

RECORD OF PROCEEDINGS

407

Minutes of

REGULAR COUNCIL

Meeting

RAYSON LEGAL BLANK CO. 10144

Held July 21,

19 86

The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session on Monday, July 21, 1986 at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Reverend Preston Dawes, City Chaplain, and the Pledge of Allegiance to the Flag with Mayor Shirley Heintz presiding. Councilmembers and City Staff present were as follows:

- Deputy-Mayor Brooks Compton
- Councilmembers Jeffrey Siler
- J. V. Stone
- Charles Taylor
- Bernard Samples
- James Singer
- Clerk of Council Marilyn McLaughlin
- City Manager Darryl Kenning
- City Planner Alan Schwab
- City Engineer Karl Schab
- Director of Finance William Bettcher
- Chief of Police William Lickert
- Municipal Attorney Robert Farquhar
- Service Superintendent Ray Hannah
- Administrative Assistant Stephen King

The Minutes of the following Meetings had been distributed prior to this Meeting:

- Council Meetings - June 2, 1986.
- June 16, 1986.
- June 30, 1986.
- Council Work Session Meetings - June 2, 1986.
- June 10, 1986.
- June 16, 1986.
- June 23, 1986.
- June 30, 1986.

Mr. Compton moved that the Minutes of the foregoing Meetings be approved, as distributed. Mr. Siler seconded the motion. The motion passed by unanimous vote of City Council.

CITY BEAUTIFUL COMMISSION

Mayor Heintz announced the potential appointment of Russell D. LaPier as a Member of the City Beautiful Commission for the City of Centerville. Mr. Taylor moved that Russell D. LaPier be appointed as a Member of the City Beautiful Commission. Mr. Compton seconded the motion. The motion passed unanimously.

BOARD OF ARCHITECTURAL REVIEW

Mayor Heintz advised that L. Duncan Creed has applied to serve as a Member of the Board of Architectural Review for the City of Centerville. Mr. Compton moved that L. Duncan Creed be appointed as a Member of the Board of Architectural Review. Mr. Siler seconded the motion. The motion passed by unanimous vote.

Mayor Heintz administered the Oath of Office to Mr. LaPier

Held

July 21, 1986 continued

19

and Mr. Creed.

During her report, Mayor Heintz announced the issuance of a Proclamation designating July 30, 1986 as "Soaring Sounds Drum Corps International Day" in Centerville.

Mayor Heintz reviewed activities on the 4th of July during the Americana Festival in Centerville and thanked the Kiwanis Club of Centerville for their total coordination of festivities. This holiday celebration was visited by three groups from Centerville's Sister City, Waterloo, Ontario Canada.

HERMAN GAINES SITE PLAN

Mr. Kenning reviewed the Planning Commission Meeting held July 15, 1986. Mr. Schwab reviewed a Site Plan submitted by Herman Gaines for approximately 1.86 acres of land located on the west side of South Suburban Road; proposed is the construction of a metal prefabricated building to serve as a storage facility for dump trucks. The Planning Commission, by unanimous vote, recommended approval of this Site Plan to City Council with the following two conditions:

1. The plans for a fire hydrant, if required, shall be subject to the approval of the Washington Township Fire Department.

2. A stormwater drainage plan shall be approved by the City Engineer showing stormwater drainage calculations and incorporating retention and/or detention and erosion control during construction in accordance with the provisions of the City Stormwater Drainage Control Ordinance.

Mr. Herman Gaines was present offering his concurrence with the conditions recommended by the Planning Commission.

Mr. Compton moved that the Site Plan submitted by Herman Gaines be approved as recommended by the Planning Commission including the two outlined conditions. Mr. Singer seconded the motion. The motion passed unanimously.

Mr. Compton reported on behalf of a Post Office Committee organized by the South Metro Chamber of Commerce to address concerns expressed relative to the operations of the Centerville Branch of the United States Post Office. Postal service hours have been increased Monday through Friday, opening at 7:30 A.M. and closing at 6:00 P.M.; Saturday hours have also been expanded. Bulk mail will be handled at the Centerville Branch, and a financial office will be established and operating at the Dayton Mall yet this year. It is the hope of the Committee that some of the Community's concerns have been satisfied. Mr. Compton solicited suggestions for additional improvements in the future.

