 8 seems to be related to specific elections. Mr. Betz said that is correct. He doesn't think anyone wants a sign to remain 5 weeks after an election. If they changed the sign to say "I voted for...", then that is an opinion sign that could stay.

MOTION: Commissioner Fusch moved to approve the amendment to Section 1151.05 (d).
Commissioner Futryk seconded the motion.

VOTE: Y 7 N 0

PRELIMINARY DEVELOPMENT PLAN

Applicant: Maple Crest Builders, Ltd.
Location: 4 acres located on the north side of Zion Drive east of Sawmill Road.
Current Zoning: Liberty Township FR-1, Farm Residence District
Proposed Zoning: City of Powell PR, Planned Residence District
Request: Review and approval of a Preliminary Development Plan for 10 single-family lots on 4 acres.

Dan Horn, Maplecrest Builders, was present to review the proposal for a small patio home subdivision on this infill lot off Zion Drive. He said they are anticipating these homes will sell in the \$275-\$425 price ranges, and that these houses are designed for an empty-nester 1-2 person household.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit). He reviewed the 250 feet boundary required for notification of residents regarding this plan. He said some of the people here tonight are beyond the required distance, and will give their opinion on this item. He said the petition to annex into the City has been filed.

Commissioner Counts opened this item to public comment. He reminded the audience that this is the second of three opportunities to comment on this item. He asked that everyone give their name and address and keep their comments to three minutes.

Rich Brooks, 573 Zion Drive, Trustee, Lakes of Powell Homeowners' Association, said that he is representing 267 houses with 2 entrances in and out of the subdivision, the main one being Zion Drive. He said when you turn onto Zion Drive, no other subdivision is accessed from there. He said residents of Lakes of Powell moved here because they like that ¼ mile drive. He said residents of his subdivision previously opposed access from Zion Drive to a neighboring development and Council accommodated them, which they appreciate, but "someone else made a comment that the Lakes of Powell are nothing but a bunch of starter homes." He indicated he disagrees that a \$280k house is a starter home. He continued to extol the virtues of the entrance of Lakes of Powell on Zion Drive. He reviewed how they decorate the street trees for the holidays, and reviewed the homeowners' association's desire to continue the theme for holiday decorations along the entire length of Zion Drive. He asked if a bikepath is placed on the property they own adjacent to the development that they be notified. He said they are opposed to cutting into the fence, increasing the traffic, etc. He said they are "totally against this whole development period."

Richard Levine, 542 Zion Drive, said he is past the age of starter homes, but one reason he came to Lakes of Powell was the entrance. He said he is opposed to the annexation and questioned why it needs to be annexed. He said they can develop through Liberty Township. He said that there is alternative access to this property through the other properties owned by Junia Ross from Sawmill Road, and therefore it doesn't need to be annexed. He said the City required the developer of the adjacent condominiums to purchase additional property to create access from Old Sawmill Road and the same could be done here. He said this development would destroy the "separating nature of the drive in from Old Sawmill Road to the Lakes of Powell." He said he hasn't seen any evidence that this developer tried to develop this through Liberty Township. He said it would be informative to know if they did, and were turned away. He questioned the net fiscal positive impact identified in the preliminary plan and asked for document proving this positive impact. He said he noted that one of the homes identified is over 2400 sq. ft. when what has been discussed is that they will be 1600-2000 sq. ft. Commissioner Counts asked Mr. Levine to conclude his comments as he is over his 3 minute limit. Mr. Levine said he saw no restrictions requiring this to be for empty nesters, so there could be a burden on schools. He said that the sales contract says not less than 12 houses, and he asked if Council should get a legal opinion as to whether that may cause a problem contractually between the two parties.

Joe Szymanowski, 48 Timber Oak Court, Lakes of Powell Homeowners Association Trustee, said that currently, their association maintains the front pillar, fence, and the whole area through there. He asked if they will still have that burden with a new development going in. He asked for details on ownership, maintenance, etc.

