

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

Tuesday, May 24, 2016

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	Laura Bohne
Denia Crosby	William Douglas	John Falvey
Sam Finney	Jan Horton	Greg King
Bob Klingenfus	James Neal	Mary Ann Smith

Commissioners absent were McWilliams and Mesker.

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

Approval of Minutes – April 26, 2016

Motion was made by Commissioner Finney and seconded by Commissioner King to approve the minutes of April 26, 2016 as submitted and corrected.

Motion carried by unanimous voice vote.

Secretary Foxx called and read Docket PZ-16-018:

DOCKET PZ-16-018 – Application has been filed by RSG Investment III, LLC. for a waiver of Section 280-170 (Drive-In Facilities and Queue Space Requirements) of the Oldham County Comprehensive Zoning Ordinance for a proposed business located at 13306 West Highway 42, Prospect. The property is zoned 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.
- Notes and issues (Exhibit A: Staff Report dated May 24, 2016).
- Site history including waiver that was approved years ago by the Board of Adjustments and Appeals.
- Aerials and photos.

Ms. Alvey responded to Administrator Jim Urban:

- The building shown to the right of the property is an office building.

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

Michael Tigue, Attorney, P.O. Box 729, LaGrange, was present to speak on behalf of this application.

- Referred to the site plan (part of Exhibit A) stating that although the drive aisle is narrow, there is accessibility for emergency and fire personnel.
- Showed that there is accessibility on the other side of the building and to the rear of the building.
- The distance on the west side of the building to the building edge is the length of a parking space plus the drive aisle; again confirmed there is plenty of room for emergency vehicles and emergency personnel.
- Stressed that approving this request would not compromise the ability of emergency personnel to access the property and respond to an emergency.
- The site is zoned for retail liquor sales and no question of the use, only requesting the Commission to waive the use of the passing lane.
- The site has remained vacant for years and the adjoining office building personnel spoke to them stating they are very pleased that the building will no longer be vacant.

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

(4) Questioning of the applicant by the Commission:

Attorney Tigue responded to questions by the Commission:

- The square footage of the building is 13,500 square feet and the liquor store will occupy 3500 square feet on the right side of the building.
- The use of the drive-thru aisle is limited to servicing the retail liquor store.
- Attorney Tigie drew a line on the site plan showing the location of the liquor retail sales; an adjoining tenant could not be served by the window.

Applicant Robert Gross, 326 Winton Avenue, Louisville, was present and sworn prior to responding to questions by the Commission:

- Should a back-up of cars occur at the window there will be sufficient queuing space (about 160 feet) from the drive-thru window to the road.
- Ninety-five percent of the delivery trucks will use the front door and not the rear of the building.
- Regarding the location of the retaining wall in relation to the drive-thru window, there is enough room (about 12 feet from curb to curb).
- The drive-thru window will be located at about the third window area.
- The property owner is currently in discussion with a restaurant about occupying the remaining part of the building.

At this time, Attorney Tigie referred to a photo (from Exhibit A) showing the rear of the building.

- The parking spaces at the rear of the building will remain at that same angle.
- They do not own the site and it would be up to the property owner as to what they would do with those parking spaces.
- The proposed approval runs with the property and not the tenant.
- The applicant applied with the owner's consent.

Attorney Combs confirmed to the Commission that it is not unusual for the lessee to make application for a special use. The property owner does not have to be present. However, the application must have the owners' signature consenting to the application.

Planner Alvey responded as follows:

- The parking waiver that was approved years ago allowing vehicles to park closer to Highway 42 is still valid and remains with the property.
- Approval for the liquor license will have to be obtained from the Oldham County Police Chief who will confirm that there are no schools, daycares or churches within the required number of feet from the business.

(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

Administrator Urban reminded the Commission that the application is for a waiver for the drive-thru lane and that reasons must be stated for approval or denial. He recommends that if this is approved that it be stated that the approval is strictly for the liquor store no matter who is the lessee.

FINDINGS AND DECISIONS

PZ-16-018

WAIVER – SECTION 280-170, DRIVE-THRU BY-PASS AISLE

Motion was made by Commissioner King and seconded by Commissioner Horton to approve Docket PZ-16-018, application for a waiver for the drive-thru by-pass aisle because:

- Strict compliance with the regulations would create an undue hardship because of the limited space involved.
- The design innovations of this case will provide access for emergency vehicles in the space provided and the alternate routes for access and egress.
- Will achieve the basic objectives of the regulations and the anticipated volume of queue space will not interfere with traffic.

Conditions of Approval:

1. The waiver shall only apply to the plan reviewed at the May 24, 2016 Planning Commission public hearing.
2. The approval is strictly for the use of a liquor store and does not matter who will be the lessee.
3. “One-Way” signage shall be provided both on the signs and arrows painted on the pavement of the drive-thru lane.

