The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, April 9, 2009, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

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CHAIRMAN:  I would like to welcome everyone to our April 9, 2009 meeting. Our invocation will be given by Ms. Rita Moorman.

(IN V OCA TION A ND PLEDGE OF A LLEGIANCE.)

CHAIRMAN:  Our first item of business is to consider the minutes of the March 12, 2009 meeting. Are there any corrections, additions?

(NO RESPONSE)

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

MS. DIXON:  Move to approve.

CHAIRMAN:  Motion for approval by Ms. Dixon.
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.

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PUBLIC HEARING

ITEM 2

Consider revisions to the Public Improvement Specifications, Chapter 7 exhibit drawings and Chapters 8 and 11 text and exhibit drawings.

MR. NOFFSINGER: The Public Improvement Specification Committee has met several times to review the current Public Improvement Specifications for development in Owensboro, Daviess County. These are the design requirements for streets and sanitary sewers and the infrastructure that's required in new developments.

I'd like to recognize Mr. Joe Schepers, the city engineer, that's here tonight that has worked and put quite a bit of time in on revising these drawings and exhibits, as well as Mr. Ward Pedley who worked with Joe Schepers on these, and Planning Staff and the county engineer, Sidan Rayan.

MR. SILVERT: State your name, please.
MS. STONE: Becky Stone.

(BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: Gary pretty much covered the items.

This is Chapter 8 which is Surface Drainage and Chapter 11 which is Erosion Prevention & Sediment Control revisions, and then two exhibits in Chapter 7. As Gary stated, the city and county engineer are both here tonight. So if you have questions on these items, I will defer to them for questions because they're the technical experts.

CHAIRMAN: Thank you, Ms. Stone.

Are there any questions?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission?

(NO RESPONSE)

CHAIRMAN: If there are no questions, the chair is ready for a motion.

MR. PEDLEY: Mr. Chairman, make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.

Next item, please.

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ZONING CHANGES

ITEM 3

1411 Bosley Road, 0.337 +/- acres
Consider zoning change: From B-4 General Business to
I-1 Light Industrial
Applicant: Hagan Construction Company; Charles D. &
Laura J. Hagan

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: I will note that all rezoning
that will be heard tonight by the Planning Commission
will become final 21 days after the meeting unless an
appeal is filed with the Planning Commission office.
Those appeal forms are available on the back table,
our website and in our office. If an appeal is filed,
we will forward the meeting minutes, recommendations
and all the applicable materials to the appropriate
legislative body where they are scheduling hearings.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal
is in compliance with the community's adopted
Comprehensive Plan. The conditions and findings of
fact that support this recommendation include the
CONDITIONS:

1. No direct access to Bosley Road shall be permitted;

2. Access to Calhoun Street shall be brought into compliance with zoning ordinance requirements and be located a minimum of 50 feet from the property line; and,

3. Sidewalks shall be installed along the Bosley Road rights-of-way.

FINDINGS OF FACT:

1. The subject property is located in a Business Plan Area, where light industrial uses are appropriate in limited locations;

2. The use of the property for mini storage warehouse is consistent with nonresidential uses;

3. The proposal is a logical expansion of existing I-1 Light Industrial zoning located across Bosley Road to the west;

4. The expansion should not be significantly increase the extent of industrial uses that are located in the vicinity and outside of Industrial Parks; and,

5. The expansion should not overburden the capacity of roadways and other necessary urban
services that are available in the affected area.

MR. HOWARD: I would like to enter the Staff report into the record as Exhibit A.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anyone from the commission have any questions of the applicant?

(NO RESPONSE)

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

MR. MILLER: Motion to approve based on Planning Staff Recommendations, Conditions 1 through 3 and Findings of Fact 1 through 5.

CHAIRMAN: Motion for approval by Mr. Miller.

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.

ITEM 4
3441 Fairview Drive, 6.461 acres
Consider zoning change: From A-U Urban Agriculture to
B-4 General Business
Applicant: Vincent Hayden; Paradise Landing, LLC

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan. The conditions and findings of fact that support this recommendation include the following:

CONDITIONS:

1. Access to Fairview Drive shall be limited to the proposed public street only;

2. Connection shall be made to the Wal-Mart property via a private extension of the public road;

and,

3. Sidewalks shall be installed along all public rights-of-way.

FINDINGS OF FACT:

1. The subject property is located in a Business Plan Area, where general business uses are appropriate in limited locations;

2. The use of the property for commercial development is consistent with nonresidential uses;

3. The proposal is a logical expansion of existing B-4 General Business zoning to the east,
south and west;

4. The expansion should not significantly increase the extent of commercial uses that are located in the vicinity;

5. The expansion should not overburden the capacity of roadways based on the Traffic Impact Study submitted in conjunction with the rezoning; and,

6. The expansion should not overburden other necessary urban services that are available in the affected area.

Mr. Howard: We would like to enter the Staff Report into the record as Exhibit B.

