



CITY OF MONTGOMERY
10101 Montgomery Road • Montgomery, Ohio 45242
• (513) 891-2424 • Fax (513) 891-2498

Public Hearing Agenda

January 17, 2024
Montgomery City Hall
10101 Montgomery Road

5:45 P.M.

1. Call to Order
2. Roll Call
3. Guests and Residents
4. Old Business
5. New Business
 - a. Consideration of a Conditional Use Approval -Church of the Saviour
6. Other Business
7. Approval of Minutes
8. Adjournment

January 12, 2024

TO: Brian K Riblet, City Manager

FROM: Kevin Chesar^{KC}, Community Development Director

Cc: Tracy Henao, Assistant City Manager

SUBJECT: Forward Request for Reconsideration of a Conditional Use Approval for the Church of the Saviour at 8005 (8003) Montgomery Road

Request

It is requested that City Council hold a public hearing to consider a recommendation from the Planning Commission for a Reconsideration of the Conditional Use Approval Conditions for the Church of the Saviour at 8005 (8003) Montgomery Road to clarify and update the requirements of counseling services provided by the church at Ministry Center located at 8003 Pfeiffer Road.

Background

The Church of the Saviour is a conditionally permitted use in the 'A' Single Family Residential District and they own the building at 8003 Pfeiffer Road, which was used as a parsonage in the past. The Church no longer utilized this building as a parsonage and previously requested to convert the structure to a Ministry Center for group meetings, private consultations, and storage. In April of 2019 Montgomery City Council voted to accept the recommendation from the Planning Commission to approve the Expansion of a Conditional Use and the Final Development Plan for the Ministry Center at 8003 Pfeiffer Road to allow for a remodel and conversion of the structure.

The Ministry Center approval conditions specified:

- 1) Counseling services at the Ministry Center shall comply with the following conditions:
 - a. Services offered at the Ministry Center will be limited to faith based counseling;
 - b. Services will be contracted by the Church for church or community programs on behavior or mental health;
 - c. There will be no charges for use of the Ministry Center;
 - d. The Church will contract with the provider for client counseling;
 - e. Counseling space will be less than 25% of the total floor area; and,

- f. There will be no signage for the provider of services.
- 2) Bassett Physiological Services shall not move their office to the site; and,
- 3) A continuous evergreen screen be planted between the existing driveway and the adjacent property to the west in compliance with the plan presented to City Council at the public hearing and approved by Staff and the City Arborist.

The original conditional use intent was to ensure that an independent business would not operate out of the facility and that all counseling services, while professionally offered, would be related to the Church and their mission.

City Staff met at the Ministry Center to discuss with church representatives the concerns and challenges that the specified "faith-based" aspect of counseling has presented as the Church works to assist anyone in need of services. Church officials indicated that "faith based" is a specific form of intervention which directly limits other forms of intervention that may be required, i.e. Cognitive Behavioral Therapy, Mindfulness Therapy, etc. As such, they have not been successful in providing counseling services since the 2019 approval. From that perspective Church leaders emphasized the desire to offer the most appropriate form of mental health counseling services to anyone in need, not only limited to "faith-based counseling, as part of their mission. They also indicated a desire to work with potentially multiple counseling services to be able to provide a more comprehensive approach.

Church representatives requested that the "faith based" requirement be eliminated from the conditions to all allow forms of mental health counseling services that may be needed.

Planning Commission Recommendation

The Planning Commission met on October 2, 2023, and November 11, 2023, to consider the request for reconsideration and continued the case until the December 18th, 2023, meeting in order for additional information to be provided. On December 18th, 2023, after hearing testimony and discussing the application, the Planning Commission voted unanimously to recommend approval of the reconsideration of the conditional use permit base on the following updated conditions:

- 1) Counseling services at 8003 Pfiefer Road shall comply with the following conditions:
 - a. Counseling services offered at 8003 Pfeifer Road will be limited to mental health counseling by licensed professionals.
 - b. Services will be contracted by and monitored by the church board;

- c. Counseling space will be less than 25% of the total floor area and no more than 1250 square feet; and,
 - d. There will be no charges for the counselor's use of the space;
 - e. A patient may directly compensate a provider for mental health counseling.
 - f. An individual provider/company will not operate more than 20 hours per week.
 - g. No more than 40 hours of operation (building open for counseling) per week in total for all counseling services is permitted.
 - h. All counseling services shall be provided between the hours of 8 a.m. to 9 p.m.
 - i. There will be no signage for the provider of services.
 - j. No counseling provider/company shall operate their principal office on the site.
- 2) A continuous evergreen screen be planted between the existing driveway and the adjacent property to the west in compliance with the plan presented to City Council at the public hearing and approved by Staff and the City Arborist.
 - 3) Counselors shall adhere to the Ohio Administrative Code's Duty to Protect which outlines a provider's legal and ethical duty to protect others if they believe a client is a threat to another person, persons, or identifiable structure. The Ohio Revised Code defines conditions where a provider can be held liable for damages.

Staff Comments

The revision to the previous conditions is a minor change that is intended to result in the church having the ability to offer all forms of counseling to benefit the citizens of Montgomery. Planning Commission also worked with the applicant to update the regulations to ensure that the operations would seamlessly operate within the Church campus while also providing for criteria to balance the potential counseling service operations that will be located in a residential zoning district.

They proposed changes within the Reconsideration of the Conditional Use will give the church the ability to provide services that align with the mission of the Church while also providing significant opportunities to make an impact on mental health in a less institutional aesthetic setting of the welcoming ministry center.

Planning Commission

Application for Reconsideration of a Conditional Use Approval Condition
Church of the Saviour (Tabled)
8005 (8003) Montgomery Road

STAFF UPDATE

December 18, 2023

Applicant: Church of the Saviour
8005 Pfeiffer Road
Montgomery, Ohio 45242

Property Owner: Same as above.

Update of Request:

Based on the extensive conversation and comments provided by the Planning Commission at the November 20, 2023, meeting, Staff has consulted with the Law Director regarding the ability for the City to regulate the type of clientele that can receive counseling services.

As such, the Law Director has provided further guidance regarding the overall recommendations suggested by the Planning Commission at their November 20, 2023, meeting and is recommending that item k be removed from the list of conditions for reasons explained in the attached email from the Law Director.

- 1) Counseling services at 8003 Pfeiffer Road shall comply with the following conditions:
 - a. Counseling services offered at 8003 Pfeiffer Road will be limited to mental health counseling by licensed professionals.
 - b. Services will be contracted by and monitored by the church board;
 - c. Counseling space will be less than 25% of the total floor area and no more than 1250 square feet; and,

- d. There will be no charges for the counselor's use of the space;
 - e. A patient may directly compensate a provider for mental health counseling.
 - f. An individual provider/company will not operate more than 20 hours per week.
 - g. No more than 40 hours of operation (building open for counseling) per week in total for all counseling services is permitted.
 - h. All counseling services shall be provided between the hours of 8 a.m. to 9 p.m.
 - i. There will be no signage for the provider of services.
 - j. No counseling provider/company shall operate their principal office on the site;.
 - k. Pending the Law Director review, approval of final language; no person identified as a danger to the community can be provided services at the site (for example, no registered sex offender or person convicted of felonious or aggregated assault) out of concern for the community and the preschool on site.
 - l. One year from the start of services, the applicant shall update the Planning Commission on the status of operations.
- 1) A continuous evergreen screen be planted between the existing driveway and the adjacent property to the west in compliance with the plan presented to City Council at the public hearing and approved by Staff and the City Arborist.

Accordingly, should the Planning Commission make recommendation for approval to City Council, Staff updated the conditions for Reconsideration of the Conditional Use as follows:

- 1) Counseling services at 8003 Pfeifer Road shall comply with the following conditions:
- a. Counseling services offered at 8003 Pfeifer Road will be limited to mental health counseling by licensed professionals.
 - b. Services will be contracted by and monitored by the church board;

- c. Counseling space will be less than 25% of the total floor area and no more than 1250 square feet; and,
 - d. There will be no charges for the counselor's use of the space;
 - e. A patient may directly compensate a provider for mental health counseling.
 - f. An individual provider/company will not operate more than 20 hours per week.
 - g. No more than 40 hours of operation (building open for counseling) per week in total for all counseling services is permitted.
 - h. All counseling services shall be provided between the hours of 8 a.m. to 9 p.m.
 - i. There will be no signage for the provider of services.
 - j. No counseling provider/company shall operate their principal office on the site.
- 2) A continuous evergreen screen be planted between the existing driveway and the adjacent property to the west in compliance with the plan presented to City Council at the public hearing and approved by Staff and the City Arborist.

Staff has also discussed the parameters with the applicant and they have suggested that they would be agreeable to adding a condition utilizing the following language from the Ohio Administrative Code if desired by the Planning Commission:

- Counselors shall adhere to the Ohio Administrative Code's [Duty to Protect](#) which outlines a provider's legal and ethical duty to protect others if they believe a client is a threat to another person, persons, or identifiable structure. The [Ohio Revised Code](#) defines conditions where a provider can be held liable for damages.

This is the end of the December 18, 2023 update with the following pages representing the past reports for reference as needed.

Update of Request:

Based on the comments provided by the Planning Commission at the October 2nd, 2023 meeting, Staff has further reviewed the code as well as consulted with the Law Director regarding the main discussion points that Planning Commission expressed regarding the application. The topics included:

- The authority of the Planning Commission recommended, modify, and create conditions of a Conditional Use in context of the listed regulations.
- The concern of a residential district commercial use establishment.
- The apprehension of creating a specific precedent applicable to residential zones.

As such, the Law Director has provided guidance in the attached email that is intended to guide the Planning Commission regarding the issues stated above. Staff has subsequently suggested updates to the previous approval conditions to reflect the comments of the Law Director as well as change specific references to a “general counseling service” as the previously indicated that Bassett Services which may or may not be a future provider.

The previous staff report is also included after this update to assist with the past information presented but, it should be noted that while only the “faith based” portion was originally proposed to be changed, the possible recommendation has now been updated in an attempt to address the concerns discussed. To recap the previous meeting, the church would like to emphasize the availability of counseling services as a part of their church mission. During the original approval, Planning Commission recognized that counseling is an associated use of a religious place of worship but the requirement for a “faith based” type of counseling inadvertently limited treatment options as it is a specific form counseling which stopped any other types of counseling to be used in treatment at the facility. Additionally, the question of commercial operations in a residential zone, the authority of Planning Commission to make or adjust Conditional Use criteria, and precedent versus the charge of Planning Commission to hear and apply specific criteria to each individual Conditional Use is discussed by the Law Director’s review.

I am also including a copy of regulations that the Law Director has referred to assist in the review as well as Home Occupation regulations that were also previously discussion:

§ 151.2007 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.

(Q) Places of worship shall comply with the following:

(1) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.

(2) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.

(3) In any district, the Planning Commission and/or Council may require all outdoor children's activity areas to be enclosed by a fence at a height approved by the Planning Commission and/or Council. An entry gate shall be securely fastened.

(4) Outdoor activity areas shall not be located closer than 20 feet to any residential property. Play structures and other similar apparatus shall not be located closer than 40 feet to any residential property.

