



**City of Powell, Ohio**  
**Powell Planning & Zoning Commission**

Donald Emerick, Vice Chairman  
Eric Ireland

Kevin Futryk, Chairman  
Richard Fusch  
Bill Little

Jim Hrivnak  
Dan Wiencek

**MEETING MINUTES**  
**SEPTEMBER 13, 2006**

A regular meeting of the Powell Planning & Zoning Commission was called to order on September 13, 2006 at 7:34 p.m. by Chairman Kevin Futryk. Commissioners present included Donald Emerick, Richard Fusch, Jim Hrivnak, Eric Ireland, Bill Little, and Dan Wiencek. Also present were David Betz, Director of Development; Eric Fischer, Development Planner; Chris Meyers, Architectural Advisor; Susie Ross, City Clerk; interested parties and members of the press.

**CALL TO ORDER/ROLL CALL**

**HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA**

The City Clerk administered the oath to all in the meeting who intended to present testimony. Chairman Futryk opened the public comment session. Hearing none, Chairman Futryk closed the public comment session.

**APPROVAL OF MINUTES**

The minutes of August 9, 2006 were amended and approved.

**PRELIMINARY DEVELOPMENT PLAN**  
**ZONING MAP AMENDMENT**

Applicant:	Discovery Land Limited
Location:	4.148 acres on the east side of Village Park Drive just north of Brookehill Condominiums
Existing Zoning:	PI, Planned Industrial District
Proposed Zoning:	PR, Planned Residence District
Request:	Review of A Preliminary Development Plan and Zoning Map Amendment for a proposed 40 unit senior (age restricted) apartment complex, and amending the Zoning Map from PI, Planned Industrial District to PR, Planned Residence District.

Dan Dillon, Applicant, 983 Riverpoint, stated he read Staff's recommendations, which he felt were out of character with the efforts that have been made. He declined to make a presentation but deferred to the Commission for questions and comments.

David Betz, Director of Development, indicated the location of the proposed development and the surrounding properties and zoning classifications. He presented the Staff Report (exhibit). Mr. Betz said the comprehensive plan, established in 1995, identifies this property to be planned office and planned industrial. He presented the elevations and site plan for the proposed 40-unit apartment complex. Mr. Betz indicated the access to the site and the internal street system. He said the stormwater system is large enough as proposed to handle the stormwater detention on the site but the detention pond on the south end of the site will eliminate the tree stand in that area. He said the building and grading for the pond will be higher than the elevation at Brookehill. Mr. Betz said the traffic study did not take into account the movement of traffic from this site using Brookehill Drive.

Mr. Betz said there are several variances which will be required to approve the proposal:

- Density is proposed at 9.64 dwelling unites/acre. Maximum density allowed by code is 9, if an apartment use is acceptable.
- The design proposes six units side-by-side and a total of 12 units in a single structure. Code only allows for total of 4 dwelling units to be built side-by-side, and no more than a total of 8 units in any single structure.

Mr. Betz said the variances would be appropriate for this type of development. He said the proposed landscaping includes a good amount of perimeter landscaping around the buildings and a good amount

of trees but it will not be enough based on code requirements. He said this does not take into account tree removal and replacement which would still require review.

Mr. Betz said Staff has some concern over this use at this location. He said because of the industrial nature of the surrounding areas, there are not that many parcels left within the City to accommodate future commercial growth. He said Staff has provided additional financial information from the City of Powell Finance Director. He said if the land is under-utilized, over time the City will lose from a financial standpoint. He said this parcel is surrounded by office/warehouse uses on three sides. Mr. Betz said there is a need for this type of housing in Powell, but Staff does not believe this is the right place. He said Staff recommends denial of the change in zoning which would be required to develop this site as planned residential. Mr. Betz said it is their opinion that this does not achieve the goals of the Comprehensive Plan:

- The property is identified as Planned Office/Planned Industrial, which can occur under the current zoning.
- Elderly apartment use does not make sense on this parcel from a land use standpoint because of surrounding uses: non-residential zoning to the west and northeast and potentially to the north and east.
- Proposed development decreases the long-term tax benefits to the City and reduces support for the provision of City services.
- Proposed development is more suited towards the downtown area of Powell where services exist for the type of households being proposed.

Mr. Betz said these decisions were made based on code requirements. He said it is the opinion of Staff that the proposal is inappropriate from a common sense standpoint:

- The only access point to the development is through the industrial park, which is not desirable.
- Other access point is through the private drive of the Brookehill Condos, which was built to accommodate traffic for only that development.
- From a land use standpoint, the proposal is not a benefit to the City to have the zoning changed at this time.

