

## 1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 DECEMBER 9, 2010

3 The Owensboro Metropolitan Planning Commission  
4 met in regular session at 5:30 p.m. on Thursday,  
5 December 9, 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 Tim Allen  
Irvin Rogers  
Wally Taylor  
Martin Hayden  
Rita Moorman

\* \* \* \* \*

14

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

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

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

24 (NO RESPONSE)

25 CHAIRMAN: If not the chair is ready for a

Ohio Valley Reporting

(270) 683-7383

1 motion.

2 MR. PEDLEY: Motion for approval.

3 CHAIRMAN: Motion for approval by Mr. Pedley.

4 MR. TAYLOR: Second.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, Mr. Noffsinger.

10 ITEM 2

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

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

14 MR. BOAZ: Gene Boaz, CPA.

15 (GENE BOAZ SWORN BY ATTORNEY.)

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

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

25 Basically the bottom line we found that the

Ohio Valley Reporting

(270) 683-7383

1 statements were in excellent condition and that we  
2 issued an unqualified opinion on the financials.

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

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

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

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

22 CHAIRMAN: My congratulations to the Staff,  
23 Mr. Noffsinger. I appreciate all you all are doing.  
24 It's always very nice when you get a glowing report  
25 from the auditor.

Ohio Valley Reporting

(270) 683-7383

1           We have all received a copy of your audit.  
2           Today at lunch Mr. Noffsinger and I went over several  
3           items internally, as far as the workings of the Staff  
4           and things that have happened. Appreciate the job you  
5           do and appreciate the Staff and the job that you all  
6           do. It makes our job easy. Thank you very much.

7           Anybody have any other questions?

8           (NO RESPONSE)

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

11          MR. APPLEBY: Motion to accept the audit.

12          CHAIRMAN: Motion by Mr. Appleby.

13          MR. HAYDEN: Second.

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

16          (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17          CHAIRMAN: Motion carries. The audit is  
18          accepted.

19          Thank you very much.

20          Next item, please.

21          -----

22                               ZONING CHANGE

23          ITEM 3

24          500, 506, 510 Cedar Street, 0.35 +/- acres

            Consider zoning change: From R-4DT Inner-City

25          Residential to R-1T Townhouse

            Applicant: Daniel Pitino Shelter, Inc.

                              Ohio Valley Reporting

                              (270) 683-7383

1 MR. SILVERT: State your name, please.

2 MR. HOWARD: Brian Howard.

3 (BRIAN HOWARD SWORN BY ATTORNEY.)

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

11 PLANNING STAFF RECOMMENDATION

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

14 FINDINGS OF FACT:

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

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

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

24 4. The applicant's request is consistent with  
25 the objective of the Comprehensive Plan to increase

Ohio Valley Reporting

(270) 683-7383

1 inner-city housing density; and,

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

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

8 CHAIRMAN: Thank you, Mr. Howard.

9 Do we have somebody representing the  
10 applicant?

11 APPLICANT REP: Yes.

12 CHAIRMAN: Do we have any questions of the  
13 applicant?

14 (NO RESPONSE)

15 CHAIRMAN: Does anybody from the commission  
16 have a question?

17 (NO RESPONSE)

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

20 MR. ROGERS: Motion for approval based on  
21 Planning Staff Recommendations with Findings of Facts  
22 1 through 5.

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

25 MR. ALLEN: Second.

Ohio Valley Reporting

(270) 683-7383

1 CHAIRMAN: We've got a second by Mr. Allen.

2 All in favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, please.

6 ITEM 4

7 10812 Highway 144, 10.1 acres

Consider zoning change: From EX-1 Coal Mining to A-R

8 Rural Agriculture

Applicant: Charles David Carrico

9

10 PLANNING STAFF RECOMMENDATION

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

13 FINDINGS OF FACT:

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

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

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

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

24 5. The Owensboro Metropolitan Zoning  
25 Ordinance Article 12a.31 requires that the property

Ohio Valley Reporting

(270) 683-7383

1 shall revert to its original zoning classification  
2 after mining.

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

5 CHAIRMAN: Is anybody here representing the  
6 applicant?

7 APPLICANT REP: Yes.

8 CHAIRMAN: Does anybody have any questions of  
9 the applicant?

10 (NO RESPONSE)

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

13 MR. APPLEBY: Motion for approval based on  
14 Staff Recommendations with Findings of Fact 1 through  
15 5..

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

18 MS. MOORMAN: Second.

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

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 Next item, please.

24 -----

25 MAJOR SUBDIVISIONS

Ohio Valley Reporting

(270) 683-7383



1       ITEM 5

2       Locust Grove Estates, 68.789 acres

3       Consider approval of amended major subdivision  
preliminary plat.

4       Applicant: Eric Avery

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

9               MR. SILVERT: State your name, please.

10              MS. STONE: Becky Stone.

11              (BECKY STONE SWORN BY ATTORNEY.)

