

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

**Tuesday, April 26, 2016**

At 9:01 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:

Bob Arvin	Laura Bohne
Denia Crosby	William Douglas
Sam Finney	Jan Horton
Joe McWilliams	Kevin Mesker
James Neal	Mary Ann Smith

Commissioners Albertsen, Falvey, King and Klingenfus were absent.

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

\*\*\*\*\*

**Approval of Minutes:**

Motion was made by Commissioner McWilliams and seconded by Commissioner Mesker to approve the minutes of March 22, 2016 as submitted.

Motion carried by unanimous voice vote.

\*\*\*\*\*

Administrator Urban informed the Commission and those present that Dockets PZ-16-011 and PZ-16-012 will not be heard today. Applicant has requested to move the hearings to the May 24, 2016 meeting.

Motion was made by Commissioner McWilliams and seconded by Commissioner Horton to table Docket PZ-16-011 and Docket PZ-16-012 to the May 24, 2016 meeting.  
Vote was taken and motion passed by unanimous voice vote.

## **Secretary Foxx called and read Docket PZ- 16-013**

**DOCKET PZ-16-013** – Application has been filed by Liberty Development Group for a waiver to allow a residential use in an industrially zoned district for property located at 4450 Old LaGrange Road, Buckner. The zoning is I-2 Heavy Industrial.

### **(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 April 26, 2016).
- Site history.
- Aerials and photos of site.
- Photos of subject property, residential structures in the area, renderings of proposed building along with architecture and floor plan and living area for the proposed residence.
- Explained the tiered zoning being the reason for the residential uses on Old LaGrange Road but the tiered zoning went away in 2007.
- Applicant proposes a mixed use having residential use and wishes to keep some of the non-residential use on the property.

Planner Alvey responded to questions by the Board:

- Applicant submitted with his application photos that are examples of the proposed living space.
- The 2800 square foot portion of the building will be residential and the balance will remain under the existing I-2 zoning.
- This is not a zone change.
- The zoning will remain the same.
- Explained that the waiver will remain with the property; he is asking for a portion of the building to be used for residential use in industrially zoned property.

Administrator Urban informed the Commission that the façade may be a rendering but the floor plan is what the applicant is proposing to construct. What will apply to the residential portion of the building is that it must be constructed according to the building code and must meet fire code regulations.

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

Robert Liberty, 4450 Old LaGrange Road, Buckner, was present and sworn prior to speaking in behalf of this application.

- Is owner of 911 Sportscars, LLC and introduced his attorney, Lewis Winter.
- This is an exciting project not only for him and his family but also for Oldham County.
- Told of friends and personalities that have homes constructed much like he is proposing having residential use within an industrially zoned warehouse.
- When he purchased the building it was not only to use the building for storage but also as a classic car operation; in addition he wishes to move into it with his family.
- Has already made several improvements to the property as the previous condition of the property was an eyesore.
- Plans have been submitted to the Building Inspector and will be constructed to code.
- Met with the adjoining property owners who signed letters of support that have been made a part of the record.
- The neighbors are happy with the improvements that have been made on the property.

Lewis Winter, Attorney, 462 South Fourth Street, Louisville was present to speak in behalf of this application.

- Client is attempting to convert 2800 square feet of the building to be used for residential use for him and his children.
- The renovation will be professionally done and will have little impact on the surrounding area as there are already residential homes to the north and south of the property.

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

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

- Mr. Liberty responded that although there is one bathroom planned for the 2800 square foot building, he is considering a one-half bath upstairs.
- The proposed bathroom will be 15 by 13; his children will be there only 50 percent of the time being the reason for having only one bathroom.
- The property is presently used for storage of classic cars.
- Has no intentions of charging admission for those that wish to look at the classic vehicles; he enjoys people stopping by to look at the classic vehicles.

**(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:**

Mr. Liberty stated the following:

- Prior to purchasing the building he had the property and building tested; there are no hazardous issues on the property whatsoever.
- Because his children will be living there he wants to be assured that there are no fire issues or safety hazards.
- With the assistance of the building inspector, building plans show more than required for the fire wall.

**END OF PUBLIC HEARING**

Administrator Urban addressed concerns regarding the waiver that will allow residential in the industrially zoned area. Because tiered zoning was removed in 2007 this is an expansion of the use. The property is zoned industrial and when the building was constructed years ago, it had to meet the industrial zone setbacks. Plans for a building permit for the residential part of the building must meet the building codes for fire separation, fresh air and egress.

