

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, January 12, 1993

Mr. Foland called the meeting to order at 7:30 P.M.

Attendance: Mr. Arthur Foland, Acting Chairman; Mr. Peter McMahon; Mr. Bernard Samples; Mr. Scot Stone; Mr. James Durham; Mr. Stanley Swartz. Absent: Mr. Robert Hosfeld. Also present: Mr. Alan Schwab, City Planner; Mr. Steve Feverston, Assistant City Planner; Mr. Robert N. Farquhar, City Attorney; Mr. Norbert Hoffman, City Engineer.

MOTION: Mr. Swartz moved to excuse Mr. Hosfeld from the meeting as he gave notice to the Planning Commission. Mr. Stone seconded the motion. The motion was approved unanimously 6-0.

Approval of the minutes of November 10, 1992:

Mr. Samples requested that the minutes be changed to reflect that he and Mr. Stone were not present due to a conflict of interest and that particular issue was the only item on the agenda for action.

MOTION: Mr. Samples moved to approve the Planning Commission minutes of November 10, 1992, with the changes as noted above. Mr. Swartz seconded the motion. The motion was approved 4-0-2 with Mr. Samples and Mr. Stone abstaining.

Approval of the minutes of November 24, 1992:

Mr. Foland indicated that a motion was made to excuse Mr. Durham and Mr. Swartz from the meeting as they gave notice to the Planning Department.

MOTION: Mr. Stone moved to approve the Planning Commission minutes of November 24, 1992, with the addition as noted above. Mr. Samples seconded the motion. The motion was approved 4-0-2 with Mr. Swartz and Mr. Durham abstaining.

PUBLIC HEARINGS

Frisch's Restaurant - Rezoning, Variance and Special Approval Applications

Mr. Foland requested that the City staff present their report on all three applications pertaining to the 1.91 acre parcel that is the site of the proposed Frisch's Restaurant.

Mr. Schwab reviewed the three applications submitted by Frisch's Restaurants. The first application requests approval of a zoning change from Washington Township Special Use Office and Washington Township Special Use Residential to Centerville B-1, Neighborhood Business. The second application is a Planning Commission Special Approval application to allow the construction of a Frisch's Restaurant on the parcel of land that is the subject of the

rezoning application. The third application is a variance application to allow the maximum building ground floor area of the proposed Frisch's Restaurant to exceed the maximum 5,000 sq. ft. standard of the Centerville B-1 zoning district. The Planning Commission Special Approval and the Variance application for Frisch's are conditioned upon the rezoning of the subject parcel to a permit a table service restaurant in the first Frisch's application. The location of the subject parcel is along the east side of South Main Street opposite from Sheehan Road and across from Elder Beerman Department Store, Grismer Tire Store, and Centerville Place Shopping Center. The surrounding land uses are strip commercial to the north; a shopping center to the west; office and residential apartments and condominiums to the south; and residential apartments and condominiums to the east.

Mr. Schwab stated that on the south side of the subject property is a private street (currently named Capetown Drive) that serves as the entrance to the Williamsburg Woods Apartments and Condominiums, and the Harbour Club Apartments. Cape Town Drive was formerly an extension of Sheehan Road and was built and dedicated as a public street back in the 1960's. At the time the Harbour Club Apartment project was approved by Washington Township, the Township became aware that this street was a public street and made a condition of the approval of the Harbour Club Development that the property owner request that the street be vacated by Montgomery County. This request was made and the street was vacated to the adjacent property owners.

In the mid 1980's before the Sheehan Rd. (Capetown Drive street vacation), Washington Township approved a site plan on the subject property for a single-story office building on the front portion of the property with an access to the parking lot from the then public street Sheehan Road now vacated and named Capetown Drive. The proposed plan for Frisch's shows a South Main Street (SR-48) access to the property directly across from the southernmost curb cut for the existing Elder-Beerman Department Store. This particular access would be limited to right-in and right-out vehicle turning movements with a second access point to Capetown Drive. Mr. Schwab stated that the City is proposing in 1994 to construct a traffic signal at the South Main Street (SR 48) and Sheehan Road intersection. Also, the City has been granted State of Ohio Issue 2 funds for the widening of SR 48 from Edenhurst Drive to Sheehan Road which will be available in mid 1993. This funding should allow some construction to begin yet this year to widen SR-48 with completion of the project during the 1994 construction season.

Staff recommended that the rezoning be approved based upon the proposed B-1 zoning being consistent with the commercial zoning north of and across the street from the subject property.

