

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JANUARY 10, 2008

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 January 10, 2008, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Drew Kirkland, Chairman
9 Gary Noffsinger, Director
10 Judy Dixon, Vice-Chairman
11 Dave Appleby, Secretary
12 Madison Silvert, Attorney
13 Tim Miller
14 Jimmy Gilles
15 Irvin Rogers
16 Wally Taylor
17 Keith Evans

18 * * * * *

19 CHAIRMAN: I'd like to welcome everybody to
20 our January 10th Owensboro Metropolitan Planning
21 Commission. Will everybody please rise. Our
22 invocation will be given by Mr. Madison Silvert.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Our first order of business is the
25 election of officer for our 2008 session. I'll turn
the meeting at this time over to our attorney, Mr.
Madison Silvert.

MR. SILVERT: At the beginning of every year
we begin with the election of officers.

1 The first officer for nomination is chairman
2 of the Planning Commission. Do we have any
3 nominations for Chairman?

4 MR. APPLEBY: I nominate Drew Kirkland.

5 MR. GILLES: Second.

6 MR. SILVERT: Any other nominations for
7 chairman?

8 (NO RESPONSE)

9 MR. SILVERT: Accept a motion that nomination
10 cease.

11 MR. APPLEBY: So move.

12 MR. SILVERT: I need a second.

13 MR. MILLER: Second.

14 MR. SILVERT: All in favor of Mr. Kirkland to
15 remain as Chairman.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 MR. SILVERT: Thank you, Mr. Chairman.

18 Our next officer is Vice Chair. Are there any
19 nominations for Vice Chair?

20 MR. KIRKLAND: I'd like to nominate Ms. Judy
21 Dixon.

22 MR. APPLEBY: Second.

23 MR. SILVERT: Any other nominations for Vice
24 Chair?

25 (NO RESPONSE)

1 MR. SILVERT: I'll take a motion that
2 nomination cease.

3 MR. APPLEBY: So move.

4 MR. KIRKLAND: Second.

5 MR. SILVERT: All in favor of Ms. Dixon.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 MR. SILVERT: Thank you, Ms. Dixon.

8 Finally, the office of Secretary.

9 MR. GILLES: I make motion for Mr. Appleby.

10 MR. TAYLOR: Second.

11 MR. SILVERT: Are there any other nominations
12 for Secretary?

13 (NO RESPONSE)

14 MR. SILVERT: I'll accept a motion that
15 nomination cease.

16 MS. DIXON: So moved.

17 MR. KIRKLAND: Second.

18 MR. SILVERT: All in favor for Mr. Appleby to
19 remain as Secretary.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 MR. SILVERT: That concludes our election for
22 this year, Mr. Chairman.

23 CHAIRMAN: Thank you, Mr. Silvert.

24 Our next order of business is to consider the
25 minutes from the December 13, 2007 meeting. Are there

1 any corrections, additions?

2 (NO RESPONSE)

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

5 MS. DIXON: Move to approve.

6 CHAIRMAN: Motion for approval by Ms. Dixon.

7 MR. EVANS: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, Mr. Noffsinger.

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14 CELLULAR TELECOMMUNICATIONS FACILITIES PER KRS 100.987

15 ITEM 3

16 720 Cumberland Street
17 Consider approval of a wireless telecommunications
18 tower.
19 Applicant: Partnership Investments

20 MR. SILVERT: State your name, please.

21 MR. HOWARD: Brian Howard.

22 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

23 MR. HOWARD: This application comes before you
24 tonight for a cell tower location that's located on
25 Cumberland Street and Triplett Street. The site is
zoned I-1 Light Industrial.

1 The proposal is for a 130 foot tall cellular
2 tower. The application also includes a provision for
3 a temporary tower at this site that would go up for, I
4 believe the letter stated the maximum of three months.
5 That would provide service while the actual tower is
6 being constructed. It will be a monopole. It will be
7 screened and fenced as required by our ordinance. The
8 applicant is here tonight as well to answer any
9 questions that you may have.

10 CHAIRMAN: Anybody have any questions?

11 (NO RESPONSE)

12 CHAIRMAN: If not the Chair is ready for a
13 motion.

14 MR. APPLEBY: Motion for approval.

15 CHAIRMAN: Motion for approval by Mr. Appleby.

16 MR. GILLES: Second.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22 Related Items:

23 ITEM 3A

24 720 Cumberland Street, 0.1653 acres
25 Consider approval of minor subdivision plat.
 Applicant: Partnership Investments

1 MR. NOFFSINGER: Mr. Chairman, this plat comes
2 before you as an exception to the subdivision
3 regulations in that the lot that's being created for
4 the cell tower is undersized. However, this lot is
5 for a utility purpose and it is a leased lot and we
6 would recommend that you grant it the exception.

