The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, July 9, 2009, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Drew Kirkland, Chairman  
Judy Dixon, Vice Chairman  
Gary Noffsinger, Director  
Madison Silvert, Attorney  
Tim Miller  
Wally Taylor  
Keith Evans  
Rita Moorman  
Ward Pedley

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CHAIRMAN:  I would like to welcome everybody to the Owensboro Metropolitan Planning & Zoning Commission meeting. Our invocation will be given by Mr. Keith Evans. Would you please stand.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Our first order of business is to consider the minutes of the June 11, 2009 meeting. Are there any additions, corrections, questions?

(NO RESPONSE)

CHAIRMAN:  Anything from the commission?

(NO RESPONSE)

CHAIRMAN:  If not the chair is ready for a motion.
MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. TAYLOR: Second.

CHAIRMAN: Second by Mr. Taylor. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item please, Mr. Noffsinger.

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CELLULAR TELECOMMUNICATIONS FACILITIES
PER KRS 100.987

ITEM 2

101 Elm Street
Consider approval of a temporary wireless telecommunications tower.
Applicant: City of Owensboro; GTE Wireless of the Midwest, Inc.; d/b/a Verizon Wireless

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: The applicant is seeking a temporary Cellular on Wheels tower at the address of 101 Elm Street. The applicant had a structure in place on the Executive Inn property, but due to demolition of the structure, the tower must be relocated. The applicant is seeking a permanent location for the tower, but is requesting a temporary
location in order to prevent reduced phone coverage in
the area. The applicant provided coverage area maps
in the application showing the significantly reduced
coverage area if the tower on the Executive Inn
structure is not replaced after demolition of the
building. The applicant has requested the temporary
COW be in place for a maximum of nine months.

The tower is a 104 foot tall Cellular on
Wheels tower with related equipment. The applicant
proposes a 6 foot tall woven wire fence around the
compound and the application meets all requirements
related to illumination, staffing and signs. However,
due to the temporary nature of the tower, the
applicant has requested several waivers in regard to
site development requirements. The waivers include a
request to eliminate the requirement for three
additional co-locations, the six foot tall evergreen
tree screening requirement, and geotechnical report.
All waivers are reasonable based on the temporary
nature of the proposal.

The design standards meets all applicable
standards in regards to location from residential
structure setbacks. It's below the 200 foot maximum
height requirement. 104 feet.

As I said, they have requested the three
waivers on them. The geotechnical report since it won't have a foundation. The co-location requirement since it will only be place for nine months. And a waiver of a six foot tall evergreen screening requirements since it will only be in place for nine months.

Some findings of fact is:

1. The application is complete with all materials in accordance with the Owensboro Metropolitan Zoning Ordinance;
2. The site is in compliance with all design criteria of the Owensboro Metropolitan Zoning Ordinance; and,
3. The temporary tower will continue to provide cellular phone service to this area of the county which would be lost after the tower on the Executive Inn property is removed for building demolition.

We would like to enter the Staff Report into the record as Exhibit A.

CHAIRMAN: Is there anyone here representing the applicant?

MR. PIKE: There is, Mr. Chairman.

CHAIRMAN: State your name, please.

MR. PIKE: David Pike.
MR. PIKE: Mr. Chairman, as is my custom here, first, it's always good to be back. I will also keep this merciful brief.

However, I would like to take just a moment to introduce the folks who are here with me to underscore, although this is just a nine month project, how important this is to us.

We have Kevin Cusano with Verizon. We have Amy Harper with Verizon. Bill Vonolin, the construction. Bill Duffy, our radio frequency engineer. Tammy Pike and Debbie Rhoads from the site acquisition company working on this project.

Let me try to explain, just to build a little bit on what Staff said.

We're very grateful to the Staff Review. It was done on an expedited basis and it was important that it be expedited.

Recently, of course, due to the merger, Verizon Wireless has now welcomed former Altel customers into our network. This site served to those customers. Of course, those are the antennas that you can see on top of the former Executive Inn.

When that building is torn down, unless something is done immediately, those customers in this...
entire section of the city will lose all service.

What we're seeking to do here is provide a stop gap measure that will allow us to facilitate a new location.

By the way our current plan is that that new location will be a co-location on an existing cell tower in this area, but that can't be accomplished in time in order to prevent an interruption of service.

So based on those circumstance we're asking for this opportunity to provide a good continuity of service and a good continuity of public protection for people who have come rightfully to expect their cell phones to works. Particularly in this area.

So given that opportunity we'll put this up promptly. We're gratified that the city recognized the importance of this effort and was willing to lease this parcel to us. The geotechnical waiver, of course, makes sense because there's no permanent attachment to the ground here and it's configured to be just that way.

If there are any questions, I'll be glad to try to answer them. I would request a round of applause for the brevity of my presentation.

