

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

Tuesday, October 22, 2013

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	Jan Horton
Bob Arvin	Greg King
Laura Bohne	Bob Klingenfus
Denia Crosby	Mary Ann Smith
John Falvey	Robert Zimlich
Sam Finney	

Others present and sworn in were Planning and Development Services Director Jim Urban, Planning and Development Services Assistant Director Brian Davis, Community Planner Amy Alvey; also present was Administrative Assistant Ethel Foxx and County Attorney John Carter.

Approval of Minutes - September 24, 2013

Motion was made by Commissioner Albertsen and seconded by Commissioner Arvin to approve the minutes as submitted. Motion carried by unanimous vote.

Secretary Foxx called and read Docket PZ-13-017.

DOCKET PZ-13-017 - Application has been filed by Heritage Properties, LLC et al for the approval of a Preliminary Subdivision Plan for 98 lots on approximately 59.5 acres to be known as Rivers Landing. The applicant is also requesting variances from Section 100-040, Front and Side Yard Setback. The property is located at the intersection of Rivers Landing Drive and Rose Island Road, Goshen. The zoning is R-2 Residential, R-4 Residential and CO-1 Conservation/Residential.

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

Assistant Director Brian Davis presented the following:

- Summary of application. (Exhibit A, October 22, 2013)
 - Site History

- Photos of property
- Plans of proposed
- Notes and Issues

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

Attorney William Bardenwerper, Bardenwerper, Talbott & Roberts, PLLC Land Planners, 1000 N. Hurstbourne Parkway, Louisville, was present to speak in behalf of Heritage Properties, LLC.

- First Savings Bank took this property from the original developer (and is now the developer of the property) and under contract with Elite Homes.
- Presented details of the subdivision including the history of the development plan beginning in 2004.
- Presented a DVD (Exhibit B) showing outline of the property, aerials, photos of the homes that are already constructed and photos of the type homes that will be constructed in the proposed development, photos of Elite Homes crew that has been involved in “Extreme Makeover Homes” projects, Copy of Termination and Waiver of Declaration of Horizontal Property Regime and Master Deed for Rivers Landing.
- There are eight open space lots and the lake is an open space lot; showed a part of the residual where if something is done with that, they can still see across the lake.

Amin Omidy, of Gresham Smith and Partners, 101 South 5th Street, Louisville, was present and sworn prior to speaking in behalf of this application.

- Gave a brief summary that the entire infrastructure is there due to the previous development and sewers are in place.
- Asking for variance for front yard setback allowing to pull the buildings forward thus bringing them above the flood plain.
- Went through FEMA and have approval to set the 454 elevation; current flood map reflects prior to development; finished floors will be two feet above at 456 and variance will allow to build above that.
- Variance requested for side yards to allow the option to expand the garage; there will be at least 10 feet between buildings; another variance for the existing affected buildings.
- Each lot will have a minimum of a two-car attached side entry garage; some units will have a three car garage.

Joe Pusateri, President of Elite Homes, 16218 Shelbyville Road, Louisville, was present and sworn prior to speaking on behalf of this application.

- Has built many homes throughout Oldham County.
- This is the fourth condominium type development they have built where maintenance is not required.
- All the homes will have a side entry garage as agreed to by all home owners; houses will be of brick and stone and compatible with the existing homes.

- A common dock will be constructed; the number of lots has been reduced from 80 to 76; hundreds of trees will be planted and no house will sell for less than \$299,900.00; the model home will be 2,446 square feet.
- Yards will be maintained which will be paid by the homeowner fees.
- Explained the justification for the variance request and showed where the variances are requested.
- Not asking for rezoning; they are reducing from 94 condos to 90 single family homes.
- Have committed to the current residences that if this is approved, open spaces will be owned by the Homeowners Association.
- If the subdivision is approved today along with the variances, it will allow Elite Homes to purchase the land and become the developer in place of Heritage Properties.

Duane Murner, 1842 Rivers Landing Drive, Prospect, was present and sworn prior to speaking on behalf of this application.

- Has lived in Rivers Landing for five years.
- Had concerns as to the completion of the proposal but is now confident that because of the character and honesty of Joe and Rocky Pusateri that they will do what they said.
- Is in favor of the development.

Amarjeet Luthra, 3606 Sasse Way, Louisville, was present and sworn prior to speaking on behalf of this application.

- Owns three homes in Rivers Landing and was originally opposed to the proposal because of the square footage of the homes.
- Met with Joe Pusateri who agreed to build 2200 to 2500 square foot homes, and because he can take him at his word, he is now in favor of the proposal.