7 CHAIRMAN: Is anybody representing the
8 applicant?

9 APPLICANT REP: Yes.

10 CHAIRMAN: Does anybody have any questions of
11 the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: If not the Chair is ready for a
14 motion.

15 MR. EVANS: Motion to approve.

16 CHAIRMAN: Motion to approve by Mr. Evans.

17 MR. APPLEBY: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 MR. NOFFSINGER: I want to remind each and
24 every one here tonight that the action that the
25 Planning Commission takes tonight is a recommendation.

1 However, the recommendation will stand unless a
2 grievance, if you will, is filed or a request is filed
3 by anyone asking that the City Commission or the
4 Davieess County Fiscal Court take action as well.
5 Again, that's 21 days from the day of the action it
6 will become final.

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8 ZONING CHANGES

9 ITEM 4

10 1937 Leitchfield Road, 2050 East Parrish Avenue, 3.46
11 acres (Postponed from 12/13/07)
12 Consider zoning change: From A-U Urban Agriculture
13 and P-1 Professional/Service to P-1 Professional
14 Service
15 Applicant: Dale Buskill, SMB Properties, LLC

16 MR. NOFFSINGER: Mr. Chairman, at that meeting
17 in December a motion was made to postpone and give the
18 applicants time to meet with the adjoining property
19 owners, which would be the Edward Welsh family, as
20 well as the Planning Staff to determine if an
21 agreement could be reached in terms of access to the
22 property.

23 I am pleased to report to you that all parties
24 involved have reached an agreement. I do have a
25 letter here that is written by Mr. Steve Poteat, who
26 is representing the Edward Welsh family. I would like
27 to read that letter into the record and also make it a

1 part of the record here tonight. This is to Charles
2 J. Kamuf.

3 "Dear Charlie: This is to advise that my
4 clients will agree to the location of the proposed
5 access and ingress/egress easement for the joint use
6 of the Buskill, Welsh and Block properties at the
7 following location depicted on the Bryant Engineering
8 Aerial Map as the '0 degree Skew' on the following
9 conditions:

10 "1. Your client (or clients) shall be
11 responsible for all costs associated with the
12 construction of the access and ingress/egress
13 easement, including but not limited to the
14 installation of all curbing, paving and knockouts;

15 "2. The access easement surface be of
16 concrete at least to the property line of Buskill;

17 "3. The knockout for access to the Welsh's
18 property be as far from Highway 54 right-of-way as
19 regulations will allow; and

20 "4. A plat will be prepared and filed with
21 the OMPC and recorded in the Daviess County Court
22 Clerk's Office dedicating the Ingress & Egress
23 Easements in accordance with Exhibit A attached
24 hereto, the cost of which is to be borne by Buskill."

25 That is signed by T. Steven Poteat.

1 Mr. Chairman, this letter should be made a
2 part of the record and is evidence that the Welshes
3 have agreed to a shared access point.

4 The Planning Staff has prepared for each of
5 the Planning Commissioners here tonight a list of
6 seven conditions that should be placed on the Block
7 and Buskill properties, the rezoning. These
8 conditions also include an attachment shown as Exhibit
9 A, which depicts the design and arrangement of the
10 shared access point to be used by the three
11 individuals. With that it's ready for consideration.

12 CHAIRMAN: Do we have somebody representing
13 each party?

14 MR. KAMUF: Yes.

15 MR. POTEAT: Yes.

16 CHAIRMAN: Does anybody have any questions of
17 the parties?

18 (NO RESPONSE)

19 CHAIRMAN: If nobody has any questions, the
20 Chair is ready for a motion.

21 MR. ROGERS: Mr. Chairman, I need to
22 disqualify myself.

23 CHAIRMAN: Let the record show that Mr. Rogers
24 is disqualifying himself.

25 MR. APPLEBY: Mr. Noffsinger, will these seven

1 conditions, are they to be read into the record?

2 MR. NOFFSINGER: Yes, sir. Each of you have
3 been given these as the suggested conditions and that
4 would be up to you to read them into the record if
5 they're part of your motion.

6 You do need to include the Planning Staff's
7 Recommendation and Findings of Fact. We believe the
8 conditions that we presented to you for inclusion as
9 part of the approval.