(5) Night lighting of outdoor activity areas shall be determined upon a careful review and consideration of all site and adjacent residential property characteristics. Places of worship must also comply with the regulations in §§ [151.3212](#)(C) and [151.1213](#)(B).

(6) No building shall exceed three stories or 45 feet, including all construction mechanicals. Church and temple steeples/spires may be erected to a height not exceeding 75 feet; provided however, in both instances, that the building is set back from each required yard at least one foot for every foot of additional building height above the height limit otherwise provided in the district where the building is built.

(7) When located in a residential district, the design of new structures or modifications to existing structures shall be visually compatible with the surrounding residential neighborhood character.

(8) All activities, programs and other events shall be directly related to the conditional use permit so granted and shall be adequately and properly supervised.

(9) Associated uses such as a convent, faculty residence, cafeteria, fieldhouse or infirmary shall be located on the same lot as the principal use and comply with the building setback requirements set forth in this chapter.

§ 151.2002 GENERAL CRITERIA FOR ALL CONDITIONAL USES.

A conditional use, and uses accessory to such conditional use, shall be permitted in a district only when specified as a conditional use in such district and only if such use conforms to the following general criteria, which are in addition to specific conditions, standards and regulations set forth in §§ [151.2003](#) through [151.2008](#). The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following criteria and shall find adequate evidence that the use as proposed:

(A) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;

- (B) *Will not be detrimental to property values in the immediate vicinity;*
 - (C) *Will not restrict or adversely affect the existing use of the adjacent property owners;*
 - (D) *Will be designed and constructed so that all access drives, access points to public streets, driveways, parking and service areas shall be in compliance with the regulations set forth in [Chapter 151.32](#);*
 - (E) *Will be properly landscaped in accordance with [Chapter 151.34](#);*
 - (F) *The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;*
 - (G) *The hours of operation of the proposed use are similar to a use permitted in the district;*
 - (H) *The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;*
 - (I) *Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;*
 - (J) *Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets;*
 - (K) *The establishment of the conditional use should not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools; and*
 - (L) *There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible.*
- (Ord. 5-2005, passed 3-23-05; Am. Ord. 2-2014, passed 3-5-14; Am. Ord. 19-2014, passed 12-3-14)*

§ 151.2001 PURPOSE.

(A) *Conditionally permitted uses are those uses which have a particular impact on the surrounding area that cannot be predetermined and controlled by general regulations. In order to insure that these uses in their proposed locations will be compatible with surrounding development, their establishment shall not be a matter of right but may be permitted after review and approval as hereinafter provided.*

(B) *This consideration of conditional uses is particularly important. In recent years, the characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a*

reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Zoning Code should provide for more detailed evaluation of each use listed as a conditional use in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, requirements for public facilities, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of [Chapter 150.16](#).

(Ord. 5-2005, passed 3-23-05; Am. Ord. 2-2014, passed 3-5-14; Am. Ord. 19-2014, passed 12-3-14)

§ 151.1010 REGULATIONS FOR HOME OCCUPATIONS.

The purpose of this section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residential district of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

(A) Not more than one person other than a person residing on the premises shall be employed in a home occupation.

(B) A home occupation shall occupy no more than 25% of the floor area of the dwelling and shall be clearly incidental and secondary in importance to the use of the dwelling for dwelling purposes.

(C) Any merchandise that is sold from the premises shall be produced on the premises.

(D) The business activity, including the storage of equipment, supplies or any apparatus used in the home occupation shall be conducted entirely within the dwelling unit and no use of a garage, an accessory building or an outdoor area shall be permitted.

(E) There shall not be any change in the outside appearance of the building or premises, or other visible exterior change related to the home occupation. Structural modifications such as a separate business entrance, colors, materials, or the construction of accessory structures not currently permitted are prohibited.

(F) No equipment or process shall be permitted or used in such home occupation that creates a nuisance by reason of generating any noise, vibration, glare, fumes, odors, or electrical interference, or which is determined unsafe.

(G) No signs shall be permitted on the lot that designates employment or home occupations.

(H) Traffic.

(1) Employee parking shall be located off the street with the applicable front, side and rear yard requirements maintained.

(2) The conduct of a home occupation shall not reduce or render unusable areas provided for required off-street parking areas for the dwelling unit

(3) Traffic generated by a home occupation shall not exceed the average daily volume normally expected for a residence in a residential neighborhood, which for the purpose of this section equals up to ten round trips per day.

(4) Deliveries for the business are limited to an average of once per day. Delivery by a truck with more than two axles is prohibited.

(I) All persons wishing to conduct a home occupation shall apply for an accessory use permit, as required in [Chapter 150.12](#).

(Ord. 6-2010, passed 7-7-10; Am. Ord. 19-2014, passed 12-3-14)

From the above perspective, should the Planning Commission make a recommendation for approval, Staff crafted updated conditions for the Reconsideration of Conditional Use that is intended to address the previous concerns. The conditions could be modified as follows (~~red~~ indicates text to be removed while ~~green~~ indicates proposed new text):

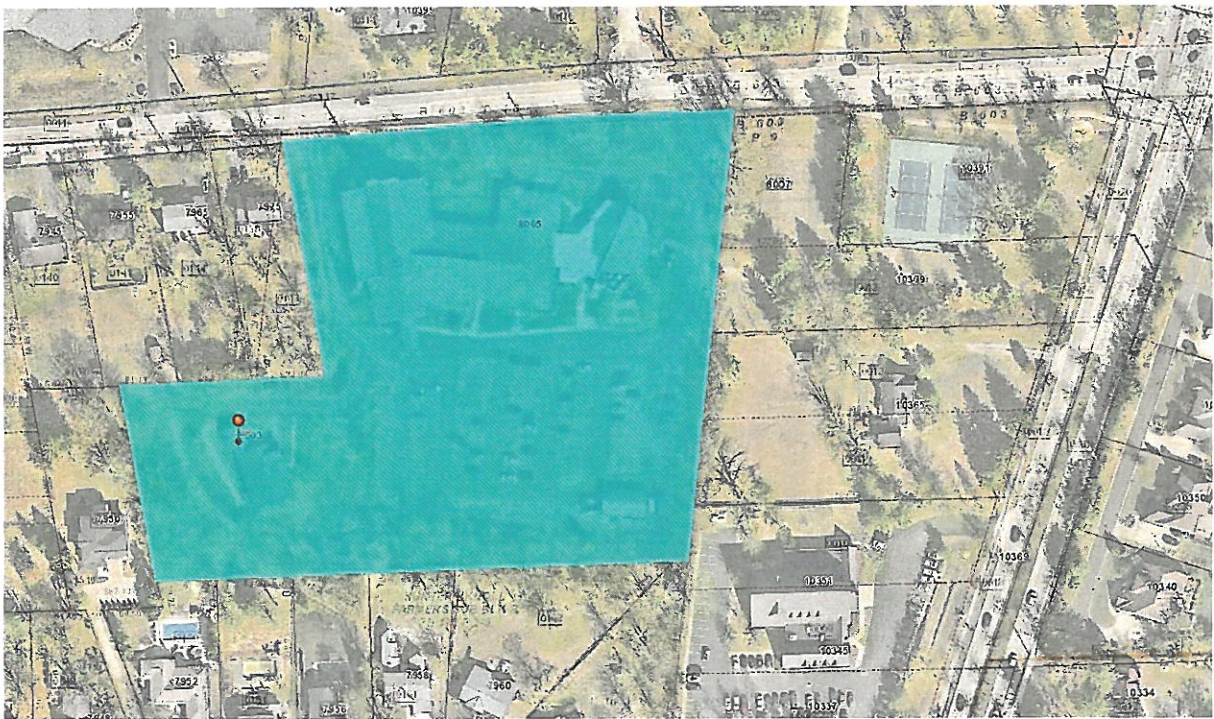
- 1) Counseling services at the Ministry Center shall comply with the following conditions:
 - a. Services offered at the Ministry Center will be limited to ~~faith-based~~ counseling;
 - b. Services will be ~~contracted by the Church~~ for church or community programs on behavior or mental health;
 - c. There will be no charges ~~for the counselor's~~ use of the Ministry Center;
 - d. The Church ~~will~~ may contract with the provider for client counseling. A patient can directly compensate a provider for behavior or mental health counseling.
 - e. Counseling space will be less than 25% of the total floor area; and,
 - f. There will be no signage for the provider of services.
- 2) ~~Bassett Physiological Services~~ Any counseling service shall not move their principal office to the site; and no single counselor can provide more than 24

hours per week to ensure the site does not function as their primary office location.

- 3) A continuous evergreen screen be planted between the existing driveway and the adjacent property to the west in compliance with the plan presented to City Council at the public hearing and approved by Staff and the City Arborist.

(The Previous Report can be found on the following pages.)

Vicinity Map:



Nature of request:

The Church of the Saviour, 8005 Pfeiffer Road, is requesting a reconsideration of an approved April 2019 conditional use condition pertaining to the clarification of counseling services provided by the church at Ministry Center located at 8003 Pfeiffer Road. The Planning Commission minutes, 2019 City Council Public Hearing minutes and the Approval/Decision Letter and are included in the packet for historical reference.

The Church utilizes the existing building as a Ministry Center for group meetings, private consultations, and storage.

Zoning:

The property is zoned 'A' Single Family Residential. Places of worship are conditionally permitted use in the 'A' District. All the surrounding properties are also zoned 'A' Single Family Residential. The properties directly to the north, south and west are used for single family residential dwelling units. The property to the east is owned by the City of Montgomery and used for Pfeiffer Park.

Findings

The property structures/uses are at 8003 and 8005 Pfeiffer Road on one lot, which is approximately 5.96 acres. 8005 Pfeiffer Road serves as the Church, and the Montgomery Nursery School operates out of the facility. 8003 Pfeiffer Road serves the ministry center, referred to as The Peace House.

The previous Ministry Center approval conditions specified:

- 4) Counseling services at the Ministry Center shall comply with the following conditions:
 - a. Services offered at the Ministry Center will be limited to faith based counseling;
 - b. Services will be contracted by the Church for church or community programs on behavior or mental health;
 - c. There will be no charges for use of the Ministry Center;
 - d. The Church will contract with the provider for client counseling;
 - e. Counseling space will be less than 25% of the total floor area; and,

f. There will be no signage for the provider of services.

5) Bassett Physiological Services shall not move their office to the site; and,

6) A continuous evergreen screen be planted between the existing driveway and the adjacent property to the west in compliance with the plan presented to City Council at the public hearing and approved by Staff and the City Arborist.

The applicant is requesting reconsideration of condition 1a, which states 'Services offered at the Ministry Center will be limited to faith based counseling'. The applicant is requesting that the words 'faith-based' be struck from the condition to allow for other types of counseling to be used in treatment at the facility.

CONDITIONAL USE SPECIFIC CONDITIONS:

Chapter 151.2007(q) lists the specific conditions for places of worship. Those conditions are listed below with a description of how the applicant is or proposes to address the condition.

1. *Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.*

The church and ministry center are located on Pfeiffer Road, which is a collector street.