CHAIRMAN: Very well done. You have reached the limit, but you did very well.

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The only question I would have, Mr. Pike, the transition between the temporary and the permanent site, obviously you've got a permanent site already pretty much picked out?

MR. PIKE: We've picked out a location. It's an existing AT&T tower, but as you would expect there's a lot of documents that have to be filled out, and it's not done until it's done.

What we would hope for is that we would wrap that leasing process up in the next 60 days. Would begin construction. Will turn on the new site and take the temporary tower down, you know, beginning the next day.

CHAIRMAN: So basically there will be no lapse between the Executive Inn, the temporary, and then the permanent?

MR. PIKE: That's our goal and it's the reason why we were so gratified that Director Noffsinger's team expedited this for us. Because we're racing to make sure we can get all of this done before the demolition occurs. At Verizon Wireless we say it's all about the network and we're really serious about that.

CHAIRMAN: We appreciate it.

To the Staff, thank you all very much for

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putting this together and making it happen in a timely manner.

Is there anybody in the audience or on the commission that has a question? Anybody from the audience?

Yes, sir.

MS. VINCENT: I would like to make a statement, please.

CHAIRMAN: Would you step to the podium, please.

MR. SILVERT: State your name, please.

MS. VINCENT: My name is Dorothy Vincent.

(DOROTHY VINCENT SWORN BY ATTORNEY.)

MS. VINCENT: I'm the owner of the Royce Restaurant. My business and my business properties are located across the street from the proposed tower. I have operated my business since 1962 at this location. I have watched the downtown area deteriorate to all businesses in the area. They're in an economic struggle for survival.

You as city and county government bought the property in question to develop the riverfront downtown. How is putting a tower in the middle of a proposed development area advantageous to the development of business and jobs for that area? I
hear that this will only be temporary, but from my vantage point all I see is a proposal that somewhere down the road becomes a stumbling block and creates a reason to be possibly slow our development.

I urge you to keep to the original plan for developing and not be short sighted to earn a buck here or there. Keep the land for it's intended use and that is for the creation of businesses and jobs to extenuate growth in the Owensboro downtown area.

I feel like this is what we should do. Is keep that area clear.

CHAIRMAN: Based on Mr. Pike's sworn testimony, this is a temporary permit. A temporary permit is brought about by the citizens of Owensboro and Daviess County that will be in that area that will be totally without cell phone service for six, eight, whatever months it was, before Mr. Pike is able to smoothly move his tower, which is currently on top of the Executive Inn, to a currently existing tower. If we did not do that, we would have a gap of service to I don't know what range of service area that his customers would be totally without.

MS. VINCENT: If you can be for sure that this is only going to be temporary and not become a permanent thing like so many times things do become
permanent when they say it's only temporary, then I'm all for it.

CHAIRMAN: I think I'll bring Mr. Pike back. I think his words will be even better than mine in explaining that he has a temporary permit. He has been awarded temporary use and certain criteria have been waived for the good of the community so Mr. Pike could offer service. I think Mr. Pike has no doubt that he has a temporary permit, but I think it would be better having him on the record and under oath to state that again.

MS. VINCENT: He said there would be a lot of paperwork to be worked out. Sometimes paperwork fails.

CHAIRMAN: Mr. Pike will be, I will guarantee you that he will expedite that. So I'll bring him back, if you don't mind.

MS. VINCENT: Thank you.

CHAIRMAN: Mr. Pike, I think you understood the concerns. I think, one, you need to address you understand and you know that you have a temporary permit. That getting this done as quickly as possible is in your favor and your customers favor.

MR. PIKE: I'm always glad to have the stress ratcheted up on Mr. Pike.
Just for everybody here from Verizon Wireless, nobody has any doubt this is a temporary permit. This is for nine months. Period.

VERIZON PEOPLE: Right.

MR. PIKE: I will tell you and I will stipulate for the record this is a temporary permit. It's nine months. We could have asked for longer than that. We asked for nine months because that's in our judgment what it's going to take to get this done.

I will tell you we have weekly conference calls where we review all of our sites. Every call opens and ends with this issue. Because an interruption of service is simply unacceptable.

Ma'am, what I can tell you is nine months. It's going to be nine months. Also by the way you're going to have great cell service during that nine months and afterwards. Because if we don't do this, that's not going to be the case.

Does that do the job, Mr. Chairman?

CHAIRMAN: Thank you very much.

Because they've only got a nine month permit to begin with. It is temporary.

MS. VINCENT: All right.

CHAIRMAN: The reason the Staff worked so hard to put this together in a short period of time is for
the other citizens of Owensboro and Daviess County
that would be totally without cell phone link up in
that area. So it was to their benefit also. I
understand your situation with being a small business
owner and having that across from you, but it will be
there for a period of time and then it will be gone.
He understands the criteria he must meet.

