

CENTERVILLE PLANNING COMMISSION

Regular Meeting
September 24, 1974

Those Present: Messrs Maxton, Myers, Tate, Gillingham, Baker & McCrabb and Mrs. Lake. Also Present: Mr. Winterhalter, City Planner and Mr. Schab, City Engineer.

The Minutes of the August 27, 1974 meeting were approved

Mr. Maxton explained the meeting and public hearing procedures.

Communications

Mr. Maxton made reference to a letter from Mr. Sealy regarding Hyde Park. Mr. Winterhalter will research this.

Mr. Baker referred to the listing of zoning ordinance revisions as received at the last meeting. He said his files reveal additions for this list and asked Mr. Winterhalter to review these and determine if they should be added to the list. Those he suggested might be added are: Ord. 12-66, 18-69 (amending 28-68, which is not on the list either), 48-70, table 7 of 4-61, 26-69 (may be emergency ordinance), 21-68 (re: subdivision regulation - probably the most important on the list), 28-58 (numerous pages of basic regulations).

Mr. Winterhalter mentioned a letter (copy given to members) from Mr. Ferguson. Mr. Maxton said he had just received the copy and had not had opportunity to review it and he would also like to discuss it with the City Attorney first, rather than take time at this time for discussion.

Mr. Gillingham referred to the September 16 meeting with Council regarding the C. C. C. C. 35 acre proposed park. He said other interested architects have been added to the list as suggested. He began reading a letter he was asked to prepare, elaborating on his previous report. He said the basic content remains the same - this letter simply contains more detail. He said Council had indicated they were pleased with the report, but dis-pleased that the Planning Commission had not voted on it. He mentioned that the 'Tot Lots' had been moved up in priority, due to the fact that some adults who may participate in other activities may wish this 'Tot Lot' to be available sooner.

The reading of the letter by Mr. Gillingham was interrupted several times for discussion. Mr. Myers said that he would like to know what money is available. Mr. Gillingham said that is not a part of this preliminary report. Mr. Maxton said we have to start somewhere, we need professional guidance and planning assistance. Mr. Myers said that "you may want to change the priority depending on money available."

Mr. Gillingham made reference to the availability of 'match funding'. Mr. Myers asked that this be explained. Mr. Gillingham said that at this time the government will match, dollar-for-dollar, for a specific thing - last year it was another and next year it will probably be a different thing. Mr. Myers asked why we have to go to the government, when can we become self-sustaining so we do not have to be told what our priorities are. Mr. Maxton said it would be foolish not to get Federal money if it is available. Mr. Myers said he does not agree. Mr. Maxton said we are getting off the track, we are to consider the maximum plan for the 35 acres. Mr. Myers feels this cannot be done without knowing about available money.

Mr. Gillingham said that it has been determined by survey that the pool is desired. Mrs. Lake said she feels Mr. Myers' plan has merit. This will come back, she said, that this is what Planning Commission recommended - this is why a vote is required, we will be responsible for recommending this. She said that, for instance, if funding is available for an uncovered pool and we have a covered pool as our priority, we may not get the 50% funding - these things can make a difference. I think we have to ask these questions, she said, if we are going to commit ourselves, I would like to read the letter. I think the people should have a say, even if it is just to come in and bring their point up. She said that if a bond issue comes up, they may vote against it just for a point (which they should have the opportunity of voicing, rather than voting against an issue).

Mr. Gillingham said that it was not practical to go out and ring door bells asking for everyone's opinion. He said that with the public you have to have two or three choices or you won't accomplish anything. Mrs. Lake said that the survey previously mentioned was not conclusive. Mr. Tate said that as long as you are adding priorities, you can just keep adding items. Mr. Baker said that he thinks the wording of what is on the priority list is very important, at the same time he thinks that the Planning Commission should, as a matter of duty, tell Council what we want. If we cannot agree, he said, perhaps they should be deleted from the list. If we recommend, we are responsible. If we don't want to decide now, we can have more meetings on this to determine what we want. Mrs. Lake said she did not have a copy of the enlarged report. Mr. Gillingham reiterated that there was nothing new on this report and continued reading same.

Mr. McCrabb said that when we initially heard from the different areas involved in the center, he thought we had a pretty good cross-section and had a type of public meeting at that time. He said that at first each body thought the 35 acres was their domain and should be devoted entirely to their area. As was said, at least 50 different possibilities were proposed and I think this has been broken down into major priorities. Basically I feel the report is accurate, and a good one, he said.

Mr. Maxton said he feels the committee has done a fine job and should be commended. I think this is a good start, he said, and should not be

considered final. We now need to have a professional planner look at this and determine what can or cannot be built on this land and we can start from there. He feels the report, as is, is good and should be forwarded to Council.

