



City of Powell, Ohio

Powell Planning & Zoning Commission

Kevin Futryk, Chairman

Richard Fusch

Brian Lorenz

Donald Emerick, Vice Chairman
Bill Little

Jim Hrivnak
Dan Wiencek

**MEETING MINUTES
SEPTEMBER 10, 2008**

A regular meeting of the Powell Planning & Zoning Commission was called to order on Wednesday, September 10, 2008 at 7:00 p.m. by Chairman Kevin Futryk. Commissioners present included Donald Emerick, Richard Fusch, Jim Hrivnak, Bill Little and Brian Lorenz. Dan Wiencek arrived at 7:12 p.m. Also present were David Betz, Director of Development; Eric Fischer, Development Planner; Gene Hollins, Law Director; Susie Ross, City Clerk and interested parties.

HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA

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

APPROVAL OF MINUTES

MOTION: Commissioner Fusch moved to approve the minutes of August 13, 2008. Commissioner Emerick seconded the motion.

VOTE: Y 6 N 0

The City Clerk issued an oath to those attending who intended to speak at the meeting.

SKETCH PLAN & ZONING MAP AMENDMENT

Applicant: City of Powell
Location: 10168 Liberty Road
Existing Zoning: Liberty Township FR-1, Farm Residence District
Proposed Zoning: City of Powell PR, Planned Residence District
Request: City Initiated Zoning Map Change, as authorized by Section 1131.03 (a) of the Powell Zoning Code, for property owned by the City of Powell and located at 10168 Liberty Road, containing 4.909 acres, from Liberty Township FR-1, Farm Residence District to City of Powell PR, Planned Residence District. This property was annexed into the City of Powell in 1998 with no Powell zoning category yet established.

David Betz, Director of Development, said there are three aspects to this proposal:

- Proposed Cell Tower
- Murphy Parkway Extension
- Future Planning/Development of Entire Property

Mr. Betz said in 1998 the City purchased the three properties which encompass over four acres. He said the property was acquired for use for the Murphy Parkway extension. He said there is currently no funding available for the project nor has it been authorized by City Council, but may be considered in the future if funded by the TIF. Mr. Betz said the Lechler Building on the site is currently used for storage and use by the public service department. He indicated the location of the building, proposed roadway extension and proposed site of the cellular tower.

Mr. Betz said in 2006 the City did a study of all municipal property within the City in regards to possible locations for future cellular towers. He said sites were identified at that time and they were weighted based on site factors such as topography, access, utilities, conflict with Master Plan, trees present for screening, no nearby residential and not within the historic district. He said this site, based on the weighted scale, was the third highest rated site. Mr. Betz said the highest ranked site was Adventure Park because it was not nearby any residential, was near the railroad, and had good access and utility access. He said the study was done in compliance with the City zoning code. He said this property, when

annexed in 1998, was under Liberty Township zoning and that zoning classification stays in effect until changed by the City. Mr. Betz said Staff feels they should bring a Powell zoning category to the property in order to keep it in compliance with the Telecommunications Act.

Gene Hollins, Law Director, said this property needs to be under Powell zoning. He said they have had issues trying to proceed with anything other than the Powell code. He said the zoning for this piece of property could have text attached limiting the use of the property. He said after it was zoned for that specific use, any change would require revisiting the process. He said they have met with representatives of the local residents and had this same discussion and he believes this change gives them some comfort level that once this goes through the zoning process only that which is approved will be built. He said T-Mobile construction drawings could be attached to the text for the site and that would allow another level of control. Mr. Hollins said the City, as landlord, would enter into a lease and the plan would be a part of the lease. He said this is proposed to be zoned as Planned Residential District. He said after the discussion this evening a completed application would come forward. Mr. Hollins said the next application may be a Combined Preliminary and Final Development Plan. He said this application includes all uses on the site. (Commissioner Wiencek arrived.)

Mr. Betz said the Murphy Parkway Extension alignment was set a long time ago after public hearings and preliminary engineering. He said Council went through a specific process and determined it should be a "T" type intersection with bikepath connections along the parkway to the Library Park pathway and the at-grade crossing. He identified all City-owned properties in the area including the open space for the Lakes of Powell which is intended to remain as such. Mr. Betz said if a cell tower is built in this area they intend to keep it as open space and the ponds in the area would not be affected. Mr. Betz said ideas for use of the Lechler building include a senior center, teen center or a similar purpose.

