

CENTERVILLE PLANNING COMMISSION
SPECIAL MEETING
Tuesday, January 6, 1981

Mr. Tate called the meeting to order at 7:30 p.m.

Attendance: Mr. Elmer C. Tate, Jr., Mr. Brian Bergsten, Mr. Dallas Horvath, Mr. Bernard Samples, Col. Stanley Morrow, Mr. Robert Chappell, Mrs. Marian Simmons (where noted). Also present: Mr. Alan C. Schwab, City Planner; Mr. Karl M. Schab, City Engineer; Mr. Jim Schneider, Centerville-Washington Park District.

Approval of Minutes of November 25, 1980, Planning Commission Meeting:

MOTION: Mr. Samples moved to approve the Planning Commission Minutes of November 25, 1980, as written. Col. Morrow seconded the motion. The motion was approved 5-0-1. Mr. Horvath abstained.

Mrs. Simmons arrived at this time.

COMMUNICATIONS - none

UNFINISHED BUSINESS

Shadybrook - Preliminary Plan

To remain on the table.

Walnut Grove - Bond Release

Mr. Schwab made a slide presentation showing the area of Wrens Cross which is adjacent to the Walnut Grove subdivision. As discussed at the last Planning Commission meeting (November 25, 1980), one homeowner in Wrens Cross is concerned that their lot is receiving more water than was originally intended on the approved record plan. It is the opinion of the homeowner, Mrs. Lois Costello, that the Walnut Grove subdivision was approved with incorrect topo maps and thus the water from the Walnut Grove area is draining improperly into their lot in Wrens Cross. Therefore, it is the request of Mrs. Costello that the performance bond not be released for Walnut Grove until the developer of Walnut Grove corrects the drainage situation.

Mr. Schwab traced the pattern of the drainage system from the twelve (12) inch tile exiting from the Walnut Grove area into a rip-rap and follows the swale which should go around the house. He stated that by looking at the land and the trees, you can see that the natural fall prior to development was in the same direction as it now is with a ridge to the back of the lots. This is basically a natural drainage pattern.

Mr. Schab stated that during a two-hour meeting with Mrs. Costello on December 2, 1980, some of her major concerns were discussed. He stated that it is true water discharging into Mr. and Mrs. Costello's yard will have more acceleration than before the development of Walnut Grove. He stated that any development will have more roofs, blacktop areas, etc., so unless some acceleration is accepted by lower property owners it would be impossible to develop any kind of plat. He stated that the Courts say

as long as the developer does not go beyond reasonable use of his property, he has a right to discharge water with somewhat more acceleration to lower properties. He stated that it would have to be proven that Walnut Grove is not a reasonable use, which Mr. Schab stated he does not think this could be proven if it came to Court.

Mr. Schab stated that another concern is that the tiles as they are coming through the plat should have been received by another tile in Wrens Cross on the lower side. He stated that it is impossible to provide a tile on each property line. He stated that the tiles were put in at such a point that the brunt of the water was taken over to be carried by one tile which is two lots further up. The development plan as it was submitted with Wrens Cross, did show specifically that there would be swales around the house and how the water should be coming around. He stated that he does not know what the agreement was between the owners and the builder; however, it is his understanding that the Costello's lot was wooded and it was claimed that the wooded lot should not be destroyed. Therefore, because these trees were left in place, the swale was not made as deep on the lot. He stated many hours were spent to find an acceptable solution to the problem. He stated a solution was to be worked out between the builder and the owners. As it is shown now, this grading is acceptable. This present grading should be given time to prove itself.

Mr. Schab stated that Mrs. Costello contends that an error was made in elevations in the preliminary plan versus the final plan. He stated that on the preliminary plan, the elevations were taken from the USGS maps. The final plan has to be based on Montgomery County Benchmarks which differs more than four (4) feet in this case. Yet each map shows properly the way the land is sloping. The claim that the pipe was installed in the wrong place is, therefore, unfounded. The swales that were put in not adjacent to the property lines but in the middle of the lot was an agreement with the builder in order to save the trees. Mr. Schab stated that he would like to point out that the general area which is coming into the lower area is not receiving more water than it was prior to development.

Mr. Schab stated that he agrees that when the area was under construction there was junk and debris being swept down from the catch basin and discharged into Mrs. Costello's lot. He stated that in now looking at the street, it is clean and is being maintained. He stated that since construction is now complete, we should wait for a period of about six (6) months to see if additional debris is being carried through the drain tile. If this is the case, corrective measures could be required under the maintenance bond.

