

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, March 30, 1982.

Mr. Tate called the meeting to order at 7:40 p.m.

Attendance: Mr. Elmer C. Tate, Jr., Mr. Dallas Horvath, Col. Stanley Morrow, Mr. Bernard Samples, Mr. Robert Chappell. Absent: Mr. Brian Bergsten, Mrs. Marian Simmons. Also present: Mr. Alan C. Schwab, City Planner; Mr. Karl M. Schab, City Engineer; Mr. Robert N. Farquhar, City Attorney; Mr. Joseph S. Minner, Assistant City Manager, Mr. Steve Feverston, Planner.

Approval of minutes of February 23, 1982, Planning Commission Regular Meeting:

MOTION: Mr. Horvath moved to approve the Planning Commission minutes of February 23, 1982, as written. Col. Morrow seconded the motion. The motion was approved unanimously.

SETTING OF PUBLIC HEARINGS

The following was set for public hearing for Tuesday, April 27, 1982, at 7:30 p.m. in the City Building:

Montessori School of Centerville - Sign Variance

Location: Southeast corner of SR 48 and Elmwood Drive

COMMUNICATIONS

Mr. Schwab stated that a draft of the revised Sign Ordinance has been completed and next month the Planning Commission will be looking at that draft.

The street map index has now been completed and the printing of the street map and index will take place sometime in April. It will be available at the end of the month for \$2.00 per map.

Some preliminary census data has been obtained by the Planning Department, however it is in unusable form at this time. Better information should be forthcoming during this year.

PUBLIC HEARINGS

Smith, Dale R. - Rezoning from R-1 to R-3

Mr. Schwab made a slide presentation of the proposed rezoning for a parcel of land located at the Marshall Road cul-de-sac area. The current zoning on the parcel is R-1, single-family residential. The proposed zoning is R-3 which would provide for single-family residential, double-family residential, or a variety of other conditional uses that would not be permitted in a R-1 district. The acreage on the parcel is 2.9 acres. The zoning on the parcel prior to December, 1962, was WT R-4. From 1962 to the present, the parcel has been zoned R-1. The proposed area to be rezoned is now platted into 6 lots arranged around the cul-de-sac area.

The parcel is bounded to the east by the abandoned Penn Central railroad. This is the location of the proposed DART High Speed Rail Line. The RTA was in the process of negotiating with the railroad to try to obtain this rail line with other portions that go into the City of Dayton. At this point in time, the possibility of the project looks as though they will not develop. To the west of the parcel is single-family residential and vacant land; to the north is open space and single-family residential; and to the south is the proposed I-675.

In review of the Comprehensive Plan for the City, Mr. Schwab explained the difference between "stepping" intensities of land use and buffer areas. The purpose of a buffer is to shield the undesirable effects of one land use from another less intense or conflicting land use. A buffer may be a barrier such as a wall, fence, earth mounds, trees or shrubbery. It may also be a large open space where distance between two uses serves as the buffer. A common principle in planning is the stepping of land uses given a range of intensities of land uses from the most intense (industry) to the least intense (single-family residential), the idea is to step land uses by intensity from most to least. The gradual change will reduce land use conflicts and require less buffering between them. An example of this would be North Main Street at Fireside Drive and Village South neighborhood. At the time the Comprehensive Plan was developed, the intent was to provide a buffer which would separate the rail line and I-675, from the single-family uses.

Staff recommendation is to disapprove the rezoning application based on the following reasons:

1. The City Comprehensive Plan designates single-family residential and open space uses at this location.
2. The railroad east of the property has been abandoned.
3. The amount of land involved is small.
4. The application contains no convincing demonstration that the character of the neighborhood will not be materially and adversely affected by the proposed rezoning.
5. The granting of the requested rezoning would confer special privileges to the applicant that are denied other similarly situated properties in the area; hence, would constitute a "spot zoning". Mr. Schwab stated that the basis for zoning is to follow the plan laid out by the community including factors such as transportation, desire of the community as to what type of community is wanted, topography, etc.

Staff's conclusion is that an argument can be made that the slightly more intense use of the two-family use that is proposed would require less buffering to the interstate; however, adjacent lots to the area also are situated with the same conditions. If there is a desire to change the concept of the neighborhood to try to recognize I-675 by putting a use that is more intense against I-675, then the Comprehensive Plan should be amended.

Mr. Tate opened the public hearing.

Mr. Dale Smith, owner, presented a sketch of the proposed layout for the 6 doubles in order to give the Planning Commission and area homeowners an idea of how the development will appear. He stated that the reason he is applying for the rezoning is due to the character of what has happened to the economy.