ORDINANCE NUMBER 11-86 ZONING ORDINANCE AMENDMENT TEXT

Mayor Heintz outlined the background upon which a new Zoning Ordinance, Zoning Map and related Ordinances have been prepared for the City of Centerville. The preparation of these documents

Held

July 21, 1986 continued

19

have involved many Meetings of the Zoning Task Force, Planning Commission, Board of Architectural Review and the City Council during the past several years.

Mr. Schwab summarized the significant changes proposed in the new Zoning Ordinance and on the new Zoning Map. He reviewed Planning Commission's recommendation for approval of the Ordinance upon which they held their Public Hearing. The motion to recommend approval to City Council was unanimous with the following conditions:

1. The multi-family density requirement shall be modified from six (6) to eight (8) units per acre.

2. The Park District recommendations be included pertaining to permit lot reduction on a percentage basis rather than a fixed amount, limiting width reduction of a lot to the same percentage the lot is reduced in area, substitute the language properly served for close proximity, permit a fee-in-lieu dedication; excluding the Park District recommendation pertaining to residential minimum lot size and maximum density.

3. The parking restrictions pertaining to recreational vehicles shall be deleted from the Zoning Ordinance.

4. A 100 buffer strip between residential zones and B-PD, I-PD and O-PD shall be required. Further, the Davis property along Loop Road shall be zoned B-PD rather than B-2. The language shall be modified in the Zoning Ordinance that would leave any buffer strip in its natural state.

5. Vehicular access shall be restricted across a buffer strip in B-PD and I-PD from residential zoned districts.

6. The proposed B-PD and R-3 zoning boundary along existing Whipp Road at Wilmington Pike be modified to accommodate the realignment of Whipp Road.

7. The Sign Section of the Zoning Ordinance be modified to include the recommendation by staff to allow wall signs on that portion of the roof that is considered to be on the same plane as the wall.

Mr. Schwab advised that all changes approved by the Planning Commission were made and included in the Zoning Ordinance set for Public Hearing before City Council.

Mayor Heintz opened the Public Hearing concerning Ordinance Number 11-86, An Ordinance Enacting Revised Zoning Districts And Regulations For The City Of Centerville, Ohio, In Accordance With The Provisions Of Chapter 713 Of The Ohio Revised Code; Also, This Ordinance Repeals Ordinance Number 15-61, The Zoning Ordinance Of Centerville, Ohio-1961 And All Amendments Thereto.

Mr. Kenneth Hahn, 311 South Village Drive and representing residents in the Village South area, voiced approval of the new Zoning Ordinance as recommended by the Planning Commission in regard to those parts of the proposed Ordinance that offer additional protection to established neighborhoods, especially those parts having a direct impact on their neighborhood. He expressed their pleasure with the zoning of vacant business zoned land to B-PD and the requirement of a 100 foot buffer strip between any B-PD zone and an adjacent residential zone, which will become a part of the original plan and prohibit vehicular access across this buffer strip between a B-PD zone and an

Held

July 21, 1986 continued

19

adjoining residential area. Mr. Hahn recognizes this as Centerville's intent not to allow new development to interfere with the tranquility of established neighborhoods anywhere in the City of Centerville.

Mr. Jacque Sheley, Executive Director, Home Builders Association of Dayton and the Miami Valley, expressed their endorsement of the redrafted Zoning Ordinance for the City of Centerville as it relates to the density of multi-family development, namely 8 units per acre. This would allow for a continued decrease in the overall density of multi-family development and would slant development toward condominium development rather than large apartment projects. Mr. Sheley believes that 8 units per acre more adequately addresses the type of multi-family ground that is left for development in the City. He pointed out that much of the ground left within the City either abuts current multi-family developments, undeveloped or developed industrial or commercial tracts, or the I-675 Interstate; 8 units per acre would allow these parcels to be developed whereas a reduction to 6 would render much of this ground undevelopable. He believes it would be unfair to those developers who have purchased land to be limited to 6 units per acre after they have planned to use it at 8 units per acre.