Mr. Baker said he thinks there is a big difference in the way it may be interpreted. . . . we have put a high priority on what might be a \$1.5 million project and perhaps all the rest could be obtained for this amount or less. I think we should reconsider, he said, and see if this should be this high on the priority list. I would not vote for this, he said. Mr. Maxton asked him what he would like to do. Answer: I think we should have more discussion and perhaps a workshop

Mr. Myers said that, to repeat, you cannot build a house without knowing what it is going to cost. Perhaps (some) should have priority if this is all we have the money for, but if we have enough, we can, for instance, go ahead with the indoor-outdoor pool.

Mr. Gillingham said you do not go out to the public and get the money and then determine how to spend it, you determine what you want and see if the people will pay for it. He said professionals can determine the cost, but he feels nobody here is qualified to determine this. Mr. Myers said that perhaps we should get the professionals first. Mr. McCrabb said that you have to point the architects in the direction we want to go. Mr. Myers said he wants the architects opinion before this is turned over to Council. Mr. Gillingham said that Council will not hire an architect until they get the P. C. vote on this. Mr. Maxton said this is not a finalized action, this is something from which to work.

Mr. Myers asked why Council demands that we get our signatures on that, and Mr. Gillingham said they want to know that this is not a letter from me. Mr. Myers said "we give our endorsement in the minutes." Mrs. Lake said that anything she signed would have to have a statement that this was not a final priority, but just a shopping list. She cited several reasons - the survey, input from the boards and justification for some of the priorities. She said that if she were asked why we need (one of these items) she could not tell why. i. e. some of the items might seem like duplicates of other places available in the city - are we utilizing what we (now) have? How much will (a specific item) be used? If I am going out to sell this to the people, she said, I must know why. I have not had this type of rational, she said, and am not in a position to defend it. She feels the C. C. C. C. did an outstanding job. She suggested a workshop to see what rational made them come to their decision.

Mr. Tate said that if this is not coming from current revenue it must come from a bond, levy, income tax, etc. and that list is not one I want my name on. Mr. Tate asked why a vote is necessary - the commission concurs that it is a good report.

* Mr. Maxton moved that the C. C. C. C. report as read by Mr. Gillingham be forwarded to Council as is. Seconded by Mr. Gillingham. Motion denied 5-2. Those in favor, Mr. Maxton and Mr. Gillingham.

* Mr. McCrabb made the motion that this be taken to a workshop to gain a better understanding and to comply with Council's request to give them a report. Seconded by Mr. Maxton.

Mr. Myers said he would like the architects at the workshop. The fact that it would be difficult if not impossible to get competing architects to donate their time for this purpose was discussed. The architects need to know what we want before they are brought in, it was said. Mr. Gillingham said that since this was voted down, perhaps some other member should prepare a report. Mr. Tate said that to have a workshop is questioning the committee. Mr. McCrabb said that he is not questioning that, he just feels we should have a better understanding.

* Mr. McCrabb's motion for a workshop was approved 5-2. Those opposed being Mr. Gillingham and Mr. Myers. The workshop was tentatively set for Tuesday, October 8, 1974 at 7:30 p.m.

Public Hearings

V-74-10 - Variance to change name of non-conforming sign (freestanding) in Franklin Plaza.

Mr. Winterhalter explained that the sign is slightly more than a year old and is located in a strip shopping center with the identifying sign. The applicant has requested a name change to Centerville East to help avoid confusion with the Franklin Shopping Center in Franklin, Ohio. He said the freestanding sign is a legal non-conforming sign and with this change, the P. C. has to be asked.

Mr. Robert Ferguson, the applicant, (122 N. Main Street) said that this change was originated by the lessees to avoid the aforementioned confusion. (No one spoke in opposition to the change.)

* Mr. Maxton made the motion to approve this V-74-10 variance for name change from Franklin Plaza to Centerville East. Seconded by Mr. Tate. Approved 6-1, Mr. Baker being the opposing vote.

V-74-11 - Administrative Appeal on City Manager's ruling regarding Group Home allowed as single family use on Sheehan Road.

Mr. Winterhalter explained that the challenge concerns the definition of family. He read the definition from Pg. 4 ('61) Family: one or more persons living as a single housekeeping unit as distinguished from a club, fraternity, hotel

or sorority house
man's house

He said the key issue tonight is whether or not this fits the definition of a family. This has been to staff, he said, and the City Manager ruled that a group home does fall into the definition of family. All other points are irrelevant to the issue. He said there are various other courts where this definition of family has been upheld.

There was a lengthy discussion as to whether this should be heard as a Board of Zoning Appeals or a Planning Commission. Some said that if it were held as a BZA it could not be appealed, but that Mr. Muzecek should have the right to appeal. It was determined to be heard as a B.Z.A. as a variance to an administrative decision - a poll was unanimous that this case should be heard with the P. C. acting as a B.Z.A., the applicant having the right to appeal.