12              MS. STONE: This plat comes before you tonight  
13       as a revision to a major subdivision. This is the  
14       preliminary plat. The original plat was approved in  
15       2001 and was followed by a final plat that is of  
16       record at the courthouse for Section 1 of this  
17       subdivision.

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

23              There was a lawsuit between some of the  
24       property owners and the developer. We had numerous  
25       meetings with the county, the owners and the

Ohio Valley Reporting

(270) 683-7383

1 developers and, you know, layed out to them that the  
2 appropriate method of getting this rectified was to  
3 submit a revised preliminary plat that's consistent  
4 with what was built in the field and approved by the  
5 county engineer for drainage and public improvements.

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

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

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

23 We did not ask the engineer to make that  
24 change on the drawing. It's not a Planning Commission  
25 requirement. It was just felt at previous time, about

Ohio Valley Reporting

(270) 683-7383

1 a year ago when we looked at it, that that would help  
2 define where that easement is.

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

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

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

10 CHAIRMAN: Does anybody from the commission  
11 have a question?

12 (NO RESPONSE)

13 CHAIRMAN: Does anybody in the audience have a  
14 question?

15 (NO RESPONSE)

16 CHAIRMAN: Does anybody in the audience have a  
17 comment?

18 (NO RESPONSE)

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

21 MR. NOFFSINGER: Mr. Chairman, before you do  
22 that, if I might just state that ordinarily if the  
23 landowners have not signed the plat we would not be  
24 considering an item like this tonight. However, given  
25 the history of this property and the fact that

Ohio Valley Reporting

(270) 683-7383

1 properties have already transferred ownership, and  
2 there are several lot owners here, we have five that  
3 have not signed. What I would like for the Commission  
4 to do is to consider authorizing the director to stamp  
5 this preliminary plat as approved once those remaining  
6 property owners have signed this plat. Then that  
7 would allow us to move forward with approving the  
8 amended final plat in-house.

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

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

16 MR. WEIKEL: Bill Weikel.

17 (BILL WEIKEL SWORN BY ATTORNEY.)

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

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

25 MR. NOFFSINGER: Mr. Chairman, I think it's

Ohio Valley Reporting

(270) 683-7383

1       important that this exhibit be entered into the record  
2       so that the plat, amended preliminary plat that has  
3       been signed by a number of property owners does not  
4       change. There are no additions to it. And we can  
5       move forward. This exhibit will be in the record in  
6       the transcript or Planning Commission's transcript and  
7       be of record should it ever be necessary in the  
8       future.

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

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

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

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

22              Come forward.

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

25              MR. REYNOLDS: David Reynolds representing the

Ohio Valley Reporting

(270) 683-7383

1       applicant.

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

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

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

13              CHAIRMAN: So you have not had contact with  
14      them?

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

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

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

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

25              MR. APPLEBY: I have a question for Madison.

Ohio Valley Reporting

(270) 683-7383

1           If we should decide to approve this plat, the  
2       motion should be made for approval contingent upon all  
3       signatures on the plat?

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

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

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

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

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

21          (NO RESPONSE)

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

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

Ohio Valley Reporting

(270) 683-7383

1 signed by all involved property owners and to be  
2 finalized by the director upon those signatures.

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

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

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

9 MR. PEDLEY: Second.

10 CHAIRMAN: Second by Mr. Pedley. 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 NEW BUSINESS

17 ITEM 6

18 Consider approval of 2011 Filing Dates and Deadlines

19 MR. NOFFSINGER: Mr. Chairman, I believe each  
20 member has been mailed a copy of this proposed  
21 calendar. We do it every year at this time. I don't  
22 think we have any surprises there. The Board of  
23 Adjustment will meet the first Thursday of each month  
24 next year and the Planning Commission will meet on the  
25 second Thursday of each month next year. We have not

Ohio Valley Reporting

(270) 683-7383



1       made any provisions for KEA or Spring Break. We're  
2       sticking to the first and second Thursday.

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

8               CHAIRMAN: Are there any questions?

9               (NO RESPONSE).

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

12              MR. HAYDEN: Make a motion to approve.

13              CHAIRMAN: Mr. Hayden has a motion for  
14      approval.

15              MR. APPLEBY: Second.

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

18              (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19              CHAIRMAN: Motion carries unanimously.

20              The chair would be ready for one final motion.

21              MR. PEDLEY: Motion to adjourn.

22              CHAIRMAN: Motion to adjourn by Mr. Pedley.

23              MR. HAYDEN: Second.

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

                    Ohio Valley Reporting

                    (270) 683-7383

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously. We are  
3 adjourned.

4 -----

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Ohio Valley Reporting

(270) 683-7383

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 December, 2010.

18

19

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

20

21

22

23      COMMISSION EXPIRES:   DECEMBER 16, 2014

24      COUNTY OF RESIDENCE:   DAVIESS COUNTY, KENTUCKY

25

Ohio Valley Reporting

(270) 683-7383