Janelle Mead, 473 Zion Drive, said she chose to move to Powell because "there is lots of green space and it was really pretty, and now in back of her house, she now has condos." While it is not as miserable as she thought it

would be, but it is still unpleasant. She said they didn't choose Hilliard where people are bailing out of left and right because there is so much stuff around them and it is not the pretty place that it once was. She said her concern is that this is going to happen in Powell, too. If every parcel is developed with a house or a store, it is going to be a place that no one wants to live in. She expressed concern about this being a construction entrance. She questioned why she has to suffer now because they are building there. She asked why she has to deal with the dirt and the mud and she asked why the trees have to be "smashed." She said that entrance has become heavily trafficked lately, and she is concerned about the safety and people driving fast, and the additional traffic this development will create, and she doesn't think that is fair when there is another alternative.

Dick Dreyer, 543 Zion Drive, said he is concerned about the loss of green space. He agreed with Ms. Mead's comments. He said that he is concerned about the high density in a small area. He said he doesn't know what the normal zoning would allow in this area.

Virginia Kucan, 517 Eagle View Court, asked if they are planning for streetlights. Mr. Horn said there is one existing at the entrance and they will probably be one at the back of the court. Ms. Kucan asked about bikepaths and sidewalks. Mr. Betz identified the location of both. Ms. Kucan asked that they leave as much green space between the Woods of Sawmill and this development. She said she is slightly concerned about automobile lights coming in their windows. Mr. Betz reviewed that there is a proposal for a 30-foot preservation zone, which is the same size as the one to the east and it is mostly brush and some trees. Staff would recommend it be at least 40 feet to provide a little extra buffer. When the pond is done, it is designed to be as far from the property line as possible. Ms. Kucan said the greatest concern is for the three properties that back up to the proposed houses. Mr. Betz reviewed the lighting plan and said that the streetlight could be placed on the other side of the street to keep it farther away or coach lamps could be used instead.

Step Buckley, 390 Andover Drive, said he lives at the first house off Zion Drive. He said that this property is brushy but develops into woods that run all the way to Tyler Run. He said there were 8 deer in his backyard this morning, and while he isn't a tree hugger, he paid extra to be on a larger lot that backs up to the preserve and this will jeopardize that.

Mr. Brooks, asked that Mr. Leininger show the drive in from Zion Drive again. He asked Council to envision the Christmas lights they put on the trees. Then he asked them to imagine 300 feet of the fence gone and the trees on that side gone. He suggested that the property owner use their other property for access, because if there is room for an 8-foot bikepath, they can put a 2-lane road there. He said that empty nesters don't have to pay city income tax, and their property taxes are reduced, so the tax base is impacted negatively. He asked who will be responsible for the landscaping and maintenance of Zion Drive and the fence along there.

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

Commissioner Emerick asked why Mr. Levine would be opposed to an annexation. Mr. Levine said he isn't opposed to annexation on a philosophical level, but he questioned why this is being requested to come into Powell instead of Liberty Township unless there is a good fiscal reason for them to do so. He said he doesn't see the utility of annexing every square foot of property that can be done just because it is there.

Commissioner Emerick said he feels that the plan presented isn't as detailed as it should be. He said the applicant reduced the lots from 12 to 10 as requested by the Commission to bring the density down a little and provide more green space. He said he does appreciate that.

Commissioner Futryk asked about maintenance of the fencing and Zion Drive. Mr. Betz said there is a public right of way along Zion which is owned by the City. He noted that Zion Drive is a public road. He said the fence and grass is maintained by the Homeowners' Association per the development plan requirement. He said the Lakes of Powell Homeowners' Association also maintains the columns and landscaping on Sawmill Road. He said that one thing that can be done is that this development could be added to Lakes of Powell to provide consistency in maintenance. The deed restrictions and covenants could provide for that. Commissioner Futryk said that answers his second question, which is can these homeowners' associations be combined.

Commissioner Futryk said the entire frontage of this development is 300 feet, but what is the size of the opening. Mr. Betz estimated it at 88-100 feet total width, providing for no site distance conflicts. He said pillars could be done on each end to match the others.