2. *All access drives shall be located as far as practical from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.*

The entrance to the church already exists along the west property line and no changes are proposed to the entrance.

3. *In any district, the Planning Commission and/or Council may require all outdoor children's activity areas to be enclosed by a fence at a height approved by the Commission and/or Council. An entry gate shall be securely fastened.*

No outdoor children's activity areas are proposed as part of this application.

4. *Outdoor activity areas shall not be located closer than 20 feet to any residential property. Play structures and other similar apparatus shall not be located closer than 40 feet to any residential property.*

No outdoor activity area is being proposed as part of this application.

5. *Night lighting of outdoor activity areas shall be determined upon a careful review and consideration of all site and adjacent residential property characteristics.*

No outdoor activity area is being proposed as part of this application.

6. *No building shall exceed 3 stories or 45 feet, including all construction mechanicals. Church and temple steeples/spires may be erected to a height not exceeding 75 feet; provided however, in both instances, that the building is set back from each required yard at least one foot for every foot of additional building height above the height limit otherwise provided in the district where the building is built.*

The existing building is one-story and there are no additions to the building as part of this application.

7. *When located in a residential district, the design of new structures or modifications to existing structures shall be visually compatible with the surrounding residential neighborhood character.*

The existing building is visually compatible with the surrounding residential character.

8. *All activities, programs and other events shall be directly related to the conditional use permit granted and shall be properly supervised.*

The activities, programs and events proposed at the building are directly related to the approved conditional use permit and are properly supervised.

9. *Associated uses such as a convent, faculty residence, cafeteria, fieldhouse or infirmary shall be located on the same lot as the principal use and comply with the building setback requirements set forth in this chapter.*

All uses meet setback requirements.

Chapter 151.2002 lists 12 general standards that are applicable to all conditional uses. Staff has reviewed these 12 conditions and found that the site and the proposed ministry center meets all the conditions.

Staff Comments

The Church of the Saviour has been operating the ministry center successfully without any known concerns since the 2019 approval. Staff's understanding is the original conditional use intent was to ensure that an independent business would not operate

out of the facility and that all counseling services, while professionally offered, would be related to the Church and their mission.

This past summer City staff met at the Ministry Center to discuss with church representatives the concerns and challenges that the specified "faith-based" counseling has presented as the church works to assist anyone in need of services. Church officials indicated that faith based is a specific form of intervention which directly limits other forms of intervention that may be required, i.e. Cognitive Behavioral Therapy, Mindfulness Therapy, etc. From that perspective church leaders have emphasized the desire to offer the most appropriate form of mental health counseling services to anyone in need, not only limited to faith-based counseling, as part of their mission.

Overall, per section 150.1607, Planning Commission shall make specific findings of fact regarding the reconsideration of a conditional use to approve or deny the application. Section 150.168 then requires City Council to hold a public hearing to review and confirm the conditionally permitted use accepted by Planning Commission.

Should Planning Commission make a recommendation for approval of the Reconsideration of Conditional Use, all other conditions would be in effect except for item 1.a. which modified would state:

- 1. a. Services offered at the Ministry Center will be limited to counseling.

**CITY OF MONTGOMERY
PLANNING COMMISSION REGULAR MEETING**

City Hall • 10101 Montgomery Road • Montgomery, OH 45242

October 2, 2023

PRESENT

GUESTS & RESIDENTS

Nermine Banke
Chairman
Church of the Saviour
7492 Trailwind Dr., 45242

Susan Crabill
St. Barnabus Church
11155 Marlette Drive
Cincinnati, OH 45249

John Berry
Trustee
Church of the Saviour
137 Woodcrest Dr., 45242

Rick Huff
7516 Fawnmeadow Lane, 45242

Jeanne & Nelson Bove
10365 Montgomery Rd.
45242

Katie Loew
7954 Huntersknoll Ct., 45242

Jamie Brewer
7952 Huntersknoll Ct., 45242

Emily Stapleton
7958 Huntersknoll Ct., 45242

STAFF

Kevin Chesar
Community Development Director

Karen Bouldin, Secretary

COMMISSION MEMBERS PRESENT

Dennis Hirotsu, Chairman
Barbara Steinebrey, Vice Chairman
Vince Dong
Andy Juengling
Alex Schneider
Pat Stull

MEMBERS NOT PRESENT

Peter Fossett

Call to Order

Chairman Hirotsu called the meeting to order at 7:00 p.m. He reminded all guests and residents to sign in, and please turn off all cell phones.

Roll Call

The roll was called and showed the following response/attendance:

PRESENT: Mr. Stull, Mr. Juengling, Ms. Steinebrey, Mr. Schneider,
Mr. Dong, Chairman Hirotsu

(6)

ABSENT: Mr. Fossett

(1)

Guests and Residents

Chairman Hirotsu asked if there were any guests or residents who wished to speak about items that were not on the agenda. There were none.

Chairman Hirotsu explained the process for this evening's meeting to all guests and residents: "Mr. Chesar reviews his Staff Report and the Commission asks any questions they might have. The applicant presents their application and the Commission then asks any questions. The floor is opened to all residents for comments. If a resident agrees with a comment that was previously

Planning Commission Meeting

October 2, 2023

stated, they could simply concur, instead of restating the entire comment to save time. The Commission discusses the application and residents are not permitted to comment or question during this discussion. The Commission will then decide to table, approve or deny the application.

Old Business

There was no old business to report.

New Business

Application from Church of the Saviour, 8005 Pfeiffer Road, for reconsideration of conditional-use approval conditions pertaining to the clarification of counseling services provided by the Church at the Ministry Center located at 8003 Pfeiffer Road.

Staff Report

Mr. Chesar reviewed the Staff Report dated October 2, 2023, "Application for Reconsideration of a Conditional-Use Approval Condition for Church of the Saviour."

He showed images / photos on the wide screen for all to see, to provide more understanding of the Staff Report.

He indicated that there had been one inquiry requesting a copy of the plan, but no emails or calls were received regarding this application.

He asked for any questions, noting that the applicant was also in attendance to answer any questions.

Mr. Stull wanted to clarify that we were actually dealing with item #8 on Page 4 of the Staff Report – their conditional-use permit. Staff confirmed, noting that it was a part of the mission of the Church, and they were also proposing to change the specific language.

Mr. Dong asked if Staff was recommending this change, or if he was simply presenting this information. Staff stated he was presenting the information, with no recommendation.

Mr. Dong assumed that if this was a commercial business, the request would not be permitted in this District. Mr. Chesar confirmed. Mr. Dong recalled two previous applications that were not approved, one with a church and one with a woman making and selling soup from her home. He wanted to be consistent with these decisions, so that we did not set precedence.

Mr. Schneider had no comment.

Ms. Steinebrey was interested to know why this change was necessary. She recalled from the meeting held in 2019 about this application, the Commission had a concern because one of the counseling services (from another area) was going to move in, and make it their office. Chairman Hirotsu added that we were not in favor of putting a business on the Church property.

Planning Commission Meeting

October 2, 2023

Chairman Hirotsu asked if these conditions were actually in the conditional-use permit that the applicant had. Staff confirmed and stated that the City would issue a decision letter, with the conditions that were altered – it would strike the “faith-based” verbiage from their permit, if this was approved.

There were no more questions from the Commission.

Chairman Hirotsu asked if the applicant wished to speak.

Nermine Banke, 7492 Trailwind Drive, Montgomery, Ohio 45242 is the Chairman of the Board of Church of the Saviour and is also a resident of Montgomery. She stated that Mr. Chesar had explained their application well, noting that they were definitely much clearer on the issue of not having a business move in. She confirmed that they would not have a business doing business out of their property; although they were permitted to have a contract with a provider for counseling.

Regarding the “faith based” statement, they could easily have a contract with a provider and not bring this up, but they wanted to be transparent with their providers regarding all of their conditions of use, and of their contract with the City. Ms. Banke explained that it becomes a problem when we tell them how to do counseling, i.e., faith-based. They did not think that this would be such a technical methodology term; as anything we provide is a part of our ministry, and it is faith-based. But the counselors look at it as if we are telling them what method to use – telling a counselor how to counsel. The Church’s intention was not to limit them to what type of counseling they could provide. This is the reason for the change.

Ms. Banke asked for any questions.

Mr. Stull asked if the Church was reimbursing the counseling service for their services.

Ms. Banke stated that they have a Scholarship Fund that will enable them to offer and increase the availability of mental health service to folks in the area. Some of it is used for priority scheduling with a counselor in their offices, some of it is provided as financial support, and other things.

Mr. Stull did not want to see the province of a counseling service be enriched by increasing their scope from work done at that site, because it was not designed for commercial use. He was concerned that the provider would have more revenue coming in, from working at the Church site. Ms. Banke stated that the counselors that they are working with are in alignment with the Church, so they are doing this, as giving back to the community, as a partnership.

She stated that their intention is that they would balance out the contracts with various providers, and with what they were providing. For example, some of the counselors offer community classes, free of charge. She explained that this is also very tricky, as the Church cannot get involved with the providers, in that there is only so much the Church can know about their clients.

Planning Commission Meeting

October 2, 2023

Mr. Juengling wanted to clarify that the scope of the counseling was not changing, it was more about the type of counseling provided by those contracted to the person seeking that counseling. Ms. Banke confirmed. She explained that they were offering this help to the entire community, not just to the Church congregation.

Ms. Steinebrey asked about the scope – what were most of the counseling needs – was it for young people? Ms. Banke stated that this service was for all ages and all reasons. People come to pastors for counsel, and after they come so many times, they are referred to the counselors for professional help.

Mr. Dong asked if they were using Bassett Psychological Services, or if it had changed now? Ms. Banke stated that they have a relationship with Bassett because one of the parishioners happens to work with that provider, but there is no single provider situation. Since 2020, Bassett no longer has an office at the Church; they have moved into a large office in Madeira. They may still be part of the Church's providers, but under the same guidance as any other provider. Also, they work with children only.

Mr. Dong asked what was stopping the patient from simply going directly to the provider's own facilities, versus the Church needing to expand their scope and change the "faith-based" verbiage. Ms. Banke stated that they wanted to help the folks in this community that aren't going to those facilities. Ms. Banke stated that if they offered a scholarship and the best place to meet was at the provider's office, that would still happen. She stated that they have built this space at the Church for this purpose, and many times it feels like a safer, more indiscreet place for patients to meet with counselors.

Mr. Schneider asked who was seeking these services. Ms. Banke stated it was the public, in addition to their congregation. They want this space to be used by the community to hold meetings for different health and wellness topics. The ministry is geared toward mental health. She stated that they were supporting The Art of Wellness event by Kevin Hines on October 23, that Montgomery is sponsoring. She stated that they had done something similar, with another speaker last year, for the community. She noted that they have also invited Al-Anon to have meetings in this space. She reiterated that this is broader than just counseling – and their intention is to provide professional assistance for mental health.

Emily Stapleton, 2958 Huntersknoll, Montgomery, OH 45242 attended Church of the Savior. She wanted to give an example, stating that she offers a yoga class that could be described as faith-based, however, if she was to bring in a substitute to teach from a non-faith-based perspective, it would still be beneficial from a mental health standpoint, to the attendees. When she teaches yoga, she shares a Bible verse. Someone else might share an inspirational quote – still helpful. While it is not counseling, the Church feels that the yoga program contributes to bettering mental health.

