

CENTERVILLE PLANNING COMMISSION
REGULAR MEETING
Tuesday, May 29, 1979

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

Attendance: Mr. Elmer C. Tate, Jr., Mr. Francis Cash, Mr. Dallas Horvath, Mr. Brian Bergsten, Mr. Bernard Samples, Mrs. Marian Simmons. Absent: Mr. Roland McSherry. Also present: Mr. Alan C. Schwab, City Planner; Mr. Karl M. Schab, City Engineer; Mr. Joseph S. Minner, Administrative Assistant; Mr. Robert N. Farquhar, City Attorney.

SETTING OF PUBLIC HEARINGS

The following items were set for public hearings on Tuesday, June 26, 1979 at 7:30 p.m. in the City Building:

Standard Oil Company - Sign Variance

Location: Northwest corner of proposed Olympic Drive and Wilmington Pike

Centerville High School - Sign Variance

Location: 500 East Franklin Street

COMMUNICATIONS

Mr. Schwab stated that the Home Builders Association has again requested approval of temporary signs to promote the Homearama program. A deposit of \$100 has been filed with the City Clerk to insure that the signs will be removed as in the City's past policy. The signs are to be placed on June 15, 1979 through July 7, 1979 and will be located at the major intersections in the City. Beechwood One will be the site of Homearama.

Mr. Tate stated that the resignation of the BAR has created a problem in the transaction of business with the BAR and the City of Centerville. He stated that Council has asked the Planning Commission to make some recommendation as to procedures to be followed. They have asked for five (5) members of the Planning Commission to take over membership of the BAR on a temporary basis. They suggested that any business of the BAR could be handled during a regular Planning Commission meeting on a temporary basis. He stated that Mrs. Simmons has worked with the AP business people over the past seven (7) or eight (8) months to develop a new AP ordinance that is more in line with the thinking of the business people, the BAR, and the Planning Commission. Mr. Tate stated that the Planning Commission has reviewed this proposal and this ordinance will be forwarded to the City Council along with the ordinance that they asked for. This will be forwarded as a study ordinance.

Mrs. Simmons stated that what they tried to do was to simplify the ordinance and make it more readable. She stated that the City will have a student intern this summer who will work on the Design Review Criteria.

Mr. Farquhar stated in order to give the powers and duties of the BAR to the Planning Commission on a temporary basis, a public hearing would have to be set for passage on an emergency ordinance in order to provide an amendment to the Zoning Ordinance. This would give the Planning Commission power for a period of sixty (60) days.

MOTION: Mr. Cash moved to take the form of the AP Ordinance that was formerly tabled, off the table. Mr. Horvath seconded the motion. The motion was approved 4-0-2. Mr. Samples and Mrs. Simmons abstained.

MOTION: Mr. Cash moved to recommend approval of the AP Ordinance in the form that was reviewed during a public hearing on September 12, 1978, with no changes to that form. Attached (to the above-mentioned form) is the form of the Ordinance that has been worked on by Mrs. Simmons, the BAR, and the business people in the APD. This form is to be labeled as a progress report on present thinking. The Planning Commission will be coming up with another recommendation within approximately six (6) months since Planning Commission will be working with new Design Review Criteria as outlined by a student intern. Mr. Bergsten seconded the motion. The motion was approved unanimously.

MOTION: Mr. Cash moved to recommend to City Council that an emergency ordinance be passed temporarily assigning the powers and duties of the BAR to the Planning Commission. Mrs. Simmons seconded the motion. The motion was approved 5-1. Mr. Samples voted no.

Mr. Tate excused himself from the meeting and Mr. Cash acted as chairman for the remainder of the meeting.

PUBLIC HEARINGS

Holloway, Frank L. - Variance on Side Yard Requirement

Mr. Schwab made a slide presentation on the variance application for a side yard requirement submitted by Frank L. Holloway for the property located at 90 West Ridgeway Road. The zoning on the parcel is R-1. The purpose of the request is to construct an additional garage and living space to the existing house. The side yard requirement per one (1) side is a twelve (12) foot minimum in a R-1 district. The request is on one (1) side down to three (3) feet. Total side yard requirement is twenty (20) percent of the lot width. In this case, the total side yard requirement for this property would be 31.5 feet--with approval of this variance, it would be down to 23.8 feet.