Mr. Noffsinger, did we state that correctly?
That he has a nine month temporary permit?

MR. NOFFSINGER: Yes, sir, and it is a cell on
wheels. It's not a tower that's in the ground. So it
can be easily removed in and out very quickly.

CHAIRMAN: Are there any another questions?
(NO RESPONSE)

CHAIRMAN: If there are no further questions,
the chair is ready for a motion.

MR. MILLER: Mr. Chairman, motion for approval
based upon the application as stated and the findings
1 through 3 and this includes approval of the waivers
as stated, waivers 1, 2, and 3.

CHAIRMAN: We have a motion for approval by
Mr. Miller.

MR. PEDLEY: Second.

CHAIRMAN: Second by Mr. Pedley. All in favor
raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 3

10799 Pup Creek Lane (Postponed at June 11, 2009 meeting.)
Consider approval of a wireless telecommunications tower.
Applicant: GTE Wireless of the Midwest, Inc.; d/b/a Verizon Wireless

MR. HOWARD: The applicant is seeking to construct a cellular tower on the above referenced property. The proposed tower location is on private property located near the terminus of Pup Creek Lane. The lease area for the cellular tower is 100 feet by 100 feet and the applicant has submitted a minor subdivision plat to create the tract. There is an existing private driveway extending from the terminus of Pup Creek Lane that serves the subject property and the adjoining property to the east. The applicant proposes to extend the existing drive to serve the cell tower lease area. All drives serving the site are private and may not be used to meet minimum road frontage requirements for the purposes of subdivision of additional lots not meeting the requirements of the subdivision regulations.

The tower is 195 foot tall monopole with a 4
foot lightening arrestor. The new tower structure is designed to accommodate three additional co-locations. In the application, the applicant stated that there are no existing towers in the vicinity that would allow for co-locations while still serving the needs of the public. The site plan submitted with the cell tower application shows the compound surrounded by an 8 foot tall woven wire fence. A double row of staggered pine trees surrounds the site meeting the minimum requirements of the zoning ordinance for screening. Based on the height of the tower, illumination will not be required.

The application meets the minimum requirements of the Owensboro Metropolitan Zoning Ordinance. It meets the distance from residential structures. It meets all required setbacks at height, a height of 199 feet. It's below the maximum of 200 feet. The screening requirement along with no signs. It's designed for co-location. No waivers are requested.

Some findings:

1. The application is complete with all materials in accordance with the Owensboro Metropolitan Zoning Ordinance;

2. The site is in compliance with all design criteria of the Owensboro Metropolitan Zoning

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Ordinance;

3. The permanent tower will improve cellular telephone service for users within the community; and,

4. By providing the opportunity for three additional service providers on this tower, we are promoting the goal of the Comprehensive Plan to encourage co-location in order to minimize the number of telecommunication towers.

I would like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Do we have somebody here representing the applicant?

MR. PIKE: We do, Mr. Chairman. For the record I'm David Pike.

If it isn't too much trouble, could I request the chair to ask if there's anyone here in opposition to this proposal?

CHAIRMAN: That will be my next question.

Thank you. Hold on just a minute.

Are there any questions?

(NO RESPONSE)

CHAIRMAN: Does the board have any questions?

(No response)

CHAIRMAN: If not the chair is ready for a motion.
MS. DIXON: Move to approve based upon findings 1 through 4.

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

MR. EVANS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Item:

ITEM 3A

10799 Pup Creek Lane (Postponed at June 11, 2009 meeting)

Consider approval of a minor subdivision plat. Applicant: Ronald & Mildred Roberts; GTE Wireless of the Midwest, Inc.; d/b/a Verizon Wireless.

MR. NOFFSINGER: Mr. Chairman, the applicant has requested postponement of this item until the August meeting of the Planning Commission which will be the second Thursday in August due to the fact that some of the property owners have not signed the plat. So we would recommend that you vote to postpone this item for the next meeting.

CHAIRMAN: The chair seeks a motion.

MR. EVANS: Motion to postpone.

CHAIRMAN: Motion for postponement by Mr.
Evans.

MS. MOORMAN: Second.

CHAIRMAN: Ms. Moorman has a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

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ZONING CHANGES

ITEM 4

5232 Lee Rudy Road, 22.415 acres
Consider zoning change: From P-1 Professional/Service
to A-U Urban Agriculture
Applicant: Nicholas P. Hayden Trust

MR. HOWARD: I will note that all rezonings
heard tonight will become final 21 days after the
meeting, unless an appeal is filed. Those appeal
forms are available on the back table, in our office
and on the web site. If an appeal is filed, then it
will be forwarded to the local legislative body for
consideration.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposed
zoning classification is more appropriate than the
current zoning classification. The findings of fact
that support this recommendation include the
following:

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FINDINGS OF FACT:

1. The subject property is partially located in an Urban Residential Plan Area, where rural large-lot residential uses are generally not recommended and partially located in a Professional/Service Plan Area, where rural large-lot residential uses are generally not recommended;

2. The professional/service use on the property has been discontinued;

3. The applicant proposes to use the property for personal recreational use and for a potential future residence; and,

4. The proposed A-U Urban Agriculture zoning is consistent with the zoning on all sides of the subject property.

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

CHAIRMAN: Is there anybody here representing the applicant?

