

PLANNING COMMISSION MEETING
June 17, 1975
Verbatim Excerpts

Re: Burke Center RPC

Mr. Gurski: "Fellow Commissioners, I think if we could reassemble. We've had a chance to not only to relax for a few moments but to think about the actions we'll take and as I said before the recess we would look to Mr. Kershenstein for any action -- any that he may wish to take."

Dr. Kershenstein: "Yes, Mr. Chairman. I just have about three or four minutes worth of comments I'd like to make before making a motion. First of all I'd like to again compliment the Pohick Task Force for its responding again on such a short notice and for coming out tonight. Mr. Pablo commented on the context of the meeting that we held last Thursday I believe and mentioned who was in attendance. I'd just like to reiterate a few points on that. First of all, we did have a very frank discussion from all sides. The meeting began with a rather historical review of what has happened . . . Pohick Restudy all the way up to the events leading to tonight's meeting -- various alternatives which we have seen in tabular form or -- and also in map form were shown and discussed and finally the Task Force reached an agreement and endorsed the conceptual plan in principle. At this time, I'd like to add my endorsement to this project also. Although my initial reaction to this proposed RPC was one of skepticism, I've reviewed the various alternative proposals for Burke Center and must admit that it surpasses many if not all as a practical solution to a very complex land use planning problem. Although many from a very personal point of view, I'd still like to think that conventional two to three with more liberal use of industrial zoning would be the best solution, I just can't argue with the logic of the proposed conceptual development plan that we see before us tonight. If RPC is granted in this case, it would be the County's third such zoning being larger than Cardinal Forest which is the smaller of the present RPC's and smaller than Reston. It will be a new experiment and perhaps the last chance the County will have to apply this category. I don't see any other place in the area plans that we have recommended it. That being the case, I am willing to gamble and hope that in the long run RPC will prove to be the correct choice. I think -- I think that to a large extent Burke Center will serve as a barometer to remaining development in the Pohick. And I also think that development must be -- here must be characterized by co-operation between the developer, citizens and the County. I have been working with the representatives of the Burke Center for over a year both as a private citizen and as a Planning Commissioner. I've watched what I think is a necessary sense of co-operation develop here. The plans for Burke Center have changed from a regional center to various forms of mixed conventional zoning to the presently proposed RPC and all through that is a sense of co-operation of citizens, County and developer working together. And I think that Mr. Israel pointed that out very well tonight. If -- if RPC would serve as the catalyst for the continuation of this co-operation, I think that it deserves the support of this Commission. And therefore, Mr. Chairman, I would like to make a motion to support this particular conceptual plan. Before making that I would just like to comment briefly on the alternatives that Mr. Buck mentioned that the form of this motion will be . . . We mentioned that . . ."

could rescind our previous recommendations and make an amendment and then pass off on that and what have you. Or we can just offer a resolution. I am going to choose the latter. I -- for two reasons. Mainly -- first of all, I think that the other is just going to be an exercise in parliamentary procedure and really won't serve to -- to carry on to the Board any more than our sense if we -- if we accept the motion that -- that we are in favor of this. And I just op for the procedural easier task. So therefore Mr, Chairman, I MOVE THAT THE PLANNING COMMISSION MAKE KNOWN TO THE BOARD OF SUPERVISORS THAT AS A RESULT OF A PUBLIC WORKSHOP CONCERNING A CONCEPTUAL DEVELOPMENT PLAN FOR A PROPOSED RPC AMENDMENT TO C-546 AT WHICH PUBLIC COMMENTARY WAS SOLICITED AND TAKEN, THE PLANNING COMMISSION REVIEWED THIS CONCEPTUAL PLAN AND FINDS THAT IT IS IN BASIC AGREEMENT WITH THE EARLIER COMMISSION RECOMMENDATION IN THE AREA III PLAN FOR RPC DEVELOPMENT IN THE BURKE COMPLEX AREA."

Mr. Zanfagna: "Second, Mr."

Mr. Gurski: "Is there any discussion on the motion? All those in favor of the motion please respond by saying aye. Opposed?"

THE VOTE WAS UNANIMOUS. (Mrs. Becker and Mr. Poehrs being absent).

Mr. Gurski: "Any other action you may wish to take, Mr. Kershenstein?"

