

CENTERVILLE PLANNING COMMISSION
Regular Meeting
Tuesday, January 31, 2012

Mr. Clark called the meeting to order at 7:30 p.m.

ATTENDANCE

Present: Chairman Paul Clark, Mr. Jim Briggs, Mr. Jim Brunner, Mr. Jim Durham, Mrs. JoAnne Rau, and Mr. Bill Etson. Also present: Mr. Steve Feverston, City Planner; Mr. Nathan Cahall, Economic Development Administrator; Mr. Scott Liberman, Municipal Attorney; and Mrs. Julie Weaver, Clerk. Mr. Jeffrey Gammel was delayed and present where noted.

APPROVAL OF MINUTES

There were no additions or corrections for the minutes of December 13, 2011. Mrs. Rau moved for approval of the minutes of the Planning Commission Meeting of December 13, 2011, as distributed. Mr. Briggs seconded the motion. The motion passed with six ayes.

PUBLIC HEARING: INTERNET SWEEPSTAKES CAFÉ ORDINANCE

A text amendment to the Unified Development Ordinance for the regulation of Internet Sweepstakes Cafes was the first item for consideration. Mr. Liberman gave the background on the issue. Because these establishments have components that are similar to gambling, many cities are either banning or regulating them. Legislation in the state assembly has been stalled, but statewide regulations may still be forthcoming. In order to move away from a long-term moratorium of more than a year, the City is initiating its own ordinance on Internet Sweepstakes Cafes in order to license, collect fees and monitor these businesses. The requirements fit in the UDO following the section with guidelines for sexually-oriented businesses, so the Planning Commission needed to be involved. The regulations stipulate where these cafes can be located, their density, their fire, parking and floor plan requirements, as well as fees for licensing the general premises and each sweepstakes unit. The chief building and zoning officials would give opinions to the police whether the licenses should be issued. Following review by the Planning Commission, the ordinance would go to the City Council.

Mr. Brunner pointed out that the word "alcohol" or "alcoholic beverages" was missing from number three on page 9 of the draft of the ordinance.

Mr. Durham asked whether Planning Commission could recommend a complete ban on Internet Cafes within the City of Centerville. Mr. Liberman said that he had not seen cities ban them nor had he seen first amendment cases crop up when internet sweepstakes cafes were banned, but a ban would be subject to litigation.

Mrs. Rau asked if the devices were always connected to the internet or if some had their own internal software as sweepstakes devices. Mr. Liberman stated that many of the machines only appear to be connected to the Internet; it is not necessary.

Mr. Etson verified his impression that the legislation required significant additional duties for the police department. Mr. Liberman agreed, stating that even the licensing begins at the police department.

Mr. Brunner asked about the scope of the problem with Internet cafes. Mr. Liberman responded that they have become numerous in northern Ohio, with many popping up in strip shopping center fronts and that there is at least one in our immediate area. Mr. Feverston noted that there had been inquiries with the Planning Department during the moratorium period.

Mr. Etson asked why this venue was not considered gambling. Mr. Liberman and Mr. Cahall explained that courts have said that the number of winners is predetermined and preset on the computer system, unlike the random nature of payouts on a slot machine or other "gambling" devices.

Mr. Briggs asked about appeals related to administrative decisions denying a license application based on the building code. Mr. Liberman answered in the affirmative that such matters could come to Planning Commission and Council before a contested decision would move into the court system.

Mr. Gammell arrived at this time.

Mr. Durham asked if the group was open to recommending to the Council a ban, or if not banning, then regulating per these guidelines. Mr. Briggs asked about challenges in court. Mr. Durham stated that placement of the establishments was the main control for the City. In Mr. Liberman's opinion, an outright prohibition would risk a suit that could strike down the ban since we would be denying a business the right to exist. If overturned, the City would have no regulations on Internet Cafes until new legislation could be formed and become effective. In the interim some Internet Sweepstakes Cafes could become grandfathered and be totally unregulated. Legislating guidelines for zoning and licensing would give the City a certain amount of control.