The City Staff recommended that the Variance for maximum building ground floor area be approved as requested. Mr. Schwab stated that the applicant could have requested B-2 zoning which would allow up to a 50,000 sq. ft. ground floor area building. B-2 zoning would permit other uses not permissible in a B-1 zoning district such as fast food restaurant or a gas station. The Frisch's people felt that B-1 zoning would be more appropriate because it would be the minimum business zoning classification necessary to allow their table service restaurant with the exception that the building maximum ground floor area variance must be approved. Mr. Schwab pointed out that staff would support either B-1 or B-2 zoning for this particular parcel. Mr. Schwab stated further that the size of the parcel being almost 2 acres warranted the increase in the building size. He pointed out that most B-1 uses in the City are located in the City Architectural Zoning District (APD) where the lot sizes are much smaller.

Mr. Schwab stated that the proposed Frisch's restaurant as described by the applicant is clearly a table service restaurant and not a fast food restaurant as defined in the City Zoning Ordinance and permissible in a B-1 zoning district, even though the proposed Frisch's restaurant has a drive through window.

Mr. Schwab stated that the Harbour Club apartment project to the south was constructed with a very effective layout utilizing the location of the private street (Capetown Drive), garages and parking lots and the recreation building abutting Capetown Drive, earth mounding in a 90 foot wide landscaped area to minimize the impact of the development of the subject property on the apartments. Mr. Schwab stated that the most significant residential impact is on the Williamsburg Woods Apartment complex which is owned by the same owner that is proposing to sell the subject parcel to Frisch's Restaurant. However, this impact on Williamsburg Woods is being addressed with the distance and screening required in the B-1 section of the City Zoning Ordinance.

Mr. Schwab stated that the subject lot for the development of the Frisch's Restaurant is clearly a corner lot as defined in the City Zoning Ordinance with frontage on two streets (SR-48 a public street and Capetown Drive a private street).

Staff recommended approval of the Planning Commission Special Approval application subject to the following conditions:

1. The City Council approve a rezoning of the entire property to permit a table service restaurant use.
2. Should the City Council approve to rezone this property to B-1, Neighborhood Business, the Planning Commission must approve a variance to permit this building to have a maximum gross floor area of 6,423 square feet instead of the maximum permitted 5,000 square feet.

3. The north driveway entrance onto State Route 48 shall be restricted to right-turn maneuvering only with the final design of this driveway subject to approval by the City Engineer.
4. Monies, in an amount approved by the City Engineer, shall be placed in escrow with the City in-lieu-of construction of a 5 foot wide sidewalk along the South Main Street frontage.
5. The final design of the improvements to Capetown Drive (the private street) shall be subject to approval by the City Engineer.
6. The 4 foot wide sidewalk shown along Capetown Drive shall be aligned at the curb cut across from each other subject to approval by the Planning Department.
7. Bumper blocks shall be placed along those parking stalls facing Capetown Drive to restrict encroachment of vehicles onto the sidewalk.
8. A 10 foot parking lot setback from the front edge of pavement of Capetown Drive shall be maintained.
9. All landscaped islands within and at the perimeter of the parking lot shall have raised curbing and shall incorporate rounded corners subject to approval by the City Engineer.
10. The driveway that provides vehicular access to the adjoining commercial property to the north shall be reduced in width to 29 feet and aligned with the parking lot driveway to the north subject to approval by the City Engineer.
11. 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 Stormwater Drainage Control Ordinance.
12. Plans for all exterior lighting shall be approved by the Planning Department.
13. The Planning Commission specifically approve the imitation stucco siding (dryvit) located on the upper portions of the building.
14. Specific building colors shall be subject to approval by the Planning Department.
15. The screening of the dumpster shall be subject to approval by the Planning Department.
16. Any sign shown on this application shall not be considered approved as a part of this application.

Mr. Foland opened the public hearing for the rezoning application.

Mr. Brad Judge, Judge Engineering, Mr. Jack Merkle and Mr. Paul Barbero, Frisch's Restaurants, Inc., were present for the review of their proposed project.

Mr. Durham asked why Frisch's applied for B-1 zoning rather than B-2 zoning.

Mr. Judge stated that B-2 would allow a greater intensity of development on the site should Frisch's sell the site at some point in time.

It was Mr. Durham's opinion that B-2 zoning should be requested since the proposed restaurant meets the standards in a B-2 classification and would not require any variance for the proposal as submitted.

Mr. Hans Soltau, 6776 Loop Road representing Charles and Elizabeth Simms, developers of the Harbour Club Apartment project abutting the site, was present to object to the rezoning. His objection was based on the high use which will be present under a B-1 zoning classification. Specifically, his reasons included an increase in parking requirements from 28 spaces for the office use to 95 spaces for the restaurant use; patron turnover is less in an office use than will be a business use in terms of a restaurant; lighting, smell from the restaurant and screening for the proposed use are major concerns. Access to Capetown Drive is being shown on the plan when an easement was, in fact, created for the roadway only. He stated that 18.5 ft. of the roadway is on the Simms property and only 8.5 ft. of the roadway is on the Frisch's site. The obligation with respect to maintenance is on the Simms'. If the access point is in the location proposed, screening cannot be put in the side yard. An increase in the burden of maintenance to the Simms is a result of taking a private roadway and making it into a public street. An issue that needs to be addressed is who provides the police protection. The roadway in the City is only 8.5 ft. If the south property of the site is a side yard, and Mr. Soltau stated that he feels it is, staff is recommending sidewalks to be installed. The Ordinance states that sidewalks shall be in the public right-of-way only, which is an assumption that it is a public right-of-way when there is none.

