

ORDINANCE NO. 16 -16
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Rau ON THE 17th DAY OF October, 2016.

AN ORDINANCE AMENDING ORDINANCE NO. 14-08, CHAPTER 1216 OF THE CENTERVILLE MUNICIPAL CODE, THE UNIFIED DEVELOPMENT ORDINANCE FOR THE CITY OF CENTERVILLE, OHIO, TO AMEND THE REGULATIONS FOR DEVELOPMENT PROCEDURES.

PREAMBLE

WHEREAS, on the 15th day of December, 2008, the City of Centerville enacted the Unified Development Ordinance (UDO) to establish zoning regulations and to provide for its administration, enforcement and amendment; and

WHEREAS, the City Council directed the City Manager to conduct an annual review of the UDO and amendments thereto to assure consistency with previous ordinances, to update it to reflect current policies and to eliminate duplicity; and

WHEREAS, revision of Sections 5.09, 5.11, 5.13, and 5.19 of the Unified Development Ordinance regulations for development procedures is recommended at this time:

WHEREAS, the amendments are in harmony with the City of Centerville's comprehensive plan, *Create the Vision*; and

WHEREAS, all requirements of Chapter 713 of the Ohio Revised Code, with regard to the adoption of the UDO and/or amendments thereto by the Planning Commission and subsequent action of the City Council have been met.

NOW, THEREFORE, the Municipality of Centerville hereby ordains:

Section 1. Ordinance Number 14-08 passed on the 15th day of December, 2008 and as subsequently amended, be, and the same hereby is revised as follows with new language to be added in *bold italics* and text to be deleted in ~~strikeout~~ as provided in Section 5.02 of the Centerville Charter:

By amending Article 5, Development Procedures, as follows:

5.09 Development Approvals Review: Categories and Criteria

- A. General Requirements: ~~The following~~ Table 5-4 summarizes the development approvals reviews permitted under the UDO. ~~The~~ Subsequent sections of the UDO define the applicable approval review processes and submittal requirements.
- C. Certificates of Zoning Compliance (CZC): The Certificate of Zoning Compliance shall demonstrate that an approved development complies with the requirements of the UDO. The CZC must be issued prior to allowing a building permit to be issued. No building or other structure shall be erected, constructed, re-constructed, enlarged, moved or structurally altered, nor shall any excavation or site improvements be commenced, until the following has occurred:
1. The owner of the property involved or a person having an interest in such property and acting under written authority of the owner has applied for a CZC;
 2. The application for a CZC shall include the submittal of a site plan as defined herein;
 3. The City Planner, ~~or~~ Planning Commission, *or Board of Architectural Review* shall review and approve a CZC depending upon whether a major or a minor site plan is required; ~~and~~;
 4. The City Planner has issued the CZC following approval of the site plan; *and*,
 5. *Existing zoning and property maintenance violations have been remedied.*
- G. Development Plan: Approval of a Development Plan is required within the Residential Planned Development (R-PD), Office Planned Development (O-PD), Business Planned Development (B-PD), Industrial Planned Development (I-PD) and the ~~Mixed-Use Overlay Districts including the Neighborhood Center (NC), Community Center (CC), and the Corporate Business (CB) Districts.~~ The two-step Development Plan review and approval process includes submission of a Preliminary Development Plan and a Final Development Plan. Depending on the scope and complexity of the project proposed, the Planning Commission may permit the Preliminary Development Plan and the Final Development Plan to be combined as *one (1)* submission. The TRC, ~~and the~~ Planning Commission, *and City Council* review both plans. (*Ord. 17-14*)
1. *Standards for Approval, Preliminary Development Plan (PDP). The following standards shall be considered in the review of Preliminary Development Plan applications:*

