

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, August 28, 1984

Mr. Tate called the meeting to order at 7:40 P.M.

Attendance: Mr. Elmer C. Tate, Jr.; Mr. Robert Looper; Mr. David Hall; Mr. Robert Chappell, Mrs. Marian Simmons; Mr. Harry Williams; Mr. Brian Bergsten. Also present: Mr. Alan C. Schwab, City Planner; Mr. Karl M. Schab, City Engineer; Mr. Robert N. Farquhar, City Attorney; Mr. Steve Feverston, Planner; Mr. Jon Bormet, Administrative Assistant.

Approval of the minutes of July 31, 1984:

MOTION: Mr. Hall moved to approve the Planning Commission minutes of July 31, 1984, as written. Mr. Looper seconded the motion. The motion was approved 6-0-1 with Mr. Williams abstaining.

COMMUNICATIONS

Tom Harrigan Oldsmobile - Temporary Sign

Mr. Hall excused himself from participation in the review of this project.

Mr. Schwab stated that he had received a request from Tom Harrigan Oldsmobile to place a temporary sign on a vacant parcel on the south side of Loop Road just east of the Voss Chevrolet used car lot. The proposed sign would be 4 ft. by 8 ft. in sign area and 6 ft. to 9 ft. in height. The purpose of the sign is to advertise the parcel as the site of another Tom Harrigan Oldsmobile dealership. The time in which the property is to develop is uncertain, so Mr. Harrigan is requesting that this temporary sign be approved for a period of 1 to 2 years.

Staff recommends approval of the request subject to the following conditions:

1. The sign height be a maximum of 9 ft.
2. The sign shall not be illuminated.
3. The sign be approved for a period not to exceed one (1) year from the date of approval.

Mr. Tate stated that he did not see an advantage of advertising a future site of a business that in fact may never develop.

Mr. Looper asked if Tom Harrigan currently owns the property in question.

Mr. Schwab stated he was not aware of the current ownership status.

Mr. Tate stated that if they are definitely going to develop the property that is one issue, however, if there is a question that it may not take place, a sign should not be approved to advertise their good intentions.

Mrs. Simmons stated that the applicant should provide additional information as to the certainty of the project.

MOTION: Mr. Tate moved to table the request by Tom Harrigan Oldsmobile for a temporary sign in order to obtain further information. Mr. Bergsten seconded the motion. The motion was approved 6-0.

Mr. Hall returned to the meeting at this time.

Approval Procedure for Group Homes - Letter from Montgomery County Planning Commission

Mr. Schwab stated that the Planning Department received a letter from the Montgomery County Planning Commission requesting that review and approval be granted from the 169 Residential Interagency Steering Committee for the use of a group home prior to the zoning approval by the individual city in which the group home location is proposed.

Mrs. Simmons suggested that during any review of a group home for a conditional use, it could be required that the applicant submit, as a part of the application, Interagency Steering material.

Mr. Schwab stated that as a part of the Group Home Ordinance Review Committee recommendations, the procedures were changed to incorporate this mandatory review of the 169 Board prior to zoning approval. He stated once these are made a part of the Planning Commission procedures, the issue should be taken care of.

Mr. Tate suggested that this procedural change should be reviewed further during the discussion and revision of the Planning Commission Rules of Procedure later in the meeting.

Letter of Resignation

Mr. Tate stated that Mr. Williams had submitted his letter of resignation effective October 1, 1984. Mr. Tate thanked Mr. Williams for serving as a member of the Planning Commission and wished him well in his new position in Clearwater, Florida.

PUBLIC HEARINGS

Penrod, R. Wayne and Peggy E. - Rezoning from WT R-3 to O-S

Mr. Schwab reviewed the application requesting a zoning change from WT R-3 to O-S for the 2.3 acre parcel located at 6239 Wilmington Pike. He stated that the existing structure on this parcel was constructed in 1835. The property to the north is zoned O-S and the property to the south is the site of the St. Francis of Assisi church which is zoned WT R-3. The extension of this O-S zoning seems to be compatible with the surrounding zoning.