Tom Douglas, Jr., 1918 Rivers Landing Drive, Prospect, was present and sworn prior to speaking on behalf of this application.

- Was the first family to buy a unit in 2007 and they love living in Rivers Landing.
- Because of the recession, their property values have gone down.
- Has full faith in Elite Homes who has worked with the home owners and have listened to their concerns.
- Residents are in full support of this proposal and that Elite Homes will build quality homes that will sustain the development.

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

(4) Questioning of the applicant and others in support of the application by the Commission:

Mr. Bardenwerper responded to questions by the Commission:

- Not all the homes are single story; there may be some homes that will have a partial second floor. The main entrance will remain gated with an electronic gate. The gate at the far side will remain gated and used mostly for construction purposes. It is believed that all the home owners have agreed to the transition.
- The Bank arranged for a power of attorney for the new purchasers (and can vote their interest should someone be in opposition) as they were already in process of negotiations. He responded to questions regarding the homeowners association. The residual around the lake, and the lake, will remain zoned CO-1. The remaining residual will be owned by Elite Homes. If it is approved today, the residual tract (the lake, Lot 1007) will be done by minor plat or in the record plat. The residual tract is not up for consideration today.
- The Homeowners Association will be responsible for the maintenance of the yards and irrigation. The home owners will have individual insurance policies on their units and will be responsible for the exterior maintenance like the roofs, etc. Should the residual be sold, the property owners would have the first right of refusal. The Homeowners Association will also monitor and keep the lake clean.

Rocky Pusateri, P.O. Box 43607, Louisville, was present and sworn prior to responding to questions by the Commission:

- Does not believe that the subdivision is designed so that a larger truck or school bus can turn-around; it is designed for residential purposes. Children will be picked up at the entrance of the subdivision as stated at the TRC.
- Regarding the 1997 flood, he does not have a record of how much of the property was flooded; showed the line on the plan that shows the 100 year event. The finished floor is two feet minimum above the 456 hundred year event flood elevation. Any support structure would have to be above that requirement.

Brian Davis responded to questions by the Commission:

- TRC included the proposed development that is in the residual tract. As to sewer capacity, the facility has a 1.5 million gallon capacity; it is only operating at one-third capacity now but that is not an issue for conversion from a condominium to a subdivision.

Ms. Albertsen informed the Developer that the subdivision across Rose Island from the development is called Ridgeview Place and not Ridgeway Place as shown on the plat.

Nick Pregliasco of Bardenwerper, Talbott & Roberts, 1000 North Hurstbourne Parkway, Louisville, was present and sworn prior to responding to the Commission:

- Full details regarding maintenance and landscaping are on Page 13 and 16 of the packet presented and was agreed upon by the owners. The home owner has responsibility for everything other than lawn maintenance and irrigation.

Administrator Urban responded to questions by the Commission:

- When building permits are issued for buildings in the flood zone, it is required that buildings be constructed an additional two feet in height.
- The gate at Old Highway 1793 will be used for construction purposes and the emergency entrance will have an emergency key pad; all emergency services will have their own code to the gate at Rose Island Road.
- The fire department has reviewed the plans. The Technical Review Committee would have commented if there were any concerns regarding the entrance to be used for emergencies.

Duane Murner responded to questions by the Commission:

- There is adequate room for about five or six vehicles to park while parents are waiting for the school bus.

Joe Pusatari responded to questions by the Commission:

- The reason for requesting a three foot variance is so that they can construct the side entry garages. He confirmed that because of the change in design from condominiums to single family, the variance is necessary regardless of the side garages. He also confirmed that because the utilities are already in, they need to move the lot configuration. The square footage of the model is 2,446 square feet and has a bedroom upstairs. Due to the flood plain, forty-one of the houses will have a second floor because they will not have a basement.

(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. Bardenwerper thanked the residents for their patience in the negotiation of the documents and finding someone that can follow through. The developers are survivors and strong and at the top of the list. He requests that the Commission consider the approval of this subdivision.

END OF PUBLIC HEARING

Summary of Development

Administrator Urban read and reviewed the nine proposed conditions of approval on Pages 3 and 4 of the staff report. There was much testimony as to what other conditions have been agreed to between the home owners and developer, and it will not be necessary to add to the proposed conditions. He also reviewed the variances requested by the developer.

Attorney Carter stated that because there is no objection, both the Preliminary Plan and the Variances attached can be considered along with the conditions of approval outlined by Administrator Urban.