Planner Alvey confirmed the request is a waiver and not a zoning change. It is simply a request to allow residential occupancy. There are existing residential uses in this industrial zoned area. She reminded the Commission of the existing mixed use in the surrounding area.

**FINDINGS AND DECISIONS  
DOCKET PZ-16-013  
Waiver For Residential Use**

Motion was made by Commissioner Horton and seconded by Commissioner McWilliams to approve Docket PZ-16-013, application for a Waiver to allow residential use in Industrially Zoned District because:

- It is not in conflict with the Comprehensive Plan.
- The strict compliance with the regulations would create an undue hardship because of the exceptional unique topographic and natural man-made physical conditions of the property.
- The design innovations of this case will achieve the basic objectives of the regulations.
- Letters of support from the neighborhood show that there no objections to the requested waiver.

**Conditions of Approval:**

The waiver shall only apply to the plan reviewed at the April 26, 2016 Planning Commission public hearing.

The vote was as follows:

**YES: Commissioners Mesker, McWilliams, Smith, Arvin, Bohne, Crosby, Finney, Douglas, Horton and Neal.**

**NO: NONE**

**ABSTAIN: NONE**

**ABSENT: Commissioners Albertsen, Falvey, King and Klingenfus.**

**Motion passed on a vote of 10-0.**

\*\*\*\*\*

**Secretary Foxx called and read Docket PZ- 16-014 AND Docket PZ-16-015:**

**DOCKET PZ-16-014** – Application has been filed by FJAW, LLC for the approval of a Zoning Map Amendment on approximately 9.0 acres. The property is located at 1720 Commerce Parkway, LaGrange. The proposed change is from R-2 Residential to C-3 General Business District.

**DOCKET PZ-16-015** - Application has been filed by FJAW, LLC for the approval of a Development Plan on approximately 9.0 acres. The property is located at 1720 Commerce Parkway, LaGrange. The proposed zoning is C-3 General Business District.

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

Senior Planner Amy Alvey presented the following:

- Summary of application for a Zoning Map Amendment and for a Development Plan.
- Notes and issues (Exhibit A: Staff Report dated April 26, 2016).
- Only nine of the 18 acres will be rezoned.
- Site history.
- Aerials, zoning maps and photos of the property and surrounding area.
- Development plan showing buildings proposed for an automobile dealership.

Planner Alvey responded to the Commission:

- They do meet the requirements for handicap parking.

- Showed the location of the approximate location of the water main.
- The access drive to the sewer pump station is existing.

Karen Mohammadi, Neel-Schaffer, 200 Whittington Parkway, Louisville, was present and sworn prior to giving the traffic analysis.

- Presented the scope of work which included the assessments of potential impacts of future growth including Kroger, Oldham Oaks and the current development.
- Also looked at the intersection of Commerce Parkway, I-71 Overpass and Allen Lane and gave traffic analysis for existing and the proposed auto dealership.
- Gave trip generations for the automobile sales for morning and evening.
- Summarized that presently, traffic at the four way stop at Allen Lane and Commerce Parkway is operating very well at levels A and B.
- However, by 2018 the p.m. levels will fail regardless of whether the dealership is there or not and will operate at level of service F.
- The Transportation Cabinet has anticipated that eventually a signal will be needed at that intersection of Commerce Parkway and Allen Lane.

Ms. Mohammadi responded to questions from the Commission:

- A traffic light at the Level F intersection would improve the level of service greatly.
- Explained traffic counts are usually done within a three hour window depending on the location.
- They only did the analysis for the one intersection and entrance to site.

Administrator Urban responded at this point:

- There is plenty of right-of-way on Commerce Parkway as they anticipated that the road would have to be widened in the future.
- They have been talking with Neel-Schaffer about doing an analysis so they can recommend improvements for Commerce Parkway.
- They know that when the volumes are up they will have to do a widening of Commerce Parkway.

Administrator Urban continued as follows:

- There is a project in the right-of-way phase to straighten out and widen Allen Lane and there are plans to go under the railroad track.
- That will connect Highway 146 ultimately with Highway 53 at Blakemore Lane.
- That project may warrant analysis for a traffic signal at Commerce Parkway and Allen Lane and a new overpass over I-71.

