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OWENSBORO METROPOLITAN PLANNING COMMISSION

FEBRUARY 10, 2022

The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, February 10, 2022, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Lewis Jean, Chairman
- Brian Howard, Director
- Terra Knight, Attorney
- Fred Reeves
- Jason Strode
- Manuel Ball
- Irvin Rogers
- Jason Gasser
- Greg Raque
- Angela Hardaway

* * * * *

CHAIRMAN: I would like to call the February of 2022 meeting of the Owensboro Metropolitan Planning and Zoning Commission to order.

The first item is the consideration of the minutes of the January 13, 2022 meeting. The minutes have been mailed out and everybody has had an opportunity to read them. At this time I'll accept a motion to approve.

MR. BALL: Motion to approve.

CHAIRMAN: Motion by Commissioner Ball.

MR. STRODE: Second.

1 CHAIRMAN: Second by Commissioner Strode. We
2 have a motion and a second. All in favor signify by
3 raising your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries.

6 MR. REEVES: Did we leave off the prayer and
7 pledge?

8 CHAIRMAN: We did.

9 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

10

11

GENERAL BUSINESS

12

PUBLIC HEARING

13

ITEM 3

14

Consider adoption of proposed text amendments to
Article 3 - General Regulations pertaining to
residential unenclosed accessory structures and
residential swimming pools

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17

MS. KNIGHT: Please state your name for the
18 record.

19

MS. EVANS: Melissa Evans.

20

(MELISSA EVANS SWORN BY ATTORNEY.)

21

MS. EVANS: Just a little background on this
22 text amendment before we read the findings of fact
23 into the record.

24

There's been a little bit of confusion in our
25 office recently with some interpretation of how the

1 Zoning Ordinance reads between ourselves, the Staff
2 and customers or clients. Just so that we can clear
3 that confusion up, we decided to go ahead and take
4 this opportunity to make some amendments to the Zoning
5 Ordinance that clarifies that.

6 So these revisions pertain to unenclosed
7 accessory structures. So this will be like carports.
8 When they're attached to a principal structure, that
9 they must abide by the setbacks for those principal
10 structures. Then, also, the setback requirements for
11 residential swimming pools there was a discrepancy in
12 the way that our Zoning Ordinance read versus the
13 Kentucky Building Code. It was always our intention
14 that the Kentucky Building Code be followed as if it
15 supercedes the Zoning Ordinance, but the way the
16 Zoning Ordinance read it makes it a little hard to
17 understand sometimes. So we went ahead and changed
18 that to state that residential swimming pools shall be
19 6 feet the from property line to coincide with the
20 Kentucky Building Code.

21 FINDINGS OF FACT

22 With that Staff recommends approval of the
23 proposed text amendments to Article 3 because the
24 proposal is in compliance with the community's adopted
25 Comprehensive Plan. The findings supporting this

1 recommendation follow:

2 1. These amendments to Article 3 will help
3 allocate wisely the use of land for various activities
4 by encouraging sound land development policies;

5 2. These amendments to Article 3 are an
6 example of creating flexile zoning regulations for
7 existing redeveloping neighborhoods; and,

8 3. These amendments to Article 3 will avoid
9 confusion between the Zoning Ordinance and the
10 Kentucky Building Code.

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

13 CHAIRMAN: Thank you, Melissa.

14 Do any commissioners have any questions on the
15 proposal?

16 (NO RESPONSE)

17 CHAIRMAN: Hearing none the Chair will accept
18 a motion.

19 MR. REEVES: Do you want to ask the audience?

20 CHAIRMAN: Does the audience have any
21 questions on the motion?

22 MR. O'NEAL: As a matter of fact I do. Not on
23 that, but on something else. This community here
24 where I live at --

25 MR. HOWARD: Sir, if you don't mind, would you

1 come to a mike so we can get this on the record?

2 MS. KNIGHT: State your name for the record,
3 please.

4 MR. O'NEAL: J.H. O'Neal.

5 (MR. J.H. O'NEAL SWORN BY ATTORNEY.)

