December 9, 2010

The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, December 9, 2010, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Drew Kirkland, Chairman
Ward Pedley, Vice Chairman
David Appleby, Secretary
Gary Noffsinger, Director
Madison Silvert, Attorney
Tim Allen
Irvin Rogers
Wally Taylor
Martin Hayden
Rita Moorman

* * * * * * * * * * * * * * * * * *

CHAIRMAN: I would like to welcome everybody to the Owensboro Metropolitan Planning Commission December 9th meeting. Will you please rise. Our invocation and pledge of allegiance will be given by Mr. Martin Hayden.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes of the November 11, 2010 meeting. Are there any corrections, additions?

(NO RESPONSE)

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

MR. PEDLEY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

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, Mr. Noffsinger.

ITEM 2

Presentation of FY '10 Audit by Gene Boaz, CPA.

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

MR. BOAZ: Gene Boaz, CPA.

(GENE BOAZ SWORN BY ATTORNEY.)

MR. BOAZ: I want to first of all take the opportunity to express my appreciation for all the courtesies that were extended to myself and my assistance during the conduct of the audit.

As part of the audit, our objective was to express two separate opinions. One on the financial statements and whether they were prepared in accordance with generally accepted accounting principles.

Basically the bottom line we found that the Ohio Valley Reporting

(270) 683-7383
statements were in excellent condition and that we issued an unqualified opinion on the financials.  

The second part of our job was to assess the internal controls of the Planning Commission. Once again we found that there was excellent internal controls and we had no material weaknesses that we cited.

Had thumbs up basically on both reports, unqualified on both reports.

CHAIRMAN: After you did your report and were working with the Staff, did your internal audit, are there any suggestions that you would make to the Staff to streamline, to improve their accountability and their motives of operation?

MR. BOAZ: Not particularly. I think the system seems to be working the way it's supposed to. The controls that are in place seem to be adequate. So really wouldn't recommend any major changes or anything like that. I think you can always look at little areas to improve here and there, but for the most part everything was just AOK.

CHAIRMAN: My congratulations to the Staff, Mr. Noffsinger. I appreciate all you all are doing. It's always very nice when you get a glowing report from the auditor.
We have all received a copy of your audit.

Today at lunch Mr. Noffsinger and I went over several items internally, as far as the workings of the Staff and things that have happened. Appreciate the job you do and appreciate the Staff and the job that you all do. It makes our job easy. Thank you very much.

Anybody have any other questions?

(NO RESPONSE)

CHAIRMAN: If not I guess the chair would be ready for a motion on accepting the audit as is.

MR. APPLEBY: Motion to accept the audit.

CHAIRMAN: Motion by Mr. Appleby.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries. The audit is accepted.

Thank you very much.

Next item, please.

---------------------------------------------

ZONING CHANGE

ITEM 3

500, 506, 510 Cedar Street, 0.35 +/- acres

Consider zoning change: From R-4DT Inner-City Residential to R-1T Townhouse

Applicant: Daniel Pitino Shelter, Inc.

Ohio Valley Reporting

(270) 683-7383
MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: I will note that the rezonings heard tonight will become final 21 days after the meeting unless an appeal is filed. If an appeal is filed, we will forward the minutes from the meeting to the appropriate legislative body for their final consideration. The appeal forms are available on the back table, in our office and on the website.

PLANNING STAFF RECOMMENDATION

The Planning Staff recommends approval subject to the findings of fact that follow:

FINDINGS OF FACT:

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

2. The subject property is located in a Central Residential Plan Area where urban mid-density residential uses are appropriate in general locations;

3. The proposed use is in compliance with "Urban Residential Development" as outlined in the Comprehensive Plan;

4. The applicant's request is consistent with the objective of the Comprehensive Plan to increase Ohio Valley Reporting

(270) 683-7383
inner-city housing density; and,

5. The proposal meets the minimum site
development requirements for R-1T Townhouse zoning and
can meet the standards established under Article 21 of
the zoning ordinance for Downtown Overlay Districts.

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

CHAIRMAN: Thank you, Mr. Howard.

Do we have somebody representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions of the
applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission
have a question?

(NO RESPONSE)

CHAIRMAN: If not the Chair would be ready for
a motion.

MR. ROGERS: Motion for approval based on
Planning Staff Recommendations with Findings of Facts
1 through 5.

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

MR. ALLEN: Second.

