

CENTERVILLE PLANNING COMMISSION  
Regular Meeting Minutes  
J.V. Stone Council Chambers, 100 W. Spring Valley Road  
Tuesday, September 27, 2022

At 7:00 p.m., Chairperson Paul Clark called the meeting to order.

**ATTENDANCE**

Members Present: Chair Paul Clark, Vice-Chair Kevin Von Handorf, Jim Durham, Bill Etson, Amy Korenyi-Both, Bob Muzechuk, and Don Stewart.

Also present were City Planner Mark Yandrick, Municipal Attorney Scott Liberman, Development Director Michael Norton-Smith, Assistant City Planner Joey O'Brien, and Assistant Clerk of Council Donna Fiori.

**APPROVAL OF MINUTES**

Minutes of the Planning Commission regular meeting on August 30, 2022, had been distributed prior to this meeting.

MOTION: Mr. Stewart made a motion to approve the August 30, 2022, Planning Commission regular meeting minutes as distributed; seconded by Mr. Etson. The motion passed 7-0.

**OPENING STATEMENT**

Mr. Clark read an opening statement concerning protocol for public hearings.

Mr. Clark rearranged the published agenda to review the Record Plat application, delaying the Appeal Public Hearing until later in the meeting.

**NEW BUSINESS**

**P-2022-0009 – Record Plat  
Robert L. Hall III, Cornerstone Developers, Ltd  
Cornerstone of Centerville, South, Parcel L49000100010001200**

Mr. Yandrick presented the application summary, background, standards of approval, the development agreement, and staff analysis. The applicant seeks approval for a record plan to subdivide the existing 71-acre Cornerstone South property into three (3) separate parcels and dedicate right-of-way for Clio Road and Possum Run Road. Mr. Yandrick noted the Record Plan application is in coordination with the Rezoning of a 3.07-acre parcel to O-S, which City Council approved at the September 26, 2022, meeting.

Staff recommends APPROVAL with the following three (3) conditions.

1. This record plan is contingent upon the property owner and the City of Centerville executing an amendment to the Cornerstone Development Agreement upon terms and conditions acceptable to the City of Centerville and in a form acceptable to the Centerville Municipal Attorney.
2. The record plan mylar shall not be signed until the proposed rezoning within case P-2022-0008 takes effect.
3. Prior to release of the record plan for recording, all frontage improvements shall be financially secured to the satisfaction of the City via Subdivider's Agreement and associated bond or letter of credit, or by separate negotiated legal and financial instruments approved by the City.

September 27, 2022

Planning Commission Minutes

Page 2 of 4

Mr. Clark opened the meeting for public comment.

Robert Hall, 3445 Newmark Drive, Miamisburg, representing Oberer Land Developers LLC, thanked Planning Commission and staff, noting he takes no exception with the three conditions and requesting a recommendation of approval to City Council.

Seeing no additional speakers Mr. Clark closed the public comment portion of the meeting.

MOTION: Mr. Von Handorf made a motion to recommend approval of record plan application P-2022-0009 subject to the conditions recommended by staff, to City Council; Seconded by Mr. Muzechuk. The motion passed 7-0.

## **PUBLIC HEARINGS**

### **P-2022-0015 – Appeal Decision of Zoning Administrator Casto, Development Group, Eric Leibowitz 6238 and 6240 Far Hills Avenue**

Mr. Yandrick presented a summary of the Appeal application submitted by Eric Leibowitz seeking reversal of a staff decision to deny the use of a Valvoline Oil and Retail facility to be located in a B-2, General Business zoning district. Staff evaluated the operation that would perform oil changes, tire rotations, and servicing of vehicles and determined it met the definition of the Automobile or Truck Repair. Staff denied the application because the proposed use is not permitted within Article 9.05, Table 9.1, Permitted Land Uses of the Unified Development Ordinance (UDO) as the principal use on a property within the B-2 zoning district. Mr. Yandrick noted there are four similar land uses currently within the B-2 and B-PD zoning districts in the City that are legally nonconforming uses due to either existing under a prior zoning ordinance or by being annexed into the City.

Mr. Yandrick shared other permitted uses that were considered in the analysis included Vehicle Sales, and Retail but found the requested use did not meet those definitions as the principle use. Additionally, when responding to inquiries for potential businesses, City staff have consistently classified vehicle service stations, including oil change facilities, as Automobile and Truck Repair and concluded these uses are not permitted as principal uses in the B-2 or B-PD zoning districts.

Mr. Yandrick explained Planning Commissions options with regard to appeals.

Mr. Muzechuk inquired if the B-2 permitted use of gasoline station was considered in the original analysis. Mr. Yandrick read the definition of gasoline station as follows:

*“A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories. In addition, such a facility may provide minor vehicle servicing and repairs.”*

Mr. Yandrick asserted that the proposed use would be a major use and not minor as described in the definition.

Mr. Clark opened the public hearing.

September 27, 2022

Planning Commission Minutes

Page 3 of 4

Joe Miller, 52 East Gay Street, Columbus, on behalf of Casto Developers addressed Planning Commission, acknowledging the presence of Eric Leibowitz, Brent Myers, and Dan Leathery of Casto Developers. Mr. Miller provided copies of their original letter to the City, City's response, appeal documents, and their PowerPoint presentation to the Clerk, members of the Planning Commission, and the Municipal Attorney. Mr. Miller asserted based on the clear common-sense interpretation of the code and Ohio Law the proposed retail, oil change business is a permitted use in the B-2 zoning district.

Mr. Miller discussed his PowerPoint presentation describing the location, reasons the business is a permitted use, intent of the UDO for B-2 General Business District, Ohio Zoning Law requirement, explanations on why denial is contrary to code, similar business in the district, and details on why the denial violates the United States and Ohio Constitutions.

Mr. Miller contended that retail, oil change business is a permitted use under vehicle sale and service, as services completed periodically on a vehicle to ensure it is roadworthy, and under retail sale and service, with retail sale of air filters, windshield wipers, battery replacement, and instant oil change services. He expressed that the "and" within those permitted uses should be interpreted as inclusive not exclusive which would mean "or". Additionally, he noted with the absence of a definition for Vehicle Service in the UDO, section 7.01, B1 of the UDO states listed uses are to be defined by their customary name or identification. Mr. Miller stated that Ohio Zoning Law requires any ambiguity in the UDO must be construed in favor of the property owner.

Hearing no one else come forward to speak on this matter; Mr. Clark closed the public hearing.

Commission members, staff, and Mr. Miller discussed clarity of definitions in the UDO, incidental uses within definitions, consistency in interpretation of uses, and Municipal Code 202.02 General Definitions.

Mr. Durham expressed he would vote against approving the appeal due to the opinion provided by the Municipal Attorney on behalf of the City stating a clear interpretation applying Ohio Law that staff was correct in their decision.

Mr. Liberman explained Planning Commission's role is to determine if the City Planners decision was correct based on our code.

Mr. Muzechuk expressed his disagreement with staffs' interpretation of the code, asserting that a Gasoline Station would be an appropriate use in the B-2 district not Truck Repair in an industrial zoned district.

MOTION: Ms. Korenyi-Both made a motion to grant the Zoning Appeal; seconded by Mr. Muzechuk. The motion failed 2-5.

## **COMMUNICATIONS**

Mr. Yandrick shared the following communications:

- Anticipate Agave & Rye variances and a rezoning public hearing for October meeting.

## **ADJOURNMENT**

There being no further business, Mr. Clark adjourned the meeting at 7:53 p.m. The next Planning Commission meeting is scheduled for Tuesday, October 25, 2022.

September 27, 2022

Planning Commission Minutes

Page 4 of 4

Submitted By: Donna Fiori

Paul Clark  
Approved – Chairperson

10/26/2022  
Date