Mr. Dillon stated that in the past they have received strong vibes from the Commission to move forward with this project. He said they retained a recognized and respected tax professional to assess the tax ramifications of the project. He said Staff insisted they use their numbers so they revised their tax report to reflect that information and it still came out relatively favorable. Mr. Dillon said abatements are offered for residential development in other areas and he cited the example of the Gateway on Main Street near Bexley. He said the conversation needs to take place about what businesses Staff is proposing which may have come forward in the last 5 or 10 years for this piece of property. He said Judge Hill owned this land for a long time and endorses this project.

Mr. Dillon said a lot of attention has been put into the tree preservation areas. He said the people who live around there would welcome this project. He said senior folks entering here will not have any issue entering from Village Park Drive and it is erroneous to make the assumption that people will use Brookehill Drive as it is a private street with a gated entrance. Mr. Dillon said they are marketing this project to persons age 55 and over, 20% of which can be under 55.

Chairman Futryk clarified that the preliminary development plan is the second step of the process and the Commission has not made a decision yet.

Mr. Dillon said that it is awkward that potential business people put this type of investment of time and money into a property, without knowing if the development is appropriate. He said if it is not, they should be told at the time of application.

Shad Phipps, 4333 Reed Road, said he consults people for locating businesses in the Central Ohio area. He said in his expertise if someone has a 100-employee office building, Powell is probably not going to be in their search. He said available tax cuts, abatements and incentives elsewhere would draw them and that goes against all the things that Powell is looking for. He said it is a big assumption to assume you are going to rezone to allow a use that is not a part of the present zoning. Mr. Phipps said he has marketed that property and no one is interested in doing that type of density for office, but instead proposed residential or small office/warehouse with few employees. He said it is his opinion that the applicant's tax information is accurate. He said Powell needs senior housing and this is a perfect location as a buffer between the condos and planned industrial. Mr. Phipps said he has been marketing this property for 2½

years. Chairman Futryk asked what other types of businesses have shown interest in the site. Mr. Phipps said those uses have included smaller industrial uses, spec users wanting to build 20k sq. ft. office/warehouse building, condos, or owner/users of 15-25k sq. ft. He said he has had no interest in straight office users.

Mike Detien, 129 Brookehill, was sworn in. He said this is directly across the street from his home. He said the applicant commented that none of the residents voiced objections against this but the card sent by the Commission last week was the first he has heard of this and no one from the development group has canvassed them. Mr. Detien said he doesn't mind the property being developed but he now understands that from the changes in elevation he will look up at a parking lot and garages. He said that doesn't strike him as very attractive. He said when he first moved in the condos were age restricted and were then changed to standard condos. He asked if there is the possibility this development could do the same thing if they are not selling. He said he thinks this needs more study and more information dispersed.

Aaron Brown, Bauer/Davidson/Merchant, engineer for the applicant, was present to address the technical aspects of site. He said Mr. Dillon has been adamant about preserving as many trees as possible but unfortunately some will be lost because of the size of the retention pond. He said they designed the stormwater retention according to Powell code. Commissioner Ireland asked if the grading and tree loss is a function of the development or would any development on this project on this property get equivalent treatment. Mr. Brown said any development of this size would have to deal with the swale which runs through the center of the property that takes up both sides of the existing ground slope. Commissioner Ireland asked if the uses which have been mentioned would be considered sizeable. Mr. Brown said the other developments talked about could be done but it would depend upon the amount of impervious area to determine retention. He said the site would have to be built up and some sort of retention pond utilized exactly where they are utilizing one. Mr. Betz asked if all of the retention is handled by the pond. Mr. Brown said that is true. Mr. Betz asked if some of the stormwater is retained in the parking area, would they be able to make the pond smaller. Mr. Brown said that is true. Mr. Betz asked if they did underground storage (indicated location), could they make the pond substantially smaller. Mr. Brown said that is true.

Chairman Futryk asked for the difference in elevation between the area in question and Brookehill Drive. Mr. Brown said there would be about a 5 foot rise from Brookehill to the top of the pond bank. Chairman Futryk asked if underground retention was used could they lower the banks of the pond. Mr. Brown said even a smaller pond would have to stay at that elevation unless they stair step the building. Mr. Brown said Mr. Dillon believes this will be a more aesthetic design and more functional for seniors.

Commissioner Fusch asked about the height of the pond in relation to the street. Mr. Brown said the bank will be 5 feet above the street with a normal water surface level 2.5 feet above the street. He said the street drops 6 feet from the intersection of Village Park Drive down to the catch basin. Chairman Futryk asked if they do not stair step can they do plantings along the elevation rise. Mr. Brown said that can be looked at. He said the tree line is about 11-15 feet off of the sidewalk, and is extremely dense in that area because of the swale. Chairman Futryk asked if the applicant had done a tree survey on the property. Mr. Brown said they have surveyed the interior trees and have not done a complete survey of the perimeter trees as it is very dense. He said the technical comments indicate they need an island in southern most parking spaces to save the two 20" oak trees. Discussion continued regarding specific elevations on the site.