Mr. Robert Feldmann, Superintendent, Centerville-Washington Park District, proposed the following changes to the proposed Zoning Ordinance:

1. The definition for "Density, Gross" be changed to provide that public open space only be included in the calculation of density when the open space is donated by the developer to the public body, public open space should not be calculated if it is to be purchased from the developer.

2. That the portion of land being negotiated for park purposes between the Park District and St. Elizabeth Corporation at St. Leonards remain single-family because a change to R-PD could result in land appraisals that might put the values far beyond the Park District's ability to pay.

Mr. Schwab clarified the fact that the definition for "Density, Gross" only relates to multi-family zoning classifications. Park land dedication and fee-in-lieu of dedication only applies to single-family and two-family zoning districts.

Mr. Jeffrey L. Brown, Attorney representing Don Casto Organization and Harold Zieg, relative to a 15 acre tract of land located along the east side of South Main Street, south of Loganwood Drive, expressed two areas of concern:

1. A constitutional question:
 - a. In terms of what happens to their property.
 - b. The zoning classification that is placed on this 15 acres.

Mr. Brown, while reviewing the new proposed Zoning Ordinance for the City of Centerville, believes the Ordinance nearly eliminates multi-family zoning; there is proposed an unreasonable delegation of the legislative rights of zoning; and there is a lack of definite standards, basically the only permitted use is agriculture, everything else requires a process. Mr. Brown expressed their concern with the absence of multi-

BOSTON LEGAL BLANK CO. 10111

Held

July 21, 1986 continued

19

family, the lack of definite standards, and the lack of due process in the taking of whatever rights existed under the current zoning.

2. While locating the subject 15 acres on a map and describing adjacent uses and special characteristics of the property in question, Mr. Brown expressed their belief that the only appropriate zoning for their land is B-2 or B-PD; they need commercial type zoning, however they would accept B-PD.

Mr. Edward Dowd, Attorney representing Dr. Milton and Doris Zimmerman, appeared in reference to the reclassification of 11 acres of their land; that portion fronting along the west side of South Main Street immediately north of the Revere Village Apartments. The Zimmermans object to the proposed residential zoning of these 11 acres, they request reclassification to O-PD. They believe that Office Planned Development would better satisfy the needs and be of service to the surrounding residential areas, it would serve as a buffer between residential zoning and the commercial zoning to the south and across State Route 48, it would also increase revenue in the Community without taxing Municipal services.

Mr. Hahn suggested that vehicular access be prohibited across the buffer zone between residential and O-PD as well as B-PD and I-PD. Mr. Schwab explained the fact that it could be determined in the future that vehicular access would be advantageous from an office development to a residential area. For this reason this prohibition has not been included in O-PD zone classification.

Mr. Singer offered his support for lower density, 6 units per acre in R-3 and R-PD zone classifications. He suggested that the definition for "Density, Gross" be clarified as suggested by Mr. Feldmann. Mr. Samples pointed out the fact that this clarification will be provided in the Park Ordinance now being drafted by the Zoning Task Force.

Upon question of Mr. Compton, Mr. Farquhar advised that the request of Mr. Feldmann relative to the land being negotiated for park land at St. Leonards would constitute a substantive change to the proposed Ordinance and require the re-submittal of the entire document to the Planning Commission. It is not proper for City Council to consider what a purchaser might have to pay for a certain parcel of land in a rezoning decision, Council should only consider what is good zoning.

Upon request of Mr. Taylor, Mr. Farquhar clarified the fact that changing the density in R-3 and R-PD zone classifications to 6 units per acre, changing the zoning of the properties along the east and west side of South Main Street as discussed previously, and minor language changes relative to park land would not constitute a substantive change to this Zoning Document. However, the question of changing the zoning of potential park land at St. Leonards would require a reconsideration by the Planning Commission.

Mr. Siler stated his desire to re-discuss the proposed zoning of the properties located along the east and west side of South Main Street, those properties having representation at this Meeting. He would be in favor of a change in zoning for these

Held

July 21, 1986 continued

19

two parcels.

