

City of Montgomery
City Council Public Hearing Minutes
April 21, 2021

Present

Brian Riblet, City Manager
Terry Donnellon, Law Director
John Crowell, Police Chief
Gary Heitkamp, Public Works Director
Tracy Henao, Asst. City Manager/Acting Comm. Dev. Dir.
Katie Smiddy, Finance Director
Matthew Vanderhorst, Community and Information Services Dir.
Paul Wright, Fire Chief
Connie Gaylor, Clerk of Council

City Council Members Present

Chris Dobrozsi, Mayor
Craig Margolis, Vice Mayor
Lee Ann Bissmeyer - teleconference
Mike Cappel - teleconference
Ron Messer
Lynda Roesch
Ken Suer

City Council convened its Public Hearing for April 21, 2021 at 6:30 p.m. in a hybrid meeting at City Hall and by telephone conference with Mayor Dobrozsi presiding. This remote access meeting was allowed by emergency legislation adopted by the Ohio General Assembly and approved by the Governor. The emergency legislation added language to RC Section 121.22 allowing public meetings by telephone conference during the current pandemic and declared State of Emergency. As required by the statute, notice of the telephonic meeting was publicized more than 24 hours in advance to allow public access through the same conference call in service. The public was also given a backup number to call in the event there were technical difficulties. This Notice was posted on the City's website and a similar Notice was sent to The Cincinnati Enquirer.

Mayor Dobrozsi asked for a roll call.

The roll was called and showed the following:

PRESENT: Cappel, Bissmeyer, Roesch, Suer, Dobrozsi, Messer (6)
ABSENT: Margolis (1)

Mayor Dobrozsi stated that Vice Mayor Margolis had indicated that he may be late to the meeting as he was just returning from a vacation.

Mayor Dobrozsi explained that as this was a Public Hearing he would allow for public comment after the presentation of the new business and Council questions and discussion. He asked that any guests on the phone line hold their comments until after the presentation and Council discussion as well. He stated that all comments will be limited to three minutes in total.

Mayor Dobrozsi explained the process for the Public Hearing to those in attendance and on the phone line. He explained that in a public hearing Council has the following options when considering an application:

- Approve the Recommendation
- Deny the Recommendation
- Remand the matter to Staff for more specific information or
- Take the matter under advisement and vote at another public meeting within thirty days.

Mayor Dobrozsi explained that if City Council chooses the final option, it is suggested that they announce the date and time of the subsequent hearing when the matter will be discussed and considered for vote.

Mayor Dobrozsi stated that as a reminder, the Code does not allow additional new evidence to be submitted for review during the public hearing. City Council is to limit its consideration to the information presented from the City, and any comments, pro or con, from the public.

NEW BUSINESS

A request from Elevar Design Group on behalf of 9750 Montgomery Road, LLC, for an expansion of a conditional use and an equivalency for the expansion of Columbia Chevrolet on the property formerly used for Steak 'n Shake at 9770 Montgomery Road.

Mayor Dobrozsi asked Ms. Henao to present the background of the agenda item.

Ms. Henao stated a public hearing was requested from Elevar Design Group on behalf of 9750 Montgomery Road, LLC, to consider an expansion of a conditional use and an equivalency for the expansion of Columbia Chevrolet on the property formerly used for Steak 'n Shake at 9770 Montgomery Road.

Ms. Henao explained that Columbia Chevrolet is a conditionally permitted use in the 'GB' – General Business District and has been in operation in this location since 2005. The applicant is requesting expansion of the dealership onto the property at 9770 Montgomery Road. The proposed expansion would include the construction of a new pre-owned vehicle building as well as additional display and inventory space for the dealership. The property at 9770 Montgomery Road is owned by R3G2 Properties, LLC which is made up of members of the Joseph family. However, this is not the same ownership of the Columbia Chevrolet site and therefore, the two properties cannot be consolidated. Generally, the City would ask that lots be consolidated prior to development and in this situation, it would allow the Columbia Chevrolet dealership to be conforming to the Zoning Code in terms of lot size. The applicant believes that the Zoning Code allows for development on multiple lots of record without consolidation and that setbacks should be from the project boundary versus the property lines when under common control. There are also some issues that arise from a zoning perspective due to the need to keep the parcels separate, but under common control, that require an equivalency to allow for setbacks to be measured from the project boundary versus the property line. The applicant is requesting an equivalency to allow the setbacks to be measured from the project boundary line if common control is acceptable.

Ms. Henao stated that the property to the north across Perin Road at 9810 Montgomery Road is also zoned 'GB' and used for parking for Twin Lakes. The property to the east is zoned 'D-2' Multi-Family and used for independent living for Twin Lakes. The property to the west across Montgomery Road is zoned 'GB' and used for a retail center. The property to the south is zoned 'GB' and is the location of the former Star One building. This property is owned by 9722 Montgomery Road LLC and the Joseph Auto Group would like to use this property for an expansion of the Audi Connection which is located just south of the property.

