

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, August 5, 2013, at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Special Council Meeting was opened with an Invocation given by Mayor C. Mark Kingseed and the Pledge of Allegiance with Mayor Kingseed presiding. Council Members and City Staff present were as follows:

Council Members     Deputy Mayor Brooks Compton  
                                 John Beals  
                                 Doug Cline  
                                 Paul Gresham  
                                 Belinda Kenley  
                                 James Singer

Clerk of Council Debra James  
City Manager Gregory Horn  
Finance Director Steven Hinshaw  
City Planner Steven Feverston  
City Engineer Douglas Spitler  
Assistant to the City Manager Kristen Gopman  
Economic Development Administrator Nathan Cahall  
Municipal Attorney Scott Liberman

FINAL DEVELOPMENT PLAN FOR VOSS CHEVROLET, INC.,  
290 LOOP ROAD

Since the application for the Final Development Plan for Voss Chevrolet, Inc. was tabled at the July 15, 2013 Council Meeting. Dr. Gresham made a motion to put the matter back on the table. Mr. Compton seconded the motion. The motion passed with seven ayes.

The Public Hearing was continued concerning the Final Development Plan which was filed by Mr. Gregory Stout on behalf of Voss Chevrolet. Mr. Feverston reviewed the background for the Final Development Plan, located at 290 Loop Road, for an 11 acre site next to Enterprise Car Rental, where Voss Chevrolet, Inc., is requesting approval of a final development plan for a storage lot for dealership cars. The property is zoned B-PD, Business-Planned Development. The plan proposes to increase the grade of the proposed parking lot up to the level of Loop Road. The plan also includes an extension of the parking lot to the east in an area about 250 feet by 60 feet. Because the development requires significant fill, the applicant proposes to use the 2:1 slope maximum allowed in the UDO. Mr. Feverston reviewed the history of activity on this property and showed existing conditions of the site, including the detention basin and fill already put in place on the site. He also explained access points, landscaping plan, drainage proposal plans, sight distance views and the proposed access easement for maintenance. On June 25, 2013, the Planning Commission granted a setback variance along Loop Road with the condition that the screening that would otherwise be required along this frontage be shifted to the back area of the parking lot to help shield the neighbors at Village South. At that same meeting, the Planning Commission recommended denial of the Final Development Plan, although staff recommended approval with 11 conditions. With further talks and a resubmission of plans, the staff recommendation was modified on August 2, 2013. The recommendations are as follow:

1. The Planning Commission must approve the variance for parking/paving setback. Should the Commission deny or modify the requested variance, a revised site plan shall be submitted by the applicant to conform to the decision of the Commission.
2. A final grading and stormwater drainage plan shall be subject to approval by the City Engineering Department showing drainage calculations and incorporating erosion control during construction in accordance with Article 9.35 of the Unified Development Ordinance (UDO). The emergency access easement to the detention pond shall be a minimum of 10 feet in width in a location on the site that provides adequate access. The access easement shall be described in a legal description and recorded subject to approval by the Municipal Attorney and City Engineer.
3. Due to the excessive slope and height of embankment, a geotechnical exploration should be performed to identify material properties required for design and constructability. A slope stability analysis should be performed. A design professional qualified in geotechnical engineering shall prepare the embankment design.
4. The 10 foot buffer identified on the landscape plan and situated behind the parking lot shall be constructed with minimal gradient subject to approval by the City Planner.
5. A performance bond or other construction guarantee shall be posted by the developer for all landscape, screening, or bufferyard improvements in accordance with Article 9.25 C of the UDO subject to approval by the City Planner.
6. The landscape islands located at the driveway entrance shall have a minimum width of 9 feet.
7. Fire hydrants shall be located in accordance with the fire code subject to approval by the Washington Township Fire Department.
8. The design of the proposed gate shall be incorporated into the construction sets subject to approval by the Washington Township Fire Department.
9. A hard surface roadway capable of providing emergency vehicle access and support at all times for emergency purposes shall be provided during construction.
10. A final exterior lighting plan shall be subject to approval by the City Planner.
11. The contractor shall obtain a right-of-way permit for any work performed in the public right-of-way.
12. The contractor shall notify the Centerville Public Works Department prior to any earth disturbing activity for inspection of erosion control measures.