Dr. Kershenstein: "Mr. Chairman, I think just for discussion sake I will make two additional motions. I had not planned on making them but I would like to get if nothing else some Commission discussion concerning these two other tiny parcels. I would recommend that considering the rectangular parcel that -- that we recommend, if possible, that -- that in the future it develop as part of the original RPC; if not, that it be planned to a density which is similar to the density which surrounds it and that we convey those -- those spots to the Board of Supervisors. I'm not -- I may have to rephrase this motion and I am not suggesting that be a change to our already existing plan-that this just be the sense of the Commission at this time."

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

Mrs. Shands: "I'll second it."

Mr. Gurski: "All right."

Mrs. Shands: "I'll second it, Mr. Chairman."

Mr. Gurski: "All right. I -- I would have just -- just one comment, Mr. Kershenstein. I would assume that -- that your call for a density similar to that surrounding it would probably include the character of the land use in that particular area because in the RPC, we're speaking of densities on the entire tract."

Dr. Kershenstein: "That's correct."

Mr. Gurski: "And in this particular area the densities might be low or high."

depending on the development plan and so on."

Dr. Kershenstein: "My specific thought here is that little liver-shaped parcel that surrounds the tract."

Mr. Gurski: "Is there any other comment by members of the Commission?"

Mr. Lockwood: "Mr. Chairman."

Mr. Gurski: "Mr. Lockwood."

Mr. Lockwood: "Mr. Chairman, I support the motion but I can't see how this recommendation would fail to not change our earlier recommendation which I believe was two to three. So I'd simply recognize the fact that by making this recommendation we are recommending compatible development but increased density."

Mr. Gurski: "Any other comment by members of the Commission? If not, all those in favor of the motion please respond by saying aye. Opposed?"

THE VOTE WAS UNANIMOUS. (Mrs. Becker and Mr. Rochrs being absent).

Mr. Gurski: "Mr. Kershenstein."

Dr. Kershenstein: "I am a little bit puzzled as to what to recommend specifically for the -- for the other parcel known as the Lynch Tract since one particular land use does not surround the entire tract. I think I would like to move though that the -- it is the sense of the Commission -- that it be planned to be again compatible with the -- those surrounding parcels if it cannot be incorporated in the RPC."

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

Mrs. Fasteau: "Second."

Mr. Gurski: "Any Commission"

Mrs. Shanda: "Mr. -- Mr. Chairman, just a question to Mr. Kershenstein. Just looking at the map, it occurs to me since Mrs. Becker isn't here this evening that a -- that a park might be a very good use on at least part of that parcel. Your motion would not prohibit that use. Am I correct, John?"

Dr. Kershenstein: "No, I am a great park advocate."

Mrs. Shanda: "Okay."

Mr. Gurski: "Is there any more discussion on the motion? If not, all those in favor of the motion please respond by saying aye. Opposed? Motion carried."

THE VOTE WAS UNANIMOUS. (Mrs. Becker and Mr. Rochrs being absent).

Mr. Gurski: "I would assume, Mr. Kershenstein, that concludes the actions that you wish to take."

Dr. Kershenstein: "Very good assumption."

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Re: Mr. Ruck's comments on Burke Center RPC

Mr. Gurski: Thank you, Mr. Hazel. If there are no other questions for Mr. Hazel, I would like to call on Mr. Ruck for any comments he might wish to make with regard to a plan recommendation and -- and possibly looking down the road. If all these things were to go as some visualize them, what would the County do with regard to these two parcels? Should they be planned for a particular use in addition to the possible planning for an RPC or how -- what would be the way to handle this kind of a case?