Ms. Stapleton stated that some of these counselors may well share the Church's faith, and might be trained in a different type of counseling; however as a professional, they cannot call it faith-based counseling – they have to call it cognitive mental therapy or whatever their specialty is.

Planning Commission Meeting

October 2, 2023

She stated that the people who are coming to provide in the Peace House, may be coming from a place of faith, but it also overlaps with their professional work and they just need to use a different terminology, and so they are unwilling to sign a contract that says "faith-based" because it doesn't exactly fit the professional terminology.

Mr. Schneider asked if any services been provided there since they have received their original approval, or if they were constantly finding that "faith-based" was a concern; or have they just now discovered this? Ms. Banke stated that they have had activity in the Peace House, but they haven't had professional counselors, because the "faith-based" verbiage was an issue. She stated that Bassett has never provided services.

Chairman Hirotsu asked if there has been any billing to the clients. Ms. Banke stated that this is very complicated because of HIPPA and patient confidentiality; they are not permitted to know who or what time their appointments are.

She stated that this will be a tricky process for them to work through, because they need to support this ministry and the folks that need this help. The idea was that the providers would bill, but the Church would be in agreement with them on cost, and pay for it with the scholarship money. They cannot get into any details of the patient billing.

Chairman Hirotsu stated that it felt like a business to him, when an individual was coming to do business on their site, and money was transacted for that service. Mr. Stull agreed, because the providers were getting paid, and they could generate more business there. He understood the need for counseling, but took issue with the money transaction for a service.

Mr. Chesar referred to page 2 of the Staff Report, under Findings: 1) c. There will be no charges for use of the Ministry Center. He did not think there would be any charges. He asked for clarification from Ms. Banke.

John Berry, 137 Woodcrest Drive, Montgomery, OH 45242 stated that he was a trustee of the Church. He stated that the intent of that statement was that there would be no charge to the therapist for use of the Peace House. There is no set business at the Peace House. It is not the primary source of business for any of the providers. It is an adjunct additional space where they can meet someone if their client was intimidated by going to their professional offices. This is not a full business operation.

Chairman Hirotsu stated that the provider would meet with the client in this location, and charge them the same as if they went to their office. Mr. Berry did not know how to work around that. He stated that there had to be some compensation to the therapist.

Chairman Hirotsu repeated that this still looked like a business. Mr. Schneider asked if this would be considered more charity-based, if the fund would pay for the counseling service, instead of charging the patient.

Ms. Banke wanted to point out that accessibility to mental health is a problem for this community and many others. The Church's intention was that this would not be profitable for

Planning Commission Meeting

October 2, 2023

the providers, but there is a cost, and if the provider is not compensated, then we are limited to what can be done. This is why they created the scholarship fund – to bridge gaps for people, and also allow people to donate their time in different ways, like providing a class for parents of children who have mental health issues.

She understood the Commission's concerns; however, if only the Church paid the providers, it would limit what the Church could do, and becomes very complicated.

From the November 19, 2018 Planning Commission meeting, Mr. Dong remembered the process as being that the Church would be the connection to these counselors, and the client would go to the counselor's facility. But, when you bring it all into your house, then it looks more like a business.

There was much more discussion. Some of the current Commission members attended the 2018 meeting, but many of the Church representatives were new.

Mr. Dong was having a hard time separating this from a business. Why was this unique from other commercial companies?

Mr. Stull asked what the other churches were doing to help with mental health issues. He was very concerned with setting precedent, and if we allowed Church of the Saviour to do this, we would have to allow everyone else to have this same variance. Mr. Berry didn't know about other churches. He stated that counseling happens now in the Church, with the pastors, on the property.

Chairman Hirotzu spoke on behalf of the Commission, noting that they all felt that counselling was a good thing, but the problem was about the commercial piece.

Ms. Stapleton stated that the public high schools offer mental health counselling services for a fee, inside the schools; they do accept insurance, and they work through Children's Hospital. She noted that the children go during the school hours, often during a study hall, sometimes once a week, and they might miss a class. And they have waiting lists. This was one of the ways the Church realized the great need in our community. She asked how that would be different than the services the Church wanted to offer.

Mr. Juengling was not aware of the services that schools were required to offer. Ms. Stapleton felt that this was pretty new - this has just happened since 2020.

Chairman Hirotzu stated that schools were conditional uses. Mr. Chesar knew of other communities that did this in their schools; he was not sure about Sycamore schools.

Ms. Stapleton confirmed that Sycamore schools did offer this service.

Mr. Chesar stated that he needed to review / research more of this. From the City's perspective, there was concern of a commercial operation. The City understood that the Church would be consulting with the providers and that payment for the services would fall under the umbrella of the Church. That is the caveat that allowed it to be within the Church's realm. He was not

Planning Commission Meeting

October 2, 2023

arguing any point, and understood that the Commission could make any decision they wanted, but Mr. Chesar felt the need for more review, so that we all had the same understanding.

Chairman Hirotsu referred to page 2 of the Staff Report, and he believed that the applicant was asking for exception and change in 1a: Services offered at the Ministry Center will be limited to faith-based counseling; and 1c: There will be no charges for use of the Ministry Center.

Mr. Chesar believed that the applicant was stating that the counselors would not be charged any rent or lease. That was the difference.

Mr. Berry stated that is not a statement intended to address the relationship between the client and the therapist, but rather between the Church and the provider.

Mr. Dong understood that the patient would not be paying anything, either; that it was a service that the Church was providing to anyone in the community, at no charge.

Mr. Chesar pointed out that there was much misunderstanding, and he would like to have more conversations with Tracy Henao, Assistant City Manager, who was in attendance at the previous meetings. He stated that the Church was entitled to ask the Commission to make a recommendation now, but he felt that more needed to be explained and understood between all.

Mr. Dong understood that, previously, Bassett was going to be the only supplier. And now, it looks as though there will be multiple suppliers. Ms. Banke stated that she understood the concern at the time was the business, and the business was Bassett; and they have worked at making it not be about Bassett. They thought that would help, from a City perspective, to ensure that the Church would not give enough hours to any one provider, to prove that it could not be the provider's only place of business. The Church would limit the number of hours that any one provider could be on site.

Mr. Juengling asked if there were actual operating hours, or if it was based off of appointments Ms. Banke stated that they had not worked through this yet. The providers do not want each other's patients to see each other. And the Church was not permitted to know a lot about the appointments, for HIPPA reasons. One of the ideas they had was that they break up the days, and give each provider a band of time each day.

Mr. Juengling referred to page 2 of the staff report, item e, and asked if there was a designated 25% of the total floor area that was specifically for the counselors. Ms. Banke confirmed. She offered to share the floor plan with the Commission.

Mr. Juengling asked if there was not counselling taking place there, could that space be used for something else or some other function, or was it only designated for this; specifically, will these counselors have items that are kept there? Ms. Banke stated that nothing would be kept there from the providers. Mr. Berry stated there would probably be a desk and 2 chairs, but none of the rooms or items belonged to any provider. And if there was no counseling scheduled, a parishioner could go in there and use it to study or read.

Planning Commission Meeting

October 2, 2023

For clarity, Staff wanted to note that this has been a new conversation tonight; that the City was not aware of these new ideas. He stated there was no ill will on behalf of either party, and that more understanding was needed to be achieved by all.

Chairman Hirotsu asked if the Board had any more questions for the applicant; there were none.

Chairman Hirotsu asked if any guests or residents had comments.

Susan Crabill, 11155 Marlette Drive, Cincinnati, OH 45249 was attending on behalf of St. Barnabas Church. She stated that their churches worked closely together, and St. Barnabas felt that this was a remarkable community program that Church of the Saviour was offering. St. Barnabas was in support of this application – providing counseling services. They felt it was a wonderful opportunity for the community of Montgomery to have.

Jamie Brewer, 7952 Huntersknoll Court, Montgomery, OH 45242 felt that everything that was said made complete sense. He stated that it was great to have mental health awareness and help in our community, in our city, in our churches and schools. He felt this was faith-based counseling in a church, on church property, near a church, surrounded by houses. He felt it should stay that way. Mr. Brewer stated that his home was within a couple hundred feet of the Church. You lose a lot of control of what happens in your neighborhood, in the city. You tend to forget or ignore certain aspects, and it is great to have the Church in the community, and to keep faith-based counseling in the Church, for our children and the entire community. He was in favor of this application.

Mr. Berry stated that counseling, whether it was faith-based or non-faith based happens within the confines of an office. He stated that we could all see that the Peace House was originally a home, still looked like a home. He felt that counseling had a very low impact on a community, as far as affecting property values; no one would even know that it was happening there.

Katie Loew, 7954 Huntersknoll Court, Montgomery, OH 45242 is a pediatric nurse, and has been on the front lines of mental health needs. She stated that 1 in 5 people have mental health issues, and many times they have to wait for months to see a doctor. Even two months is a very long time to wait to get help. She has seen doctors go to cars to visit patients because they were too afraid to come in. She felt this private location would provide a much less threatening place for people to go, because it was like entering a home. She was in favor of this application, and hoped this might be an opportunity to start something with many churches, because there were not enough mental health services in this city and in the country.

Chairman Hirotsu closed the meeting to public comment. He asked for discussion among the Commission.

Mr. Stull supported their intentions and felt they were very good. The issue for him was to determine how to take out the commercial aspect out of it, and provide the service to those in need, without money exchanging hands – which would constitute a business. Where do we draw the line when another church or school wants to do this? He felt that Staff needed to do more

Planning Commission Meeting

October 2, 2023

research so we had more facts. He wanted to table this tonight and come back when we had more information. If he had to vote this evening, he would say no.

Mr. Juengling also agreed with the need for the mental health services and it made sense to him to fit in within the church environment. He stated that he came in here thinking it was going to operate one way, and now felt like there were more questions than clarity, based on the operation of it all. He was not able to make a justified decision on this application, and suggested tabling.

Ms. Steinebrey commended them on the look of the Peace House - that it was just lovely, so welcoming, unthreatening and calming. She thought they did a wonderful job with the landscaping, as well. She also commended them for coming forward regarding this change from faith-based counseling, which we would have never known. She admired them for their honesty. She liked seeing this service taking place in the Peace House, rather than a school. She asked if they could handle it where the Church lined it up between the provider and the client, but the provider did not have a contract with the Church, and if there was money changing hands, then it was just between the client and the provider.

Mr. Schneider agreed with Ms. Steinebrey's points. He didn't feel that it was a business based out of the Church, and did not have any issues with this application. He would like to have more clarity, but was in favor of this application.

Mr. Dong recalled from the previous Planning Commission meetings, that there was no money being passed; not just between the Church, but also between the client and the provider. He wanted to get clarity on how the operation would actually work. He noted that the Code requires that in a community that is single-family homes, they are not permitted to have a commercial business. He cited a similar application that was denied, and pointed out that we needed to be consistent. He would like to see a plan on how the church could make this work, because he believed that mental health services were much needed in our country.