Chairman: Is there anybody representing the applicant?

(NO RESPONSE)

Chairman: Does anybody have any questions?

(NO RESPONSE)

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

Mr. Hayden: I'll make a motion for approval with Staff Recommendations.

Chairman: We have a motion for approval by Mr. Hayden.

Mr. Rogers: Second.

Chairman: We've got a second by Mr. Rogers.
All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Items:

ITEM 4A

3441 Fairview Drive, 6.461 acres
Consider approval of preliminary development plan.
Applicant: Vincent Hayden; Paradise Landing, LLC

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this application. It's found to be in order. It is recommended for approval.

CHAIRMAN: Any questions?

(NO RESPONSE)

CHAIRMAN: If there are no questions from the audience, any questions from the commission?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

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, please.

ITEM 5

1212 JR Miller Boulevard, 2.53 acres (Postponed March 12, 2009)
Consider zoning change: From I-1 Light Industrial to B-4 General Business
Applicant: Ron Sanders

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the current zoning is inappropriate and the proposed zoning is more appropriate in that the proposed zoning serves more to encourage several goals and objectives of the Comprehensive Plan. The findings of fact that support this recommendation include the following:

CONDITIONS:

1. Access to JR Miller Boulevard shall be limited to the access point as shown on the preliminary development plan submitted in conjunction with the rezoning request;

2. Access to East Parrish Avenue shall be limited to the existing alley access point;

3. A minor subdivision plat to identify the access points as shown on the development plan and to indicate any approved variances shall be submitted to the OMPC;

4. Lighting on the site shall be directed away from the residences;
5. Sidewalks shall be provided along all street rights-of-way; and,

6. A final development plan shall be submitted to the OMPC before issuance of building permits.

FINDINGS OF FACT:

1. The subject property is located in an Industrial Plan Area, where general business uses are appropriate in limited locations;

2. The subject property has not developed under the current I-1 Light Industrial zoning designation due in part to the incompatibility with the adjacent historic residential neighborhood;

3. The proposed request would encourage the development of neighborhood businesses to serve nearby residents;

4. The proposed request would serve as a buffer from the more intense Heavy Industrial zoning to the east across JR Miller Boulevard;

5. Contiguous property located on the southeast corner of JR Miller Boulevard and East Parrish Avenue has been recommended for general business uses;

6. The proposed request would encourage a complementary commercial area within an existing
developed neighborhood; and,

7. The current zoning is inappropriate and
the proposed zoning is more appropriate because of the
proximity to the historical residential neighborhood.

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

CHAIRMAN: Is there anybody representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of
the applicant?

Please step to the podium.

MR. SILVERT: State your name, please.

MS. TOOLEY: My name is Janet Tooley.

(JANET TOOLEY SWORN BY ATTORNEY.)

MS. TOOLEY: The question is could we figure
which way the historical neighborhood is in comparison
to this map? I can't see that well.

CHAIRMAN: Mr. Howard, would you return to the
podium?

MR. HOWARD: It will basically be to the left
of this property along Parrish Avenue.

MS. TOOLEY: We have concerns about it
blocking the sunlight because everybody right now is
raising gardens. We have children playing back there.
We have pets. We're also concerned about how close it will be for air flow, for fire control. Our historic neighborhood could go up like a match if there's any danger there. Just general questions like this. Will it increase the flow of sewage, drainage? Will it block our only access to our property which is in the alley? We have concerns about this? We have other neighbors here and others waiting at home there that are too elderly to come tonight.

CHAIRMAN: Yes, ma'am.

Mr. Howard.

MR. HOWARD: Some of the ones that I remember, as far as the drainage goes. Whenever the applicant comes in with a final development plan, it will require the city engineer's review and approval. That approval would not allow the site to generate any more drainage running off of it than is currently on the site.

The air flow, fire control, those types of issues, there will be an alley that separates the commercial property from the residences that back up to it that face on Daviess Street, I believe. So there will be separation between the two. Those would meet the building code separation requirements.

The alley access. The alley will remain open.
The applicant is proposing to use the alley as a means of ingress and egress. The alley would not be closed to any of the existing traffic that's on there.

Any other questions?

CHAIRMAN: As I recall, I think you've covered them.

Ms. Tooley, were there any other questions that you had that he did not cover?

MS. TOOLEY: Well, my concerns is the vagueness of the covering of how many people will be accessing that alley. It's in bad shape right now and could not stand any more public thoroughfare on there. There's a lot of comings and going, ingress to that alley, it won't hold up.

