

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OWENSBORO METROPOLITAN PLANNING COMMISSION

FEBRUARY 12, 2009

The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, February 12, 2009, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Drew Kirkland, Chairman
- Judy Dixon, Vice Chairman
- David Appleby, Secretary
- Gary Noffsinger, Director
- Madison Silvert, Attorney
- Irvin Rogers
- Wally Taylor
- Keith Evans
- Martin Hayden

* * * * *

CHAIRMAN: Let's stand. Our invocation today will be given by Mr. Keith Evans.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I would like to welcome everybody to the Owensboro Metropolitan Planning & Zoning meeting.

Our first item of business is to consider the January 8, 2009 minutes. Are there any corrections, additions or questions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.

1 MS. DIXON: Move to approve.

2 CHAIRMAN: Motion for approval by Ms. Dixon.

3 MR. EVANS: Second.

4 CHAIRMAN: Second by Mr. Evans. All in favor
5 raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, Mr. Noffsinger.

9 -----

10 PUBLIC HEARING

11 ITEM 2

12 Consider revisions to Article 1, Article 3 and Article
13 4 of the Owensboro Metropolitan Subdivision
14 Regulations to allow the OMPC director the authority
15 to sign final subdivision plats.

15 MR. SILVERT: State your name, please.

16 MS. STONE: Becky Stone.

17 (BECKY STONE SWORN BY ATTORNEY.)

18 MS. STONE: The changes to these articles
19 reflect only a revision to allow the director, Gary
20 Noffsinger, to sign major subdivision plats so that
21 the Planning Commission does not have to consider
22 those, provided they are in accordance with the
23 previously approved preliminary plat. The reason for
24 the revision is to facilitate development in the
25 community.

1 CHAIRMAN: Are there any questions?

2 (NO RESPONSE)

3 CHAIRMAN: If not the chair is ready for a
4 motion.

5 MR. APPLEBY: Motion for approval.

6 CHAIRMAN: Motion for approval by Mr. Appleby.

7 MR. ROGERS: Second.

8 CHAIRMAN: Second by Mr. Rogers. All in favor
9 raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 -----

14 ZONING CHANGES

15 ITEM 3

16 6001 Block Aull Road, 94.3 acres
17 Consider zoning change: From A-R Rural Agriculture to
18 EX-1 Coal Mining
Applicant: Western Kentucky Minerals, Inc.; Charles
R. Martin

19 MR. SILVERT: State your name, please.

20 MR. HOWARD: Brian Howard.

21 (BRIAN HOWARD SWORN BY ATTORNEY.)

22 MR. HOWARD: I will note all rezonings heard
23 tonight will become final 21 days after the meeting
24 unless an appeal is filed. The appeal forms are
25 available on the back table and on our website and in

1 the office. If an appeal is filed, then it will be
2 forwarded to the legislative body for two readings.

3 PLANNING STAFF RECOMMENDATIONS

4 Staff recommends approval because the proposal
5 is in compliance with the community's adopted
6 Comprehensive Plan. The condition and findings of
7 fact that support this recommendation include the
8 following:

9 CONDITION:

10 No mining activity shall take place within the
11 floodplain and prime farmland shall be protected from
12 normal mining practices.

13 FINDINGS OF FACT:

14 1. The subject property is located in a Rural
15 Maintenance Plan Area where coal mining uses are
16 appropriate in general locations;

17 2. The subject property is located in the
18 Rural Service Area outside of a Rural Community Plan
19 Area;

20 3. The subject property adjoins existing
21 areas of EX-1 Coal Mining zoning;

22 4. The Philpot-Maceo Quadrangle Map indicates
23 the presence of coal deposits on the site; and,

24 5. State and county roads proposed to be used
25 for the transportation of coal have been approved by

1 the appropriate officials.

2 MR. HOWARD: I would like to enter the Staff
3 Report into the record as Exhibit A.

4 CHAIRMAN: Are there any questions?

5 (NO RESPONSE)

6 CHAIRMAN: Does anybody on the commission have
7 any questions?

8 (NO RESPONSE)

9 CHAIRMAN: If not the chair is ready for a
10 motion.

11 MR. HAYDEN: Make a motion for approval with
12 Staff Recommendations and the Condition and Findings
13 of Fact 1 through 5.