Ohio Valley Reporting

(270) 683-7383
CHAIRMAN: We've got a second by Mr. Allen.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

10812 Highway 144, 10.1 acres
Consider zoning change: From EX-1 Coal Mining to A-R Rural Agriculture
Applicant: Charles David Carrico

PLANNING STAFF RECOMMENDATION

The Planning Staff recommends approval subject to the findings of fact that follow:

FINDINGS OF FACT:

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

2. The subject property is located in a Rural Maintenance Plan Area, where agriculture/forestry uses are appropriate in general locations;

3. The subject property is a large tract with agricultural and forestry potential;

4. All strip-mining activity has ceased on the subject property; and,

5. The Owensboro Metropolitan Zoning Ordinance Article 12a.31 requires that the property
shall revert to its original zoning classification after mining.

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

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. APPLEBY: Motion for approval based on Staff Recommendations with Findings of Fact 1 through 5..

CHAIRMAN: We've got a motion for approval by Mr. Appleby.

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.

Next item, please.

MAJOR SUBDIVISIONS

Ohio Valley Reporting

(270) 683-7383
ITEM 5

Locust Grove Estates, 68.789 acres

Consider approval of amended major subdivision preliminary plat.

Applicant: Eric Avery

MR. NOFFSINGER: Mr. Chairman, I would like to ask Becky Stone, Associate Director of Planning, to give a description of the history of this development and why we're here tonight.

MR. SILVERT: State your name, please.

MS. STONE: Becky Stone.

(BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: This plat comes before you tonight as a revision to a major subdivision. This is the preliminary plat. The original plat was approved in 2001 and was followed by a final plat that is of record at the courthouse for Section 1 of this subdivision.

At some point after construction of the subdivision, it was brought to our attention through property owners complaints to the county that there were discrepancies between what the plat showed and what was actually constructed in the field.

There was a lawsuit between some of the property owners and the developer. We had numerous meetings with the county, the owners and the
developers and, you know, layed out to them that the appropriate method of getting this rectified was to submit a revised preliminary plat that's consistent with what was built in the field and approved by the county engineer for drainage and public improvements.

That's what we have here tonight. It's a revised preliminary plat. It redefines some of the lot lines, the street layout. The retention went from a wet basin to a dry basin. All of those things have been reviewed by the county engineer.

There's also a final plat in the office. That would be the plat of record. If the preliminary is approved and the final plat is in order, that would be approved and recorded at the courthouse.

The plat is in order with the exception of not all of the property owners have signed this revised preliminary plat. It was brought to our attention late this afternoon that an earlier suggestion at one of the meetings or on one of the plats had been for the dimension across the lot line, the easement to be dimension and set on the plat so it would be easily found in the field.

We did not ask the engineer to make that change on the drawing. It's not a Planning Commission requirement. It was just felt at previous time, about
a year ago when we looked at it, that that would help define where that easement is.

Don Bryant's engineering firm prepared this plat so I'm sure they can address the location of that easement and how that could be found in the field.

It is in order except that the property owners have not all signed the plat.

If you have any questions I'd be glad to answer them.

CHAIRMAN: Does anybody from the commission have a question?

(NO RESPONSE)

CHAIRMAN: Does anybody in the audience have a question?

(NO RESPONSE)

CHAIRMAN: Does anybody in the audience have a comment?

(NO RESPONSE)

CHAIRMAN: If not the chair would be ready for a motion.

MR. NOFFSINGER: Mr. Chairman, before you do that, if I might just state that ordinarily if the landowners have not signed the plat we would not be considering an item like this tonight. However, given the history of this property and the fact that
properties have already transferred ownership, and
there are several lot owners here, we have five that
have not signed. What I would like for the Commission
to do is to consider authorizing the director to stamp
this preliminary plat as approved once those remaining
property owners have signed this plat. Then that
would allow us to move forward with approving the
amended final plat in-house.

MS. STONE: Given the question about the
dimension, I would like to ask Bryant Engineering to
address being able to locate that easement in the
field so that there's no question about where that is
located.

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

MR. WEIKEL: Bill Weikel.

(BILL WEIKEL SWORN BY ATTORNEY.)

MR. WEIKEL: We had prepared what we're going
to call an exhibit showing the dimensions of the
easement across Lots Number 1 and 2. We have several
dimensions on that.

There's three along the lot lines so that it
will be tied down and everything is above board. Make
sure that everybody understands what's going on.