FINDINGS AND DECISIONS
PZ-13-017
Preliminary Development Plan And Variances
Rivers Landing

Motion is made by Commissioner King and second by Commissioner Horton to approve Docket PZ-13-017 as follows:

1. Approval of **Preliminary Development Plan** to be known as Rivers Landing because:
 - It complies with the elements and objectives of the comprehensive plan, the zoning ordinance and the subdivision regulations.

2. Approval of **Variances** as stated below because:
 - Will not adversely affect the public health, safety or welfare,
 - Will not alter the essential character of the general vicinity,
 - Will not cause a hazard or nuisance to the public,
 - Will not allow an unreasonable circumvention of the requirements of the zoning regulations.
 1. All Units: Required Minimum Front Yard Setback (R-4) is 25 feet, proposing a Minimum Front Yard Setback of 15 feet, requesting a Variance of 10 feet.
 2. Detached Units: Required Minimum Side Yard Setback (R-4) is 7.5 feet, the Proposed Minimum Side Yard Setback is 3 feet, and the Requested Variance is 4.5 feet.
 3. Attached Units: Required Minimum Side Yard Setback (R-4) is 7.5 feet, the proposed minimum side yard setback is 0 (zero) feet, and the requested Variance is 7.5 feet.

CONDITIONS OF APPROVAL:

1. There shall be no changes in use or changes to the development plan or subdivision of any lot into a greater number of lots without review by the Oldham County Planning Commission.
2. A comprehensive sediment and erosion control study should be developed prior to the beginning of construction activities.
3. A soil and erosion control bond will be posted before any site disturbing activity occurs pursuant to the soil and erosion control requirements in the subdivision regulations.

4. The proposed gated entrance shall provide a clear opening at least 14 feet in width and shall be constructed to allow emergency service vehicles to access the project at all times.
5. There shall be no direct vehicular access from any unit to Rose Island Road, Old Highway 1793 or Victory Court.
6. The development plan must comply with the Oldham County Fire Hydrant Ordinance.
7. The construction standard and maintenance of driveways and parking areas shall be sufficient to prevent the tracking of mud or debris onto public streets.
8. In order to satisfy any water flow and pressure requirements of the North Oldham Fire Department, the applicant must provide any necessary upgrades to the water line system for this site.
9. Improvements to the Kentucky 1793 & Rose Island Road intersection originally requested by the Kentucky Transportation Cabinet will be made by the developer provided adequate right-of-way is available.

The vote was as follows:

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

Motion passed on a vote of 11-0

Secretary Foxx called and read Docket PZ-13-018

DOCKET PZ-13-018 – Adoption of the Goals and Objectives for the Oldham County Comprehensive Plan Update.

Chairman Jeffries opened the floor and informed those present the reason for this hearing:

- The Planning Commission had approved the Oldham County Comprehensive Plan and sent it to the legislative bodies and Fiscal Court.
- Fiscal Court had some issues and did not approve the update.
- The Study Review Committee has met with staff and addressed the concerns of Fiscal Court.
- SRC has recommended only considering the Goals and Objectives and send them through because legally they are only required to send the goals and objectives for consideration.
- The Comprehensive Plan is actually a document internal to the Planning Commission.
- Mr. Davis will outline the changes to the Goals and Objectives.

(1) Introduction of the application by staff.

Assistant Director Brian Davis presented the following:

- Referred to KRS 100 as it provides guidelines for adoption and approval of the Comprehensive Plan.
- Today's proposal is for consideration only of the Goals and Objectives of the proposed Oldham County Comprehensive Plan update.
- Presented the proposals stating there are seven different categories: Land Use, Transportation, Community Facilities and Services, Environment, Government, Business and Industry, and incorporated the goals and objectives which were included in the Brownsboro Master Plan.
- There are a total of 34 goals and 81 objectives in the proposed goals and objectives.
- Presented a document that shows the language changed at the October 3, 2013 Study and Review Committee to address the concerns of the public and Fiscal Court.
- The goals and objectives remained mostly unchanged from what was previously reviewed in May 2013.
- If the Commission decides to send this to the legislative bodies they will take action and consider adoption of the Plan Elements at a later date.

(2) Questions by the Commission:

Brian Davis responded to Attorney Carter as follows:

As to the Pewee Valley concerns regarding the number of representatives on the Commission, that is not part of this hearing. KRS allows only goals and objectives to be sent to the legislative bodies and can address other concerns at the Planning Commission. That is their intention at this time.

(3) Presentation by others in support of the application:

Brigette Williams, 10518 Buckeye Trace, Goshen, was present and sworn prior to speaking on behalf of this application.