John Kopf and Deana Faumer were present on behalf of T-Mobile. Mr. Kopf said this site is important and necessary in order for T-Mobile to give better indoor coverage in the area. He said they have evaluated several sites in the area and this is one of the optimum technological sites for T-Mobile. He said they believe this cell tower will benefit the community as they will have better cell phone options, improved coverage, and more reliable service. Mr. Kopf said all information has been set forth in prior applications submitted for the tower. He said they are here to address any specific questions or concerns.

Mr. Betz reviewed the cell tower application. He said they are proposing a 160' tower. He indicated the location on an existing site survey which also shows the proposed Murphy Parkway alignment. He said access would be from a drive which would be put in along the railroad tracks. Mr. Betz said once Murphy Parkway is constructed access would come directly off the parkway. He said the site would include a fenced area for cabinets and the tower would be built so it could accept more than one cellular user. Mr. Betz reviewed the cellular propagation map which shows coverage after construction of a tower and said the more colored areas identify better service. He said the City is working with a third party independent consultant named Jan Murphy to help Staff make sure a tower is necessary, not at a height over what it needs to be, and will review design and/or site aspects.

Mr. Betz reviewed the photo simulations provided by T-Mobile. He said this information has also been added to the FTP section on the City web site. He said the photo simulations are from various vantage points. He said this is a young transitional forest which was once open farm land. Mr. Betz said the simulation shows a 160' tower. He said this and all future meetings regarding this issue will be publicized.

Chris Meyers, Architectural Advisor, said his expertise is not in the technology of cell towers. He said he gets four "bars" on his cell phone from his home which is less than one half mile away from the proposed tower. He said when they look at some of these images he is concerned that the tower is 8-9 times as big in context to all other buildings in the area. He said with all of the development along South Liberty moving southward, the next few years will yield a new gateway to Powell in this area. He said that makes this site incredibly important to the community. He said even though the technology of cell towers allows the poles to be narrower and more discreet, the height makes it quite visible. Mr. Meyers said it is something which gives him some concern. He said given the site conditions and the availability of the site, he strongly encourages considering the site for the community-based programs previously suggested. Mr. Meyers said the existing building could be "re-skinned" to make it an identity feature to the City. He said the topic discussed is more related to zoning but the potential for this site and appearance to community should be strongly considered in the decisions made.

Chairman Futryk opened this item to public comment. He reminded the public to sign in so they may be notified of future meetings. He asked anyone not sworn in to do so at this time.

Larry Inks, 140 Briarbend, said he shares the concerns expressed. He said they will prepare some other information and present it to the Commission at the next meeting. He said the simulations were completed with a 35mm lens but the eye sees with 50 mm lens. He said they will provide photos taken from the same sites with a 50mm lens so the Commission may compare the views. He suggested the members view the two towers which are on Route 315 north of Worthington Hills. He said they are around 195' in height and that is basically the same as this proposal if an extension of 30' is permitted.

Mr. Inks said the propagation maps presented are not consistent with what T-Mobile lists as coverage on their website. He said indoor coverage is something they want to achieve but it is a tradeoff. He said they have met with Staff, Mr. Lutz and Mr. Hollins and he appreciates their cooperation very much. He said he believes he speaks for the community when he says they recognize there is a balance to be considered with a proposal like this and they would like to think that it is not exactly equally weighted and the considerations of the people who are most affected should carry more weight. Mr. Inks said this is an important decision and there are precedent setting implications. He said they have to be careful what they put in place and how high it is. He said there are significant strategic concerns and interests as a community which they need to protect. He said Dublin has changed their height restrictions for cell towers to much lower than 160' and Liberty Township is changing theirs. He said technology has changed quite a bit since Powell set their standards and Powell has the need to be as protective of their area as other communities. Mr. Inks said a savvy buyer starts with the invoice and works up and that is what they should be doing in this case. He said in his initial talks with Jan Murphy there was stunned silence when he mentioned the proposed tower was 160' high. Commissioner Wiencek asked for clarification. Mr. Inks said Jan Murphy is the third party consultant who works with Dublin about cell towers. He said he is glad there is conversation with Ms. Murphy. He said they believe, as the residents affected, that the same amount of attention, time, and vigor would be applied to this proposal in this location as if it were to be placed in the downtown. Mr. Inks said they were happy to see good feedback on the community survey and that Powell residents value "small town charm." He said a very large cell tower is most inconsistent with small town charm. Commissioner Wiencek asked that any pictures or documentation be provided to Staff and that they reference the source of the information.

Lisa Ingram, 111 Timber Oak Drive, thanked the Commission for being willing to listen and Staff for meeting with them to try to understand their concerns. She said on the photo from Tyler Run Elementary School her home is shown. She said she lives in a two story house and she will see this tower every day when she walks out her front door; her children will see it from their bonus room; she will see it from her office. She said it will obscure her view of fireworks from the Festival and will remind her every day that she may have been let down. Ms. Ingram said she is all for changing the zoning if it will help prevent other further legislation and legal ramifications for the City. She said she loves living in the City of Powell. Ms. Ingram said she sat through a Planning & Zoning meeting and was thoroughly impressed with their attention to detail and the aesthetics of the neighborhoods and community. She asked the members of the Commission to visit the corner of Presidential Parkway and Sawmill Road and look at the cellular tower behind Scramblers. Ms. Ingram said it is quite large. She invited them to head east on Presidential Parkway and check out that view. She said it is a tree lined street with woods and the neighborhood and the aesthetics they treasure. Ms. Ingram said they should picture a cellular tower at the end of Presidential Parkway and ask themselves if it is still a "presidential" view.

Lorenzo Atriano, 224 Stamford Drive, said he uses his cell phone constantly and works at his house. He said he never has reception issues. He said it is not provided by T-Mobile but there are other options to City residents. He said when he and his wife looked for a house several years ago they considered other options such as Highland Lakes, Albany Park, and Powell. He said they decided on Powell because they always heard Powell protected lots of the natural scenic environments of the neighborhoods and that was a strong factor in their decision. He said Highland Lakes is beautiful with million dollar homes but as you travel closer to the radio tower the home prices plummet. Mr. Atriano said they liked Albany Park but they did not want to look at power lines. He said they settled in Powell after taking a lot into consideration and they would like to maintain that. He said this is his first house and probably his next won't be in Powell if this happens. Mr. Atriano said that is something to consider. He said it would bother him even if it wasn't an effect on his property value; he said he does not want his neighbor's property values affected either.

Frank Bertone, 492 Bantry Street, thanked Staff and Mr. Hollins for making themselves available. He asked if there could also be conversation with T-Mobile representatives so they can get better perspective on the propagation maps. He said they have lots of questions. Mr. Bertone said there was imagery provided for different considerations for the property and he is concerned that the Murphy Parkway extension could disturb several wetlands on the property. He said he was drawn to Powell was the aesthetics and his home is located near the corner of the City's property. Mr. Bertone said he and his family would see the cell tower every day from their patio. He said he questions the need for a tower the scale of 160'. He said they will not solve that during this conversation but they need to know those types of answers. He said he has co-location concerns: have they looked at all opportunities to share space with current towers? He asked how many towers could be proposed to locate on this site. Mr. Bertone said there is a genuine concern for the location of a tower of this size on this property. He said this is the south entrance to the community and in his opinion there would be no greater eyesore than this tower.

Julie DiNunzio, 165 Whitegate Court, said they all take their property values very seriously. She said when Mr. Betz reviewed the study guide earlier in the meeting, based on February 2006, it was noted that they did not want a tower within the Historic District. Ms. DiNunzio asked that the City take the same consideration and protection for the residential districts.

Chairman Futryk closed the public comment session. He reiterated this is the first meeting regarding this issue and if residents would like they may submit emails or letters to the Commission. He encouraged the residents to attend future meetings.