Ms. Henao explained that the Planning Commission met on November 2, 2020 for a concept plan discussion on the project. At the meeting, the applicant familiarized the Commission with the project and received feedback on a potential equivalency request to allow the setbacks to be measured from the project boundary line, if common control is acceptable. She stated the Planning Commission considered the application for the expansion of a conditional use and the General Development Site Plan with an equivalency on February 1, 2021. The applicant came before the Planning Commission on December 21, 2020 requesting approval of an expansion of a conditional use permit and General Development Site Plan approval with an equivalency. After considering the case, the Planning Commission felt that the plan was generally in compliance with the regulations in the Zoning Code; however, voted to table the application to give the applicant time to provide additional information from a traffic engineer regarding maintaining the existing curb cut on the former Steak 'n Shake property.

Ms. Henao stated that the Planning Commission considered the request again on February 1, 2021 and the applicant provided additional information from their traffic engineer regarding the curb cuts on Montgomery Road. After discussion, the Planning Commission tabled the application to give the applicant an opportunity to evaluate a revised site plan with only one access point on Montgomery Road.

The Planning Commission considered the request again on March 15, 2021 and the applicant provided information for three different scenarios regarding curb cuts. The applicant's traffic engineer determined that

while in general fewer curb cuts leads to a safer environment, in this case keeping the two existing drives is safer. This is due to the potential for queuing on Montgomery Road if only the Chevrolet entrance is used and the potential for conflicting left turns if there was only one drive on the shared property line. The City Traffic Engineer agreed that the two-driveway access scenario would be safer for motorists entering and exiting the site.

Ms. Henao stated that after hearing testimony and discussing the application, the Planning Commission voted to recommend approval of the expansion of the conditional use permit and approve the General Development Plan with a recommendation to approve the equivalency request in a 3-2 vote. The conditions recommended by the Planning Commission are shown below:

1. The applicant must comply with the specific conditions for a conditional use permit listed in Section 151.2007(B) and (W) for auto dealerships and vehicle repair facilities.
2. A Final Development Site Plan in compliance with the approved General Development Plan be reviewed and approved by the Planning Commission prior to issuance of any permits.
3. Parcel 1/R3G2 may be used for Automobile/Truck Sales Agency and Automobile/Truck Rental Agency, so long as both Hamilton County Auditor's Parcel Number 603-0002-0031-00 (Parcel 1/R3G2) and Hamilton County Auditor's Parcel Number 603-0002-0001(Parcel 2/Columbia Chevrolet) are used generally as a single Automobile/Truck Sales Agency and Automobile/Truck Rental Agency operating under the same business entity. Parcel 1/ R3G2 may not be separated from common control, nor used as a separately approved Conditional Use as an Automobile/Truck Sales Agency and Automobile/Truck Rental Agency without the common control of the Conditional Use by the permit holder of Parcel Hamilton County Auditor's Parcel Number 603-0002-0001. Without common control, or the separate transfer or sale or Parcel 1/R3G2 from the common operations of the Conditional Use this approved Conditional Use for Parcel 1/R3G2 shall automatically terminate. Consistent with the Montgomery Zoning Code the Terms and Duration of the Conditional Use Permit apply to the approved Conditional Use.
4. No motor vehicles shall be left standing, stopped, nor parked whether attended or unattended in the drive aisles on-site in order to allow for safe access to the site for customers and safety services.
5. All vehicles for customers, employees and inventory shall be parked on-site with no additional parking on surrounding properties.
6. No loading/unloading of vehicles on Montgomery or Perin Roads shall be permitted.
7. Inventory and display vehicles shall be parked on identified paved pads or in identified parking stalls only.
8. No inventory shall be parked in spaces reserved for customer parking.
9. The new display pad in the northwest corner shall be limited to display of two vehicles only.
10. Installation of sidewalk along Montgomery Road in compliance with the Montgomery Road sidewalk standards.

Ms. Henao closed her presentation by stating, the project is a significant development that will expand the inventory and display space for Columbia Chevrolet, as well as add a pre-owned vehicle building. The applicant is proposing to close the western most curb cut on Perin Road; however, the existing curb cuts on Montgomery Road would be maintained. The applicant believes that it is necessary to have two curb cuts on Montgomery Road for the proper operation of the dealership and has shown that maintaining the existing curb cuts does not create an unsafe situation. Staff appreciates that the applicant has agreed to close the western most curb cut along Perin Road as it did not conform to the regulations regarding distance between driveways and/or distance for a driveway to an intersection and closing the curb cut will allow for increased efficiency of traffic flow and safety. In general, Staff believes that fewer curb cuts lead to a safer environment; however, the traffic studies have shown that in this case keeping the two existing drives is safer due to the potential for queuing on Montgomery Road if only the Chevrolet entrance is used and the potential for conflicting left turns if there was only one drive on the shared property line. Furthermore, the existing curb cuts meet the distance requirements from adjacent intersection and the separation requirements from adjacent curb cuts as established by the Zoning Code. She added that there are also some issues that arise from a zoning perspective due to the need to keep the parcels

162 separate, but under common control, that require an equivalency to allow for setbacks to be measured from the
163 project boundary versus the property line. While this equivalency makes the zoning process more complicated,
164 Staff believes that it is rational, meets the intent of the Zoning Code and can be managed through a condition upon
165 approval. Therefore, Staff is in support of the recommendation of the Planning Commission with the conditions
166 imposed by the Planning Commission.