Beth Stuber, Oldham County Engineer, was present and sworn prior to speaking in behalf of this application.

- Commerce Parkway is in the City of LaGrange and therefore access is not in Oldham County's jurisdiction.
- Dave Garber will address the issue of storm water run-off onto I-71.
- Since TRC, the applicant intends to come back with green infrastructure that will meet the post construction ordinance.

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

Attorney Beach Craigmyle, 105 South First Avenue, LaGrange, was present to speak in behalf of FJAW, LLC, doing business as Champion Corporation/Buick GMC.

- Informed the Commission that the final authority for the zoning change will be the City of LaGrange and they in turn will hear the request and ultimately change the Zoning map if approved.
- Has made recommendations of findings in which they maintain the proposed plan is consistent with the Oldham County Comprehensive Plan which supports and meets the purpose to develop along Commerce Parkway.
- Development of the dealership is compatible with the neighborhood as there are businesses nearby, a storage facility, an engineering firm and want to make sure the development is environmentally sensitive.
- There will be a rain garden that can be used as a detention basin that will go underneath the expressway to help slow down the water, a gradual slope to Commerce Parkway.
- This project will be good for the economy and the county, will improve tax revenue and alleviate traffic concerns along First Street/Highway 53.

David Garber, Garber-Chilton Engineers, 2249 Commerce Parkway, LaGrange, was present and sworn prior to speaking in behalf of this application.

- Reviewed TRC concerns and showed the location of the water line along the front of the property and those concerns have been corrected.
- Showed the water line which is on an existing easement and will be away from the development and no crossing.
- To the rear of the property is a sanitary sewer which will be tapped into as well as a force main sanitary sewer.
- All the utilities that are needed are in place.

- There will be two entrances to be more practical especially for a large delivery truck that will not have to turn around on site and simply go out the other drive.
- A great location between Exit 18 and Exit 22 and easy access for clients and delivery traffic.
- Showed the location of the main building which will have the main showroom and service bays.
- Showed location of the collision center and where a wrecker can off-load a vehicle that needs servicing and multiple routes to get out.
- Sidewalks will be added around the building, the light green represents grassy areas; will have shrubs and many trees represented in darker green; the lighter color is the landscape area.
- Gave information regarding the detention basin and showed how it will be designed and will be reviewed by the State.
- Majority of the water will go back to the detention basin.
- Incorporated where City has access to the pump station and will remain a gravel road which they have agreed to.
- Properties to the north will have their own detention basin.
- Met with Mayor of LaGrange and Public Works and they have no concerns including the entrances.
- Do not need any waivers or variances for this project.
- Presented interior and exterior design of the proposed building having much glass and dictated by General Motors; although signs will not be presented today they are also dictated by General Motors.

Attorney Craigmyle stated at this time that they do not anticipate heavy truck traffic coming into the property except two or three a days a week.

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

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

Mr. Garber responded as following:

- There is a turning radius program and trucks will not go into the grassy area.
- Showed the traffic arrow where customers will enter the service area.
- The proposed building is larger than the existing on Highway 53.
- As to property, they were able to negotiate a total of nine acres which fits perfectly for the proposed number of vehicles, the size of the collision center and the sales area.

- Wanted to make sure they had plenty of green area and are pleased as to how everything will fit.
- The radius program will accommodate different type vehicles.

Fred Tolsdorf, Champion Chevrolet, 502 South First, LaGrange, was present and sworn prior to speaking in responding to questions by the Commission:

- The existing main facility on First Street has 4.3 acres and the dealership across the street has a little over an acre.
- The existing main service building is almost 28,000 square feet and the body shop is 12,000 square feet.
- They will provide both new and used cars at the new dealership.
- There are plans to eventually move everything off the Highway 53 property to the proposed facility.
- If this is approved today, the time line is three to four years to get the facility up and running.

**(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:**

Attorney Craigmyle stated as follows:

- This is straightforward request to change from residential to C-3 which permits vehicles sales, display and repair.
- The various entities and technical review comments have been revised.
- Per KRS 100.211 the controlling statute requires that the proposal and development plan will be recommend to the LaGrange City Council.
- The proposal is consistent with the goals and objectives of the Comprehensive Plan and the Zoning Ordinance.
- The proposal will be good for the community and will increase tax revenues, including work place development.
- Transportation issues show that the traffic will be alleviated on First Street.
- Testimony shows that there will be more room for vehicles making deliveries on the proposed site.
- Request the approval of the zoning change and approval of the development plan.