Mr. Schab stated that the issue that is really before Planning Commission at this time is the release of the performance bond for Walnut Grove. The bond is posted by the developer to make sure he is going to do everything that is shown on the construction drawings. The developer of Walnut Grove has fully complied with the obligations that were required. Therefore, it is staff's recommendation, to release the performance bond of \$168,500, subject to receipt of a maintenance bond in the amount of \$8,425 to expire after one (1) year, unless additional corrections (which are clearly the responsibility of the developer) become apparent.

Mr. Chappell asked if this matter has been discussed with Mr. Farquhar.

Mr. Schab stated it had been discussed with him as well as the City Manager. It was the opinion of Mr. Farquhar that the purpose of the bond has been served and it is now the responsibility of the City to release it.

Mrs. Costello, 280 Kimbary Drive, read an article from the Centerville-Bellbrook Times written by Commissioner Paula MacIlwaine. The article stated that the developer who does not plan for proper runoff to down stream property owners should be liable. Mrs. Costello also read a portion from a book written by the Ohio Department of Natural Resources concerning the increase of general erosion which results from changes in storm water runoff from land being developed. Such changes include increases in peak grade, volume, duration and frequency of runoff. Mrs. Costello stated that this is one of their problems and she does not understand why the State says one thing and the Town allowed this to be done.

Mrs. Costello stated that the swale through their yard should be further back. She stated that the builder originally placed the swale going five (5) or six (6) feet from their patio. Because they had no yard whatsoever, the Costellos persuaded the builder to place the swale further back. The builder refused to do any work other than grading. Mrs. Costello stated that there is more to the problem than just the amount of water that the pipe empties into their yard. They get garbage as well as soap when people wash their cars, chlorine from swimming pools, etc.

Mr. Tate stated that he does not feel that this matter is properly brought up before the Planning Commission. He stated that as far as the problems that they now have, there is nothing the Planning Commission can do. It is far beyond that point. As the lots are further developed and sod is put in place, this will help with the runoff. He stated that by not pursuing this problem with the builder, it may be too late to do so.

Mrs. Costello stated that the builder has filled his obligation by getting the water away from the house. She stated that they have looked into having the swale moved behind the trees and the cost was estimated at \$3,000. She stated that what she is worried about is further erosion once the grass comes in.

Mr. Tate stated he thinks they will see some improvement by spring. As people plant trees and bushes this will help the runoff problem.

Mr. Samples asked Mrs. Costello what her objective was in bringing this matter to the Planning Commission.

Mrs. Costello stated that they have been working with Mr. Schab, Mr. Bill Johnson, and the builder in order to get the problem resolved. She stated that it is the impression of these people that there is no problem for which they are responsible. She stated that they feel that when Walnut Grove developed their land, they should not have been able to put in an open pipe which empties into their yard. She stated that they felt there was a mistake made on the approval and possibly the developer could be made to correct it under the bond.

Mr. Bergsten stated that if the Planning Commission approved the Walnut Grove subdivision with an open pipe of this type, they made a big mistake. She stated that he thinks the developer of Walnut Grove should do something about the situation.

Mr. Schwab stated that what we are dealing with is mostly a matter of policy. He stated what we are doing in the Walnut Grove plat is not untypical of what we have done in other plats within the City as well as in the Township. This is not an unusual situation. There are unique circumstances. You are dealing with a poorly drained soil anyway. He stated you are talking about the water that comes from a catch basin and taking it under ground to some type of discharge point. The new drainage people are now saying that one way to control peak runoff is to use natural drainage. That is, to get rid of all these underground drainage pipes and let the water soak into the ground.

MOTION: Mr. Tate moved to release the performance bond for Walnut Grove subject to receipt of a maintenance bond of \$8,425.

There being no second on the motion, Mr. Tate directed the bond to be turned over to Mr. Farquhar.

NEW BUSINESS

Salisbury - Vacation of Plat

Mr. Schwab stated that the developer of Salisbury has filed with the Court of Common Pleas for a vacation of the plat. This action must follow this procedure because it is located in Washington Township. Since the City of Centerville holds the bonds for Salisbury, the Planning Commission is being requested to release the bonds contingent upon the Court of Common Pleas vacating the plat. If the Court does not vacate the plat, then the bonds would still be in effect. The issue we are addressing is not vacating the plat, but is the release of the bonds and termination of the Subdivider's Agreement. The plat is located south of Mad River Road and east of Yankee Street in Washington Township.

Staff recommends approval with the following condition:

1. The performance bonds on Salisbury plat be released conditioned, however, upon the vacation of said plat by a Court of competent jurisdiction. If said plat is not vacated, said bonds to remain in full force and effect.

