



City of Powell, Ohio

Planning & Zoning Commission

Donald Emerick, Chairman

Richard Fusch, Vice Chairman

Joe Jester

Bill Little

Brian Lorenz

Erin Wesson

Chris Meyers, AIA, Architectural Advisor

MEETING MINUTES OCTOBER 27, 2010

A regular meeting of the Powell Planning & Zoning Commission was called to order by Chairman Donald Emerick on Wednesday, October 27, 2010 at 7:00 p.m. Commissioners present included Richard Fusch, Joe Jester, Bill Little and Erin Wesson. Brian Lorenz was absent. Also present were David Betz, Director of Development; Chris Meyers, Architectural Advisor; Susie Ross, City Clerk; and interested parties.

HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA

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

APPROVAL OF MINUTES

MOTION: Commissioner Jester moved to approve the minutes of October 13, 2010. Commissioner Fusch seconded the motion.

VOTE: Y 4 N 0 Commissioner Little arrived after the vote.

FINAL LANDSCAPE PLAN

Applicant:	Village Academy Schools Kevin Harrison, Harrison Planning Group, LLC
Location:	216 South Liberty Street
Zoning:	DB, Downtown Business District HD, Historic District Overlay
Request:	Approval of a Final Landscape Plan for a proposed new Preschool building containing 8,800 sq. ft. on 1.98 acres.

Kevin Harrison, Harrison Planning Group, representative for the applicant, said at the last meeting they were tasked to develop the landscape buffer to the east of the property. He said several residents were invited to meet with them and two residents attended. He said they came to that meeting with a plan and then adjusted the plan to more closely deal with the issues of the residents. Mr. Harrison reviewed the site plan. He said they are proposing a small mound north of the swale with ten Korean viburnum in the front and nine Canadian hemlock in a random pattern behind them. He identified an area near the existing tennis court fencing where they propose adding 11 Canadian hemlock and 14 of the viburnum. He said they will be planted on a little bit of a mound and will be randomly spaced. Mr. Harrison said during the meeting they did commit to the residents that once they have a landscape contractor on board they will stake the locations of the trees and bushes and get a verbal approval from the residents. He said they want to make sure they block the views as planned. He said the other issue tasked at the last meeting was the engineering approval and that is in process. Mr. Harrison said they worked with Chris Meyer regarding the pinch point on the façade and decided to use a vertical board and batten siding in a darker color so it separates the two pieces of the building. He said they will use signage and up-lighting as well. He said they also discussed traffic calming devices and propose two speed tables on the site.

David Betz, Director of Development, reviewed the Staff Report (Exhibit A). He said Staff reviewed the planting plan and they think it provides a good living fence of screening for the residents along the east property line. He said they discussed the plan with the City Engineer and he is fine with the addition of a slight mound of up to two feet in that area. He said it will help drainage and will help keep the feet of the trees from being too wet. He said hemlocks can take some moisture. Mr. Betz said there is no issue with the overflow because the sewer will connect to the basin and it has already been designed to accept the runoff from this location. Mr. Betz said the storm sewer runs south and fencing could happen on the southern side if needed. He said the engineer would rather not have fence in that area so if they must have fencing they will need to have an opening as shown on the site plan or they can use split-rail fence along the entire length. Mr. Betz said Staff feels it is redundant to have fencing in the landscaping area. He said the applicant has done a great plan overall and Staff recommends approval.

Chris Meyers, Architectural Advisor, said they appreciate the school's efforts to work with the residents from the neighborhood. He said the selection of Canadian hemlock is very good as they are pretty tall when planted and have significant density. He said it is the right choice in attempting to provide a screening between the properties. He said elevation on a slight mound is also great for the longevity of the trees and it will enhance some of their height. Mr. Meyers said the speed tables will be a good solution to minimize traffic and not potentially damage any vehicles using the drive. He said the details shown for the pinch point make it a focal area at the end of the drive. He said it is an ideal place for a change of materials and the addition of signage and up-lighting. He said this will be a wonderful building for the community.

Chairman Emerick opened this item to public comment.

Tom Baldrick, 201 Briar bend, said he lives directly behind where the school is going to go. He said the school has done a good job in terms of the landscaping but his issue is still the same: he would still like to have a fence in that area like they have at the other ends of the school property. He said the plantings should fill in within two years but until that time they will not have any privacy. He said it took at least two years for the other trees to grow by the tennis court so it will be open and unscreened for a good two years. He said it may provide screening within two years if none of the trees die. He said that is still his issue: he would like to see a fence that matches that on the other side of the property.