Mr. Robert Muzecek, 9535 Sheehan Road, said that they were talking about the legal aspects regarding Ohio Bldg. Code. I am not trying to determine whether it fits the code, he said, but how it fits in regard to families. Re. parental rights or responsibilities - no set time, the children can be put in or taken out at any time. This can be a transient situation, could be used for dropping off other clients which would confirm that it is a transient situation. Also, he said, the houseparents are not houseparents, we are talking about people who are paid by the county. This is not a foster home. Also, the legal guardians do pay (on a sliding scale according to their ability to pay). Anyone can be a houseparent - there are no restrictions. The people who start this, he said, may be married - but they may leave. Mr. Muzecek then made reference to the situation at the Dayton Forrest Ave. home with a part-time cook, housekeeper, etc. He said this is not a family, yet under the rules and regulations set down by the city, it does fill this requirement but doesn't fit the definition of a family. We are giving these people a service (the clients pay for it) - this is a care facility. He made reference to the definition "...as distinguished from club, hotel, fraternity, etc." - how are they distinguished, he asked, why is a hotel different than a fraternity? This falls under BB-53, which is not family - but which is for fraternities, etc. Nowhere, he said, in any of the legal cases, or minutes, or discussions, has this been said that this is a family - it is that they are a group of people living as a family.... (this) is defined by the Montgomery Co. Bd. for Mentally Retarded as a 'care facility', not a family. We must consider what it is, not what it is contended to be, he said.

Mr. Muzecek made reference to a letter from Mr. Schab, City Engineer, regarding BB-53. Re: the degree or level of educable or trainable clients. It is my understanding, he said, that some of these clients would be educable. Mr. Muzecek said some of these clients would be on medication and would have difficulty

responding to an emergency.

Mr. Muzecek made reference to Mr. Armour, City Bldg. Inspector, having re-measured the rooms and that they measured 168, 126, 123, 118 and 114 measuring stud-to-stud. He said the State requirement is 80 sq. ft. per bedroom for sleeping purposes. Based on this waiver, he said, there were eight (8) beds licensed. As this home stands now, he said, there will be nine (9) beds. Will there be a variance requested for the extra bed due to a bed being required for the young daughter of the houseparents to sleep. Also, will there be other beds added to this house? It is my understanding, he said, that guests would be coming in - would additional beds be required? Also, how long is a person a guest before he is a resident? Also, there is no office and this is a requirement. How will this fit, he said, what will the needs be, will they be met? If you are a licensed agency, you are a business, he said. This will be county-owned, the clients pay, a health permit is required, will the houseparents be required and are they qualified to administer required drugs? This is defined by the State as a care facility, not a foster home. His wife cooks without a permit.

Mr. Muzecek referred to a recent Centerville case regarding Mr. Jacoby having a business in his home, it was determined that he must live there, only 25% can be devoted to business, he may not hire anyone. This is county owned and they hire people - this is not in compliance with this ordinance. They (the group home) either do not comply or they are not a family.

Mr. Muzecek requested Mr. Winterhalter to read the definition of a Nursing Home. Mr. Winterhalter said that the attorney had given his opinion that on any ruling that the benefit goes to the applicant - if you fall under two or three, you would go to the one that would be more to your advantage. (The reference to applicant was the property owner.) Mr. Maxton requested Mr. Winterhalter to read the definition of a nursing home, which he did. Mr. Muzecek said he feels this group home fits the definition of a nursing home, not a family, and in light of this we are requesting the Planning Commission, acting as a Board of Zoning Appeals, to act accordingly.

Mr. Maxton polled the members for questions. Mr. Myers said he hoped his question is not unfair, but "is your objection to this house because of its proximity to you or are you against the homes for the mentally retarded in Centerville?"

Mr. Muzechek said he is glad he asked the question. There is a need, he said, it is important to step up to this. Bring it to the city and present the problem - have this reviewed and see where this fits, not find a place and see if it fits. Lay down ground rules and Planning Commission determine where this fits. It is my feeling, he said, that we should take any application and review it as a conditional use. He thinks Centerville should help, they have an obligation to the citizens. He feels that right now we are being told about good intentions and Forrest Ave. started with good intentions, too. Perhaps in a year from now we will have another Forrest Ave. You (commission) may walk away from it, but this cannot help those of us in Rose Estates.

Mr. Muzechek said that he could not see why a workshop was not held earlier. He said he received no answers to any questions asked on May 14, 1974. He said that no one (of the neighbors) had been talked to and it surprises him that in light of the confusion in other cities, none of the commission members came to his house or others in the area to see if we had been asked (by the applicant). We must step up to this, he said, but it should be reviewed, that way we can be a help and not have the strife for those affected.

Mr. Maxton asked anyone speaking to address the chair and give their name and address.

Those in favor of variance application:

Mrs. Wm. Ruse, Jr., 9732 Stage Coach So., said that when she first saw this in the papers, it was discussed with their neighbors. They are not against retarded children, she said, but feel that the whole truth is not known. She said that it was in the papers and brought out publicly that the city (Dayton) commissioners are against the Forrest Ave. home. She wanted to ask Mr. Stein why this was so. She said that those people also went in with good intentions. She said these people (mentally retarded) have a right, but let's see where it would fit and then work with them.