Commissioner Fusch asked what rights the City has in restricting towers under the 1996 Telecommunications Act. Mr. Hollins said they cannot effectively ban or prohibit cell towers. He said they must let providers install facilities and cannot discriminate among different providers. He said the providers must provide a grid pattern and lay out a site use that allows them coverage. He said government sites such as schools and City-owned properties are encouraged. Commissioner Fusch said it sounds as though the City cannot prevent a cellular company from installing a tower on any piece of property in the City. Mr. Hollins said the City's telecommunications ordinance was adopted in 1997 and was part of a joint effort by numerous municipalities to develop a model ordinance. He said they can be prohibited in certain areas but they cannot be prohibited City-wide. He said the City of Powell had the model ordinance at that time. He said they are suggested as permitted or conditional uses in planned districts and the City can allow or permit whatever use they want within planned districts. Mr. Hollins said they told the residents they can prohibit towers on this particular site and probably make that a legally defensible position. He said this is more of a policy issue. He said Staff is saying they have studied City properties and this is the best City site.

Commissioner Fusch asked Staff about the proposed zoning for this piece of property. Mr. Betz said they are considering Planned Residence District because it is (1) the primary surrounding use; (2) this is a municipally-owned property and foreseen uses would be appropriate; and (3) cell towers can be used on this site to provide service in the vicinity. He said Staff has looked at land in the general area, in and out of the City and there are not that many available sites for a cellular tower. Mr. Betz said they thought they would bring this up for discussion.

Commissioner Fusch said he is guessing there is no zoning code designation that would permit the City of Powell to reject the building of a cellular tower if that location is so coded. Mr. Hollins asked if he is asking if there is a Powell zoning district where they are just prohibited totally. Commissioner Fusch said that is what he is asking. Mr. Hollins said they are probably a permitted use in all districts. Mr. Betz said it would have to still go through this type of process. He said the only cell tower in the city is a monopole north of Adventure Park. He said that went through the plan process many years ago and it is located in a planned industrial district. He said there are ways they can work a plan to make it fit into an area or they can look elsewhere if an area is found it is not a good fit.

Commissioner Wiencek asked if in the current zoning district they specifically prohibit cell towers. Mr. Betz said they do not. Commissioner Wiencek asked if the zoning code, including the telecommunications section, allows the City to list criteria as justification for rejecting a cell tower for a specific location. He asked if the City is exempt from all of the zoning codes. Mr. Betz said they do have certain requirements to follow. He said they are required to have a plan if they are going to prioritize properties within the City. He said in residential districts cell towers are not allowed within single or two-family properties unless it is on municipal property. He said there are specific requirements they must meet: height, setback, screening, fencing & cabinet. Mr. Betz said they are allowed on commercial or

industrial properties but must still meet certain requirements. He said Staff reviews the criteria provided and makes sure it is as accurate as possible. Commissioner Wiencek asked if the City has less control on private property versus on City property. Mr. Hollins said the code says a tower cannot be the principal use if on commercial property. Commissioner Wiencek said City felt determining the best City-owned site for a tower was the best way to respond to the Telecommunications Act so they had a better measure of control. He asked T-Mobile why a tower 160' high is better than one 140'. He asked how high their other towers are in this area. He said he knows a cellular tower signal is wafer thin and goes out horizontally from the tower.

Syed Alam, Engineer for T-Mobile, said towers on surrounding sites are usually 100' – 160'. Commissioner Wiencek asked if there is a variation because they are trying to get the receiving and sending heights at the same elevation. Mr. Alam said the tower height is dependent upon the radius of the coverage you want in the surrounding area. He said they recommend a height but if it is not possible, they will see what coverage they can provide with a lower height. He said in this case they need a good height in order to produce indoor coverage. Commissioner Wiencek asked if it is true that the lower the tower the more towers they need. Mr. Alam said that is true. Ms. Faumer said they could probably get their coverage objective at 140' but they want a height of 160' to allow more carriers in the future. She said a 140' tower will only allow one or two more other carriers but at 160' they can add another three carriers. Commissioner Wiencek asked if for every future carrier is there an equivalent amount of ground equipment. Ms. Faumer said there is. Commissioner Wiencek clarified that every time they add another carrier they will add another box on the ground. Ms. Faumer said since they are the initial carrier, they try to lease a certain amount and the space should not get much bigger than the initial area. Chairman Futryk said one of the residents said there is an opportunity to add another 30' on top. He asked if adding up to another three carriers will go higher than the initial 160'. Ms. Faumer said if they build it at 160' a third carrier added at tree level may not get coverage so they have the capacity of putting another 30' above.

