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## **NCLA Resists WY Planning Commission’s Attempt to Treat Vision Document Like a Zoning Ordinance**

*Asphalt Specialties Co., Inc. v. Laramie County Planning Commission*

**Washington, DC (July 21, 2020)** – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, today filed an [opening brief](#) in *Asphalt Specialties Co., Inc. v. Laramie County Planning Commission* with the Wyoming Supreme Court. NCLA is pushing back against the Laramie County Planning Commission with an appeal challenging the Commission’s unlawful decision to treat a mere “vision” document like restrictive zoning rules. The Commission did not comply with statutory requirements for zoning.

In making this decision, the Commission wrongly relied on nothing more than “guidance”—treating it as if it had the full force and effect of law. Even though Asphalt Specialties Co., Inc. (ASCI) had met the County’s site plan criteria, the Commission relied on other factors to reject the site plan, including the Commission’s “vision” document for how land in this part of Laramie County should be used.

The appeal stems from a denial of ASCI’s site plan application for a proposed development of a small gravel operation—15 acres—on a 555-acre parcel of private land approximately 20 miles west of Cheyenne. ASCI’s property is located outside of the zoned area of Laramie County, and it is not subject to any zoning restrictions. ASCI filed its site plan application with the county in May, 2018. The Commission held a hearing on ASCI’s site plan application in July, 2018 and ultimately rejected the site plan on a two-to-two tie vote.

ASCI appealed the Commission’s decision to the District Court, which issued a decision on February 28, 2020, affirming the Planning Commission’s decision and ignoring its regulatory overreach. Like the Planning Commission, the District Court based its decision on a “Comprehensive Plan”—a mere vision document in the form of a guidance—that is legally unenforceable. “Comprehensive plans,” such as the one at issue here, have no legal effect, cannot be “enforced” against a landowner, and cannot form the basis for denying a site plan application that otherwise complies with every aspect of Laramie County’s regulations.

NCLA believes that the Planning Commission’s decision to use a vision planning document to stop ASCI’s gravel quarry development is arbitrary, capricious, an abuse of discretion, and not in accordance with law. NCLA asked the Wyoming Supreme Court to enter an Order holding unlawful and setting aside the Planning Commission’s decision.

**NCLA released the following statements:**

“The Planning Commission overstepped its authority by assuming jurisdiction that it does not have and, in doing so, violated ASCI’s due process rights. The Planning Commission also converted what they refer to as a “vision” or “guidance” document into hard-and-fast zoning restrictions, thereby depriving ASCI of its federal and state constitutional property rights. We believe that the Wyoming Supreme Court will correct this travesty of justice and ensure that the Planning Commission does not engage in this type of lawlessness in the future.”

— **Harriet Hageman, Senior Litigation Counsel, NCLA**

“Laramie County could have zoned the area where ASCI has proposed a small gravel quarry operation—but it did not. Because ASCI’s property is not zoned, the State of Wyoming is responsible for the regulation of any gravel operation on ASCI’s property. The Laramie County Planning Commission exceeded its authority, so its decision to deny ASCI’s site plan application must be set aside.”

— **Jessica Thompson, Litigation Counsel, NCLA**

## **ABOUT NCLA**

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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