

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JULY 13, 2017

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, July
5 13, 2017, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Larry Boswell, Chairman
9 Steve Frey, Vice-Chairman
10 Larry Moore, Secretary
11 Brian Howard, Director
12 Terra Knight, Attorney
13 Irvin Rogers
14 Beverly McEnroe
15 Manuel Ball
16 Fred Reeves
17 John Kazlauskas
18 Lewis Jean
19 Angela Hardaway

20 * * * * *
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22 CHAIRMAN: I would like to call the July 13,
23 2017 Metropolitan Planning Commission meeting to
24 order. We start our meeting with a prayer and pledge.
25 Tonight Commissioner Kazlauskas will lead both.

26 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

27 CHAIRMAN: Thank you, Commissioner Kazlauskas.

28 Before we consider the minutes, I would just
29 like to make a couple of announcements. Those that
30 wish to speak tonight, either for an application or in
31 opposition, we ask that you do come forward to the

1 podium and state your name. It's very important that
2 we hear all of the information with who you are, but
3 also with what you have to say so that we can make
4 good valid decisions based on the facts that we have
5 tonight and hopefully we hear all the information that
6 we need to hear to make those good decisions.

7 The minutes were submitted to all of the
8 commission members. Hopefully all the commission
9 members have had a chance to take a look at the
10 minutes of the meeting to review those. Are there any
11 questions or changes to the minutes to the last
12 meeting?

13 (NO RESPONSE)

14 CHAIRMAN: There being none the chair is ready
15 for a motion.

16 Mr. Moore.

17 MR. MOORE: Move for approval.

18 CHAIRMAN: Move for approval has been made by
19 Mr. Moore. Is there a second?

20 MS. McENROE: Second.

21 CHAIRMAN: Second by Ms. McEnroe. All those
22 in favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries.

25 MR. HOWARD: I will note that all the zoning

1 changes heard tonight will become final 21 days after
2 the meeting unless an appeal is filed. If an appeal
3 is filed, we will forward the record of the meeting
4 along with all applicable materials to the appropriate
5 legislative body for them to take final action. Those
6 appeal forms are available on the back table here, on
7 our website and in our office.

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9 GENERAL BUSINESS

10 ZONING CHANGES

11 ITEM 3

12 110 & 234 Carlton Drive, 7.46 acres (Postponed from
13 the June 8, 2017 meeting)
14 Consider zoning change: From B-4 General Business to
15 B-5 Business/Industrial
16 Applicant: Mary Roby SPOA Trust c/o Mary Sky Fortune

17 MR. HOWARD: This item was postponed at the
18 meeting last month. At that meeting Mike Hill read
19 the Staff Report into the record. We provided you all
20 a copy again this time in your packet as a refresher
21 since there has been a month since it was heard last.

22 There were some questions at that time and no
23 one was here representing the applicant to answer
24 those so you all postponed it. The applicant is here
25 tonight to answer any questions, I believe. So it's
ready for you all to move forward.

CHAIRMAN: Thank you, Mr. Howard.

1 Is there anyone here representing the
2 applicant?

3 Please step forward.

4 MS. KNIGHT: State your name, please?

5 MS. FORTUNE: I'm Mary Sky Fortune.

6 (MARY SKY FORTUNE SWORN BY ATTORNEY.)

7 CHAIRMAN: Would you like to speak on behalf
8 of the application?

9 MS. FORTUNE: I don't know if there is anyone
10 here opposing the application this evening or not. Do
11 you have any further questions for me this evening?

12 I know at this time we are wanting to rezone
13 it to B-5 property. There is adjacent property to the
14 Carlton property that's already been zoned B-5 and we
15 just want the best use and flexibility of the
16 property.

17 CHAIRMAN: Give the commissioners a chance to
18 rearrange here.

19 MS. FORTUNE: I want to apologize for not
20 being here last month.

21 CHAIRMAN: We thank you for being here to
22 answer questions. Very important.

23 Do any of the commissioners have any questions
24 for Ms. Fortune concerning this application?

25 (NO RESPONSE)

1 CHAIRMAN: Is there anyone in the audience
2 that would have any questions concerning this
3 application?

4 MR. ALLGOOD: I have a statement.

5 CHAIRMAN: Please step forward to the podium,
6 if you wish to speak, and to be sworn in.

7 MS. KNIGHT: Please state your name for the
8 record.

9 MR. ALLGOOD: David Allgood.

10 (DAVID ALLGOOD SWORN BY ATTORNEY.)