Mr. Dillon asked if they can address the elevation relative to the buildings around it. He said it was not his impression that the buildings sit much higher than everything else and he asked for clarification on the pond area. Mr. Brown said the applicant believes the size of pond will reflect more personality within the site. He said the elevation of buildings based on the Village Park Drive entrance is 2 feet lower for the 12-unit buildings. He said they are trying to move buildings down as they get deeper into the site, matching existing ground on the west side of 12-unit buildings and on the entire 8-unit building. He said the elevation differential on the center of the site makes it difficult.

Bill Pfeiffer, 93 Brookehill Drive, said the 32-unit Brookehill condominium development is supposed to be a gated community. He said he had believed in the idea of residential 100% and industrial 0% but now he is not so sure. He said as a resident and taxpayer he is interested that whatever is developed on this site is done well. He said he has not heard enough specifics to know how the creek bed behind his condo will be affected. He said the tree line should stay regardless of what is built because when the Brookehill property changed from being zoned industrial to residential, discussion must have taken place as to what

would be built next door and how to protect the interest of the homeowners. Mr. Pfeiffer said it sounds like they are wiping out the trees and the view and essence of Brookehill condominiums will be gone. He said he prefers green first, residential second and then industrial. He said whatever goes in needs to look right and be fair to those at Brookehill.

Dorothy Jacob, 1530 Picardae Court, asked for clarification regarding the zoning as she owns two buildings and plans to build two more in the industrial area. Mr. Betz said she owns property at the corner of Clairedan and Village Park Drive. He clarified this proposed rezoning would only change the zoning on the proposed property would not affect the zoning on her property at all.

Tom Ryan, 141 Brookehill Drive, was sworn in. He said no one has ever explained this proposal to them. He said it is shocking to say they cannot save the tree line. He said the tree line is thick enough that they cannot see the lot from their home. He said he does not want to look up into a parking lot. He said it scares him to think that the pond will be above their street level, so that if there is a 3-4" rain, the pond could overflow down the grade. Mr. Ryan said until the builder puts up gates, people will cut through the Brookehill development.

Dick Ruhl, 1532 Wingate Drive, Delaware, stated he is the property owner for this site. He said he read the Staff report and he thought Staff was concerned with the tax angle. He said he bought the property in 2000 and tried to put buildings on it but didn't get anywhere, so he put it up for sale. He said Judge Hill had it up for sale a couple of years as well. He said he pays about \$5000 per year in taxes and as a taxpayer he thinks the City would want some money out of this project. He said he realizes it is smart to go long range but he also thinks they must look at the fact that he has not had any other offers. He said a church has looked at it, but he does not know of anyone else who is interested in it. He said if the City can make a lot of money on this property they should do it, but he doesn't see when they are going to do it. He said he would like to sell the land as he did not buy it as an investment. Mr. Ruhl said he understands the concerns of the neighbors because the tree line is a great buffer. He said he does not know where they will get a better client to purchase this property.

Dwacka Dillon, Applicant, 983 Riverpoint Court, Powell, said the tree line, especially the one toward Brookehill is not intended to be removed as they are mature trees which cannot be replaced in our lifetime. She said a small amount will have to come down and they plan to plant a lot of trees. She said they will be very happy to meet with the Brookehill or surrounding residents to show them the plan. She briefly described the proposal. She said she understands the City is trying to get as much revenue as they can, but this is a \$4 million proposal which will pay taxes and be to the benefit of Powell. She said they are very committed to preserving whatever green life form they can. She said this development will protect the investment of the Brookehill residents far more than an industrial use will. She said she does not want the residents to look at garages and they are willing to do anything to make this aesthetically pleasing to benefit the Brookehill residents.

Chairman Futryk clarified for the audience that this is the third hearing on this proposal. He said the first hearing took place late at night after a long agenda and few people were left in the audience. He said the applicant requested to come back to the next meeting to add information to the Sketch Plan review. He said this is the third hearing but as a part of the normal process, the Commission is at the second step in the process.

Jackie Kernodle, 63 Brookehill Drive, said the applicant indicated there would be very few trees taken down. Ms. Dillon said their hope is to keep the whole tree line as much as possible. Ms. Kernodle said the tree line that goes from Brookehill Drive is at least 10 feet away from the street and she wonders how all of the trees can continue to exist. Mr. Betz indicated (on a 2002 aerial photo) the areas where the trees will be preserved and the areas where the tree line will be removed. He indicated that over one third of the south tree line would be removed. He said the tree line in that area has a 40' canopy.

Mr. Dillon indicated the areas where he feels the trees are of the best quality. He said he would like to build a ½-acre or larger lake with a gazebo either in the center or extending over the lake. He said they must replace the same amount of caliper of every tree which is removed. He said this will be a very attractive development with walking trails, benches, and treescape on all of the streets. He said if this proposed development is not built the option is a big parking lot with commercial buildings.