Commissioner Futryk said one of the residents raised the issue of green space. He asked if it is correct that 29% of the site will be dedicated as green space, including the easements around the edges, pond, and open space. Mr. Betz said that is correct. He said in terms of whether or not this is green space being lost forever, yes, it is being developed. But he knows of no conservation easement on it. It is private property, owned by someone who wishes to sell it to someone else, and the buyer would like to develop it within the City. He said regarding why it is desirable to annex this, this is fronting three sides of Powell and it would have access off a Powell street. It is desirable to annex it to provide services consistent with the adjoining area for trash, plowing, etc. He said that it would provide income tax to the City.

Commissioner Futryk noted that the applicant is proposing to transplant some trees in the area in the northwest corner. He asked what happens if they do not thrive. Mr. Betz said there are requirements in the code for the perpetual maintenance of buffers by the developer initially and then the homeowners after that. Commissioner Futryk asked about alternative accesses. Mr. Betz reviewed the map and said it would be virtually impossible to come off Sawmill Parkway or Sawmill Road because the intersections would be too close to each other. Commissioner Futryk asked if there is not access to Presidential Parkway. Mr. Betz said because of the radius needed, to come off Presidential Parkway, the house on the property would have to be removed, and the property owner lives there and doesn't want to do that.

Commissioner Futryk agreed that some of the information isn't as detailed as necessary. He asked about materials. Mr. Horn said they are planning on stucco and stone.

Commissioner Grubbs asked if they filed an application with Liberty Township to develop this property. Mr. Horn said they met with them but did not officially apply for a plan. He said they didn't want to take away the property owners home so to speak, and Liberty Township encouraged them to pursue the annexation because it made more sense with respect to the services, and tying into an existing Powell street.

Commissioner Grubbs said his understanding is that these are proposed to be small lots, patio-type homes, but some look larger. Mr. Horn said that they are planning for patio homes, and those included in the packets are very representative of what is intended. He said they intend to create a quality subdivision that compliments the area. He said regarding the lack of detail referred to by some members of the Commission, most of the 13 points raised by Staff are final engineering issues that are typically addressed during the final development plan.

Commissioner Grubbs asked if it is correct that there is only one divergence to the code, and that is the lot size. Mr. Betz said that the lot frontage is a divergence as are the sideyard setbacks. The other issue is the density. Any density based on open space or other infrastructure improvements would be a divergence. Commissioner Grubbs said that Staff indicates that public sewer hookups for Liberty Township properties is one of the items indicated that may qualify for bonus. Mr. Betz said that is one public improvement they are providing. Commissioner Grubbs asked if it is correct that there are still no plans for annexation of any of those three lots along Liberty Road. Mr. Betz said the other public improvement is the bikepath and how that will connect and in all likelihood, it will go along Presidential Parkway to the intersection so the crosswalk is located at an intersection. Commissioner Grubbs asked if one stretch of the woods is owned by the Woods of Sawmill. Mr. Betz identified that owned by Junia Ross and one owned by the City and maintained by the Woods of Sawmill.

Commissioner Grubbs asked if the fence line demarcates the property lines. Mr. Betz said it is pretty close.

Commissioner Grubbs said he isn't sure if he is ready to vote on this yet. He said the applicant has addressed many of the comments made at the last meeting. He said his understanding is that there is only one entrance available to this property because connection to Presidential or Sawmill would be too close to the Presidential/Sawmill intersection to meet regulations. Mr. Betz said that is correct, it would be unsafe. Commissioner Grubbs asked if the only access is the one proposed. Mr. Betz said legally, the only access to this property, being a separate parcel no matter who it is owned by, is on Zion Drive. This property has no other access. Commissioner Grubbs said it is important that everyone understand this. He said this issue needs to be dealt with in a way so that a taking is not created for this property owner. He said he supported all the comments that Staff made regarding items that need to be addressed before any final approval.

Commissioner Futryk asked about side-load garages. Mr. Horn said that they need to do some shifting to allow such a feature.

Mr. Horn said it is their intent to maintain that fence line or as much of it to use the same type of stone pillars at the entrance, and to maintain the same character that exists in that lovely entrance way. He said as far as Mr. Betz mentioned, there are a lot of existing trees on the property that will be removed and transplanted to enhance the buffer as well as along the entire buffer. He said the developer of this property owns a nursery and grows his own trees and is in very good position to provide such landscaping. Mr. Horn said he feels adding this curb cut on Zion Drive should help to slow down traffic and therefore help safety in the area.

