

Board of Supervisors

August 6, 1975

Recommendations re C-612, C-644, C-529, 74-8-117, C-485, C-671,
74-8-093, 74-8-138, C-686, C-546.

7:30 P. M. Item - C-546 , Milton V. Peterson
Springfield District

On July 24, 1975, the Planning Commission unanimously (~~Leckwood, Becker, and Maxwell absent~~) recommended to the Board of Supervisors that application C-546 be approved for I-L (approx. 49.5 acres) and RPC (approx. 1188 acres) and that the development plan as submitted subject to the recommendations in the staff report pages 28 and following. In addition, the Commission unanimously recommended to the Board of Supervisors that the non-industrial conventional parts of the original request be denied.

The Commission noted that this application as recommended by the Commission for the RPC and I-L categories was in conformance with the recently adopted Area III Comprehensive Plan. Further, the Commission agreed with the Staff comments re the conceptual development plan and in summation urges that favorable consideration be given application C-546 by the Board of Supervisors for RPC and I-L uses. ~~Please note the attached verbatim on this application with relevant Planning Commission comments.~~

7:30 PM

8/11

C-546

SUMMARY OF PLANNING COMMISSION MEETING

July 24, 1975

Present: Mr. Merrell, Mrs. Shands, Mrs. Fasteau, Mr. Roehrs,
Dr. Kershenstein, Mr. Gurski, Mr. Brinitzer, Mr. Zanfagna

Absent: Mr. Maxwell, Mr. Lockwood, Mrs. Becker

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The meeting was called to order by Chairman Gurski at 8:20 p. m.

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PROPOSED AMENDMENT TO CHAPTER 30 (Signs)

Mr. Tremaine requested that this be held over to the end of the meeting, so that he could take another look at it.

Mr. Roehrs SO MOVED. Seconded by Mrs. Shands.

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) C-546 - MILTON V. PETERSON

Dr. Kershenstein MOVED THAT CONCERNING THE INDUSTRIAL PORTIONS OF THE APPLICATION, THE ZONING ORDINANCE AS IT APPLIES TO THOSE PORTIONS OF THE APPLICATION BE AMENDED TO THE I-L DISTRICT, APPROX. 49 1/2 ACRES.

Mr. Zanfagna seconded. Motion carried unanimously.

Dr. Kershenstein MOVED THAT THOSE NON-INDUSTRIAL CONVENTIONAL PARTS OF THE ORIGINAL REQUEST BE DENIED.

Mr. Zanfagna seconded. Motion carried unanimously.

Dr. Kershenstein MOVED THAT THE ZONING ORDINANCE AS IT APPLIES TO THE SUBJECT PROPERTY BE AMENDED TO THE RPC DISTRICT FOR APPROXIMATELY 1188 ACRES.

Mr. Zanfagna seconded. Motion carried unanimously.

Dr. Kershenstein MOVED THAT THE PLANNING COMMISSION APPROVE THE DEVELOPMENT PLAN AS SUBMITTED SUBJECT TO THE RECOMMENDATIONS IN THE STAFF REPORT PAGES 28 AND FOLLOWING.

Mrs. Zanfagna seconded. Motion carried unanimously.

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PROPOSED AMENDMENT TO CHAPTER 30 (SIGNS)

Mr. Brinitzer MOVED TO DEFER TO THE 29th OF JULY.

Mrs. Shands seconded. Motion carried unanimously.

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CWP/CIP

Dr. Kershenstein MOVED THAT THE STAFF BE DIRECTED THAT WHEN THESE MARKUP SHEETS COME TO THE COMMISSIONERS THAT THEY BE INDEXED TO POINT OUT WHERE THERE ARE SPECIFIC THINGS RELATE TO A GIVEN COMMISSIONER THAT THEY BE FLAGGED SO THAT WE KNOW WHERE WE SHOULD BE LOOKING ON IMPORTANT POINTS. ALSO THAT THESE MARKUP SHEETS BE NUMBERED AND DATED.

Mr. Zanfagna seconded. Motion carried unanimously.

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Mrs. Shands requested that correction in minutes of July 22, 1975, for BZA case; the motion was not seconded by Mrs. Shands, but was seconded by Mrs. Fasteau.

Mr. Zanfagna stated he thought the vote on that motion should have been 3-3 and not 3-4. Tapes were checked and the vote was 3-4.

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Mr. Roehrs MOVED TO ADJOURN.

Meeting adjourned at 11:20 p. m.

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Mr. Zanfagna suggested that the Commission include the two dates August 18, and August 21 on advertised schedule for the CWP/CIP markup sessions. Mr. Wyckoff stated that the school board meeting room has been arranged for August 18 at 8:15 p. m.; the board room was scheduled for August 21 at 8:15 p. m.