Mr. Pfeiffer asked about the change in elevation on the site from the entrance drive to Brookehill Drive. Mr. Brown explained that it is a difference of 4 feet in elevation. Chairman Futryk asked if, from an

engineering prospective, there is anything which could prevent the entire project from being flipped so the pond is on northern exposure. Mr. Brown said it could not be done very easily. Mr. Dillon said the residents would then be looking at a parking lot. Chairman Futryk said then the tree line would be saved and residents would be looking at the units and the garden path. Mr. Brown said there would be a good chance they would be looking at a higher elevation in order to increase the slope on the site back toward the north side of site. Discussion continued about elevation of the proposed buildings.

Commissioner Little asked Mr. Brown if it is his expert opinion that regardless of what goes on this site, should a retention base be required, it will most logically go in the area on south end of site. Mr. Brown said he sees no other logical place to put it. Mr. Betz said the retention area can be at the south end without having to be pushed over to the far south end. He said they can install underground retention areas or several retention ponds within the site rather than just one, and this would help preserve the area to the south. Chairman Futryk said it appears the majority of the western tree line will be removed. Mr. Betz said that is true.

Commissioner Fusch asked if the berm of the pond may be landscaped. Mr. Betz said that would not be desired because the tree root system allows water to escape from the pond. Discussion continued regarding specific elevations within the site and visibility from several areas. Commissioner Hrivnak said no matter what development goes in here there are going to be some extensive grading issues. Mr. Dillon asked Mr. Brown if it would be possible to expand the tree preservation in the south area. Mr. Brown said that would not be possible. Mr. Betz said that could only be achieved if they used underground retention and ponds in other areas.

Chairman Futryk closed the public comment session.

Commissioner Fusch asked Staff if income taxes are based on earned income, so retirement income would not generate taxes. Mr. Betz said that is correct. Commissioner Fusch asked if the study on taxes takes that into account. Eric Fischer, Development Planner, said Finance Director Debra Miller put together a memo regarding tax estimates. He said there is a small millage on property taxes as well but it runs out in about ten years. Commissioner Ireland said that millage would run out regardless of what use is on this site. He asked if Staff had come up with a specific answer to the tax question. Mr. Fischer said there is no specific answer because this is based on assumptions. He said this property can be properly marketed to bring in uses such as Aeroflex Lintech. He said they may have to wait a decade but it is in everyone's best interest to look at this. Commissioner Fusch said he is concerned about long term revenues to the City and the impact of increasing the residential population which cannot be taxed at a rate which maintains the quality of services. He said the potential earnings on something like planned industrial are important to the community and this poses a real dilemma.

Commissioner Wiencek said he does not see any issues with this development that cannot be overcome through the usual zoning process and he is not opposed to this in principal. He said they can address the concerns of the adjacent residents. He shared with the Commission income information from RITA and a series of assumptions based on the condos at Big Bear Commons. He said according to his calculations, the proposed development could bring in tax earnings close to what an office/warehouse would produce, so he will support this proposal. He said it will really be only a difference of a couple of thousand dollars per year and the additional residents will not change services greatly. Commissioner Emerick asked if his assumptions were based on 100% occupancy. Commissioner Wiencek said they were. Commissioner Little said he thinks Mr. Wiencek's calculations are appropriate. Commissioner Futryk said he believes the calculations are appropriate but the problem is if they change zoning on this, what will keep someone from rezoning other pieces of property which are zoned the same way. He said that would set a precedent and soon there would not be high revenue generating property within the community.

Chairman Futryk said he agrees with the applicant that there are incentives provided in other communities and he wondered how Staff would handle the marketing. Mr. Fischer said it is a matter of compounded rezoning where the City could accrue incremental losses over multiple properties. He said Staff can take an active role by talking to developers and market the property to match it with appropriate users with more employees. Mr. Betz said Council can establish policy regarding tax abatements and loans or other things that could be enticements.

Chairman Futryk said his concern with Mr. Betz's assumptions is that he has not heard of anything that would provide a large employee base for that property. He said he assumes the current owner has tried to market the property and for whatever reason there has not been interest. Mr. Betz said they currently

have interest in a certain parcel for a 35-50 employee regional office. He said the comprehensive land use plan looked at this site as transitional zoning. He said offices and parking lots on the site would allow retention to be put under the parking lot.