Commissioner Fusch said he is an empty nester that pays a lot of taxes. He asked why Staff is recommending that the CEDA review committee provide recommendations on this plan. Mr. Betz said part of the CEDA between Powell and Liberty Township requires such review of annexation requests from Liberty Township to Powell. He said that now that the annexation application has been received, that meeting will be scheduled.

Mr. Betz noted that the Commission has 30 days to make their decision on this issue tonight and they can table it.

Commissioner Fusch asked about Staff's comment that Liberty Township Fire should review the proposed emergency access. Mr. Betz said that they are still working with Liberty Township regarding this development, particularly the design of the culdesac at the end. They will still need to get the final approval.

Commissioner Fusch said he appreciates the applicant's design and he likes the idea of these types of houses built in this community, but the one concern he has about this development is that entrance on Zion Drive. He said it is one of the most beautiful drives in the City, and you lose a lot of aesthetic quality in the community if you start cutting holes in that fence line.

Commissioner Coville asked if the City has ever required a developer to maintain road cleaning during construction. Mr. Betz said that it has, but there are times during heavy precipitation and other inclement weathers where additional debris is generated. He said the developer should have equipment on hand to clean such a mess up. The building department monitors this issue as they do inspections.

Commissioner Coville said regarding side-load garages, he on one hand would prefer less garages in the street, yet at the same time, he is concerned about lights shining into the neighbors. He would like to explore 2-bedroom units to support empty nester uses. He agrees with those who have expressed frustration that the house design is not exactly clear.

Commissioner Ireland asked if he should be concerned about conflict of interest since he lives in Lakes of Powell. There was no objection to his commenting. Commissioner Ireland said that he would like to understand the maintenance agreement that was determined when the Lakes of Powell was developed. Mr. Betz said the City doesn't really maintain along residential roadways. Bennett Parkway, Murphy Parkway, etc., are maintained by homeowners. He said he believes it was determined during the development plan process but he would have to review it. Commissioner Ireland asked, if a cut is put into that roadway, is it really the entrance to that development, and should the Lakes of Powell continue to maintain it. Mr. Betz restated his recommendation that the Lakes of Powell and this developer join for maintenance. Commissioner Ireland asked what happens if it doesn't happen. Mr. Betz said some of that may need to be reviewed by the law director. He said his recommendation is creating a joint homeowners' association.

Commissioner Ireland said he is undecided. This development makes sense and the developer wants to annex to get some more control over this development. At the same time, though, that is a very nice drive and everyone needs to be sensitive to that. However, the situation is what it is in terms of the property and right of way. He asked that the developer be extremely sensitive to this issue.

Commissioner Counts said that Bennett Parkway is a public road that identifies Falcon Ridge subdivision but also breaks off into other subdivisions. Mr. Betz said that is correct. It ends up going into Liberty Hills.

Commissioner Counts said his biggest concern is that this development has merit to everyone involved if it really is for empty nesters. If this were to be a subdivision of thirtysomethings with three kids and two wage earners driving in and out, that would be problematic in its creation of traffic, children, etc. He asked to see some guidelines in the restrictions that address this concern. He suggested that it indicate that yards will be maintained by homeowners' associations and that no playground equipment be allowed. He said his other concern is regarding square footage and the add-on architectural details to ensure the kind of price tag they have

said they expect. He said the price determines the benefit to the school district. He said he would like to see the deed restrictions and development text prior to the approval of the preliminary plan.

Commissioner Counts said to the Lakes of Powell homeowners, that the Commission's charge is not necessarily to advocate or prohibit development, although he will say that prohibiting development puts the City at real risk. He said the purpose of the Commission is to control development. While the residents would love to see this as green space, he would suggest that most would be unwilling to buy the land to keep it green space, and that is frankly what would have to be done. So in the absence of that, the Commission needs to decide what can be done to make it a project that speaks well of the community.

An unnamed resident said if the desire is to make this all flow, and especially because this development will come before Lakes of Powell, then the deed restrictions should be similar so that everything matches. He said currently what is proposed is nothing like their development. He suggested that consideration be given to an additional entry feature for the Lakes of Powell further back at the expense of this developer. An unnamed resident suggested that the design style match, and said that which is currently proposed does not. Mr. Betz said the home styles are quite different, and these are more like Lakes of Powell. He said that details such as mailboxes, etc., could be similar. He said if the home designs mirror Lakes of Powell, there will be families in the home, which people have said is undesirable.

