

PLANNING AND ZONING COMMISSION

February 9, 2005

A regular meeting of the City of Powell Planning and Zoning Commission was held on February 9, 2005 and called to order at 7:30 p.m. by Chairman Tom Counts. Also present were Don Emerick, 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 January 12, 2005 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, reviewed a PowerPoint presentation regarding this issue (Exhibit). He gave his Staff Report on this item (Exhibit), focusing primarily on the make up of the Historic District Commission (HDC) which would become advisory in nature with the latest proposed amendment.

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

Commissioner Futryk asked if Staff has a recommendation as to whether three or five members are desirable on the HDC. Mr. Betz said he personally thinks 5 members is better, it provides a little more varying opinions and there would be an opportunity to have another elector involved.

Commissioner Grubbs said he would like the Commission to include someone with some history in the City, such as a resident in the area, etc. He said if a Commission of 3 is created, the Planning and Zoning Commissioner should not be one of them. He said he also agreed with the comment in the report about the changes for outdoor displays. He asked how frequently the HDC would meet with review applications coming in and he asked if this would provide flexibility for those bringing in applications at the last minute, etc. Mr. Leininger said that the only time timing is a problem is when something comes before the Planning and Zoning Commission. He suggested that the HDC meet with Staff the week before the meeting of the Planning and Zoning Commission so that their comments can be incorporated in the Staff Report. Mr. Betz said that Staff normally sets deadlines as to when items are received. If they come in late, they have to go on the next month. Commissioner Grubbs asked about public notice. Mr. Betz said they would be public meetings, however, Staff would not necessarily notify adjacent property owners. A set date could be determined and advertised via the normal City processes. Dawn Nauman, Clerk to Commission, noted that public comment would not be required.

Commissioner Fusch agreed that five members is better than three because it provides more representation, thoughts, and ideas. He asked if the meetings will happen during the day as that is when Staff usually meets with applicants. Mr. Leininger said that they could be early evening meetings. Commissioner Fusch asked what if someone simply wants to put an addition on and repaint their house and replace the windows. Mr. Betz said with the current proposal, Staff and the HDC would review that. Only a commercial addition would have to go before the Planning and Zoning Commission.

Commissioner Emerick said he would be happy with the 5 member board. He said he thinks the process looks good.

Commissioner Ireland said he thinks a three man group would be easier to manage and provide for a quick consensus. He said the Planning and Zoning Commission deals with a large variety of issues and a larger group is desirable, but here, with a certain set of guidelines and restrictions that are narrowly defined and it seems like a consensus could be reached with less people.

Commissioner Counts said he has no view one way or another whether there should be 3 or 5 members, but he questioned why there would be a Planning and Zoning Commission member present when such Commission member is not present for all other staff reviews. He said he wouldn't mind 5 members with different contributions than the Commission can provide. Commissioner Futryk said it is much like the Development Committee, which has members of Council, Planning and Zoning Commission, and Parks and Rec. He said he supports a Planning and Zoning Commission member. Commissioner Fusch agreed they would provide a pretty direct link to the Planning and Zoning Commission. Discussion ensued regarding the make up of the HDC. Commissioner Counts asked if anyone is willing to serve on the HDC. Commissioner Fusch said he is.

Commissioner Counts closed the public hearing.

MOTION: Commissioner Futryk moved to table this item until the next Planning and Zoning Commission meeting. Commissioner Fusch seconded the motion.

VOTE: Y 6 N 0

Review and approval of proposed Zoning Text Amendment to Sections 1129.06, 1129.07, 1127.09, 1127.10, 1131.09 1131.11, and 1143.11 regarding publication and sending of notices for public hearings.

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. There were no comments or questions from the Commission.

MOTION: Commissioner Futryk moved adopt the Zoning Text Amendments to Sections 1129.06, 1129.07, 1127.09, 1127.10, 1131.09 1131.11, and 1143.11. Commissioner Fusch seconded the motion.

