

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 NOVEMBER 11, 2010

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 November 11, 2010, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

- 8 MEMBERS PRESENT: Drew Kirkland, Chairman
- 9 Ward Pedley, Vice Chairman
- 10 David Appleby, Secretary
- 11 Gary Noffsinger, Director
- 12 Madison Silvert, Attorney
- 13 Rev. Larry Hostetter
- 14 Irvin Rogers
- 15 Wally Taylor
- 16 Martin Hayden

17 * * * * *

18 CHAIRMAN: I want to welcome everybody to the
19 November 11th meeting of the Owensboro Metropolitan
20 Planning Commission. Will you please rise. Our
21 invocation will be given by Mr. Brian Howard.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: Let's be mindful this November 11th
24 is Veteran's Day. To all our Veterans we thank them
25 for the great service and debt that they gave to our
country and the great freedoms that we're allowed
because of their efforts and sacrifices on all of our
behalves. To our Veterans we salute you. Thank you
very much.

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1 Our first order of business will be to
2 consider the minutes of the October 14, 2010 meeting.
3 Are there any additions, corrections?

4 (NO RESPONSE)

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

7 MR. PEDLEY: Motion for approval.

8 CHAIRMAN: Motion for approval by Mr. Pedley.

9 MR. TAYLOR: Second.

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

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 -----

16 ZONING CHANGES

17 ITEM 2

18 2501, 2531 Old Hartford Road; 1421, 1427 East 26th
 Street, 10.377 acres

19 Consider zoning change: From R-3MF Multi-Family
 Residential, R-1C Single-Family Residential and P-1
20 Professional/Service to P-1 Professional/Service
 Applicant: The Carmelite Sisters of the Devine Heart
21 of Jesus of Missouri

22 MR. SILVERT: Would you state your name,
23 please?

24 MR. HOWARD: Brian Howard.

25 (BRIAN HOWARD SWORN BY ATTORNEY.)

1 MR. HOWARD: I will note that the rezoning
2 heard tonight will become final in 21 days after the
3 meeting unless an appeal is filed. If an appeal is
4 filed, then the rezoning application will be forwarded
5 to the appropriate legislative body for their
6 consideration. The appeal forms are available on the
7 back table, in our office and on our website.

8 PLANNING STAFF RECOMMENDATIONS

9 The Planning Staff recommends approval subject
10 to the condition and findings of fact that follow:

11 CONDITION

12 Access to Old Hartford Road shall be limited
13 to the two access points currently serving the Carmel
14 Home and access to East 26th Street shall be limited
15 to the existing access point.

16 FINDINGS OF FACT

17 1. Staff recommends approval because the
18 proposal is in compliance with the community's adopted
19 Comprehensive Plan;

20 2. The subject property is partially located
21 in a Professional/Service Plan Area, where
22 professional/service uses are appropriate in general
23 locations and partially located in an urban
24 residential plan area where professional/service uses
25 are appropriate in limited locations;

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1 3. The proposal is a logical expansion of
2 existing P-1 Professional/Service zoning located on
3 the subject property; and,

4 4. The proposal is not a significant increase
5 in P-1 Professional/Service use in the vicinity and
6 should not overburden the capacity of roadways and
7 other necessary urban services that are available in
8 the affected area.

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

11 CHAIRMAN: Do we have anybody representing the
12 applicant?

13 APPLICANT REP: Yes.

14 CHAIRMAN: Do we have any questions?

15 (NO RESPONSE)

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

18 MR. HAYDEN: I make a motion to approve with
19 Staff's Recommendation and with the Condition and
20 Findings of Fact 1 through 4.

21 CHAIRMAN: We have a motion for approval by
22 Mr. Hayden.

23 MR. APPLEBY: Second.

24 CHAIRMAN: Second by Mr. Appleby. All in
25 favor raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item, please.

4 -----

5 MINOR SUBDIVISIONS

6 ITEM 3

7 6020, 6030, 6040 Jack Hinton Road, 11.746 acres

Consider approval of minor subdivision plat.

8 Applicant: Jack D. Jones, Daniel T. Reneer

9 MR. HOWARD: This plat comes before you

10 because it would require Planning Commission's

11 approval for exceptions to the zoning and subdivision

12 regulations.

13 The two lots that are proposed for subdivision

14 were originally created on a plat that actually came

15 to the Planning Commission back in June of 2007.

16 At that time Staff did not recommend approval

17 of the plat because it created lots that exceeded the

18 three to one ratio and those types of things.

19 However, these two lots did meet the minimum

20 requirements of the subdivision regulations.

21 However, tonight what is being proposed is a

22 division of the two lots that met subdivision

23 regulations and creating three development tracts that

24 don't meet any of the subdivision regulations.