Based on the zoning compatibility, staff recommended approval of the rezoning application.

Mr. Tate opened the public hearing.

Mr. Victor Green, representing the applicants, stated that it is their intent to utilize the existing house at 6239 Wilmington Pike as a real estate office for Investmark Realty. He stated that they obtained a

letter from the Pastor of St. Francis stating the Church Council had no objections to the rezoning request. Mr. Green stated that the applicants had done an exceptional job in decorating and refurbishing this historic home. He stated that the structure will need no renovation other than what will be required by City codes to change the use from residential to office use. The appearance of the house will remain the same with the exception of the addition of some landscaping and parking areas which must be approved by the City. He stated that it is their hope that this location will be ready for use by their employees by the first of the year.

Mr. Schwab pointed out that site plan approval will be required from the City since a parking area will be required.

Mr. Tate asked if the right-of-way along Wilmington Pike had been dedicated for the widening and improvements scheduled.

Mr. Green stated that they were not adverse to making a commitment to dedicate the right-of-way necessary for the improvements to Wilmington Pike.

Mr. Schwab stated that the dedication of right-of-way should be a condition of the site plan approval when it is reviewed by the City.

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

MOTION: Mr. Hall moved to recommend approval of the rezoning as requested by R. Wayne and Peggy E. Penrod to City Council. Mrs. Simmons seconded the motion. The motion was approved unanimously 7-0.

An Ordinance Establishing Minimum Standards Governing The Condition, Maintenance And Rehabilitation Of All Existing Structures; Establishing Minimum Standards Governing Supplied Utilities And Facilities And Other Physical Things And Conditions Essential To Insure That Structures Are Safe, Sanitary And Fit For Occupation And Use; Establishing Minimum Standards Governing The Condition Of Dwellings Offered For Rent; Fixing Certain Responsibilities And Duties Of Owners And Occupants Of Structures, And The Condemnation Of Structures Unfit For Human Habitation And The Demolition Of Such Structures; And Fixing Penalties For Violation.

Mr. Schwab explained that the Policy Plan which was adopted by Planning Commission and City Council detailed the need for a Property Maintenance Ordinance in the community to preserve primarily the residential areas. This proposed Property Maintenance Ordinance being reviewed is a result of Council directing the Zoning Task Force to accelerate the work on a Property Maintenance Ordinance. The Zoning Task Force has worked for a period of approximately three (3) months with staff drafting this Ordinance. The basic ordinance used was the BOCA Existing Structures Code as a model. It is common to adopt this code by reference; however, the members of the Task Force felt that there were a number of changes that should take place in that ordinance in order to adapt it for our community. As a result of these changes, the specific ordinance being proposed is a project of that effort.

This ordinance addresses the existing buildings in the community, the inside and outside, appearance of the landscaping and the property in general, vehicles that are parked on the property although it does not

address recreational vehicles, condition of refuse storage containers, fire safety, snow removal, etc. The Task Force members felt that the subject of recreational vehicles should be addressed directly in the Zoning Ordinance. The proposed ordinance specifically appoints a Community Property Review Committee whose purpose is to monitor the staff in performing the inspections and working under this ordinance, and specifically monitor the appearance and environmental concerns that are contained within the ordinance. The ordinance is structured so that an inspector must work through the Board before a citation could be issued. The Board will also work as an Appeals Board and Review Board prior to the prosecution of any person under the terms of the ordinance with the exception of an emergency situation.

Mr. Tate opened the public hearing.

Mr. Bernard Samples, Chairman of the Zoning Task Force, stated that the Zoning Task Force's charged responsibility is to review the Zoning Ordinance and Subdivision Regulations to assure that these documents are consistent with the quality of life desired by the residents of the City, and that the ordinances support and maintain the unique character of the community. He stated that one important aspect of the community character is the aesthetic attractiveness of the properties. Centerville currently has no property maintenance ordinance of its own. As a result of a specific request of the Mayor and numerous groups including the BAR, the proposed ordinance is being submitted for the consideration of the Planning Commission. He stated that property maintenance is not a problem at this time, although it is a problem that is inevitable as the community ages. Mr. Samples stated that it is the hope of the Task Force that the Planning Commission will approve the ordinance for referral to City Council.