VOTE: Y 6 N 0

Review and approval of proposed Zoning Text Amendments to Section 1133.06 and 1133.10 regarding establishment of the Planning and Zoning Commission and Board of Zoning Appeals based upon Charter language.

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. There were no comments or questions from the Commission.

MOTION: Commissioner Futryk moved adopt the Zoning Text Amendments to Sections 1133.06 and 1133.10. Commissioner Emerick seconded the motion.

VOTE: Y 6 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 Horne, Architect, was present to discuss this item. He said they have provided additional information as was requested at the last meeting. The landscape plan has been enhanced to include more detail at the entry. He said they have provided a sketch and an artist rendering of how the

development will look at the entry to address the concerns of the neighbors. He said they have revised the development text to reflect the Lakes of Powell details and deed restrictions. He said they have provided artist renderings of the elevations and material samples of the various stone, stucco, and shingle materials they intend to use.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit). He reviewed the site, proposal, and access. He reviewed the home styles the developer is proposing.

Chairman Counts opened this item to public comment.

Rich Brooks, 573 Zion Drive, President, Lakes of Powell, said that he met with two trustees and they hashed out some things regarding this plan. He said they know this is not the forum to discuss the annexation or anything of that nature, but just to look at the development plan. He said they are trying to make the whole subdivision happy, and one thing they would like make clear is that they understand they don't own Zion Drive, but they have an emotional attachment to it and they would like it to remain untouched. He said regarding the development plan, he feels the island in the driveway off Zion Drive would make the entrance 2 feet larger than it needs to be, and they would like the impact to be the smallest possible. He asked if that could be taken out and the entrance made a regular 24 foot entrance. He asked, instead of a 10 lot development, could it be an eight lot development with the first two lots being removed and replaced by a scenic easement so that no one could see even a brick driving east or west bound on Zion Drive. He said they have discussed at length the issue of maintenance along Zion Drive, and the proposal that the homeowners' association join each other. He said currently, the house styles are very different from one another, and it wouldn't make sense for them to join the homeowners' association. He said that regarding maintenance, they would suggest that this applicant take over from that side of Zion Drive to where the road starts to curve and go southbound, which is another 120 feet. He said there are two brick stanchions identifying Lakes of Powell at the intersection of Zion Drive and Sawmill Parkway. He said putting in Junia Court would make that entrance inappropriate, and he would ask that the applicant incur the expense to get those moved. He suggested naming it Zion Court rather than Junia Glen to eliminate the need to remove the signs. He noted that the rear easement is 10-15 feet. Mr. Betz said what is proposed is 20 feet plus a 15 foot landscape easement. Mr. Brooks questioned the statement from Liberty Township Fire Department that the turn radius of the court meets the *intent* of the fire code.

Richard Levine, 542 Zion Drive, echoed concerns regarding the turning radius meeting the "intent" of the code. He asked if that phrase is appropriate. He said the developer says the intention of development is for empty nester type residents, thereby minimizing the impact on City services. He said that is problematic because one of the houses is 2,500 square feet with 4-5 bedrooms, which seems like a house perfect for kids that may put more burden on City services such as the schools. He said the development plan says the houses range in size from 1,700 sq. ft. - 2,400 sq. ft. which is inaccurate. He said it could be just a typo, but they could be "playing fast and loose with the numbers."

Janelle Meade, 473 Zion Drive, said she doesn't really care if there are 5,000 houses on this lot, she just doesn't want the entrance off Zion Drive. She said they moved to Powell because she is a child of the eighties and she loved Dallas, and she sings the Dallas theme song sometimes when she is driving along that white picket fence. She said she hates the idea it is going to be destroyed, but in actuality, she is concerned about the safety of her kids. She said people drive way too fast on Zion Drive, and she doesn't want one more car to have any reason to drive down Zion Drive. She said she and Mr. Brooks each have a 13 month old son and "you know that you can't watch them every single second of the day and at some point he's probably going to end up out in the street" and she doesn't want him to get hurt. Ms. Meade said she believes where there is a will there is a way, and she would have to think that someone could come up with a solution to move the entrance off the other side of the development. She said there are about 400 residents that live in her community, and she asked if it is worth angering

the 400 people that live in the community for an additional 20 people in the City. She said it seems the City could not annex this, and then they wouldn't have to worry about it anymore.

