

**MINUTES OF REGULAR MEETING  
OLDHAM COUNTY  
PLANNING AND ZONING COMMISSION  
Tuesday, August 23, 2022**

At 9:00a.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:

Iva Davis  
Sam Finney  
Ed Hafling

Berry Hampton  
Bob Klingenfus  
Sue Ann Jones

Greg King  
Tom Marsh  
Katie Nasser

Commissioners Suzy Walser, Thomas Elder, John Falvey, William Douglas and Joe Ender and Director Jim Urban were absent.

Others present and sworn in were Planning and Development Services Senior Planner Ryan Fischer and Oldham County Engineer Jim Silliman. Attorney John Carter was present for the meeting and Administrative Assistant Christy Edgar was the Secretary for the meeting.

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**Approval of Minutes –**

Motion was made by Commissioner Ed Hafling and seconded by Commissioner Katie Nasser to approve the minutes as submitted July 26, 2022.

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**Secretary Christy Edgar called and read Dockets:**

**PZ-22-014 - (Continued from May 24, 2022)** Application has been filed by Clayton Properties Group, Inc. for the approval of a Zoning Map Amendment on approximately 109.4 acres. The property is located at 5601 & 5621 South Highway 1694 (Schuler Lane), Prospect. The proposed change is from AG-1 Agricultural/Residential District to R-2 Residential District.

**PZ-22-015 - (Continued from May 24, 2022)** Application has been filed by Clayton Properties, Inc. for the approval of a Preliminary Subdivision Plan for 187 lots on approximately 109.4 acres to be known as Sanctuary Falls Phase 2. The property is located at 5601 & 5621 South Highway 1694 (Schuler Lane), Prospect. The proposed zoning is R-2 Residential District.

**1. Introduction of the new information by staff and questions by the Commission:**

Senior Planner, Ryan Fischer, presented the following:

- Reviewed the additional documentation provided by the applicant. (see Exhibit A, dated August 23, 2022)

Oldham County Engineer, Jim Silliman, presented the following:

- Presented letter from Metro Louisville. (see Exhibit A1)
- KYTC has also concurred with the current design understanding additional right-of-way is an issue to be discussed later.

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

Attorney John Talbott, 1000 N Hurstbourne Pkwy., Louisville, KY 40223, was present and spoke on behalf of the applicant:

Mr. Talbott questioned Kenneth Agent, Engineer for opposition.

Kenneth Agent, 3265 Blenheim Way, Lexington, KY, was present and sworn in and responded to questions:

- Submitted original report dated May 2022 and then submitted a supplemented report dated August 2022.
- Report referred to Oldham County, KYTC and Jefferson County's road design regulations.
- Has not designed roads, only done research and reports on road designs.
- Intersection is being reconstructed and therefore should be brought up to today's regulation standards.
- Intersection needs more right-of-way on the east side.
- The turning lane width should be 14 ft.
- The intersection should be 90 degrees and no less the 75 degrees.
- Grade should be elevated regarding sight lines.

Attorney Talbott responded:

- Mr. Agent has never designed a road that has been built.
- KYTC stated that after reviewing the new traffic counts, their permit approval does not need to be changed.
- Louisville Metro approved the intersection design.
- The design manual states that 10 ft is the minimum requirement for turning lane width and the turning lane meets this requirement.
- Section 902 from the design manual stated that 90-degree to 75 degree intersection is desirable and no less than 60 degrees.
- There is compliance with sight distance.
- Right-of-Way was discussed.

Diane Zimmerman, Traffic Engineering, 12803 High Meadows Pike, Prospect, KY, was present and sworn in prior:

- Explained Table 4 in the Traffic Impact Study Report. (see Exhibit A2)

**3. Testimony and questions by those opposing the application:**

Attorney Berry Baxter, Main St. LaGrange, KY, was present and representing Norton Commons:

- The catholic school's traffic has been rerouted to use the drive on Schuler Lane for pick up and drop off.
- Vehicles are backing up onto KY 1694 waiting to turn onto Schuler Lane during school pick up and drop off times.

Attorney Baxter questioned Diane Zimmerman:

- Eight Traffic Reports have been done.
- The July report includes the numbers of the catholic school pick up and drop off traffic numbers.
- By 2029, the traffic will decrease at the intersection of Schuler Lane and Hwy 1694 because connecting Sanctuary Falls to Phase 2 of Norton Commons.
- 3% of both developments will utilize the connection between the two developments.

Attorney Baxter questioned Eric Senn:

Eric Senn, Engineer, Land Design & Development, 503 Washburn Ave #101, Louisville KY 40222, was present and sworn in.