25 There's a lot that doesn't have the minimum 100 feet

1 of road frontage, which is required under an A-R
2 zoning. All three tracts exceed the three to one
3 length to width ratio requirement.

4 So with that Planning Staff cannot support or
5 recommend approval of this subdivision plat.

6 Be happy to answer any questions that you
7 might have about it.

8 CHAIRMAN: Do we have anybody representing the
9 applicant?

10 MR. RENEER: Yes, sir.

11 CHAIRMAN: Do you have any comments?

12 MR. RENEER: Yes, sir.

13 MR. SILVERT: Could you state your name,
14 please?

15 MR. RENEER: Daniel Reneer.

16 (DANIEL RENEER SWORN BY ATTORNEY.)

17 MR. RENEER: Me and Jack bought this at an
18 auction in attempting to split it up. We probably
19 should have done a little more research.

20 The prints wasn't stamped saying that it
21 couldn't be split up.

22 With that said that was a mistake of Planning
23 Zoning. They told me that it shouldn't have left the
24 office without it being stamped. If that had been --
25 it was on the site when we looked at it. We thought

1 everything was fine, other than we wasn't aware of the
2 change on the 100 foot road frontage.

3 Since then I've went back and tried to
4 purchase the other 15 feet that I need, and it's not
5 for sale. But with that said it's a creek. It's a
6 25, 30 foot wide creek. If I owned it, it's still not
7 good for anything.

8 I would just -- somebody made an exception
9 with the property next-door on the left-hand side.
10 It's a long lean lot. It doesn't meet the three to
11 one rule. I would just like to ask you to make an
12 exception on this one. I guess that's all I've got to
13 say.

14 CHAIRMAN: Mr. Noffsinger, in regards to his
15 comment about the exception made to the lot next-door.

16 MR. NOFFSINGER: Certainly there could have
17 been an exception to the lot next-door. I'm not sure,
18 but what I do know is there was an exception to the
19 property you bought. It did not meet the subdivision
20 regulations at the time that the property was divided.
21 That's why it had to come to the Planning Commission.
22 The Planning Commission has already approved one
23 exception on this, to create two lots that meet the
24 road frontage requirement, but exceed the depth to
25 width ratio.

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1 Here, and what is really concerning, is that
2 you're creating a lot that only has 86 feet of
3 frontage and that's as wide as it gets. That
4 requirement has not changed. That requirement has
5 been the same since the early 1980s in terms of road
6 frontage. So nothing has changed other than back
7 several years ago the Planning Commission started
8 enforcing the depth to width ratio. This division
9 grossly exceeds the depth to width ratio. Where you
10 have 100 feet of frontage and then you go back about
11 1200 feet.

12 I think by subdividing the property back a few
13 years ago to create one tract that didn't meet the
14 requirements and the one that did, an exception was
15 approved then by this Commission.

16 Now we're asking to approve an additional
17 exception to the exception. Typically this commission
18 hasn't done that. That's not to say you can't, but if
19 we do we need to make sure that we find, attach
20 adequate findings as to why this situation is unique
21 to other situations within the county that don't even
22 make it before this board.

23 CHAIRMAN: Mr. Noffsinger, their exception is
24 either side of this tract in the middle or are they
25 included in this tract? Is that theirs too?

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1 MR. NOFFSINGER: Yes. That lot is theirs and
2 it's the lot that will only have 85 or 86 feet of
3 frontage. It will only be 86 foot wide where the
4 ordinance requires it be 100 foot wide.

5 CHAIRMAN: And then they're splitting up
6 either side of that?

7 MR. NOFFSINGER: Yes. They had two tracts.
8 The end result will be three tracts that do not meet
9 the requirements at all. Where you had one that met
10 all the requirements and the other one was the
11 remainder which exceeded the depth to width ratio.

12 CHAIRMAN: Is there any way they can square
13 that up? The back part of the property has no access
14 I assume.

15 MR. NOFFSINGER: Right. It only has frontage
16 on Jack Hinton Road. The exception that was approved
17 by this commission back a few years ago was I think
18 about the best you could do. Because you had a good
19 development lot with the existing residence and then
20 you had the balance of a lot that you could sell off
21 for development. Here I don't know of any. I don't
22 have any suggestions in terms of further subdividing
23 this property because it does not meet the intent of
24 the ordinance nor the actual regulations.

25 CHAIRMAN: Even if they didn't split this

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1 property, if one owner had all of that property, what
2 would their situation be then?

3 MR. NOFFSINGER: Well, right now they have two
4 tracts and they can sell it as two tracts. One tract
5 has a residence on it. The other tract is vacant.