Chairman Hirotsu thanked the applicant for bringing this to the Commission. He stated that we have uncovered a big misunderstanding that needed to be clarified before we could move forward to make a decision.

He asked the Commission how they felt about expanding beyond faith-based counseling, as this was the original topic that was presented. He could easily understand that they were trying to help people. He was very comfortable with expanding it to non-faith-based counseling for mental health. He felt the size of the facility kept it limited to a smaller number of people.

Mr. Juengling didn't have any issue with changing it from faith-based to mental health counseling. Mr. Stull agreed.

Mr. Dong felt that this conditional use was based on the fact that it was a church - that is what the regulation says. So, it somehow needs to be tied to the church. There is nothing in the Code that says that we can allow a counseling service inside a residential area; but we do allow a church to provide their services. That is why the faith-based was discussed and connected, because only a church *service* could happen in a residential area. It doesn't necessarily have to

Planning Commission Meeting

October 2, 2023

be limited to the church congregation, but the service provided had to have some linkage to the church, or else you would be providing another service. Counseling services is not a conditional-use in a residential area. But a service provided by a church would be considered under the conditional use. Mr. Dong was not against the Church's good intention; he was just trying to figure out how to meet the Code.

There was more discussion.

Ms. Steinebrey stated that many churches support / sponsor other services for the community, like Alcoholics Anonymous and other programs. She didn't feel that it mattered that it was not faith-based. The church is open to anybody – most churches did not care if you were of their faith.

She noted that some churches offer financial counselling from Dave Ramsey. They buy all of their material from Dave Ramsey and then all of it is handled in the church. You have a church reaching out to help people with their finances, and yet no money has changed hands.

Ms. Banke stated that there was a cost to it – it was part of Ramsey's philosophy to put skin in the game. It was not a lot of money, but there was a cost to the participant, but the money was exchanged between the participant and Dave Ramsey's Association. The church was only the facilitator, they did not pay any money, nor did they make any money. It was not a commercial business, other than the church provided the facility, and provided counselors to help.

Mr. Schneider was in support of expanding the faith-based to non-faith based.

Chairman Hirotsu had no issue with expanding it from faith-based, but struggled with the commercial aspect of it.

Chairman Hirotsu noted that there were different thoughts from the Commission on the expansion of the faith-based counseling; pointing out that a majority vote was needed for approval. He noted that all of the Commission supported the Church's good intentions. Mr. Chesar would look into this more, regarding how to better understand their operation and how it fits within the regulations.

He asked the applicant if they wished to table this application. Ms. Banke confirmed.

Ms. Steinebrey made a motion to table the application from Church of the Saviour, 8005 Pfeiffer Road, for reconsideration of conditional-use approval conditions pertaining to the clarification of counseling services provided by the Church at Ministry Center located at 8003 Pfeiffer Road.

Mr. Dong seconded the motion.

There was a voice vote, and the Commission unanimously approved.

This motion is approved to table the application.

Planning Commission Meeting

October 2, 2023

At 8:25pm, all guests and residents left the meeting.

Staff thanked the Commission for all of their good questions related to this application. There was more discussion, and it was brought up that perhaps some of the regulations around this needed to be reviewed and revised, as many schools provided counseling at the school, (some provided by Children's Hospital) as well. Staff had much to research.

Staff Update

Mr. Chesar reviewed Montgomery's Moment / Summary of Understanding (dated September 29, 2023) - which was an update on the progress of the Comprehensive Plan. He briefly spoke of the highlights that was in the Commissions packet, showing it also on the wide screen.

Chairman Hirotsu asked what amount of the 27% office count Ohio National held.

Mr. Chesar stated it was a large amount. He noted that Ohio National planned to lease at least two of their floors. He explained that many of their employees were still working in a hybrid fashion: in the office a few days and then working from home, so they did not need all of their office space. The City sees this as a net gain, because they are leasing office space to additional people, and perhaps more. Mr. Chesar stated that Ohio National was still committed to staying in Montgomery, but that we still have to consider if it might change.

Mr. Chesar stated that they have held many focus groups with many different people in Montgomery, asking for their opinions on many topics. Mr. Dong asked if there was any interest in a Community Center, noting that we used to have one, and it was taken down. Mr. Chesar stated that while many people congregate at the pool, there was not a high number of requests.

Staff discussed the 5 emerging themes, from these focus groups:

1. The Montgomery Road Corridor is not a singular experience.
2. Some opportunities are off of the Corridor.
3. To continue to be a premier community, Montgomery needs more housing options.
4. Walkability / Bikeability is increasingly important.
5. The Downtown Business District could use an operator – possibly a full-time job to promote the downtown businesses.

Mr. Chesar stated that the City was approaching the end of the first public input stage.

Ms. Steinebrey stated that she had volunteered last Saturday for the Montgomery Amazing Race, and it was fantastic. She worked at Twin Lakes, and everyone there was absolutely thrilled with the event.

Staff asked all Commission members about the start time of future Planning Commission meetings. They all decided on 6:30pm, pending agreement from Mr. Fossett.

Council Report

There was no Council Report.

Planning Commission Meeting

October 2, 2023

Minutes

Mr. Dong moved to approve the minutes of September 11, 2023, as amended.

Mr. Juengling seconded the motion. The Commission unanimously approved the minutes.

Adjournment

Mr. Schneider moved to adjourn. Ms. Steinebrey seconded the motion.

The Commission unanimously approved. The meeting adjourned at 8:45 p.m.

Karen Bouldin, Clerk

Dennis Hirotsu, Chairman

Date

/ksb

**CITY OF MONTGOMERY
PLANNING COMMISSION REGULAR MEETING**

CITY HALL • 10101 MONTGOMERY ROAD • MONTGOMERY, OH 45242

November 20, 2023

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Nermine Banke Chairman Church of the Saviour 7492 Trailwind Dr., 45242	Jon Homer Director of Business Development Life Enriching Communities (LEC) Twin Lakes 6279 Tri-Ridge Blvd., Ste 320 Loveland, OH 45140	Kevin Chesar Community Development Director Melissa Hays, Zoning and Code Compliance Officer Karen Bouldin, Secretary
John Berry Trustee Church of the Saviour 137 Woodcrest Dr., 45242		<u>COMMISSION MEMBERS PRESENT</u> Dennis Hirotsu, Chairman Barbara Steinebrey, Vice Chairman Vince Dong Peter Fossett Pat Stull
Mark Combs 9295 Shallow Creek Loveland, OH 45140	Rick Huff 7516 Fawnmeadow Dr. Cincinnati, OH 45241	
Eric Day 9912 Forestglen Dr., 45242	Chris Philpott 10091 Humphrey Manor Ct. 45242	<u>MEMBERS NOT PRESENT</u> Andy Juengling Alex Schneider

Call to Order

Chairman Hirotsu called the meeting to order at 7:00 p.m. He reminded all guests and residents to sign in, and please turn off all cell phones.

Roll Call

The roll was called and showed the following response/attendance:

PRESENT: Mr. Stull, Mr. Fossett, Ms. Steinebrey, Mr. Dong, Chairman Hirotsu (5)

ABSENT: Mr. Juengling, Mr. Schneider (2)

Guests and Residents

Chairman Hirotsu asked if there were any guests or residents who wished to speak about items that were not on the agenda. There were none.

Chairman Hirotsu explained the process for this evening's meeting to all guests and residents:

Planning Commission Meeting

November 20, 2023

“Mr. Chesar reviews his Staff Report and the Commission asks any questions they might have. The applicant presents their application and the Commission then asks any questions. The floor is opened to all residents for comments. If a resident agrees with a comment that was previously stated, they could simply concur, instead of restating the entire comment to save time. The Commission discusses the application and residents are not permitted to comment or question during this discussion. The Commission will then decide to table, approve or deny the application.

Chairman Hirotsu suggested that we switch the order of the agenda items (in the interest of time), as the New Business will probably take much less discussion time. All members agreed.

New Business

An application from Twin Lakes for an extension request of a Final Development Site Plan Approval pertaining to 30 independent living units to be located at 10120 Montgomery Road.

Staff Report

Mr. Chesar reviewed the Staff Report dated November 20, 2023, “Application for an Extension of a Final Development Site Plan for Twin Lakes’ 30 Independent Living Units at 10120 Montgomery Road.”

He showed drawings on the wide screen for all to see, to provide more understanding of the Staff Report.

He indicated that there had been no calls or emails received regarding this application.

He asked for any questions, noting that the applicant was also in attendance to answer any questions.

Regarding the length of this extension, Mr. Dong asked if the applicant needed to start or finish this project within this upcoming year. Mr. Chesar stated that the applicant just needed to start the project, to meet the requirement.

Mr. Fossett asked if this Commission had any ability / authority to reconsider the merits of the underlying Plan. Mr. Chesar stated that this was only a matter of extension or not. If this plan does not get extended, the applicant could come in with a new plan, or get started prior to January 1. Mr. Chesar stated that technically the Plan doesn’t expire until January 1, 2024.

Mr. Chesar asked if Mr. Fossett had concerns about this Plan. Mr. Fossett did not; he was just inquiring as to the scope of the Commission’s duties this evening. Mr. Stull pointed out that the applicant came before this Commission with a proposed plan, and we offered suggestions. The applicant then came back a second or third time, and finally came up with a plan that this Commission approved. He did not feel it was appropriate at this time to specify changes, unless any of the Code pertaining to this had changed. Mr. Chesar confirmed that the base Code had not changed since then.

Planning Commission Meeting

November 20, 2023

Chairman Hirotsu asked if the applicant wished to speak.

Jon Homer, Director of Business Development, Life Enriching Communities (LEC), Twin Lakes, 6279 Tri-Ridge Boulevard, Suite 320, Loveland, OH 45140 stated that it has been two years since this application had started. He noted that they were now able to focus on this project, and their goal was to have everything finalized, and start taking reservations in the first quarter of 2024. If all goes well, they could be onsite with construction, as early as spring of next year.

Chairman Hirotsu asked if the Board had any questions for the applicant. There were none.

Chairman Hirotsu asked if any guests or residents had comments.

Eric Day, 9912 Forestglen Drive, Montgomery, OH 45242 stated that he was in support of new development, however he was concerned with this corner parcel because of the added traffic. He stated that this past year, it has been horrible between the hours of 3pm to 6pm, and with 30 additional units, possibly 60 individuals, he felt it would make the traffic even worse. He asked if there was any consideration or plan for this. He offered his services, as well as his father's, (as together they hold 50 years' experience in development), to make this a good thing for our community.

There were no other comments from guests or residents.

Chairman Hirotsu closed the meeting to public comment.

New Business

An application from Twin Lakes for an Extension Request of a Final Development Site Plan Approval pertaining to 30 independent living units to be located at 10120 Montgomery Road.

Mr. Fossett asked if there had been a traffic study, based on the impact of the new development. Mr. Chesar was not aware if there was a traffic impact study, as this had taken place prior to his tenure. He noted that the road that actually services that area was put in by the City that services the Indian Hill development; he felt that all considerations for traffic would have been considered, from that aspect.