Mrs. Linda Muzechek, 9535 Sheehan Rd., said she was opposed to this because the houseparents are being paid and she doesn't see why this doesn't constitute a business or an agency which an R-1 zoning area doesn't fit.

Mrs. Robert Killian, 128 Marsha Jean Way, posed the question of what if the houseparents want to take a vacation - who will care for them? Also, will they meet all the requirements (which it seems there aren't any to be met)?

It was pointed out at this point that there is an informal attachment to Mr. Muzechek's appeal containing the signatures of 28 families.

Mr. Gary Wolfgang, 111 Marsha Jean Way said he is opposed for the same reason as Mrs. Muzechek. He does not feel the home belongs in that area and he is against it.

Those in opposition to the variance application:

Mr. Harry Stein, Director, Montgomery County Bd. of Mental Retardation, residing at 5667 Westcreek Rd., Madison Twp., spoke in opposition. Mr. Stein said that the lady who spoke earlier would understand that the Dayton commissioners are not against the home if she had attended their meeting. He said that the commissioners agreed (in favor of the home) and tabled it for further study. He said that in reference to having had no notification of (previous) public hearings on the subject, (which a citizen had made reference to), that before any home was approached, we (the Board) asked Planning Commission and City Council how they felt. He said that the County had a meeting after all this was done. We were told, he said, and it is documented, that we were not in violation. This was studied for some time by the Planning Commission.

With reference to the question - what is a single housekeeping unit? - this is probably the crux of the whole matter. He said that Centerville's City Attorney has pointed out a case recently resolved in Youngstown, Ohio, where almost the exact definition was involved and the ruling was in favor, this was allowed in R-1, they even talked about why it was different than a dorm or fraternity

Mr. Stein asked that the definition of family be re-read, and it was. He said that the single housekeeping unit definition is exactly the same as the Youngstown definition. Nowhere, he said, in this ordinance does it say what level (of functionality) a child must be to be a part of a family.

Mr. Stein said that some of the children who will reside in this home have not been reviewed and no one knows about any medication that maybe required. He made reference to a previous statement that 'anyone can be a houseparent', and said that 'anyone can be a parent'. I cannot say who my neighbor will be (just) because he does not have a doctorate. He said that in regard to the size of the bedrooms - it was previously stated that the State required them to be 80 sq. ft. - this has been amended to 60 sq. ft.

Mr. Stein said that this is to be a household unit. What they are talking about operating is a house. He said children will get up & if they can,

they will dress themselves, they will go to school, they may have after-school activities, they will come home, eat, play, this will be a family."

There is no office at this facility, he said. Some have office space and some do not. He said that sometimes people have said that maybe you are not a house because you need to be inspected, but all houses are inspected in some way or another. The building inspector did inspect this home.

He said this is a single housekeeping unit - there is nothing in the ordinance we do not comply with. He requested that the Youngstown ruling be reviewed.

What happens, he asked, in your house or mine if we decide to take a vacation? We call someone in - aunt, grandmother, etc., - they are not screened. The County has people who are trained to do this. This would be treated no differently. This is not an issue that is addressed in this zoning ordinance, he said.

Mr. Stein thanked the Planning Commission members for their support - this is something that is needed, he said.

Mr. Maxton said that since the members have not had an opportunity to talk with Mr. Stein before - he would like to deviate slightly and ask a few questions. How many people will be at this home on Sheehan Road?

Mr. Stein said that there will be the husband and wife, their three-year-old daughter and six girls, ages 10-16 years.

Mr. Maxton asked about relief parents. Mr. Stein said they have several options - one is to set up substitute parents, but what appears to be a more practical solution is to utilize their homemaking service. One can call and say they are going away (2 hrs., 2 wks., whatever). Also, a family might ask for more than one person.

Mr. Maxton asked how the girls have been selected. Mr. Stein said they have not all been selected - they have a screening committee. Members of the Board of Mental Retardation make up a screening board. They look at the request in terms of need and a recommendation is made by the board.

Mr. Baker asked if there will be any that might be Centerville residence. Mr. Stein said that he does not know - at this time he does not believe any are from Centerville. The object is to keep a similar environment for the girls. We do not give priority to anyone - in Dayton for example we do not give priority to a

Dayton resident if there is a need for someone from Centerville.

Mr. Myers asked about the ages of the girls and if there is a possibility that they will stay in this home until they are 25 - 30 - 50 or more years of age. Mr. Stein said it would depend on the girls. For example they may get an apartment together and go into a less sheltered living environment. Or, they may live there indefinitely, it could be a permanent home for some. We prefer, he said, that as the girls develop skills they go to a less structured situation.

Mr. Myers asked if it is possible, that as other girls leave, you would add girls of comparable age - we might have a home for girls 30 - 40 - 50 years of age. Mr. Stein said that he doubts that, this is a crucial situation - we have structured this as a place for girls in their formative years.