Mr. Compton believes that R-PD is a very logical zoning approach for the two properties along South Main Street in consideration of the surrounding developed residential areas.

Mr. Samples stated his objection to changing the zoning of the property along the east side of South Main Street to B-PD, he has no objection to a zoning change on the west side.

It was concluded by the majority of Council that action would be taken on each proposed amendment to this Zoning Ordinance individually, then upon the document as a whole.

Mr. Singer moved that the maximum gross density be changed from 8 units per acre to 6 units per acre in R-3 and R-PD zone classifications. Mr. Samples seconded the motion. The motion passed unanimously.

Following additional discussion relative to the definition for "Density, Gross", it was determined that this issue will be included in the drafting of the proposed Park Ordinance. Mr. Compton moved that no change be made to the definition for "Density, Gross" as suggested by Mr. Feldmann, at this time. Mr. Siler seconded the motion. The motion passed by unanimous vote.

It was determined that paragraph 8, page 101 "Reduction of Minimum Lot Area and Minimum Lot Frontage Requirements by Dedication of Parkland" in the proposed Zoning Ordinance has been changed to include "or the City of Centerville" in paragraph a. and paragraph c.; however, in paragraph c. the words "within the City of Centerville" should be deleted. Mr. Taylor moved that paragraph c. under 8. beginning on page 101 be changed to read as follows:

- c. Upon approval of the Planning Commission, a fee in lieu of dedication of parkland or open space may be substituted and held in safekeeping by the Centerville-Washington Park District or the City of Centerville for the sole purpose of acquiring parkland or open space property serving the lot or lots reduced. The fee shall be equal to the value of a neighborhood park equivalent in area to the aggregate area the lot or lots are reduced, said lot being complete with street, sidewalk and utilities across 400 feet of street frontage, The value shall be determined by appraisals acceptable to the Planning Commission.

Mr. Siler seconded the motion. The motion passed by unanimous vote of City Council.

Upon question of Mr. Taylor, Mr. Schwab identified the proposed R-PD zone land along the east side of South Main Street, south of Loganwood Drive. Mr. Brown stated that they would like B-2 zoning but would accept B-PD in consideration of neighboring residents, requirements as specified in B-PD would satisfy questions of residents. Mr. Schwab clarified the fact that if the property was changed to B-PD, a 100 foot buffer strip would be required between that property and the single-family residences to the east but not between the apartment complex to the north. Mr. Compton moved that the proposed zoning of the tract of land along the east side of South Main Street, south of Loganwood Drive, remain at R-PD. Mr. Samples seconded the

Held

July 21, 1986 continued

19

motion. A roll call vote resulted in five ayes in favor of the motion; Mr. Siler and Mr. Taylor voted no.

Mr. Schwab identified the approximate 11 acres of land fronting along the west side of State Route 48, north of Revere Village Apartments, which Mr. Dowd requested a zone change to O-PD. Mr. Compton moved that the entire tract of land in question, owned by Dr. and Mrs. Zimmerman, be zoned R-PD as recommended by the Planning Commission. Mr. Singer seconded the motion. A roll call vote resulted in five ayes in favor of the motion; Mr. Siler and Mr. Samples voted no.

Mr. Compton moved that this proposed Ordinance be amended to include an effective date of September 16, 1986. Mr. Taylor seconded the motion. The motion passed unanimously.

Mr. Samples sponsored Ordinance Number 11-86, An Ordinance Enacting Revised Zoning Districts And Regulations For The City Of Centerville, Ohio In Accordance With The Provisions Of Chapter 713 Of The Ohio Revised Code. Also, This Ordinance Repeals Ordinance No. 15-61, The Zoning Ordinance Of Centerville, Ohio - 1961 And All Amendments Thereto, and moved that it be passed as recommended by the Planning Commission and as amended by City Council during this Meeting. Mr. Compton seconded the motion. A roll call vote resulted in seven ayes in favor of the motion.

