

**MINUTES OF REGULAR MEETING
OLDHAM COUNTY
PLANNING AND ZONING COMMISSION**

Tuesday, August 25, 2015

At 9:00 a.m., local time on the above date, this meeting of the Oldham County Planning and Zoning Commission, hereinafter called the Commission, was called to order in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky, by Chairman Kevin Jeffries.

Other Commission members present were:

Joyce Albertsen	Bob Arvin	John Falvey
Sam Finney	Mary Ann Smith	Bob Klingenfus
Kevin Mesker	Jan Horton	
Denia Crosby	Greg King	
William Douglas	Joe McWilliams	

Others present and sworn in were Planning and Development Services Director Jim Urban, Senior Planner Amy Alvey. County Attorney John Carter was present. Community Planner Brooke Radcliffe was the Secretary for the meeting.

Approval of Minutes – July 28, 2015

Motion was made by Commissioner McWilliams and seconded by Commissioner Finney to approve the July 28, 2015 minutes as submitted.

Motion carried by unanimous voice vote.

Secretary Radcliffe called and read Docket PZ-15-014:

DOCKET PZ-15-014 - Application has been filed by Daniel Irwin for the approval of a Zoning Map Amendment on approximately 13.22 acres. The property is located at 2202 Fendley Mill Road, LaGrange. The proposed change is from I-2 Heavy Industrial & CO-1 Conservation to AG-1 Agricultural.

(1) Introduction of the application by staff and questions by the Commission:

Senior Planner Amy Alvey presented the following:

- Summary of application

- Notes and Issues (Exhibit A: Staff Report dated August 25, 2015)
- Site history
- Aerials and photos of site

(2) Presentation by the applicant or representative and others in support of the application:

Daniel Irwin, 1000 Frederick Drive, Apt. No. 4, LaGrange was present and sworn prior to speaking on behalf of this application:

- The landfill was approximately five acres and at the back section of the property. This section will be left alone.
- Did not follow through with the re-zoning four years ago because he was planning on selling the property and thought it would sell easier as an industrial property.
- The landfill was active 30 years ago and has passed all of the state inspections and requirements.

(3) Testimony and questions by those opposing the application: None.

(4) Questioning of the applicant and those opposing the application by the Commission:

Mr. Irwin responded to questions by the Commission:

- Frankfort sent an inspector to the property to test the landfill site about a year and a half ago.
- Doesn't know what was placed in the landfill.

(5) Rebuttal evidence and Cross Examination by the Applicant: None.

(6) Rebuttal evidence and Cross Examination by the Opposition: None.

(7) Final statement of the Opposition: None.

(8) Final statement of the Applicant: None.

END OF PUBLIC HEARING

FINDINGS AND DECISIONS

PZ-15-014

Zoning Map Amendment

Mr. Urban clarified that if there was an issue with the landfill, the Planning and Development office would have received notification from the state. In terms of a Development Plan, the only thing

that is being proposed today is a single family residence on the property, so that is all that the Commission needs to consider when making their decision about the proposed Zoning Map Amendment.

Motion was made by Commissioner King and seconded by Commissioner Douglas to recommend approval to Oldham County Fiscal Court Docket PZ-15-014, application for a Zoning Map Amendment on approximately 13.22 acres, from I-2 Heavy Industrial and CO-1 Conservation to AG-1 Agricultural, located at 2202 Fendley Mill Road, LaGrange because:

- It complies with the objectives of the Comprehensive Plan as outlined in the application and testimony.
- The existing zoning of the property is inappropriate and the proposed zoning is more appropriate based on the uses of nearby properties.

Discussion:

Commissioner Klingenfus stated that landfills are normally recorded in the deed and he would like this landfill to be recorded for future generations.

Mr. Urban stated that it is probably already recorded but if it isn't, the Commission can include a binding element that requires the applicant to record a plat that shows the location of the landfill based on the state's investigation.

Binding Elements:

1. Unless the location of the landfill is recorded, the applicant must record a plat showing the location of the landfill based on the state's investigation.

The vote was as follows:

YES: Commissioners Smith, King, Douglas, Falvey, Crosby, Horton, Klingenfus, Mesker, McWilliams, Albertsen, Arvin, Finney.

NO: NONE

ABSTAIN: NONE

ABSENT: Commissioner Bohne

Motion passed on a vote of 12-0.

At 9:22 a.m. Chairman Jeffries called a brief recess to set up for the next docket item.

Session resumed at 9:30 a.m.