Mr. Hall asked if it was the Task Force's idea to develop the review process separate from the inspection official.

Mr. Samples stated that it is visualized that the major use of the ordinance will be through a complaint process, although review can be done based on observation of an inspector.

Mrs. Simmons stated that she did not feel that the ordinance would work on a complaint basis, and in fact, the City has had contracts in force to take care of property maintenance problems for many years.

Mr. Robert Perkins, 32 West Ridgeway Road, stated that the proposed ordinance is a continuation of something he had worked on for years as a member of the BAR. He stated this is an opportunity to move on something that the City is in need of, not necessarily at this time, but in the near future. He stated that as a member of the BAR, the Board was faced with a number of situations that could not be addressed. Mr. Perkins stated that in addition to an ordinance that will control the health and safety issues, the City is in need of something that will protect the areas from becoming blighted. He stated that the proposed ordinance does two things--it is a local ordinance administered by local people which means that things can be changed with greater ease; and, secondly, it provides local citizen input. Mr. Perkins stated he has had enough experience with the BAR that this ordinance is very necessary.

Mr. Pat McKenzie, Supervisor of the Montgomery County Health District Housing Inspection Program, stated that the City of Centerville has, through a contract with the Health District, adopted a housing maintenance code for the past several years. This enforcement took has been at the City's disposal and works on a complaint basis only. He stated that the City has used this service three or four times this year at a cost of \$20.00 per hour. Mr. McKenzie stated after briefly reviewing the proposed ordinance, the housing code in effect addresses most of these issues. In addition to the provisions covered under the County code, the City needs a good noxious weed ordinance and a vehicle ordinance to regulate junk vehicles.

The procedure the Health District uses is as follows:

1. A complaint from the City is received.
2. An inspector is sent out to the site and he makes contact with the person who owns the property in order to discuss any possible violations. A notice is issued for needed repairs if the problems so warrant.
3. Appeal processes are available through discussion with the Health District and through the Board of Health, and could eventually be forwarded to a court.

Mr. Tate asked if by signing the contract with the Health District, a general housing was effective which is used throughout many jurisdictions in Montgomery County. He further asked what other issues were in the proposed ordinance and not addressed in the Health District code.

Mr. McKenzie stated that it was correct that the general housing code was adopted by the City when the contract was signed. The issues not included in the County housing code were signage, fire codes, commercial buildings, etc.

Mr. Bergsten stated that in briefly reviewing the County housing code, it seems to be outdated. He stated that the usage of kerosene heaters is very common and under the provisions of this code, it is not permitted.

Mr. McKenzie stated that the code was written in a simple manner so that it would be most easily enforceable.

Mr. Hall asked how many other communities have this same contract.

Mr. McKenzie stated that there are seven communities and that number has remained the same during his seven years with the Health District. He stated that the Health District would welcome any type of program that the City would care to set up for usage of the program.

Mr. Williams stated his concern is that the code currently being used was written in 1975 and seems to be somewhat outdated. The proposed property maintenance ordinance reflects the needs of the community at this time.

Mr. Samples emphasized that the major issue is home rule versus utilization of County services. It was the unanimous consensus of the Task Force that Centerville should have its own maintenance ordinance. In talking with several residents of the City, Mr. Samples stated their

feeling was the same. In using these opinions as a cross section of the City, the citizens would probably be more comfortable with home rule.

Mr. Perkins stated that local control is the answer to the needs of the City. The County codes has to look at the needs of the County as a whole and those needs are not necessarily the desires of the citizens living in the City of Centerville.

There being no further speakers, Mr. Tate closed the public hearing.