He stated that single-family houses will still sell, but the problem is if houses are built on the lots that will sell, it will ruin the character of the neighborhood more than doubles will. If you take a 1,200 sq. ft. home and put it on a 20,000 sq. ft. lot it will be ugly. A big house is not going to sell anymore for various reasons including the utility bills, the payments are not affordable, people that are willing to buy homes cannot sell their present house, etc. The only people that can afford houses at this time are young married couples both of which are employed. They stop for a drink after work and decide to have a family. After going home and discussing it, they decide to move out of their 800 sq. ft. apartment and look for homes that do not have a lawn to take care of. This is the era of people who are looking for homes without all the maintenance that goes along with having a big yard, he stated.

Mr. Smith stated he would be more than happy to table the project and have a work session with a workable group of representatives from the area. He stated they could hire any architect that they wish to design the units to be compatible with the surrounding area and he would pay the expense. He stated that the other alternative is to divide the 6 lots in half and put single-family houses on each of the lots. Mr. Smith stated that at this point in time, the grid system is going to have to be readdressed because no one can buy these homes.

Mrs. Marlene Sharp, 6287 Millbank Drive, stated that she disagreed with Mr. Smith. She stated that they bought their house last November because it was an expensive, private neighborhood. She stated corporate executives, like her husband who plan to leave here, need to buy these houses and need to sell them when they move on. She stated she would have never considered buying a home in Village South if the neighborhood were developed as Mr. Smith now desires. Mrs. Sharp stated that you get more joggers early in the morning and you get more of everything. She stated she would not prefer that type of neighborhood for her money.

Mr. James P. Hickey, 1212 Third National Building, Dayton, Ohio, 222-5546, attorney representing a group of concerned citizens who have banded together under the name of North Centerville Neighborhood Association, stated he has supplied the Planning Commission with a memorandum of Fact and Law. He stated in review of the rezoning application, it is interesting as to what is answered and what is not answered.

The question "How does the proposed use relate to the Comprehensive Plan as well as the existence of the land use pattern of the neighborhood" was answered "The existing land use pattern of the neighborhood is residential". Mr. Hickey stated that the answer is correct, however it is single-family residential, not multi-family.

The question "Show how the zoning change in your opinion is necessary for the preservation and enjoyment of substantial property rights, and will neither be detrimental to the public welfare, nor the property of those persons located nearby", was answered "Will neither be detrimental

to the property of those persons located thereby". Mr. Hickey stated that the question is not answered and suggested that the reason it was not answered is because the proposed zoning use will be detrimental to the neighborhood.

The next question, "If the present zoning is not related to the public health, safety, convenience comfort, prosperity or general welfare, indicate how the reclassification will relate to these purposes of zoning", Mr. Hickey stated is not addressed because the present zoning of R-1 is related.

The last question, "The zoning required to change an error or necessary due to change in conditions", is answered "Rezoning is required due to a change in the economic conditions of the Country and the present day housing needs and demands". Mr. Hickey stated that he does not think the rezoning of 6 lots in Centerville, Ohio is going to change the economic conditions of the Country.

Mr. Hickey stated that at the time the subdivision developed, the I-675 corridor did exist, but yet it was developed single-family residential. He stated that the development to the east of the Village South area was also developed as single-family residential by Mr. Smith. Mr. Hickey stated that he does not agree with Mr. Smith's argument that the changing of the zoning for the 6 lots (approximately 293 ft.) will buffer the plat of many hundreds of homes. He stated that the only advantage the applicant will have is to market the lots to have a higher economic gain for himself that presently he is not enjoying.

Mr. Hickey stated that it is his opinion that the conditional use application cannot be considered because it was not signed by a property owner or a party of interest.

Mr. Hickey reviewed the 5 points submitted in the memorandum of Fact and Law as follows:

1. Lay of the Land. Mr. Hickey stated that it his belief that the 50 ft. turning radius is rather small to maneuver fire equipment. He stated this is particularly important when considering either 6 units in this area or 12 units.
2. Ground Surface Water. Mr. Hickey stated that there is a problem with ground surface water that is eroding the properties and coming onto the back of the properties on the east side of Millbank Drive. He stated that there is no immediate solution to the problem as discussed with the City Engineer previously. Mr. Hickey stated that with no immediate solution to the problem, it only stands to reason that the roof surfaces are going to be increased because of larger buildings being put up. There will be more blacktop or concrete surfaces, the yards are going to be smaller, therefore making absorption of the water into the ground less. Again, people at the bottom of the hill will receive more water.
3. Traffic Flow. Traffic flow will be increased into the neighborhood. Mr. Hickey stated that he cannot estimate the increase in number, however, he is certain it will be significantly higher than if the zoning is left at R-1.

5. Spot Zoning. Mr. Hickey stated that this is a classic case of piecemeal block or spot zoning. Spot zoning is where an individual makes an application for a small parcel of land for the sole purpose of his own economic gain. Mr. Hickey stated that the courts have determined that spot zoning is illegal and referred to several cases dealing with this subject.

Mr. Hickey stated that the applicant is basically asking for a change in zoning because the property is not being marketed and he is suffering an economic loss in the event it is marketed at a price that it will sell. He concluded that for this reason, the rezoning would be spot zoning.

Mr. Hickey added that with the new tax laws allowing apartment owners to depreciate their buildings over a 15-year period, and the construction of the proposed buildings which to be modular, Centerville will be well on its way to its first slum area.

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

Mr. Samples stated that although he does sympathize with Mr. Smith and his problem, he does not feel that Mr. Smith should look to the Planning Commission to solve it by changing the zoning.

Mr. Horvath stated that he believes one of the reasons people move to Centerville is because of the zoning and we are restrictive. He stated that we have good zoning because we do not go out and rezone at the drop of a hat.

Mr. Tate stated that what the Planning Commission has seen as evidence, it is spot zoning. He stated that they would not approve it in the area in question or anywhere else.

MOTION: Mr. Horvath moved to recommend denial of the rezoning application submitted by Dale R. Smith to City Council. Col. Morrow seconded the motion. The motion was approved unanimously.

Mr. Tate explained to Mr. Smith that he does have the right to appeal the decision of Planning Commission to Council.

Mr. Smith indicated that he was aware of his appeal rights.

NEW BUSINESS

Hidden Hills, Sec. 2 - Conditional Use

Based on the fact that the zoning is not appropriate for the proposed project, the Planning Commission did not review the conditional use application.

McDonald's Restaurant - Site Plan Amendment

Mr. Schwab reviewed the proposed site plan amendment for the McDonald Restaurant located at 6004 Far Hills Avenue in the City of Centerville. The zoning on the 1.1 acre parcel is zoned B-2. The request is being

submitted to construct a playground area in the front of the facility. He stated that the original site plan approved for McDonald's provided 76 parking spaces on the site. An amendment was approved for the construction of a drive-in window which decreased the number of parking spaces to the existing 57 spaces. Mr. Schwab stated that the proposed construction would take another 10 spaces and would, therefore, reduce the total parking spaces to 47.

Staff has based its recommendation on several studies, which uses 18 spaces per 1,000 sq. ft. of gross floor area for fast food restaurants, to be a reasonable parking standard. From that method, the result is a minimum of 62 parking spaces. With the addition of the playground area, staff recommends that number be increased by 5 spaces for a total of 67 parking spaces.

The construction of the playground will extend the existing sidewalks on the north and south sides of the building front approximately 50 ft., thereby eliminating 5 parking spaces on each side. The 10 parking spaces in question are set in so that it allows additional circulation area in order to get out the one-way exit. The existing concrete walkway will be extended out and a narrow sidewalk will be constructed on the outside of a short wall which will contain the play area. One concern staff has is the throat area now is very narrow and traffic has to merge left into the path of people leaving the drive-in window. The proposal would further reduce that throat area.

The play area will include 4 tables along with playground equipment and statues. Mr. Schwab stated that the proposed sidewalk area will measure approximately 2-1/2 ft. wide which is too narrow for a sidewalk--it should be a minimum of 4 ft. wide.

Staff recommendation is to deny the site plan amendment based on the following:

1. Employees are currently parking off-site. Mr. Schwab stated that this is hard to ascertain; however, staff has observed the former Arthur Treachers lot as well as the Washington Square Shopping Center being utilized for parking.
2. Approximately 15 employees are on duty during lunch. With this number of employees on duty, it is probable that at least 8 of those people drive to work which means that number of spaces are in use.
3. The 4 additional tables proposed and the 1,8000 sq. ft. play area will generate an additional parking requirement (rather than a reduction of parking).
4. The 10 parking spaces proposed to be removed are prime parking spaces.
5. The traffic conflict point at the drive-in window exit would be worsened by the proposed changes.
6. The playground equipment appears to be additional signage.
7. Sidewalks along the playground area should be at least 4 ft. wide.