Mr. Horn said that he was told explicitly at the sketch plan phase not to mirror the Lakes of Powell. Commissioner Counts said he doesn't think anyone on the Commission is saying to replicate that subdivision. Mr. Horn said that while he understands the concerns regarding the drive through the subdivision, this is a legal parcel and the fact that a fence exists there now denies the owner of that property the right to access a public right of way.

Chairman Counts summed up the issues to be addressed before this item is discussed again.

- There needs to be some cost sharing in terms of maintenance, whether it is joining the homeowners' association, or something similar, the applicant needs to participate in maintenance of that area.
- While there is some concern about an access point to Zion Drive, he doesn't hear that this is a deal killer at this point, what he is hearing is that the entrance off Zion Drive needs to be high quality and it needs to make the drive continue to be as beautiful as it is now.
- He said he is hearing concerns about the lack of details in the deed restrictions, development text, and house sizes, shapes, colors, and materials. The Commission would also like to see details for features such as coach lights instead of street lights, mailbox designs, etc.

Commissioner Ireland said it would be desirable to see sketches of the east view and west view of the entrance to Zion Drive with the addition of this development from a site-line perspective. Mr. Betz said that Staff can ask the applicant to provide those details by the next meeting. He said now that the annexation petition has been submitted, Staff can move forward with the financial impact study that is required.

MOTION: Commissioner Futryk moved to table this item until February 9, 2005. Commissioner Emerick seconded the motion.

VOTE: Y 7 N 0

Commissioner Counts noted that there will be opportunity to comment at the next meeting for the Preliminary Development Plan and at the Final Development Plan stage. He said resident input is crucial and he is glad they are here.

AMENDMENT TO APPROVED DEVELOPMENT PLAN

Applicant: Village Pointe Shopping Center
Location: 300 West Olentangy Street
Zoning: PC, Planned Commercial District
Request: Remove existing parking lot light fixtures with 15' tall poles and replace with new light fixtures with 25'5" poles.

Harold Fisher, Fisher Electric, was here to represent Village Pointe Shopping Center. He said they are doing some renewal work there, and the existing lighting is very poor. He said to get the proper illumination, they need to be at recommended height. He said they will use the existing wiring and there will be no digging up.

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

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

Commissioner Coville said he recalls from the first review that there were initially many more poles approved for this development, and the developer chose to do fewer, and now that it has been determined that isn't enough and there is a request for much larger poles which provide broader coverage. He said he is concerned with the increase in the height of the poles, which he fears will be much larger than any others approved in the City. Mr. Betz said that it is desirable to keep them at 20 feet, but there is no maximum requirement. He said he would hate to see the parking lot littered with a bunch of poles to get the correct spread. He would rather have the minimum necessary at a proper height to provide enough light spread. The light fixture being proposed are the same as the Liberty Township Fire Department along Sawmill Parkway, and he feels those are some of the best proposed and they are not overly bright. They won't go over the property lines or into the center.

Commissioner Coville asked if it would be advantageous to provide more lighting around the building itself if there is a security problem. Mr. Betz said there are lights along the center and he is unsure as to why security has been a problem. He said that Staff has recommended two things for this development, to properly prune the parking lot trees and to improve the lighting to help the overall situation. He said it is an awfully dark lot at night, and he feels it is unsafe.

Commissioner Coville asked if there is a way to increase the foot candle of the existing lighting. Mr. Fisher said there is, but it would be retrofitting. This would provide proper illumination without running into the building and the road, and it would be the same height as the poles right next door.

Commissioner Fusch said there was a long discussion regarding the height of these lights at the last meeting and the Commission suggested that they put in more lights with lower poles. He said he still objects to the 25 foot poles that people were objecting to at the last meeting. Mr. Betz asked if 20 foot poles can be used to achieve this spread. Mr. Fisher said you would have to have more poles. Commissioner Coville added "...or you would have less overlap." Mr. Fisher identified the coverage on Mr. Betz's overhead.