14 CHAIRMAN: We've got a motion for approval by
15 Mr. Hayden.

16 MR. APPLEBY: Second.

17 CHAIRMAN: Second by Mr. Appleby. All in
18 favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22 ITEM 4

23 6331 Aull Road, 100.94 acres
24 Consider zoning change: From A-R Rural Agriculture
and EX-1 Coal Mining to EX-1 Coal Mining
25 Applicant: Western Kentucky Minerals, Inc.; Lewis
Rhodes Estate c/o Mary Juanita Rhodes

1 PLANNING STAFF RECOMMENDATIONS

2 Staff recommends approval because the proposal
3 is in compliance with the community's adopted
4 Comprehensive Plan. The condition and findings of
5 fact that support this recommendation include the
6 following:

7 CONDITION:

8 No mining activity shall take place within the
9 floodplain and prime farmland shall be protected from
10 normal mining practices.

11 FINDINGS OF FACT:

12 1. The subject property is located in a Rural
13 Maintenance Plan Area where coal mining uses are
14 appropriate in general locations;

15 2. The subject property is located in the
16 Rural Service Area outside of a Rural Community Plan
17 Area;

18 3. The subject property adjoins existing
19 areas of EX-1 Coal Mining zoning;

20 4. The Philpot-Maceo Quadrangle Map indicates
21 the presence of coal deposits on the site; and,

22 5. State and county roads proposed to be used
23 for the transportation of coal have been approved by
24 the appropriate officials.

25 MR. HOWARD: I would like to enter the Staff

1 Report into the record as Exhibit B.

2 CHAIRMAN: Does anybody have any questions?

3 Sir, come to the podium, please.

4 MR. SILVERT: Could you state your name,
5 please.

6 MR. TONG: My name is Jim Tong. I live on 144
7 across from the proposed ground.

8 (JIM TONG SWORN BY ATTORNEY.)

9 MR. TONG: I just have one simple question.
10 When they talk about not to be mined in prime
11 farmland, what's the definition of prime farmland, or
12 is it just land that's been farmed before?

13 CHAIRMAN: Mr. Noffsinger.

14 MR. NOFFSINGER: Mr. Howard.

15 MR. HOWARD: We do have a map in the office
16 that indicates areas that have been identified as
17 prime agricultural farmland. It has a couple of
18 different layers. Most prime agricultural and others
19 agricultural of farmlands of a statewide importance.
20 So those are what we looked at as far as identifying
21 where the prime agricultural farmland would be on the
22 property.

23 Basically it states that that area should not
24 be mined using typical methods, but to protect that
25 farmland. I think there are some ways that it could

1 be mined, but you have to take special care to make
2 sure that you don't harm the soil structure and things
3 like that.

4 MR. APPLEBY: As I understand it, it's the
5 difference in the way which it's reclaimed. If you're
6 working in prime farmland, more topsoil to be put
7 back.

8 MR. HOWARD: Yes.

9 MR. NOFFSINGER: These maps are prepared by
10 the US Soil Conservation Service.

11 CHAIRMAN: Step to the podium, please.

12 MR. SILVERT: State your name, please.

13 MR. HAYNES: Brian Haynes.

14 MR. HOWARD: Mr. Haynes, I recognize the oath
15 you took as an attorney.

16 MR. HAYNES: If anybody has any more specific
17 questions about the prime farmland, I'll be glad to
18 answer them.

19 Basically Mr. Appleby is correct. It involves
20 the way the soil is removed, stored, protected and
21 returned to the site, plus some additional
22 requirements as to bidding production off that
23 property before reclamation bonds are released.

24 CHAIRMAN: Thank you, Mr. Haynes.

25 Does anybody else have any questions?

1 (NO RESPONSE)

2 CHAIRMAN: If not the chair is ready for a
3 motion.

4 MR. ROGERS: Motion to approve based on
5 Planning Staff Recommendations with one condition and
6 Findings of Fact 1 through 5.