In reviewing the application, staff feels that the property is not unique, therefore, the request does not meet the standards of the ordinance which would allow a variance. It is, therefore, the recommendation of staff that the variance request not be granted.

Mr. Cash opened the public hearing.

Mr. Frank L. Holloway, applicant, stated that the members of the Planning Commission have a copy of the application and a letter stating why the request is being made. He stated that at the time of application, a copy of the variance checklist was not brought to his attention. He stated that the proposed design was chosen because it is economical and it uses existing area that is suitable and compliments the existing house.

Mr. Bergsten asked if the neighbors had expressed any concern regarding the proposed variance.

Mr. Schwab stated that there was no negative response to the variance request.

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

MOTION: Mr. Samples moved to deny the variance request submitted by Frank L. Holloway. Mr. Horvath seconded the motion. The motion was approved 4-0-1. Mr. Bergsten abstained.

Mr. Cash advised Mr. Holloway of his right to appeal the Planning Commission decision to Council.

Cochran, Virgil L. and Ruth H.; Mallot, Crystal E. - Variance on Side and Rear Yard Requirements

Mr. Schwab made a slide presentation of the requested variance on side and rear yard requirements. He stated that at the time the public hearing notices were sent out, the information included in those notices was based on the application submitted. He stated that after reviewing the application, he discovered that there would be a variance necessary on the front yard requirement and also the lot coverage requirement.

After much discussion regarding the purpose of the variance, Mr. Cash stated that since all the information was not contained in the public hearing notices, the public hearing would be reset for June 26, 1979 at 7:30 p.m.

MOTION: Mr. Horvath moved to table the variance request submitted by Virgil L. and Ruth H. Cochran, and Crystal E. Mallot until June 26, 1979, at which time the rescheduled public hearing will be heard. Mr. Bergsten seconded the motion. The motion was approved unanimously.

AN ORDINANCE AMENDING ORDINANCE NO. 15-1961, THE ZONING ORDINANCE BY DEFINING PROMOTIONAL DEVICES AND PROHIBITING THEIR USE IN ALL ZONING DISTRICTS.

Mr. Schwab explained that this proposed ordinance was drafted as a result of the opening of the Kroger store in the Centerville Place Shopping Center. This ordinance would clarify what was pointed out in court as a deficiency in our current ordinance--that it does not explicitly define a search light as a sign. This ordinance would define a promotional device as "any beacon, signaling light, spotlight or similar apparatus, equipment or device used or designed for use in connection with the promotion of the opening, reopening, anniversary, special event or ordinary business operation of any business or retail or wholesale operation except a light which is used solely to illuminate a sign or building". Under the regulations of the sign ordinance, all promotional devices would be prohibited in all zoning districts. Mr. Schwab stated that with the addition of these two (2) changes to the existing zoning ordinance, it would clearly restrict the use of search lights or a similar type light to zero.

Mr. Cash asked if a special permit had been considered for allowing this situation for a special event.

Mr. Farquhar stated no, not during the writing of this ordinance. He stated it was his impression that the desire of Council was not to permit promotional devices at any time. He stated that this request by Council was based on the many complaints received from the result of the use of search lights.

Mr. Cash asked if this ordinance could be passed to Council with no recommendation from the Planning Commission.

Mr. Farquhar stated that could be done.

MOTION: Mr. Horvath moved to forward the ordinance onto Council with no recommendation from the Planning Commission. Mrs. Simmons seconded the motion. The motion was approved unanimously.

UNFINISHED BUSINESS

Thomas Paine Settlement #3 - Preliminary Plan

Mr. Schwab reviewed the preliminary plan for the third section of Thomas Paine Settlement which would complete the condominium project. He stated that the reason the plan was tabled was that staff recommended that Clyo Road be built to thoroughfare standards as part of the original project, and that the land to the south as well as Clyo Road be included in the preliminary plan.

Staff recommendation would be to table the preliminary plan for Thomas Paine Settlement #3 until possibly a subcommittee could work out some of the problems with the plan concerning the thoroughfare improvements for Clyo Road.

Mr. Bob Archdeacon, representing the developer, stated that they agree with having some negotiation meetings with a special subcommittee to study the future of Clyo Road.

Mr. Bergsten and Mr. Samples volunteered to serve on the special subcommittee.

MOTION: Mr. Samples moved to propose to Council that a four (4) member subcommittee be formed to investigate the future of Clyo Road and other related matters, with fifty percent (50%) of said membership coming from City Council and fifty percent (50%) of said coming from the Planning Commission. Mr. Bergsten seconded the motion. The motion was approved unanimously.

