

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, May 31, 1983

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

Attendance: Mr. Elmer C. Tate, Jr., Mr. Dallas Horvath, Mr. Brian Bergsten, Mrs. Marian Simmons, Mr. David Hall (where noted). Absent: Col. Stanley Morrow and Mr. Robert Chappell. Also present: Mr. Alan C. Schwab, City Planner; Mr. Karl M. Schab, City Engineer; Mr. Steve Feverston, Planner.

Approval of minutes of April 26, 1983:

MOTION: Mr. Horvath moved to approve the Planning Commission minutes of April 26, 1983, as written. Mrs. Simmons seconded the motion. The motion was approved 2-0-2. Mr. Tate and Mr. Bergsten abstained.

Approval of minutes of May 3, 1983:

MOTION: Mr. Bergsten moved to approve the Planning Commission minutes of May 3, 1983, as written. Mr. Horvath seconded the motion. The motion was approved 2-0-2. Mr. Tate and Mrs. Simmons abstained.

SETTING OF PUBLIC HEARINGS

The following item was set for Public Hearing for Tuesday, June 28, 1983, at 7:30 P.M. in the City Building:

Franklin Street Baptist Church - Variance
Location: 200 West Franklin Street

COMMUNICATIONS

Mr. Schwab distributed copies of the "Walking Tour of Historic Centerville" which was information compiled by the Centerville Historical Society and produced in conjunction with the Centerville Planning Department. He stated that the map that appears in the center of the booklet will also be created into a sign and placed on the northeast corner of Main and Franklin Streets.

Tower Heights - Identification Sign

Mr. Schwab stated that the Planning Department received a letter from Mrs. David Herath, a member of the Interaction Council for Tower Heights, requesting a off-site sign on the corner of East Franklin Street and North Johanna Drive directing traffic to the school site. The location of that school has been a problem for some time in terms of finding it.

Staff, in reviewing the situation, concluded that this particular school is unique in terms of its access problem and by approving the request, should not bring a flourish of requests for identification signs for each school in the City. It is, therefore, staff's recommendation to approve this request subject to the school working out a suitable size of sign and sign location with staff.

Mr. Bergsten asked if the on-site sign must also be approved.

Mr. Schwab stated that sign would be constructed in accordance with the sign area allowed under the requirements of the Sign Ordinance.

MOTION: Mr. Horvath moved to approve the request by Tower Heights School for an identification sign to be located at the corner of East Franklin Street and North Johanna Drive, exact location and size of the sign to be reviewed and approved by staff. The sign size should not exceed the size of the off-premise signs used for direction to the municipal buildings. The on-premise sign requested should be constructed in accordance with the requirements set forth in the Sign Ordinance. Mrs. Simmons seconded the motion. The motion was approved unanimously 4-0.

Mr. Hall arrived at this time.

UNFINISHED BUSINESS

Walnut Hills II - Preliminary Plan (Conditional Use)

Mr. Schwab reviewed the proposed preliminary plan (conditional use) for Walnut Hills II that was tabled at the April 26, 1983, Planning Commission meeting, in order to further investigate the park dedication criteria. The original plan provided 34 lots within the City of Centerville on the 15.862 acre parcel. The zoning for the proposed subdivision is R-1, single-family residential. Mr. Schwab explained that the conditional use being applied for is a Planned Unit Development (PUD) which allows some flexibility in laying out a development in terms of a normal minimum lot size, lot width, and the other parameters of that type for each lot. The concept behind the PUD is to take a total parcel, subtract the area used for street right-of-way, and divide the remaining area by the number of lots to be developed on the parcel. This subdivision has to yield 20,000 sq. ft. of lot size on the average or greater due to the R-1 zoning classification.

There is another provision in the zoning ordinance, that if a 5-acre parcel of open space exists within that quarter section of surveyed land, then the lots are eligible for park lot reduction. In this case, any lot can be reduced up to 2,500 sq. ft. below the minimum lot size if for every square foot that any such lot is reduced, one (1) additional square foot of park land is dedicated. The original preliminary plan asked for both a PUD and lot reduction with park dedication. Since the proposed park land was located outside Montgomery County, it could not be used towards lot reduction. The revised plan is now proposing the PUD concept, but does not include the dedication of park land and therefore, does not qualify for lot reduction. Mr. Schwab stated that it is the intention of the developer to dedicate the park land originally proposed to Greene County; if Greene County is not willing to accept the land, that land will be created into a lot and deeded to the homeowners.