**END OF PUBLIC HEARING**

Administrator Urban stated that the Commission is to review reasons for the approval or denial of the zoning map amendment and there are no binding elements attached. If the Commission so chooses to recommend the zoning change to the LaGrange City Council, it is suggested that the Applicant’s justification statement be made a part of the decision.

**FINDINGS AND DECISIONS  
PZ-16-014  
Zoning Map Amendment  
R-2 Residential to C-3 General Business District.**

Motion was made by Commissioner McWilliams and seconded by Commissioner Mesker to recommend a Zoning Map Amendment from R-2 Residential to C-3 General Business District to the LaGrange City Council because:

1. Complies with the objectives of the Comprehensive Plan.
2. The proposed zoning change is appropriate and better use of the property than the existing related to land use, the environment and transportation.
3. There have been major changes of an economic, physical or social nature within the area.

**YES: Commissioners Arvin, Bohne, Crosby, Finney, Douglas, Horton, Mesker, McWilliams, Smith and Neal.**

**NO: None**

**ABSTAIN: None**

**ABSENT: Commissioners Albertsen, Falvey, King and Klingenfus.**

**Motion passed on a vote of 10-0.**

\*\*\*\*\*

Administrator Urban informed the Commission regarding the Development Plan that should the LaGrange City Council approve the Zoning Map Amendment, the Commission is asked to consider the development plan which would be in compliance with the C-3 Zoning. The Conditions of Approval shall be attached to the motion.

**PZ-16-015**

**FINDINGS AND DECISIONS  
DEVELOPMENT PLAN**

Motion was made by Commissioner Arvin and seconded by Commissioner Horton, to approve Docket PZ-16-015, Development Plan because:

- It complies with the objectives of the Comprehensive Plan and the Zoning Ordinance.

**Conditions of Approval:**

1. There shall be no changes to the development plan without approval by the Oldham County Planning Commission.
2. There shall be no increase in drainage run off to state roadways.
3. Site lighting shall be designed to not shine in the eyes of drivers.
4. A comprehensive sediment and erosion plan shall be developed and a soil and erosion bond will be posted before any site disturbing activity occurs pursuant to the soil and erosion control requirements in the construction site run off ordinance.
5. The sediment and erosion plan shall include a phasing plan that limits the amount of sediment exiting from the site.
6. The development must comply with the Oldham County Fire Hydrant Ordinance.
7. A landscape plan must be submitted to staff for review and approval.
8. Potential signage shall be in compliance with Section 290-150 regarding signs along scenic corridors.

**YES: Commissioners Mesker, McWilliams, Smith, Arvin, Bohne, Crosby, Finney, Douglas, Horton and Neal.**

**NO: None**

**ABSTAIN: None**

**ABSENT: Commissioners Albertsen, Falvey, King and Klingenfus.**

**Motion passed on a vote of 10-0.**

\*\*\*\*\*

**Secretary Foxx called and read Docket PZ-16-016**

**DOCKET PZ-16-016** – Application has been filed by Southern Petroleum, Inc. for a waiver of Section 290-160 (Non-Conforming Signs) of the Oldham County Comprehensive Zoning

Ordinance for a sign located at 4734 West Highway 146, Buckner. The property is zoned C-4 Highway Service District.

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

Community Planner Brooke Viehmann presented the following:

- Summary of application.
- Notes and issues (Exhibit A: Staff Report dated April 26, 2016)
- Site and sign history.
- Aerials and photos of site.
- Photos of subject sign and signs in the surrounding area.

At this time, Administrator Urban informed the Commission that when the property was redeveloped for the Subway, staff completely missed the issue of the sign and never thought about it. The issue went before Code Enforcement because it was a non-conforming sign so are now bringing it before the Commission.