ORDINANCE NUMBER 12-86 FEE SCHEDULE

The Public Hearing was held concerning Ordinance Number 12-86. Mr. Schwab reviewed this proposed Ordinance which makes certain revisions and minor adjustments to fee schedules referred to in the newly adopted Zoning Ordinance for the City of Centerville. The Planning Commission, by unanimous vote, recommended approval of this Ordinance to City Council. Mr. Siler sponsored Ordinance Number 12-86, An Ordinance Establishing A Schedule Of Fees For Certain Applications And Permits Required By The Zoning Ordinance For The City Of Centerville, Ohio, And Other Ordinances Of This Municipality Which May Be Specified Herein, and moved that it be passed with the effective date being September 16, 1986. Mr. Compton seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 13-86 PLANNING COMMISSION

The Public Hearing was held concerning Ordinance Number 13-86. Mr. Schwab reviewed this proposed Ordinance to establish a Planning Commission for the City of Centerville. The Ordinance includes no major changes to previous Ordinances relative to the Planning Commission, it contains basically housekeeping changes. The Planning Commission, by unanimous vote, recommended approval to City Council. Mr. Stone sponsored Ordinance Number 13-86, An Ordinance Establishing A Planning Commission For The City Of Centerville, Ohio In Accordance With The Provisions Of Chapter 713 Of The Ohio Revised Code. This Ordinance Repeals Ordinance No. 2-39, To Create A City Planning Commission For The Village Of Centerville, Montgomery County, Ohio, As Amended By Ordinance No. 6-60, Ordinance No. 25-69, Ordinance No. 51-69, Ordinance No.

Held

July 21, 1986 continued

19

16-74, Ordinance No. 76-75, And All Amendments Thereto, and moved that it be passed including an effective date of September 16, 1986. Mr. Taylor seconded the motion. The motion passed by unanimous vote.

Mr. John Kessler, 108 Westerly Drive, appeared to discuss with Council a problem with the developer of Walden Place using Westerly Drive, a residential street to bring heavy equipment and supplies into his development instead of using a major highway - State Route 48. Mr. Kenning will review this matter with Mr. Kessler.

RESOLUTION NUMBER 16-86 STATE ROUTE 48

Mr. Kenning reviewed a proposed Resolution to proceed with the improvement of State Route 48 and the intersection of State Route 48 and Whipp Road (Phase II). This Resolution will allow this project to go to bid yet this year. The total cash outlay by the City of Centerville is \$41,924.00, a portion of which will be paid for by Montgomery County. Mr. Taylor sponsored Resolution Number 16-86, Final Resolution, Adopting Plans; Proposing To Co-operate; Requesting Director to Proceed; (Chapter 5521, Ohio Revised Code), and moved that it be passed. Mr. Stone seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 17-86 SURPLUS PROPERTY

Mr. Kenning reviewed a proposed Resolution required by the State of Ohio for the City of Centerville to participate in the purchase of federal surplus property from the Ohio State Agency for Surplus Property Program. Mr. Stone sponsored Resolution Number 17-86, A Resolution Authorizing And Directing The City Manager To Enter Into A Contract Between The State Of Ohio, Department Of Administrative Services; The United States General Services Administration; And the City of Centerville, Ohio, In Order To Acquire Federal Surplus Property From The Ohio State Agency For Surplus Property, and moved that it be passed. Mr. Siler seconded the motion. The motion passed by unanimous vote of City Council.

HILLS DEVELOPERS, INC. CONDITIONAL USE

As requested by Attorney John Koverman, Mr. Compton moved that the Conditional Use Request submitted by Hills Developers, Inc. for property located at the northwest corner of State Route 725 and Bigger Road be set for Public Hearing before Council on August 18, 1986, pending action by the Planning Commission. Mr. Stone seconded the motion. The motion passed unanimously.

Mr. Samples reviewed a time schedule projected by the City Planner for the preparation and final adoption of a new Zoning Ordinance for the City of Centerville prepared by Mr. Schwab in 1982. Mementos were presented to Mr. Schwab and to members of the Zoning Task Force.

RECORD OF PROCEEDINGS

Minutes of

Meeting

BATTON LEGAL PLANS CO. 10/11

Held July 21, 1986 continued 19

There being no further business, the Meeting was adjourned.

Approved:

Mayor

Shirley F. Hendry

ATTEST:

Maril M. Laughlin
Clerk of Council