Mr. Horvath stated that he believes that this proposal would be an over-development of the lot. He stated that the play area may be good for inter-city, but Centerville does have planned parks for recreation. He stated that you should go to a restaurant to eat, not to play.

Mr. Chappell stated that he does not believe that the playground equipment constitutes additional signage. He stated he does, however, have a problem with the parking situation.

Mr. Schwab stated that another playground facility is proposed for the McDonald's across from the Centerville Place Shopping Center. He stated that it will be smaller and take up only 6 parking spaces. The existing parking spaces on this site is 63.

Mr. Tate and Mr. Samples agreed with Mr. Horvath that the proposed play area would create a parking problem.

MOTION: Mr. Horvath moved to recommend denial of the McDonald's Restaurant site plan amendment to Council. Mr. Chappell seconded the motion. The motion was approved unanimously.

Throckmorton Brothers, Inc. - Site Plan (Temporary)

Mr. Schwab made a slide presentation of the temporary site plan for Throckmorton Brothers, Inc., to be located at 2 North Main Street in the Architectural Preservation District (APD). The request is to establish a temporary outdoor garden center from April 15, 1982, through June 15, 1982. The proposed number of parking spaces is 8. Staff recommends 20 parking spaces for the site given the size of the retail area proposed on the site. When adding up all the retail area on the site, the area involves approximately 4,400 sq. ft.

Mr. Schwab stated that one of staff's concerns is use for park and ride. Staff suggests that the area be roped off in some fashion so that it is not utilized by park and ride.

Staff recommends to approve the temporary site plan amendment with the following conditions:

1. Close off both curb cuts when closed to disallow any park and ride vehicles. The area to the rear of the building will allow the additional required parking spaces if it is closed off also.
2. Sign location subject to staff approval.
3. No pennants or banners be allowed. Given the sensitivity of the APD, staff suggests that the applicant uses something different to cord off the area.
4. Define circulation and parking layout of area in rear and show a minimum of 12 parking spaces. He stated that this can be accomplished in the gravel area to the rear of the building.

Mr. Jerry Throckmorton, applicant, stated that there will be no problem with closing off the curb cut areas or the sign location which will be reviewed by the BAR. He stated that they have found that the use of banners is essential to keep people from backing into other people and flowers. He stated that the parking in the rear will be improved by the addition of gravel. He stated that they do plan to use that area for overflow parking; however, it would be difficult to rope off the area.

Mr. Horvath stated that all of the parking could be in the rear which would control the parking and banner problems. There could be a lane to drive through for loading only.

Mr. Tate stated that the best way to deal with the banners, is to address the question to the BAR as to what type of arrangement meets with their satisfaction.

MOTION: Mr. Horvath moved to approve the temporary site plan amendment with the following conditions:

1. Close off both curb cuts when closed to disallow any park and ride vehicles.
2. Sign location subject to staff approval.
3. No pennants or banners be allowed.
4. Define circulation and parking layout of area in rear and show a minimum of 12 parking spaces.

Members of Planning Commission discussed the fact that pennants or banners are to be approved by the BAR as to what arrangement is satisfactory. There being a lack of a second to the motion, Mr. Tate called for another motion.

MOTION: Mr. Samples moved to approve the temporary site plan amendment for Throckmorton Brothers, Inc., with the following conditions:

1. Close off both curb cuts when closed to disallow any park and ride vehicles.
2. Sign location subject to staff approval.
3. Define circulation and parking layout of area in rear and show a minimum of 12 parking spaces.

The temporary site plan amendment is to be effective from April 15 through June 15, 1982. Mr. Chappell seconded the motion. The motion was approved 4-1. Mr. Horvath voted no.

Centerville Steel (Penn Central Railroad) - Lot Split

Mr. Schwab stated that this lot split is a result from the abandonment of the Penn Central Railroad. He stated that Centerville Steel is requesting a split of a parcel 18 ft. wide by 350 ft. long (approximately 63 sq. ft.) from the 66 ft. wide railroad right-of-way, in order to acquire ownership and place it with their existing lot.

The location of the parcel is 975 East Franklin Street and the zoning on the parcel is I-1. Staff recommends that the Planning Commission authorize staff to grant a "No Plat Required" on this transfer of ground.

MOTION: Col. Morrow moved to grant staff the authorization to stamp the deed "No Plat Required" as requested by Centerville Steel. Mr. Samples seconded the motion. The motion was approved unanimously.

There being no further business, the meeting was adjourned.

Nallas J. Howarth
Acting Chairperson