Mr. David Bart, attorney representing Mr. Robert Zimpher (owner of the only house in the Salisbury plat) stated that they are involved in making an agreement with the Walnut Grove Land Company to take over the plat. For this reason, he requested that the Planning Commission not take action on the vacation of the plat.

Mr. Schwab stated that his understanding is that if the decision is delayed until the Court decision, the bonding agreement already in effect will require that the person who entered into the bonding contract will be responsible to pay the first year fee on the bond. The advice of the City Attorney is to allow the Court to decide the vacation of the plat and the Planning Commission should release the bonds subject to the decision of the Court to vacate the plat. He explained that action by the Planning Commission will not affect the vacation of the plat--it will only release the bonds and terminate the Subdivider's Agreement should the Court vacate the plat.

MOTION: Mr. Horvath moved that the performance bonds on Salisbury plat be released conditioned, however, upon the vacation of said plat by a Court of competent jurisdiction. If said plat is not vacated, said bonds to remain in full force and effect. Mr. Bergsten seconded the motion. The motion was approved unanimously.

Olympic Industrial Park - Revised Preliminary Plan

Mr. Schwab stated that this plat already has a record plan that was approved several years ago. Our ordinance does not provide for a termination of that agreement. That approved record plan could be recorded at any time. What the Planning Commission is being asked to do tonight is to consider a preliminary plan amendment for obviously a possible amendment to that approved record plan. The area is located north of Thomas Paine Parkway and east of Bigger Road in the City of Centerville. The zoning on the 37.82 acre parcel is I-1. The plan is proposing 28 lots.

Mr. Schwab stated that one thing not on the plan is the right-of-way encroachment on the two (2) lots fronting on Bigger Road for the I-675 project. Staff recommendation is to approve the revised preliminary plan subject to the following conditions:

1. The future possible right-of-way line for the two lots fronting on Bigger Road be shown on the plan.
2. The applicant recognize that the proximity of the proposed intersection of Olympic Drive with Bigger Road would almost certainly have to be restricted to right-in and right-out movements if the I-675 Bigger Road bridge is constructed.
3. The applicant recognize that the configuration of the two proposed lots fronting on Bigger Road would be greatly impacted by the construction of the I-675 Bigger Road bridge and temporary Bigger Road bypass.
4. The approval be conditioned on the Ohio Department of Transportation approving this plan.

Mr. Schwab stated that regarding the construction of I-675 Bigger Road bridge and temporary Bigger Road bypass, the Department of Transportation wanted the applicant to be aware that the State may have to buy these two lots and whatever is on them at the time of parcel acquisition.

Mr. Horvath asked what would happen to the access.

Mr. Schwab stated that would be something that would have to be worked out.

Mr. Schwab stated that regardless of what the Planning Commission does, the Ohio Department of Transportation has 120 days from the date of notification of this particular plan to buy any portion of that right-of-way. He stated that the indication is that the State is considering buying the two lots fronting on Bigger Road.

Mr. Bob Archdeacon, representing Ralph Woodley, stated that the reason for moving on this project at this time is to make some more industrial land available in the City of Centerville.

MOTION: Mr. Horvath moved to recommend to the Council approval of the revised preliminary plan for Olympic Industrial Park subject to the following conditions:

1. The future possible right-of-way line for the two lots fronting on Bigger Road be shown on the plan.
2. The applicant recognize that the proximity of the proposed intersection of Olympic Drive with Bigger Road would almost certainly have to be restricted to right-in and right-out movements if the I-675 Bigger Road bridge is constructed.
3. The applicant recognize that the configuration of the two proposed lots fronting on Bigger Road would be greatly impacted by the construction of the I-675 Bigger Road bridge and temporary Bigger Road bypass.
4. The approval be conditioned on the Ohio Department of Transportation approving this plan.

Mr. Chappell seconded the motion. The motion was approved unanimously.

Wellington Park, Sec. 1 - Record Plan (Street Dedication)

Mr. Schwab made a slide presentation of the record plan for Wellington Park, Section 1, located north of SR 725 (Alex-Bell Road) and east of Loop Road in the City of Centerville. The zoning on the .534 parcel is I-1. This property was before Planning Commission for a rezoning request earlier in the year. At the present time, the issue is still before Council. The concern of Council is that there only be one (1) access from the B-2 portion to Alex-Bell Road. The indication from Council is that they would be favorable if a restriction were placed on the deed to limit that access. This restriction is causing a problem because the area involves two property owners. In order to resolve the problem, some type of land swap is going to take place. The purpose of this street dedication is primarily to provide a land swap between the two property owners which would open up an avenue to have that condition put on the deed.