Commissioner Wiencek said as the intensity of the future office use grows, assuming it is a 50-person office building, the size of the building and parking needed would drive future development to deal with the same issues of this proposal. Mr. Fischer said that would be dealt with in the site layout. Commissioner Wiencek said he believes that can be done with this site layout. He said they may be able to flip the orientation of buildings to make the front of the buildings face Brookehill. He said that would be good for Brookehill and the residents of the southern building but the residents in the northern building would face industrial. He asked the applicant if it is possible to rotate the 12-unit buildings 90 degrees to change the view from Brookehill. He said the ends of the units would face Brookehill and the fronts would face Village Park Drive and the common area. Mr. Dillon said part of their interest in the project was to create a certain ambiance and community atmosphere with the European streetscape. He said moving the buildings would change the atmosphere. Chairman Futryk asked if the applicant looked at any other layouts other than the current proposal. Mr. Dillon said early on Mr. Betz asked them to place the garages in the middle so the units face out. He said he would not be interested in the project if it just becomes an apartment complex.

Chris Meyers, Architectural Advisor, said the applicant has made a lot of aesthetic adjustments based on Staff comments. He said in order to get the feeling and appropriate nature of this development it is necessary to look at the landscape and the density of the environment. He said they have a strong interest in pursuing a strong landscape development plan. Mr. Meyers said the 12-unit plan gives him some concern because of the overall dimension. He said the material selection is quite nice and there is a photo in the packet which is a reference that shows the intent of the material detail. Mr. Meyers said he believes that the subtle differences are appropriate. Commissioner Wiencek asked if it possible to mix materials and do it well. Commissioner Fusch said it is done well and the façade styles are very different. Mr. Meyers said he agrees. Commissioner Wiencek said the elevation page indicates vinyl shake and vinyl is not an approved material within the City. Mr. Dillon said it will all be Hardiplank, which is an approved material. Commissioner Wiencek said Staff indicated the need to replace trees that are removed and the shortage of caliper inches, and he would like to see as many of those trees on this site as possible. He said it would be his expectation that if they cannot properly site trees on this location they would place them on park land within the City. He asked that access to the community area from Brookehill be made by an informal walkway. Mr. Dillon said there is a sidewalk there that wraps around the lake.

Commissioner Ireland proposed the developer and the tenants of Brookehill get together before the next meeting to discuss the tree line and pond/elevation so they can find something which is agreeable. He said the traffic study should reference how traffic would be treated if it goes through Brookehill. He said one of the residents mentioned water drainage issues and he believes that merits some investigation. Commissioner Hrivnak said they spoke about the income tax revenue at the Sketch Review and after hearing Mr. Wiencek's information he believes the income would be pretty much the same. He said as far as what potentially may come to this site he finds it hard to believe it would be much different than what surrounds the area today. He said he does not see a 50-100 unit office tucked in there. He said he believes they can overcome the issues with neighboring residents if they come up with some creative solutions on the south side of the development.

Chairman Futryk said his main concern is that based on the overlay provided by Staff there are a significant number of trees in the buffer zone that will be removed. He said in order for him to support the Final Development Plan he will need to know how the applicant will address that concern. He said it is a significant concern if they are removing the buffer tree line and residents will be looking at garages or asphalt and an elevation change. He said he understands the desire of the applicant to achieve a certain look but he asked that they look at another way to orient the site in order to add more green space, reduce the pond size or preserve more of the tree line.

Mr. Dillon said he would like to meet with his engineer and look at this. He said there may be a happy medium to address the engineering issues. He said they do not want a depression going from Village Park into the site. He said he is not convinced about redesigning it to come up with another configuration but he is willing to look at it to see if there is a better way to accomplish the same goals. Chairman Futryk asked if the applicant would consider tabling their request to come back to the Commission with another preliminary plan that addresses the concerns voiced. He said in his mind there are concerns which need to be addressed: the tree line which will need to be removed, the buffer zone to the south and west, and

the retention pond and grade. Mr. Betz said the City Engineering Department has looked at the plan enough to know it looks like it would meet code but he has not looked at this from an aesthetic standpoint. He said they would do that together with the Development Department. Mr. Betz reminded the Commission they have thirty days to make a decision.

Chairman Futryk polled the members of the Commission on the proposed land use change. Commissioner Fusch said he likes the design, architecture, and layout and agrees there is a need for this type of housing, but he is opposed to the rezoning because of the revenue stream issues. Commissioner Wiencek said he supports the rezoning. Commissioner Little said he agrees with Mr. Fusch but if the consensus of the Commission is to rezone he would support that to move forward. He said he has a fundamental belief that they should honor the Comprehensive Plan unless something radically occurs that requires rezoning. Commissioners Ireland and Hrivnak stated they are for the rezoning. Commissioner Emerick stated he would tend to be against the rezoning. Chairman Futryk stated he supports the rezoning but there a lot of conditions to be met. He asked the applicant if he wants to table or have the Commission delay their decision 30 days. Commissioner Wiencek said the items of concern are significant enough that he is not comfortable voting at this time. Commissioner Ireland said it needs to be clear to the applicant that the tax and zoning issues have been taken off of the table.