MR. NOFFSINGER: Mr. Chairman, I think it's
important that this exhibit be entered into the record
so that the plat, amended preliminary plat that has
been signed by a number of property owners does not
change. There are no additions to it. And we can
move forward. This exhibit will be in the record in
the transcript or Planning Commission's transcript and
be of record should it ever be necessary in the
future.

CHAIRMAN: Mr. Noffsinger, I assume you're
saying that this needs to be part of the motion?

MR. NOFFSINGER: No. Mr. Weikel is entering
this exhibit into the record.

MR. WEIKEL: To help clarify this a little
bit, go back to the original plat. It did not
dimension. It only gave the width of this easement.
It did not give the dimensions, as far as what was in
relationship to the property line itself. What we've
done is tie that easement down as best as possible and
then do dimension.

CHAIRMAN: Okay. Are there any questions from
anybody on the Staff?

Come forward.

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

MR. REYNOLDS: David Reynolds representing the
Ohio Valley Reporting

(270) 683-7383
applicant.

I just want to clarify that we are down to three signatures now that are required. Two of them are out of town. We've not received any information that these people are not going to sign. We anticipate them cooperating.

CHAIRMAN: Mr. Reynolds, have you had contact with these two other residents?

MR. REYNOLDS: The other two that are out of town, unfortunately one of them works and is only in town on Sunday and works out of town. The other one apparently is on a honeymoon.

CHAIRMAN: So you have not had contact with them?

MR. REYNOLDS: Not in the last week or so.

CHAIRMAN: But the contact you've had with them was in the affirmative that they would be willing --

MR. REYNOLDS: I'm under no impression that they won't be signing the thing. None whatsoever. Of course, the two or three that my concerns were about have signed.

CHAIRMAN: Does anybody have any other questions of Mr. Reynolds?

MR. APPLEBY: I have a question for Madison.
If we should decide to approve this plat, the motion should be made for approval contingent upon all signatures on the plat?

MR. SILVERT: That's correct. The motion would be to allow for the director to finalize it in-house and that your approval would be contingent on all property owner's signatures being on the plat.

MR. NOFFSINGER: I would also like to add to that, that if the matter is not resolved by the next meeting, that this item will be back on the agenda and will be back here before you in January because this has gone on for some time. We're looking for closure. We want to move this forward. If it's not in order by the time the next meeting, it will be back before you.

MR. HAYDEN: If they don't sign, if all of them don't sign, then it's not approved?

MR. NOFFSINGER: That's correct, and it's coming back to you for further consideration.

CHAIRMAN: Are there any further questions by anybody in the audience or on the commission?

(NO RESPONSE)

CHAIRMAN: If there are no further questions, then the chairman would be ready for a motion.

MR. APPLEBY: I'll make a motion to approve the amended preliminary plat subject to it being approved.

Ohio Valley Reporting

(270) 683-7383
signed by all involved property owners and to be finalized by the director upon those signatures.

MR. NOFFSINGER: Provided it's done by the next meeting.

MR. APPLEBY: Provided it's done before the next meeting.

CHAIRMAN: All right. We have a motion for approval by Mr. Appleby.

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.

NEW BUSINESS

ITEM 6

Consider approval of 2011 Filing Dates and Deadlines

MR. NOFFSINGER: Mr. Chairman, I believe each member has been mailed a copy of this proposed calendar. We do it every year at this time. I don't think we have any surprises there. The Board of Adjustment will meet the first Thursday of each month next year and the Planning Commission will meet on the second Thursday of each month next year. We have not
made any provisions for KEA or Spring Break. We're sticking to the first and second Thursday.

I think the Board of Adjustment meeting will be during spring break next year, but we have not found that to be a problem in the past. So we're just going to keep the calendar as we've set it in the past.

CHAIRMAN: Are there any questions?

(NO RESPONSE).

CHAIRMAN: If not the chair would be ready for a motion.

MR. HAYDEN: Make a motion to approve.

CHAIRMAN: Mr. Hayden has a motion for approval.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

The chair would be ready for one final motion.

MR. PEDLEY: Motion to adjourn.

CHAIRMAN: Motion to adjourn by Mr. Pedley.

MR. HAYDEN: Second.

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

Ohio Valley Reporting

(270) 683-7383
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously. We are adjourned.

----------------------------------------------
STATE OF KENTUCKY )

)SS: REPORTER'S CERTIFICATE

COUNTY OF DAVIESS )

I, LYNETTE 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 18 typewritten pages; and that no signature was requested to the foregoing transcript.

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

LYNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2014

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting
(270) 683-7383