Mr. Compton clarified that Condition #2 was modified regarding the emergency access easement and Condition #3 was a new condition requiring a geotechnical engineering report. Concern was expressed over the steepness of the slope for

maneuvering a vehicle/equipment down to the detention pond along the emergency access easement.

Brad Judge, Judge Engineering at 1201 East David Road which represented Voss Chevrolet, stated that they are agreeable to the conditions that are specified. He stated that Voss would be willing to modify the location and width of the emergency access, if necessary. He addressed the wetlands concerns and stated that they will be filing a SWP3 application, specifically for erosion control. He voiced concern about the need to employ a geotechnical engineer regarding the construction of the embankment. CBC Engineers were contacted and they were briefed on the project and what was being specified. This was verified in correspondence staff received from Mr. Voss.

When Mr. Compton inquired whether Voss Chevrolet wanted approval of the Final Development Plan before CBC had made its determination as to any conditions beneath the surface that could alter what the final plan should be, Mr. Judge answered in the affirmative, stating that it is largely due to the rather large investment in the testing that will take place. It was noted that, if CBC Engineering did come back with some recommendations that required a change in the slope or configuration of the slopes, it would be necessary to have staff review, sign off and ultimately approve those plans.

Questions by Council followed. They asked how long it would take to have the testing done, how the sight lines would be affected without the leaves on the trees, and how stormwater run-off and the erosion on the new slopes would be handled during construction and until the crown vetch takes root. They also discussed construction during the fall and winter seasons. Mr. Judge explained that filing the SWP3 application would put the public and the EPA on notice that this is a construction site and state that certain erosion control measures are in place on the site. Filing the application allows the EPA to inspect the effectiveness of erosion controls at any time. Reseeding may be necessary, so Voss would post a bond for reseeded.

Citizens' input at the Public Hearing included the following speakers:

Stuart Anderson, a 19-year resident of 330 South Village Drive, stated that, because there is a significant degradation of the buffer zone in the winter, his primary concern was the screening and brightness of the security lighting that will be provided. He voiced appreciation for the evergreens which will be planted at the rear of the lot and concern for the long term maintenance of the evergreens and other landscaping.

Andrew Fehskens, 300 South Village Drive, said that his main concern is water coming from Loop Road and down the embankment. He also questioned where the water goes as it leaves the detention pond, since the creek already overflows in a normal rainfall.

Mark Stuart, Judge Engineering, 1201 East David Road, pointed out that the EPA and the City regulations require that that water is contained to a pre-development release rate.

Mr. Beals noted that he preferred the detention pond be oversized knowing with the passage of time silt would collect there.

Margaret Foley, 351 Whittington Drive, voiced her concerns regarding potential landslides or mudslides from this project. She expressed approval that there would be a geotechnical engineering study done before the project proceeded. She asked about a bond being given in case of a large scale landslide/mudslide. Mr. Feverston noted that the bond would be a landscaping bond.

Rodney Miller, 320 South Village Drive, stated that the Development Plan is really too extensive for the site because the eastern end of the lot drops off very quickly and very dramatically. From the park area east, he asked for elimination of the extension along Loop Road for the additional 50 cars.

Alisa French, 361 South Village Drive, who lives next to the buffer zone, felt this extensive project was beyond the scope of change that should be allowed adjoining a neighborhood. She asked that Council take the concerns of the neighbors seriously.

Orville Huggins, 291 Edgebrook Drive, asked whether Voss could apply for signs on the eastern end of the property so they would be visible from the bridge on Loop Road or possibly I-675. He suggested a condition that no signs could be placed on the property. He also suggested terracing the parking lot to eliminate deforestation of the buffer.