Another thing, I can stand at my back, in my lot and spit and hit the next building over there. So if he has something that -- it's a concrete building now. You have no worry about fire, but if there's something that can catch fire, that is not enough room. That's something I would like for you to consider.

As far as drainage, I also consider the sewer. The old neighborhood has had trouble with their sewers at the beginning.

CHAIRMAN: I'll bring the applicant up, but I
can assure you the applicant would be just as strongly
concerned about that as you would be.

Would the applicant please come forward,
please?

Ms. Tooley, would you sit down and we'll swear
him in.

MR. SILVERT: State your name, please.

MR. SANDERS: Ron Sanders.

(RON SANDERS SWORN BY ATTORNEY.)

MR. SANDERS: As far as the construction, it
will be nonflammable materials. I remind you that the
existing building there, the old Davis building does
have a wooden roof with the asphalt shingles. So
there's fire hazard with that building as it stands
now. It is concrete block. New construction will be
steel or masonry and not flammable.

As to the access to the alley, that's a
continuing issue. We would like to locate the
building as far away from that alley as we can.

However, this 50 foot situation we've got off JR
Miller is crowding us, is pushing us back towards
those houses. We would like it further, closer to the
highway. You'll be seeing those other requests later.

As far as the alley, we don't plan on using
the alley for our traffic. We will be directing the
traffic in front of the, between the building and the
facility, but it would be using the Parrish entrance
which we would set that at the prescribed 30 foot. It
will give them actually some better access because
there will be a right turn and a left turn out of the
alley that will be providing. As far as access on
north end of the alley, they will be able to cross out
through our property and either go over to Daviess
Street and proceed north or south from there or go
over to JR Miller and proceed north or south from
there. So they'll actually improve their access to
the alley from what they have now. The city owns the
alley as it stands now. I will have to maintain an
egress and ingress to the north end of the alley from
here on.

CHAIRMAN: Thank you.
Are there any further questions?
(NO RESPONSE)
CHAIRMAN: Are there any questions from the
Staff?

Mr. Noffsinger, would you like to make a
statement?

MR. NOFFSINGER: Yes, Mr. Chairman.
At this time in considering the zoning of the
property and not the site development requirements,
that will consider a variance to allow the building to be closer to the alley than what the ordinance allows as our next Item 5A.

Then 5B we will be considering an approval of a preliminary development plan for the site characteristics, traffic flow of the property.

At this time we're considering only the zoning aspect of it. We're considering a change from light industrial to B-4 general business. Now, B-4 general business generally you would anticipate more traffic, more vehicles coming onto the property.

In Industrial generally you have uses that are more like heavy trucks. Not as much traffic generation vehicles, cars on the property. Generally B-4 General Business uses are more compatible with adjoining residential uses. It's not that they're necessarily ideal to be up next to residential uses, but generally they're more compatible than industrial uses.

I hope that helps the folks understand what we're considering at this point. We will have an opportunity to talk about building setbacks and site development requirements on our next item.

CHAIRMAN: Any other questions?

(NO RESPONSE)
CHAIRMAN: If there are no more questions from the commission or from the audience, the chair is ready for a motion.

MR. APPLEBY: Motion for approval based on the Staff Recommendations with Conditions 1 through 6 and on Findings of Fact 1 through 7.

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

MR. ROGERS: Second.

CHAIRMAN: We've got a second by Mr. Rogers.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Items:

ITEM 5A

1212 JR Miller Boulevard, proposed B-4 (Postponed March 12, 2009)
Consider request for Variances in conjunction with an application for zoning change to reduce the roadway buffer on JR Miller Boulevard from 50 feet to 40 feet; to reduce the roadway buffer on East Parrish Avenue from 50 feet to 40 feet; to reduce the building setback on East Parrish Avenue from 75 feet to 42 feet; to reduce the building setback on JR Miller Boulevard from 75 feet to 57 feet; and to reduce the rear yard setback from 20 feet to 5 feet.
Reference: Zoning Ordinance, Article 8, Section 8.5.16(c), Article 13, Section 13.6221
Applicant: Ron Sanders

MR. HOWARD: Under Special Circumstances, are
there special circumstances that do not generally
apply to land in the general vicinity or in the same
zone?

The subject property has frontage on JR Miller
Boulevard, East Parrish Avenue and Daviess Street with
a single access proposed to JR Miller Boulevard,
alley access to East Parrish Avenue and two access
points to Daviess Street. An application for a Zoning
Map Amendment from I-1 to B-4 has been submitted along
with the variance and a preliminary development plan
as part of the redevelopment of this property. A
minor subdivision plat was previously approved for the
property that establishes access to JR Miller
Boulevard and identifies required setbacks.