Mr. Phipps asked if it was possible for the applicant to table the Preliminary Development Plan and have a vote on the zoning. Chairman Futryk said the Commission completed a straw poll only and by a 4-3 vote the Commission supports the rezoning. He said they are not comfortable moving forward with the Preliminary Development Plan based on a number of concerns raised by the Commissioners. He said tabling the item extends the time period. Mr. Dillon said the comments tonight were fairly subjective and he wants an objective analysis.

Mr. Betz repeated the comments of the Commission:

- more preservation of the tree line to the south and west affecting the drainage/grading design
- look at the possibility of layout change to the buildings so they can achieve more preservation of trees and the placement of garages
- look at minimizing the tree removal and increasing tree replacement and identifying if that may be achieved on-site or if it will have to be achieved on other sites
- architecture seems fine, the overall landscape plan seems fine except for replacements, and they are fine with the variances with the number of units in buildings and parking spaces

Chairman Futryk clarified that part of pond site issue has to do with engineering where an alternative stormwater detention design may be appropriate to look at with the pond shifting to the north. Commissioner Wiencek said there were also minor issues in the Staff Report such as the handicapped spacing, preservation of the two 20" oaks, the change of materials on the plan, and a solution to the use of the drive at Brookehill. Mr. Betz clarified that the walkway at Brookehill is a public walkway which is located on an easement.

Mr. Dillon requested this item be tabled.

**MOTION: Commissioner Emerick moved to table this application, at the request of the applicant, until the next regularly scheduled meeting of the Planning and Zoning Commission. Commissioner Little seconded the motion.**

**VOTE:            Y   7              N   0**

The City Clerk administered the oath to all in the meeting who intended to present testimony and had not been previously sworn in.

#### **ADMINISTRATIVE REVIEW**

Applicant:            Four Points Real Estate Development  
Location:            Sub-Area E Golf Village, southwest corner of Sawmill Parkway and Home Road  
Zoning:              PC, Planned Commercial District  
Request:              Administrative Review to allow a 10,000 sq. ft. La Petite Academy child day care in Sub-Area E of Golf Village.

Tim Spencer, 470 Old Worthington Road, Westerville, spoke on behalf of Triangle Properties, owner of the property. He said items 5 & 6 on the agenda speak to the same issue. He indicated the location of the property and surrounding uses. He said the next two parcels include one which proposes a La Petite Academy and one which proposes J Bently Studio and Spa. He said the zoning text as it came from

Liberty Township at the time of the annexation speaks to general office and is not clear to specific uses within that sub area. He said they are before the Commission to ask for an Administrative Review of that text.

Jonathan Willette, 3045 East 5<sup>th</sup> Avenue, Columbus, stated he represents Four Points Development, a national developer of daycares. He said they are available to answer any questions regarding this proposal.

Mr. Fischer presented the Staff Report (exhibit). He said the original zoning when Golf Village was established for Commercial Sub Area E is intended for a neighborhood scale office park. He said there is no indication that the only uses in this sub area were to be office uses. He said the development plan is unclear as to whether this use is specifically an approved use so it has been brought to the Commission for Administrative Review. He said Staff finds that child day care is often found in commercial office area, on the edge of residential areas or as a transition from commercial to residential uses. Mr. Fischer said it is convenient for persons in an office park area to have their children in day care near the area. He said day care is a low impact use and the only issue is having the play area behind the building, adjacent to the single family residential but there is plenty of space there for creation of a landscape buffer between the residential and the day care. Mr. Fischer said Staff recommends that the Commission determine that a child day care is a permitted use in Sub Area E of Golf Village and it is determined that this type of use is compatible within the area.

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

Commissioners Ireland, Hrivnak, Emerick and Little had no comment on the application. Commissioner Wiencek asked about the number of employees. Mr. Willette said there will be approximately 15-20. Commissioner Wiencek asked if an office went in on the same site, how many employees would there be. He said he believes the intent of the zoning was to maximize the tax base of the township. Mr. Spencer said because of a large utility easement across this property they would only be able to squeeze an 8-10k sq. ft. office with about 4 users and 8-15 employees on this site. He said the 100 foot wide power line easement reduces the buildable area. He said part of the intent of the zoning and why it was left vague was that tax base was a critical component. He said the restriction on this piece does not allow them to have any more high intense retail.

**MOTION: Commissioner Hrivnak moved that a day care use is compatible and should be permitted within Golf Village Sub Area E. Commissioner Emerick seconded the motion.**

**VOTE:            Y   7              N   0**

#### **ADMINISTRATIVE REVIEW**

Applicant:            Andrews Architects, Inc.  
Location:            Sub-Area E Golf Village, southwest corner of Sawmill Parkway and Home Road  
Zoning:                PC, Planned Commercial District  
Request:              Administrative Review to allow a 20,000 sq. ft. J. Bently Studio & Spa in Sub-Area E of Golf Village.