167
168 Ms. Henao added that she had forwarded an email to City Council prior to the meeting from a resident that was in
169 opposition to the applicant's request.

170
171 Mayor Dobrozsi invited the applicants to the podium to speak.

172
173 C. Francis Barrett, Attorney for Columbia Chevrolet, introduced Ron Joseph, Jr., of Columbia Chevrolet; Bob
174 Zielasko of Elevar Design Group and Ed Williams of TEC Engineering as being present and available to answer
175 any questions.

176
177 Mr. Barrett stated that he concurred with Ms. Henao's presentation and that during the previous hearing there was
178 no opposition stated. Mr. Barrett explained that this project has been under review for a year, and he felt there was
179 professionalism on all levels. He stated that regarding the curb cuts that in the 1,000 ft of road frontage they have
180 reduced the curb cuts from five to three. He stated that based on a recommendation of the traffic engineer they
181 chose to keep the two existing drives that are necessary in terms of public safety. He stated that the applicants
182 were pleased to be able to incorporate the property on Perin Road into the existing parcel and to close the western
183 curb cut along that road. He stated that the applicant would conform to all the conditions as listed by the Planning
184 Commission.

185
186 Mayor Dobrozsi asked for City Council's comments on the request.

187
188 Mr. Suer stated that he agreed with Mr. Barrett in that the staff was excellent and that he felt the Planning
189 Commission once again did a thorough job of reviewing the project throughout all the meetings. Mr. Suer stated
190 as far as the impact on the community, it is not new to have some people not pleased with the project. He stated
191 there will be some in support and some against the car dealerships. He stated that he felt that staff and the
192 Planning Commission did a very thorough job in examining the plans and the codes and it conforms as it should.
193 He stated that sidewalks are very important to the City as we attempt to connect sidewalks all along the east side
194 of Montgomery Road, this will help with the walkability. Mr. Suer stated that appearance makes a big difference
195 and that we should try to make every business as appealing as possible.

196
197 Ms. Roesch stated that she concurred with Mr. Suer regarding the thoroughness of the review and conditions and
198 thanked staff and the applicant for their efforts on this project. She stated that she appreciated everyone working
199 on reducing the curb cuts, adding sidewalks and especially the transition of all the loading and unloading of
200 vehicles being in their parking lot rather than on Montgomery Road.

201
202 Vice Mayor Margolis joined the meeting at 6:50 p.m.

203
204 Mr. Messer stated that he did have concerns about retaining the quaintness and charm of the City. He stated that
205 he felt the landscaping can go along way in retaining those qualities.

206
207 Mrs. Bissmeyer stated that she appreciated the time that has been put into this project but does have reservations
208 since there was a split vote from the Planning Commission on the request. She stated that the additional curb cut
209 does bother her especially since it is near the elementary school. She stated she still has reservations about the
210 second curb cut.

211
212 Mr. Cappel stated that he thought of Chevy and Ford as national icons. He stated that Chevy has been a part of the
213 community for decades and is glad they want to remain in the city.

Mayor Dobrozsi stated that he would like to see something more family friendly on the former Steak and Shake lot but recognizes that it is their lot and appreciates their business.

Mr. Barrett reiterated that while he understands the concerns of the Planning Commission regarding the curb cuts, that both traffic engineers felt they were safer. He stated that there were four existing curb cuts and now they are down to three. He stated that two of them are over the 250 feet required distance in between which exceeds the standards.

Mayor Dobrozsi stated that as there were no other visitors in City Hall, he asked for any visitors on the phone line who would like to speak. There being no response, Mayor Dobrozsi closed the floor for public comments.

Mayor Dobrozsi restated that the options available to City Council related to this request were:

- Approve the Recommendation
- Deny the Recommendation
- Remand the matter to Staff for more specific information or
- Take the matter under advisement and vote at another public meeting within thirty days.

Vice Mayor Margolis stated that he would abstain from voting due to a geographical proximity to the dealership.

Mr. Cappel moved to approve the request from Elevar Design Group on behalf of 9750 Montgomery Road, LLC for an expansion of a conditional use and an equivalency for the expansion of Columbia Chevrolet on the property formerly used for Steak 'n Shake at 9770 Montgomery Road. Mr. Suer seconded.

Mayor Dobrozsi asked for a roll call and the vote was as follows:

AYE: Suer, Cappel, Roesch, Dobrozsi, Messer	(5)
NAY: Bissmeyer	(1)
ABSTAIN: Margolis	(1)

Mayor Dobrozsi asked if there was any further business to be heard in the Public Hearing. There being none, he asked for a motion to adjourn from the Public Hearing.

Mr. Cappel made a motion to adjourn. Mr. Suer seconded. City Council unanimously agreed.

The meeting was adjourned at 6:58 p.m.



Connie Gaylor, Clerk of Council