Separate proposals have been considered for
the subject property in the past. In 1995, an
administrative appeal was filed to propose the
continuance of outdoor storage on the property citing
the opinion of the applicant that the use was
nonconforming and should be allowed to continue. This
application resulted from a violation issued by the
Zoning Administrator that the nonconforming use of
outdoor storage had been enlarged and must be screened
in accordance with the zoning regulations. The
Owensboro Board of Adjustment heard the administrative
appeal and the appeal was denied in May of 1995. In 2002, the current owner of the property made application to the Owensboro Metropolitan Board of Adjustment for a conditional use permit to locate and operate an indoor shooting range with accessory sales area and office space. The OMBA considered this request, and after extensive public testimony and evidence presented, the OMBA denied the conditional use permit application in November of 2002.

The applicant states that the current roadway buffer of 50 feet will greatly prohibit the development potential of the subject property because this buffer significantly reduces the depth of the property. The requested reduction in roadway buffer along both JR Miller Boulevard and East Parrish Avenue along with the proposed front and rear yard setback variances will allow additional room on site to develop the property. The zoning ordinance requirement for rear yard setback is 20 feet since the property adjoins residential zoning. However, there is a public alley between the property and the residential zoning. With the 10 foot alley and the requested 5 foot setback, there will be a good separation between the site and the residential zoning. The zoning ordinance does not require a
screening element between commercial and residential zoning where there is an intervening alley, but the solid back wall of a building could also serve as a visual buffer between the two. The requested front yard setback variances result from the roadway classifications of JR Miller Boulevard and East Parrish Avenue. Both are arterial roadways with a 75 foot building setback from the centerline of the road. With the applicant attempting to maximize the site for commercial development, the site cannot meet the applicable building setback requirements. However, the site could be developed with a smaller commercial use on the property that would meet parking requirements within the parameters of the prescribed building setbacks. The building setback variances will allow additional room on site for construction which will help the site develop more efficiently but are not excessive with the roadway buffer that will be maintained and the right-of-way that will be dedicated for future roadway improvements if needed. The developer is not being required to provide a traffic impact study for the property. The size of the development will likely meet the new KYTC requirements for a traffic impact study but the requirements were not in place at the time of the application. The
state will be requiring traffic impact studies for all developments that meet a minimum threshold. The developer will be required to get a permit from the state for any access to state transportation system. As part of the variance request, the applicant is being asked to dedicate right-of-way instead of installing roadway improvements such as the potential right-turn lane and to demonstrate that a future right-turn lane can be accommodated within the 40 foot remaining if a roadway buffer variance is granted. As part of the development, the sidewalk along JR Miller Boulevard should be installed to accommodate the future right-turn lane so that it will not have to be removed in the future and reinstalled.

The City Engineer's office has informed our staff that there is a potential for a right turn lane to be installed on JR Miller Boulevard at this location. The newly adopted downtown plan proposes reconfiguration of downtown streets. A traffic study is currently under way to determine the needed rerouting of traffic with the proposed changes. This may impact the intersection of JR Miller Boulevard and East Parrish Avenue and may necessitate the construction of a right turn lane. Even absent of additional volume from proposed changes in the
downtown area, this is a major intersection of principal and minor arterial streets and the accommodation for a future turn lane should not be compromised. The developers engineer has provided a preliminary design to the City Engineer that demonstrates that the anticipated improvement could be adequately constructed within a 40 foot dimension. To accommodate for this potential the Staff would recommend that if this variance is granted the applicant be required to dedicate the reduced roadway buffer along JR Miller Boulevard and East Parrish Avenue as public right-of-way. Based on engineering criteria, the dedication of the right-of-way would provide adequate room for the potential right turn lane along JR Miller Boulevard. With previous variances to reduce roadway buffers, the dedication of additional right-of-way to accommodate potential improvements has been required in cases such as 1221 Frederica Street, at the CVS Pharmacy, and 2318 Frederica Street at Walgreens Pharmacy. A variance at 303 East 14th Street and 1200 Moseley Street was being considered by the OMBA at this evenings meeting. They approved the roadway buffer reduction on JR Miller Boulevard with a similar recommendation for the dedication of the 10 foot roadway buffer relief for
public right-of-way. In 1992, the property owners at
215 East 18th Street petitioned the City of Owensboro
for closure of approximately 40 feet of right-of-way
on JR Miller Boulevard at East 18th Street. The OMPC
held a public hearing on the request with
recommendations by GRADD, OMPC Staff and City Staff to
retain the right-of-way at this major intersection for
future transportation improvements. The OMPC
recommendation to the City of Owensboro was to retain
the right-of-way and it was not closed. Similarly,
the 50 foot right-of-way at the intersection of East
25th Street and JR Miller Boulevard was retained when
217 East 25th Street was developed as a convenience
store.