Mrs. Lake said that it is her understanding that you had a limit of five but have asked for a variance for 8 and now for 9 people. Is there another variance coming, she asked. Mr. Stein said that this particular home is formed under a grant which was approved for eight (8) girls ages 10-16 years. We have asked, he said, that this be reduced to six (6) girls. We have asked that six girls in addition to the houseparents and their daughter be permitted. This is not addressed in the ordinance, he pointed out, but the State addresses themselves to this. For example: the rules for the 80 sq. ft. bedrooms was amended to 60 sq. ft. This is for six retarded children plus this family. Mrs. Lake asked, in reference to BB-53, if they have secured a variance for a total of 9 persons. Mr. Stein said they are in compliance with BB-53, however this is not an issue under the zoning ordinance.

Mr. Gillingham said that the issue has been brought up as to whether this is a family or a business. He said that in reference to a letter from Columbus, this states that the sq. ft. was reduced from 80 to 60 requirement, there was also a reference to the number of beds. The 114' room is to be equipped with two additional beds for the use of visitors and there is no limit on the time. He asked the question - is this home to be for 8, 9, 10 or 11?

Portions of letters dated June 7 and Aug. 19, 1974 were read regarding the reduced requirement from 80 to 60 sq. ft. and a report from Mr. Schab regarding BB-53. Mr. Winterhalter said the sleeping space is for 8 plus 2 staff. Mr. Stein said this is for 6 residents. Our committment on the grant, he said, was for 8, we felt we could do a better job by reducing this to 6

Reference was made to a letter addressed to Mr. Armour from the Ohio Board of Mental Retardation in Columbus. This was approving a capacity for 8 beds. Mr. Stein said this was for 8 residents and said he was not familiar with the referenced letter.

Mr. Gillingham said this is not clear - is the approval for 8, 9, 10 or 11 persons. Mr. Stein said this is for six girls plus the family of three. If we were not in compliance, he said, the State would not license us. Mrs. Lake said that 8 beds and 9 persons allows for a certain amount of compatibility between the houseparents. Mr. Gillingham said the Chairman should inform the member that she is out of order. A double bed counts as 2 beds by definition.

Mr. Baker referred to another letter regarding where the beds would be located and said that this could be read as the houseparents do not have to be licensed. This seems clear to me, he said. Mr. Stein said that the fact of licensing the home implies that we are in compliance.

Mrs. Roberta Fisher, 208 Bradstreet Road, said she has lived here for 11 years. She said she resented that so much time of this public hearing was devoted to (the members) doing their homework. She said she is in favor of the home, because she has worked at an institution. I was thinking, she said, that we have not changed very much (from pioneer days). If we were on a wagon train, I would not be concerned with what the law says, if it were necessary, I would care for your children. She said Centerville is suffering growing pains and are adolescent. Centerville is being looked to by Dayton as well as other suburbs as to what to do with people who need help. I want to live in a community, she said, that has come of age.

Mr. Tim Gross, 7935 Brainard Woods, read a letter from the Optimists Club, opposed to the application of Mr. Muzechek. The club has worked with and for the handicapped and support (with 19 signatures) the group home for Centerville.

Ms. Marie Brim, representing the League of Women Voters read a letter in support of the home.

Mr. William Bogel, 9518 Sheehan Road said he and his family support this (the home).

Mr. Maxton said that in regard to the member's homework, this Planning Commission has spent considerable time researching group homes and, as has been stated numerous times, has open meetings.

Mrs. Lake said that our purpose here is to answer the City Manager's decision and this is the only thing to which we are concerned. This has been read by the City Planner and has been given to us to understand by the City Attorney. I do not feel that this is in violation as they (ordinances) exist. I regret, she said, that higher priority was not put on the forthcoming ordinance. We do have to remember, she said, that all the things done must be done with existing ordinances. Many of the points raised by Mr. Muzecek are very valid and should be considered on the future definitions. But I cannot speak on something that does not exist at this time, she said.

Mr. Baker made reference to Planning Commission 'homework' - we do have quite a bit of paper on this subject, he said and some of it does require legal definitions. For example the two different interpretations among the members of the number of people allowed. These two interpretations were from the same paper. He re-read the family definition and said he thinks what is being proposed can fit under this - on the other hand it could fit under the nursing home for children. Also, it could be considered a business (houseparents are being paid). He added that these definitions are from 1961. This ordinance was written several years before open housing ordinance, he said. He feels we should continue to go about our business of getting this revised. It is my interpretation from what Mr. Muzecek has said that they (mentally retarded) can live in Centerville and that our main criterion is to decide where to put them. As far as I am concerned, Mr. Baker said, the best place to put people that are acting as a family is in a family district.

Mr. McCrabb asked Mr. Schab if he is certified to inspect under BB-53. Answer: yes, but this is not the usual procedure. We are not certified to inspect under BB-57. Mr. McCrabb said that he believes that if we look at the moral intent we must favor the applicant. We cannot deny that our intent was not to exclude this from single family residence - in that light we have an opinion. If this is to be overturned, the court should do its work and not the city solicitor. I think that in many cases we qualify as a business because we are making a monetary payment. Also, under BB-53 it is spelled out. Our zoning ordinance provides that it take place in a residential district. I believe this family falls into the nursing home category in every point. I favor the applicant, he said.