Mrs. Simmons complimented the Zoning Task Force for their efforts in drafting the proposed ordinance and also Council for recognizing the need for a maintenance ordinance. She stated that, however, she did disagree with the job that has been done. The cost is one issue that has not been addressed. In reviewing both codes, the Health District code is far superior in its arrangement. Mrs. Simmons suggested that should the proposed ordinance be adopted, an index should be added in order to find specific issues. She stated that some of the sections of the ordinance should be combined and condensed if it is adopted. Mrs. Simmons was concerned with some of the provisions under the fire safety section, stating that approvals cannot be given for burning incinerators without a permit from RAPCA. She suggested that the two pieces of legislation should be compared carefully and considered at a later date. Mrs. Simmons stated that they have not been adequately compared.

Mr. Hall stated that he agreed with the home rule concept. The intent seems to be volunteer compliance on an involuntary basis. He stated that he did have a concern, however, with the extra layer of bureaucracy.

Mr. Williams stated that the Task Force had considerable discussions about the checks and balances of the proposed system. The BOCA Code seemed to fit the needs of the City with considerable changes being incorporated so that the BOCA Code could not be adopted by reference to make it appropriate for the City of Centerville specifically. It is now written to be customized for the City.

Mr. Chappell stated that if we need a maintenance ordinance, it should be administered on a local government level. This ordinance seems to, however, come on the edge of overregulation. He suggested that perhaps a lesser degree of regulation should be made.

Mr. Williams stated that he was also concerned with the overregulation issue. He stated that it is impossible to write an ordinance that is not specific in regulation that would be binding.

Mr. Farquhar stated that a policy is usually adopted by Council as to how strict the ordinance should be enforced. This ordinance simply gives the City a tool in which to work.

MOTION: Mr. Hall moved to recommend approval of the Property Maintenance Ordinance to Council with full consideration given to some of the language pointed out in the discussion. Mr. Looper seconded the motion. The motion was approved 5-2 with Mrs. Simmons and Mr. Chappell voting no.

UNFINISHED BUSINESSCenterville Mill - Site Plan Amendment

MOTION: Mr. Hall moved to remove Centerville Mill, Site Plan Amendment, from the table. Mr. Looper seconded the motion. The motion was approved unanimously 7-0.

Mr. Schwab stated there had been no action taken by the applicant since the project was tabled two months ago.

Mr. Tate suggested that since additional information was not available to the Planning Commission as requested previously, Planning Commission take action on the project in order to forward it to City Council.

MOTION: Mr. Bergsten moved to recommend denial of the Site Plan Amendment for Centerville Mill to City Council. Mr. Chappell seconded the motion. The motion was approved unanimously 7-0.

NEW BUSINESSAlex-Bell Veterinary Clinic - Site Plan

Mr. Schwab reviewed the proposed site plan for the Alex-Bell Veterinary Clinic to be located along the east side of Loop Road north of Alex-Bell Road. The one (1) acre parcel is zoned B-2. Nine (9) parking spaces are required for this veterinary clinic and 25 have been proposed. Mr. Schwab stated that as a part of the consideration for the rezoning on this area of ground, the property owner assured the Council that through deed restrictions on the property, that an enormous amount of curb cuts did not occur. When it was presented to Council that the deed restrictions would not allow more than one (1) curb cut on Alex-Bell Road; one (1) public street dividing the business zoning and multi-family zoning along Loop Road and two (2) curb cuts in between that public street and Alex-Bell Road, neither of which can be closer than 400 feet to the intersection of Alex-Bell Road and Loop Road, the rezoning was approved.

Staff recommends approval of the site plan with the following conditions:

1. A 5 foot wide concrete sidewalk, of a design approved by the City Engineer, be constructed in the public right-of-way along Loop Road across the front of the property.
2. A fire hydrant approved by the Washington Township Fire Department shall be constructed.
3. A detailed plan for storm water retention, including erosion control, approved by the City Engineer, shall be required.
4. A revised site plan must be submitted and approved by the City Planner which reduces the potential vehicular conflicts at the common curb cut to Loop Road.