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Planning Commission Meeting
Verbatim Excerpts
July 24, 1975

C-546 - MILTON V. PETERSON

After close of the public hearing.

Dr. Kershenstein: Thank you Mr. Chairman. First off, I would like to compliment Staff on what I think is one of the finest staff reports I've seen come out of the Staff to date. It was an immense help in going through this. In the past month I have been sitting here and, as you know, the Pohick has been the subject of a large number of these rezoning applications and I did a rough count tonight and came up with approximately 25 cases that, that I've been responsible for you could say, and they total approximately 2500 acres, since this is around 1200 acres that means that all of the remaining ones are approximately the area of this one. I've been sitting up here from night to night and when an application has come before us that's in conformance with the master plan and yet has had several questions raised concerning the schools and roads and what have you, I've been making a little standard speech that that, that's usually out of our scope of consideration due to court decisions and what have you, and out of our, because of what the highway department takes care of highways and we take care of land uses, and what have you. While I was reading through this staff report it seemed like all of this came before me in retrospect and I had all the 1200 previous acres reflecting in my face here. I see the numbers impacting me rather severely, and I'd just like to go through the staff report here and enumerate five things that I saw as being rather startling. On Page 6 there is a statement that the highway facilities required serve such a development must be thoroughly analyzed. The impact of the 35,000 vehicles which this development will generate could easily turn the surrounding roads into a terrible vehicular quagmire. Then two pages later, several road improvements are enumerated and then a final paragraph on that page states it must be reiterated that the road improvements recommended in the 1985 County Wide Transportation Plan must be complete, must be completed in order for this proposed development to have adequate access. Turning to the next page, we see concerning schools then, that many of the points that were brought out tonight, the student impact projection between the existing zoning and the requested zoning is plus 1,047 elementary students, 189 extra intermediate students, and 393 secondary students. Moving to page 11 under fire service, it says rezoning application C-546 is divided into four study areas and three times on that page, we see the following sentence, at the present time there are no planned fire facilities to serve the area and it is the judgment of the Fire and Rescue service that the fire protection for this site is not adequate without an additional fire facility not yet planned and funded. Only does the fourth area state, in summary it is the feeling of the Fire and Rescue service that the fire protection for this, that is the fourth area, is currently adequate. And then on page 23, the thoughts expressed by Mr. Zanfagna

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in Study Area 2 development in accord with the stated assumptions would result in sulfur dioxide and carbon monoxide and particulate concentrations substantially greater than that in limiting standards. Study Area 3 the most likely high eight hours carbon monoxide concentration would be only slightly above standards, but particulates would be about 50 percent too high. My question concerning this, and I throw this at the Staff or the County Attorney, is that since since Staff is recommending that this be approved, I wonder how they justify granting this application in the face of all of these adverse impacts.

Mr. Johnson: Dr. Kershenstein, the Staff realizes that the public facilities are inadequate but a project of this size the public facilities will not be adequate prior to the development of any project of this size. It's unfortunate. It's not the best way to work it, but we have an opportunity here to phase development, kind of have an opportunity to see what is going to develop, when, and we're just going to have to, just going to have to plan and fund some more public facilities. I might add that the overall density on this 4.2 acres to the acre. Even if this developed R3-1 the public facilities are not adequate even to handle that development, so it is a problem. We either leave it vacant, in which case the public facilities will not be available, or we go ahead with the development.

Dr. Kershenstein: Mr. Chairman, a question of the County Attorney, would we be legally able to deny this zoning application based on a lack of these public facilities.

Mr. Gurski: You may not want to answer that question, Mr. Tremaine.

Mr. Tremaine: I am not sure that I really can answer that question. Mr. Chairman, I believe that what the Virginia Supreme Court has told us -- both the, both recent decisions, the Minnan decision and the Williams decision is that public facilities, public facilities issues while, while they may be a factor in a zoning decision, cannot be the sole factors, the, the decision especially, especially in the Williams decision where the court found either that public facilities were presently available or would be available in the foreseeable future, indicates that public facilities issues at the time of the zoning change, or the proposed zoning change are not as well then as we believed prior to that decision.

Mr. Gurski: Thank you Mr. Tremaine. Mr. Kershenstein.

Dr. Kershenstein: Yes, thank you Rich and I apologize for putting you on the spot but those were pretty much my feelings and I just wanted to make sure that, that they were indeed yours also. I guess in reading through the staff report last night I was oscillating back and forth between both points that the staff was making, the lack of the facilities and yet the good that I think is or would be forthcoming from this type of an application out here. I think it is almost enough to make

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someone schizophrenic at times if you read these and go from one from one view to the next. But, I do, I do agree with Staff's, with Staff's final conclusion on the bottom line that they come up with that this is a good application and I will make a motion that it be approved, that is the RPC. Before, I do make any motion, I think that we have several that have to be made here. We have two, in essence two applications, perhaps two-and-a-half that have to be considered. We have the matter of the conventional zoning on this tract, we have the matter of the RPC and then we have the matter of parts of the conventional which are on this development plan in industrial but since industrial is not part of an RPC, they also have to be considered separately, I think, is that not correct?