Commissioner Futryk asked, if the applicant were required to put in the poles originally approved along the front that were not installed, could they still get the coverage. Mr. Fisher said it would be more expense, but they could get the coverage. Mr. Betz said they could put bldg lights all around and still get the coverage, but he thinks it will be more visually appealing this way, even with higher poles.

Commissioner Grubbs said he wasn't here when this development was approved but he has heard it alluded to that when this plan was approved, there were more lights included than have been installed. He said he hears Mr. Betz saying that what was approved at the beginning wasn't considered heavily but just approved. Mr. Betz said at that time, they didn't get to that level of detail. He said all he can say now is that the situation out there is not right. Commissioner Grubbs said he doesn't think anyone disagrees with the problem, but his disagreement is with the solution. The first question is how did we get to a point that an owner was permitted to do less than what was approved, and the second is how do we excuse that. He said the next question is have all of the opportunities been thoroughly explored.

Mr. Fisher reviewed that this is the best solution they have without rewiring. Commissioner Grubbs asked if they looked at adding poles. Mr. Fisher said they did but they were trying to save costs. Commissioner Grubbs said the problem is that the Planning and Zoning Commission is faced with an applicant who didn't do what they were told to do in the beginning. Mr. Betz said the applicant is a new owner, and they didn't develop the property.

Commissioner Fusch asked why the applicant isn't here. Mr. Betz said Mr. Fisher is representing the owner. Commissioner Grubbs said there is resistance to this solution, but he appreciates the problem and he is concerned that if something happened as a result of poor lighting, the Commission would feel bad. He is frustrated that there was a discussion at the last meeting that was quite specific, even though no one from the applicant was present, that the height of the pole was inappropriate. He needs to be satisfied that there is absolutely no other option. Mr. Fisher said there is no other solution. Commissioner Grubbs said that is short of adding new poles.

Mr. Betz reviewed the need to add 5 more poles along the front, which can't match, so the others need to be replaced. He said the choice is more poles or taller poles.

Commissioner Futryk said his concern is that they didn't install the original poles. He said he has driven by the Fire Station and he sees a great difference. He said the Fire Station is a taller structure on a 4-lane divided highway. Mr. Fisher said that those lights there are installed on higher bollards. Commissioner Futryk said this is the entry way to Powell. He said he doesn't like the tall lights next door. This is a lower structure and he can't support the height, but he can support additional lights.

Commissioner Emerick said, as he said the last time this was discussed, he doesn't believe lighting was discussed at that time. He said how the City wound up with this, he doesn't know. He said there is a new owner now and one concern he has is blending new lighting fixtures with the architectural details as the current lights do. He said he is concerned about adding tall poles. He said the poles next door never came before the Commission and he questions whether they would even be approved today. He said he has looked at the Fire Department and it is okay, but he is not satisfied that tall poles are going to look like with this building. He said it is not the City's job to make it as cost effective as possible, but rather to determine what is going to look best for the City.

Commissioner Emerick asked if there have been incidents in this parking lot since they made the other improvements that Staff recommended. Mr. Betz said he doesn't know, they have only trimmed the trees and that was just done this summer. Commissioner Emerick asked how many instances have there been total. Mr. Betz said he believes there have been 4, the last one being two years ago, so within two years of being built.

Commissioner Counts said he has been in this parking lot and it does need more light. He would approve 20 feet, but he thinks 25 feet is too much. He said the Fire Department is a better location for such high poles because it is a much larger building. He said he thinks 25 feet will not be approved by this Commission. He said this can be tabled again, the Commission can approve something the applicant doesn't like. He asked that Mr. Fisher give thought to this issue without considering the cost. Mr. Fisher said he could probably move forward with 20 feet. Mr. Betz said Staff can review the light spread with 20-foot poles.

Commissioner Futryk asked if a 20-foot pole would be the same size. Commissioner Futryk said that another concern for him is a massing issue. Some of the poles can get really wide in diameter. Mr. Betz said the pole they are proposing is available in 20 foot height. He said they are proposing a pole 4 inches in diameter, and the same pole is available in a 20 foot height. Discussion ensued regarding whether the additional poles would come back before the Commission. Commissioner Coville asked if the upgrade in light heads alone will increase the light coverage. Mr. Fisher said it will not.