Laura Fehskens, 300 South Village Drive, voiced her concerns that cutting trees would not only open sight lines to greater distances, but also remove the natural sound barrier that shields Village South homes from the noise of Loop Road and I-675. She felt that the evergreens on the hill would not be sufficient. She stated worries about home values and mosquito populations in neighborhood.

Natalie Dehorn, 351 South Village Drive, reiterated that storm water runoff is already a big problem in Village South. She recounted scary episodes of rapidly rising water. She agreed that the mosquitos are a problem in the area.

Douglas Leyh, a resident of Village South at 207 Whittington Drive for almost 33 years, stated that in the past 20 years there have been four 100 year flood events. He said he has had multiple feet of water in the lower area of his tri-level house and has spent over \$10,000 trying to prevent future damage. Because of its proximity to the kinder care center, he asked if the detention pond would be fenced. In response to the statement that Mr. Voss is making a significant investment, he said there are approximately 100 families for whom their homes are their single largest investment. That investment is being put at risk.

Jim Foley, 351 Whittington Drive, disagreed with the depiction of the lines of sight from Village South, as shown by the developer, and with the need to light the parking lot. He felt the lot could be fenced.

Florence Cobey, 500 Kitts Hills Court, who lives off Marshall Road, stated her support for the residents and their comments because this development could hurt their property values.

Greg Stout, Voss Chevrolet, 100 Loop Road, stated his respect for the residents' concerns, but noted that other areas of the city have water issues, mosquitos, noise and sight line concerns, so he felt Council should be cognizant that Village South is not the only area with these issues. He remembered that Mr. Miller had stated earlier that he had water problems before Loop Road was built and developed. Mr. Stout described some similar problems faced by property owners near his own home. Voss representatives believe they have addressed all of the concerns presented over the course of many months, have met the City criteria and have agreed to all of the conditions. He reiterated that the project is a legally permissible use, that it is a fair use of the property, and that it is 100% consistent with all of the development on Loop Road. He stated that Voss Chevrolet, Inc. felt denial of the use of this property under these circumstances for no legitimate remaining reason would constitute an unconstitutional interference with its use of private property.

Regis Lekan, 321 Village Drive, believed that the appendage along the eastern part of Loop Road, which had been added since the original application, was excessive. He asked if there was a way to ensure that any mature trees around the detention pond would be preserved for screening and to ensure that there would not be a more intensive future use of the property. He asked about the donation of the lower portion of the property to the school or another entity. He stressed the importance of two issues—approval prior to the completion of the geotechnical study and the collective concerns about which the neighbors have spoken, such as the depth of the fill to bring the tabletop up to the Loop Road level, the eastern extension, and the preservation of vegetation.

Discussion was held among Council addressing concerns about moving forward without having all of the information in front of them. They discussed options including tabling the issue, but Mr. Stout asked for a decision.

Mr. Compton made a motion to deny the Final Development Plan outright. For lack of a second, the motion failed.

Mayor Kingseed handed the gavel over to Deputy Mayor Compton to run the meeting.

Mayor Kingseed moved that the Final Development Plan be granted approval subject to all of the conditions recommended by staff and the addition of the following two conditions: 1 The eastern extension of the project enlarging the original submission shall be denied. 2. The applicant shall obtain geotechnical studies to the satisfaction of the staff before proceeding with construction. Mr. Cline seconded the motion. The motion passed 6 to 1 with Mr. Compton voting no.

Deputy Mayor Compton handed over the gavel to Mayor Kingseed in order that he could continue to run the meeting.