Mr. Cahall clarified that the Planning Commission could recommend a ban, but could also advise Council to use the draft ordinance if regulating the Internet Sweepstakes Cafes was its preference.

Mr. Clark opened the public hearing. When no one came forward, he closed the public hearing.

MOTION: Mr. Briggs made a motion to recommend the ordinance as proposed by staff. Mr. Clark reminded the group of the omission of a word on page 9. Mr. Etson said he would like to add a recommendation for a ban on Internet Sweepstakes Cafes. No second

for the motion by Mr. Briggs was forthcoming. Mr. Liberman stated that the motion had died for a lack of a second.

MOTION: Mr. Brunner made a motion to recommend that the Council ban Internet Sweepstakes Cafes from the City of Centerville, but if it is the wish of Council to proceed with regulating these businesses rather than banning them, then the Planning Commission recommends the proposed ordinance including a change on page nine to add the word “alcohol” where it was omitted. Mr. Etson seconded the motion. The motion passed 6-0-1. Mr. Gammell abstained because he felt he had missed a significant part of the discussion.

Mr. Cahall left at this time.

NEW BUSINESS

Application P-2012-0146 – Major Site Plan to Rebrand as a Fiat Dealership.

Mr. Feverston gave the staff report concerning the request by Wende Morgan-Elliott of DHR for approval of a new façade on the dealership building belonging to Bob Ross Motors at 91 Loop Road. After he located the site on a map and showed aerial views, he projected photos and artistic renderings showing the updates with the dark red and grey color scheme and the requested materials. Mr. Feverston stated that the proposed updates give it curb appeal and make the building more compatible with other recently renovated buildings in the area. The drawings submitted included a concept for a possible future expansion. Staff recommended approval of the current project subject to the following three conditions:

1. The striping plan for the Buick and Fiat parking lot and vehicle storage areas shall be restriped to provide for fire and emergency access, subject to approval by the City Planner.
2. The Planning Commission shall approve the architectural design of the proposed building to ensure that the materials, shape, massing and architectural features create a unified design on the premises and are visually compatible with the surrounding buildings. Specifically, the Planning Commission must approve the EIFS and fiber cement board wall panels for the building body.
3. No signage shall be approved as a part of this application.

Clarification of the items followed. The first recommendation concerning the striping of the lot was the result of concerns by the Washington Township Fire Department about inadequate emergency access. The applicant could submit a new striping plan or go back to the plan originally submitted by the dealership. Mr. Durham questioned the use of EIFS on the building, and Ms. Morgan-Elliott stated that EIFS was being removed from front façade the structure as much as possible and that no new EIFS would be added. Mr. Durham noted that the approval of the use EIFS as stated in Condition 2 would be

unnecessary. When Mr. Brunner asked about changes on the sides of the building, Ms. Morgan-Elliott stated that the reface would extend about half-way back on the east and west sides of the building to the service area.

MOTION: Mr. Durham made a motion to approve Application P-2012-0146 subject to the conditions recommended by staff with the second condition being modified to state that the Planning Commission specifically approves the use of the fiber cement panels and metal wall panels. Mr. Brunner seconded the motion. The motion passed unanimously with seven ayes.

Application P-2012-0148 - Renovation of the Soccer Field on Virginia Avenue.

Before beginning consideration of this application, Mr. Clark noted a change in the verbiage in number 3 of the staff recommendations for the renovation of the soccer stadium on Virginia Avenue. In the recommendation circulated the "Sugar creek Fire Department" should have read "Washington Township Fire Department." Mr. Feverston gave the staff report on the application submitted by Mr. Mark Wiseman of Levin Porter Architects, Inc., on behalf of the Centerville City Schools. The school district plans to demolish the bleachers, rebuild the locker rooms, concession areas, training room, and press box and add public restrooms to the facility. Mr. Feverston located the stadium on a map, showed pictures of the area, and superimposed the new structures on the projected views. The outside wings of the bleachers will not be rebuilt, making the new seating area more compact than in the past. Materials to be used included brick, split faced block and metal panels. He noted that staff had recommended approval of the application subject to six conditions. He also noted that he was adding a seventh condition related to the sound system, therefore the seven conditions recommended by staff were as follows:

