

**GEORGETOWN-SCOTT COUNTY PLANNING COMMISSION
REGULAR MEETING
MINUTES
February 11, 2016**

The regular meeting was held in the Scott County Courthouse on February 11, 2016. The meeting was called to order by Chair Rob Jones at 6:00 p.m. Present were Commissioners Jeff Caldwell, Janet Holland, Regina Mizell, Byron Moran, Steve Smith, Mark Sulski, and Frank Wiseman, Director Joe Kane, Planners Megan Chan and Matt Summers, Engineer Brent Combs, and Attorney Charlie Perkins. Absent was Commissioner John Shirley.

Motion by Holland, second by Caldwell, to approve the January invoices. Motion carried.

Motion by Mizell, second by Sulski, to approve the January 14, 2016 minutes. Motion carried.

Motion by Mizell, second by Holland, to approve the February agenda. Motion carried.

Postponements/Withdrawals

There were no items for postponement or withdrawal.

Consent Agenda

A representative of the MVH Industrial Piping application agreed to their conditions of approval and there were no comments from the public or Commission. Motion by Wiseman, second by Holland, to approve the MVH Industrial Piping application. Motion carried.

A representative of the Toyota Container Yard Parking Addition application agreed to their conditions of approval and there were no comments from the public or Commission. Motion by Sulski, second by Holland, to approve the Toyota Container Yard Parking Addition application. Motion carried.

PDP-2016-04 Lena Wise Property - Preliminary Development Plan for a 7,521 sq. ft. dog kennel on 4.52 acres zoned A-1 (Agriculture), located at 1364 Lexington Road.

Mr. Summers reviewed the staff report. He stated that the applicant has received approval from the Board of Adjustment for an animal clinic and a kennel. They also received a variance for the side yard setback, reducing it to 45'. He reviewed access (including sidewalks), parking, the existing residence (which will be used by the Humane Society), and landscaping.

He stated that the fence will be privacy fencing which will absorb more noise, rather than chain link. He noted that the sign will be a monument sign, and that the kennel will be soundproofed.

Regarding concerns from the neighboring property owners, the property owner to the south has a Conditional Use Permit to allow the owner to host weddings and other events on their property. He stated that the barn on that property to the edge of the outdoor recreational area for the dogs is approximately 785'. That, with the existing tree line, privacy fence, and the proposed evergreen trees should provide an adequate buffer and minimize the noise from the dogs that reaches that farm. Additionally the applicant agreed to keep all the dogs indoors if they are given 24 hours' notice of an event on the neighboring property.

He recommended approval with ten (10) conditions of approval, plus an eleventh (11) condition that no approval is being given at this time for the areas indicated on the plan as "future gravel drive," "future building," and "future expansion area."

Chairman Jones requested adding a condition #12 that requires removing the storage container from the plan.

All those intending to speak before the Commission were sworn in by Mr. Perkins.

Scott Tritsch, local Veterinarian and applicant, stated that there is no facility of this kind in Scott County, and that the kennel is an important part of the eventual large animal clinic on the site. He stated that there will be more dogs in the kennel during weekday business hours because part of the business is a dog daycare. He stated that when dogs are in the kennel, they are outside for very short periods of time, and that there is an indoor exercise/play area. He stated that the Humane Society will use the existing residence for their operation at no cost, and that the area around the residence will be cleaned up and landscaped.

Mr. Tritsch described the design of the building and sign, which will have no lighting. He stated that dogs cannot be heard barking when they are inside the kennel, which will be similar in construction to their new clinic on Southgate Drive. He stated that the boarded dogs do not see each other, that the cages and outdoor exercise areas are isolated.

Commissioner Smith asked about the large animal clinic. Mr. Tritsch described that operation and stated that plans will be submitted within the year.

Gene Thomas, Scott County Health Department, stated that the sanitary sewer system for the residence should suffice for the Humane Society use, as long as it is used for three or four people, and not for animal waste.

Chairman Jones asked Mr. Kane if this use will affect possible expansion of the Urban Service Boundary. Mr. Kane stated that it is zoned A-1 and not being served by sewer, so it shouldn't encourage further development to the south.

Roger Quarles, neighboring property owner, stated that the permit for the kennel and animal clinic was issued to Jack Wise, not the applicant. If the sale of the property goes through, the permit does not go with the property, in which case the applicant will need to apply to the Board of Adjustment again. Mr. Perkins stated that he understood that the application to the Board of Adjustment was a joint application, between the applicant and Mr. Wise, in which case it would not need to go before the Board again.