Mr. Ruck: The Commission's recommendation already indicates the preference for the entire parcel at an RPC. There are lesser included uses or alternate uses rather which the Commission has indicated I believe two to three for the majority of the particular parcel. I would indicate -- I -- I would suggest that the most appropriate thing would be and one thing you will have to address that if you decide to reconsider -- rescind as it were that part of your formal recommendation to the Board of Supervisors governing this particular issue that you should indicate if you still have it a preference that these parcels be indicated in RPC as you know possible future acquisition by the joint venture which is proposing this. Or you could have alternative uses. In that instance, I would think that a density roughly identical or nearly identical to the surrounding land of the rectangular parcel be suggested by the Commission. If this plan meets with your approval, I -- I don't see any legal basis for not following that through whether it be in the same ownership or in a subsequent development. On the parcel identified as the Lynch parcel, the 11 or 12 acres there at the convergence of what seems to be two of the major roadways. I think the Commission could indicate its preference as between either of the two residential densities or in fact if the Commission felt additional commercial or institutional space was necessary, you could indicate that on the particular plan in conventional density or conventional category recommendations. I don't know at the -- that the end result, if this is approved and if the zoning is granted, whether or not there will be eventual consolidation of these parcels within the joint venture. But the alternative recommendation would permit a reasonable use under your plan to the owners of those parcels whether or not they wish to consolidate. And by giving plan attention to what would accommodate this particular proposal, I think would in no way legally defeat the concepts that the RPC is proposing here.

Mr. Gurski: Thank you very much, Mr. Ruck. Members of the Commission we've had a discussion.

Mr. Zanfagna: Mr. Chairman.

Mr. Gurski: Yes, Mr. Zanfagna.

Mr. Zanfagna: Could I ask Mr. Ruck to simply clarify the fact that we would have two applications or the applicant would -- would provide a conventional as well as an RPC application. Would that still obtain or would we be refined down to one application?

Mr. Ruck: As I understand it, it is the applicant's firm statement that he is not prepared to withdraw the application for conventional categories. However, it is my indication also that he would proffer and should the Board indicate its desire by such a master plan amendment on the RPC would have a Board's Own Motion zoning request to be heard simultaneously so that the Commission and the Board would review alternate legally advertised uses. Normally other uses may be considered in conjunction with a conventional application and there is no limitation absent of a major change in category or substantially more intensity that would give due process problems in considering other uses. As we discussed with the Commission several weeks ago; however, the RPC as a optional category does take a specific application and does take a specific willingness on the part of a property owner to become part of an RPC in effect joint venture with the County. So that there would have to be two applications advertised and two applications considered. The Commission would -- could then in effect take its pick or to would fashion a -- a third recommendation to the Board of Supervisors at the time of the rezoning.

Mr. Zanfagna: Mr. Chairman.

Mr. Gurski: Yes sir.

Mr. Zanfagna: In addition to the Commission having its choice, would the applicant at any point after a decision or recommendation is made by the Commission or approval by the Board would the applicant still have a choice as to what he is willing to live with? Could he reject in whole or in part anything recommended. Say he is not completely satisfied with the RPC?

Mr. Ruck: If the RPC were approved by the Board, its the zoning on the land and the only way that he could reject it then would be to come forward with an additional application for legislative change, for a rezoning. Presumably, at any point up until the actual time of decision, he could withdraw either or in fact both applications. But his present statement is that he does intend to move forward with his conventional application and that he intends to move forward with both applications if in fact a -- this or a similar master plan amendment is -- is adopted by the Board of Supervisors.

Mr. Zanfagna: Do you have any legal reservations about this manner of the Commission proceeding?

Mr. Ruck: No sir.

Dr. Kershenstein: Mr. Ruck, I take it that when this would come to us -- the two applications. If we like the RPC or one vs. the other, we would approve one but we would also deny the other unless we were making up a third or combination. Approval of one would not necessarily mean denial of the other unless we explicitly did so. Correct?

Mr. Ruck: That's right. I think you would be legally obligated. . . you could have in effect a priority. We like A better than B but we like them both. Or we really don't like either but if we got to have one or the other, we prefer A rather than B. Or you could come up with a negative recommendation

on both, recommending a third alternative but if the Board is bound and determined to have one or the other, we still prefer A rather than B or B rather than A. So you -- the possibilities are limited only by your ability to compute three factors squared, cubed what have you.

Mr. Gurski: Mr. Ruck, simply--I would ask -- the Chair would ask you for some advice. We may take an action tonight to amend our recommendation to the Board of Supervisors for Area III. It is my opinion and I would like to see what you think that we would simply -- if the Commission intends to proceed in this way, it would simply be a motion to amend the recommendation to the Board.