6 CHAIRMAN: The one tract being the one right
7 in sort of the middle? Like right there?

8 MR. NOFFSINGER: No. Actually it has frontage
9 on Jack Hinton Road for a total of 186 feet and goes
10 back 501 feet it looks like. Then the remainder has
11 100 feet of frontage along Jack Hinton Road and it
12 goes back the full distance of 1,177 feet.

13 What you see there, that middle lot is what
14 they're proposing to do. Proposing to consolidate the
15 existing smaller lot and then create the other three
16 from that or create the additional tract from that.

17 CHAIRMAN: Mr. Appleby.

18 MR. APPLEBY: Yes.

19 CHAIRMAN: I notice that you were studying it
20 very well. You're sort of our flag lot man. This
21 sort of comes under your specialty, doesn't it?

22 MR. APPLEBY: I don't see how it can be
23 divided more than two lots. I can't see any. I'd
24 like to help them, but I can't see any justification
25 for -- there's no -- I haven't got a finding to

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1 justify creating an 80 foot lot and leaving these
2 other two lots like this, unless somebody else has an
3 idea.

4 CHAIRMAN: Ward.

5 MR. APPLEBY: I don't see how it could be
6 divided into more than two lots.

7 MR. PEDLEY: I don't really have a finding
8 either. How you could do it unless you make an
9 exception. That's sort of been done once; is that
10 right?

11 MR. NOFFSINGER: Yes.

12 MR. APPLEBY: Was there a note on the plat
13 that the lot wasn't to be further divided?

14 MR. NOFFSINGER: There was not a note on the
15 plat because the Planning Staff was recommending
16 against that division. It was approved by this
17 commission and there weren't any additional notes
18 added to the plat, nor is there a requirement that it
19 be done. We do that in-house and we try to do that
20 in-house on every plat to alert people, but just
21 because that note is missing doesn't mean it can be
22 divided, especially when you don't even have adequate
23 road frontage to create the additional lots.

24 CHAIRMAN: Our unfortunate situation is we,
25 due to no fault of yours possibly, but there's been an

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1 exception already made on this property, which leaves
2 the property in such a way that, you know, it's out
3 every which way. You know, the depth to width. I
4 mean it's very very difficult for us. I mean
5 obviously we want to help you all. We're not even
6 near the gray area.

7 MR. RENEER: There's a drastic grade change is
8 why we separated it that way, on the left-hand side
9 facing the house. It makes it look like it's supposed
10 to be a separate lot to begin with. That was kind of
11 how we came up with this situation. Because if you
12 drive down the road it looks like this is a separate
13 lot and this is a separate lot. The ground comes up
14 probably three feet just like that. I've got
15 pictures.

16 CHAIRMAN: So you all bought that whole
17 section there together?

18 MR. RENEER: All of it in one piece, yes.

19 CHAIRMAN: Gary, being as it is, just one
20 piece of property going across the front --

21 MR. APPLEBY: It was two lots.

22 CHAIRMAN: It was two lots?

23 MR. RENEER: Yes, sir. We bought it one time
24 at auction all of it. It sold two or all in one.

25 CHAIRMAN: And you bought it?

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1 MR. RENEER: Yes.

2 CHAIRMAN: I understand.

3 MR. RENEER: Thinking that we could split it
4 up. Like I say, I tried pretty hard. The lady lives
5 in Oklahoma or somewhere. I can't find the land
6 owner, the lady that owned the creek, to get the other
7 road frontage. It's not for sale. It is a pretty
8 good size creek or ditch. If I did own the creek, you
9 couldn't ever do anything with it.

10 CHAIRMAN: How much width encompasses the
11 ditch?

12 MR. RENEER: Probably 20 to 25 feet.

13 CHAIRMAN: Gary, that 20 or 25 feet more --

14 MR. APPLEBY: It would be closer, but it's
15 still not going to meet.

16 MR. NOFFSINGER: It would still exceed the
17 depth to width ratio. What they would achieve is they
18 would meet the minimum frontage requirements.

19 CHAIRMAN: What do they need?

20 MR. NOFFSINGER: They need about 14, 15 feet.

21 MR. RENEER: I have some pictures here if you
22 want to see them.

23 CHAIRMAN: I would be glad to look at them.

24 MR. RENEER: This is the creek over on the
25 left. The house is here. The grade that runs -- I

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1 didn't catch it in there because I didn't know I was
2 going to need it or I would have took a picture of it.

3 The creek is on this side. Lot here and then
4 the house here. Then where this grade jumps up, this
5 was going to be the other lot. This is the creek
6 area. This is it. It's pretty deep. It's probably
7 15 foot deep.

