

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, July 10, 1990

Mr. Foland called the meeting to order at 7:30 P.M.

Attendance: Mr. Arthur Foland, Acting Chairman; Mr. Peter McMahon; Mr. Bernard Samples; Mr. James Durham; Mr. Scot Stone.
Absent: Mr. Robert Hosfeld; Mr. Stanley Swartz. Also present: Mr. Alan C. Schwab, City Planner; Mr. Steve Feverston, Assistant City Planner; Mr. Robert N. Farquhar, City Attorney.

Approval of the minutes of June 26, 1990:

MOTION: Mr. Durham moved to approve the Planning Commission minutes of June 26, 1990, Regular Meeting, as written. Mr. McMahon seconded the motion. The motion was approved unanimously 5-0.

COMMUNICATIONS

Mr. Schwab stated that correspondence had been received from Reid Patterson requesting that his variance application scheduled for public hearing to night be continued to a date in which his legal counsel will be available to attend.

PUBLIC HEARINGS

Patterson Reid E. - Variance of Fence Material

Mr. Foland opened the public hearing.

MOTION: Mr. Durham moved to continue the public hearing for the Variance application submitted by Reid E. Patterson until July 31, 1990. Mr. McMahon seconded the motion. The motion was approved unanimously 5-0.

Finke Realty Company/Marathon Petroleum Company - Major Use Special Approval

Mr. Schwab reviewed the revised plan submitted by Finke Realty Company and Marathon Petroleum Company requesting approval of a Major Use Special Approval application for the property located on the southwest corner of Whipp Road and Wilmington Pike. The zoning on the 22.593 acre parcel is B-PD, Business Planned Development. The purpose of the Major Use application is to seek approval of a shopping center concept including three (3) outlots, one (1) of which is proposed as a Speedway/Starvin Marvin Gas Station Convenience Store. The proposed building size for the shopping center is 129,717 sq. ft. of gross floor area and 2,340 sq. ft. of gross floor area for the convenience store. The proposed parking spaces for the shopping center is 5.5 spaces per 1,000 sq. ft. of gross floor area which meets the requirement. Each outlot must satisfy its individual parking requirement. The gas station/convenience store requires 13 spaces and the applicants have proposed 16 spaces. As a part of this development, road

improvements will be required to Wilmington Pike.

Mr. Schwab stated that the architectural elevations submitted for the Speedway/Starvin' Marvin have been modified since the former application review. The building is proposed to be faced with red brick as well as the columns supporting the canopy with the same material. He stated that the canopy setback, which was an issue of the former application, has been setback to maintain the 50 ft. requirement with the exception of a small area of the canopy. This situation basically exists due to the purchase of right-of-way by the State in the amount of 65 ft. which is 5 ft. more than the City requirement. Because the applicants based their plan on the City requirement, this additional 5 ft. of right-of-way owned by the State creates a variance situation to a small portion of the canopy as proposed.

The only firm commitment for development for the entire application is that of the Marathon station to be located on the corner. The shopping center layout is a hypothetical layout for the purpose of satisfying the requirements of the Major Use application.

Staff recommended approval of the application subject to the following conditions:

1. The City Council agrees to permit a canopy setback variance for the proposed Speedway Gas Station along Wilmington Pike. At the southern end the proposed canopy is setback 45 feet instead of the required 50 feet.
2. A stormwater drainage plan shall be approved by the City Engineering Dept. showing stormwater drainage calculations and incorporating retention and/or detention and erosion control during construction in accordance with the provisions of the City Stormwater Drainage Control Ordinance.
3. Adequate covenants approved by the City Attorney shall be recorded to provide for the future private maintenance of the proposed temporary and permanent stormwater retention basins.
4. The required 100 foot buffer strip along the west and south property lines abutting Fox Run Condominiums shall be maintained in its natural state except that a stormwater retention/detention basin in the southeast corner of the site within the buffer strip shall be permitted. Additional evergreen landscape screening shall be planted in the buffer strip along the service driveway behind the shopping center. Detailed landscape plans for this screening shall be subject to approval by the Planning Department. A fence shall be required at the back of the shopping center to limit pedestrian access to the Fox Run Condominium properties.

5. The developer shall dedicate 60 feet of right-of-way from centerline along Wilmington Pike to the City.
6. The developer shall add an additional lane of pavement, curb, gutter, stormwater drainage, and sidewalk along Wilmington Pike in accordance with plans approved by the City Engineering Dept.

In lieu of the above improvement, the City Engineering Dept. may require a temporary improvement that consists of a left turn lane along Wilmington Pike at each the entrance to the shopping center and the south entrance to the service station with the monetary difference between the temporary improvement and the above "permanent" improvement to be placed in escrow with the City to be used for the future widening of Wilmington Pike in front of the development. The temporary improvement plans must be approved by the City Engineering Dept.