In order to get the net density of each lot above 20,000 sq. ft., 5 lots have been eliminated from the revised preliminary plan which would allow 29 lots to develop in the City.

Mr. Schwab reviewed the recommendations staff proposed for the original preliminary plan. He stated that the staff recommendation to eliminate the "S" curve at the entrance to the plat was reevaluated by staff. Their conclusion was that at the record plan stage, perhaps it would be possible to work within the right-of-way to try to take some of the sharpness out of the curve by adjusting the street position. The

recommendation to relocate the proposed park to the southwest corner properties along Rhine Way in accordance with the Park Plan was eliminated since the revised plan does not propose to dedicate any park land. Further, the recommendation to stub Park Place into Greene County should be eliminated. The recommendation to require sidewalks on both sides of the street should be dealt with at the record plan stage other than at the preliminary plan stage.

The recommendation to require that a drainage plan be submitted to the City Engineer for his approval should be retained. Staff feels that an additional condition should be to require access to the existing park from this proposed subdivision. Mr. Schwab stated that in looking at the existing grades, it is very difficult to provide access to the park. It appears that access would best be provided between lots #7 and #8. A very steep sidewalk will be required to be constructed to provide access to the park area in the form of a 2 ft. concrete walkway in an appropriate easement. The Park District has indicated that they would like a second access on the south side in order to access the proposed neighborhood park. Mr. Schwab stated that in order to do this, it would require possibly taking out a lot and creating a walkway with several switch-backs to develop an acceptable slope going down into the park. He stated that the best place to access this ground is in Greene County along an existing farm road; however, this is not something that is under Centerville's control. The Park District is very concerned about access on the south side and it is obviously a necessity by virtue of their future plans to develop the neighborhood park.

Staff recommends that we encourage the developer to work with Greene County to provide an access to the south side through an area in Greene County.

MOTION: Mr. Horvath moved to remove from the table Walnut Hills II, Preliminary Plan (conditional use). Mr. Bergsten seconded the motion. The motion was approved unanimously.

Mr. Richard Pavlak, developer, stated that it is his feeling that the park access would be better placed in the same location as the sanitary sewer and the storm easement because as you move towards lots #7 and #8, you get closer to the creek bank and the topography tends to get a little steeper. The access between lots #6 and #7 is longer and would allow more opportunity to use a sideways manipulation. He stated he agreed with staff that access to the park from the south should be from the Greene County portion of the development.

Mr. Bob Feldmann, Centerville-Washington Park District, stated it is their feeling that a walkway in the area of the storm sewer easement would be washed out by the storm water and that is why they felt the walkway would be better suited between lots #7 and #8. Mr. Feldmann stated that they are very concerned about gaining access from the south side and perhaps one lot could be deleted along this area to provide for an access. He stated that Mr. Pavlak has the option of developing some of the area in his proposed park area to add any lots by providing the park access as suggested by the Park District. Mr. Feldmann stated another alternative could be that a written guarantee could be given to the City that when and if the Greene County portion of Walnut Hills II comes under the jurisdiction of the City of Centerville, the Park District could have a walkway along the old farm road and possibly the land south of the farm could be dedicated to the Park District.

Mr. Horvath suggested that the Planning Commission send a letter to Greene County suggesting that the walkway to the park on the south side along the old farm road be used as access.

MOTION: Mr. Horvath moved to recommend approval of the preliminary plan (conditional use) for Walnut Hills II to City Council subject to the following conditions:

1. Try to eliminate the "S" curve within the right-of-way the best way possible.
2. A drainage plan shall be submitted to the City Engineer for approval.
3. Provide an access to the park allowing a 2 ft. wide concrete walkway between lots #8 and #9 or #9 and #10, whichever is the safest.
4. Staff is instructed to send a letter to Greene County expressing the concern that an access in their jurisdiction to the park on lot #36 in an appropriate manner be provided.

Mrs. Simmons seconded the motion. The motion was approved unanimously.

NEW BUSINESS

Thomas Paine Settlement No. 3 - Release of Performance Bond

Mr. Schwab explained that a letter was received by the Clerk of Council requesting that the performance bond for Thomas Paine Settlement No. 3 for the public street in the amount of \$268,310.85 be released. This bond was posted essentially for the construction of Clyo Road through the Thomas Paine development as well as the proper drainage structures as part of that. The City Council is the only body with the power to release this bond; however, they have asked for a recommendation from the Planning Commission.