11 MR. ALLGOOD: There doesn't appear to be a
12 whole lot of difference in B-4 and B-5 with the
13 exception of a few things. One of them has already
14 happened to me once. If this thing gets rezoned to
15 B-5 and then there's some kind of a penal institution,
16 or halfway house, whatever, on the other side, I'll be
17 surrounded by that. I'd just like to know what might
18 be there. The majority of the things would be okay,
19 but without knowing what's going there.

20 MS. FORTUNE: Right now it's just going to be,
21 the perspective buyer wants to build an office
22 complex.

23 MR. ALLGOOD: Well, an office complex is one
24 thing, but once it gets zoned B-5, if a person knew
25 that it was an office complex, then there wouldn't be

1 a problem, but you don't know what it's going to be
2 until it's going to be there. That's what happened to
3 me the last time. It only takes a few days to get the
4 thing rezoned. There's three, you could hit a golf
5 ball from my property to two other ones of these
6 family centers; the Next Level and the skating rink.
7 One of those properties is, of course, next to me.
8 That's the one that I'm concerned about. I don't want
9 to be surrounded by the jail. We can advertise not in
10 the pen, but right by it.

11 MS. FORTUNE: There's no plan of any future
12 buyers being involved with the criminal justice or
13 anything of that nature at this time. The perspective
14 buyer at this time wants to build an office building
15 for a business. Again, Lowe's is right behind us,
16 B-5. Then close to the property is also B-5 and
17 that's Carpet World. So it's all surrounding us
18 already.

19 MR. ALLGOOD: Well, the majority of the things
20 that could be put there that's B-5, there's not that
21 much difference. But when you get from B-4 to B-5,
22 it's conceivable that I could end up with a mess.
23 It's not likely, but it wasn't likely the last time
24 after I had gone out and borrowed every last penny I
25 could. Then all of a sudden appeared about four years

1 later the Dismas House thing. If it was an office
2 building, that would be okay. But just because
3 somebody tells you that they want to build an office
4 building. In fact, isn't an office building B-4? You
5 all know what the codes are. Isn't an office building
6 B-4?

7 MR. HOWARD: It would be permitted in a B-4.

8 MR. ALLGOOD: Then you don't even need to
9 change the zone to build an office building.

10 MS. FORTUNE: Well, I understand, but the
11 thing is --

12 CHAIRMAN: Would you all please address the
13 chair whenever you speak.

14 MS. FORTUNE: I apologize.

15 CHAIRMAN: Rather than back and forth between
16 the two of you all.

17 MS. FORTUNE: At this point I have no idea who
18 is going to buy the remaining property. My goal is to
19 have that entire lot and property developed. At this
20 time the buyer has requested it to be B-5. B-5 makes
21 sense because it allows the property to be flexible
22 and to allow for best uses.

23 You know, I apologize to Mr. Allgood. I
24 apologize if he feels like he's afraid that he doesn't
25 want another penal institution to be on the property,

1 but it's private property and I can't, you know,
2 there's nothing in there that says it could or could
3 not be. It's tentative.

4 CHAIRMAN: But in either case, whether it's
5 B-4 or B-5, there's still a lot of flexibility in
6 either one of those, but the B-5 allows more
7 flexibility is what you're wanting.

8 MS. FORTUNE: Yes. That's what I'm requesting
9 at this time.

10 MR. HOWARD: If I could.

11 Under the institutional use category T-2 Penal
12 Correctional Institution, that is conditionally
13 permitted in B-5 zone. So that would not allow that
14 to go in by right. They would have to apply for a
15 Conditional Use Permit that would have to go to the
16 Board of Adjustment for approval. And the same thing,
17 if it were some type of rehabilitation facility.
18 That's under A-7. That is well as conditionally
19 permitted in a B-5 zone. That actually rehab
20 transitional housing is conditionally permitted in
21 both B-4 and B-5.

22 In either case, if something like that were
23 proposed, they would still have to go through another
24 step, another public hearing in order for that to
25 happen.