Commissioner Little asked if Mr. Baldrick sees traffic and is it from the school coming into the residential area or is it cut-through traffic. Mr. Baldrick said mostly he sees people walking on the property line by his woodpile, along the fence. He said there is a fenced-in yard to the right of his back property line and adults and kids cut through his yard to get to the school and the businesses along South Liberty Street. He said it is a short-cut and some cut throughs take place on the weekend. He said the existing fence is a 6' wooden stockade privacy fence. He said the school really made the effort to make the landscaping for privacy happen but he would like a fence.

Hearing no further comments, Chairman Emerick closed the public comment session.

Commissioner Fusch said he is happy to see there has been good communication between the school and the nearby residents. He said he likes the landscape plan but he asked why they are not installing a fence. He said it looks like there is a lot of foot traffic going through back yards in that area. Mr. Betz said the City is not a great proponent of privacy fencing and would like to keep it at a minimum when necessary. He said the engineer would not like to see fencing in the swale area that is at least 10' wide. Commissioner Fusch asked to see the location of the swale. Mr. Betz indicated the area on an aerial map. He said if the fence goes into that area to block the view it will also need to go all the way to the end or people will still cut through. Commissioner Fusch asked where they are cutting through. Mr. Betz asked if Mr. Baldrick has considered adding fence along his garage to tie into his neighbor's fence. He said he may want to consider it.

Commissioner Fusch asked what will stop people from walking between any of the houses and walking through the swale if they do not have the entire area fenced. Mr. Betz said they can cut through any of the areas. Commissioner Fusch said a rail fence does not screen anything and would not keep people from cutting through.

Commissioner Wesson said she believes the plan has come together well. She said she lives adjacent to a school but her development was built after the school. She said there is a walking trail that leads to the school so she has not had any issues with folks walking through her yard. She said she can see that without a fence that could be an issue. Commissioner Wesson said she does not know if she has any solutions for this issue. She said the trees are a great solution but they may want to continue the conversation to come up with better suggestions. She said overall she is in support of the plan.

Commissioner Little said he appreciates the amount of work that has gone into this proposal. He said they are adding a building that is 80-90 kids and he is unsure if the foot traffic that cuts through has any relationship to the school. He said they may want to query the members of the Commission to see what they think about the fence. He said if they have to leave open a 10' space for the swale, the people cutting through may have to walk through every yard to get to the opening in the fence. He guessed that most of the foot traffic is from kids in the neighborhood and they may need to use their homeowner association to distribute information to ask parents to talk to their kids about respecting private property. Mr. Baldrick said the issue is more about privacy than people cutting through. Commissioner Little said the Commission can require a fence and propose taking it down in two

years. He said he is adverse to stockade fences and is happy he lives in a town that feels that way as well. He said he has mixed emotions in this case.

Commissioner Jester said he would think the school could talk to the parents and the residents could also work with the homeowner association to help this situation. He said they have done a wonderful job putting things together since the last meeting.

Susan Lasley, Head of School, Village Academy, said she is not opposed to them putting a message to parents in their school newsletter. Mr. Harrison said it sounds like it may not be students cutting through the yards as there are issues on the weekend and after school hours.

Commissioner Jester said taking that step would show the homeowners they are willing to work together to solve the problem. Ms. Lasley said they have already sent a notice out to all of the teachers to keep the children away from the property line when on the playground or out for sporting events. She said most of their students come to the school via the driveway and she is not sure many of their students are walkers. Commissioner Fusch said he believes this private school draws from all over the metropolitan area and he doubts the kids cutting through are from the school. Mr. Baldrick said he believes that is true.

Chairman Emerick said he likes the idea of communicating through the homeowner association to get the word out about cutting through private property. He said he is ambivalent about the fence but he is not a great proponent of privacy fences. He said he would rather see landscape screening do the job. Chairman Emerick queried the members of the Board about the addition of a fence. Commissioner Fusch said people will figure out a way around the fence. Commissioner Wesson said if it is for screening she would rather see the landscaping. Mr. Harrison said a six-foot fence will always be that tall and the trees proposed will grow to be 6' high and be planted on top of an 18-24" mound. He said they will grow to be over 20' high and they are proposing a good number of trees that will be staggered so they are almost solid. Mr. Meyers said hemlock trees are a very dense tree and 6' is the tallest they should install. He said the way they are staggered they will mature very quickly, growing 20"-30" in the first year. Chairman Emerick agreed. Mr. Meyer said they cannot see light coming through this type of tree. Commissioner Little said he has several hemlocks on his lot and they get bushy very quickly. He asked if there are deed restrictions against stockade fencing in that area. Mr. Betz said a lot of the fences proposed in that area are split rail with wire. He said the City zoning code restricts stockade fencing unless it is used for screening purposes. He said the code does not require fencing for screening purpose but it does require a planted buffer zone. He said the proposal includes over-planting.