The granting of these variances would not
alter the essential character of the vicinity because
there are existing structures along JR Miller
Boulevard that encroach into the roadway buffer.
However, these structures predate the zoning ordinance
and we find no record of roadway buffer reductions
granted to date. Additionally, with the right-of-way
dedication, the public health, safety and welfare will
be increased by providing adequate space for an
anticipated transportation improvement. The variances
can only be supported if the developer agrees to the
dedication of the right-of-way which is reasonable because the variances will allow 25 foot net gain of additional property for the applicant to develop while providing the city with sufficient right-of-way to make future roadway improvements.

HARDSHIP? Would strict application of the regulation deprive the applicant of the reasonable use of the land, or create an unnecessary hardship on the applicant?

If a reduction in the roadway buffer is not granted the property would not be developed as proposed but could be developed in a different configuration or for a different use. However, any development requiring parking would have obstacles to designing site improvements due to the size and shape of the lot. Some relief will likely be needed on the lot to make it viable for redevelopment.

APPLICANT'S ACTIONS? Are the circumstances for which the applicant has sought a result of the applicant's actions taken after adoption of the zoning regulations?

The applicant did not do that.

CONDITIONS:

1. Approval of a Preliminary and Final Development Plans.
2. Approval of a Minor Subdivision Plat
dedicating the reduced roadway buffer as right-of-way
along both JR Miller Boulevard and East Parrish
Avenue, showing the relocated drive on JR Miller
Boulevard, and reflecting changes to setbacks on the
lot.

We would enter the Staff Report into the
record as Exhibit D.

CHAIRMAN: Thank you, Mr. Howard.
Are there any questions from the audience?
(NO RESPONSE)

CHAIRMAN: Are there any questions from the
city commission?
(NO RESPONSE)

CHAIRMAN: Mr. Noffsinger, do you have a
comment?
MR. NOFFSINGER: No, sir.
CHAIRMAN: If not the chair is ready for a
motion.

MS. DIXON: Mr. Chairman, I make a motion that
we grant the Variance based upon the Findings of Fact
that it will not adversely affect the public health,
safety or welfare; it will not alter the essential
character of the area; it will not cause a hazard or a
nuisance to the public; and it will not allow an
unreasonable circumvention of the requirements. Based
upon the conditions as stated by the Staff Report.

Although, I don't require that the developer
make the roadway improvements, I do make the condition
that the right-of-way be dedicated to the future
right-turn lane.

I've lived in this city and pretty close to
this area all my life and know that this is a
congested intersection. I've walked it.

Because of the increased number of cars that
are anticipated by a development at this lot, it's
evidenced by the preliminary development plan, the
development will no doubt exacerbate the traffic
congestion that is already congested intersection.

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

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 5B

1212 JR Miller Boulevard, 2.53 acres
(Postponed March 12, 2009)
Consider approval of preliminary development plan.
Applicant: Ron Sanders

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It is not in order based upon the variance that you just approved. It does not meet the condition of the right-of-way dedication along East Parrish Avenue and JR Miller Boulevard. Also, the location of the sidewalk and issue on that development plan.

We would recommend that -- I think there are some folks here tonight that want to talk about site development requirements and I think certainly they should be heard and we should hear from the applicant. Certainly at this point this plan Staff cannot recommend that it be approved.

CHAIRMAN: There are any questions from the audience?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission or statements?

(NO RESPONSE)

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

MS. DIXON: Move to deny based upon our previous motion and its granting.
CHAIRMAN: Motion for denial by Ms. Dixon.

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, please.

ITEM 6

1621 Moseley Street, 0.619 +/- acres
Consider zoning change: From I-1 Light Industrial to I-2 Heavy Industrial
Applicant: Transit-Mix Concrete Company, Inc.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposed I-2 Heavy Industrial zoning classification is more appropriate than the current I-1 Light Industrial zoning. The conditions and findings of fact that support this recommendation include the following:

CONDITION:

Install vehicular use area screening where vehicular use areas adjoin public rights-of-way.

FINDINGS OF FACT:

1. The subject property is located in a Business/Industrial Plan Area, where heavy industrial uses are appropriate in very-limited locations;

2. The subject property has historically been
in use as a concrete plant and the use predates the current zoning regulations;

3. The subject property is located on Moseley Street which is zoned entirely industrial within this block front; and,

4. The current zoning classification of light industrial is not appropriate for the subject property and the proposed zoning of I-2 Heavy Industrial is the more appropriate zoning classification for the subject property.