1 MR. ALLGOOD: I don't have my thing with me.
2 I know you know the rules, whatever it says. The best
3 I can remember down there on that 8-4 through about
4 Page 10 of what is and isn't, there is so few
5 differences there. That I thought specifically one of
6 the difference is no jail on B-4 and it says P under
7 B-5, which I think meant permitted, and there's not
8 anything that I can do after that.

9 MR. HOWARD: The P would mean that. P is
10 presently permitted. That's use by right that could
11 go in, but I'm looking at it right now. Under Penal
12 and Correctional Institution, which would be a jail,
13 it is conditionally permitted in B-5. Not permitted.
14 So there would be another step that would have to take
15 place.

16 MR. ALLGOOD: Once it gets past this step, it
17 just gets closer and closer to being and I see the
18 realities of it. It's happened to me. It just
19 happened to me. I see how all of this -- it just goes
20 slowly, you know. I've got another place on Triplet
21 where the same thing has happened across from the
22 tower. Where it kind of just goes to the dogs. It's
23 a slow process. Once it gets made this B-5, which in
24 all likelihood --

25 CHAIRMAN: Please address the chair rather

1 than --

2 MR. ALLGOOD: In all likelihood, it would be
3 fine, but to let it get by, just don't feel right
4 about letting it get by. I've been there 33 years and
5 I was there but four years until this happened to me
6 the last time.

7 CHAIRMAN: I think, as you continue repeating
8 the same thing over, we understand what you're saying.
9 It could be a lot more flexibility, but that may never
10 happen. They may never do more than what she's
11 indicating.

12 MR. ALLGOOD: It may not. It has before and
13 it may not this time, but it may. It has a higher
14 probability of happening if this gets moved to B-5
15 from B-4. It not only affects me, but other people
16 there.

17 CHAIRMAN: The question I would have with
18 Mr. Howard's explanation: If there are other levels
19 of review that would go on, would that satisfy you,
20 that there are other steps that would have to be taken
21 before anything would occur?

22 MR. ALLGOOD: Obviously I would rather see it
23 not occur because then there isn't any question. Like
24 if they want to do an office building there, it's
25 already in a B-4 zone. I don't want to keep Sky from

1 selling this thing. I just don't want something
2 detrimental to me.

3 CHAIRMAN: We'll definitely take that into
4 consideration. Certainly will.

5 MR. ALLGOOD: Am I done?

6 I'm done, Sky.

7 CHAIRMAN: Are there any other questions or
8 comments from the audience concerning this
9 application.

10 (NO RESPONSE)

11 CHAIRMAN: There being none the Chair is ready
12 for a motion.

13 Mr. Ball.

14 MR. BALL: Motion to approve based on
15 Conditions 1 and 2 and Findings of Fact 1 through 5.

16 CHAIRMAN: A motion has been made by Mr. Ball
17 for approval based on Findings of Fact 1 through 5 and
18 Conditions 1 and 2. Is there a second?

19 MR. KAZLAUSKAS: Second.

20 CHAIRMAN: Second by Mr. Kazlauskas. All
21 those in favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 ITEM 4

25 Portion of 3149 & Portion of 3155 Commonwealth Court,
0.40 acres

1 Consider zoning change: From I-1 Light Industrial to
2 B-4 General Business
3 Applicant: Pedley Rental Properties, LLC

4 MS. KNIGHT: Please state your name for the
5 record.

6 MS. EVANS: Melissa Evans.

7 (MELISSA EVANS SWORN BY ATTORNEY.)

8 PLANNING STAFF RECOMMENDATIONS

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

11 CONDITION:

12 1. Approval of a final development plan for
13 3149 and 3155 Commonwealth Court.

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 within a
19 Business Plan Area, where general business uses are
20 appropriate in limited locations;

21 3. The proposed use of the property as
22 commercial/retail conforms to the criteria for
23 nonresidential development; and,

24 4. At 0.40 acres the proposal does not
25 significantly increase the extent of the B-4 zone in
the vicinity and should not overburden the capacity of

1 roadways and other necessary urban services that are
2 available in the affected area.