1. A final grading and stormwater drainage plan shall be subject to approval by the City Engineering Department showing drainage calculations and incorporating detention, retention and erosion control during construction in accordance with Article 9.35, Stormwater and Drainage Standards of the Unified Development Ordinance (UDO).
2. A final exterior lighting plan shall be submitted subject to approval by the City Planner.
3. Fire hydrants shall be located within 400 feet of all designated building access points subject to approval by the Washington Township Fire Department.
4. No sign depicted shall be approved as a part of this application.
5. A sidewalk shall be constructed along the east side of the stadium access drive in accordance with Article 9.13 D of the UDO subject to approval by the City Engineer.
6. The Planning Commission shall approve the architectural design of the proposed

building to assure the materials, shape, massing and architectural features create a unified design on the premises and is visually compatible with the surrounding buildings. Specifically, the Planning Commission must approve the metal panel siding for the press-box.

7. The sound system shall be designed to meet the minimum requirements of Section 9.53 of the UDO.

Discussion followed on the conditions. When asked about any changes in the drainage patterns and run-off, Mr. Feverston stated that no substantive changes were expected at this time. Mr. Brunner asked about the lighting plan in recommendation two and asked for consideration for the surrounding neighborhood if new stadium lights go up on the standards. Mr. Feverston stated that the stadium lighting would remain as it is at present. The lighting requirements refer to down-directed lights attached to the building or for safety near the concession stand.

Mr. Clark voiced concern for recommendation five, stating that there was little space for an additional sidewalk since the new structure will be somewhat closer to the roadway behind the stadium. After some discussion the group concurred that a separate sidewalk should not be required.

Mr. Bob Yux, Assistant Superintendent of the Centerville Schools, 111 Virginia Avenue, explained the need for the updates because of the age of the 1950 facility and the problems with constant and expensive repairs of the leaking roof under the bleachers. Mr. Yux deferred to Mr. Wiseman to answer a question from Mr. Clark concerning the sound system.

Mr. Mark Wiseman, Levin Porter, Architects, Inc., 24 N. Jefferson Street, Dayton, stated that the plan was to remove the public address system and to replace it as it was currently configured. He asked that recommendation seven be stricken. Mr. Feverston agreed that if the plan was to leave what has already been in place, then there would be no issue. When and if changes are made upgrading the equipment, the sound system will have to meet the UDO requirements in Section 9.53. Mr. Briggs recommended omitting condition seven.

MOTION: Mr. Gammell moved to approve Application P-2012-0148, subject to conditions 1, 2, 3, 4 and 6 of the staff recommendations, deleting conditions 5 and 7 concerning sidewalks and the sound system. Mr. Briggs seconded the motion. The motion passed with seven ayes.

Application P-2012-0149 by Mr. Mark Van Atta, Van Atta Engineering and Graceworks Lutheran Services - Replat of Utility Easements in Bethany Village

Mr. Feverston gave background for the application to vacate some water and sewer easements and adjust some sanitary sewer easements in Bethany Village due to the demolition of 12 cottages and the reconstruction of 9 of them as Graceworks updates the

northwest corner of the campus near Brilliant Way. The design of the new cottages was approved a few years ago as part of the current master plan. The County is agreeable to the vacation of the designated easements, to the adjustment of others and to the widening of some sanitary easements from 12 feet to 20 feet. Water on the parcel is now privately provided. The replat is needed to record both the vacations and the new reserves.

Mr. Durham moved to approve the recommendation of the replat to City Council as requested by the applicant with no conditions. Mr. Briggs seconded the motion. The motion passed with seven ayes.

There being no further business, Mr. Clark adjourned the Planning Commission Meeting to a work session.



Paul Clark, Planning Commission Chair