Mr. Schwab reviewed the series of events involving the Thomas Paine development to the present. In 1979, the preliminary plan for Thomas Paine No. 3 was reviewed by the Planning Commission and the decision to recommend denial of that plan was forwarded to Council based on the fact that no provisions for improvements to Clyo Road were included in that plan. That decision was appealed to Council and after a series of meetings between the developer and the City, a compromise was reached and this compromise plan was approved by Council in June of 1980. The revised preliminary plan approved by Council allowed construction of 39 additional units to the south of proposed Clyo Road and was conditioned and agreed to by the developer that he would build the full 5-lane profile of Clyo Road the length of his development. A separate bond of \$31,500 was posted for private streets and is also outstanding at the present time. In November, 1982, Council granted a 6-month extension to June 10, 1983, in order to complete the improvements agreed to in the subdivider's agreement.

The request being considered at this time, is the release of the performance bond which is for the construction of Clyo Road. The work on Clyo Road has not been done at the present time and no construction has been done on the 39 units to the south of Clyo Road. If the bond is released, it would no longer require the developer to construct that section of Clyo Road, but would, however, allow him to still construct the 39 units south of Clyo Road.

In reviewing the request, staff could find no information that would indicate that the performance bond should be released because the work has not been performed, and the remaining units can still be constructed as approved on the record plan without obligation to make the road improvements. Based on a lack of performance on that bond, staff recommends that the bond not be released.

Mr. Barry Manz, attorney representing John Black Enterprises, reviewed the memo summarizing the history of Thomas Paine, while Mr. Greg Taylor, from John Black Enterprises, addressed the Planning Commission. Mr. Taylor stated that John Black Enterprises is not looking for a way to get out of their obligation to construct Clyo Road as agreed. He stated it is their intention to request that the City allow the construction to occur at a more timely situation for them. He stated that they have been led to believe that the completion of Clyo Road is 5 to 8 years away, and therefore, would rather not build a section of Clyo Road at this time when it will not lead anywhere. He stated that recognizing their obligation to the City for the construction of Clyo Road, they propose to make some sort of agreement that would tie the construction of Clyo Road into either the completion of Clyo Road at either end; or should the construction of any of the 39 units approved for the area south of Clyo Road occur, the construction of Clyo Road would then take place.

Mr. Tate asked how long it would be before construction of additional units south of Clyo Road would begin.

Mr. Taylor stated probably not until Clyo Road is through to either Bigger Road or Wilmington Pike.

Mr. Manz stated that the term "release" used in their letter sent to Council is not the correct word. He stated that what they are proposing is a continuation of the extension of the bond pending either the completion of Clyo Road at one end or the other, or the intention of the developer to start construction south of proposed Clyo Road. He stated that they are proposing a new bond be signed, if possible, which would be conditioned on the completion of Clyo Road to either Bigger Road or Wilmington Pike, or the developer starting construction on the area south of proposed Clyo Road. Mr. Manz stated that it appears that the construction of Clyo Road was a compromise in order to build the additional 39 units south of Clyo Road. Since the developer has no intention of constructing those 39 units at this time, it seems as though the obligation to construct Clyo Road should not be required at this time.

Mr. Tate explained that from the beginning of the Thomas Paine development, there was never any intention that the developer would not be required to construct that section of Clyo Road. He stated that when Section 3 was reviewed by the Planning Commission, it was denied because no provisions for that improvement were incorporated into the proposal. That decision was appealed to Council, and the compromise was that in exchange for the 39 additional units to the south of Clyo Road, the developer would construct Clyo Road.

Mr. Taylor stated that the reason they are asking for some kind of agreement other than in the form of a bond, is because a bond costs money. If this obligation can be legally bound by means other than a bond, the developer would prefer it.

Mr. Tate stated that this would have to be discussed with the City Attorney.

Mr. Manz stated that perhaps an additional 6-month extension can be granted until the issue is resolved.

MOTION: Mr. Hall moved to forward the Planning Commission minutes to City Council with a recommendation that the agreement between the City and John Black Enterprises not be vitiated. Further, nothing should be released on the old bond until something new is legally binding and submitted to the City. Mr. Bergsten seconded the motion. The motion was approved unanimously.

There being no further business, the meeting was adjourned.

Elmer Tate
June 28, 1983