Planner Viehmann responded to the Commission as follows:

- It is required that the smaller sign be removed but will need to question the applicant as to what they wish to do with it.
- If they choose to approve the waiver, they could place a time limit of replacing the face of the sign.
- Shell went out of business in 2006 and Subway built in 2014.
- There are other signs in LaGrange and Oldham County that are similar in height.
- Presently one could not place a sign of that height in the area.
- Originally they received a violation for both signs; the smaller sign would be easier to remove but it would cost \$12,000 to remove the larger sign and \$6,000 to replace the cabinet.
- For the 25 foot setback the maximum height in C-4 is 35 feet although one can request a variance for a taller sign through the Board of Adjustments.
- The sign is considered an obsolete nonconforming sign because it has been vacated for over twelve months (Section 290-160 Nonconforming Signs – Discontinued or Obsolete Non-Conforming Sign Not to Re-establish after One Year). Code Enforcement got involved because Discontinued/Obsolete Nonconforming Signs must be removed according to the Oldham County Comprehensive Zoning Ordinance.
- Subway would be the only entity that is permitted to use the sign by right because they are the only business on-premises. Others wishing to utilize the sign would be required to receive approval from the Board of Adjustments for a Conditional Use Permit for an Off-Premises Sign.

Administrator Urban responded as follows:

- There is no intentional violation of the rules although it is in front of the Code Enforcement Board.
- If there had not been a discontinuation of use they could have changed the cabinet with a simple sign permit.
- Subway was in and operating when it was discovered that the Shell sign was still there.
- The sign met the regulations when it was first placed, but now they are requesting to approve a legal non-conforming sign.

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

Jeremy Bartley, Council for Southern Petroleum, Inc., 600 Monticello Street, Somerset, Kentucky, was present to speaking on behalf of this application.

- Explained how Southern Petroleum is a petroleum wholesale and handle gas distribution to major retailers.
- The history of this property precedes his employment and he understands the property was purchased out of a bankruptcy estate.
- They operate as a Valero or Marathon and never had a Shell station.
- About 2014 the property was leased to the Subway tenant and many improvements were done on the property.
- His company is the land owner and the sign was overlooked by everyone and they appreciate that this has been brought to their attention.
- They are asking for a variance as this is based on exceptional hardship.
- The lessee will be responsible for the improvements and for a small operator, the cost of \$12,000.00 would be significant to him as well as leaving the unsightly concrete.
- They are asking for approval of the waiver and hope to make revisions of the sign within 120 days.
- They also plan to remove the smaller sign.

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

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

**Mr. Bartley responded as follows:**

- The Shell Gas face will be removed and in order for the sign to be conforming, it needs to be replaced with a sign that represents the business that is on the property.

- Although he has not talked to the Subway Lessee he understands that Subway had applied for a variance and he is sure they want a Subway sign.
- Thornton Oil has contacted Southern Petroleum and expressed in interest in using the existing sign.

Administrator Urban and Attorney Carter responded at this time that the waiver can be approved with condition that the face be replaced within a certain time period (Mr. Bartley stated 120 days).

- Attorney Bartley continued that they simply want the sign to be brought into conformity.
- He confirmed that if the waiver is approved, they are committing to replace the face in 120 days.

Administrator Urban explained that the applicant is requesting a waiver to leave the tall sign on the property and the existing Shell sign cabinet will be replaced with a sign cabinet advertising an existing business. If Thornton's wanted to replace the existing Shell cabinet with a Thornton's sign, Thornton's would have to appear before the Board of Adjustments requesting a Conditional Use Permit for an Off-Premises Sign.

**(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:**

Attorney Bartley stated that the sign has been in existence for a very long time. As the property owner, they should have brought the sign into compliance prior to today. This site is no longer a petroleum property and therefore the Shell sign cabinet is obsolete, so they are requesting approval of the waiver. They also request 120 days to bring the sign into compliance.

## **END OF PUBLIC HEARING**

Attorney Carter informed the Commission that the issue today is not who owns the sign or who is going to pay for the sign. The Commission can grant the waiver with the condition that a sign permit be issued within 120 days to replace the Shell sign.

Administrator Urban stated that the structure itself is what is in question because of the expiration of the 12 month period. They cannot get a sign permit unless there is a waiver that the sign structure will be allowed to be used. The question to the Commission is, "can they use the sign structure".

Planner Alvey informed the Commission that Subway did apply for a variance for the sign through the Board of Adjustments. They were going to reface the Shell sign with a Subway cabinet and remove the smaller sign. However, the request was denied because the Board could not approve a sign that is obsolete and not in compliance. The Board of Adjustments cannot approve a waiver, and that is the reason it is here today.