Commissioner Wiencek asked if T-Mobile plans to add a tower in the north part of the city. Mr. Alam said they have more residential area to cover at the south. He said they look at where customers have problems and coverage has different levels. He said a 160' tower allows them to build one tower with multiple carriers instead of multiple towers. Commissioner Wiencek asked about the Dublin tower. Mr. Alam said they do not have the new Dublin site at this time. Commissioner Wiencek asked if indoor reception would be improved in 85% - 90% of the area indicated if they locate a tower at the proposed Dublin location. Mr. Alam said they will have to come back with a prediction. He said this is only the proposed location for that tower. Commissioner Wiencek said T-Mobile may want to try the Dublin site first because it may eliminate the need for this tower. Chairman Futryk said it may definitely change the location of the proposed tower in Powell. Commissioner Wiencek said someone has to go first and maybe Powell does not want to be the one. He suggested they try other options such as including a co-location on the proposed Powell UMC Bell Tower. He said it is a shorter height but it might be a solution. He asked that T-Mobile explore that option and come back to say why it will or will not work. Commissioner Wiencek said if the City were to allow a cell tower on the proposed site, it seems that the view to the surrounding area would be hardly impacted if the tower was located west of Murphy between Murphy and the railroad tracks. He asked for Mr. Meyers' opinion. Mr. Meyers said he is yet to see a 160' tree in any area. Commissioner Wiencek asked if that solves the neighborhood problem and just makes the community-wide problem more visible. Mr. Meyers said it is a terrible location because of the adjacency of the nearby homes. He said a location further east makes it even more dominant on Liberty and it is still visible by the same homes. He said this is a residential neighborhood which happens to have a small City-owned commercial site in the middle of it. He said it is bad enough that there is a City storage building but it is ok to the residents because there is a huge buffer of woods. He said the view from Liberty or from homes would be changed dramatically by the sight of a cell tower.

Commissioner Wiencek asked if it would be sufficient grounds to reject this tower if the City was convinced that the other carriers had reasonable coverage in T-Mobile's weak area within the City. Mr. Hollins said he did not see why not if they applied the City code to the application. Commissioner Wiencek said the Commission should at least know what type of service is provided in the area by other companies. Mr. Hollins said the third party consultant should be able to assist with that information. Commissioner Emerick said he would like to know how many customers T-Mobile has in this effected area. Mr. Kopf suggested this may not be appropriate under the 1996 Act because there might be a prima facie claim. Commissioner Fusch said it was mentioned they could add 30' to the 160' tower. Mr. Hollins said they must also comply with the zoning approval for this application and if the approval

specifies a height, they may not go above that. He said their lease with the City would say the same thing. Mr. Betz said the tower was designed to accommodate an additional 30'.

Commissioner Little said he lives $\frac{3}{4}$ mile east and slightly north of the proposed location. He said he has a different carrier and has very little coverage in his house. He said where T-Mobile intends to add coverage, the map still shows that he is outdoor coverage. He asked what they would do further to get better coverage. Mr. Alam said people have problems with indoor coverage and that is why they have proposed this tower. He said they have lots of ways to do it and if it is possible they have already tried it. Commissioner Little asked if then the ultimate solution would be the addition of another proposed tower north of this site. Mr. Alam said they would not want to spend that much money to put in another tower to provide coverage to a very small area which already has some coverage. He said it is not possible to provide coverage everywhere but they want to try to provide as much coverage as they can. He said the proposed tower would help provide indoor coverage. He said it may not provide it to 100% of the users but would cover most. Commissioner Little said he would like more information about where the technology is today and where it will be in the next 1-3-5 years. He said he would like to know if some new technology coming is that would better suit the City if they are patient. He said this is the case where a tower is proposed and they are not even covering users $\frac{3}{4}$ of a mile away. Mr. Alam said he will bring information at the next meeting. Ms. Faumer said when they look at the coverage, if users are down in a gully they will not receive coverage. She said it has to do with line of sight.