Mr. Schwab stated that the concern with the curb cut is that this project must serve more than one (1) acre of ground. As the proposed curb cut is designed with the layout of this property, if any kind of volume of

traffic were to utilize this curb cut, it could create some very constricted situations depending on the potential uses on this B-2 area. He stated that the proposed parking spaces on the south side of the building are placed in such a way that it would be required to back onto the adjacent property to exit the facility. Mr. Schwab stated that staff did discuss alternative designs for the layout with the applicant, however, he had concerns as to his needs. Mr. Schwab stated that by placing this curb cut as proposed, when the entire area is developed, the internal road network will be missing which will result in several needed curb cuts along this B-2 parcel. This would be inconsistent with the wishes of Council. Staff feels that there is a way to arrange the property in such a way that it leaves open future options for the curb cut to handle more volume in order to serve a greater area.

Dr. Barry Diehl, applicant, stated that he started looking for property approximately two (2) years ago to construct a veterinary clinic and talked to Mr. Schwab numerous times. He stated that at that time, no B-2 zoned property was available; however, after the parcel in question was rezoned, he made arrangements to purchase the property. The owner of the property, Mr. Woods, informed Dr. Diehl that the access to this property could extend back 50 feet and terminated at that point if he so wished. Dr. Diehl stated that he has spent approximately one (1) year looking at different designs of construction and is now ready to build.

Mr. Ben Allbery, attorney for Dr. Diehl, stated that their major objection is that the Planner wants to run a street through Dr. Diehl's property to serve the balance of the Woods' property. Mr. Allbery stated that Mr. Woods has additional property, and if the Planning Commission wants to run a street through there, there is sufficient land remaining to do that. He stated that the Doctor does not want to create a traffic pattern on his property. He did not create the curb cut restrictions and is not a party to any agreements that Mr. Woods had to go through. Mr. Allbery stated that all of a sudden when it is time to get site plan approval and building permits, the City wants to subject the Doctor to a lot of traffic movement that he is not going to create.

Mr. Allbery stated that the staff is objecting to parking because parking may create a problem because of a use that is on some adjacent land. He stated the concern of the side parking is simply, again, because the Planner would like to create a street to serve someone else's property. He stated that they do not feel that it is feasible, fair, or that the City has the right to appropriate the property in this way.

Mr. Allbery stated that concerning the need for a fire hydrant, that is something they will discuss and if there is a necessity, they will have to suffer that cost. He stated that the other requirements seem to be fairly reasonable and can be adjusted to. The primary concern is that they do not want to use Dr. Diehl's property for B. M. Woods' balance of the property for a street. If a street is necessary, B. M. Woods has approximately five (5) acres that he can put a street in if the City Planner, Planning Commission, and City Council wants one.

Mr. Tate stated that under the circumstances, the project should be tabled and pursue the street issue with the people that Mr. Allbery indicated should be involved.

Mr. Schwab explained that the deed restrictions were placed on the ground prior to acquisition of this one (1) acre parcel by the applicant. At the time the applicant came in to get a lot split to obtain the one (1) acre parcel, all the staff looked at was that they had the ability to tie into an access point on Loop Road. A specific design or layout was not discussed for that one (1) acre parcel. The layout that is being proposed precludes that curb cut from handling any volume.

Mr. Tate stated that the City will have to have some kind of master plan for an area as large as 20 acres. He stated they cannot develop an acre at a time without any kind of planning.

Mr. Allbery stated that he did not understand how the Planning Commission can take a position that consideration has to be given to a 20-acre parcel when all that should be considered for review is a one (1) acre parcel. He stated if the owner of the remaining land has an obligation to do any planning, he could not understand how they can force this owner to do the planning. Mr. Allbery stated that Dr. Diehl has made sufficient contacts with the City, that if there was any suggestion that there were any problems, it could have been brought out before he bought the land or at the time when the lot split was approved. Mr. Allbery stated that all of a sudden when they tried to get building permits, Dr. Diehl was informed he had to have site plan review.

Mr. Tate asked if a site plan was submitted to the City for review prior to August 17, 1984, when the proposed site plan was submitted.