MS. STONE: We would like to enter the Staff Report into the record as Exhibit E.

CHAIRMAN: Are there any questions from the audience?

MS. ANN GILBERT: Yes.

CHAIRMAN: Yes, ma'am. Please step to the podium.

MR. SILVERT: State your name, please.

MS. ANN GILBERT: My name is Ann Gilbert.

(ANN GILBERT SWORN BY ATTORNEY.)

MS. ANN GILBERT: I live right behind Transit-Mix. My house is in front of Transit-Mix. To me I don't think or we feel like it doesn't need to be heavy zoning. What he's talking about is that lot and that lot will be right up beside our house. True
enough it is a commercial zoning and they have been
there as long as I've been a little girl. But he's
got all that lot across the street that he can use and
they go from like 2:00 in the morning until like 6:00
in the afternoon. They have dust coming up. We have
kids. We've got a lot on the side of our house and
that's where our kids play at.

During the summertime when it's hot, the dust
from those trucks, which we have put up with for a
long time, that comes through.

So if he makes that heavy industrial coming
through that way, you won't be able to talk. You
won't be able to hear. You won't be able to raise
your windows. You won't be able to do anything
because those trucks coming up that way.

Another thing also, he has asked us to buy our
house. I feel like that with him putting that up
there, that's a way of trying to make us move, but I
don't think he needs to do that. I think he can leave
that lot vacant and go across the street where his
other building is and knock that big hill down and
finish across the street and do what he needs to do.
I don't think he needs to come up beside our house.

CHAIRMAN: Is there somebody representing the
MR. AGNER: Yes.

CHAIRMAN: Be seated and we'll let him answer your questions.

MR. SILVERT: State your name, please.

MR. AGNER: Kim Agner.

(KIM AGNER SWORN BY ATTORNEY.)

MR. AGNER: I think Ms. Gilbert may be referring to the lot where the church is. That lot is not included in this.

My intention, I didn't even know I had to change zones. Mr. Mischel explained that to me. Because it's a concrete plant it needs to be changed to I-2. I want to put up a silo in behind the silos that are existing. I think she may be thinking I'm talking about the lot where the church is.

MS. ANN GILBERT: Yes.

CHAIRMAN: Mr. Agner, direct your comments to me and then I'll let him speak.

Ms. Gilbert, when it becomes your turn I'll let you have the podium also. Thank you.

MR. AGNER: I'm done.

MR. APPLEBY: You're not changing the use of this lot that's zoned I-1? It's been an I-2 application all these years?

MR. AGNER: No. It's been I-1 all these
years, but it's supposed to have been I-2 they
informed me when I wanted to put a silo up. Actually
it's from the tree line to just south of the office.
I'm not doing anything with the vacant church lot.

CHAIRMAN: Mr. Agner, just for me. That means
the lot which would be on East 16th Street. The
address would be 400 East 16th. You're not really
going to do anything on that lot; is that right?

MR. AGNER: Well, the numbers are all messed
up there. You're talking about the corner lot there?

CHAIRMAN: Yes. East 16th is the, looks like
it's the corner lot on Moseley and 16th.

MR. AGNER: I think that's 100 by 150. That's
still vacant. There is no zoning change on that.

CHAIRMAN: The zoning change is where your
main plant is, correct?

MR. AGNER: Exactly.

CHAIRMAN: All you're going to do as far as
changing of business or business operation or anything
that you would do on that location, you're just going
to add silo, correct?

MR. AGNER: Yes, sir.

CHAIRMAN: In other words, there will be no
more trucks. There will be nothing changed about your
former business today as it will be as you become I-2?
MR. AGNER: I hope we get busier.

CHAIRMAN: I realize that. Basically, you're --

MR. AGNER: You're correct.

CHAIRMAN: -- caught in the conforming situation where you were actually grandfathered nonconforming I-1 Light Industrial. When you changed, when you wanted to make an addition, you went to I-2, but there will be no real change in your business.

MR. AGNER: That's correct.

CHAIRMAN: Ms. Gilbert, you want to step back to the podium.

In the statement there that Mr. Agner made, we were talking about his basic change is going to be of his main plant there on Moseley Street. He's changing the footprint. He's adding a silo on that location. He will not be doing anything, according to his testimony, anything different after the zoning change than he did before the zoning change. He had been grandfathered in as an I-1 Light Industrial and was able to operate as an I-1 Light Industrial. He's since changing or adding a silo to his business. With the changing of that to get the building permit he had to upgrade his zoning change from an I-1 to an I-2, but the nature of his business will not change at all.
MS. ANN GILBERT: Okay. So he won't be putting anything over the side of house. He's just going to be changing to heavy industrial so he can --

CHAIRMAN: Add a silo.