Commissioner Emerick said most of his questions have been covered. He asked where T-Mobile's closest tower to this area is located. Ms. Faumer indicated the location of the tower to the north near Seldom Seen. Commissioner Hrivnak said they are initially only looking at a zoning map amendment. Mr. Betz said they are also considering a sketch plan review with the aim to receive information, public input and to ask questions. He said Staff will go back with the information and retool a written plan which will reflect the comments gathered here. He said T-Mobile will also gather information to answer the questions asked this evening. Mr. Betz said Staff will prepare information regarding the rest of the property. He said all of this will lead up to rezoning the property. Commissioner Hrivnak said currently the zoning is Liberty Township Farm Residential and for the City to have best control they need to change the zoning to Powell Planned Residential District. He said he is of the opinion that unless rezoned to a Powell classification, the City will not have the ability to make a detailed plan for this site. He said a third party consultant should help provide answers regarding opportunities for co-location. Commissioner Hrivnak said he is curious to have T-Mobile look into the other properties identified in the City study which are more likely to house a cell tower. He said he would like to see maps which show coverage if the tower was located on one of those areas. Mr. Betz identified the sites as: #1 Adventure Park, #2 Seldom Seen Road Site, and #3 is a tie of three sites which are the Village Green, the proposed South Liberty site, and the Rutherford Road site. Commissioner Hrivnak asked if there is a zoning map which identifies industrial areas in this area of town. Mr. Betz said there are no sites until you get into the downtown area. He said there are some sites along Sawmill Parkway and there is an existing tower there that is not shown on this propagation map. Commissioner Hrivnak said he would like more information about co-location opportunities on towers as well as on other structures. He asked if there could be co-location on a water tower. Mr. Betz said Delco Water does not allow for cell facility co-location on their sites.

Commissioner Lorenz said he has been through this process before with the City of Pickerington. He said he understands that the towers use triangulation and operate by bouncing signals. He asked if the indoor and outdoor services are handled by just one antenna. Mr. Alam said it is one antenna. Commissioner Lorenz asked if there is an opportunity to "beef up" signals at the existing sites or change triangulation methods to eliminate the need for this tower. Mr. Alam said they have tried to improve coverage and if they try to improve "far" coverage they lose "near" coverage. Mr. Kopf said if it was possible, T-Mobile would do that because it would be less expensive than building a tower. Commissioner Lorenz said the maps are nice but he would like to have statistical data to show how the maps were contrived. He echoed the concern of the tower height. He asked if they would use a transmitting facility or dish-type receiving facility. Mr. Alam said it would be both. Commissioner Lorenz said he thinks the Law Director and Board Members have mentioned this gives the City control when rezoning this site. He said he would be in favor of the rezoning. He thanked those who attended for the meeting and encouraged public input at future meetings.

Chairman Futryk said he shares the other Commission members' concerns about the height and location of the tower. He said he is interested in hearing more about how the other proposed tower to the south would change the height and location of the proposed tower on this site. He asked if a tree survey had been completed to identify the types of trees on the site. He said the ash borer could come through the

area and clear out trees, affecting the coverage on the site. Mr. Betz said they have not done a species survey but they will look into it. Chairman Futryk asked the Law Director if he will gather information about any updates which may need to be made to the City's Telecommunications Act. He said he would also like T-Mobile to provide information about future technology. Commissioner Wiencek said he thought he had seen a T-Mobile request for a variance against the existing zoning. Mr. Betz said Staff has determined this is the best process for applications for this site. Chairman Futryk encouraged the representatives of T-Mobile to contact Staff or the Law Director if they have any questions. He encouraged members of the audience to sign in so they may receive future notification.

OTHER COMMISSION BUSINESS

Mr. Betz said the Commission will hold a special meeting on September 24th to review an application for a sign and an amendment to the Robinson Subdivision Development Plan. Chairman Futryk said he recalls the Commission gave authority to Mr. Stavroff to work with Staff regarding building colors for 8 N. Liberty. He said he remembers that all renditions they reviewed were anything but a green color. Mr. Betz said the green color falls within the Historic District palate. He said it has been brought up as an issue by several people but the HDAC thought if it stayed within the Historic District palate it is appropriate. Commissioner Fusch said he has the same feeling but he does remember the HDAC and Commission giving Staff the final decision. Commissioner Little said the colors were much softer in the renditions. Commissioner Little asked if the patio is the size approved. Mr. Betz said it is.

ADJOURNMENT

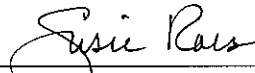
The meeting was adjourned at 8:45 p.m.

DATE MINUTES APPROVED: October 8, 2008



Kevin Futryk
Chairman

11/10/08
Date



Susie Ross
City Clerk

11/12/08
Date