- a. *The PDP meets the purpose and general characteristics of the substantive Planned District as described in Article 7.17;*
 - b. *The PDP addresses the impact of the project on other property or other uses located on the same property;*
 - c. *The PDP addresses compatibility with development on nearby property;*
 - d. *The PDP addresses safe conditions for pedestrian or motorists and the prevention of dangerous arrangements of pedestrian and vehicular ways; and*
 - e. *The PDP addresses safe ingress and egress on the site, and circulation within the site, for emergency vehicles.*
2. ~~1.~~ Standards for Approval, *Final Development Plan (FDP)*. The following standards shall be considered in the review of *Final Development Plan* applications:
- a. ~~It~~ *The FDP* fully complies with the applicable requirements of the UDO;
 - b. ~~It~~ *The FDP* adequately protects other property or other uses located on the same property;
 - c. ~~It~~ *The FDP* is *compatible* ~~consistent~~ with other development on nearby property;
 - d. ~~It~~ *The FDP* provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian and vehicular ways; and,
 - e. ~~It~~ *The FDP* provides safe ingress and egress *on the site, and circulation within the site, for* emergency vehicles ~~on the site~~.
3. ~~2.~~ The Planning Commission and City Council shall each hold a public hearing on a Development Plan in accordance with Section 5.06 (D) of this UDO. *The Planning Commission serves as a recommending body to the City Council for Development Plans. City Council serves as the final review authority for all Development Plans.*
4. *Effect of Approval, Preliminary Development Plan: A Preliminary Development Plan (PDP) approval by the City Council shall not constitute an amendment to the Centerville Zoning Map. A PDP approval shall be valid for a period of one (1) year to allow for the official submittal of a Final Development Plan. Unless the required Final Development Plan is properly submitted for*

Planning Commission review within the one-year period, the PDP approval shall be voided unless an application for time extension is submitted and approved by City Council.

5. *Effect of Approval, Final Development Plan: A Final Development Plan (FDP) approval by the City Council shall constitute an amendment to the Centerville Zoning Map as it applies to the land included in the approved amendment for the appropriate Planned and Overlay Districts. In the event zoning and building permits are not issued in association with an approved FDP within two (2) years of approval, the FDP shall expire. The expiration of an FDP shall also result in the expiration of the associated PDP. Therefore the land shall revert to its last previous zoning district, unless an application for time extension is submitted and approved by City Council. Where conflicts exist, the approved FDP shall supersede all previous PDP or FDP approvals.*

5.11 Development Approvals Review: Procedure

- A. **General Requirements:** This Section of the UDO outlines a series of actions that are required for specific development approvals reviews. These actions are:
 1. *Approvals Review* by the City Planner;
 2. *Approvals Review* by Planning Commission;
 3. *Review by the Board of Architectural Review;*
 4. *Review by the City Council.*
 4. 5. Floodplain permit process;
 5. 6. Major Subdivision process;
 6. 7. ~~Minor subdivision process.~~ *Final Plat Amendment process; and*
 8. *Vacation of Streets, Alleys, or Easements.*
- B. **Approvals Review by the City Planner:** The following outlines the procedure under which the City Planner decides development approvals reviews development proposals:
 1. **Pre-application Meeting:** The applicant ~~shall~~ *is encouraged to* meet with the City Planner prior to submitting an application for plan approval. The purpose of the meeting is to discuss the proposal and to provide feedback regarding applicable standards and requirements.