MOTION: Commissioner Grubbs moved to approve 20 foot poles to replace the existing poles and asked that the applicant work with Staff on appropriate light pattern. Staff will determine whether additional poles will be permitted. Commissioner Futryk seconded the motion.

VOTE: Y 7 N 0

AMENDMENT TO APPROVED DEVELOPMENT PLAN

Applicant: Victory Healthcare (Al Vrabel)
Location: 45 Grace Drive
Zoning: PC, Planned Commercial District
Request: Review and approval of a 2,464 sq. ft. addition to an existing 4,000 sq. ft. building for use as bus storage and office.

Gary Wannamaker, Kirkham Building Systems, said he is working with Al Vrabel, the current owner of the facility. He said they would like to get preliminary approval to add the square footage to the building. They met with Mr. Betz and they have a couple of sketches based on his input. They basically want to find out if the footprint they are looking to add would be accepted.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit). He said that the property owners need additional storage for their vehicles and an office/greeting area. He reviewed the need for good circulation as well. He reviewed Staff's recommendation for additional landscaping to screen the garage.

Mr. Wannamaker reviewed a sketch of the proposed development that has been created since the Staff Report was written. Mr. Betz asked about colors. Mr. Wannamaker identified a desire to change the entire building to a tan or cream color.

Mr. Vrabel reviewed additional details. He identified a window that is needed to maintain the flexibility to use this facility for a retail use later on. Commissioner Grubbs asked if the existing overhead doors are the reason the development can't be moved to the south. Mr. Vrabel said that is correct.

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

Commissioner Grubbs asked if there is a way to soften the way the design "stair steps" back. Mr. Wanamaker said the design needs to be that way to accommodate the busses. Mr. Vrabel said that it will also hopefully make sure it won't look like one massive building. He said this also allows for the possibility of four separate businesses later. Commissioner Grubbs asked how big the busses are they need to accommodate. Mr. Vrabel said they are 45 feet.

Commissioner Fusch said he likes the design, but it can't be blue as the sketch looks to be. Mr. Vrabel said that is not the intention.

Commissioner Futryk asked if Staff has a problem with this architecturally. Mr. Betz said they are incorporating an existing building and it is very hard to retrofit something like that. He said that the Goodwill building is similar and they have done a good job. He said this design is an appropriate way to not retrofit the entire building, by creating this stepping design.

Discussion was held regarding lighting. Mr. Vrabel said they would like to use ground lights. Mr. Betz said that he would rather see soffits. He suggested additional windows above as well.

Commissioner Futryk asked if there are any concerns about parking. Mr. Vrabel said there are not. Mr. Betz said that this is not a very intense use, as they have three employees and most of their events take place on weekends. He said even with a future commercial use, they would still have parking on one side.

Commissioner Emerick said he thinks this looks good, and that additional landscaping will help soften the stepped back area that Commissioner Grubbs is concerned about.

Commissioner Counts said his biggest concern is landscaping and he asked that they do anything they can to make a metal building pretty. He said this is on the corner and very visible. Mr. Vrabel indicated that his wife plants 2,000 flowers every May and he sees no problem with providing extra landscaping.

MOTION: Commissioner Fusch moved to table this item until the next meeting. Commissioner Emerick seconded the motion.

VOTE: Y 7 N 0

ZONING TEXT AMENDMENT

David Betz, Director of Development, reviewed Staff's request that the Commission consider a proposed Zoning Text Amendment regarding notification for public hearings as well as the make up of the Commission being consistent with the Charter.

MOTION: Commissioner Futryk moved to set a public hearing for these two Zoning Code issues at the February 9 Planning and Zoning Commission meeting. Commissioner Fusch seconded the motion.

VOTE: Y 7 N 0

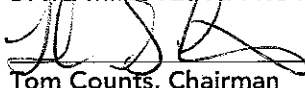
OTHER COMMISSION BUSINESS

There was none.

ADJOURNMENT

The Commission adjourned at 11:27 p.m

DATE MINUTES APPROVED: February 9, 2005

 3/9/05
Tom Counts, Chairman Date