Regarding the access from Montgomery Road, and relating to the significant prime hours in the morning and evening, Mr. Chesar noted that the City is well aware of the congestion in that area. He added that the City was still working to try to bring on the access control management that they have for better timing of traffic lights – which will improve that situation. He was not sure of the status of it, but knew that Public Works was in the process of coordinating cameras, and internet and all necessary pieces to achieve this goal.

Planning Commission Meeting

November 20, 2023

Mr. Stull recalled that it had been discussed, as they had to have a specific volume of traffic to be able to put the traffic light in. He didn't remember the actual number.

Chairman Hirotsu felt that 30 units was a relatively small amount, compared to other traffic studies done (since he has been on this Commission) for much larger projects, and the answer has always been very incremental.

Mr. Fossett felt that bulk of the traffic was already flowing north and south on Montgomery, and if anybody would be inconvenienced by the traffic flow, it would be the people trying to go in or out of that new development. He was not suggesting that a traffic study be done, he simply wanted to understand the background.

Ms. Steinebrey recalled that when they discussed the project, this would be more of a senior living situation, and there may not be a lot of cars, and they may not actually drive during those peak hours.

Chairman Hirotsu asked if Mr. Homer had any history on this. Mr. Homer stated that they had made considerable improvements on Schoolhouse Lane – widening it, putting in turn lanes, and stacking, to accommodate both the Indian Hill traffic anticipated, as well as the potential of 30 additional cars, at least, from this project. He explained that the villas were 2-car garages, but most were 1-car residents – they considered somewhere between 30 and 60 vehicles.

Mr. Homer confirmed that this was all looked at. He explained that they placed 2 curb cuts, coming in, and they also considered how to alleviate the traffic within the development, on Schoolhouse. The traffic concerns they addressed related to Schoolhouse Road, not Montgomery Road – as they can't control that. He also noted that, for this development, 62 was the minimum age, the average age is 81.

Mr. Dong remembered this original application, that they went through extensive discussion, with much input from the residents; he felt they did a very good job with it. Chairman Hirotsu recalled a considerable amount of redesign that took place.

Mr. Dong made a motion to approve an application from Twin Lakes for an extension request of one year, beginning on January 1, 2024, of a Final Development Site Plan, pertaining to 30 independent living units to be located at 10120 Montgomery Road, as detailed in the Staff Report dated November 20, 2023.

Mr. Stull seconded the motion.

The roll was called and showed the following vote:

AYE: Mr. Fossett, Ms. Steinebrey, Mr. Dong, Mr. Stull, Chairman Hirotsu (5)

NAY: (0)

Planning Commission Meeting

November 20, 2023

ABSENT: Mr. Juengling, Mr. Schneider

(2)

ABSTAINED:

(0)

This motion is approved.

Old Business

An application from Church of the Saviour, 8005 Pfeiffer Road, for reconsideration of conditional use approvals pertaining to the clarification of counseling services provided by the Church at Ministry Center, located at 8003 Pfeiffer Road.

Mr. Dong moved to take this application off of the table.

Ms. Steinebrey seconded the motion.

All members unanimously approved.

Staff Report

Mr. Chesar reviewed the Staff Report dated November 20, 2023, "Application for Reconsideration of a Conditional-Use Approval Condition for Church of the Saviour, 8005 and 8003 Montgomery Road."

He indicated that there had been no calls or emails received regarding this application.

He showed verbiage on the wide screen for all to see, to provide more understanding of the Staff Report.

He asked for any questions, noting that the church members were in attendance to answer any questions.

Mr. Dong was concerned with the 24 hours – he asked if that number was not per supplier, but a total; was it one or two days/week? He also wondered how many counselors there would be.

Mr. Chesar stated that it was his understanding they did not want to have more than one patient there at a time, for confidentiality purposes. Their intent was to block the time, but not limit it to specific days or personnel. Mr. Chesar deferred to the applicant.

Mr. Dong was also concerned with the community and the impact on the community. He felt that on the weekends, there would be more children around, and that they should be cognizant of that. He believed that mental health was a serious issue, something that is happening in the entire country, and it is a very complicated issue. He understood that this was a great opportunity, but what if there were sex offenders or addicts coming here. He was concerned with this, in the neighborhood, and near residents. You don't know who is or isn't, but when you open it up so widely, it includes many areas, which could include drug addicts. We need to think about this, not just for the Church, but for public safety, as well. He asked if there was a liability

Planning Commission Meeting

November 20, 2023

for the City to allow this, or if there was liability to the Church. He had concerns with the consequences because it was open to the public. He felt this was a very difficult situation that we have no control over. He appreciated the positives but was concerned with the negatives.

Mr. Chesar wanted to point out that the Code currently allows a counseling service, as a home occupation, to operate from anyone's home, throughout any residential district. You could have a drug addiction counselor, operating as a home occupation, and they would be allowed one additional employee. As long as you met the criteria – and the most restrictive item was that you couldn't use more than 25% of your residence, and you could not operate out of the garage.

Mr. Stull stated that the Church has a kindergarten in their school. This is basically running a school out of a church. He asked if counseling out of the church was any different than running a school out of the church. Chairman Hirotsu added that day care is written into the Code as a permitted use.

From the perspective of Planning Commission's previous decision, Mr. Chesar stated that, as the Law Director noted, it had already been considered as an associated use, approved in 2019. He read from Terry Donnellon's email, dated November 17, 2023 (also included in the Commission's packets):

"Counseling itself, as associated with the Church, is approved by virtue of this coming before them, and getting approved in 2019."

Mr. Dong corrected, noting that it was "faith-based" counseling that was approved.

Mr. Fossett stated that Mr. Donnellon's memo points out, "expanding the nature of the counseling *reopens* the question".

Mr. Fossett referred to page 6 of the Staff Report, stating that he reads Conditions a and b together, and interprets them as behavior and mental health being the boundaries of the type of counseling that would be permitted in the Church. Meaning that it couldn't be financial counseling or career counseling – is that correct?

Mr. Chesar stated that at the last meeting (October 2, 2023) there was a discussion on the meaning of "faith-based" and it was determined to be a specific form of counseling. The Planning Commission's intent (in 2019) was to ensure that their counseling was in some way associated / related to the Church. Mr. Dong stated that the Church brought that language (faith-based) to the Planning Commission (PC); we did not create that. And Bassett Psychological Services even came before us, and they discussed it, with that proposed language.

Chairman Hirotsu asked if the applicant would address this question.

Mr. Fossett again asked if the point in the proposed language of conditions a and b on page 6, was to limit the counseling services only to behavioral and mental health counseling.

Planning Commission Meeting

November 20, 2023

Mr. Chesar stated that he was simply suggesting and offering verbiage; he was not implying a limitation.

Mr. Chesar explained the history regarding conditions c and d, noting that there was a lengthy discussion about payment at the last meeting (October 2, 2023). Item c was originally (in 2019) intended by the applicant to mean that the Church would not charge the counselor to use / lease their facilities. The City and PC understood that verbiage to mean that the patient would not be charged or paying, else it would constitute a commercial business.

Mr. Chesar explained that last month (October 2, 2023), there was much conversation with the applicant, as they did expect that money/insurance would dispense between the patient and the provider. This led into more discussion about HIPPA, knowing what people were coming for. If the Church paid for some patients or awarded scholarships, were they a qualified mental health institution? If the patient pays, versus the Church, does it constitute a commercial business then? He again deferred to the applicant.

Chairman Hirotsu stated that the payment was an issue for him; does that exchange of money then constitute this as a business, and then, the nature of what we are approving. This is why he specifically asked for Mr. Donnellon's (Law Director) point of view, which is that it doesn't change the nature of this, it is neither disapproved, nor is it automatically within our Code. Mr. Donnellon noted that the PC has the authority to make a decision, and put conditions on it, if we choose.

Mr. Fossett felt that Mr. Donnellon's memo said that payment for services does make this a commercial use, and we need to decide if the new model of having patients pay for their services takes this out of an associated use that we want to allow.

Mr. Stull gave an example of the Church holding a fish fry: people pay for the fish, and it is a public event. Is this a commercial business? Chairman Hirotsu had more concerns about individuals paying for day care at the Church --and that is actually approved in our Code. Mr. Stull asked if this could be permitted if the patient was a member of the congregation, as opposed to the public; does that change the perspective because then they are providing a service to their community, their charter. Is that an alternate option that would allow them to proceed? Chairman Hirotsu asked how we would know if they were a member or not. Mr. Stull acknowledged that there were always unknowns – how would you know if they were providing faith-based counseling?

Mr. Chesar stated that even when Bassett was offering this before, it could have been to anyone, and the same for the day care – it is provided for the whole community.

Mr. Chesar read from Mr. Donnellon's memo, page 2:

“Are we concerned that while counseling is an associated use, it is also a commercial use in a residential district? When counseling was previously approved, the understanding was that the Church would pay the counselor. Payment for services does make this a

Planning Commission Meeting

November 20, 2023

285 commercial use, but is it less intrusive if the payment comes from the Church rather than
286 the patient? ...but this is for the Planning Commission to decide.”
287

288 Mr. Stull asked if he went there (not being a member of the Church), versus a Church member,
289 would the Church would pay?
290

291 Chairman Hirotsu asked if the applicant wished to speak and address some of these questions.
292

293 **Nermine Banke, Chairman, Church of the Saviour, 7492 Trailwind Drive, Montgomery,**
294 **OH 45242** stated that they came back to PC, specifically to change the verbiage “faith-based”.
295 She explained that, as they were looking for providers, they were made aware from the provider
296 that it was a specific type of counseling, and legally, professionally, this is not recognized.
297

298 Ms. Banke stated that the Church’s intention was to provide a ministry to the community, it is
299 not intended as a profit center for the Church or for any provider. They want this to be for the
300 community, not limited to their congregation, and nothing will be pushed religiously on anyone.
301 They do not want to put barriers in place to prevent anyone from coming to receive help.
302

303 At the last meeting, they were made aware of the misunderstanding of who is paying. Every
304 time we have this conversation, there are concerns about mental health and individuals with
305 mental health issues. And this is all part of the stigma that we are all trying to understand.
306 Times have changed, especially after COVID.
307

308 Ms. Banke explained that they were looking to help folks in this community. Whether they have
309 an issue that I want to know about or not know about, this is about providing help or not
310 providing help. As a personal neighbor who lives close to the Church, Ms. Banke does not have
311 a concern that “crazy” people are coming to our neighborhood. We all have to stop viewing it
312 that way – they are really our friends and neighbors and their children – who have anxiety and
313 other problems. These are the people we are serving.
314

315 Chairman Hirotsu stated that a question came up about why people didn’t just go to the
316 counseling office. Ms. Banke stated that the anxiety and the stigma around mental health is such
317 a problem that it also prevents folks from going specifically to a hospital or a mental health
318 facility. The fact that this is a house with a parking lot – makes it less intimidating. And, also
319 this is what we have to offer for the providers and the community’s space. This doesn’t mean
320 that our relationship with a provider will then preclude them from doing counseling in their own
321 space – that can be part of it, for sure.
322

323 Mr. Fossett understood that this will provide a convenience for the community by bringing
324 counselors into the community, so they are closer to the people in the community and it is easier
325 for them to get to the services they need, as opposed to having to find out where a doctor’s office
326 is and drive somewhere to their office; instead they could possibly walk there. Ms. Banke agreed
327 that physical proximity is also an advantage. The Church can also use the location and the
328 facility as our leverage to get emergency scheduling preferences with a provider. One of the

Planning Commission Meeting

November 20, 2023

hardest things right now for mental health is simply getting scheduled quickly with a provider. This is another advantage for those coming to the Church.