MS. ANN GILBERT: Okay. I got you.

CHAIRMAN: The only plot is the 1621 Moseley Street plot. He, of course, obviously owns that other property, but the construction is going to be on the 1621 Moseley Street.

MS. ANN GILBERT: Okay.

MR. APPLEBY: The lot you were most concerned about is the one that's at 400 East 16th, the corner lot, which is next-door to you?

MS. ANN GILBERT: Yes.

MR. APPLEBY: Nothing is changing on that zone. That's still I-1.

CHAIRMAN: Ms. Gilbert, I've made some statements from the testimony that I took from Mr. Agner. Let me bring him back, before you bring anybody else up, let me bring him back to confirm absolutely what I said was correct.

Mr. Agner, would you return.

Were the statements I made in regards to your business absolutely correct?

MR. AGNER: Yes, sir. The corner lot no
plans. That's not in the zoning change.

CHAIRMAN: I just want to make sure that the

statements that I relayed to Ms. Gilbert were

absolutely accurate.

Ms. Gilbert, was there somebody else that
would like to speak or did that clear up all your
concerns about zoning change?

MS. ANN GILBERT: Yes. Someone else would
like to speak.

CHAIRMAN: Come forward, please.

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

MS. GILBERT: Mary Gilbert.

(MARY GILBERT SWORN BY ATTORNEY.)

MS. GILBERT: What I was wanting to know is
I'm not real sure. Is the silo what he has up now?

CHAIRMAN: What he has up now is a zoning
change on 1621 Moseley Street. He needs to get a
zoning change to be able to build the silo. Because
in a light industrial zone he would not be able to do
the silo and continue his business as it is. He was
grandfathered in as light industrial. Then when he
made a change for a building application to put in the
silo, he had to move to an I-2 zone.

MS. MARY GILBERT: My question will be: Will
this be built up to maybe cut down on dust, dirt and noise? That's my question.

CHAIRMAN: I'll get that answered. Do you have another question so I can do them all at the same time?

MS. MARY GILBERT: Exactly what is a silo anyway?

CHAIRMAN: We'll bring Mr. Agner up to answer that question.

Mr. Agner, 1) What is a silo? 2) Will this silo cut down on dirt and noise?

MR. AGNER: There is an existing silo there.

CHAIRMAN: Would you go into a little bit more description about exactly what is a silo.

MR. AGNER: A silo is a round steel tower. It won't be as tall as the one I have now. They hold cement flash, you know, slag. I've got dust collectors on the system. A lot of the dust comes off the alley. That's a city alley. Any other questions?

CHAIRMAN: That was the questions that she relayed to me. Thank you.

Ms. Gilbert, he answered your question about the silo and the dust. He said a lot of the dust is related actually to the unpaved alley which would be a city alley.
MR. SILVERT: State your name, please.

MS. HAGAN: Nedra Gilbert Hagan.

(NEDRA GILBERT HAGAN SWORN BY ATTORNEY.)

MS. HAGAN: I don't see where this is going to -- the alleyway does cause problems with dust and all.

But the dust in the alley is predominately from the cement from the company. I don't see where health-wise is going to be beneficial to our family home to build this silo. I'm sorry about the zonings and what have you, but I've lived there for 31 years. The last 11 years I've been married. I've been off on my own. But I know these people. They're there at 2:00 in the morning in the summer. They work all hours of day and night. To me it's ridiculous. They're trying to run us out of our property. I'm sorry, that's my feeling on it. If I'm wrong, I'm sorry, but I don't see building a silo closer to the house.

My children play there in the summer while I work. This is going to cause health problems for them. I just don't see the point unless we can come to some kind of agreement.

CHAIRMAN: When you say health problems, what health problems have the children or you had from this situation?
MS. HAGAN: Well, my children have allergies. Kids being kids they want to play outside in the summertime. This extra dust and dirt is going to be flying around. It's not going to do their health any good. I'm not going to make them stay in the house due to this industry or what have you.

MR. APPLEBY: I think the issue though, you may or may not understand is, regardless of whether this zoning, whether we grant this zoning or not, that concrete plant can still operate there in the zone as it exist today. So there's still going to be dust. There's still going to be noise. They're still going to work at two in the morning whether or not we grant this zoning. Do you understand that he can still operate there because he was grandfathered?

MS. HAGAN: Yes. Like I said, I've lived there for 31 years. I've lived with it. I've known about the noise and all. Whatever is going to happen is going to happen.

CHAIRMAN: Mr. Agner, would you return one more time for me, please.