6 MR. O'NEAL: This town here, they have
7 programs like substance abuse houses. It's everywhere
8 where we're at. It's understandable. You take a -
9 (inaudible) - supposed to be in jail. You can't take
10 out pick on people like me because they've done that
11 before. I don't know who I am talking to here because
12 it's - (inaudible) - because I've been through hell in
13 this town here and I'm tired of it. You know what? I
14 shouldn't have to. We all know that. And who owes
15 who money? It ain't me owing them. There's accounts
16 down there with my name on it, but I can't get it
17 because these judge what they do. They're crooked and
18 we all know that. I don't know which ones you are,
19 and it's wrong what you all do here. I'm not crazy
20 and I'm not trying to be mean to nobody, but when you
21 keep driving around people constantly, constantly,
22 constantly, that's wrong. You don't do that to
23 nobody. I wouldn't do it to you or your family. You
24 know what I'm saying? It's wrong. We all know that.
25 You would be lying. That's the truth. You know what

1 I'm saying? So I'm going to sit down and listen to
2 your all's opinion of what you said. If you are the
3 ones that can take care of that problem, you need to
4 do that. Do your job. If not, then I'll find
5 somebody else to do it. Thank you.

6 CHAIRMAN: Thank you for your testimony.

7 MR. STRODE: I'd like to make a motion to
8 approve based on Findings of Fact 1 through 3.

9 CHAIRMAN: We have a motion by Commissioner
10 Strode. Do we have a second?

11 MS. HARDAWAY: Second.

12 CHAIRMAN: Second by Commissioner Hardaway.
13 Any discussion on the motion?

14 (NO RESPONSE)

15 CHAIRMAN: All if favor signify by raising
16 your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: The motion carries unanimously.

19 MR. HOWARD: Before we continue with Item 4,
20 just to address Mr. O'Neal's question I'll go ahead
21 and answer that.

22 This board is the Planning Commission. We
23 deal with zoning issues. The issues that you
24 mentioned and brought up, this group has zero to do
25 with that. Just want to let you know that. You're

1 more than welcome to stay and listen and participate,
2 but this board doesn't deal with those issues.

3 MR. O'NEAL: Well, you have the authority to
4 do that. If not, then what kind of job you do or is
5 that all you do. Come on now. You are the
6 Commonwealth of Kentucky you say. Then stand up what
7 you need to do for the community is what you need to
8 do because if not you're not the people that need to
9 be here. You understand what I'm saying. It's wrong.
10 You don't do it to nobody. It's just wrong. How do I
11 get a job what they do to me. Everybody job in this
12 damn town here come in - (inaudible) - it's what the
13 government does. You know what I'm saying? It's
14 wrong. You don't do that to nobody. I'm going to sit
15 down and I might listen. I'm good with what I said
16 and I'm staying firm with what I said. We need to get
17 it straightened out. Okay?

18 CHAIRMAN: Thank you, sir.

19 MR. O'NEAL: Thank you.

20 CHAIRMAN: Mr. Howard.

21 ITEM 4

22 Consider adoption of proposed text amendments to
23 Article 8 - Schedule of Zones pertaining to Level 3
Solar Energy Systems

24 MS. EVANS: This is some new additions to the
25 Zoning Ordinance that we adopted a few years ago

1 pertaining to Solar Energy Systems. We adopted this
2 ordinance. Level 3 Solar Energy Systems were
3 conditionally permitted and all zones except for an
4 agricultural zone and they were principally permitted
5 in an agricultural zone. I think at that time when we
6 came up with this ordinance for these solar farms we
7 envisioned them to being 1, 2, 300 acres. The way
8 that it has turned out in other places around the
9 state is that these solar farms are 1,000 acres and
10 1,500 acres plus. So we felt like the Zoning
11 Ordinance needed to be adjusted to reflect what's
12 being done elsewhere in the large scope of these solar
13 farms that are going in.

14 So what we have proposed with these text
15 amendments is that these large Level 3 Solar Energy
16 Systems would only be conditionally permitted in the
17 agricultural and industrial zones. What that does is
18 require that conditional use permit to go before the
19 Board of Adjustment and the Board of Adjustment then
20 can make sure that that use is going to integrate
21 appropriately into that area and make special
22 conditions to do that.

23 Then we also increased the surety bonds in the
24 required to post. So with the solar energy farm
25 they're required to post a decommissioning plan and

1 that decommissioning plan they posted surety bond for
2 it was half a percent of the total installed cost of
3 the Solar Energy System. So we have increased that
4 bond now to one and a quarter percent of that total
5 cost of that Solar Energy System. What that bond will
6 do is if that Solar Energy System is abandoned and
7 they don't need to decommission it according to their
8 plan, it gives the government agency, the city or the
9 county, then the ability to have that money to take
10 that equipment and remove it appropriately and return
11 that land back to the way it was.