Mr. Gillingham said that he did intend to do his homework, but different comments keep coming up and he keeps getting new and different comments. I am in favor of homes for the mentally retarded, he said, and have spent some of my life trying to educate them.

I am interested in the number and would not like to see this get out of control. He said six girls plus the family of three is nine, not eight. I asked, he said, if the daughter would be living in the bedroom on the first floor and was told that that would be equipped with two beds for transient girls that would be visiting girls that are living there. Our ordinance does not put a restriction on numbers. Put 6 girls plus houseparents with children, pay them, pay rent, buy the house - the County would be the home owner and I do not know that I approve of that. This seems to me as more of a business than a family.

Mr. Maxton said that his primary concern is what he read about non-related personnel in this type of home. Also, five recommended and yet six will be living there. We have to direct ourselves as to whether this fits our ordinance as it exists at present. I admit, he said, that there are some things I do not have clear in my mind as I do not have a technical background.

* Mr. Tate made the motion to deny the administrative appeal. Seconded by Mrs. Lake. Appeal denied 5-2. Those opposed to denial: Mr. Gillingham and Mr. McCrabb.

Mr. Maxton explained to the applicant the procedure for appealing to Council.

Unfinished Business

Review Group Housing Standards

Mr. Winterhalter said that one of the responsibilities along this appeal is to come up with revised definitions. Mr. Winterhalter reviewed the four definitions proposed for change.

Mr. Maxton polled the members to see if they agree with the proposed definitions. Mr. Gillingham said he likes them.

Mr. McCrabb said he questions whether housekeeping and group homes should fall under R-1. Do you intend to insert these definitions in R-1? I have mixed emotions, he said. If we are going to have these definitions we must have control over it.

Mr. Maxton said he goes along with the definitions we worked out at the workshop. I also have mixed emotions about where they have to go. He said that if you asked 80 or 90% of the Centerville residents, they would probably support it because they live away from where it is.

Mr. McCrabb said he can only remember one man who previously said he was against it - and that was at a meeting at the high school.

- Mr. Myers said that one of the things wrong with putting it in something other than R-1, we would not have a home large enough and would have no homes in Centerville.
- Mr. Gillingham said that BB-53 says five are allowed. Mr. Maxton said it is five non-related, no more than three that are related. This is without a variance. We are not excluding anyone with the 9 or 10 - we can grant a variance.
- Mr. Baker said that if this were the definition, we would have eliminated the home on Sheehan Road unless they came in with a variance. The average size home is four bedrooms which would make it too small for a group home. The possibility of not more than two persons per bedroom was discussed, along with the State code.
- Mr. Baker was concerned that this new definition would not fit the one (home) we have already. Mrs. Lake said that this does not concern her - that is the way all the zoning must be done, go on from a point.
- Mr. Baker asked Mr. Stein if he would consider a home for six plus two houseparents as being unusually small in size and ~~and~~ impractical from a financial viewpoint. Mr. Stein said that is an appropriate size. Six is a reasonable number in respect to a residence. Mr. Stein said that he does not think it matters what his opinion is. You have been kind to us, he said, you have to look beyond what I think is reasonable. From an economical viewpoint this would be reasonable. I personally would not oppose that.
- Mr. Tate asked how much would be controlled. Mr. Maxton said that when you start putting in controls you are becoming discriminatory. Mr. Tate said he agrees, that is what he is saying. Mrs. Lake made mention of State and County controls - what about Centerville controls. A zoning ordinance is not a place we can do this. Then where and how do we do this? One example that is probably the whole crux is the permanent family-like structure, and this is what we are after. I would like to find out how we can speak to questions like this. Is this under building codes? As far as definitions and zoning goes, perhaps we should look further before we put this into a proposed definition recommendation. She said that most of the definition under nursing home could apply to her own home. She said we have many homes in this community that people often forget. She gave an example of a typical homeowner being able to hire maids, housekeepers, domestics, live-in nurse, etc., and there are a lot of things we can do that are not commonly known

and things we all can do (as homeowners).

Mr. Winterhalter made reference to various regulations that we have now, for example set-back, etc., there has been some steps made by the State to change BB - we should be taking steps to see this is a City function, we should inspect ourselves. Mrs. Lake asked who does this now. Answer: the County, we are over-ruled - a case in point is the past situation on the liquor license.

Mr. Maxton said that as far as additional controls, he doesn't know what type we would need. He feels this is a first step in changing our ordinance, and we have to remain flexible. If we see that changes are needed, that is what we should do.

Mr. McCrabb said that what he was alluding to was some type of licenses. He would like to see controls by license for the City of Centerville.