3 MS. EVANS: We would like to enter the Staff
4 Report into the record as Exhibit A.

5 CHAIRMAN: Thank you, Melissa.

6 Is there anyone here representing the
7 applicant?

8 APPLICANT REP: Yes.

9 CHAIRMAN: Would you like to say anything on
10 behalf of the application?

11 APPLICANT REP: I don't have anything. Thank
12 you.

13 CHAIRMAN: Anyone here have any questions
14 concerning the application? Any of the commissioners?

15 (NO RESPONSE)

16 CHAIRMAN: Anyone else in the audience would
17 have a question concerning the application?

18 (NO RESPONSE)

19 CHAIRMAN: There being none the Chair is ready
20 for a motion.

21 Mr. Kazlauskas.

22 MR. KAZLAUSKAS: Motion for approval based on
23 the Planning Staff Recommendations, Condition Number 1
24 and Findings of Fact 1 through 4.

25 CHAIRMAN: A motion has made for approval by

1 Mr. Kazlauskas for Findings of Fact 1 through 4 and
2 Condition 1. Is there any discussion about the
3 motion?

4 (NO RESPONSE)

5 MR. JEAN: Second.

6 CHAIRMAN: Second by Mr. Jean. Any discussion
7 about the second or the motion?

8 (NO RESPONSE)

9 CHAIRMAN: There being none the Chair is ready
10 for a vote. All those in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries.

13 MR. BALL: I need to recuse myself from this
14 item.

15 COMBINED DEVELOPMENT PLANS/MAJOR SUBDIVISIONS

16 ITEM 5

17 Central Park, 4.355 acres
18 Consider approval of an amended combined final
19 development plan/major subdivision preliminary plat.
Applicant: Jagoe Land Corporation

20 MR. HOWARD: This plat has been reviewed by
21 the Planning Staff and Engineering Staff and it's
22 found to be in order. It does amend the plan that was
23 approved a few months back altering the street and
24 things a little bit. Really no major or significant
25 changes, but it does require it to come back before

1 the Planning Commission for approval. It meets all
2 the requirements and it's ready for your alls
3 consideration.

4 CHAIRMAN: Thank you, Mr. Howard.

5 Is anyone here representing the applicant?

6 APPLICANT REP: Yes.

7 CHAIRMAN: You wish to make any statement
8 concerning the application?

9 APPLICANT REP: Not at this time.

10 CHAIRMAN: Anyone else in the audience would
11 like to ask any questions?

12 (NO RESPONSE)

13 CHAIRMAN: Any of the commissioners have any
14 questions concerning the application?

15 (NO RESPONSE)

16 CHAIRMAN: The Chair is ready for a motion.

17 Mr. Rogers.

18 MR. ROGERS: Mr. Chairman, I make a motion for
19 approval.

20 CHAIRMAN: Motion for approval by Mr. Rogers.

21 Do we have a second?

22 MR. FREY: Second.

23 CHAIRMAN: Second by Mr. Frey. Any discussion
24 about the motion for approval and the second?

25 (NO RESPONSE)

1 CHAIRMAN: There being none all in favor raise
2 your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
4 WITH MANUEL BALL RECUSING HIMSELF.)

5 CHAIRMAN: Motion carries.

6 MINOR SUBDIVISION PLATS

7 ITEM 6

8 3779, 3785 Thruston Dermont Road, 3780 Locust Hill
9 Drive, 9.875 acres
10 Consider approval of a minor subdivision plat.
Applicant: Larry Roberts, II

11 MR. HOWARD: This plat comes before you as an
12 exception. This is a rather large, nearly ten acre
13 parcel that has a limited amount of road frontage on
14 Thruston Dermont Road, and it also has two stubs;
15 apparently Locust Hill Drive, the east and west that
16 is stubbed into the property.

17 What they're proposing to do is create three
18 lots. Two of which will have road frontage on
19 Thruston Dermont Road, and then the last one, the
20 larger portion, the nearly six acres, would then have
21 access off the stub streets for that single lot.
22 We've reviewed and looked at it. Based on the
23 acreage, you know, they're trying to get a lot
24 configuration that will work for them. We don't have
25 any big concerns with it. It's ready for your alls

1 consideration.