12 FINDINGS OF FACT

13 The Staff recommends approval of the proposed
14 text amendments to Article 8 because the proposal is
15 in compliance with the community's adopted
16 Comprehensive Plan. The findings supporting this
17 recommendation follow:

18 1. These amendments to Article 8 will help
19 maintain Daviess County as a viable economic unit;

20 2. These amendments to Article 8 will
21 promotion regional development to enhance economic
22 benefits for citizens of Daviess County;

23 3. These amendments to Article 8 will promote
24 a diversity of desirable industrial activities for a
25 broad and stable economic base;

1 4. These amendments to Article 8 will
2 accommodate all intensities of land use activities;

3 5. These amendments to Article 8 allow
4 agricultural and other natural resource uses wider
5 reign to apply traditional production techniques;

6 6. These amendments to Article 8 will avoid
7 the introduction of urban activities that would have a
8 detrimental effect on residential activity, but allow
9 some mixture of appropriate nonresidential uses;

10 7. These amendments to Article 8 will reserve
11 the land in the Rural Service Area primarily for
12 agricultural uses, other natural resource activities,
13 and support uses that need to be near such activities;

14 8. These amendments to Article 8 will
15 encourage the application of increased buffers where
16 heavy industrial and coal mining uses may be located
17 in close proximity to existing rural residences; and,

18 9. These amendments to Article 8 will
19 encourage the use of alternative energy sources where
20 economically and environmentally feasible.

21 We would like to enter the Staff Report into
22 the record as Exhibit B.

23 CHAIRMAN: Thank you, Melissa.

24 Is there anybody in the audience that would
25 like to speak to this text amendment?

1 (NO RESPONSE)

2 CHAIRMAN: Any commissioners would like to ask
3 question or speak to the amendment?

4 MR. STRODE: I have a question.

5 Ms. Evans, where did the percent for the
6 reclamation, the bond surety, where did that come
7 from? Is that just pulled from the industry standard
8 or is that -- where did that number come from?

9 MS. EVANS: So that number came from a
10 recommendation from Daviess County Fiscal Court.

11 MS. STRODE: Do you know where they got that?

12 MS. EVANS: I believe it's from the Henderson
13 County Zoning Ordinance. Henderson has approved three
14 or four of these solar farms at this point on large
15 plots of land that we're seeing around the state.
16 Daviess County Fiscal Court specifically asked us to
17 look at their decommissioning plan and to change it to
18 match what Henderson's is. The only difference
19 between ours and Henderson was that percentage of the
20 bond that needed to be posted.

21 MR. STRODE: Thank you.

22 CHAIRMAN: Are there any other questions?

23 (NO RESPONSE)

24 CHAIRMAN: Hearing none the Chair will accept
25 a motion.

1 Commissioner Reeves.

2 MR. REEVES: Move to approve this text
3 amendment based on the testimony given here this
4 evening and the Staff recommendation.

5 CHAIRMAN: Do we have a second?

6 MS. HARDAWAY: Second.

7 CHAIRMAN: Second by Commissioner Hardaway.

8 We have a motion and a second. Any discussion on the
9 motion?

10 (NO RESPONSE)

11 CHAIRMAN: Hearing none the Chair will call
12 for a vote. All in favor signify by raising your
13 right hand.

14 (BOARD MEMBERS IRVIN ROGERS, JASON GASSER,
15 MANUAL BALL, LEWIS JEAN, FRED REEVES, GREG RAQUE AND
16 ANGELA HARDAWAY RESPONDED AYE.)

17 CHAIRMAN: All opposed.

18 (BOARD MEMBER JASON STRODE RESPONDED NAY.)

19 CHAIRMAN: The vote is seven to one.

20 ITEM 5

21 Consider adoption of proposed text amendments to
22 Article 14 - Definition pertaining to Level 3 Solar
Energy Systems

23 MS. EVANS: This is Article 14 which is the
24 definition section of the Zoning Ordinance. The
25 proposed text amendment here is just to include in

1 that definition of a Level 3 Solar Energy System that
2 they are conditionally permitted in the A-R, A-U, I-1
3 and I-2 zones only. So that's the only, we're just
4 changing that definition to match what we've just done
5 in Article 8.