7. Appropriate cross easements for vehicular access between the shopping center and service station approved by the City Attorney shall be required before a lot split is granted.
8. The southern driveway to Wilmington Pike shall be restricted to prohibit left turns from the shopping center to Wilmington Pike.
9. All driveways to the service station site shall be restricted to right turn movements only.
10. The position of the service station driveway onto Whipp Road shall be subject to approval by the City Engineer. The end of the median on Whipp Road may require alteration, at the expense of the developer, to accommodate this driveway.
11. The medians in the shopping center parking lot shall be extended by joining them together at the major internal intersections to create three-way intersections.
12. The access to Outlot "B" from the ring road shall be moved to eliminate a four-way intersection at this point.
13. Additional landscaped planter areas shall be added to the parking area of the shopping center to define major access roads between the ring road and the front of the shopping center and to limit vehicles cutting across the parking rows for long distances.
14. The Planning Commission must approve detailed building elevation drawings for the shopping center showing the materials and colors for all proposed buildings.
15. Dumpster location(s) and required screening shall be approved by the City Planning Dept.

16. All external lighting including lighting under the gas station canopy shall be approved by the City Planning Dept.
17. None of the signs shown on the plans shall be approved as part of this application.

Mr. Foland opened the public hearing.

Mr. Mike Turner, attorney with Pickrel, Schaeffer & Ebeling, was in attendance to represent Marathon Petroleum Company and Finke Realty. He stated that his firm was retained to be sure that the plan submitted satisfied the City's code in compliance and therefore, entitled to approval. He stated that the issue before the Planning is not whether the site is appropriate for commercial development as the zoning is already in place. It is also not an issue as to whether this is a good development to go next to residential development. Mr. Turner stated that the code does not have prohibitions, only standards, that a corner lot not be developed or receive proper access to the property based on its intense use. Not allowing the gas station to be constructed on the corner would be a taking of his client's property. He stated that his clients have been cooperative not only by participating in the relocation of Whipp Road, but also permitting the City to rezone their land to a B-PD classification which placed more inconveniences on the requirements of approval for development.

Mr. Jim Finke, Sr., property owner, stated that the group of owners of the property purchased the site in 1986. Before the purchase, they investigated the possibilities of the property and determined that it would be in the best interests of the owners as well as the City to participate in the relocation of Whipp Road. He stated that the agreement they had with the City was to dedicate 3.318 acres of land and to share 50% of the cost of the road improvements which amounted to over \$500,000. Mr. Finke stated that they agreed to the B-PD classification in order to conduct a more orderly development even though the requirements were much stricter. He stated that they feel they have done the most that they can to satisfy almost all of the concerns of those who are concerned citizens. Mr. Finke stated that with the proposed development all they wanted to do is maximize an investment that they have made and yet be sympathetic to the surrounding residential community.

Mr. Greg Yetzer, Shaw, Weiss & DeNaples, briefly reviewed the specific issues of ingress and egress, lighting, landscaping, retention and detention, and the required buffer strip.

Mr. Harold Forshaw, Marathon Petroleum Company, stated that they have attempted to give due consideration to the previous concerns and comments of the Planning Commission, Council, and the residents with the revised development plan of the site. The number of driveways have been reduced from 3 to 2 and located as far from the intersection as possible. The driveway on Whipp Road has been removed behind the median barrier to prevent left turns. Signage

and lighting are in complete compliance with the City's codes and will prevent any off-site light pollution from occurring. The canopy has been moved back to meet the setback requirements. A smaller building has been proposed which reduces the number of parking spaces and increases the grass area behind the building. The stormwater retention has been relocated, and a brick building will be provided rather than the standard design used by Marathon.

Mr. Lee Hall, 2591 Old Whipp Court, presented a petition in opposition to the development of the property as proposed by Finke Realty and Marathon Petroleum Company. Mr. Hall rebutted the comments of Mr. Turner, referring from Section 14 of the Zoning Ordinance, stating that the purpose of the B-PD zoning is to permit greater flexibility and more creative imaginative design in the development of business areas. He stated that the proposed plan does not satisfy the purpose of the zoning as there is not creativity or imagination in the design. Mr. Hall stated that they feel that a professional office center which could include the Marathon proposal would be more appropriate for the area. The traffic congestion at the intersection will only be increased with the Marathon station on the corner. Mr. Hall expressed concern that adequate retention for the entire 22 acre site can be accomplished on-site.

Mr. George Catterlin, 2711 Kings Arm Circle, stated that he was sympathetic to Mr. Finke making a profit on his investment, however, he objected to the type of development being proposed while it is acceptable under the zoning classification. The objection is based on the threat to the value of the surrounding properties. Mr. Catterlin stated that the architecture of the Marathon building has not been changed except to brick veneer the building. The design of the building is not acceptable to be located adjacent to residential areas and should be more of what was formerly located now as Dr. Wilson's office at the Main and Franklin Street intersection. He stated that even though changes have been made in the access driveways to the Marathon station, traffic is still a major concern as the situation is congested now with backup along both roadways for left turn movements. Mr. Catterlin stated that he was also concerned with the stormwater retention on the site. He suggested that if a fence is constructed at the rear of the site a wooden fence, preferably cedar, be installed rather than chain link. Mr. Catterlin asked the applicant to reconsider the development of the area as a strip shopping center and possibly consider an office development.