Mrs. Lake said that she is not trying to be unduly restrictive, but trying to second-guess the forthcoming questions. Shouldn't we really look further, she asked. Should we not try to look forward to what the questions might be? Mr. Myers said that we could certainly make a request to Council. He said that he likes the idea of Centerville license controls. Mr. Winterhalter said before we do this, we might get a legal opinion regarding authority, or this could be amended subject to a favorable legal opinion. Mrs. Lake said that some of the changes that were recommended a year ago may have to be revised anyway. This does not have to be done at this time, as some of the other items have not been finalized. Mr. Myers asked if foster children should be included in family definition.

Mrs. Muzecek said, 'do you realize that all the things the people said tonight, things in all the papers and the people back and forth with the State - I just don't see how you can call this a family.' Your family does not have anything to do with this. Mr. Baker, she said, referred to employees - Mr. Stein referred to facility - is your home a facility? Is a household a facility?

Mr. Muzecek said he was appalled - you talk about changing the definition but you are not changing, we need restrictions. You are not changing this, he said, you are not listening to me. You are discussing why you would not like to have restrictions, this is what I said and you are not doing this.

Mrs. Lake said she hopes she can express what she means, thinks and feels; if, before the existing home ever came in, we had had the opportunity of speaking academically, and even before I voted I made mention of the fact that you had raised some very valid points, but we have to vote on what we had at the time. This has not been accepted and may not be accepted by Council. What we are saying is that we would like to have more control. Things that we are talking about, she continued, are things that did not arise even last year, much less 1961 when this was written.

Mr. Muzecek said that 'they were defined for you...' in respect to our City ordinance. You don't need to pass an ordinance in order to compare apples and oranges...' Mr. McCrabb said that with our decision this evening we said that our existing ordinance accepted these things. Mr. Muzecek said that 'you are confirming that you are not going to change anything.' They could locate anywhere and get a waiver from the State, they could go anywhere they want.

Mr. Maxton said this will be set for a public hearing.

Mr. Stein said that one of the things these definitions do is to differentiate between residential versus treatment, when you can direct the establishment of a living unit to the health, welfare and safety. This is where you can direct the controls. When we go into an area, he said, we would like to see this control and it would be valid. He said that with the family definition you might run into a problem for example, if two gentlemen wished to live together. Mr. Maxton said that this was covered under the definition of housekeeping unit. Mr. Stein asked where they would be located.

Rayne Willis, 9500 Sheehan, said "I like the definition of family I have heard. I am also in favor of the home discussed earlier - not only in the home as it is but as it might be and would like to see something on paper.....especially if it could go along the lines Mr. Stein suggested."

Mr. Maxton said that we are not oblivious to the health, welfare and safety of the people. The public hearing was tentatively set for October 29, 1974 .

Mr. McCrabb said he thinks this should be all-inclusive. I would like licensing by the City of Centerville if this is determined to be a possible function.

Mrs. Lake said that we know our intent and that of the people starting this group home, but as we get into this thing we should know that we can control this after time changes things. We need to be able to protect people.

Mr. McCrabb said he would go along with the intent to request Council to pass an ordinance to require Centerville licensing for such things as group housing.

Legal guardianship was added to the proposed definition of 'Family'.
City of Centerville certification to be added to 'Group Home'.

Mr. McCrabb left the meeting at this point.

Preliminary Plan - Candlewyck South

Mr. Winterhalter reviewed the plan. This is a development of Mid-America, Zoned S-2, 30,000 sq. ft. lots. The one change is the inclusion of this so-called 'out-lot' into the subdivision, this would increase the lots - all the lots are in excess of the minimum. Recommendation is for approval of preliminary plan for ten lots.

Mr. Tate asked if sidewalks would be required. Answer: (Mr. Winterhalter) They will be required, this is only a lot and street layout - they are not a question at this time.

Mr. Schab said that this plan shows much more than is needed in this preliminary plan.

A guarantee of sidewalks was discussed as was a previous case regarding sidewalks. Mrs. Lake asked why the city can't say 'we now are going to have them'. It was said that sidewalks are easier to get at the time the roads are approved. A member asked if the 5' strip is something Planning Commission should take care of at this time.

Mr. Pete Gerrardy, representing the applicant, said unless you are going to have a 5' jog, you will have to leave it the way it is.

Mr. Baker said he did not understand the vicinity sketch, the shape seems to have a discrepancy. Mr. Winterhalter said the vicinity sketch did not get revised, the official sketch will be revised.

Mr. Gillingham asked if lot 6 originally was not to have been considered in the development and now it is. He asked if there is to be a driveway off the cul-de-sac to the existing residence. Answer: (Mr. Gerrardy) I don't believe so. Mr. Winterhalter said this would only have to meet set-back, etc., not curb cut.

He would have access to the cul-de-sac and I think he plans to put in a driveway, Mr. Winterhalter said of the existing residents.

Mr. Myers asked if these would be built on speculation or custom built. Answer: mostly speculation, some custom. Mr. Myers asked if this is the entire development. Answer: We have no options on other property in this vicinity.