10 MR. APPLEBY: They replace the conditions on
11 the original application?

12 MR. NOFFSINGER: Yes. These would replace the
13 original three conditions that we recommended at the
14 last meeting.

15 CHAIRMAN: Mr. Appleby, are you starting your
16 motion now?

17 MR. APPLEBY: I guess I can.

18 I make a motion for approval based on Staff
19 Recommendations with these additional conditions:

20 1. Access to East Parrish Avenue for the
21 properties located at 2050 East Parrish Avenue and
22 1937 Leitchfield Road shall be limited to the proposed
23 shared ingress/egress easement only. No other access,
24 including the approved access point as shown on the
25 final development dated January 4, 2007 for the

1 property located at 2050 East Parrish Avenue, shall be
2 permitted;

3 2. An ingress/egress easement shall be
4 provided to the Edward Welsh property as shown on
5 Exhibit A;

6 3. The proposed shared ingress/egress
7 easement shall be in alignment with the existing
8 residential drive at 2065 East Parrish Avenue;

9 4. Access to Leitchfield Road shall be in
10 compliance with the standards of the Access Management
11 Manual;

12 5. A minor subdivision plat shall be
13 submitted to the OMPC office to relocate the property
14 lines as proposed and to dedicate the shared
15 ingress/egress easements as shown on Exhibit A;

16 6. All vehicular use areas shall be paved;

17 7. The potential for a right-turn decel and
18 storage lane at the East Parrish Avenue access shall
19 be evaluated at the time of site plan or final
20 development submittal.

21 And with the Findings of Fact 1 through 3 as
22 read into the record at the previous meeting.

23 CHAIRMAN: Should you also include and mention
24 Exhibit A?

25 MR. NOFFSINGER: He has.

1 CHAIRMAN: We have a motion by Mr. Appleby.

2 MR. MILLER: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
6 WITH THE DISQUALIFICATION OF MR. ROGERS.)

7 CHAIRMAN: Motion carries unanimously.

8 I would like to take this time to thank Mr.
9 Poteat, Mr. Block, Mr. Buskill, Mr. Welsh and Mr.
10 Kamuf for all coming together, especially our Staff
11 for working out this situation. I appreciate all of
12 you, your time and efforts because I think what we
13 have now is a very good plan for all you all and for
14 the citizens of Owensboro and Daviess County and
15 Whitesville. The Planning Commission thanks you all.
16 You all did a great job. Thanks.

17 Next item, please.

18 ITEM 5

19 7200-7230 Block US 431, 53 +/- acres
20 Consider zoning change: From A-R Rural Agriculture
21 and R-1A Single-Family Residential to A-R Rural
22 Agriculture
23 Applicant: Mike & Larry Hayden

24 PLANNING STAFF RECOMMENDATIONS

25 Staff recommends approval because the proposal
is in compliance with the community's adopted
Comprehensive Plan. The condition and findings of

1 fact that support this recommendation include the
2 following:

3 CONDITION:

4 The parent tract, which would include the
5 entire road frontage for the 53 acre A-R zoning and
6 the eight acre I-1 zoning, shall be limited to two
7 access points on US 431.

8 FINDINGS OF FACT:

9 1. The subject property is located in a Rural
10 Community Plan Area, where agricultural uses are
11 appropriate in general locations;

12 2. The subject property is designated as
13 prime agricultural farmland according to the
14 "Important Farmlands" map created by the US Department
15 of Agriculture Soil Conservation Service dated March
16 1980;

17 3. With the prevalence of floodplain on the
18 subject property, the agricultural use of the subject
19 property is appropriate; and,

20 4. The subject property is a large tract
21 capable of agricultural production.

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

24 CHAIRMAN: Do we have anybody representing the
25 applicant?

1 APPLICANT REP: Yes.

2 CHAIRMAN: Do we have any questions?

3 (NO RESPONSE)

4 CHAIRMAN: If not the Chair is ready for a
5 motion.

6 MS. DIXON: Move to approve based on Planning
7 Staff Recommendations with the Condition and Findings
8 of Fact 1 through 4.

9 CHAIRMAN: We have a motion for approval by
10 Ms. Dixon.

11 MR. EVANS: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 ITEM 6

18 7230-7300 Block US 431, 8 acres
19 Consider zoning change: From A-R Rural Agriculture
20 and R-1A Single-Family Residential to I-1 Light
21 Industrial
22 Applicant: H&R Agri-Power Equipment, Mike & Larry
23 Hayden

24 PLANNING STAFF RECOMMENDATIONS

25 Staff recommends approval because the proposal
is in compliance with the community's adopted
Comprehensive Plan. The conditions and findings of

1 fact that support this recommendation include the
2 following:

3 CONDITIONS:

4 1. The parent tract, which would include the
5 entire road frontage for the 53 acre A-R zoning and
6 the eight acre I-1 zoning, shall be limited to two
7 access points on US 431;

8 2. All vehicular use areas shall be paved and
9 vehicular use area screening shall be installed; and,

10 3. Any outdoor storage areas shall be
11 completely screened with a six foot high continuous
12 fence.