Discussion:

For the record, Commission members and applicant agreed with the revised suggested motions that the approval will only be for the use of liquor store, and that “one-way” signage be provided in the drive-thru lane.

The vote was as follows:

YES: Commissioners King, Klingenfus, Smith, Arvin, Bohne, Crosby, Falvey, Finney, Douglas, Horton and Neal.
NO: Albertsen
ABSTAIN: NONE
ABSENT: Commissioners Mesker and McWilliams

Motion passed on a vote of 11-1.

Motion to Remove Dockets from the Table:

Motion was made by Commissioner King and seconded by Commissioner Falvey to remove Dockets PZ-016-011 and PZ-016-012 from the Table.

Motion carried by unanimous voice vote.

Secretary Foxx called and read Docket PZ-16-011 and PZ-16-012:

DOCKET PZ-16-011 - Application has been filed by Randall & Dean, LLC for the approval of a Zoning Map Amendment on approximately 0.25 acres. The property is located at 203 East Washington Street, LaGrange. The proposed change is from R-4 Residential to C-N Commercial Neighborhood District. (Deferred from April 26, 2016)

DOCKET PZ-16-012 – Application has been filed by Randall & Dean, LLC for the approval of a Development Plan for approximately 0.25 acres. The applicant is also requesting a waiver of Section 280-070 (Parking Waiver). The property is located at 203 East Washington Street, LaGrange. The proposed zoning is C-N Commercial Neighborhood District. (Deferred from April 26, 2016)

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

Community Planner Brooke Viehmann presented the following:

- Summary of application regarding request of Zoning Map Amendment and request for Parking Waiver.
- Notes and issues (Exhibit A: Staff Report dated April 26, 2016).
- Site history.
- Aerials and photos of the property located in the city limits of LaGrange.

Planner Viehmann responded to questions by the Commission:

- Does not think there is street parking on Walnut Street.
- Property is not currently being used as retail although there was a conditional use permit at one time.
- Properties to the North and the East that are zoned R-4 are currently used as residential.
- The parking space under the carport is strictly a driveway and does not continue any farther.

Administrator Urban responded that the Applicant will have to be asked whether or not the building will be used as residential and commercial and whether there will be sufficient parking spaces. The conditional use permit would go away if this application is approved.

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

Berry Baxter, Attorney, 117 West Main Street, LaGrange was present to speak on behalf of Applicant, Randall and Dean.

Attorney Baxter responded to previous questions by the Commission:

- The property was previously owned by Linda Foster, however, as of January 29, 2016 the property was purchased by the Applicant.
- There are no plans for anyone to reside in the subject building.
- The parking waiver is based upon the entire square footage of the building being used for retail.

Attorney Baxter presented the following:

- Requesting a zone change from R-4 to C-N.
- Several photos on the overhead showing the property and adjoining properties giving the history and zoning of each, therefore mixed uses exist in the neighborhood.
- Photo showing a sign that the house is on the Historic National Register and an aerial showing adjoining properties having mixed zoning and use.
- Photos showing on-street parking on Walnut and across the street on Washington Street.
- A portion of the Zoning Ordinance for Commercial Neighborhood and photo showing how the request is in compliance with the Comprehensive Plan.
- Addressed parking as there is available parking in the immediate area and requests approval of the parking waiver.

Applicant Ellen Troutman, 1309 Bluegrass Parkway, LaGrange, was present and sworn prior to speaking in behalf of this application.

- Plans to use the building as the “Christmas House”, as previously used by Linda Foster years ago.

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

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

- Planner Viehmann confirmed regarding parking spaces 5, 6 and 7; there are no requirements that the parking space under the carport requires a bypass.
- Attorney Baxter stated that the operator of the shop or the owner would probably park in that space.

(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

Consideration of Zoning Map Amendment:

Administrator stated that the first consideration is recommending to the LaGrange City Council concerning the zoning map amendment. If recommending approval there are justification statements by the applicant that should be considered, including whether it is in compliance with the Comprehensive Plan.

FINDINGS AND DECISIONS

PZ-16-011

ZONING MAP AMENDMENT

R-4 to C-N

Motion was made by Commissioner Horton and seconded by Commissioner Arvin to approve the request for a Zoning Map Amendment because:

- It complies with the objectives of the comprehensive plan as follows:

1. LU-1-3 having to do with incentives and encouraging development.
 2. LU-3 for economic development and provided for increased tax revenues.
 3. LU-3-2, having to do with cultural historic significance.
- There have been major economic changes and the request for C-N Zoning is more appropriate than the current zoning.

YES: Commissioners Albertsen, Arvin, Bohne, Crosby, Falvey, Finney, Douglas, Horton, King, Klingenfus, Smith and Neal.