NEW BUSINESS

Shell Oil Company - Site Plan Amendment

Mr. Schwab made a slide presentation of the request for a site plan amendment for the Shell Oil station located on the northwest corner of SR 48 and Spring Valley Road in the City of Centerville. The zoning on the parcel is B-2. The request would provide for relocation of the pumps and construction of canopies over the pump areas. There is no signage being proposed in the application.

Staff recommendation is to approve the site plan amendment as submitted.

Mr. Cash asked the height of the canopies.

Mr. Schwab stated that they are thirteen feet, six inches (13' 6").

Mr. Schas stated that in order to maintain a good site distance, perhaps the motion should include a condition so that no signage could be placed below that area.

MOTION: Mr. Horvath moved to recommend approval of the site plan amendment for Shell Oil Company to Council as submitted with a condition that a 13' 6" clearance be maintained so that no future signage or any other apparatus can be suspended below that area. Mrs. Simmons seconded the motion. The motion was approved unanimously.

Standard Oil Company - Curb Cut Request

Mr. Schwab stated that the curb cut request is to allow one (1) curb cut on Wilmington Pike and one (1) curb cut on Olympic Drive. The site plan submitted by the Standard Oil Company originally showed two (2) curb cuts on Olympic Drive. The curb cut request has omitted the one (1) curb cut on Olympic Drive. The request is for a 35 foot curb cut which would be a right-in only.

Mr. Schwab stated that under the curb cut ordinance in a B-2 zoning district this lot would allow one (1) curb cut on each frontage provided those curb cuts would be approximately between 25 feet and 55 feet in width and provided they are not within 50 feet of the intersection of the right-of-way lines. He stated that the Wilmington Pike Task Force has recommended that no curb cuts be given on Wilmington Pike. The only access to this site should be generated off of Olympic Drive.

Staff recommendation is to limit access to Olympic Drive only, in accordance with the recommendation of the Wilmington Pike Task Force.

Mr. Cash asked if the Wilmington Pike Task Force and the Transportation Coordinating Committee (TCC) had seen this particular application.

Mr. Schwab stated no they had not.

Mr. Cash asked if the application could be submitted to them for their recommendation and the application could be tabled until that time.

Mr. Schwab stated it would be submitted to them. He stated that under the ordinance, action must be taken within fourteen (14) days unless the applicant would agree to tabling the application.

Mr. Robert Albright, attorney for Standard Oil, stated that Wilmington Pike does now exist. Olympic Drive does not exist. He stated that Standard Oil wants only one (1) curb cut on Olympic Drive and not two (2). He stated that they do insist and do have a right to a curb cut on Wilmington Pike. He stated that because the developer has not posted the bond, Olympic Drive has not been constructed. He stated that Standard Oil cannot do anything about that. Mr. Albright stated that the curb cut on Wilmington Pike will be utilized as an entrance only when Olympic Drive is constructed. He stated that he does not care what the Task Force is recommending. The Task Force does not have the right to take away the right of ingress and egress on Olympic Drive or Wilmington Pike. He stated that they are going through the steps to enforce

that right. He stated that they are willing to enforce that right and get it in a reasonable manner that is justified in how it should be in regards to traffic. He stated that is why they are here. He stated that if the deceleration lane is moved further to the north, it defeats the purpose of that lane.

Mr. Cash asked why a 35 foot curb cut is needed if it will only serve incoming traffic.

Mr. Albright stated that a 35 foot curb cut is not really the issue; however, the 35 foot width is a matter of safety.

Mr. Cash stated that a 35 foot curb cut would encourage a left turn exit movement.

Mr. Albright stated again he does not think the 35 foot width is the issue. Signage will be placed stating that curb cut is not an exit. He stated that their traffic engineers think a 35 foot curb cut is a better width for a curb cut from a deceleration lane.

Mr. Bergsten stated that a 35 foot curb cut just invites two-way traffic.

Mr. Albright stated it might invite it, but not if you have proper signage or curbing.

Mr. Bergsten stated that it could not be controlled by signage.

Mr. Albright stated it could be controlled with signage which would be enforced by the police.

Mr. Farquhar stated that at this time the City would have no control in order to enforce signage on private property. He stated that an ordinance would have to be passed in order to do this.