Secretary Radcliffe called and read Docket PZ-15-015:

DOCKET PZ-15-015 - Application has been filed by Central States Tower III, LLC and Cellco Partnership (D/B/A Verizon Wireless), for approval to construct a 185 foot Telecommunications Tower, on 35.672 acres, located at the 2500 Block of West Highway 22 in Unincorporated Oldham County.

Chairman Jefferies called on David Pike, the attorney and representative of the applicant, for a statement.

David Pike, Pike Legal Group, PLLC, P.O. Box 369, Shepherdsville, was present to speak on behalf of the applicant:

- Based on an issue regarding an easement vs. leasing status that arose on a preliminary basis at the very end of the day, yesterday (8/24/2015), and became clearer this morning, it is clear that the case needs to be continued.
- Doesn't want to automatically continue the case to next month because he wants to make sure that the issue is resolved effectively.
- Would like the case to be generally continued subject to subsequent notice so that all interested parties, including opponents, will have the opportunity to appear at any subsequent presentation.
- After conferring with Mr. Urban and the Chairman during the break, the applicant has decided to extend the statutory notice requirement of sixty days regarding the completion of this case to sixty days on the date of which the notice is mailed. The official notice will be mailed to the Planning Staff and documented at that time.

Mr. Pike responded to questions by the Commission:

- The applicant has not agreed to waive the requirement that the Commission make a decision on the application within sixty days. The applicant has agreed to extend that deadline to sixty days after date of the notice for the next hearing has been sent.

Motion was made by Commissioner Horton and seconded by Commissioner McWilliams to accept the proposal to waive the sixty day requirement that this Commission must rule on the application for the Cell Phone Tower for an additional sixty days from the date of the notice sent by the applicant.

Discussion:

Mr. Carter responded to questions by the Commission:

- The applicant has asked to continue the hearing because our regulations require that in this particular location, the cell tower must be placed on an acre of land to be leased or owned. The regulations state that the applicant must have a contract to lease or purchase

the property to proceed with the hearing. The applicant does not have a contract to lease or purchase one acre of land and claims that the county has never required a Cell Tower applicant to have an acre in Oldham County, which they claim would generate an issue of discrimination against Verizon.

- The applicant does not meet the requirement on page 177, number eight, of the Comprehensive Zoning Ordinance which states: “Any site to be purchased or leased for the installation of a telecommunication antenna tower or alternative telecommunication antenna tower structure and ancillary facilities shall comply with the minimum lot size requirements of the district in which the site is located.” The zoning district requires a minimum lot size of one acre. The Tower in question is located on a site of 36 acres but the applicant has a contract to purchase an easement of 100 feet by 100 feet, which is not an acre.

Mr. Urban responded to questions by the Commission:

- The applicant asked that the Commission table this application today so that they can resolve an issue regarding the lease or easement of the property. They will send out a brand new notice to everyone. They have waived the requirement that the application that was submitted on July 28th be decided on in sixty days. The new sixty day clock begins when the new notice is sent out to the Planning and Development staff, the Commission and the adjoining property owners. The notice will also be posted to the property and put in the paper.
- The applicant will not submit a new application, it will be continued and they will supplement the application with new information gathered.
- Tab F is being clarified in the postponement of this case.

The vote was as follows:

YES: Commissioners Smith, King, Douglas, Falvey, Crosby, Horton, Klingenfus, Mesker, Albertsen, Arvin, Finney.

NO: Commissioner McWilliams.

ABSTAIN: NONE

ABSENT: Commissioner Bohne

Motion passed on a vote of 11-1.

OTHER BUSINESS:

Mr. Falvey asked that the Commission to credit four of the six hours from classes that he attended for his realtors license toward his required training hours of the Planning Commission.

Motion was made by Dr. Arvin and seconded by Ms. Smith to approve four hours of training completed by Mr. Falvey. Motion carried by unanimous voice vote.

Ms. Alvey distributed to the Commission the current number of hours that each member has completed. Each member is required under House Bill 55 to complete eight hours of training every two years. There is a seven hour training opportunity through APA on September 11th at Buffalo Trace in Frankfort. An email was sent to the Commissioners with links to training opportunities, including the conference at Buffalo Trace.

Ms. Alvey advised the Commission that at this time there have not been any filings for the September meeting but the deadline is tomorrow. If any filings are received an email will be sent out to the Commissioners to inform them of the September meeting.

There being no further business, the meeting adjourned at 9:45 a.m. The next regular meeting is scheduled for Tuesday, September 22, 2015, at 9:00 a.m. in the courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted:

Brooke Radcliffe, Secretary

Approved:

Kevin Jeffries, Chairman