APPEAL OF THE DECISION OF THE PLANNING COMMISSION DENYING A  
VARIANCE FOR ENCROACHMENT OF FENCE IMPEDING SIGHT DISTANCE  
APPLICANT, GREG DAVIS, ALL ABOUT KIDS, 1300 SOCIAL ROW ROAD

The Public Hearing was held concerning an Appeal filed by Greg Davis against a decision rendered by the Planning Commission during its meeting on June 25, 2013, denying a Variance Application related to intersection sight distance. Mr. Feverston located the subject property at 1300 West Social Row Road across from Yankee Trace Drive. He pointed out that the location of the fence is not where it was shown on the approved plans. The fence is 2' from the curb and defines an active playground where children are able to play on the fence. The UDO requires a setback of ten feet. Mr. Feverston noted that the roadway will eventually be used to serve other businesses at the corner of Social Row Road and Yankee Street, so traffic will increase over time. Mr. Feverston showed the two areas where sight distance does not meet engineering standards – at the intersection where Reed Rizzo Way turns into All About Kids and at the sharp bend in the road to the north of that turn. The Variance was requested to seek relief from the requirements of the Unified Development Ordinance because it necessitates moving the fence that encroaches the setback and reduces the sight distance from a minimum of 225 feet per AASHTO for a 20 mph street to approximately 80 and 90 feet in the two areas respectively. The applicant proposed the installation of 3-way stop signs as a remedy. Staff recommended denial of the variance.

Mr. Greg Davis, 5733 West Fork Road, Cincinnati, stated that his main concern is for the safety of the children. He reviewed that he had provided the required placement of the access to the daycare, significant right-of-way, the easement across the back of the property, and public improvements to the roadway at a considerable expense as he developed the property. He distributed a handout and referred to the definition of a “driveway” in the UDO. Mr. Davis questioned whether this entry street is a “private driveway” and not a “roadway”. The UDO does not specify setbacks for placement of a fence along a private drive. As an additional alternative to moving the fence, he proposed putting bollards along the “private drive”, in front of the fence as well as inside of the fence. Steel posts would be set 2' apart.

Mr. Tim Rizzo, owner, 1300 West Social Row Road, stated that safety was a main concern as he was searching for the site for the daycare. He said that the Planning Commission had conditions with regard to the road and city specifications, and he had complied with all requests at his expense. He argued that this was not a public road and cars should not be going 20 mph. He felt that the remedies suggested would be more than adequate.

Mr. Feverston stated that ten foot setbacks were established for a reason. In accidents, cars often encroach the setback. Discussion followed concerning intersection sight distance, the criteria for three way stop signs and the definition of a public roadway.

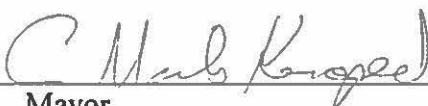
Mr. Cline moved that the decision of the Planning Commission be upheld relative to the Variance Application filed by Greg Davis and that the Appeal of the variance for encroachment of the fence at All About Kids be denied. Dr. Gresham seconded the motion. The motion passed 6-1 with Mr. Singer voting no.

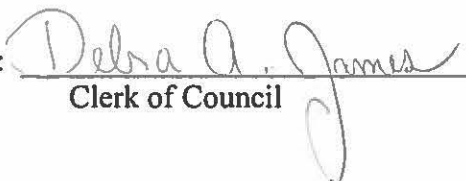
REZONING: 9010 DAYTON-LEBANON PIKE  
(SET FOR PUBLIC HEARING SEPTEMBER 16, 2013)

Mr. Feverston gave a brief explanation of the request to set the rezoning of a newly annexed parcel at 9010 Dayton-Lebanon Pike for public hearing at the regular meeting of Council on September 16, 2013. The application was submitted by Pat Gilligan who proposes to redevelop the site as a Dunkin' Donuts.

An Ordinance Amending Ordinance Number 14-08, Chapter 1216, The Unified Development Ordinance as Amended, To Rezone .571 Acres Of Land, More Or Less, Located At The Southeast Corner of Spring Valley Road And State Route 48 Intersection From Washington Township B-2, To B-2, General Business Zone Classification.

There being no further business, the meeting was adjourned.

Approved:   
Mayor

ATTEST:   
Clerk of Council