NO: None

ABSTAIN: None

ABSENT: Commissioners Mesker and McWilliams

Motion passed on a vote of 12-0.

FINDINGS AND DECISIONS

PZ-16-012

Parking Waiver

Motion was made by Commissioner King and seconded by Commissioner Falvey to approve the required parking waiver because:

- Strict compliance with the regulations would create an undue hardship.
- This is property that has operated in the past in the same manner as requested and has proven over the years that this is a unique retail destination requiring no additional parking on the site.
- If additional parking were constructed the property would lose green space and impose unwanted parking in the neighborhood.
- The design innovation will continue the use.
- This is an unusual destination and over the years has not proven to have parking issues with this type activity.

Discussion:

Administrator Urban responded to concerns regarding handicap parking requirements:

- Because it is a historic property, historical buildings are exempt from ADA requirements for parking and for access to the building.

YES: Commissioners King, Klingenfus, Smith, Albertsen, Arvin, Bohne, Crosby, Falvey, Finney, Douglas, Horton and Neal.
NO: None
ABSTAIN: None
ABSENT: Commissioners Mesker and McWilliams

Motion passed on a vote of 12-0.

**FINDINGS AND DECISIONS
PZ-16-012
DEVELOPMENT PLAN**

Motion was made by Commissioner King and seconded by Commissioner Smith, to approve the request for the Development Plan because:

- It complies with the objectives of the comprehensive plan.
- Conforms with the provisions of LU-1-3, LU-3 and also with LU-2-2 and LU-3-2.
- Complies with the objectives of the zoning ordinance.
- The existing classification of the property is more appropriate as applied for based on changes in the immediate area.

YES: Commissioners Albertsen, Arvin, Bohne, Crosby, Falvey, Finney, Douglas, Horton, King, Klingenfus, Smith and Neal.
NO: None
ABSTAIN: NONE
ABSENT: Commissioners Mesker and McWilliams

Motion passed on a vote of 12-0.

Motion to Remove Dockets from the Table:

Motion was made by Commissioner King and seconded by Commissioner Falvey to remove Docket PZ-16-017 from the Table. Motion carried by unanimous voice vote.

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

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. (Tabled from April 26, 2016)

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

Senior Planner Amy Alvey presented the following:

- Summary of application including information from April 26, 2016 meeting.
- Gave detailed history of the division of the property and compared the changes presented from the last month's meeting and proposed revisions.
- Notes and issues (Exhibit A: Staff Report dated May 24, 2016).
- Aerials and photos of the property.
- Presented revised Minor Plat for Tract A (Exhibit B)

(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 On behalf of this application.

- States they have plans to return with a minor plat showing the correct location of the easement.
- Gave reasons for requesting the variance and referred to the original request and the revised plat.
- They may have to come back as the easement release issue has not been settled.
- They are in need of a variance and wish to return later with the revised record plat.
- They would like to appear before the Oldham County Board of Adjustments and Appeals and request approval of a variance.

At this time, Chairman Jeffries confirmed that County Attorney Carter did state for the record at the April 26, 2016 meeting that the applicant could not proceed with the hearing because the easement had not yet been released.

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

A very brief recess was called at this time to conference with Attorney Travis Combs concerning taken more testimony from those in opposition. It was determined that those in opposition would be allowed to give testimony.

James D. Greene and Cynthia Greene, 3200 Halls Hill Road, Crestwood, were present and sworn prior to speaking in opposition to the application.

- Mr. Greene confirmed to Attorney Combs that they were under the opinion that this was not to come back to the Commission until the easement issue was settled.
- They do have an attorney representing them but they told their attorney that they did not think he needed to attend this meeting.
- Their attorney is working with them attempting to get the easement released; they have offered to purchase 38 feet of the easement from Mr. Adams.
- Mrs. Greene stated that they have proceeded in good faith and tried to work with Mr. Adams.
- Mr. Adams had originally constructed a home for his son (which is now their home).
- Mr. Adams' home was constructed over the access easement.
- The Greenes have been maintaining that easement for approximately 11 years; most of their driveway and parking area is over their property line.
- They felt the language presented to them for the agreement is giving Mr. Adams authority to grant additional use of the easement at his discretion.
- They recently spoke with the Mr. Adams and was told that the case had been remanded.
- Mrs. Greene stated for the record that there is a home constructed on Tract C, however, there are two accessory structures on that tract that do not have a proper building permits.

Greg Jones, 3116 Halls Hill Road, Crestwood, was present and sworn prior to speaking in opposition to the application.

- They need help getting the issue of the easement reconciled.
- If the Commission can give approval of Tract A the easement issue will most likely disappear.
- However, is concerned that in the next few years they will find another house constructed on Tract C.
- Requests the Commission table this decision until the easement issue is resolved.