6 FINDINGS OF FACT

7 The Staff recommends approval of the proposed
8 text amendments to Article 14 because the proposal is
9 in compliance with the community's adopted
10 Comprehensive Plan. The findings supporting this
11 recommendation follow:

12 1. These amendments to Article 14 will help
13 maintain Daviess County as a viable economic unit;

14 2. These amendments to Article 14 will
15 promote regional development to enhance economic
16 benefits for citizens of Daviess County;

17 3. These amendments to Article 14 will
18 endeavor to create policies for regulating land use
19 activities that are not over burdensome while still
20 protecting the public health, safety and welfare of
21 the community;

22 4. The amendments to Article 14 will
23 encourage the grouping of activities so that uses of
24 greater intensity (industrial or commercial) do not
25 harm weaker types (residential and agricultural);

1 5. The amendments to Article 14 will
2 encourage the use of alternative energy sources where
3 economically and environmentally feasible.

4 We would like to enter the Staff Report into
5 the record as Exhibit C.

6 CHAIRMAN: Thank you, Melissa.

7 Does anybody in the audience have any
8 questions to this zoning text amendment?

9 (NO RESPONSE)

10 CHAIRMAN: Do any of the commissioners have
11 any questions?

12 (NO RESPONSE)

13 CHAIRMAN: Hearing none I will accept a
14 motion.

15 Commissioner Ball.

16 MR. BALL: I'd like to make a motion to
17 approve based on Planning Staff Recommendation and
18 Findings of Fact 1 through 5.

19 CHAIRMAN: We have a motion. Do I have a
20 second?

21 MR. ROGERS: Second.

22 CHAIRMAN: Second by Commissioner Rogers. Any
23 questions on the motion?

24 (NO RESPONSE)

25 CHAIRMAN: All in favor signify by raising

1 your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Unanimous.

4 MR. HOWARD: I will note that the zoning
5 changes heard tonight will become final in 21 days
6 after the meeting unless an appeal is filed. If an
7 appeal is filed, we will forward the record of this
8 meeting along with all applicable materials to the
9 appropriate legislative body for them to take final
10 action.

11 ZONING CHANGES

12 ITEM 6

13 8707 Mulligan Road 5.514 acres
14 Consider zoning change: From EX-1 Coal Mining to A-R
15 Rural Agriculture
16 Applicant: Suzanne Cecil White; Eddie Mack White, Jr.

17 MS. KNIGHT: Please state your name for the
18 record?

19 MR. PEDLEY: Trey Pedley.

20 (TREY PEDLEY SWORN BY ATTORNEY.)

21 PLANNING STAFF RECOMMENDATIONS

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

24 FINDINGS OF FACT

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

1 Comprehensive Plan;

2 2. The subject property is located in a Rural
3 Maintenance Plan Area, where rural large-lot
4 residential uses are appropriate in limited locations;

5 3. At 5.514 acres and 435-feet of road
6 frontage, the subject property is large enough to
7 ensure that any proposed dwellings shall be located on
8 their own individual lot with frontage along a public
9 road, Mulligan Road;

10 4. No new roads are proposed with this
11 request;

12 5. There is no active coal mining taking
13 place on the subject property; and,

14 6. The Owensboro Metropolitan Zoning
15 Ordinance Article 12a.31 requires that the property
16 shall revert to its original zoning classification
17 after mining.

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

20 CHAIRMAN: Thank you, Trey.

21 Is there anybody here representing the
22 applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Would you like to speak?

25 APPLICANT REP: No.

1 CHAIRMAN: Any commissioners have any
2 questions?

3 (NO RESPONSE)

4 CHAIRMAN: Hearing none the Chair will accept
5 a motion.

6 Commissioner Rogers.

7 MR. ROGERS: Mr. Chairman, I would like to
8 make a motion for approval based on the Planning Staff
9 Recommendation with Findings of Facts 1 through 6.