Mr. Tremaine: That's correct.

Dr. Kershenstein: So, therefore, Mr. Chairman, I will make three motions, my first motion is THAT CONCERNING THE INDUSTRIAL PORTIONS OF THE APPLICATION I MOVE THAT THE ZONING ORDINANCE AS IT APPLIES TO THOSE PORTIONS OF THE APPLICATION BE AMENDED TO THE I-L DISTRICT, and I think that covers approximately 49 1/2 acres.

Mr. Gurski: Is there a second to that motion?

Mr. Zanfagna and Mrs. Shands: Second

Mr. Gurski: Any comment by the Commission? All right. All those in favor of the motion by Mr. Kershenstein regarding the industrial portion of the development plan, and as he said some 49--47 acres, please respond by saying Aye.

All Commissioners: Aye

Mr. Gurski: Opposed? All right, Mr. Kershenstein.

Dr. Kershenstein: Mr. Chairman, I would MOVE THAT THOSE NON-INDUSTRIAL CONVENTIONAL PARTS OF THE ORIGINAL REQUEST BE DENIED.

Mr. Gurski: Is there a second?

Mr. Zanfagna: Second

Mr. Gurski: Any comment on the motion by Mr. Kershenstein?

Mr. Merrell: Mr. Chairman. Mr. Chairman

Mr. Gurski: Mr. Merrell.

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Mr. Merrell: I wonder if we might clarify that motion a bit, I'm not quite sure what I'm voting for.

Dr. Kershenstein: Yes, it's the, we have essentially two zoning applications, one is a conventional and one is an RPC. Part of the conventional is for industrial and part is for conventional RM-2, RTC, RTC-10, etc. I'm moving that the non-industrial portions of the conventional part be denied. This is not the RPC that I'm talking about.

Mr. Gurski: For the information of the Commission, I think Commissioner Kershenstein's motions are a good point because our application as you will see in the agenda tonight does list the two, and I haven't gotten a clarification as to whether they, there are two cases before us or one. I think his is the proper course.

Dr. Kershenstein: Mr. Chairman, I, when, on June the 17th, we had our public workshop, Mr. Ruck appeared before us and I reviewed the transcript of that hearing earlier tonight and these points were discussed and I asked specifically at that time if we had to deny these the conventional if we were going to approve the RPC and he agreed that that was the case.

Mr. Gurski: You are correct. Any other comment on the motion by Mr. Kershenstein to recommend the denial of the non-industrial portions of the total tract, the so-called conventional plan? All those in favor of the motion please respond by saying Aye.

All Commissioners: Aye.

Mr. Gurski: Opposed? Mr. Kershenstein.

Dr. Kershenstein: Mr. Chairman, I would then MOVE THAT THE ZONING ORDINANCE AS IT APPLIES TO THE SUBJECT PROPERTY BE AMENDED TO THE RPC DISTRICT APPROXIMATELY 1188 ACRES, SUBJECT TO THE CONDITIONS AND RECOMMENDATIONS OF THE STAFF ON PAGES 28 AND FOLLOWING.

Mr. Zanfagna: Second, Mr. Chairman.

Mr. Gurski: Any Comment?

Mr. Brinitzer: Yes, Mr. Chairman.

Mr. Gurski: Yes, Mr. Brinitzer.

Mr. Brinitzer: I'm sorry to take the Commission's time.

Mr. Gurski: Mr. Brinitzer, I might say when you're dealing with 1200 acres we are willing to listen to whatever you have to say.

Mr. Brinitzer: Okay, here we go. I, firmly believe in the profit motive, I firmly believe in free enterprise, I admire the developer because of the risks that he takes in order to come up with innovative good ideas. I think this is a good example of such ideas. At the same time, I believe he has an inherent responsibility, especially in an RPC situation such as this, to participate, as I said before, in some of the facilities which are going to be needed. Now I'm not concerned as much as other speakers have been tonight, about transportation because I believe the more roads you build, and you asked the builder to build them, the developer to build them, the more you're perpetuating something which we are trying to discourage and that is use of the individual automobile, so if the roads aren't there, they are going to get clogged up to the point where somebody is going just simply have to take some other mode of transportation. But when it gets to the youngsters, I think that the developer in a situation like this, has an inherent responsibility. Now I'm not bosh on this particular point, but I very strongly believe it, therefore, I want to ask the Chairman and the County Attorney whether we have the prerogative of amending Dr. Kershenstein's motion to the effect that we recommend to the Board of Supervisors, RPC under the conditions that the builder participate in the construction of appropriate elementary school facilities. If we have that right, I would make such an amendment. If we don't, if it would be an exercise in total nonsense then I, of course, won't do it.