Ms. Banke pointed out that the Church has a long history with Sycamore Schools; some of heart behind this idea stems from a suicide at Sycamore many years ago. There were many people in their congregation involved with that. One of the folks in the congregation was a counselor at Sycamore at the time. This is why it is good to be close to the schools. And that is why they were working with Bassett and children. But now they will also have providers for adults.

Ms. Banke noted that they do not want this to be about one provider; they have a parishioner who is a music therapist that is also interested to help. They want to offer the space and need to have the proper language to be able to contract with providers that works for mental health today because they are hard to come by, it is competitive, and it is hard to get appointments. There is a lot of touchiness of how we use our language as lay people, when it comes to their profession.

Ms. Banke wanted to address Mr. Dong's concerns with the volume and restriction on volume. She pointed out that the Church has something going on in their buildings from 8am to 9pm, pretty much every day of the week. The additional cars and traffic for this service would be completely unnoticeable. This will not be a major volume, as they are only using 25% of what used to be a residence; the overall space is fairly small. They can certainly put in a contract how many hours they will allow each provider, but not necessarily put timed hours on it. The odds are that there will be only 1 or 2 people in there at any one given time.

To address the concern that a business is making profit from this center, Ms. Banke felt it made sense to restrict how much any one provider can be there, because then it cannot be their sole business.

Chairman Hirotsu closed the meeting to public comment. He asked for comments/questions from Board members.

Mr. Fossett asked if it was their intention to provide counseling related to mental health.

Ms. Banke confirmed. He wanted to be sure that we have the proper language that describes the service they provide, but also restricts it from the counseling they are not providing, perhaps such as career or financial counseling. Ms. Banke explained that, being a Church, they have all kinds of opportunities - they provide health classes, they have Dave Ramsey – who is a financial planner; but the difference is that these are not ongoing counseling services. She asked that they adjust the language to avoid restricting those types of events.

Mr. Fossett felt there was a difference between the Church bringing in someone to give a seminar or conference, and the Church renting out space to a third party who would operate their professional operation in the Peace House. He felt that the correct verbiage for the operation in the Peace House would be mental health counseling. Ms. Banke agreed.

Planning Commission Meeting

November 20, 2023

Chairman Hirotsu asked if they would do marriage counseling, as he wanted to be sure of what the Commission was approving. Ms. Banke believed that the Pastor did the marriage counseling; but she was not sure. Chairman Hirotsu wanted to use very specific language, for approval.

Ms. Banke stated that they were here for behavioral therapy and mental health.

Chris Philpott, 10091 Humphrey Manor Court, Montgomery, OH 45242 stated that part of the problem is that they haven't lined up the counselors yet, and won't, until they have the green light to do so. It might happen that a counsellor they contract also provides marriage counseling, -- they haven't crossed that bridge yet. He agreed to put these limits on them, and if they have to come back, for some unforeseen items, they will do it. Today, mental health is the issue and behavioral therapy is a strategy included in mental health.

Ms. Banke ensured the Commission that that they were not renting or leasing to the counselors. They do not want any of the providers to feel like this is their space; it will be a common-use space – they will not leave any of their information in these offices. Many of them will not want to be in the building at the same time. Someone may have the space on Monday/Tuesday and someone else on other days.

Mr. Fossett asked if the counselors will do this without any direct oversight from the Church. He noted that the Church enters into an agreement with the counselors, allowing the counselors to use the space, but then the Church is removed from the operation. Ms. Banke confirmed, and because of HIPPA, they will not even know who came and who left.

Ms. Steinebrey asked how the providers will schedule the time, if the Church has any idea. Ms. Banke stated that, in some conversations with counselors, the Church will offer windows of hours for each counselor, and the Church will not know how many people they will see in that time. They may have an 8-hour block, and they many only see 1 or 8 patients in that time.

Mr. Fossett pointed out that this speaks to the point of convenience, by making it easier for someone to see a therapist, instead of having to schedule an appointment, they could just walk up. Ms. Banke was unsure about that, because there is a lot of patient onboarding; she felt they would more likely make an appointment through the practice – and the convenience piece comes in by asking them where they would like to meet. This will allow them to use practitioners from all over the city.

Mr. Fossett asked if the Church would be advertising this service, or if the patient would need to find the practitioner and then learn if they are offering services at the Church. Ms. Banke stated that the Church would have the connection with the patients, via the congregation and the community and the schools. The Church would never help them make an appointment. Chairman Hirotsu noted that the Code permitted them to advertise in their Church Bulletin, but they could not put a sign outside of the Church.

Planning Commission Meeting

November 20, 2023

Mr. Dong had concerns with violent mental health, and how to mediate that, because of this being in a residential area. He did not know if they had the facilities to control that. He asked if there was a way to deal with this, perhaps in the contract. Mr. Philpott stated that this is hard to predict. Mr. Dong agreed, but pointed out that is why we don't have mental health facilities in the center of our residential neighborhoods.

Mr. Philpott noted that they were 100 yards from Bethesda North Hospital. There was more discussion. Mr. Philpott stated that their focus was mostly on youth. He didn't know how they could identify violent situations. Ms. Banke stated that part of it is who they choose to partner with – they would not choose to partner with someone who specializes in sexual addiction.

Mr. Dong asked, what if something bad did happen, how would you deal with it, or how could you have prevented it? Ms. Banke stated that there was no easy answer to this. Mr. Philpott was not sure, but thought that the counselors were required by law, to report to the authorities, if someone was having harmful thoughts. He stated that they could also remind the counselors of this, in the contract between the Church and the counselor.

Mr. Fossett wanted to clarify that their objective was to serve the existing community, not to reach out and bring people in from outside of the community; so if there was someone who presented violent tendencies, it would probably be from someone within the community. It would not be drawing in someone from outside the community. Mr. Philpott agreed, but also pointed out that as our therapists build relationships with Sycamore Schools, the school may get a reference about a child from another school. Chairman Hirotsu felt that we had many people in our community right now (some even violent) who have mental health issues and need this help. This was the main point for him – for us to help our community, and prevent suicides and violent acts.

Ms. Steinebrey thought that if the counselor felt someone was a threat, that they would not choose to meet them at the Peace House, where they were fairly contained. She felt that they would go to an office where there were other counselors and people around. Ms. Banke agreed with Ms. Steinebrey, and stated that this point did come up with one of the counselors – that there was not enough traffic or volume (it was unrelated to this situation), for certain clients.

Mr. Dong asked if they planned to use this 24/7. Ms. Banke stated that she felt it would be just weekdays, during the time they have other church activities. She felt it would be between 8am and 9pm, but not sure what days. She asked what would it matter what days it was limited to – maybe they would hold it on Saturday, but not Friday. She pointed out that because there would be so few, it wouldn't be noticed, by the traffic and volume. Mr. Dong felt that if it was 24/7, it would appear to be more like a commercial business. Mr. Philpott suggested that they provide a total hours per week – 60 hours/week maximum, regardless of how many providers there were. There are only 2 therapy rooms available. When you consider that it is between 4-6 different providers, 60 hours is not a lot.

Planning Commission Meeting

November 20, 2023

Ms. Steinebrey referred to page 6 of the Staff Report, Item 2: ..and no single counselor can provide more than 24 hours/week to ensure the site does not function as their primary office location. Mr. Chesar stated that this was just suggested verbiage from Staff, which is open to be changed.

Mr. Fossett suggested 3 different limitations: 1) hours/counselor 2) hours/counseling service and 3) total hours/week.

Mr. Philpott wanted to clarify the consternation around fees. He felt that if the preschool was a permitted use, and they charged students for preschool, why wouldn't the counseling service be the same, as it mirrored the same model. He stated that the providers of the nursery school have their own EIN, yet they are part of the Church.

Mr. Fossett asked about the relationship between the preschool and the Church. Mr. Philpott stated that the preschool thought they were their own entity, but they are not, they are part of the Church. Mr. Fossett pointed out that was the difference because the Church is providing preschool services, but the Church is not going to be providing counseling. Mr. Philpott stated that the counselors will report through the Church - be hired and terminated by the Church, much like the preschool teachers.

Mr. Fossett stated that from earlier conversations, he thought that there was no relationship or oversight with the counselors, just that the Church would arrange for the counselors to come in and provide services. Mr. Philpott stated that they would be hands-off the counseling, but they would be hands-on, as far as who will do the counseling at their facility. Ms. Banke stated that they will partner with providers that they choose, and the providers would have a contract with the Church, for use of space, liability, insurance coverage, etc. They could also include conditions in their contract, such as the weekly hour maximum.

Mr. Fossett asked if their preschool providers held preschool anywhere else, or if it was only in the Church. Mr. Philpott stated that this preschool has been with them for 60 years. Mr. Dong pointed out that day care was a permitted use, whereas counseling was an associated use – that is the distinction. Mr. Chesar pointed out that the Law Directory's memo stated that the definition is not all encompassing – there are associated uses that are common place, or that are actually with a Church or institution. Mr. Chesar stated that the definition is clearly not all encompassing because something is always evolving.

Ms. Banke agreed, noting that churches are trying to serve the community and their needs, and this is clearly a need. She stated that they looked at other models and the only way it would work for the Church was through a third -party, because they don't have all of the necessities to hire a counselor; and that would be a huge undertaking.

Mr. Fossett asked if the Church had any control over the curriculum over the preschool.

Ms. Banke stated that they did not. The preschool has its own Board. The Church Board hires

Planning Commission Meeting

November 20, 2023

the Director of the preschool and they approve the preschool Board. There are 9 Board members, and they ask that 5 of them be members of the Church.

Chairman Hirotsu asked what the oversight structure would be for the mental health service. Mr. Philpott stated that the Church Board would review the providers that were chosen; it has been discussed if they should elect its own (subset) board, but this has not been determined yet. Ms. Banke stated that there would be a contract with the counseling providers.

Mr. Chesar asked who would decide on termination of a provider. Ms. Banke stated that it would be the Church Board. Mr. Dong asked how you oversee, if you don't know who the patients are. Ms. Banke stated that it wouldn't be on an individual counselor level; obviously, reputation would be a huge part of who is brought in. It would be through client complaints, and failure to adhere to our guidelines, compliance issues and customer satisfaction issues. Ms. Banke stated that it is also safer for them to use a provider who has multiple counselors, because that provider looks over their counselors.

Mr. Dong felt that one of the contract points might state that 80% of the time, you would need to have counseling for someone. This would encourage the success of this service, and not allow for wasted time. If they had so many hours, and did not use them, that would be a dis-service. Ms. Banke was in favor of this contract condition, but also noting that counsellors don't receive payment if they are not seeing clients.