Dick Dryer, 543 Zion Drive, encouraged the City to look at solutions that might push a little of the green space toward Zion Drive and push the majority of the development toward the back of the development. He said that could be a reduction in houses or just a reconfiguration.

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

Commissioner Fusch asked who owns the narrow piece of property that runs along Presidential Parkway adjacent to this development. Mr. Betz said that is owned by Mrs. Ross. Commissioner Fusch asked why the entrance to this development can't be on Presidential Parkway or Sawmill Road through that strip of land. Mr. Betz said that first of all, Mrs. Ross is retaining her house on the lot, and secondly, under subdivision requirements, any placement on either of those roadways would be too close to the Presidential Parkway/Sawmill Road intersection. He said that the property being discussed for this development has been a separate lot for some time and once Zion Drive was built through there, it now has access to that road. He said even one home on this property would be accessed from Zion Drive. Commissioner Fusch said that is unless that northwestern property was annexed into the City and a drive was put through there. Mr. Betz said those properties would only match corner to corner. He said the City can't tell Mrs. Ross who to sell her property to. He said she has every right to sell this larger lot and the person who buys it has the right to develop it consistently with the Zoning Code and Comprehensive Plan. He said the Planning and Zoning Commission needs to determine whether this proposal is consistent with those two documents.

Commissioner Fusch said they don't have every right to put something there, but every right to propose to put something there. Mr. Betz said that right now, that lot has almost 4 acres and under the township zoning code, it could be split into one acre lots with 3-4 houses and a shared driveway with no review whatsoever by anyone. Commissioner Fusch asked where the access would be. Mr. Betz said it would be on Zion Drive. Commissioner Fusch asked if the City could stop that development by refusing a curb cut. Mr. Betz said they could if they want to fight that fight, but his professional opinion is that based on cases that have already taken place, the City would lose that battle. Commissioner Fusch asked if Mr. Betz is saying the City has no choice. Mr. Betz said the role of the Planning and Zoning Commission is to determine whether this development plan meets the Zoning Code and the requirements of the Comprehensive Plan. He said he believes the Commission has no choice but to allow access to the parcel, no matter how many lots. He said the Commission has a lot to say as to how the development will be designed, especially if it is annexed. He said if this is to be developed in the Township under three lots, they can be put in with a driveway with no design review, and they could remove the fence along the entire lot. There will be no moving of pillars, no maintenance agreement, no landscaping requirements, and no tree preservation requirements. He pointed to the Silverleaf development on North Liberty, where they clear cut the lot to make room for homes. He said that can be done here, whereas the City does its best to provide as much tree preservation as possible. Commissioner Fusch asked what is the zoning on the three parcels that aren't being annexed. Mr. Betz said he believes they are Liberty Township FR-1, Farm Residential 1-acre lots. Commissioner Fusch asked, if another owner decided to sell that lot to someone who would like to develop it, but it is not annexed into Powell, what kind of control would Powell have. Mr. Betz said there would be no control. Commissioner Fusch asked what is the zoning of the land across the street to the west. Mr. Betz reviewed commercial and office uses as well as an area slated for a health club. Commissioner Fusch asked if the zoning could be changed through Liberty Township and a strip mall placed on those lots without being annexed. Mr. Betz said that is correct, and the City would have no development control over that plan. Commissioner Fusch said he likes the design and he likes the proposal but he doesn't like the entrance on Zion Drive.

Commissioner Grubbs said his understanding is that the applicant has not spoken to the Lakes of Powell trustees about options for maintenance along Zion. Mr. Horne said they delivered a package to them

with some suggestions, but they did not get back to them to schedule a meeting per their request. He said they wouldn't have a problem taking over the maintenance as described by Mr. Brooks. He indicated the cost would not be substantial. Commissioner Fusch said that it is substantial. He said that he is president of the Liberty Hills Homeowners' Association and the cost to paint their fence this year is \$8-10k.