Commissioner Little said it will be troubling to require a fence on the property if the neighborhood and City code do not allow it. He said if the homeowner association does allow fencing of some type, the resident will have the option of adding the fence on their own. Mr. Baldrick said a fence was added two houses up from his because of some issues on the property behind it. Commissioner Little said if they work with the developer and follow through with the offer to be on site when they install the plant material, he is not in favor of a fence. Commissioner Jester said he is not in favor of a fence.

MOTION: Commissioner Little moved for approval of the Final Landscape Plan for the proposed preschool building at 216 S. Liberty Street, otherwise known as Village Academy Schools, subject to the following conditions:

1. We recognize that this closes the pending stipulation for approval of the Combined Preliminary and Final Development Plan that was approved by this Board on October 13, 2010, particularly as it relates to landscaping.
2. The remaining conditions set forth on October 13, 2010 still apply and the Board understands they are in the process of being addressed.
3. The homeowners adjacent to the property on the eastern border shall have input on the locations of the plant material and the developer shall provide reasonable notification of when that activity will be scheduled.

Commissioner Fusch seconded the motion.

VOTE: Y 5 N 0

COMBINED PRELIMINARY & FINAL DEVELOPMENT PLAN

Applicant:	CVS
Location:	3488 Seldom Seen Road
Existing Zoning:	Liberty Township PC, Planned Commercial District
Proposed Zoning:	Powell PC, Planned Commercial District

Request: Review of Combined Preliminary and Final Development Plan for an existing pharmacy and store in the process of annexation into the City of Powell.

Mr. Betz said Tyler Stoner, Attorney for the Applicant, called late today and said he is not able to attend this evening due to an emergency. He said Mr. Stoner asked that the Commission follow through and approve the Combined Preliminary and Final Development Plan for CVS Pharmacy. He reviewed the site plan for the area pending annexation. He said the annexation of the property includes bringing in the prior zoning from Liberty Township, with the exception of the proposed sign package. Mr. Betz said they reviewed this at the last meeting and most everyone was in approval of the sign plan with the exception of the monument sign with a LED reader board. Mr. Betz said CVS still wants this type of sign and it was an important part of the pre-annexation agreement approved by City Council. He said the Planning & Zoning Commission does have the authority to set how often the message changes on the monument sign. He said several communities have approved these types of signs with agreement from CVS to limit the changes in message to as little as once per day. Mr. Betz said City Council approved the pre-annexation agreement and this sign is part of the agreement. He said Staff recommends approval.

Mr. Meyers said a light-up sign is a bad design, even if it changes less often. He said the CVS building is not a model of good architecture and he cannot offer architectural wisdom for this sign.

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

Commissioner Jester said he is still opposed to this type of sign. He said he does not believe the sign belongs there and other than that he is glad CVS is coming into the City. Commissioner Little said he understands the concept of annexation but he personally struggles with an already established national brand company coming into the City and being given special circumstances that violate the City's sign code while at the same time they require small established business to be painstakingly held to the signage ordinances. He asked if they were to vote "yes" with some conditions that do not violate the sanctity of the pre-annexation agreement would they be more apt to have City Council: (A) agree with those conditions; or (B) take the time to write their own conditions as a part of that agreement. Mr. Betz said Staff would first review those with CVS and their attorney to make sure they can come to an agreement. He said depending upon the conditions placed, Council would be fine with it as long as it meets the pre-annexation agreement. He said he would have to review any conditions with the Law Director as well. He said Council, with a super-majority vote, can override any of the recommendations of the Planning & Zoning Commission.