Mr. Spencer identified the property and stated the zoning is unclear. He said the applicant's architect is here to answer questions regarding this exciting concept.

Bill Andrews, Andrews Architects, 6631 Commerce Parkway, Dublin, was present to entertain questions.

Mr. Fischer presented the Staff Report. He said the Commission is being asked to determine if a personal care spa use is appropriate as a permitted use in Golf Village Sub Area E. He said this type of business is often found in office warehouse areas and the proposed spa has many medical-related treatment facilities and medical personnel present. He said this will be somewhat more intense than a regular medical office facility, having more employees and visitors and longer hours on a daily basis. He said there are some site plan issues including the redesign of the turn into the site but there is plenty of room and time to work this out with the applicant. Mr. Fischer said Staff recommends that the Commission determine that a personal care spa is a permitted use within Sub Area E of Golf Village and this type of use is compatible with a neighborhood scale office park.

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

Commissioner Hrivnak asked about the proposed hours for the business.

John Paton, 6761 Cook Road, developer, said the hours would be from 10 a.m. until 7 p.m.

**MOTION: Commissioner Hrivnak moved that a personal care spa be deemed an appropriate use in Golf Village Sub Area E. Commissioner Little seconded the motion.**

**VOTE:            Y   7              N   0**

**SKETCH PLAN**

Applicant:            Bob Cummins  
Location:             Southwest corner of Murphy Parkway and West Olentangy Street  
Zoning:                PC, Planned Commercial District  
Request:               Sketch Plan for an approximate 10,000 sq. ft. retail center.

Mr. Spencer said he represents the interest of Triangle Properties and the applicant has contracted to purchase the parcel of ground at the corner of Powell Road and Murphy Parkway. He said the property is intended to house a retail center.

Mr. Betz said this was a little unusual to place this on the agenda so quickly and he voiced his appreciation to the Commission for their efforts. He presented the Staff Report (Exhibit). He said this is a proposal for a 12k sq. ft. retail center. Mr. Betz said this is an unusual "L" shaped building, with the building near the corner so it faces the street has parking to the west and rear. He said users have not been identified and there may be some concern about the amount of parking if there is a full service sit-down restaurant that might take up more than half of the center size. He said when they come through the development plan process the Commission may need to look at use restriction as part of the development plan text. He said there may also be an issue with the City for a liquor license permit with the close proximity to the park. He said they would probably not be too concerned over a smaller restaurant with a liquor license.

Commissioner Wiencek asked if there is a 1000 foot restriction. Mr. Betz said there are some Department of Liquor Control rules which would allow the City to request a hearing on the permit and at that hearing the City would explain their position for or against issuance of the liquor license. He said he knows of many places where liquor permits have been issued regardless of the rules. He said Staff has used the existing site plan to try to maximize the amount of parking. He said they would propose the applicant add parking spaces and lessen the width of the drive aisle to allow a little more room for the pin oak. Mr. Betz said they will request the applicant provide a traffic study to determine the impact of the use and the impact on surrounding streets and access drive and whether the intensity of this use would require the right turn lane and right-in/right-out. He said a minor variance would be required for the 16' height signs and Staff does not have a problem with that if they work it into the design of the center. He said they would be externally lit with applied or carved out letters. He said they would need to add perimeter landscaping to meet the code requirement.

Mr. Meyers said the overall positioning of the building could not be more appropriate. He said the overall connection will be of greatest concern to everyone in terms of pedestrian, bicycle and car access. He said the architecture is headed in the right direction and the proportion and scale is appropriate. Mr. Meyers said more detail on elevations about materials and more finalized indications of products to be used would be appropriate. He said he would like to hear more about how the applicant will tie to the Murphy Park residential area.

Chairman Futryk opened this item to public comment.

M Michela, 225 Winter Hill Place, said she has a couple of concerns about the patio on the back side of the building but they will have to be addressed when the specific users are identified. She said there may be the same concerns as when La Tavola opened their patio and it may be better located toward the street. She said she has no objections until further development review.

Chairman Futryk closed the public comment session.

Commissioner Hrivnak said in the original Staff Report there is a reference to "potential court appeal for the previous review will be dismissed if this is given a positive response." He said he is not sure that is an

appropriate thing. Mr. Betz said the applicant indicated there has to be some paperwork filed shortly with the courts and if they feel it is a positive review they will dismiss it. He said that was their reasoning behind placing the item on the agenda on such short notice. Mr. Betz said they are not tying the Commission's hands to give them a positive review and the Commission should review the plan on its own merits.