Staff recommendation is to approve the street dedication with the following conditions:

1. The proposed street be named on the plat.
2. The centerline of the proposed roadway be moved to line up with the centerline of the northernmost curb cut of Gold Circle onto Loop Road.
3. Two fire hydrants be added to the plan which meet with the approval of the Washington Township Fire Department.
4. A performance bond and inspection fee be filed in amounts approved by the City Engineer.
5. The applicant agree to extend the approval period 30 days and submit an amended plan reflecting these conditions to the City Council.

Concerning the condition of fire hydrants, Mr. Bob Archdeacon representing the developer, stated that they would rather wait until a development pattern is established before putting them in.

Mr. Tate stated that the plan can be approved with fire hydrants to be put in at the time of development.

Mr. Samples stated he has never seen much traffic at the northernmost curb cut of Gold Circle on Loop Road. He asked if staff is concerned about future traffic.

Mr. Schwab stated that the concern is with further development. Should the property to the north of Gold Circle develop and join into the parking area of Gold Circle, it would create a major access point.

Mr. Archdeacon stated that the basic reason for the road being placed where it is, is because of agreements that have been reached between the property owners that they share equally in the dedication of the right-of-way from their property.

Mr. Samples asked what would be the problem with putting in a "S" curve, in order to align the road with the curb cut to the west, as suggested by staff.

Mr. Archdeacon stated that you would be making a more hazardous situation than the offset would generate.

Mr. Schwab stated that we are not dealing with a small parcel. When it is fully developed, this will be a major access point. To put that at an offset right in the area of where it is a problem with the curb cut on the west side of Loop Road, is going to be a mistake.

Mr. Horvath asked if this situation is going to be another Marco Lane.

Mr. Vic Green stated that you are never going to get as much traffic on Loop Road as you do on SR 48.

Mr. Horvath stated that if the area develops as it is proposed by the applicant, you are going to generate a substantial increase in traffic.

Mr. Green stated that that will be primarily residential. The development will involve 42 acres. You do not create a lot of in and out traffic with residential development. You are only talking about 200 families.

Mr. Horvath stated that there is a pat deal here between the two property owners and we are going to mess it up if we do not approve it in the proposed form. He stated that he isn't sure if he wants to give up planning for a pat deal.

Mr. Green stated that the "S" curve might create more problems than the offset. He stated that if Gold Circle were to expand their development, it would be very easy for them to move the driveway. That would not be very expensive for them to do.

Mr. Tate suggested to move the whole road down.

Mr. Green stated that you couldn't do that because the one property owner would not be participating in the right-of-way dedication. He stated that the road has to stay on the property line. It is economically feasible.

MOTION: Mr. Samples moved to recommend to the Council approval of the record plan (street dedication) for Wellington Park, Section 1, with the following conditions:

1. The proposed street be named on the plat.
2. Two fire hydrants be added to the plan which meet with the approval of the Washington Township Fire Department.
3. A performance bond and inspection fee be filed in amounts approved by the City Engineer.
4. The applicant agree to extend the approval period 30 days and submit an amended plan reflecting these conditions to the City Council.

Mr. Chappell seconded the motion. The motion was approved 6-1.
Mr. Horvath voted no.

Polo Club Estates

Mr. Jim Schneider of the Centerville-Washington Park District, submitted a letter to members of Planning Commission concerning the three (3) acre proposed park in Polo Club Estates. Mr. Schneider explained at the time of approval for Section 3 of Polo Club Estates, the developer did not want to put the deed to the park lot in escrow until Section 4 was developed. He stated that it has come to the attention of the Park District that the developer does not intend to develop Section 4 and the proposed park lot is up for sale for residential purposes.

The Park District has proceeded with plans to acquire six (6) acres from the Thomas Farm to the east in order to expand this proposed park. Mr. Schneider stated that the approved preliminary plan required a 53 foot access to the three (3) acre park lot. He stated that it is the request of the Park District that the Planning Commission take appropriate action to help make this park a reality.

Mr. Tate stated that staff will have to check with Mr. Farquhar to see what type of action Planning Commission can take.

Mr. Schwab stated that we can do that, however, there was only a gentlemen's agreement made and nothing would be binding. When that section is sold and another developer brings in the area of the park lot for approval, the Planning Commission would have some leverage at that time.

Mr. Tate stated at this point all we can do is wait for a new plan to come in we will see what we can do with it.

Mr. Schwab stated that in the future if someone offers us a piece of land, we should accept it.

There being no further business, the meeting was adjourned.

1-27-81
Elmer Tate