Commissioner Little said he believes the message should not change more than once every 30 minutes and no animation should be permitted on any externally visible signage on the property. He said it is nice they will allow the City to periodically place public notices on the sign but he would make it a condition that the property shall be bound to comply with the City sign ordinances from this time forward with the exception of the variances agreed to in this development plan. Mr. Betz said they can also bind them from having any further temporary signage and that would not violate the pre-annexation agreement. Commissioner Little said he will add wording to the motion regarding an upgrade of technology so the signage will always be regulated. He asked if they can be asked to return to the Commission if they have to replace the signage. Mr. Betz said they may.

Commissioner Wesson said she is generally opposed to the use of the LED signage as well but she understands the annexation agreement. She asked if there are any parameters around maintenance of the sign. Mr. Betz said there are maintenance requirements within the Code.

Commissioner Fusch said he agrees with all of the comments of the Commission and the Architectural Advisor. He said all of his colleagues are worried about the same thing: they are operating at a double standard. He said he would not be surprised if the smaller businesses in the community walk in the door with a proposal to put in a sign like this. He said they will be hard-pressed to say they cannot do it when they have approved this sign. He said this may jeopardize the City's sign code.

Chairman Emerick entered Commissioner Lorenz's comments into the record (Exhibit B). He said he agrees with the previous comments from the other members of the Commission. He said he would not be voting in favor of this if it were not for the pre-annexation agreement. He said he drove around the area and it seems as though CVS made a bad choice in location and have been upstaged by Walgreens and now they expect the City to help them make up for it. He said that is not the right way to go.

MOTION: Commissioner Little moved for approval of the Combined Preliminary and Final Development Plan for the CVS located at 3488 Seldom Seen Road subject to the following conditions:

1. The LED portion or any future newer lighting technology used in that area of the monument sign shall be programmed to have the message change not more than once every thirty minutes.
2. There shall be no animation allowed on any externally visible signage on the property including but not limited to the monument sign.
3. The applicant shall allow the City of Powell to periodically post public service announcements on the LED or any newer lighting technology applied in that area of the monument sign.
4. The property shall be bound to comply with the City sign ordinances from this point forward with the exception of the variances agreed to in this development plan.
5. Should the monument sign be replaced in the future, the sign plan shall be brought forward to the Planning & Zoning Commission for approval.
6. There shall be no other temporary outdoor signs approved for this property.

Commissioner Jester asked for clarification about the approval of a LED sign. Commission Little said this motion would allow a LED sign or any newer technology that would be used to replace it. Commissioner Little said this simply limits how much the sign can change and also places other limits on the sign package. He said City Council has already agreed, through the pre-annexation agreement, to allow the LED sign and he is afraid that if the Commission does not approve it with stipulations, those stipulations may become lost in Council's decision.

Commissioner Fusch seconded the motion.

VOTE: Y 5 N 0

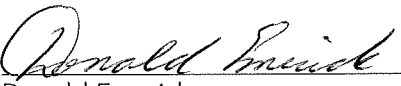
OTHER COMMISSION BUSINESS

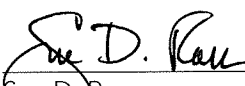
Mr. Betz said the Commission may want to make a recommendation that in the future, City Council should involve a couple of members of Planning & Zoning prior to approving a pre-annexation agreement. Commissioner Fusch asked if a member of the Commission is on the Development Committee. Mr. Betz said Kevin Futryk just resigned from the Committee and they should select an existing member to take his place. Commissioner Fusch said he is willing to serve on the Development Committee. Mr. Betz said they need to tell Council that the Commission would like to be more involved in these types of decisions. Commissioner Fusch asked about the process in regard to pre-annexation agreements. Mr. Betz said Staff, the Mayor and City Manager generally meet with the property owner to discuss the owner's needs and what they would like to see happen if they annex into the City. He said they negotiate it from there. He said City Council has to approve the pre-annexation agreement prior to the annexation. He said the negotiations can take place over a long period of time and they are not held in open meetings. Chairman Emerick asked if one person from the Commission on the Development Committee is enough to make a difference. Mr. Betz said Council established a policy stating they want to annex a lot more existing commercial land and in order to do that they have to offer some incentives. Mr. Betz said in this case CVS did not need financial incentive; they just wanted signage that could help them compete with a competitor down the road who received a good signage package from Liberty Township. The members of the Commission decided to discuss this again at a further meeting.

ADJOURNMENT

The meeting was adjourned at 7:57 p.m.

DATE MINUTES APPROVED: November 10, 2010

 2/9/11
Donald Emerick
Chairman Date

 2/9/2011
Sue D. Ross
City Clerk Date