MR. JACOBS: Marty Jacobs representing the applicant. I've just appeared to answer any questions anybody might have.

CHAIRMAN: Wait just a minute, Mr. Jacobs. Are there any questions from anybody in the audience?
CHAIRMAN: Are there any questions from the commission?

(NO RESPONSE)

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

MR. EVANS: Motion to approve based on Planning Staff Recommendations and Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval by Mr. Evans.

MS. MOORMAN: Second.

CHAIRMAN: Second by Ms. Moorman. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Thank you, Mr. Jacobs.

ITEM 5

Portion of 4906 Old Hartford Road, 1.650 acres
Consider zoning change: From A-U Urban Agriculture to R-1A Single-Family Residential
Applicant: Margaret Holbrook; Independence Bank, Trustee of the Marion H. Poor Trust U/W

PLANNING STAFF RECOMMENDATIONS

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

Approval of a consolidation plat to consolidate the subject property with 26 Stone Creek Park.

FINDINGS OF FACT:

1. The subject property is located in an Urban Residential Plan Area, where single-family residential uses are appropriate in limited locations;
2. The proposed use meets the requirements for urban residential development;
3. The proposed zoning change is a logical expansion of existing R-1A zoning located to the north and west; and,
4. The consolidated lot is served by sanitary sewer.

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

CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody on the commission have
any questions?

(NO RESPONSE)

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on Staff Recommendations and Findings of Fact 1 through 4 with the condition of approval of a consolidation plat to consolidate the subject property with 26 Stone Creek Park.

CHAIRMAN: We have a motion for approval by Mr. Pedley.

MR. MILLER: Second.

CHAIRMAN: Second by Mr. Miller. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 6

2611 Sunrise Drive, 0.225 acres
Consider zoning change: From R-1C Single-Family Residential to B-4 General Business
Applicant: Sonrise Chapel, LLC

PLANNING STAFF RECOMMENDATIONS

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

CONDITION

Approval of an amended final development plan
and consolidation plat.

FINDINGS OF FACT

1. The subject property is located in an
Urban Residential Plan Area, where general business
uses are appropriate in very-limited locations;

2. The proposed use of the property for
school related activities is nonresidential in nature;

3. The proposed zoning change is a logical
expansion of existing B-4 zoning located to the north
and east; and,

4. The proposed expansion of B-4 zoning
should not overburden the capacity of roadways and
other urban services that are available in the
affected area.

MR. HOWARD: Would like to enter Staff Report
into the record as Exhibit E.

CHAIRMAN: Is anybody here representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of
the applicant?
CHAIRMAN: If not the chair is ready for a motion.

MS. DIXON: Move to approve based upon Planning Staff Recommendations, subject to the condition and based upon Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. TAYLOR: Second.

CHAIRMAN: Second by Mr. Taylor. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

MINOR SUBDIVISIONS

ITEM 7

3400-3700 Blocks West 5th Street Road
Consider approval of a minor subdivision plat.
Applicant: City of Owensboro

MR. HOWARD: This plat comes before you to create two tracts for drainage basins for the City of Owensboro. The two tracts have no road frontage and therefore it will require Planning Commission approval. We've added notes to the plat that state that the tracts are to be used for retention purposes only. They're non-buildable lots.

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So with that the Staff would recommend that you grant the approval and enter it into the record for that purpose.

CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. EVANS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

The chair is ready for one final motion.

MS. DIXON: Move to adjourn.

CHAIRMAN: Motion for adjournment by Ms. Dixon.

MS. MOORMAN: Second.

CHAIRMAN: Second by Ms. Moorman. All in

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favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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

I, LYNNETTE KOLLER FUCHS, Notary Public in and
for the State of Kentucky at Large, do hereby certify
that the foregoing Owensboro Metropolitan Planning
Commission meeting was held at the time and place as
stated in the caption to the foregoing proceedings;
that each person commenting on issues under discussion
were duly sworn before testifying; that the Board
members present were as stated in the caption; that
said proceedings were taken by me in stenotype and
electronically recorded and was thereafter, by me,
accurately and correctly transcribed into the
foregoing 25 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the
27th day of July, 2009.

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

COMMISSION EXPIRES: DECEMBER 19, 2010
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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