8 MR. SILVERT: Would you like to submit those
9 pictures into the record as an exhibit?

10 MR. RENEER: Yes.

11 CHAIRMAN: Does anybody have a suggestion or a
12 motion?

13 In these situations we try to help, but I wish
14 you would have checked with us first.

15 MR. RENEER: I understand. I can see you're
16 trying to work with me. I don't know how to go about
17 knowing that there was already an exception if it's
18 not on the print. I don't know how to go about
19 finding that out when you pull up to a sale and
20 they've got a print here and it doesn't say anything.
21 I'm not putting any fault on anybody. I should have
22 made, I should have researched it better on the road
23 frontage, and I've tried to correct that. Even if I
24 had it, it's just on paper. It's not any good to you
25 or me. It's a creek. I tried to correct the road

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1 frontage problem. I didn't realize that I couldn't
2 split it up.

3 MR. APPLEBY: What's the purpose of dividing
4 it into three lots? Are you planning on selling off?

5 MR. RENEER: Yes, sir. I have people wanting
6 to buy five acre lots. That's about what it is. I
7 already had somebody. Gary Maglinger is our realtor.
8 He had somebody waiting for me. They couldn't afford
9 ten acres. Couple of years ago when I bought it I
10 came to you all and asked could I split it up and
11 that's when I realized there was problems. So I tried
12 to sell it and couldn't sell it as is because people
13 can't afford that much ground right now. Then I came
14 back and I tried to find the lady to buy more road
15 frontage hoping you would make an exception if I had
16 enough road frontage. She doesn't want to sell it.
17 She doesn't live there. She doesn't want to sell it.
18 If I had it, it occurred to me if I had it, it's just
19 on paper. It can't be used.

20 MR. APPLEBY: But that gives us something to
21 hang our hat on. It would meet at least one of the
22 criterias we needed to meet.

23 MR. RENEER: Right. I made a pretty good
24 effort to purchase that and she just doesn't want to
25 sell it. It was in her family.

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1 MR. APPLEBY: So what's the status of the
2 smallest tract? Have you got it sold?

3 MR. RENEER: It's rented.

4 MR. APPLEBY: Are you going to keep that?

5 MR. RENEER: I'm going to keep it unless
6 somebody wants to buy it.

7 MR. APPLEBY: There's no way to combine that
8 back in with one of these other tracts?

9 MR. RENEER: I don't know what to do about it.
10 I've tried everything. Like I said, the lot beside it
11 we made an exception. I realize you've already made
12 an exception on this. I didn't realize that until
13 tonight. I would have purchased this if I didn't
14 think I could split it up basically. The road
15 frontage issue is my fault. I guess all of it is my
16 fault. I should have researched it all better. I'm
17 just asking for an exception.

18 CHAIRMAN: We admire that you're going out
19 purchasing property and trying to develop something.
20 We're trying every way we can, but with this
21 situation, as Mr. Appleby pointed out, you know, if
22 you had one, if you had something going in your
23 direction, maybe we could try to make something work
24 out. It's just a tough situation. Unless somebody
25 has an idea, I think the chair is ready for a motion

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1 and maybe in the future maybe something may
2 development. I think at this point in time unless
3 somebody else has an idea I think we're at the point
4 where the chair would be ready for a motion.

5 MR. APPLEBY: I can't see any way to break it
6 into more than two lots with that frontage. I mean I
7 would entertain a division some other way that didn't
8 create lots with less than 100 feet. If they wanted
9 to come back with something, I think we could probably
10 look at an exception on two lots that didn't meet the
11 minimum. I would have to recommend denial on this
12 one.

13 CHAIRMAN: We have a motion by Mr. Appleby for
14 denial.

15 MR. TAYLOR: Second.

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

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 -----

21 NEW BUSINESS

22 ITEM 4

23 Consider a motion to go into closed session to discuss
24 pending or potential litigation.

24

25 CHAIRMAN: The chair would be ready for a
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1 motion to go into closed session. When we go into
2 closed session, we will adjourn from the closed
3 session. So this will be the end of the formal part
4 of our meeting. The rest of the meeting will be in
5 closed session. We will adjourn right out of that
6 closed session.

7 So is there a motion?

8 MR. PEDLEY: Motion to go into closed session.

9 CHAIRMAN: Motion by Mr. Pedley.

10 MR. HAYDEN: Second.

11 CHAIRMAN: Second by Mr. Hayden. All in favor
12 raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: We're going into closed session.

15 MR. SILVERT: We'll get on the record that we
16 will not be taking any action in the closed session.

17 CHAIRMAN: No. This is to discuss legal
18 matters.

19 -----

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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 18 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 30th day of November, 2010.

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

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