- Boundary points were done when Sanctuary Falls was surveyed including Schuler Lane.
- The reconstruction of Schuler Lane will not go outside of the existing pavement.

Attorney Baxter questioned Derrick Holland:

Derrick Holland, Surveyor, 608 S Third St., Louisville, KY, was present and sworn in:

- Part of the survey for the intersection of Schuler Ln and KY1694 is on the Delaney property.
- Right-of-way was taken from a 1984 survey and was not deeded.

Attorney Baxter questioned Kenneth Agent:

Kenneth Agent:

- The lack of acquired right-of-way is the reason the intersection reconstruction does not meet design regulation.
- To turn right, a large truck will have to make a wide turn.
- The objective to reconstruction of the intersection is to bring the intersection up to the new regulations to make it as safe as can be.

Attorney Baxter questioned Ashley Porter:

Ashley Porter, 9418 Norton Commons Rd., Prospect, KY, was present and sworn in prior to Presenting:

- Showed pictures from KY 1694 going towards Schuler Lane. Shows the vehicles backed up on KY 1694 and Schuler Lane during drop off and pick up times at the catholic school.

#### **4. Rebuttal evidence and Cross Examination by the Applicant:**

Attorney Talbott: What are the regulations on doing traffic count reports?

Diane Zimmerman: Traffic count must be done 9 months from the date of filing the report.

Attorney Talbott: Changes to the traffic report can happen during the 9 months?

Diane Zimmerman: Yes

Attorney Talbott questioned Derrick Holland:

St. Mary's Catholic School agreed to provide a right-of-way to make intersection improvements, but Norton Commons vetoed. Is this correct?

Derrick Holland: Yes, If the right-of-way was approved then the intersection would have been improved better than what is planned now.

Attorney Talbott questioned Joe Pusateri: Who is Robert Delaney which is the person that is creating the right-of-way issues?

Joe Pusateri, Elite Homes, 18401 Bridgemoor Ln., Louisville, KY, was sworn in: Mr. Delaney is the son of Mary Norton Shands. The Norton Trust is an equity partner in Norton Commons and Mr. Delaney is Vice-President of the trust.

Attorney Talbott: You did have an agreement with St. Mary's Catholic School for the right-of-way on the west side of Schuler Lane?

Joe Pusateri: St. Mary's Catholic School is part of Norton Commons HOA and are willing to give right-a-way however, the Norton Commons HOA voted against it.

Attorney Talbott: Are you giving anything to St. Mary's Catholic School in exchange for the right-of-way?

Joe Pusateri: In return for the right-of-way, we are giving them 2-acres for a ball practice field. We still plan to give the land even though the right-of-way agreement was vetoed.

**5. Rebuttal evidence and Cross Examination by the Opposition:**

Attorney Baxter: Did not have the KYTC letter prior to this hearing.

**6. Final statement of the Opposition:**

Attorney Baxter:

- This intersection affects the safety of Oldham County residents.
- A valid traffic study should be done before the roadway design plan.
- The way the intersection is designed it is a danger to the public and is a safety issue that needs to be addressed.

**7. Final statement of the Applicant:**

Attorney Talbott:

- KYTC has no problem building that intersection and approved the permit.
- The regulations are being met at the intersections.

**8. Questioning of the applicant and those opposed to the application by the Commission:**

Board Member Jones: If the subdivision is approved will you go back to Mr. Delaney and Norton Commons attempt to make the improvement?

Attorney Talbott: Would be happy too. But the law is clear that we do not have to go back to Mr. Delaney. That property has been lost and it is now a right-of-way and an approved road owned by the state.

Board Member Finney: The intersection of Schuler Lane; is this in Jefferson County?

Mrs. Zimmerman: Yes.

Board Member Finney: Would you describe KY 1694 at the county line?

Mrs. Zimmerman: It is a curvy road, and it is 55mph and I don't think it is drivable at 55mph due to curves and the minimum shoulder on this road.

Board Member Finney: Describe the topography through this road.

Mrs. Zimmerman: Hilly with curves that have posted advisor speeds.

Board Member Nasser: Will the temporary construction entrance off of Schuler Lane become a main entrance to the subdivision?

Mr. Senn: Yes, it will become a permanent entrance to subdivision.

Board Member Nasser: What is the ultimate proposal of the Schuler Lane intersection?

Mr. Senn: There will be a left turn lane into Schuler Lane from KY1694.

Board Member Davis: Is there only 1 entrance into the subdivision?