Commissioner Grubbs asked why they have a housing footprint for 2500 sq. ft. for this type of development. Mr. Horne said they studied the market, and this is very comparable to other patio-home developments in the area that range in size from 1,700 – 3,200 sq. ft. because they are catering to a market where people are moving from 3-6,000 sq. ft. houses. He said they anticipate 1-2 person households with a cost of \$275k – 450k. Commissioner Grubbs asked if the market indicates that people are willing to pay that much for a patio home. Mr. Horne said that it does. Mr. Grubbs asked if they will put deed restrictions in place to control the type of person buying these types of development. Mr. Horne said there will be limitations with respect to not allowing playground equipment in the backyards and with the types of homes that are offered which are 1- ½ story plans. He said they are also trying to keep the lot sizes smaller to discourage big family situations. He said he would rather not go as far as saying this is a 55 or older community because it eliminates one person households, say, such as a divorced male that would be a very good person for this type of project.

Commissioner Grubbs asked for review of the build area for the homes along Zion Drive. He asked if the easement from Zion Drive to the build line could be increased. Commissioner Grubbs said the Staff Report identifies a 40-foot easement that is reduced to 30 to 20 due to conflict with utilities. He asked if that is the case along Zion Drive. Mr. Betz said he believes that was always proposed to be landscape easement. Instead of a scenic easement, this would be done in another fashion. Mr. Horne reviewed the landscaping plan and the proposals for supplemental landscaping.

Commissioner Grubbs said the least impact is the goal, and he is concerned that the island would make too great of an impact. He asked about a private drive-type entry that people who live there know is there but has a lower profile. He suggested the narrowest possible entry and the straight line fence so as not to draw attention to it. He asked if consideration has been given to only allowing right turns out of Junia Glen, as that could help with the traffic impact on Zion Drive.

Mr. Betz reviewed that the minimum size of a Powell Street is 29 feet, and they are showing 28 feet across for the entrance, with sidewalks on both sides. He said the fence is stepped back to keep from creating a site-distance problem at the corner. He said if a straight-line fence is desirable, it will need to be stopped short. He provided another alternative to curving the fence. He said that a minimum of 40 feet of open space is needed for the entrance.

Commissioner Grubbs said he is not convinced that there is a need for 10 lots, and he is not convinced they should develop the front two. He concurred with the comments made earlier about providing more green space along the fence line to provide for more green space along Zion Drive. He said that the view presented by the developer indicates that driving down Zion Drive, he would be able to see a house in this development. Mr. Horne said that they are proposing 32 trees across the front, but he concurred that there will be a house there and one will be able to see it. He said this represents one shot from one particular area. He said if that is what is wanted, he'll put pine trees across the front. He questioned what the concern is about having an opening to access their lots. He noted that people can see the condominiums in an adjacent development, and he questioned why that is okay there but not here. He said their intention is to make this as seamless as possible with respect to the transition into an intersection. He said he would be happy to work with the association and come up with something that meets their satisfaction. He asked how additional open space behind the fence is going to accomplish anything. Commissioner Grubbs said that the tree survey identifies a great deal of trees beyond the "scrub" that has been described, and in the summer there is significant tree cover along Zion Drive. He

said the difference between this lot and the condominium development he referred to is that lot didn't have significant green cover to begin with.

Commissioner Futryk asked why there can't be a 30-foot opening in the existing fence without cutting the fence back. Mr. Betz said that would have to be studied for site distance at that intersection. He said it is important for other drivers to be able to identify that there is a car at that intersection. He said that Staff can work with the applicant to minimize this as much as possible and report back at the next meeting. Commissioner Futryk said he wouldn't support the island. He said he appreciates what they are trying to do, but based on the residents and commissioners' comments, there needs to be the least impact on that fence-line as possible. He expressed an interest to increase the landscape easement along the front to 35 feet by shifting the properties to the north. He said he understands there is a significant easement in the back, and he doesn't want to accomplish more green space along the fence line by reducing lot sizes. Discussion ensued regarding the area along the fence. Mr. Betz said he would think supplementing what he feels is mostly scrub would be a better alternative than leaving it as is, which is primarily scrub. Mr. Horne said there are only 12 trees of 6" caliper or greater in the first 90 feet into this development. They are proposing replacing the trees and that is an enhancement.