Mr. Ruck: Mr. Chairman, parliamentarily I would suggest if you would decide to make any modification in your recommendation that you would one move to rescind that part of your recommendation to the Board of Supervisors covering this particular area. That motion passing by a majority vote of the Commission, you would then have in effect an incomplete recommendation on the floor. You would then modify your recommendation to include that which you would by appropriate motion. You could go that route or in terms of a formal recommendation. If you wish not to make a formal recommendation but merely wish to respond to the Board of Supervisors' comments since it is not legally required that you make recommendation at this time on this proposal that just by resolution that the Commission is in favor, is against, is in favor with some modifications or is basically against unless certain things occur whatever the Commission's view would be. And just by resolution respond to the Board's comments. If you are actually going to change your recommendation on the plan to include this, I would suggest that you do it first by rescinding that part of your earlier recommendation. You can rescind because by the formal motion taken by the Commission some two weeks ago when you set this up, you are legally in power to take a rescission action no legal rights having vested. In the meantime, if you do not wish to amend it, you may do so merely by informing the Board of Supervisors of your view of this proposal which is pending before them.

Mr. Lockwood: Lee, do I understand if we recommend a modification to the comprehensive plan for Area III that we are limited to the 1,188 acres to be included in that . We couldn't include other areas.

Mr. Ruck: For -- you -- I believe you could make a recommendation for others. I think, however, that recommendation would be valueless to the Board because they will not be able to consider in the amendment anything which is not actually part of the proposal. In effect, those properties which are presently owned by or controlled by the -- the property owner, the joint venture in question. So that if you felt that a -- other areas should eventually be included, you may indicate that as a long range preference as how this issue should be treated but as this particular diagram outlines the present limits of the owner or his control, the RPC amendment to the master plan specifically required to be able to entertain RPC rezoning cannot go beyond the physical confines of the property.

Mr. Lockwood: Without getting into the RPC rezoning but only the RPC planning, I wonder if there is some advantage of having the two white areas blanketed into our recommendation. It becomes a matter of record that

the intent was that they be blanketed in . . .

Mr. Ruck: I think you can have that as a long term goal and it could very well be that at some point in the future the owners of those properties would wish to consolidate into the owner-developer of an RPC. But I think it would be appropriate as you did with your original RPC recommendation that you have alternate uses in case that is not a fact and based upon representation tonight. In all likelihood would not be the fact at the time of the actual rezoning of this property. There is still going to have to be a -- a plan designation for those two particular parcels and I would think that conventional densities as you have done in the remainder of the Area III Plan could be affixed to those parcels as alternates to an eventual RPC.

Dr. Kershenstein: Lee, since the RPC requires a 750 acre minimum and since these two parcels would be coming in under as separate zonings, could we in fact consider them as RPC even though the contiguous land is an RPC zoning?

Mr. Ruck: As I understand it, RPC may be expanded by acreage less than under the present ordinance and under the ordinances envisioned in the new zoning ordinance is expanable by acreages less than 750.

Mr. Ruck turned away from the microphone to speak with a member of the staff and a small portion of his presentation is inaudible.

Mr. Ruck: As long as they are logical additions. And I would leave it to the Commission's view as to whether they would or would not be logical additions.

Dr. Kershenstein: Lee, one other question. I am now confused as to the status of our original recommendations concerning these two little -- these little parcels. If we do nothing tonight regarding just those -- those other parcels do our previous recommendations of RPC or 2 to 3 still hold?

Mr. Ruck: Yes, I believe they would. If -- if in fact you said this particular RPC, either by amendment or by suggestion either route, the language would be different is that which the Commission does view as an appropriate use for this parcel. The original recommendation for those parcels would stand; however, the Board of Supervisors will have to when it does the final mark-up have to take into consideration for those parcels the land use surrounding it. I have no comment as regard to the Lynch property because there seem to be two obvious and three possible uses to be planned for that property. If in fact, this property were to be completely planned and rezoned RPC, I would think that there would be very little justification from a planning point of view to retain the rectangular parcel to the north in the two to three unit category. It just does not seem to give sufficiently. I can't speak to the planning issue but I think that legally there seems to be no planning evidence available as to why that particular parcel should be cut out of it effect a -- a moderate to high density multiplex area and limit it to two to three units per acre single family detached. So that you -- you certainly have the option to make no comment as to those two particular parcels but I

think the Board of Supervisors if they do approve this are at least going to have to wrestle with what to do with that little triangular piece. I mean that little rectangular piece.