## **FINDINGS AND DECISIONS**

**PZ-16-016**

**Sign Waiver (Section 290-160 Non-Conforming Signs: Obsolete Nonconforming Sign  
not to Re-establish after One Year)**

### **Motion to Deny**

Motion was made by Commissioner Finney and seconded by Commissioner Horton to deny application for a Sign Waiver because:

1. Has not been presented with enough evidence today to make a proper decision.
2. They did not present evidence that the cost of replacing or removing the sign will be a burden to the lessee.

The vote was as follows:

**YES: Commissioners Finney, Horton and Mesker**

**NO: Commissioners Arvin, Bohne, Crosby, Douglas, McWilliams, Smith and Neal**

**ABSTAIN: NONE**

**ABSENT: Commissioners Albertsen, Falvey, King and Klingenfus.**

**Motion to deny failed 3-7.**

### **Discussion:**

There was much discussion by Commission members, many questions and concerns for the lessee of the property.

**FINDINGS AND DECISIONS**

**PZ-16-016**

**Sign Waiver (Section 290-160 Non-Conforming Signs: Obsolete Nonconforming Sign not to Re-establish after One Year)**

**Motion to Approve**

Motion was made by Commissioner Bohne and seconded by Commissioner Douglas to approve Docket PZ-16-016 application for a Sign Waiver because:

- 1. Strict compliance with the regulations would create an undue hardship to the business owner.
- 2. There will not be a detriment to the public good.

**Conditions of Approval**

- 1. The smaller sign shall be removed within 120 days.
- 2. A sign permit must be obtained for the existing high rise sign, and the new sign cabinet must be installed within 120 days.
- 3. The waiver shall only apply to the plan reviewed at the April 26, 2016 Planning Commission Public Hearing.

The vote was as follows:

**YES: Commissioners McWilliams, Smith, Arvin, Bohne, Crosby, Douglas, Horton and Neal**

**NO: Commissioners Mesker and Finney**

**ABSTAIN: NONE**

**ABSENT: Commissioners Albertsen, Falvey, King and Klingenfus.**

**Motion passed on a vote of 8-2.**

\*\*\*\*\*

**Secretary Foxx called and read Docket PZ- 16-017**

Application has been filed by David Adams for a Record Plat for property located at 3106 Halls Hill Road, Crestwood. The applicant is also requesting a Road Frontage Variance for a proposed tract. The property is Zoned R-2 Residential and CO-1 Conservation District.

**(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 April 26, 2016)
- Site history.
- Several outlines and aerials of the site.
- Photos of property and surrounding area.

Planner Alvey having given much history on this property informed the Commission that this property has not been before the Commission. In order to help to prepare a record plat and to clear up several of the old plats, Garber-Chilton Surveyors prepared an overall survey of the property. The proposed plat shows only 93.58 feet of frontage, however it is required that it have 300 feet.

Planner Alvey responded as follows:

- The plat that is presented is the latest; a private access can serve three properties.
- Showed the tracts that the access can serve and there cannot be further division without new road construction.
- Tract A does not have road frontage and the Commission may have to place conditions of approval due to the dual zoning of the property and where the proposed house may be located.
- Currently there is a lot that has two houses, but with reconfiguration of Tract C it will reduce the lot to one house; the creation of Tract F will take away the two houses on one property; confirmed that Tract A does not have a house.
- Depending on where the house will be located on Tract A, it may or may not need a road frontage variance.
- Regarding a letter that was presented to the Commission (Opposition Exhibit B) that the notice had not been received in a timely manner, the regulations require that notice to adjoining property owners be no less than 7 days and no more than 21 days.
- It was advertised in the Oldham Era 14 days before the hearing date and therefore the Planning Office did comply.
- All the previous plats were approved years ago and present staff were not part of the Planning office at the time.

Administrator Urban responded there have been issues on this property and there have been minor plats created throughout the past few years. Confirmed that Tracts B and D and E are not being changed; this is strictly a clarification of the sell-offs of the parent parcel.

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

Beach Craigmyle, Attorney, 105 South First Street, LaGrange was present to speak in behalf of Applicant, David Adams.