7 CHAIRMAN: We have a motion for approval by
8 Mr. Rogers.

9 MR. HAYDEN: Second.

10 CHAIRMAN: We've got a second by Mr. Hayden.
11 All in favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 ITEM 5

16 Portion of 9340, 9378 Highway 144, 5.351 acres
17 Consider zoning change: From B-4 General Business and
18 R-1A Single-Family Residential to A-U Urban
19 Agriculture
20 Applicant: St. Williams Cemetery; Ernest T. Isbill
21 and Diocese of Owensboro

22 PLANNING STAFF RECOMMENDATIONS

23 Staff recommends approval because the proposal
24 is in compliance with the community's adopted
25 Comprehensive Plan. The condition and findings of
fact that support this recommendation include the
following:

1 CONDITION:

2 Submission of a conditional use permit
3 application.

4 FINDINGS OF FACT:

5 1. The subject property is located in a Rural
6 Community Plan Area, where agricultural uses are
7 appropriate in general locations;

8 2. The subject property has been used as a
9 cemetery for over 100 years;

10 3. The applicant proposes to eliminate a
11 property encroachment with a consolidation plat and
12 submit a conditional use permit application for the
13 cemetery use; and,

14 4. The proposed A-U zoning is the appropriate
15 zoning classification for consideration of a
16 conditional use permit for a cemetery.

17 MR. HOWARD: I would like to enter the Staff
18 Report into the record as Exhibit C.

19 CHAIRMAN: Does anybody have any questions?

20 (NO RESPONSE)

21 CHAIRMAN: If not the chair is ready for a
22 motion.

23 MR. APPLEBY: Motion for approval based on the
24 Staff Recommendations with the condition and on their
25 Findings of Fact 1 through 4.

1 CHAIRMAN: We have a motion for approval by
2 Mr. Appleby.

3 MS. DIXON: Second.

4 CHAIRMAN: Second by Ms. Dixon. All in favor
5 raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 ITEM 6

10 10015 Main Street, 0.356 acres
11 Consider zoning change: From R-1B Single-Family
12 Residential to P-1 Professional/Service
13 Applicant: Joseph & Diane Birkhead

14 PLANNING STAFF RECOMMENDATIONS

15 Staff recommends approval because the proposal
16 is in compliance with the community's adopted
17 Comprehensive Plan. The findings of fact that support
18 this recommendation include the following:

19 FINDINGS OF FACT:

20 1. The subject property is located in an
21 Urban Residential Plan Area, where
22 professional/service uses are appropriate in limited
23 locations;

24 2. The use of the subject property as a
25 medical office will be non-residential in nature;

 3. The subject property is arterial street

1 oriented with road frontage on KY 54; and,

2 4. The use of the property as a medical
3 office will serve as a buffer used between the higher
4 intensity commercial uses in the vicinity and the
5 existing residence to the north.

6 MR. HOWARD: I would like to enter the Staff
7 Report into the record as Exhibit D.

8 CHAIRMAN: Are there any questions?

9 (NO RESPONSE)

10 CHAIRMAN: Chair is ready for a motion.

11 MS. DIXON: Move to approve based on Planning
12 Staff Recommendations and Findings of Fact 1, 2, 3 and
13 4.

14 CHAIRMAN: We've got a motion for approval by
15 Ms. Dixon.

16 MR. ROGERS: Second.

17 CHAIRMAN: We've got a second by Mr. Rogers.
18 All in favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 The chair is ready for one final motion.

22 MS. DIXON: Move to adjourn.

23 CHAIRMAN: Motion for adjournment by Ms.
24 Dixon.

25 MR. APPLEBY: Second.

1 CHAIRMAN: Second by Mr. Appleby. All in
2 favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: We are adjourned.

5 -----

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF KENTUCKY)
)SS: REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 13 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 1st day of March, 2009.

18

19

LYNNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
21 OWENSBORO, KENTUCKY 42303

22

COMMISSION EXPIRES: DECEMBER 19, 2010

23

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

24

25