Mr. Allbery stated a plan was submitted at the time of the lot split showing one (1) acre of ground with the intention of developing it as a veterinary clinic. This has now been submitted in the form of a site plan which meets the normal planning and requirements that should be imposed on this one (1) acre of ground. Mr. Allbery stated that he was sorry if the owner, the Planning Commission, or the Planner did not properly plan, however, they have no control on the remaining land around their one (1) acre. He stated that quite frankly, they do not want to develop their one (1) acre with it being an access for the development of the rest of the land.

Mr. Hall stated that the Planning Commission is responsible for how the other 19 acres develops and the development of this one (1) acre will greatly affect it.

Mr. Williams stated that he was not sure there was anything Dr. Diehl could do to change the situation.

Mr. Bergsten stated that when the property was rezoned, it was done with the understanding that there would be curb cuts located as in the deed restrictions with the idea that they would serve the area as a whole and not develop piecemeal.

Mr. Schwab stated that if the property layout was done in some other manner with the same building, there would be a potential to use the and generate more traffic volume without interference that the design proposed creates. He stated that the proposed site plan proposes to use one of the three access points exclusively for the veterinary clinic.

Mr. Allbery stated that if the project is going to get caught up in an overall planning problem that they cannot control, they would rather have the plan disapproved by the Planning Commission and sent on to Council for their consideration. He stated at that point, they would try to persuade Council that the request is proper and just.

Mr. Tate stated that it is his feeling that some of the concerns with the property can be resolved and still be within the time constraints. He stated that the Planning Commission should look at the area as a whole concerning the traffic situation.

Mr. Williams stated that the applicant does not have control of the whole area which does not allow him to consider that situation.

Mr. Schwab stated that the one (1) acre can develop with a layout that recognizes whether there is or is not a plan at this time for the rest of the land.

MOTION: Mr. Chappell moved to table the site plan for the Alex-Bell Veterinary Clinic pending further study and evaluation on total acreage as well as the specific site, and measure any alternatives available in order to reach a solution as soon as possible. A special meeting should be scheduled should enough information be available. Mr. Hall seconded the motion. The motion was approved 6-1 with Mr. Williams voting no.

Rules of Procedure - Revision

The Rules of Procedure were reviewed and revised by the entire membership of the Planning Commission. These revisions have been reflected in the "Rules of Procedure for the Centerville City Planning Commission" as attached.

MOTION: Mr. Looper moved to amend the Rules of Procedure as discussed. Mr. Hall seconded the motion. The motion was approved unanimously.

Election of Officers

MOTION: Mr. Chappell nominated Mr. Elmer Tate, Jr., for the office of Chairman of the Planning Commission. Mrs. Simmons seconded the nomination. Mrs. Simmons moved that the nominations be closed. Mr. Williams seconded the motion. The election of Mr. Tate to the office of Chairman was approved unanimously.

MOTION: Mr. Chappell nominated Mr. David Hall for the office of vice-chairman of the Planning Commission. Mrs. Simmons seconded the nomination. Mr. Williams moved that the nominations be closed. Mr. Bergsten seconded the motion. The election of Mr. Hall to the office of Vice-Chairman was approved unanimously.

Mr. Hall nominated Mrs. Marian Simmons for the office of Secretary. Mrs. Simmons refused the nomination.

MOTION: Mr. Hall nominated Mr. Looper for the office of Secretary. Mr. Bergsten seconded the nomination. Mr. Williams moved that the nominations be closed. Mrs. Simmons seconded the motion. The election of Mr. Looper to the office of Secretary was approved unanimously.

Additional Discussion

Mr. Tate stated that he objected that Council overturned the unanimous Planning Commission recommendation that the thirtieth lot in Walnut Hills Estates not be approved. This action took the average lot size below the minimum lot size required with no park dedication in return.

Mr. Williams stated that he would like to thank the Members of Planning Commission and staff for their help and expressed his enjoyment as a member of Planning Commission.

There being no further business, the meeting was adjourned.