10 CHAIRMAN: We have a motion. Do we have a
11 second?

12 MR. STRODE: Second.

13 CHAIRMAN: Second by Commissioner Strode. We
14 have a motion and a second. Any discussion on the
15 motion?

16 (NO RESPONSE)

17 CHAIRMAN: All in favor signify by raising
18 your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 MINOR SUBDIVISION PLATS

22 ITEM 7

23 11300 & 11350 US Highway 231, 12.409 acres
24 Consider approval of a minor subdivision plat.
Applicant: Donna Lynn Lusk; Sherry Belcher

25 MR. HOWARD: This plat comes before you as an

1 exception. As I said, this is a little over 12 acres
2 in one parcel. Their proposal is essentially to
3 create an 8 acre and a 4 acre parcel. It's already
4 out of whack, but it was over 10 acres in size so it
5 met the agricultural parcel. With this division it
6 will drop both under 10 acres. So the 8 acre parcel
7 exceeds the three to one requirement. The 4 acre
8 parcel is fine. We have a notation on there about no
9 further subdivision without meeting the requirements
10 of the subdivision regulations. Based on the size and
11 the configuration of the lots, we would recommend that
12 you consider it for approval.

13 CHAIRMAN: Anybody here representing the
14 applicant?

15 MS. LUSK: Yes.

16 CHAIRMAN: Would you like to speak?

17 MS. LUSK: Yes.

18 MS. KNIGHT: Please state your name for the
19 record.

20 MS. LUSK: Donna Lusk.

21 (DONNA LUSK SWORN BY ATTORNEY.)

22 MS. LUSK: This is out in Pleasant Ridge, out
23 in a rural area. The reason it's so whacky is because
24 the way my grandmother divided the land between my mom
25 and her brother because he was a farmer. Back in 2001

1 my mom deeded 11350 to me and it was approved. In
2 2008 we were told because we didn't have a survey that
3 I either had to get a survey within 30 days or deed it
4 back to my mother. Well, at the time we were in hard
5 time financially and we couldn't do it, but we had a
6 trailer there and we lived there for many years. Our
7 trailer hookups and everything is still there at
8 11350. We're wanting to back in there because that's
9 our home. It's just very important to us to be able
10 to move back to our home that we love so much. That's
11 all I have to say.

12 CHAIRMAN: Thank you, Ms. Lusk.

13 Do any commissioners have any questions on the
14 application?

15 (NO RESPONSE)

16 CHAIRMAN: Hearing none the Chair will accept
17 a motion.

18 MR. STRODE: Make a motion for approval.

19 CHAIRMAN: Motion by Commissioner Strode.

20 MS. HARDAWAY: Second.

21 CHAIRMAN: Second by Commissioner Hardaway.

22 All in favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

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1 NEW BUSINESS

2 ITEM 8

3 Consider approval of December 2021 financial
4 statements

5 CHAIRMAN: Do any commissioners have any
6 questions on the financial statement?

7 (NO RESPONSE)

8 CHAIRMAN: Hearing none the Chair will accept
9 a motion.

10 Commissioner Reeves.

11 MR. REEVES: Motion to file the financial
12 statement.

13 CHAIRMAN: Do we have a second?

14 MR. ROGERS: Second.

15 CHAIRMAN: Second by Commissioner Rogers. Any
16 questions on the motion?

17 (NO RESPONSE)

18 CHAIRMAN: All in favor signify by raising
19 your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 ITEM 9

23 Comments by the Chairman.

24 CHAIRMAN: The Chair has no comments.

25 ITEM 10

1 Comments by the Planning Commissioners.

2 CHAIRMAN: Commissioner Reeves.

3 MR. REEVES: I would like to suggest when we
4 leave tonight that we go together in groups to get to
5 your car, and the ladies particularly be escorted to
6 your cars because I don't know this gentleman. Let's
7 all be very careful leaving.

8 ITEM 11

9 Comments by the Director.

10 MR. HOWARD: None. Thank you.

11 CHAIRMAN: At this time I'll accept a motion
12 to adjourn.

13 MR. BALL: Motion to adjourn.

14 MS. HARDAWAY: Second.

15 CHAIRMAN: Motion by Mr. Ball and second by
16 Commissioner Hardaway. All in favor signify by
17 raising your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: We were adjourned.

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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 foregoing 21
14 typewritten pages; and that no signature was requested
15 to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 18th day of February, 2022.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E PARRISH AVE, SUITE 205-C
OWENSBORO, KY 42303

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23 COMMISSION EXPIRES: DECEMBER 16, 2022

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25