Mr. Quarles stated he has asked the Board of Adjustment by letter to rehear the case on the grounds that several misstatements of fact were given to the Board of Adjustment members. He submitted the letter for the record. He felt that the operation is not a kennel, but a daycare as Mr. Tritsch described. He also stated that the same type of services are available at the vet clinic at Great Crossings, and that the distance between the kennel and the venue where they will hold public events is not 1500', but approximately half that distance. He added that it was presented that it would be an immediate, large animal clinic. He felt that these misstatements had a bearing on the decision made by the Board of Adjustment, and asked the Commission to postpone the application until it is reheard by the Board of Adjustment.

Mr. Quarles also expressed concern about noise when potential clients are looking at the venue and asked for further noise abatement measures, such as relocation of the outdoor exercise area and additional screening.

Mr. Tritsch stated that the sound barrier (berm) will be 6'-8' in height, and that to his knowledge the Board of Adjustment was told that the distance between the two facilities is 800'-900', not 1500'. He stated that no other facility in Scott County offers dog daycare, and that 30-40 dogs would generate 30-40 cars.

Commissioner Smith asked if the outdoor dog exercise area could be moved to the opposite side of the building. Mr. Tritsch stated that there are exercise areas all around the building and there is not room to move them.

Mr. Perkins stated that Mr. Quarles' letter to the Board of Adjustment will be submitted to that Board for review and determination of whether the application needs to be reviewed again. He stated that the Board retains jurisdiction over the Conditional Use

Permit, and if conditions are violated, they can revoke it. As far as the Planning Commission is concerned, the application was approved. If the Board of Adjustment would withdraw the approval, then the Planning Commission approval is invalid.

Kriss Lowry, Scott County Humane Society, was sworn in by Mr. Perkins. She stated that they will keep some cats in the house, but dogs are not kept in the residence that will be their office. If a dog is kept it would be in foster care and not be there long.

The height of the berm was discussed. Mr. Quarles felt that because of the topography, it would not act as a sound barrier.

Mr. Tritsch agreed to keep the dogs inside when Mr. Quarles is showing the wedding barn to a potential client.

Chairman Jones expressed his support for the application.

Motion by Holland, second by Wiseman, to approve the Preliminary Development Plan subject to the twelve (12) conditions of approval. Motion carried.

PDP-2016-05 Lloyd Road Wireless Communication Facility - Preliminary Development Plan for a 195' lattice tower with a 4' lightning arrestor located on a 10,000 sq. ft. lease area zoned A-1, located on Stamping Ground Road, north of Lloyd Road.

Ms. Chan reviewed the staff report, stating that the dirt road accessing the site from Stamping Ground Road will be upgraded to a 12' wide gravel road with a 30' access and utility easement. The tower is located 699' from the closest residence, 500' from the nearest barn, and 475' from the nearest property line. She addressed the landscaping and fencing, and noted that all 21 application requirements in the Zoning Ordinance have been met. She then summarized the 13 design requirements in the Zoning Ordinance, which have also been met.

She addressed the Comprehensive Plan, the service gap in the area, and stated that this type of tower can be found throughout the county.

She recommended approval, subject to four (4) conditions.

David Pike, representing the applicant, introduced his witnesses, and stated that all requirements have been addressed and met. He noted the exhibits and documentation that were submitted, and proceeded to review that information.

He stated again that the application complies with all requirements, including the Comprehensive Plan, Zoning Ordinance, and Subdivision and Development Regulations. He stated that there are no existing towers near enough on which to co-locate, there will be no lighting on the tower, and noted the reports from the witnesses that all indicate

the application's compliance. He noted that lay opinion and aesthetics cannot be the basis for a denial of the application, and that health and environmental effects also cannot be considered by the Planning Commission because they are preempted by the FCC, and KRS re-adopted those FCC provisions. He stated that they are operating the facility in compliance with their FCC license.

Mr. Pike stated that now approximately 70% of emergency calls are made from cell phones, making the cell towers a matter of public safety. He asked that the pre-filed reports of the witnesses constitute their testimony.

Commissioner Smith asked what will happen to the tower if the contract with the property owner expires. Mr. Pike stated that they are required by State law and the terms of the lease to remove the tower if the lease is terminated, and State law requires removal of the tower if it is not used for six months.