Mr. Jim Price, 5865 Overbrooke Road, stated that in addition to the concerns stated by the other residents, he was concerned with the amount of traffic that the entire development will have on Whipp Road and Wilmington Pike which are not adequate for such volume. He requested that the development be delayed until such time that the roads are capable of handling the increased traffic volume.

Ms. Martha Walters, 2608 Kings Arm Circle, stated that her concern was safety. She stated that she hoped the Planning Commission could appreciate that this issue has become a terrible burden for people to have to defend their rights to their enjoyment of their own property.

Mr. Larry Stevens, 5840 Overbrooke Road, stated that the architecture for the gas station should look like a residential house with the removal of the landscaping and the addition of pumps on the site. He stated that he felt that is what the residents are looking for. He stated that unless there is some type of restraining wall constructed tastefully, there will be all kinds of pedestrian paths through to the neighborhood. The situation would defeat the idea of the buffer strip.

Mr. Howard Kathmann, 5884 Overbrooke Road, stated that the plans for realigning Whipp Road changed over the years and the existing roadway is not what was shown in meeting in the past. He stated that he does not feel that Marathon has given the site the proper market study based on the permitted access to the property.

Mr. Schwab explained that the realignment of Whipp Road occurred in the fashion it has based on Council determining something had to be done before the opportunity was gone. The preferred plan was to realign Whipp Road further to the north, however, since Greene County was not pursuing the situation, it was done by the City to insure the improvement.

Mr. John Wolf, 5894 Overbrooke Road, stated that the zoning is not for specific uses, it is zoning for planned development. He asked that the City officials not be swayed by strong arm tactics from the applicant's attorney.

Mr. John Deuer, 2713 Kings Arm Circle, asked why the zoning could not be changed.

Mr. Schwab stated that the zoning is in accordance with the Master Plan and changing the zoning by a City initiated procedure would be very difficult based on the property's past history of business zoning.

Planning Commission took a 5 minute recess at this time.

Ms. Jan Stetson, 2821 Red Lion Court, asked if it were a conflict of interest that the applicant would come before the City for approval of a shopping center based on his involvement with the improvements to the Whipp and Wilmington intersection.

Mr. Farquhar stated it is traditional for property owners to donate land in connection with road widening. He stated that the City could have gotten the land even if Mr. Finke had not donated it.

Mr. Larry Stevens asked if the applicant had to forego other hearings for the development of the property as an office park.

Mr. George Catterlin stated that if Planning Commission recommended approval of the plan, he strongly recommended that the architecture be changed.

Mr. Jim Price asked if the applicants had agreed to the conditions as recommended by staff.

Mr. Foland stated he would reserve that question until after the public hearing was completed.

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

Mr. Foland asked if the applicant agreed to the conditions for approval as recommended by staff.

Mr. Turner stated that in these proceedings it is not necessary that the applicant agree to the conditions. Those conditions are placed on the application in relations to the ability to develop the property. He stated they would not be able to develop the property unless a development was designed and submitted that met all of those conditions on the plan.

Mr. Durham stated that the staff recommendations are straight forward and the Planning Commission would like to know whether the applicants agree or disagree with them.

Mr. Finke stated that there are some points they agree with and others that they do not. He asked if those points were made clear in their correspondence submitted with their application.

Mr. Schwab stated that it was not clear and those points should be made at this time.

Planning Commission took a 5 minute recess at this time to allow Mr. Turner to confer with his clients.

Mr. Turner stated that Mr. Finke and the representatives of Marathon had reviewed the conditions and agreed with each of them.

Mr. Durham stated that the site is a 22 acre site that contains 1 acre that Marathon Petroleum wishes to develop for their use on the corner. He stated that Mr. Turner's comments that by not allowing the curb cuts would be a taking of the applicant's property are unfounded. Mr. Turner seemed to elude to the fact that there is a right to develop a gas station on that particular 1 acre site. Mr. Durham stated that is exactly the opposite of what the Zoning Ordinance does. The Major Use review process is a process that reviews the entire 22 acres.

When asked by Mr. Durham, Mr. Farquhar stated that the City is not obligated to allow development of a gas station on the corner of Whipp and Wilmington. He stated that you have to give them a location that is reasonable, however, it does not have to be on the corner.

Mr. Durham stated that the location of the gas station is just bad planning. When the intersection is completely improved, the access to the gas station will be right-in, right-out only which people will try to circumvent. He stated it is not an issue of whether it will increase traffic. Traffic volumes are high enough at this particular time that the intersection is currently a problem. He stated that without access to the future shopping center which is in concept only, the access to the property is not going to work. Mr. Durham stated that although Marathon has made concessions since the original application, he would not support the application unless the location of the gas station were moved further to the south. He stated that by approving the layout of the proposed plan would be doing a great disservice to the entire City.

MOTION: Mr. Durham moved to recommend denial of the Major Use Special Approval application submitted by Finke Realty and Marathon Petroleum Company. Mr. Samples seconded the motion. The motion was approved 4-1 with Mr. Stone voting no.

Mr. Schwab advised that the application would be set for public hearing before Council and property owners would again be notified.

There being no further business, the meeting was adjourned.

Approved
Robert J. Stiefel
7/31/90