- C. **Approvals Review** by Planning Commission: The following outlines the procedure under which Planning Commission ~~decides development approvals reviews~~ *development proposals*:
1. **Pre-application Meeting**: The applicant ~~shall~~ *is encouraged to* meet with the City Planner prior to submitting an application ~~for plan approval~~. The purpose of the meeting is to discuss the proposal and to provide feedback regarding applicable standards and requirements.
 7. **Action by the Planning Commission**: The Planning Commission shall consider the application at its formal public meeting. It shall hear a presentation by staff as appropriate, a presentation by the applicant, and comments by interested parties. The Planning Commission shall consider this information and render a decision at the public meeting. If necessary, it can table and continue hearing the application at a future public meeting date as announced by the Planning Commission, at which time it shall render a decision. In rendering a decision, the Planning Commission shall consider the applicable decision criteria of this UDO. *For applications solely under its review authority, the Planning Commission shall approve, approve with conditions or deny an application. Its decision shall take effect immediately, or at the earliest date permitted by law. When applicable, the Planning Commission shall recommend a course of action to the City Council for those applications that require City Council review.*
- D. **Approvals Review** by the Board of Architectural Review: The BAR shall follow the same development ~~approval review~~ procedure as Planning Commission as stated in Article 5.11(C) of this UDO.
- E. **Review by the City Council**: *The following outlines the procedure under which the City Council reviews development proposals:*
1. **Preparation of Agenda and Public Notice**: *Following a formal review and recommended course of action by the Planning Commission or Board of Architectural Review (if applicable), the Clerk of Council shall place the application on the agenda of the City Council and provide proper public notification in accordance with Article 5.06(D).*
 2. **Preparation of Meeting Materials**. *The City Planner shall forward all relevant documentation reviewed by the Planning Commission or Board or Architectural Review(if applicable) to the Clerk of Council. Such documentation shall include the staff report, final decision letter, application materials, meeting minutes, correspondence from the public, and all other relevant documents.*
 3. **Action by the City Council**: *The City Council shall consider the application at its formal public meeting. It shall hear a presentation by staff as appropriate, a presentation by the applicant as appropriate, and comments by interested parties. The City Council shall consider this information and render a decision at the public meeting. If necessary, it can table and continue hearing the*

application at a future public meeting date as announced by the City Council, at which time it shall render a decision. In rendering a decision, the City Council shall consider the applicable decision criteria of this UDO. The City Council shall approve, approve with conditions or deny an application. Its decision shall take effect immediately, or at the earliest date permitted by law.

- F. ~~E.~~ Floodplain Permit Procedure: The City Engineer is hereby appointed to administer and implement the UDO by granting or denying floodplain permit applications in accordance with its provisions.
- G. ~~F.~~ Subdivision – Major: Before any land is subdivided, the owner of the property proposed to be subdivided, or the authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which includes a Preliminary Plat and Record Plat.
- H. ~~G.~~ Final Plat Amendment: Upon the application of an owner(s) of land described in a Record Plat, the City Council may amend the Record Plat, in whole or in part, where unusual or exceptional factors or conditions require the amendment to avoid undue hardship.
- I. ~~H.~~ Vacation of Streets, Alleys, or Easements: City Council may, by ordinance, vacate or alter any street, road, highway, alley or easement upon finding that there is good cause for such vacation or alteration. Any such vacation or alteration shall first be reviewed by the Planning Department, in order to make a recommendation to City Council. Notice of the intention of Council to vacate or alter any street, road, highway, alley, or easement shall be published in a newspaper of general circulation in the City for six (6) consecutive weeks preceding such action unless all abutting landowners have filed written statements of consent to the proposed action with the City Clerk of Council, in which case no notice is required. Any application to vacate or alter any street, road, highway, alley, or easement shall be accompanied by a fee.

5.13 Development Approvals *Review: Submittal Requirements*

- G. Development Plan: The following outlines the submittal requirements for Preliminary and Final Development Plans. Relative to the approval process, each Preliminary and Final Development Plan must be approved through the same process. Preliminary and Final Development Plans shall be submitted at least six (6) weeks prior to the meeting at which the Plan will be reviewed by Planning Commission. (*Ord. 17-14*)
- ~~3. Effect of Approval: The Final Development Plan as approved by the Planning Commission shall constitute an amendment to the Centerville Zoning Map as it applies to the land included in the approved amendment for the appropriate Planned and Overlay Districts. Detailed Site Plan approval is assured based on good faith compliance with the approved Development Plan. The approval shall be for a period of 2 years to allow for the submission of a Certificate of Zoning~~

~~Compliance. Unless the required Certificate of Zoning Compliance is properly submitted and approved within the two-year period, the approval shall be voided and the land shall revert to its last previous zoning district, unless an application for time extension is submitted and approved pursuant to Section 5.09(H) of this UDO.~~