Commissioner Futryk said he appreciates the design of the houses proposed. He said he would like to see restrictions in terms of repeating the elevations of each house. He said he would like to see significant use of side-load garages, which he believes the applicant previously committed to. He said he would like at least half to be side-load garages. Mr. Betz reviewed the typical lot for this development and said side-load garages may be difficult in this type of empty-nester home. Commissioner Futryk said there are some lots that are somewhat larger size where side load garages may work.

Mr. Horne reviewed the repeat policy they have identified for the subdivision which is identical to the Lakes of Powell. He included their proposal that side-load garages be a design feature that is driven by the preference of the owner. Commissioner Futryk said he thought the original proposal was for exclusively side-load garages.

Commissioner Futryk expressed a desire that the fireplaces be full-masonry. Mr. Horne said that is the intention. All of the houses will have at least one fireplace and they will include a deed restriction that they be masonry.

Commissioner Emerick disagreed about comments regarding the entry and he said if the fence is kept straight, it will look like a hole and an afterthought. He said he appreciates the effort they have made in the entry way. He said he likes the curving and the fence, and the maintenance of the site line, and the way it makes it flow. He said he thinks the landscape island will help it blend in. He said he is in favor of shifting the lots a little to the north to create a larger landscape easement along Zion Drive.

Commissioner Ireland agreed with Commissioner Emerick regarding the entry. He said that he doesn't think the issue is how to minimize the fence but how to continue the certain regality that the fence-line projects. He said he likes the island in the middle, as it is classy, and he likes the stonework and the way it tapers off. He said he thinks this accomplishes the intent and purpose of fence to create a sophisticated, regal entrance. On another point, he questioned whether similar light fixtures and mailboxes to the Lakes of Powell are appropriate here given the dramatic difference in housing styles. He said he would support the idea of creating more green space to the front of the entrance. He said he would also like clarification regarding the fire department approval.

Commissioner Counts said there is a split opinion on the entry feature and everyone wants to minimize it as much as possible. He said he likes what has been shown for any other subdivision, but it would be worth the applicant's while to come back with an alternative, less-intrusive design to which this can be compared. He spoke in support of shifting the lots back to try to gain a greater easement up front. Mr.

Horne asked if the intention is to preserve the scrub in the front. Commissioner Counts said what he is hearing is that everyone wants a landscape buffer and the greater the better. He said he doesn't think the Commission is asking that they reduce the number of lots but asking if they can be moved back

Ed Ross, Builder, said that the Commission might want to reconsider the island, because when the trees get big they will create a canopy to screen this development. He suggested loading up the easement area at the entry with pines and spruce because leaving it with the scrub as it is would provide 6 months out of the year with no vegetation at all. Commissioner Emerick said he doesn't think anyone is saying keep the scrub, but rather provide additional green space. Commissioner Fusch said that spruce trees are ugly. Mr. Horne suggested arborvitae. Commissioner Futryk asked why they are opposed to shifting the development back 10 feet. He said it would create 10 more feet of space for plantings and restore some of the greenery on that property. After further discussion, Commissioner Counts suggested they take the current landscape plan and provide more of it in a greater easement.

Commissioner Counts asked that the development plan text regarding house sizes meet the intent to have 1,700 sq. ft. minimum homes. He said he thinks bigger homes will have greater value, and if they have greater value with no children, everyone is better off. He said he feels the design of the houses are not that conducive to having children. Commissioner Counts asked if there was a concern about Hardiplank being used on these homes. Other than Commissioner Emerick, there was no objection to such material with a requirement that there be 50% brick or stone on the front of the homes. The applicant agreed to providing masonry fireplaces.

Commissioner Counts said he would like to see a final agreement with the Lakes of Powell Homeowners' Association regarding maintenance before the next meeting.

Commissioner Counts polled the commission on their thoughts regarding the entry design. Commissioner Fusch, Commissioner Ireland, and Commissioner Emerick said they like it. Commissioner Futryk said he likes the entrance but he would like to see an alternative with a 29-foot opening and the fence just ending. Mr. Betz said it would have to be around 41 – 50 feet depending on where the sidewalk is put in, plus 2 feet on each side for the pillar, but the site triangle needs to be considered. Mr. Betz said that Zion Drive is off-set and the fence is already back further from the road by several feet than the other side. Commissioner Grubbs said he feels part of the charm of this road is that you are looking at two straight lines of fencing, and making an "enhanced hole" takes away from that. He said he would like to see an alternative design, and perhaps after seeing one, he might like that which has been proposed. Discussion ensued.

Mr. Ross said it is desirable to have the same company maintain both sides of Zion Drive to provide continuity of maintenance.

MOTION: Commissioner Futryk moved to approve the Preliminary Development Plan for Maplecrest Builders with the following conditions:

1. That the applicant works with Staff to show the preliminary design of the proposed bikepath connection to the existing path at the intersection of Presidential Parkway and Sawmill Road, including demonstrating the ability to secure any easements required. This shall be submitted with the Final Development Plan.
2. That the applicant eliminates the storm sewer lines running parallel along the scenic easements in favor of servicing those areas with laterals extending from the street down the side yards allowing for greater tree preservation.
3. That a fountain be used in the retention pond for aesthetic appeal and pond health.
4. That the area along Zion Drive within the proposed landscape easement be removed of any scrub shrubs and trees as approved by Staff and be enhanced with additional tree plantings.
5. That the applicant determines the trees to be transplanted and submit a detailed landscape plan showing the tree species and size to be planted or transplanted with the Final Development Plan.

6. That the applicant provides access to sanitary sewer service for the three lots fronting Sawmill Road that are currently using a septic system and submits a letter from the County Sanitary Engineer's Office that capacity is available for this development, including the three Sawmill lots.
7. That the applicant works with the City Engineer to provide storm water retention calculations and demonstrate and feasibility to meet the storm water retention requirements with the Final Development Plan.
8. That the applicant work with the Lakes of Powell Homeowners Association to develop a cost sharing agreement which will allow the Lakes of Powell Homeowners Association to maintain control of the maintenance contract for Zion Drive yet require the residents of Junia Glen to pay their fair share of those costs.
9. That repeating home design language be prepared and made part of the development text.
10. That a 25 feet scenic easement with a 10 feet utility/landscape easement bordering it be provided at the rear of all lots and easement text be developed and made part of the development plan.
11. That an accessible ramp be provided on the north side of Presidential Parkway to complete the bikepath connection.
12. That the applicant increase the landscape easement in the front by moving the lots to the north.
13. That all fireplaces be of masonry construction for exposure of the pipe.
14. That the minimum home size be 1,700 sq. ft.
15. That the front facades have a minimum of 50% stone or brick.

Commissioner Ireland seconded the motion.

VOTE: Y 5 N 1 (Fusch)

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, was present to discuss this item. He reviewed that they are proposing an addition to an existing development. He reviewed the addition on the east side, and noted that they are encroaching into the front yard setback but said this is a result of the land swap that took place with the City to complete the Grace Drive extension. He reviewed a site plan that shows they wouldn't be encroaching had that extension not taken place. He said they are trying to make improvements based on conversations with Mr. Betz in regard to the entry. He reviewed the development and the elevation of the proposed improvements.

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 Emerick said he thinks this looks good and reflects comments made at the last meeting. Commissioners Ireland, Futryk, Grubbs and Fusch agreed.

Commissioner Counts said that one condition of approval is related to the color palette. He asked if the materials the applicant is showing this evening represent the materials and colors they would like to use. Al Vrabel, applicant, said that is what they'd like to use. Commissioner Counts asked about the two windows on the top of the farthest left hand side of the development. Mr. Vrabel said he has no problem deleting those windows. Mr. Wannamaker said they were just trying to incorporate a design element on that end. There is a portico elsewhere, and this piece acts as a design element on the end. Commissioner Counts said that the design almost looks incomplete with those windows. Commissioner

Grubbs asked if the windows had stucco beneath rather than being placed so low if that would be better. Commissioner Fusch said the windows make it asymmetrical and out of scale with the stucco. Mr. Vrabel said that they have a large bay window on that side. Commissioner Fusch said the three windows on the bottom are okay.

MOTION: Commissioner Futryk moved to approve the amendment to the approved development plan for Victory Healthcare with the following conditions:

1. That the City Engineer review and approve all engineering aspects of the plan at time of issuance of the building permit.
2. That the applicant and Staff reach agreement on the landscaping plan as it relates to the number and amount of trees to be planted to meet code requirements.
3. That the two second-story windows on the northern elevation be removed.

Commissioner Emerick seconded the motion.

VOTE: Y 6 N 0

AREA PLAN/SKETCH PLAN

Applicant: GFS Chemical Company
 Location: South side of Home Road just east of the CSX Railroad
 Existing Zoning: existing City of Powell PR, Planned Residence District
 Within Liberty Township, I, Industrial District
 Proposed Zoning: PI, Planned Industrial District
 Request: Review and approval of Area Plan as provided in Section 1141.08, Zoning
 Upon annexation and Sketch Plan Review.

Tony Eyerman, representing GFS, was present to answer questions on this issue.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit). He reviewed the property under consideration as well as adjacent properties and the corresponding zoning. He reviewed the details of the tri-party agreement with the City, property owner, and Liberty Township.

Commissioner Futryk asked about tree preservation. Mr. Betz reviewed the proposal. He described the area plan.

Commissioner Ireland asked if there are any restrictions as to what can be stored along the railroad on this property. Mr. Betz said the Powell Zoning Code doesn't allow outdoor storage unless approved under a development plan. He said the City probably wants to look at each business and provide some businesses in this area that ability. He said the Powell Industrial zoning is not a heavy-type industrial use zoning, but there could be some outdoor storage, say for a landscaping or contracting company. Commissioner Ireland asked if it is correct that a review would take place to allow such storage. Mr. Betz said that is correct.

Commissioner Grubbs said that the area plan indicates that outdoor storage will be allowed on the lots abutting the railroad, so when the Planning and Zoning Commission reviews development plans, they won't be able to prohibit outdoor storage on those lots. Mr. Betz said that is correct. He said perhaps it could require review and approval by the Planning and Zoning Commission.

Commissioner Ireland expressed concern about kids from the adjacent park accessing this area. Mr. Betz said the property owner also has liability concerns, so hopefully that will be addressed.

Commissioner Fusch said the property the City will receive from the swap is heavily treed. He asked, assuming that in the future it becomes part of the park, will it be deeded to Liberty Township. Mr. Betz said those details have yet to be finalized, however that has been discussed. Commissioner Fusch asked if this is currently an amenable discussion with Liberty Township. Mr. Betz said while they originally

didn't want to participate, they are now. Commissioner Fusch asked why the City can't annex the GFS property. Mr. Betz said it doesn't abut enough, as it needs to be 5% contiguous.

Commissioner Fusch asked if the whole property could be fenced to prevent access from the park into that property. Mr. Betz said that could be considered. Commissioner Grubbs asked if the school property isn't already fenced. Mr. Betz said some, but not all is already fenced.

Commissioner Counts asked if the bike path easement will be on the GFS property. Mr. Betz said it will. Mr. Eyerman said the easement assures the City that there will be a bikepath somewhere connecting the park to the southern most point of GFS property. He would rather keep the trees on the buffer and the bikepath on the school property in lieu of cutting down the trees, but if nothing else, there will be an easement there to secure an access for a future bikepath.