Mr. Durham asked if when the plan for the office building was approved by the township, was it understood that those persons visiting the office building would be using the Capetown Drive access.

Mr. Soltau stated that was correct.

Mr. Durham stated that if that is the case, the easement was created to service the parcel to the general public using that parcel. He stated that unless you distinguish retail business such as a restaurant, the problem is in the drawing of the easement.

Mr. Soltau stated that the intended use of Frisch's with the respect to the improvements that are being done is an undue burden on his clients. The burden is being increased by the amount of people involved, the type of use as well as the drive-thru window.

Mr. Foland asked how the sidewalk came about.

Mr. Schwab stated that staff requested that Frisch's include the sidewalk in their proposal. The sidewalk is not located in the public right-of-way and is, therefore, a private sidewalk.

Mr. Bob Archdeacon, Woolpert Consultants, representing Charles Simms, stated that a drive-thru window was not a part of the original application. Also, there is a great amount of concern regarding the drainage and how the increase in flow will affect the Simms development. Mr. Archdeacon stated that he has not seen anything on proposed lighting or erosion control, and would hope that the 25 ft. buffer standard between residential and commercial would be required in regard to the Simms development.

Mr. Merkle stated that a maintenance agreement for the access from Frisch's to Capetown Drive would be drafted which is the section of roadway that they would use for in and out movements.

There being no other speakers, Mr. Foland closed the public hearing.

Mr. Samples stated that the spirit of the City Policy Plan was to discourage intensifying the zoning of land and asked staff to comment.

Mr. Schwab stated that was one of the goals of the Policy Plan, however, looking at this particular site, the surrounding land uses do not seem inconsistent with the proposed B-1 zoning in this case.

Mr. Durham stated that an office use would be appropriate or a B-2 zoning classification for the proposed use. He stated that he did not feel B-1 was appropriate and then granting a variance from those newly adopted standards.

Mr. Merkle stated that they would request that the application be amended to B-2 if that is what the Planning Commission would prefer.

Mr. Stone stated that he understood the concern of the City with a B-2 use should Frisch's fall through and a more intense use would develop on the site.

Mr. Swartz stated that he did not object to the business zoning because the owner of the apartments to the east is selling the property to Frisch's and obviously does not object to the use. He preferred the B-1 with the variance as it gives the City more control.

Mr. Soltau stated that Frisch's does not own the property at this time and should the contract fall through a B-2 zoning classification would be of greater concern to his clients.

MOTION: Mr. Stone moved to recommend approval of the zoning change to a B-1 classification as requested by Frisch's Restaurants, Inc. Mr. Swartz seconded the motion. The motion was approved 4-2 with Mr. Samples and Mr. Durham voting no.

MOTION: Mr. Durham moved to table the Variance application until Council has reviewed the rezoning application. Mr. Samples seconded the motion. The motion was denied 2-4 with Mr. Foland, Mr. McMahon, Mr. Stone and Mr. Swartz voting no.

Mr. Foland opened the public hearing for the Variance application.

Mr. Merkle stated that the variance was necessary to increase the size of the building to address the ease of moving for the customers, wider tables and is much more comfortable for the customers. A built-in salad bar is being constructed and the building had to be made larger to accommodate these features.

Mr. Soltau stated that the requirements for granting a variance have not been met and, therefore, the variance should not be granted.

Mr. Archdeacon felt that an additional variance is being requested. He stated that they do not feel that the requirement for a 25 ft. side yard setback for separation between residential and commercial has been applied for.

Mr. Durham stated that would be addressed under the review of the site plan.

There being no further speakers, Mr. Foland closed the public hearing.

MOTION: Mr. Swartz moved to approve the Variance to allow a maximum building ground floor area not to exceed 6,500 sq. ft. contingent upon the zoning of B-1 being approved by Council. Mr. McMahon seconded the motion. The motion was approved 4-2 with Mr. Samples and Mr. Durham voting no.

Discussion continued at this time on the Planning Commission Special Approval application.

Mr. Judge stated that Frisch's has no objection to the conditions as reviewed by staff concerning the special approval application. Mr. Foland questioned the use of dryvit (a stucco-like material) on the surface of the exterior of the building.

Mr. Barbero stated that the building materials can be changed to brick or a more acceptable material.