Mr. Gurski: Well, Mr. Brinitzer, on, for my own part, we can't, as far as I know, alter the conditions of the RPC District, that is a set part of the zoning ordinance. We can, as Mr. Kershenstein included in his motion, incorporate certain recommendations we want to make to the Board. It may be that in the time between now and the time the Board considers the case, they may wish to negotiate, it's only my word for it, with the developers about these extras, but I'm not sure that we can alter the conditions of the RPC District. Mr. Tremaine you may want to speak to that.

Mr. Tremaine: Yes, Mr. Chairman, it'll be my opinion that, Commission could not alter the provisions of the, basically here you're talking about requirements which are elaborated under the RPC category and one of those does not go to construction of schools.

Mr. Brinitzer: Mr. Chairman,

Mr. Gurski: Mr. Brinitzer,

Mr. Brinitzer: Does the same hold true for the Board of Supervisors?

Mr. Tremaine: It does absent, absent some change of the ordinance.

Mr. Brinitzer: Thank you.

Mr. Gurski: I'd like to just make a brief comment about Mr. Kershenstein's motion, I intend to support it, I think it's a good one and I--I appreciate his comments, and, particularly his worries about the inadequacy of the area.

Dr. Kershenstein: Mr. Chairman.

Mr. Gurski: Mr. Kershenstein.

Dr. Kershenstein: I was wondering if, I could, I was talking with Rich a moment ago and I think there's a technicality on my motion that it should be slightly changed. I should really be making two motions here, one on the zoning ordinance and one on the development plan, and strictly speaking....

Mr. Gurski: Mr. Kershenstein, if I might interrupt, I was going to call on you following this motion for a motion on the development plan.done that separately.

Dr. Kershenstein: Yes, however, however, the caveat that I put on subject to the Staff's recommendations is more appropriate to be attached to the one on the development plan

Mr. Gurski: I see, all right.

Dr. Kershenstein: so I would like to either withdraw my motion or have it amended to just have it read THAT THE ZONING ORDINANCE AS IT APPLIES TO THE SUBJECT PROPERTY BE AMENDED TO THE RPC DISTRICT FOR APPROXIMATELY 1188 ACRES.

Mr. Gurski: If the seconder would agree to that, I think the Commission would accept, Mr. Zanfagna?

Mr. Zanfagna: Yes, I'll certainly agree to that.

Mr. Gurski: Thank you, I think that's simply a procedural matter that we can, I'm glad you brought up. If I might....

Mr. Zanfagna: Mr. Chairman,

Mr. Gurski: Mr. Zanfagna.

Mr. Zanfagna: I'd also say I strongly support the motion having seconded the motion, and I didn't realize that Dr. Kershenstein had rezoned so many acres and handled 25 cases in the past month. You've rezoned more cases than Til Hazel, and I want to congratulate you.

Mr. Gurski: I, started to make, some brief remarks and Mr. Kershenstein cut in with, I think was a very important point. But I would like to say that earlier in the evening, I was, I half-jokingly referred to this as the tombstone project for Mr. Hazel and Mr. Yeonas and I did so for a purpose, again part lightly and yet in some ways to call these two men to account before the Commission and the County for what they could do for the Pohick a very very special part of Fairfax County. So, all I want to do now is say I don't retract any of those remarks, I simply want to add one more name and that's obviously the name of the person in which we're having the application, Mr. Peterson, of course. So, I'll simply say, Mr. Peterson and Mr. Hazel and Mr. Yeonas it appears to me at the moment that this application may have a fair sailing. I do charge you as the one single person from Springfield, do something for the Pohick with this project. Any other comments from the Commission? All those in favor of the motion by Mr. Kershenstein to recommend to the Board of Supervisors approval of the 1991 District for the property in question please respond by saying Aye.

All Commissioners: Aye

Mr. Gurski: Opposed? Mr. Kershenstein

Dr. Kershenstein: Mr. Chairman, I'd also MOVE THAT THE DEVELOPMENT PLAN, THAT THE COMMISSION APPROVE THE DEVELOPMENT PLAN AS SUBMITTED SUBJECT TO THE RECOMMENDATIONS IN THE STAFF REPORT PAGES 28 AND FOLLOWING.

Mr. Gurski: Second to that motion?

Mr. Zaniagnat: Second Mr. Chairman.

Mr. Gurski: Any comments on that motion? All those in favor of the motion by Mr. Kershenstein to recommend to the Board of Supervisors approval of the development plan incorporating the comments on pages 28 and following the Staff report, please respond by saying Aye.

All Commissioners: Aye

Mr. Gurski: Opposed? The Commission will be in recess for about 10 minutes.