Commissioner Counts asked about the uses in the PI district. He expressed concern about homeowners moving into the area that might have concerns with proposed uses. Mr. Eyerman said he thinks the owner would agree to some limitations. Mr. Betz said that Staff is currently working on revising adult uses in such a zoning. He said that the only things that he could see as an issue might be light manufacturing, processing, auto repair, supply yards, things like that might be an issue. He said that the City's PI district is not a smokestack district. It is warehouse, office/warehouse, assembly, auto service, body shops, research industry and services, wholesale, food processing, etc. Discussion ensued regarding potential users for this site. Mr. Betz noted that Lapcraft, on West Olentangy Street is a good example of the type of use that would be permitted, although that design is now undesirable. He said that development includes warehousing, a body shop, dry cleaners, a vending company, etc.

Commissioner Grubbs asked how the setbacks as proposed compare to what would be permitted in a Planned Office district. Mr. Betz said they are the same. Mr. Grubbs asked if the intention is for a landscaping buffer on the east side. Mr. Betz said that would be desirable, and the bikepath easement could be considered the buffer.

Mr. Eyerman said that he believes there are 4-5 Army Corps of Engineers identified wetlands on this site that will be used as a setback or buffer. He said they would be substantially larger than 30 feet. He said that most of them are along the south. Commissioner Grubbs asked why they are seeking no dedicated open space requirements. Mr. Eyerman said part of the reason the client requested that is because the three parcels he currently owns total about 75 acres. He said he has documentation of those sites zoned as Industrial with no open space provisions. He said he didn't initiate this tug of war of his 25 acres with Liberty Township. The Township approached him and his feeling is you would like to at least keep some semblance of that. He is inheriting 25 acres of cleaned up but previously contaminated property along the railroad tracks and he is giving up 25 acres of what is environmentally pristine. He said he feels like he is giving "pretty nice" property for property that has some contamination and some wetlands. He understands the 25 he is giving up is not completely buildable, but he doesn't think he'd have any problem providing easements, or whatever, but he doesn't feel like he should lose a certain percentage of what he is inheriting, and that is why he asked for that waiver. Commissioner Grubbs said his concern is that if this applicant is allowed to waive it entirely, everyone that annexes from now on is going to ask for the same thing. He suggested allowing a divergence for a certain percentage. Mr. Eyerman said they can look into that as long as it is privately owned. He doesn't want to commit to it without his approval because he doesn't have that requirement under his current 75 acres.

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

MOTION: Commissioner Futryk moved to approve the GFS Area Plan and requested that the property submit a Preliminary Development Plan upon the formalization and submission of the annexation petition. Commissioner Fusch seconded the motion.

VOTE: Y 6 N 0

SUBDIVISION PLAT

Applicant: Rockford Homes
Location: On the north side of Murphy Parkway just west of the CSX Railroad, and on the south side of Grey Oaks Drive just west of Section 1.
Zoning: PR, Planned Residence District
Request: Approval of a Subdivision Plat.

Ed Miller, EMH&T, was present to discuss this issue. He said he had nothing to add to the Staff comments and he said he is more than happy to work with Staff on those conditions.

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 Grubbs asked if there is anything that can be done with this plat to have white fencing installed on Winter Hill place. Mr. Betz said there isn't, as it should have been done as part of the development plan. He said he can talk to Rockford to see if there is anything they want to do. Commissioner Grubbs said he thinks the existing residents will support it.

MOTION: Commissioner Futryk moved to approve the subdivision plat for Murphy Park Section 5. Commissioner Emerick seconded the motion.

VOTE: Y 6 N 0

OTHER COMMISSION BUSINESS

Commissioner Fusch said he believes he will be out of town at the next meeting.

David Betz, Director of Development, announced Shawn Leininger, Development Planner's resignation and acceptance of the Zoning Administrator position at the City of Delaware.

ADJOURNMENT

Council adjourned at 10:45 p.m.

DATE/MINUTES APPROVED: March 9, 2005


Tom Counts, Chairman
4/11/05
Date