5.19 Appeals Procedure

- A. Responsibility: This Section identifies the responsibility for hearing appeals and establishes the appeals process for decisions made by the City Planner or a designated representative, the Planning Commission, and the Board of Architectural Review.
1. Appeal of Administrative Action: Any person *or party* adversely affected by *the improper application of these regulations regarding* any order, requirement, decision, or determination made by the City Planner, or a designated representative in the administration or enforcement of the UDO, may appeal to the Planning Commission.
 2. Appeal of the Planning Commission *or Board of Architectural Review*: Any person *or party* adversely affected by *the improper application of these regulations regarding* any order, requirement, decision, or determination made by the Planning Commission *or Board of Architectural Review* may appeal to the City Council.
 3. Appeals of *a* City Council Decision: Appeals of *a* City Council decision shall be to the Montgomery County Court of Common Pleas.
- B. Appeals to the Planning Commission: The following outlines the appeals process and notification requirements for appeals to the Planning Commission from an administrative decision: (*Ord. 17-14*)
1. ~~An appeal to the Planning Commission may be taken by any person or party aggrieved by a decision of the zoning officer, City Planner, department, board or commission of the City affected by any decision of the City Planner or a designated representative.~~ Such appeal shall be made within ~~40~~ 15 days from the date of the action appealed from, by filing a notice of appeal with the City Clerk of Council. The City Planner shall transmit to the Planning Commission all the papers constituting the record upon which the action appealed from was taken.
 2. Planning Commission Hearing: The Planning Commission shall conduct a public hearing in accordance with Article 5.06(D) of the UDO.

3. The Planning Commission shall hear the application or appeal at its first meeting occurring after such required publication and notice. It shall decide the case within 30 days from the date of such hearing. At the hearing, any party may appear in person or be represented by an agent or attorney.
 4. At least four (4) votes in support of the Appeal Petition are required to overturn a decision *made by the City Planner, or a designated representative*.
- C. Appeals to City Council: The following outlines the appeals process and notification requirements for appeals from a Planning Commission or a Board of Architectural Review decision (BAR) to City Council: (*Ord. 17-14*)
3. ~~Any person or persons, jointly or severally aggrieved by any decision of the Planning Commission, BAR, or any officer, department, board or bureau of the City, may appeal such decision to the City Council.~~ Such appeal shall be taken within 15 days after the final action of the Planning Commission or BAR by filing a written notice of such appeal with the City Clerk of Council. No decision of the Planning Commission or the BAR shall take effect until the expiration of 15 consecutive calendar days from the date of the meeting at which such decision is announced.
 2. City Council Hearing: The City Council shall conduct a public hearing in accordance with Article 5.06(D) of the UDO.
 3. A proper permit may be issued for construction before the expiration of the 15 day waiting period provided all of the following conditions exist:
 - a. Required notices have been given and not dispensed with by the Planning Commission *or BAR*;
 - b. There are no written objections filed by any person aggrieved by the decision;
 - c. There are no objections stated at the hearing of the Planning Commission *or BAR* by any person aggrieved by the decision;
 - d. No appeal to Council has been filed with the Clerk of Council by any person aggrieved by the decision of the Planning Commission *or BAR* prior to the issuance of the permit; and
 - e. The applicant has filed a hold harmless application for the waiver of the 15 day waiting period specifically acknowledging the rights of anyone appealing the decision of the Planning Commission or BAR and that the applicant understands he proceeds at his peril.

4. At least four (4) votes in support of the Appeal Petition are required to overturn a decision of the Planning Commission or BAR.

D. Procedures for Granting an Appeal: The Planning Commission or City Council may affirm, reverse, vacate, or modify the order, adjudication, or decision of a subordinate body, or choose to remand the case to the subordinate body with instructions to enter an order, adjudication, or decision consistent with the findings of the Planning Commission or City Council. In making its decision, the Planning Commission or City Council shall consider the Standards of Approval for the subject application as noted in Article 5.09.

Section 2: This Ordinance shall become effective at the earliest date allowed by law.

PASSED THIS 17th DAY OF October, 2016.


Mayor of the City of Centerville, Ohio

ATTEST:


Clerk of Council, City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 16-16, passed by the Council of the City of Centerville, Ohio on the 17th day of October, 2016.


Clerk of Council

Approved as to form and
consistency with existing ordinances,
the charter and constitutional provisions.

Department of Law
Scott Liberman
Municipal Attorney