Mr. Senn: There are three entrances to the subdivision.

## **END OF PUBLIC HEARING**

### **FINDINGS AND DECISIONS PZ-22-014 Zoning Map Amendment 109.4 Acres from AG-1 to R-2 5601 & 5621 South Hwy 1694 (Schuler Lane)**

Motion was made by Commissioner King and seconded by Commissioner Davis to recommend approval of the Zoning Map Amendment to Oldham County Fiscal Court because it complies with objectives of the Comprehensive Plan and because of testimony and evidence of the applicant's submittal.

#### **The vote was as follows:**

**YES:** Commissioners Davis, Finney, Hafling, Jones, King, Klingenfus, Marsh and Nasser.

**NO:** Commissioner Hampton.

**ABSTAIN:** None

**ABSENT:** Commissioners Douglas, Elder, Ender, Falvey and Walser.

**Motion passed on a vote of 8-1.**

### **FINDINGS AND DECISIONS PZ-22-015 Preliminary Subdivision Plan 5601 & 5621 South HWY 1694 (Schuler Lane)**

Motion was made by Commissioner King and seconded by Commissioner Davis to approve the Preliminary Subdivision Plan because of testimony and evidence presented, it complies with objectives of the Comprehensive Plan, the Zoning Ordinance and will incorporate the binding elements stated.

The approval is contingent upon the strict adherence to the binding elements/conditions of approval listed above.

#### **Binding Elements:**

1. The approval applies only to the plan presented at the May 24, 2022 and the August 23, 2022, Oldham County Planning Commission public hearings.
2. No lot shall have back yards facing Schuler Lane.
3. The applicant shall submit a landscape plan for approval by Planning Commission staff prior to recording of the record plat.
4. A four-board, black, horse fence shall be built and maintained along Schuler Lane.
5. Before any permit is request the developer shall work with Louisville Metro Emergency Services and Oldham County Emergency Management to prevent any issues regarding emergency services dispatch and response (including CAD).
6. There shall be no exterior construction activity on the project or deliveries to the site between the hours of 8PM and 7AM on weekdays and 4PM to 9AM on weekends.
7. There shall be no trash or construction debris removal between the hours of 6PM and 8AM.
8. Lighting:
  - a. All exterior lighting, whether freestanding or attached to any structure, including streetlights and lighting for any signage, shall be dark-sky friendly, which means shall be fully shielded, shall utilized flat or hidden lenses, and shall be pointed directly to the ground. The following are exceptions to this requirement:
    - i. Partly shielded or unshielded decorative wall sconce(s) and/or coach lights shall be allowed at any entry, exterior door or garage door to a residence if the total output in lumen does not exceed 2000 lumens per fixture,
    - ii. Open flame gas lamps,
    - iii. Lighting installed with vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated, and
    - iv. Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2000 lumens in output per fixture.
  - b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3000 degrees Kelvin.
  - c. These lighting restrictions shall also be included in the subdivision Covenants, Conditions and Restrictions (CCR's) which are recorded and shall be provided to every purchaser of property in the subdivision.
9. There shall be no subdivision of any lot into a greater number of lots without review by the Oldham County Planning Commission.
10. The cumulative phasing plan shall limit the number of dwelling units to thirty-five (35) per year beginning with the first record plat.
11. The preliminary plan must comply with all established federal, state and county ordinances and requirements at the time of construction plan approval.
12. No utility or street light poles shall be along Schuler Lane, except for the length of Schuler Lane from Hwy 1694 to just past St. Mary's School.
13. No construction vehicles for deliveries shall use Moser Farm Road, Laurel Lane, Worthington Lane, or Haunz Lane to access this development.
14. Verification from KYTC that there is adequate right-of-way for the improvements as proposed at Schuler Lane/KY 1694 prior to construction plan approval.

**The vote was as follows:**

**YES:** Commissioners Davis, Finney, Hafling, Jones, King, Klingenfus, Marsh and Nasser.

**NO:** Commissioner Hampton.

**ABSTAIN:** None

**ABSENT:** Commissioners Douglas, Elder, Ender, Falvey and Walser.

**Motion passed on a vote of 8-1.**

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There being no further business, the Planning Commission meeting adjourned at 10:48 a.m.

The next regular meeting will be Tuesday, September 27, 2022, at 9:00 a.m. and will be held in the courtroom of the Oldham County Fiscal Court at 100 W Jefferson Street, La Grange, 40031.

Approved:

Respectfully Submitted:

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Kevin Jeffries, Chairman

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Christy Edgar, Secretary