* Mr. Gillingham moved to approve Candlewyck South preliminary plan as submitted. Seconded by Mr. Baker. Approved 6-0.

Mr. McCrabb returned to the meeting.

Washington Creek 4, Record Plan

Mr. Winterhalter reviewed the application. Rooks Lane was pointed out - they are to change the present Rooks Lane to a different location and eliminate the present section of Rooks Lane.

Mr. Archdeacon said the primary reason they are being platted at this time is because of the people on the gravel road (Rooks Lane). Neighbors requested the connection to existing Rooks Lane (Sugar Ridge Lane).

Mr. Schab recommended this be accepted with a performance bond of \$16,000 and inspection fee of \$112.50. If it should be accepted, he said, it would be my recommendation - Sugar Ridge now shows only half developed - I believe in this case it would be better to require that the 2" of blacktop be extended the width of the lane so it would not be half and half. The base is there. If this is the case I would recommend cutting it off entirely. Shorten the blacktop for approximately 50' and put the blacktop all the way across to where you stop the road. Not to be developed length-wise but cross-wise.

Mr. McCrabb asked if you are lining up the street on the centerline, what happens to the street - will it stay like that? Answer: (Archdeacon) Until such time as someone wants to do something with it. I assume that you would require some public rights into that ^{lane} before you would permit additional splits. This lane has been a touchy situation with the neighbors and the people on both sides. Mr. McCrabb asked if this couldn't be maintained by the County. Mr. Archdeacon said that they would not, saying it is not theirs. We had this question when we platted the lot immediately south, he said.

Mr. McCrabb asked about the lot size. Answer: 16,000 sq. ft. per lot, Lot 231 being in excess of 20,000. He asked if Rooks Lane could

be taken further and have it on (the developers) property. Mr. Archdeacon said that Rooks Lane has been battered back and forth. The neighbors all feel that this is an opportunity to get something done and perhaps this is the time to get the entire 50' done.

It was felt that it would be dangerous to have 12' - 15' gravel with an abrupt change from blacktop. Mr. Archdeacon said they would provide 14' of blacktop

Mr. Winterhalter said that somehow it has to be worked out - it is just a general rule for most communities not to accept partial local streets. If the people want the frosting on the cake, they will have to assist. The (developers) are putting in a standard half road, but I do not feel this is adequate. Mr. Winterhalter said perhaps this should be tabled and we should see what we can do to get a full street in there.

Mr. McCrabb asked what happens further up the development. Mr. Winterhalter showed the present Rooks Lane and the proposed extension into Washington Creek. Mr. Archdeacon said it will be extended where the houses are located on Rooks Lane. Sooner or later this will be developed, this will sometime definitely be a requirement. It was suggested that it could be made a condition to have blacktop extended.

McCrabb asked if Mr. Schab thinks this is the place for the street. There was a discussion as to the best place for the street and the present easement. Sidewalks were also discussed. Mr. Schab said sidewalks on the south side of Sugar Ridge Lane only is acceptable.

Mr. Archdeacon said the two lots being discussed are not now involved.

Mr. Winterhalter said that if we are talking about thoroughfare, we can take the 50' of right-of-way and develop it or forget it, but we should not have a half street.

* Mr. Maxton made the motion to table this until October 8, 1974 to allow Mr. Winterhalter time to see what he can do with the streets. Seconded by Mr. Myers. Motion to table approved unanimously.

Spring Valley Farms

Mr. Winterhalter pointed out that Normandy Lane has been curved and the park and Dunsinane Swim Club are shown.

Mr. Archdeacon said that this goes along with the park board agreement that we will dedicate 20 acres if we get the dedication, or 10 acres if not. We still will be going in for the re-zoning and this 20 acre park and this shows how it can be developed if that is denied.

Paragon Road was discussed. Mr. Winterhalter said it seemed redundant to come in with Paragon since it will be abandoned.

Mr. McCrabb asked about the lot quantity. Mr. Archdeacon said they lost four lots (with this change). Mr. McCrabb asked how many lots they have. Mr. Archdeacon said all we have developed at this time is the street pattern. They did not want to go to the expense of details before this is finalized.

Mr. Myers asked if this was a five year development plan. Mr. Archdeacon said it was probably 8 - 10 years. Mr. Winterhalter said the question is, does he have support of the whole plan including the part to the northeast.

General

Mr. Gillingham made reference to the C. C. C. C. report he had made three weeks ago to the Commission. The minutes tell me nothing, he said, other than that the report was alright. Mr. Gillingham would like to know what he is to do and would like something to go on.

Mr. Tate said there is no reason to take a vote on that report, the report is alright. Mr. Gillingham said that if there is nothing wrong with the report, then it is alright for my neck to be out, but not yours. Mrs. Lake does not feel that this Commission should critique the report.

Mr. Maxton said that it is not a reflection on anybody to have the workshop. We should not spend any more time on it before we hear from Council.

Meeting adjourned at 12:15 p. m.

Next meeting October 8, 1974

Nary L Maxton