Chairman Jones asked when the tower will be built. Mr. Pike stated that Planning Commission approval is the final approval needed, and he would expect the tower to be built within two years, and possibly sooner. Chairman Jones asked where the application falls within the sunset clause, which requires construction within two years, with a one-year extension if requested. Mr. Perkins stated that is consistent with State law. Mr. Pike stated that he would stipulate that.

Chairman Jones confirmed that three other providers can co-locate on the tower. Mr. Pike stated that the tower has the capacity to accommodate more, but because of the location of the tower and because other providers would be located lower on the tower, more than three would be unlikely.

Chairman Jones expressed concern that, if there is such a need for emergency call service, why has there been no sign of construction of the cell tower that was approved in Stamping Ground over a year ago. Mr. Pike asked staff to submit concerns to him about other Verizon towers and he will make inquiry about them.

Chip Richardson, Stamping Ground Road property owner, stated that he and his wife purchased 158 acres to the west of the proposed tower. He stated that directly across from him is what has been called the most historically rich area in Scott County. It was the homestead of the ninth Vice President of the United States, Richard Johnson. The Choctaw Academy is there in a state of disrepair, and he has made a commitment to help restore it. He is in negotiations with the Heritage Council to place an easement for the dormitory of the Academy.

Dr. Richardson also stated that he would like to construct a grass landing strip for his own sport aviation use. A 200' tower in his path is not conducive to this use. He expressed concern about whether the tower is actually needed, doubting the applicant's statement that there is a critical need for the area. He felt there are reasons to consider

postponing the application to look at another site within the radio frequency service area.

Commissioner Wiseman felt that the tower would not affect the historic integrity of the Choctaw Academy. Dr. Richardson stated that this commercial operation is directly across the road from an historic resource that will hopefully attract tourists to Stamping Ground once it is restored.

Commissioner Holland asked Ms. Chan if a tower was approved on Green Lane on the Jacobs property. Ms. Chan replied that she would have to research the issue. Mr. Perkins stated that regardless if there is one on Green Lane, this application meets the regulations. Commissioner Sulski asked Mr. Pike if he provided a co-location report. The search area was viewed and Mr. Perkins stated that Green Lane would be outside the search area. Mr. Pike stated that if there was a tower on Green Lane, they could not co-locate on it because there has to be the correct spacing between the existing sites.

Mr. Pike listed all the approvals they have received, and stated that the objections that were heard cannot be considered.

Dr. Richardson felt that there are inadequate studies that show the opportunity to co-locate.

Mr. Perkins stated that the required scientific evidence has been submitted that legally overrides the other concerns that have been expressed. Dr. Richardson felt that that does not preclude the Commission requiring a second, independent study to verify the biased studies commissioned by the applicant. Mr. Perkins stated that that is not feasible due to time constraints, budget, and the fact that the applicant provided studies certified by experts.

Mr. Perkins stated that to accuse the applicant of submitting biased reports is the same as accusing them of malpractice, and the Commission does not need to do that. If independent studies should be required, then the process should be changed for future applicants. Commissioner Sulski noted that in the past, both sides of the argument have presented expert testimony that conflicted. Mr. Perkins stated that in that case, the Commission must question the testimony.

Dr. Richardson stated that this is the first opportunity for public comment. There is no point in having a meeting if the Commission simply checks off items on a checklist. Notice requirements were discussed. Dr. Richardson felt the time period between being noticed and the public hearing was too short.

Motion by Wiseman, second by Caldwell, to approve the Preliminary Development Plan subject to the four (4) conditions of approval. By roll call vote, motion carried 6-2 with Sulski and Smith dissenting.

Update of previously approved projects and agenda items

Mr. Kane asked that a workshop be scheduled to review the FY 16-17 budget because it needs to be submitted to Fiscal Court on March 3. It was decided to schedule a workshop on Wednesday, February 24, at 4:30 p.m. in the Planning Office.

H.B. 55 Hours

Mr. Kane provided the Commissioners with a list of their H.B. 55 Continuing Education hours. He noted the Bluegrass ADD Regional Planning Meeting on March 15 at 2:00 at the ADD office that could provide additional hours.

Comprehensive Plan Subcommittees

Mr. Kane stated that they would like at least one Planning Commissioner to serve on each subcommittee, and that they can call or email the office to volunteer.

The meeting was then adjourned.

Respectfully,



Rob Jones, Chair

Attest:



Charlie Perkins, Secretary