Mr. Fossett asked how hard it would be for the Church to acquire property in a commercially zoned part of Montgomery in which to house the counselors and to completely avoid all of these questions of whether this is a commercial use. Mr. Philpott stated that would not be financially feasible. He stated that the pastoral staff preferred not to live on campus, and this was the highest, best use of an existing facility; so they engaged in a \$400,000 renovation of this home.

Chairman Hirotsu asked if there were any other questions from the Board. There were none.

He had crafted a list for the Commission to discuss, noting that these were items that could be covered by conditions. He suggested discussing one at a time, and also invited the Commissioners to add their own items:

- 1) Qualifications of counselors and should we require licensing?
- 2) How do we restrict the hours?
- 3) What limits do we have to keep it from being a commercial enterprise versus an accessory use?
- 4) How do we / or do we, exclude people we deem unsafe; is there a way to do that?
- 5) Oversight from the Church, rather than the business providing its own oversight?

Mr. Fossett stated that if the Commission decided that the counseling arrangement that the Church was proposing looked like a commercial business, then that would be the end of the issue. He thought this should be the first discussion.

Planning Commission Meeting

November 20, 2023

Mr. Chesar clarified that this application related to the faith-based aspect. You cannot revoke what has already been approved in 2019. The Planning Commission and City Council have already approved their conditional use - as faith-based. Mr. Fossett pointed out that there was nothing in the original approval that talked about patients paying the counselors. Mr. Chesar explained that this is where the misunderstanding came in: regarding item c on page 6 of the Staff Report, the City understood this to mean that there was no charge for the counselors; the Church understood this to mean that they were not going to charge a lease or rent to the providers.

There was more discussion among the Commissioners, and it was determined that the basis of this application was that there needed to be an agreement on item c between both parties – by means of additional, clarifying verbiage, whether it be as Mr. Fossett’s point or anything else.

Mr. Fossett felt there was a difference between the Church providing a food pantry and the Church allowing a grocery store to operate out of its base; but the day care presents the same issue, yet it was permitted. He couldn’t decide if there was enough difference between the relationship between the Church and the day care versus the relationship between the counselors and the Church, for us to accept that day care was ok, but counseling was not. Mr. Stull explained that the day care was in the Code as a permitted use, and this counseling was not – it was listed as an associated use. This takes us back to the payment situation, and if we see this as a commercial use.

Mr. Fossett understood how a Church could offer the counseling, but when the Church goes beyond providing the counselor, and allows professional counselors to charge clients for counseling services on Church property, that looks different.

Mr. Stull offered another option: the Church offers this service to their parishoners, and if you are a mental health counselor and want to come in and counsel, we will give you the space, as long as you don’t charge for your services. Mr. Dong agreed with this. Ms. Banke noted that they would not find counselors who would work for free.

Ms. Steinebrey felt this was a needed service for children, and she understood that the Church could not afford to pay for counseling. Hopefully, some of the people could get supplemented from their health insurance to help pay for these services. She would like to let the patient pay the provider, and have the space given for free. She felt the need was too great to get mired in all of the technicalities.

Mr. Dong agreed with the need for counseling. He felt that we could alleviate the “commercial-use” issue, by limiting the hours/days so that it could be considered as a satellite. To have it 5 days out of 7, would make it feel like a commercial business, to him.

Chairman Hirotsu agreed with the others, and stated that if we approved this, we would be setting a precedent. Mr. Fossett stated that precedents were always fact-specific, and the only

Planning Commission Meeting

November 20, 2023

way this would be a precedent for any other operation would be if another Church decided to come in and ask to provide counseling in their own building; it would not set precedent for anything else. Mr. Hirotsu agreed, and felt strongly about setting conditions that would prove this to be a unique situation.

Mr. Fossett stated that if this was Mr. Philpott's personal residence, the Code would permit him to operate a full-time licensed counseling service in that building, with one additional employee, and no more than 25% use of the residence. Mr. Chesar pointed out that one condition to limit space would be to keep this in the 2 therapy rooms of the Peace House, which were less than 25% of the Peace House. This would not be applicable to any other Church.

Chairman Hirotsu would like to also put conditions on the hours for the provider, and for the business. He asked all members if they were ok to proceed with this application (setting precedent), if we placed conditions on it.

Mr. Fossett was in agreement because of the importance of the service and because the Law Director clearly stated that it is within the meaning of associate use; and even if the clients are paying for the service, we can decide that this is an appropriate associate use for a Church. Even though it felt commercial to him, Mr. Fossett felt that conditions associated with this application could offset that.

Chairman Hirotsu felt that the Commission was leaning in the way of Mr. Fossett's thinking, and asked if they could discuss conditions. There was much discussion, and the following conditions were proposed:

- 1) Counseling services at 8003 Pfeifer Road shall comply with the following conditions:
 - a. Counseling services offered at 8003 Pfeifer Road will be limited to mental health counseling by licensed professionals.
 - b. Services will be contracted by and monitored by the church board;
 - c. Counseling space will be less than 25% of the total floor area and no more than XX square feet; and,
 - d. There will be no charges for the counselor's use of the space;
 - e. A patient may directly compensate a provider for mental health counseling.
 - f. An individual provider/company will not operate more than 20 hours per week.
 - g. No more than 40 hours of operation (building open for counseling) per week in total for all counseling services is permitted.
 - h. All counseling services shall be provided between the hours of 8 a.m. to 9 p.m.
 - i. There will be no signage for the provider of services.
 - j. No counseling provider/company shall operate their principal office on the site;.
 - k. Pending the Law Director review, approval of final language; no person identified as a danger to the community can be provided services at the site (for example, no registered sex offender or person convicted of felonious or aggregated assault) out of concern for the community and the preschool on site.

Planning Commission Meeting

November 20, 2023

- 632 1. One year from the start of services, the applicant shall update the Planning
633 Commission on the status of operations.
634 1) A continuous evergreen screen be planted between the existing driveway and the adjacent
635 property to the west in compliance with the plan presented to City Council at the public
636 hearing and approved by Staff and the City Arborist.
637

638 Mr. Fossett felt that while some of these conditions might seem to be very limiting, and would be
639 very difficult to track, at least if something came up down the road, if we establish clear
640 conditions, then we have guardrails to fall back on.
641

642 Mr. Philpott came up with numbers that would be manageable with a total hours / week with
643 counseling. He had experience with his own challenging staffing issues per week. He felt this
644 would limit what they were trying to accomplish. They could divide it up between providers and
645 this would address the Commission's concern.
646

647 There was discussion on how to provide verbiage concerning violent behavior. Mr. Dong
648 suggested something be put in the contract between the Church and the provider, such as no
649 violent or suspected violent clients. Mr. Fossett did not think this was practical. Mr. Stull
650 agreed. Mr. Dong asks how you can allow this, but not provide safeguards. This is in a
651 residential area with a day care right next to them; he felt that we would be negligent not to
652 include something because there is a possibility that this could happen. Suggested verbiage for
653 the Church's contract with the provider: If a counselor providing services at 8003 Pfeiffer,
654 determines that a client presents a danger to the community, then that provider shall no longer
655 see the client at 8003 Pfeiffer. It was undecided if this was permitted, legally. Ms. Banke stated
656 that they would pursue professional information regarding this situation. Mr. Chesar offered a
657 statement "to be reviewed by the Law Director, prior to City Counsel approval". Mr. Dong felt
658 that the Church should be the ones to determine this. Mr. Fossett felt that it would make sense
659 for us to put something in our conditions, and hope that the Church puts something in their
660 contract with the provider. There was concern among members about counseling a sex offender
661 within such close range (100 yards) of the day care. We could then ask the Law Director to
662 make sure we have appropriate verbiage for that requirement.
663

664 Mr. Philpott noted that if the limit got to its maximum and there was still a great demand, they
665 will come back before the Commission, to see if they can expand. They will then also have a
666 good sense of how it may have impacted the neighbors – if it felt like a commercial use.
667 He appreciated the Commission's concern, but knowing where that building sits on the property,
668 and how it works, the Church does not see this as being a big issue.
669

670 **Rick Huff, 7516 Fawnmeadow Drive, Cincinnati, OH 45241** stated that he has been with
671 Church of the Saviour, especially working on the Peace House, since the beginning, when it was
672 a rectory, prior to the remodel. He invited the Commission to come to the Church and see the
673 Peace House. He stated that he could answer many questions. He had concerns with limiting the
674 people or hours -- what does a counsellor tell a mother who has a crisis and needs to see
675 someone as soon as possible. And he says my hours are up this week at the Church, how about

Planning Commission Meeting

November 20, 2023

next week. Mr. Fossett noted that it was an inherent problem in this service; and they also have another office.

There was discussion about the process, given the Law Director's recommendation of verbiage (or not). The choice was to have this come back before Planning Commission for their approval of the Law Director's decision, or to move it along to City Council, as it is ultimately their final decision. Mr. Chesar gave timelines, noting that this would take more time. Commission members wished to see the final verbiage before making the recommendation to City Council. The Commission discussed their availability for their next PC meeting/s.

Chairman Hirotsu asked if any guests or residents had comments. There were none.

Pending the Law Director's review of the proposed modified conditions, Mr. Fossett made a motion to table the application from Church of the Saviour, 8005 Pfeiffer Road, for reconsideration of conditional use approvals pertaining to the clarification of counseling services provided by the Church at the Peace House, located at 8003 Pfeiffer Road, as detailed in the Staff Report dated November 20, 2023.

Mr. Dong seconded the motion.

The roll was called and showed the following vote:

AYE: Ms. Steinebrey, Mr. Dong, Mr. Stull, Mr. Fossett, Chairman Hirotsu (5)

NAY: (0)

ABSENT: Mr. Juengling, Mr. Schneider (2)

ABSTAINED: (0)

This motion to table the application is approved.

Staff Update

Mr. Chesar asked if the Commissioners were interested in keeping the start-time of future Planning Commission meetings at 6:30pm or 7:00pm. It was unanimously decided that we will start the future Planning Commissions meetings at 7:00pm.

Chairman Hirotsu referred to Montgomery's Moment program, specifically the online survey. He noted that an idea was presented that Montgomery Road would not be a two lane road north and 2 lanes south, in the Historic District. Mr. Chesar stated that it didn't mean it was actually going to happen, just a question as to what you preferred, mostly based on visual preference. They are looking into more outdoor dining, and then narrowing the road in certain places. They are asking what people prefer in the Historic Center. This is more information gathering from residents. Mr. Chesar encouraged members to take the survey, and see others' comments. He pointed out that any changes will ultimately come through this Commission. Mr. Chesar stated that he will keep the Commission updated on this program, but also encouraged the two representatives that are on this Commission to do the same.

Planning Commission Meeting

November 20, 2023

Council Report

Ms. Bissmeyer was not present; there was no Council Report.

Minutes

Mr. Dong moved to approve the minutes of October 2, 2023, as submitted.

Ms. Steinebrey seconded the motion. The Commission unanimously approved the minutes.

Adjournment

Mr. Dong moved to adjourn. Mr. Stull seconded the motion.

The Commission unanimously approved. The meeting adjourned at 10:00 p.m.

Karen Bouldin, Clerk

Dennis Hirotsu, Chairman

Date

/ksb