- She is the person that Oldham County residents call when they find a wild or orphaned animal.
- Judge Voegelé informed her that the public can call Fish and Wildlife, however, Fish and Wildlife in turn informs those people to call her. Receives about 800 calls a year.
- Referred to Objective LU-1-4 that she cannot see there being an environmental section without addressing native wildlife to the area. Suggested that the general terms such as saving wildlife or helping to protect the wildlife habitat be noted in the section before LU-1-2.
- Regarding the goals of Brownsboro Alliance, they have mentioned wildlife and wildlife corridors on page 23 and on Page 24; requests they consider the wildlife corridors and pay attention to the threatened and endangered species.

- Has received many letters in support and one in particular stating that Second Chances provides subtle yet critical environmental support to Oldham County in particular the agricultural Brownsboro community.
- Would like to see the wildlife scene added to the Comprehensive Plan.

Kathryn Callahan, Attorney, 906 Shady Lane, Louisville, was present and sworn prior to speaking on behalf of this application. Also with her is Pam Rogers, Kentucky State Director of the Humane Society of the United States.

- Is here in support of Ms. Williams, and also to request that wildlife conservation be a part of the goals and objectives.
- Her practice includes animal welfare throughout the state of Kentucky and is very interested in this happening in Oldham County.
- Referred to Page 42 of the Comprehensive Plan regarding future land use and that including wildlife conservation is key to the community and agricultural heritage.
- Was involved with Second Chance where one came upon an animal that was caught in a trap; had it not been for this organization the animal would have suffered a terrible death.
- Encourages the Commission recognize what wildlife means to this community and for the future to allow wildlife to continue and be conserved in the community.

Cindy Harbin, 1220 Riverside Drive, Goshen, was present and sworn prior to speaking on behalf of this application.

- Suggested that a meeting could be included for Northern Oldham County in the Goshen area and would be happy to find a site to meet.

Brian Davis stated that they have talked to the City of Goshen about meeting with them and had scheduled for September; it fell through when Fiscal Court did not approve the plan.

Administrator Urban informed Ms. Harbin that often organizations such as homeowners associations will invite them to speak. They would be willing to do that.

(4) Testimony and questions by those opposing the application: NONE

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

Ms. Williams responded to questions by the Commission:

- Is only asking for insertion of "Wildlife Conservation" as that is her main focus. It could be put in both locations for clarification.
- According to Oldham Ahead studies the reasons people move to Oldham County is the school system and the nature of the rural area. Stated it is not about her or Second Chances but about community service available to everyone.

- She defined Wildlife Conservation as all encompassing, as saving the animals directly, saving part of their habitat, it can be education programs for nursing homes, schools, scouts, and conservation is all encompassing. It is decisions people make as individuals as to the products they use and littering; it is not just about saving animals.
- As to hunting there is wildlife management in managing numbers; it all ties in together.

(6) Rebuttal evidence and Cross Examination by the Applicant: NONE

(7) Rebuttal evidence and Cross Examination by the Opposition: NONE

(8) Final statement of the Opposition: NONE

(9) Final statement of the Applicant: NONE

END OF PUBLIC HEARING

Discussion by the Commission:

Administrator Urban stated he suggested at the SRC meeting that the Wildlife Conservation language be placed in the LU-1-4; after the word "Horticulture", insert "Wildlife Conservation" and "Wildlife Habitat". This is the clearest place as it is an objective.

FINDINGS AND DECISIONS

Goals and Objectives

PZ-13-018

Motion is made by Commissioner Zimlich and seconded by Commissioner Finney to accept the recommendations of the SRC, and adopt the Goals and Objectives for the Oldham County Comprehensive Plan, to be forwarded to the legislative bodies, Fiscal Court.

Motion is made by Commissioner Crosby and seconded by Commissioner Falvey that Amendment be made to LU-1-4 and insert the words "Wildlife Conservation" and "Wildlife Habitat" after the word "Horticulture".

There was no discussion on the amendment.

Motion to amend carried by unanimous voice vote.

Vote to accept the recommendations of the SRC with Amendment to LU-1-4 was as follows:

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

NO: None
ABSTAIN: None
ABSENT: Commissioners Henrion, Mesker and McWilliams

Motion passed on a vote of 11-0.

OTHER BUSINESS:

- There was discussion regarding the Brentwood Subdivision decision. Attorney Carter stated that the Court of Appeals sided with the Planning Commission, and the appellate process has ended.

Planning and Zoning approved Brentwood Subdivision about five years ago. It is located at the end of Springhill Trace and at the end of Clore Lane.

There being no further business, the meeting adjourned at 11:32 a.m. The next regular meeting is scheduled for Tuesday, November 26, 2013, 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