Jill Tangeman, Vorys, Sater, Seymour, and Pease, Attorney, was present on behalf of Triangle Real Estate. She said she and City Law Director Ken Molnar have agreed to postpone the filings in the McDonald's lawsuit and have jointly made a motion to the Court to ask that the item be tabled to extend time to allow this application to undergo review. She said the notation by Mr. Betz was meant to indicate the reason why this was rushed before the Commission.

Commissioner Hrivnak asked about the proposed uses.

Dave Hodge, 37 W. Broad Street, Attorney for the Applicant, said this parcel is zoned PC, Planned Commercial. He said the permitted uses are those in 1143.15 in the zoning code with exceptions listed in the zoning text. He said they are here for the Sketch Plan review to take comments from the Commission and come back with a development plan that responds to those comments.

Commissioner Little asked how many tenants would be proposed. Mr. Hodge said they show a minimum tenant space of 1200 sq. ft. and that would allow 10 tenants but that would be an unlikely number. Commissioner Hrivnak said this proposal is appropriate if it is considered on its own merit.

Commissioner Ireland said the massing of the building is of concern because it looks like one big wall. He asked how that may be broken up.

Mark Ford, Ford and Associates, Architects, said the longest wall in the building is 130 feet long on the Powell Road elevation. He said it is a relatively small building and is consistent in height and scale with the buildings along this corridor. Mr. Ford presented a color rendering to the Commission. He said it is a one story building which is approximately 26 feet high to the ridge. He said they are using four-sided architecture. He said they will create connectivity to neighborhood and provide sidewalk access to the parking lot and site. Mr. Ford said resident concerns about the uses on-site are appropriate and they are using this as a place holder of sorts. He said if they get a restaurant use that takes a large portion of the "L" they may need to move the patio seating out toward the northeast corner. He said this is a spec building and through the construction drawings and leasing process they will be able to react to some of the leases and tenant requirements. He said they will work with Staff as the tenants are identified and some will have more intense parking needs than others. Mr. Ford said the sidewalk will be extended up the west side of the building and will penetrate the fence with a sidewalk connector. He identified building materials as Hardiplank with smooth wood trim and brick and stone.

Commissioner Ireland said they may want to look at the meeting minutes from the hearing on McDonald's for information on lighting, dumpster, landscaping, etc. He said the comments of the Commission will be relevant to this applicant as well.

Commissioner Little said in the previous proposal they had concerns with the pinch point at Murphy and the access road to the park and the concept of an entryway to this property close to that location. Mr. Betz said they can talk with the applicant about a possible solution to extend the row of parking and move the entry point. Commissioner Little said it could also be a right-in only. He said if they narrow down the user and the volume of traffic they should be able to determine whether or not a left turn into northbound Murphy is appropriate off of the park access road. He said the McDonald's landscaping concept was good and they should build on that. He asked that the applicant recognize that there is a lot of activity with the park including pedestrian traffic and children, so they should make it safe and friendly from that standpoint.

Commissioner Wiencek said the concept is off to a good start. He said he is concerned about the flatness of the north and western elevations. He said that is a long elevation without some "in and out." He said it could be a covered walkway or something to break up the façade.

Commissioner Fusch said this is a great alternative to what the Commission was presented with before. He said he agrees with Mr. Wiencek about the architecture but he likes to see buildings broken up with different building materials. He said something needs to break up this long façade.

Chairman Futryk concurred with the previous comments. He said he feels very strongly about the pinch point problem on the access drive and suggested they find a way to address the issue. He said they should also explore the issue regarding liquor permits so close to a day care. He said that is a Council rather than Planning & Zoning decision but it should be investigated.

Commissioner Wiencek asked if Staff has calculated the parking required. Mr. Betz said if general retail the application would be 19 spaces short. He said if adding a restaurant it would make it significantly worse. Commissioner Wiencek said that is a concern as the overflow will park in the park parking lot. Mr. Betz said that was one of the intents of that parking lot from the beginning.

Chairman Futryk asked if the applicant will consider these comments if they alter the design for specific users. Mr. Ford said anything they would fix on the north elevation such as window or door openings would remain because they would always want that to be there. He said on the south side it could be altered. Commissioner Wiencek said the signage proposed is double the amount allowed and it should be muted. Mr. Betz said they may want to consider sign panels with a similar color and lettering. Commissioner Wiencek said it could be a consistent wood panel sign with raised lettering that is indirectly lit.


**OTHER COMMISSION BUSINESS**

Mr. Betz said they will be bringing some sign regulations to the next Commission meeting.

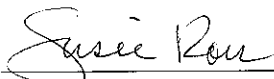
**ADJOURNMENT**

The meeting was adjourned at 10:45 p.m.

**DATE MINUTES APPROVED: OCTOBER 11, 2006**

  
\_\_\_\_\_  
Kevin Futryk  
Chairman

11/6/06  
Date

  
\_\_\_\_\_  
Susie Ross  
City Clerk

11/9/06  
Date