- Wanted to point out that if Tract F were one-tenth of an acre less they would be looking at 150 feet of road frontage instead of 300 feet.
- Simply wish to clear up the tracts so the record plat can be corrected.
- Explained how one is allowed to sell off a piece of land a year, however, they wish to correct the lots in order to record them.
- Explained the difference in requirements for CO-1 and R-2; Tract A would not need a variance should the proposed house be built on the left side of the line in the R-2 zoning.
- Stated that flag lots are allowed as long as there is a 40-foot pan handle but this is not applicable for the proposed tract.
- They are requesting a variance for the 300 feet of road frontage requirement in CO-1 for Tract F.
- There is an older house on Tract F and now there are two homes and wish to also make that correction.
- David Garber, Land Surveyor, has prepared a new plat and it is being requested that it be approved so that a corrected plat can be recorded.

David Garber, Garber-Chilton Surveyors, 2249 Commerce Parkway, LaGrange, was present and sworn prior to speaking in behalf of this application.

- Stated that he received a request to prepare a minor plat for property on which there is an existing home, an existing driveway and an existing easement.
- However, the difference is that there is not enough road frontage and originally planned to go before the Board of Adjustments and Appeals for approval.
- Found that there were plats that had never been recorded although the minor plats had been approved and this created a problem.
- Much research has been done and there were plats from eight different surveyors.
- Staff felt it was best to present this proposal before the Commission for approval.
- Explained how the access was originally obtained but now wish to clean this up as it needs to be corrected.
- Showed where a barn is located on the property however, it was not a primary structure; the lines were moved so that the house and barn are on the same property and Mr. Adams now owns the barn and the house.
- There were issues for Tract A, having tiered zoning and not having road frontage.
- If a house is built in the R-2 zoning, a variance will not be needed.

- Showed how everything is now true on the plat and they are simply requesting approval so that they may proceed with recording the plat.

### **(3) Testimony and questions by those opposing the application:**

James Greene, Jr. 3200 Halls Hill Road, LaGrange was present and sworn prior to speaking in opposition to this application.

- They own Tract E and would like to see the original plat and not the proposed.
- Showed the location of their easement to their house and feels that Mr. Adams has built a house and garage over their driveway easement although they have been using a different driveway since they purchased the property; they are not willing to give up their easement.
- They purchased the property due to land conservation and the serenity; they are concerned it will be divided into two more tracts creating a subdivision atmosphere.

Cynthia Greene, 3200 Halls Hill Road, LaGrange, was present and sworn prior to speaking in opposition of this application.

- Does not feel the lines shown on the plat are accurate.
- They have concerns of more subdivision of the property and concerning the easement.
- They requested Mr. Garber show and clarify to them the location of the easement.
- The main concern is that Mr. Adams has built a home on their driveway easement, whether the property is divided or not.

David Garber showed the location of the existing easement and confirmed that the house sits on top of the easement, but the garage does not. Originally, some of the roadway had been taken out and does not go all the way back.

Mrs. Greene continued as follows:

- The easement was not a true road as it does have an entrance gate and is paved to the farm gate that swings open.
- Mr. Adams had intentions of using that road as an entry to access the home of his elderly father should the other driveway not be accessible.
- Showed the location of the gate and the easement to their property.

Mr. Greene responded to Attorney Carter that the house was built over the easement about a year and a half ago and they use that easement as it was an existing driveway to their

home. He had concerns originally concerning that easement when they purchased the property.

Gregory Jones, 3116 Halls Hill Road, LaGrange, was present and sworn prior to speaking in opposition to this application.

- Presented a letter (Opposition Exhibit C) for the record to the Commission, submitted by the Jones', the Smiths, the Greene's and the Burkhead's stating they are in opposition to the approval of the requested minor plat.
- The named adjoining property owners are opposed to the sell-off of 2.585 acres from the parent tract of 18.8 acres, which includes parcels that were previously sold to owners of 3100 Halls Hill Road, 3116 Halls Hill Road and 3200 Halls Hill Road.
- The property in question has only one suitable building location that would overcome the CO-1 zoning requiring 300 feet of road frontage and that is not possible.
- Mr. Adams spoke with Mr. Jones and informed him that if someone builds on Tract 4, that the current home on Tract 2 would flood (of which he is requesting a variance).
- The parcel of Tract 2 that adjoins the shared driveway of 3100 and 3116 is not being maintained; it is the neighbors that maintain and clean the easements and drive.
- For this reason they are requesting that a maintenance agreement be required whether the variance is approved or not.
- The adjoining property owners feel that they did not receive notice in a timely manner in order for them to acquire proper legal counsel.
- They are requesting that the Commission postpone this hearing until the adjoining property owners can obtain legal counsel and properly address the Commission.
- Referred to the colorized plat stating that Tract E belongs to the Greene's; Tract D belongs to the Jones', Tract B belongs to the Smith's and Tract C, A and F are all one parcel and belong to Mr. Adams (and there are two homes, one on proposed Tract C and one on the proposed Tract F).
- They are mostly concerned regarding the creation of Tract A as much of the acreage located to the rear is very wooded and not suitable for building; it contains the new easement for the driveway and setbacks would probably prevent building without encroaching on CO-1 zoning.