Mr. Bergsten stated that he does not think that an ordinance of this type would be effective.

Mr. Cash asked Mr. Albright if Standard Oil would develop the service station even if Olympic Drive does not go in; and if that is the case, then would you generate two-way traffic from the curb cut on Wilmington Pike.

Mr. Albright stated yes they would. Standard Oil does have a binding contract with the developer that includes building a 36 foot street. He stated that Standard Oil would have certain enforcement rights there. However, that does not mean that the developer will build the street-- it may take litigation to require him to do it.

Mr. Cash stated that then if the service station does go in, it will go in under that contract that states there will be an Olympic Drive.

Mr. Albright stated that yes, that is correct.

Mr. Cash stated that a 35 foot curb cut on Wilmington Pike with about a 45° angle coming in off of Wilmington Pike does not appeal to most of the members of Planning Commission to provide any assurance against left turn traffic from the service station out onto Wilmington Pike.

Mr. Albright stated that the only way Standard Oil can assure the Planning Commission of that would be the cooperation of the City of Centerville by passing an ordinance which would allow enforcement of signs on private property and the signage which Standard Oil would provide.

Mr. Cash stated that it is the feeling of Planning Commission that perhaps a narrower curb cut with a somewhat different radius would be more desirable.

Mr. Albright stated that would have to be discussed with the traffic engineers from Standard Oil.

Mr. Cash stated that is why he originally suggested that the design should be reviewed by the TCC which has engineers on their staff that could possibly work with the traffic engineers from Standard Oil to come up with a design that would be acceptable to everyone.

Mr. Albright stated that Standard Oil has been playing with this thing for months and they would rather have the application denied than to have it tabled. He stated that they were tired of playing. He stated that this proposal has been discussed by their staff for a year.

Mr. Cash asked Mr. Schwab who is consulted for the traffic engineers' recommendation.

Mr. Schwab stated that the first review is done by City staff. It is then submitted to the TCC and the Ohio Department of Transportation (ODOT).

Mr. Schab stated that the Wilmington Pike Task Force, in its adopted plan, has recommended that no additional curb cuts be granted on Wilmington Pike other than those included in that plan. He stated that should a deviation be made from that adopted plan, it could set a precedent.

Mr. Cash stated that there are two (2) questions before the Planning Commission:

1. Is a curb cut on Wilmington Pike going to be permitted?; and
2. Is the particular curb cut shown on the submitted drawing going to be permitted?

Mr. Minner stated that in terms of controlling a no left turn situation, the Police Chief would certainly recommend not to create a law enforcement problem if it can be prevented by design.

Mr. Cash stated that not only would a left turn be invited, but a right turn would be possible also.

MOTION: Mr. Bergsten moved that the specific curb cut off of Wilmington Pike requested by the Standard Oil Company be denied (drawing #DAY382-C, dated 5-2-79). Mr. Samples seconded the motion.

Mr. Bergsten explained after being questioned by Mr. Albright, that the specific curb cut on Wilmington Pike shown on the submitted application

is being denied. He stated that does not mean that he is denying perhaps a design which would be approved by the TCC.

Mr. Schwab stated that the Wilmington Pike Task Force is separate from the TCC in submitting projects for recommendations. He stated if a recommendation is wanted specifically from the Wilmington Pike Task Force as to whether a curb cut is desirable on Wilmington Pike in a different design, it should be requested as such. Otherwise, TCC could simply review the application as a curb cut on Wilmington Pike.

Mr. Cash stated that the motion has been given. However, it could be forwarded to TCC to see what type of configuration would be recommended if a curb cut were permitted along Wilmington Pike.

Mr. Samples withdrew his second to the motion.

Mr. Albright stated that they would agree to tabling their request and Standard Oil would submit the application to the State of Ohio for their recommendation.

Mr. Cash stated that a limit of the next regular Planning Commission meeting would be placed on the application in order to give the proper agencies adequate time to review the request.

Mr. Schwab stated that he wanted to point out that the City would submit the application to the appropriate bodies for recommendations and would not rely on the Standard Oil Company.

FINAL MOTION: Mrs. Simmons moved to submit a request to the TCC and State of Ohio (ODOT) to review the application concerning the curb cut along Wilmington Pike. The curb cut application shall be placed on the table until those recommendations have been received by staff.

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

There being no further business, the meeting was adjourned.

3/31/81
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