Mr. Durham asked for clarification of whether this is a corner lot. He stated that the difference between the lot having two frontages or having one side yard would make a great deal of difference in the requirements of approval.

Mr. Schwab reviewed definitions from the Zoning Ordinance and stated that he has concluded that this is a corner lot and, therefore, has two frontages.

Mr. Soltau stated that Capetown Drive is basically a private driveway--there are no easements in respect to utilities, etc. There is no grant to the general public for its use; therefore, it is a side yard.

Mr. Farquhar stated that he disagreed with Mr. Soltau. He stated that all private streets in Centerville make no grants to the public.

Mr. Bob Forward, owner of the property in question, stated that Capetown Drive was built as the main access to his developments. It was used during the construction period for the Williamsburg Woods Condominium project and held up a lot better than some of the private roads in the area.

Mr. Durham asked Mr. Hoffman if there should be concern about the access from Capetown Drive to Frisch's.

Mr. Hoffman stated that the City supports Capetown Drive as being the access point because traffic can best be handled through the future signalized intersection especially for traffic coming out from the apartments as well as the future restaurant.

Mr. Durham felt that conditions #3 and #15 should read as follows:

3. The north driveway entrance onto State Route 48 shall be restricted to right-in/right-out maneuvering only with the final design of this driveway subject to approval by the City Engineer. It should be established to the satisfaction of the City Attorney that Frisch's Restaurant has full patron access via Capetown Drive.
15. The screening of the dumpster shall be subject to approval by the Planning Department. All other utility installations on the east side of the building shall be screened by the extension of the brick screen wall and shall be designed to be consistent architecturally subject to the approval of planning staff.

Mr. Swartz stated that lighting should be approved very carefully since this property will affect the residential areas. He stated further that he would like to see the required screening plantings be spaced in such a manner to create an instant buffer.

Mr. Schwab suggested that the plantings screening be double row staggered in order to give the plantings appropriate space to grow and yet form an instant buffer to the eastern residents adjacent to the site.

Mr. Foland stated that he would not support the use of dryvit on the building exterior.

MOTION: Mr. McMahon moved to approve the Special Approval application submitted by Frisch's Restaurants, Inc., subject to the following conditions:

1. The City Council approve a rezoning of the entire property to permit a table service restaurant use.
2. Should the City Council approve to rezone this property to B-1, Neighborhood Business, the Planning Commission must approve a variance to permit this building to have a maximum gross floor area of 6,423 square feet instead of the maximum permitted 5,000 square feet.
3. The north driveway entrance onto State Route 48 shall be restricted to right-in/right-out maneuvering only with the final design of this driveway subject to approval by the City Engineer. It should be established to the satisfaction of the City Attorney that Frisch's Restaurant has full patron access via Capetown Drive.
4. Monies, in an amount approved by the City Engineer, shall be placed in escrow with the City in-lieu-of construction of a 5 foot wide sidewalk along the South Main Street frontage.
5. The final design of the improvements to Capetown Drive (the private street) shall be subject to approval by the City Engineer.
6. The 4 foot wide sidewalk shown along Capetown Drive shall be aligned at the curb cut across from each other subject to approval by the Planning Department.
7. Bumper blocks shall be placed along those parking stalls facing Capetown Drive to restrict encroachment of vehicles onto the sidewalk.
8. A 10 foot parking lot setback from the front edge of pavement of Capetown Drive shall be maintained.
9. All landscaped islands within and at the perimeter of the parking lot shall have raised curbing and shall incorporate rounded corners subject to approval by the City Engineer.

10. The driveway that provides vehicular access to the adjoining commercial property to the north shall be reduced in width to 29 feet and aligned with the parking lot driveway to the north subject to approval by the City Engineer.
11. 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 Stormwater Drainage Control Ordinance.
12. Plans for all exterior lighting shall be approved by the Planning Department.
13. The Planning Commission denies the applicant the use of the imitation stucco siding (dryvit) on the building. The Planning Department shall approve revised building elevations that substitute an approved building material in place of the dryvit.
14. Specific building colors shall be subject to approval by the Planning Department.
15. The screening of the dumpster shall be subject to approval by the Planning Department. All other utility installations on the east side of the building shall be screened by the extension of the brick screen wall and shall be designed to be consistent architecturally subject to the approval of planning staff.
16. Any sign shown on this application shall not be considered approved as a part of this application.
17. Screening along the east property line shall be double-row staggered subject to the approval of the Planning Department.

Mr. Stone seconded the motion. The motion was approved 5-0-1 with Mr. Durham abstaining.

OTHER BUSINESS

Mr. Samples stated that the property located at 262 East Alex-Bell Road was in violation of the property maintenance requirements and is in worse condition than ever before.

Mr. Hoffman stated that staff was aware of the situation and the matter is being processed in the court system.

There being no further business the meeting was adjourned.

R. Hoffel 2/23/93