Mrs. Greene returned and stated the following:

- In disclosure, Mr. Adams, Mr. Greene and herself have had an amicable relationship.
- This impacts her directly and it is their intention to purchase the existing barn on Tract C and the property on Tract A.

- They have been maintaining that property for a long time by mowing and keeping it groomed as has Mr. Jones behind his property on tract F.

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

David Garber responded as follows:

- The minor plat they are requesting, cannot be approved without the variance; no one can get to it as there are two houses on one lot.
- Showed how they wanted to put that line in so they can sell that house off on Tract F as it is part of the original 16 acres.

Attorney Craigmyle stated that they are authorized to amend the drawing to remove Tract A off the table and put the easement back on there. That does not address the issue of the house being built on the easement. Attorney Carter is correct, the Commission cannot take away an easement. Would like to talk to the Greene's and ask them what can be done about that easement: they could grant an alternative easement or release the easement or there could be court issues but no one wants to go there.

Chairman Jeffries stated that as a Commission they cannot make a decision until an agreement can be made. They are being asked something that the Commission cannot do. There are too many unknowns. The easement is not the total issue. Would be best to table for however long necessary.

Administrator Urban stated that the signature has to be on the record plat or a deed of release would have the same effect.

Administrator informs all those present that request this has nothing to do with GIS. Because of the minor plats that were approved and not recorded this has caused many issues. The easements and a house being built over the easements are just a few things that has caused many problems. Thanks to Mr. Garber's hard labor this is a better picture and hopefully the issues can be resolved especially since the neighbors are concerned. There are many questions and issues that need to be resolved. Tabling this is a good idea.

Attorney Carter responded at this time to the Commission that they cannot abolish a deeded easement as they do not have that authority.

Administrator Urban stated that between the two property owners they can relinquish an easement and accept another easement which is what is being proposed. Before they can record this, the easement would have to be worked out, unrelated to the commission.

**FINDINGS AND DECISIONS  
PZ-16-017  
Record Plat and Road Frontage Variance**

**MOTION TO TABLE**

**Motion was made by Commissioner McWilliams and seconded by Commissioner Horton to table Docket PZ-16-017 for the May 24, 2016 meeting.**

**Motion was stated and motion carried 10-0.**

\*\*\*\*\*

**OTHER BUSINESS:**

**Extension of Expiration – Wolf Lake Estates/ Carter Manor**

Planner Alvey stated for the record, Carter Manor aka Wolf Lake Estates, was approved by the Planning Commission in 2005 and has filed for another extension of expiration which is to expire May 31, 2016. The Planning Commission had previously approved an extension of expiration policy allows staff to send notices to agencies for review of the extension request and if no issues then the request is approved at staff level. There being no issues from agencies the new expiration date will be May 31, 2018.

\*\*\*\*\*

**Training Hours for Commission Members**

Commissioners Crosby, Arvin and Albertsen attended the Regional Mobility Transportation Summit from 9 – 4 and wish to add that to towards their training hours.

Motion was made by Commissioner Horton and seconded by Commissioner McWilliams. Vote was taken and motion carried by unanimous voice vote.

\*\*\*\*\*

**REMINDER**

Meeting on Saturday, April 30<sup>th</sup>, 2016, from 9-12 at the John Black Community Center to review the proposed changes to the Comprehensive Zoning Ordinance that were recommend to the Legislative Bodies. Everyone is invited to attend.

\*\*\*\*\*

There being no further business, the Planning Commission meeting adjourned at 1:13 p.m.

The next regular meeting is scheduled for Tuesday, May 24, 2016, at 9:00 a.m. in the courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted:

Approved:

\_\_\_\_\_  
Ethel Foxx, Secretary

\_\_\_\_\_  
Kevin Jeffries, Chairman