2 CHAIRMAN: Thank you, Mr. Howard.

3 Anyone representing the applicant?

4 APPLICANT REP: Yes.

5 CHAIRMAN: Would you like to say anything on
6 their behalf?

7 APPLICANT REP: No, sir.

8 CHAIRMAN: Any commissioners have any
9 questions for the applicant?

10 (NO RESPONSE)

11 CHAIRMAN: Anyone else in the audience have a
12 question for the applicant?

13 (NO RESPONSE)

14 CHAIRMAN: There being none the Chair is ready
15 for a motion.

16 Mr. Ball.

17 MR. BALL: Motion to approve.

18 CHAIRMAN: Motion to approve by Mr. Ball. Do
19 we have a second?

20 MS. McENROE: Second.

21 CHAIRMAN: Second by Ms. McEnroe. Any
22 discussion about the motion and the second?

23 (NO RESPONSE)

24 CHAIRMAN: There being none all those in favor
25 raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries.

3 ITEM 7

4 7356 & 7360 Highway 815, 10.1 acres
5 Consider approval of a minor subdivision plat.
6 Applicant: Michael J. & Lori L. Lewis

7 MR. HOWARD: This plat comes before you as an
8 exception to the three to one requirement. This again
9 is a 10 acre parcel. They're proposing to split it
10 into two tracts. One a little over seven acres and
11 the other a little over three acres. We've added a
12 note to this plat that it would say that the property
13 can't be further subdivided without meeting the
14 requirements of the subdivision regulations, which
15 without the installation of public street would really
16 eliminate potential for this to be further subdivided
17 because they don't have sufficient road frontage to do
18 so. So this is kind of a one time division and won't
19 be anything else that can happen with it moving
20 forward. It's ready for your alls consideration.

21 CHAIRMAN: Thank you, Mr. Howard.

22 Anyone here representing the applicant?

23 (NO RESPONSE)

24 CHAIRMAN: There being none do any of the
25 commissioners have any questions concerning this
application?

1 (NO RESPONSE)

2 CHAIRMAN: There being none the Chair is ready
3 for a motion.

4 Mr. Moore.

5 MR. MOORE: Move to approve.

6 CHAIRMAN: Move to approve by Mr. Moore. Is
7 there a second?

8 MR. KAZLAUSKAS: Second.

9 CHAIRMAN: Second by Mr. Kazlauskas. Any
10 discussion about the motion or the second?

11 (NO RESPONSE)

12 CHAIRMAN: There being none all those in favor
13 raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries.

16 Thank you for all the hard work on the
17 applications this evening.

18 -----

19 NEW BUSINESS

20 ITEM 8

21 Consider approval of May 2017 financial statements

22 CHAIRMAN: I assume everyone has had a chance
23 to look at those financial statements. Are there any
24 questions concerning any of the information of the
25 financial statements?

1 (NO RESPONSE)

2 CHAIRMAN: There being none the Chair is ready
3 for a motion.

4 Ms. Hardaway.

5 MS. HARDAWAY: Motion to approve.

6 CHAIRMAN: Motion to approve by Ms. Hardaway.

7 Do we have a second?

8 MR. BALL: Second.

9 CHAIRMAN: Second by Mr. Ball. All those in
10 favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries.

13 ITEM 9

14 Comments by the Chairman

15 CHAIRMAN: I would just like to thank all the
16 commissioners and the planning department. I think
17 the commissioners do a great job on all the due
18 diligence on any of the business that we have to come
19 before us. It really is a pleasure to work with the
20 entire Commission and Planning & Zoning Department
21 because I think they do a great job. Wanted to just
22 pass along those comments there.

23 ITEM 10

24 Comments by the Planning Commissioners

25 (NO RESPONSE)

1 ITEM 11

2 Comments by the Director

3 MR. HOWARD: I'll just will make a quick one.

4 Mike Hill in our office is ramping up the work
5 that we'll be doing later on this year for the
6 comprehensive plan update. We're required to get that
7 updated every five years. He has begun the work on
8 that and contacted agencies and doing things like
9 that. So I just want to give everybody a heads up
10 that there will be some meetings forthcoming and
11 things like that. So be looking for those in the near
12 future.

13 CHAIRMAN: Thank you, Mr. Howard.

14 We have an important next motion.

15 MR. BALL: Motion to adjourn.

16 CHAIRMAN: Motion to adjourn by Mr. Ball. Is
17 there a second?

18 MR. FREY: Second.

19 CHAIRMAN: Second by Mr. Frey. All those in
20 favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: We are adjourned.

23 -----

24

25

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

16 WITNESS my hand and notary seal on this the
17 5th day of August, 2017.

18

19

20

21

22

LYNNETTE KOLLER FUCHS
NOTARY ID 524564
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KENTUCKY 42303

23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

25