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

At this time, Chairman Jeffries stated to Attorney Craigmyle that it was his understanding that this hearing had been scheduled because the easement issue had been resolved. He feels that they will have to table this hearing again per original recommendation of Attorney Carter.

Attorney Craigmyle responded as follows:

- Originally they requested to appear before the Board of Adjustments and Appeal only for Tract A.
- There was a letter in the file that there was to be no more divisions without the approval from the Planning Commission being the reason they are here.
- They were hoping to get the issues resolved and approval for the variance at the same time.
- Everything that has been objected to at the last hearing has been taken care of; Tract A has been eliminated.
- Objects to the hearsay of what Mr. Adams has said as they simply want to give the Greenes the right easement.
- Mr. Adams has no knowledge or objection to Tract A and his issue is that the Greenes are trying to negotiate for additional land on Tract E and he will talk to them about it but does not want to be forced into it.
- Feels the easement issue can be taken off the table and go with just the variance request or go to the Board of Adjustments.
- They will come back next month to get the record plat approved if they can get the easement released; they have a nice plat, added the utility easements and feel it is ready to go.
- The old easement is an old dirt road that went to Halls Hill Road and not very accessible.
- The Greenes have always had access to the concrete drive and have had the easement since they have lived there.

Administrator Urban responded as follows:

- He wrote the letter because the property was becoming a subdivision by default and has been proven over the years that it is messed up.
- Staff will not advance any variance application to the Board of Adjustments as it clearly needs to go before the Planning Commission.
- Dave Garber has done a great job sorting this out considering there have been multiple surveyors, multiple building permits and issues created by the applicant.
- An accurate record plat has been created and must show all easements before it can be recorded.

Attorney Craigmyle requested to make two motions:

- Motion to grant a minor subdivision plat which includes a variance.
- Motion to approve the record plat that incorporates by reference the first motion.

Attorney Combs stated the following:

- Does not feel comfortable going forward with this application since they have not resolved the easement issue that was required before coming back to the Commission.
- There are other people involved and it is unfortunate that the other attorney is not here today to address the issue of the easement.
- He will not go against what County Attorney Carter said at the April meeting.
- Does not think the Commission should go forward, piece-meal and grant a variance right in the face of the easement issue.

Attorney Craigmyle argued that are there two different issues, Tract A and Tract E and they have nothing to do with each other.

At this time, Administrator Urban confirmed to Commissioner Bohne that Tract A is part of Tract C and there are two dwellings on the same tract.

Commissioner Bohne stated the following:

- Tract A cannot be created and addressed alone because in effect is part of Tract C where the easement is going to exist and be removed.
- Mr. Adams has had the opportunity to show up and has not been here to discuss or refute testimony. If he is so concerned, Mr. Adams should bother to show up.

Administrator Urban stated that Commissioner Bohne made a good point that Tract A and Tract C are linked because currently they are one tract.

Commissioner Crosby stated as follows:

- Since she has been on the Commission, this is the first application for the subject property that has been brought to the Commission.
- It appears that there is a partial subdivision already that never came before the Commission; these tracts were approved by previous staff.
- Mr. Adams should be present and recommends that Attorney Craigmyle should not come to the next meeting without him.

Commissioner Horton agrees with Commissioners Bonne and Crosby that

Mr. Adams should be here. Also feels that council for the opposition should also be present. This application should be tabled and should not be heard today.

Attorney Craigmyle responded to Commissioner King that there is a buyer for Tract A and confirms that the dimensions for Tract A (that does not exist) are not defined.

- (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-16-017
MOTION TO TABLE

Motion was made by Commissioner Douglas and seconded by Commissioner Bohne to table Docket PZ-16-017 until all the issues are fully resolved.

Motion was stated, vote taken and motion carried with all members voting yes.

DISCUSSION

Administrator Urban responded to Attorney Craigmyle and referred to the letter of 1999 that stated "Come to the Planning Commission". This is the proper venue in consideration of a record plat that includes a variance and the creation of tracts. This case will not be docketed before the Oldham County Board of Adjustments and Appeals.

OTHER BUSINESS:

Approval of Training Hours

Chairman Jeffries informed the Commission that per Senior Planner Alvey, Commissioners Falvey and Bohne have completed a three hour course with the Kentucky Real Estate Continuing Education Completion Certificate for House Bill 55.

Motion was made by Commissioner King and seconded by Commissioner Douglas to approve the training hours.

Motion was stated, vote taken, and motion carried by unanimous voice vote.

There being no further business, the Planning Commission meeting adjourned at 11:27 a.m.

The next regular meeting is scheduled for Tuesday, June 28, 2016, at 9:00 a.m. in the courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted:

Ethel Foxx, Secretary

Approved:

Kevin Jeffries, Chairman