13 FINDINGS OF FACT:

14 1. The subject property is located in a Rural
15 Community Plan Area, where light industrial uses are
16 appropriate in limited locations;

17 2. With frontage on US 431, the subject
18 property is major street oriented; and,

19 3. Although not located on the corner of
20 intersecting streets, there is not a concentration of
21 residential uses in the vicinity of the subject
22 property.

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

25 CHAIRMAN: Is anybody here representing the

1 applicant?

2 APPLICANT REP: Yes.

3 CHAIRMAN: Do we have any questions?

4 (NO RESPONSE).

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

7 MR. ROGERS: Motion for approval based on
8 Planning Staff Recommendation with Conditions 1, 2 and
9 3 and Finding of Facts 1, 2 and 3.

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

12 MR. GILLES: Second.

13 CHAIRMAN: Second by Mr. Gilles. All in favor
14 raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, please.

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19 MAJOR SUBDIVISIONS

20 ITEM 7

21 Graystone Estates, Section 2, Unit 3, Lots 168-172,
22 234-239, 248-253, 3.847 acres
23 Consider approval of major subdivision final plat.
Surety (Performance Bond) posted: \$20,368.00
Applicant: Jagoe Land Corporation

24 MR. NOFFSINGER: Mr. Chairman, this plan has
25 been reviewed by the Planning Staff and Engineering

1 Staff. It's found to be in order. It's found to be
2 consistent with the approved preliminary subdivision
3 plat as well as the adopted subdivision regulations
4 and zoning ordinance.

5 CHAIRMAN: Do we have anybody here
6 representing the applicant?

7 APPLICANT REP: Yes.

8 CHAIRMAN: Do we have any questions?

9 (NO RESPONSE)

10 CHAIRMAN: If not the Chair is ready for a
11 motion.

12 MR. APPLEBY: Motion for approval.

13 CHAIRMAN: Motion for approval by Mr. Appleby.

14 MS. DIXON: Second.

15 CHAIRMAN: Second by Ms. Dixon. All in favor
16 raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 Next item, please.

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21 MINOR SUBDIVISIONS

22 ITEM 8

23 9645 KY 144, 9230 KY 951, 5.558 acres
24 Consider approval of minor subdivision plat.
Applicant: Jerome Hamilton, William D. Hamilton

25 MR. NOFFSINGER: Mr. Chairman, this plat comes

1 before you as an exception to the subdivision
2 regulation in that it creates a tract of land that
3 does not meet the depth to width ratios.

4 However it appears in review of this plan that
5 they're taking land from one tract and adding it to
6 another. It's not they're creating an additional lot
7 or trying to circumvent the ordinance. It's simply a
8 land swap between two existing properties.

9 With that Staff finds the plat to be in order
10 and ready for your consideration.

11 CHAIRMAN: Is anybody representing the
12 applicant?

13 (NO RESPONSE)

14 CHAIRMAN: Do we have any questions?

15 (NO RESPONSE)

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

18 MR. APPLEBY: Motion for approval.

19 CHAIRMAN: Motion for approval by Mr. Appleby.

20 MR. TAYLOR: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 We're ready for one final motion.

1 MR. APPLEBY: Move to adjourn.

2 MS. DIXON: Second.

3 CHAIRMAN: All in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: We are adjourned.

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

4 I, LYNNETTE KOLLER FUCHS, Notary Public in and
5 for the State of Kentucky at Large, do hereby certify
6 that the foregoing Owensboro Metropolitan Board of
7 Adjustment meeting was held at the time and place as
8 stated in the caption to the foregoing proceedings;
9 that each person commenting on issues under discussion
10 were duly sworn before testifying; that the Board
11 members present were as stated in the caption; that
12 said proceedings were taken by me in stenotype and
13 electronically recorded and was thereafter, by me,
14 accurately and correctly transcribed into the
15 foregoing 19 typewritten pages; and that no signature
16 was requested to the foregoing transcript.

17 WITNESS my hand and notary seal on this the
18 2nd day of February, 2008.

19 _____
20 LYNNETTE KOLLER FUCHS
21 OHIO VALLEY REPORTING SERVICES
22 202 WEST THIRD STREET, SUITE 12
23 OWENSBORO, KENTUCKY 42303

24 COMMISSION EXPIRES: DECEMBER 19, 2010

25 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY