

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, October 23, 2023, at 7:35 P.M. in the Auditorium of the Sinclair Centerville Campus at 5800 Clyo Road. The meeting was opened with an Invocation by Pastor Julie Stevens of Living Hope Church of the Nazarene followed by The Pledge of Allegiance to the Flag with Mayor Compton presiding. Councilmembers and City Staff were present as follows:

Councilmembers Deputy Mayor JoAnne Rau
 Mark Engert
 Belinda Kenley
 Duke Lunsford
 John Palcher
 Bill Serr

Clerk of Council Teri Davis
 City Manager Wayne Davis
 Assistant City Manager Mariah Vogelgesang
 Finance Director Tyler Roark
 Assistant Finance Director Miranda Piatt
 Police Chief Matt Brown
 Development Director Erik Collins
 City Planner Ian Vanness
 Economic Development Administrator Joey O'Brien
 Public Works Director Pat Turnbull
 City Engineer Jim Brinegar
 Assistant City Engineer David Swanson
 Communications Director Kate Bostdorff
 Human Resources Director Jen McCormick
 IT Director Ryan Collins
 Municipal Attorney Scott Liberman

Mayor Compton invited Pastor Stevens to discuss programs at Living Hope Church. Pastor Stevens spoke about the church's Food To Go program.

Minutes

The minutes of the following meetings had been distributed prior to this meeting:

Council Meeting: October 9, 2023.

Work Session Meetings: October 9, 2023.
 October 12, 2023.
 October 17, 2023.

Community Leadership Forum: October 14, 2023.

Mrs. Rau made a motion for approval of the minutes, Mr. Engert seconded the motion, and it passed with 7 ayes.

Communications

Mrs. Davis reported no communications.

Presentations

- A. Centerville City Schools – Tom Henderson presented information about Centerville City Schools' Issue 13 Levy. Mr. Henderson discussed school funding and expenditures, the district's strategic plan, its recent 5-star rating on the State report card, the levy need, and levy facts. The levy is a combined 5.4-mill operating and 0.5-mill permanent improvement levy and will cost property owners \$17 per month per \$100,000 of property value. More information is available at www.centerville.k12.oh.us/levy

Mayor Compton and other Council members praised the school district and discussed its importance to the community.

Old Business

- A. Applications C-2023-0002, C-2023-0003, and C-2023-0004: Appealing the Decision of the City of Centerville Planning Commission in Case No. P-2022-0020, a Major Site Plan for Sheetz.

Applicants: Epiphany Evangelical Lutheran Church, Regis Lekan, and
Graceworks Lutheran Services dba Bethany Lutheran Village.

Location: 6318 Far Hills Avenue.

Mr. Lunsford made a motion to remove the item from the table. Mrs. Rau seconded the motion and it passed 7-0 in a roll call vote.

Mayor Compton addressed the audience members and reminded all to be respectful of the meeting and remain quiet during the proceedings.

Mayor Compton explained City Council's quasi-judicial role and its process to arrive at its Written Decision.

Mayor Compton read in full the Written Decision, attached hereto and incorporated into the minutes, and then entertained a motion to adopt the Written Decision on the three Appeal Applications: C-2023-0002, C-2023-0003, and C-2023-0004.

Mrs. Kenley made a motion to adopt the Decision of Council on the three Appeal Applications. Mr. Engert seconded the motion and it passed 7-0 in a roll call vote.

Citizen Comments and Petitions - none**Officials' Reports**

Mayor Compton spoke about the three tree plantings conducted last week to commemorate the three business and community partners of the year award winners.

Mrs. Kenley discussed her attendance at the OML conference last week.

Mrs. Rau spoke about the October 18 CCIC meeting where two funding assistance applications were approved.

Mr. Serr informed about the Joint Entities meeting scheduled for October 30 at Rec Plex and hosted by Washington Township Trustees.

Mr. Lunsford passed along praise to the City of Centerville from a recent meeting he attended with a clergy group.

Mayor Compton reminded of the Faith and Community Leaders Breakfast scheduled for tomorrow morning.

In the City Manager's Report, Mr. Davis spoke about:

- Meridien opening.
- Uptown parking update.
- Business Walk tomorrow afternoon.

New Business – none.

Consent Agenda

Mayor Compton turned the attention of the group to the Consent Agenda. Any City Councilmember may remove an item from the Consent Agenda by request. No second is required for removal of an item. Items removed for separate discussion will be considered after the motion to approve the remaining Consent Agenda items.

City Council read the Consent Agenda into the record as follows:

- A. Resolution 87-23, Resolution Accepting The Amounts And Rates As Determined By The Budget Commission And Authorizing The Necessary Tax Levies And Certifying Them To The County Auditor.
- B. Resolution 88-23, A Resolution Declaring Specific Property No Longer Utilized By The City Of Centerville As Surplus Property And Authorizing The City Manager To Dispose Of Said Surplus Property In Accordance With The Guidelines Stated Herein.
- C. Resolution 89-23, A Resolution Authorizing The City Manager On Behalf Of The City Of Centerville In Cooperation With The City Of Dayton To Execute An Agreement To Provide Targeted Enforcement According To The Terms Of A Montgomery County OVI Task Force Grant.
- D. Resolution 90-23, A Resolution Accepting The Bid Submitted By Hasting Excavating, LLC Of New Carlisle, Ohio For The Gracewood Ditch Drainage Improvements Project (SS-4) And Authorizing The City Manager To Enter Into A Contract In Connection Therewith.
- E. Resolution 91-23, Resolution Authorizing The City Manager To Enter Into An Agreement For IT Technological Services, Professional Services, For IT Telecommunications Equipment Products, And Software Licensing With CHI Corporation For Nutanix HW And SW Renewal.
- F. Resolution 92-23, A Resolution Authorizing The Action Of The City Manager, On Behalf Of The City Of Centerville, In Submitting A Dayton Region Priority Development And Advocacy Committee (PDAC) Application To The Dayton Development Coalition For The Uptown Centerville Connectivity And Development Improvements, Benham's Grove Improvements, Stubbs Park Community Event

Space Improvements, Dimco Way School Safety Access And The Wilmington Pike/I-675 Interchange Improvements.

- G. Resolution 93-23, A Resolution By The Centerville City Council Extending The Moratorium On The Operation Of Any Short Term Residential Real Estate Rentals In The City Of Centerville, Ohio For A Period Of Six Months (180 Days).
- H. Motion to Appoint James Neidhard to the Board of Architectural Review to fulfill the term of the vacant position expiring February 6, 2027.
- I. Motion to Appoint Richard LaRue to the Arts Commission (3-year term).

Mr. Lunsford sponsored the Consent Agenda and moved for its approval. Mr. Palcher seconded the motion, and it passed with 7 ayes.

Mayor Compton expressed appreciation to staff for organizing the off-site meetings, to MVCC for its flexibility in covering the off-site meetings, and to Sinclair College for allowing the City to use its great space.

Adjournment

With no further business before the Council, Mayor Compton adjourned the regular meeting at 8:25 p.m. The next regular meeting of City Council is scheduled to take place on Monday, November 6, 2023, at 7:30 P.M.

Approved: 
Mayor

ATTEST: 
Clerk of Council

CITY OF CENTERVILLE
CITY COUNCIL DECISION REVERSING THE AUGUST 29, 2023, DECISION OF THE CENTERVILLE
PLANNING COMMISSION ON APPEAL, WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW

Appeal Application Nos.

C-2023-0002: Epiphany Evangelical Lutheran Church, submitted September 12, 2023

C-2023-0003: Regis Lekan, submitted September 12, 2023

C-2023-0004: Graceworks Lutheran Services, dba Bethany Lutheran Village, submitted
September 13, 2023

I. The Case and the Appeals

This matter came before the City of Centerville (the “City”) City Council (“City Council”) on October 9, 2023, on three timely appeals of the Planning Commission’s August 29, 2023, decision on a Major Site Plan Application (No. P-2022-0020) as to the property located at 6318 Far Hills Avenue. Appellants, Epiphany Evangelical Lutheran Church (“Epiphany Church”), Regis Lekan (“Mr. Lekan”), and Graceworks Lutheran Services, dba Bethany Lutheran Village (“Bethany Village”), seek review and reversal of the Planning Commission’s August 29, 2023, Decision granting approval of a Major Site Plan Application submitted by Josh Long on behalf of Ceso, Inc. (“Ceso, Inc.” or “Applicant”). The Planning Commission approved the Major Site Plan Application with fifteen conditions. The letter providing notification of the Planning Commission’s decision was issued on August 31, 2023.

II. The Planning Commission Decision

Ceso, Inc., the Major Site Plan Applicant, sought approval to construct a one story, 6,139 square foot Sheetz convenience store that would include a Class Three drive-thru/sit-down restaurant, at 6318 Far Hills Avenue. The proposed site plan also includes a fourteen-pump fueling station covered by a canopy. The Applicant proposed redeveloping the property by razing the existing structure, completing associated site work, installing all utilities, making lot frontage improvements along Far Hills Avenue, Fireside Drive, and Espanola Trail, and construction of a new commercial structure, a fueling station, and a parking lot.

The Planning Commission reviewed the Major Site Plan application at their August 29, 2023, meeting and voted 5-0 to approve the Major Site Plan with fifteen conditions.

III. The Appeals to City Council

Epiphany Church, Bethany Village, and Mr. Lekan (collectively the “Appellants”) filed appeals of the Planning Commission’s August 29, 2023, approval of Major Site Plan. City Council consolidated the three appeals as they all arose from the same Planning Commission decision. In compliance with the City of Centerville’s Unified Development Ordinance (“UDO”), City Council set a Public Hearing on the appeals for October 9, 2023.

The Public Hearing commenced on October 9, 2023, and concluded and was closed in the early hours of October 10, 2023. After the Public Hearing was closed, City Council tabled the matter until its October 23, 2023, meeting with the stated intent to issue its decision at that time. City Council deliberated over its decision at meetings held on October 12, 2023 and October 17, 2023.

IV. Findings of Fact and Conclusions of Law

In rendering its decision, City Council, acting as quasi-judicial body on its review, makes the following Findings of Fact and Conclusions of Law:

A. FINDINGS OF FACT

1. The property in question is located at 6318 Far Hills Avenue (the "Property").
2. The Property is located at the southern end of a B-2 Commercial Zoning District in the City.
3. Immediately South of the Property is the Appellant Epiphany Church, which also runs a preschool on site and has an outdoor worship area and a memorial garden.
4. Appellant Bethany Village, a residential senior retirement community, is the first property located to the West of the Property.
5. A Class One sit-down restaurant oriented to indoor dining customers, China Cottage, is the first property located to the North of the Property.
6. A residential apartment complex, the Villager Apartments, is the first property located to the East of the Property.
7. Epiphany Church, Bethany Village, China Cottage, and the Villager Apartments are the properties that surround the Property (the "Surrounding Properties").
8. The Major Site Plan Applicant intends to develop the Property as a Sheetz convenience store, with a Class Three drive thru/sit-down restaurant and a fourteen-pump fueling station (a "Sheetz").
9. The Major Site Plan Applicant's representatives stated that the site would bring in approximately 3,000 distinct consumer visits daily, in addition to 12-15 gasoline delivery truck trips to the site per week.

10. Impacted streets are used for school bus stops and pedestrian traffic.
11. Major Site Plan Applicant's proposed uses (fuel pumps, convenience store, and drive-thru/sit down restaurant) cater to the motoring public and are auto oriented uses.
12. The Sheetz would operate 24 hours a day, 7 days a week ("24/7").
13. None of the Surrounding Properties, and no property within the City along State Route 48 from Interstate 675 to Whipp Road actively operate and are open to the public on a 24/7 basis.

B. Conclusions of Law

1. The UDO at Article 5.09(N)(2) sets forth the following six standards for review of an approval of a Major Site Plan:
 - a. That it fully complies with all applicable requirements of the UDO;
 - b. That it fully complies with an approved final Development Plan, if applicable;
 - c. That it adequately protects other property or residential uses located on the same property from the potential adverse effects of a non-residential use;
 - d. That it is consistent with the use and character of surrounding properties;
 - e. That it provides safe conditions for pedestrians or motorists and prevents the dangerous arrangement of pedestrian and vehicular ways; and
 - f. That it provides safe, ingress and egress for emergency services.
2. The Major Site Plan Application is not consistent with the use and character of the surrounding properties as required under UDO Article 5.09(N)(2)(d) as reflected in the presentations (including statements, exhibits, and arguments and other submissions) of Staff, the Appellants, the Applicant, and persons offering public comment. These inconsistencies include, but are not limited to, the 24/7 operations of the Sheetz on the Property, and the use being the only auto oriented use south of Fireside Drive; such uses being in contrast to the primarily institutional, residential, and Class One indoor sit-down restaurant uses of the four (4) Surrounding Properties.
3. In reaching conclusion No. 2. above, Council also concludes that the 24/7 operations of the Sheetz, by itself and not in combination with any other aspect

of the Major Site Plan Application, is sufficient to render the application inconsistent with the use and character of the Surrounding Properties.

4. In rendering this decision, Council has not considered or given weight to (and does not believe it is lawfully appropriate to do so) any presentation as to whether or not the City needs any additional gas stations or convenience stores, whether the Applicant intends to sell any CBD, tobacco, or alcohol products (after complying with any applicable city, state, federal, or other lawful requirements), or any generalized environmental concerns (after complying with any applicable city, state, federal, or other lawful requirements), or any other consideration which is not identified as a standard of review for Major Site Plan Application approval under Article 5.09(N)(2) of the UDO.

V. CONCLUSION

Having considered the presentations (including statements, exhibits, arguments, and other submissions) of Staff, the Appellants, the Applicant, and persons offering public comment (all as referenced above) and for the reasons set forth above, City Council concludes that on Appellants' appeals filed with the City, ***the Planning Commission's August 29, 2023, decision should be and hereby is reversed and the Applicant's Major Site Plan application is denied*** as it is not consistent with use and character of surrounding properties as required under Article 5.09(N)(2)(d) of the City's Unified Development Ordinance.