In your earlier testimony you stated with your silo it's going to be smaller than the original silo. You also staid that the silo is equipped with a dust collector.
MR. AGNER: That's correct.

CHAIRMAN: Which should eliminate or greatly negate the dust situation.

MR. APPLEBY: For that silo.

CHAIRMAN: For that silo.

MR. AGNER: That's correct.

CHAIRMAN: Does the other silo have a dust collector on it also?

MR. AGNER: Yes, it does.

CHAIRMAN: So, in other words, according to the standards of your industry and the air quality situation, both silos meet the industry standard?

MR. AGNER: The EPA visits us twice a year usually.

CHAIRMAN: Thank you very much.

Are there any further questions?

Yes, ma'am.

MS. MOORMAN: The silo, is it going to butt up right up to their house or is it going to be on the other end of the lot?

CHAIRMAN: Mr. Agner.

MR. AGNER: The silo --

MS. MOORMAN: See how the lot is situated. Is it going to abut right up to the 16th Street side or is it going to be closer to the other end?
MR. AGNER: The silo will be behind the silo that's there now, butting up against it.

MS. MOORMAN: So which end of the lot is that silo on? The one that you already have.

MR. AGNER: The silo is about the middle of the lot we're talking about.

CHAIRMAN: So the additional silo will be behind or on the south side?

MR. AGNER: It will be on the east side.

MR. APPLEBY: Closer to the alley.

MR. AGNER: Well, they're going to be right beside each other. I'll feed, this silo will feed into a weigh hopper at the present silo.

CHAIRMAN: It will be on the alley side; am I correct?

MR. AGNER: That's correct.

CHAIRMAN: Yes, ma'am, Ms. Gilbert.

MS. GILBERT: Are you talking about --

CHAIRMAN: Ms. Gilbert, direct the questions to me. That way we don't get --

MS. GILBERT: I was wanting to know, does he mean is the silo going to be on the side, they have a tank on the side of the silo that they have now. Is it going to be -- there's a silo and some trees. So I'm wondering if they're going to be cutting down
those trees and moving that tank and then putting a
silo right there? If so, it's going to be still
pretty close to our house.

CHAIRMAN: Mr. Agner.

MR. AGNER: Well, the tank I believe she may
be referring to is a water tank. The silo is not
there yet. The silo is not on site yet, the one that
I'm proposing to put after the zoning change.

CHAIRMAN: The water being used in the mixing
of the cement products?

MR. AGNER: Hot water.

MR. NOFFSINGER: Mr. Chairman, I would just
like to state for the record so there's no
misunderstanding.

The Gilberts property is zoned I-1 Light
Industrial which is the same as the applicant's
property. However, he's wanting to rezone I-2 Heavy
Industrial.

The zoning ordinance does not require
screening elements between I-1 and I-2 properties and
I-1. I'm just wondering if perhaps some type of
screening material along the boundary line that's
common with this property exist or if that would serve
any benefit. It might be acceptable to the neighbors
to move this forward.
MR. AGNER: I wouldn't be here if I didn't need to change the zoning. There is screening. There's pine trees and other trees along the borderline. Some are theirs. Some are mine.

CHAIRMAN: How big are the pine trees, Mr. Agner?

MR. AGNER: Eighteen, fifteen, eighteen feet.

CHAIRMAN: Are there any further questions?

(NO RESPONSE)

CHAIRMAN: Any questions from by commission?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval based on the Staff's Recommendation within the conditions as stated and Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval 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 unanimously.

Next item, please.

ITEM 7

2225 Ragu Drive, 2.239 acres
Consider zoning change: From I-1 Light Industrial to B-4 General Business
Applicant: Martin & Bayley, Inc.; Owensboro Daviess County Industrial Foundation, Inc.

MR. NOFFSINGER: Mr. Chairman, I have a letter from the applicant "requesting one month delay in reviewing our application. Thank you for consideration. Sincerely, Jim Wheatstow, Vice President of Finance."

So Staff would recommend that this item be postponed until our meeting in May. It will be on the second Thursday of May, and that does require a vote.

CHAIRMAN: Do we have any questions?
(NO RESPONSE)

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

MS. DIXON: Move to postpone until the May meeting.

CHAIRMAN: Motion for postponement by Ms. Dixon.

MS. MOORMAN: Second.

CHAIRMAN: Motion for postponement. We have a second by Ms. Moorman. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.
Next item, please.

MR. NOFFSINGER: Mr. Chairman, I have the same
to say about Item 7A. We would recommend you postpone
since the applicant is asking for postponement for the
May meeting.

MS. DIXON: Move to postpone.

CHAIRMAN: Motion for postponement by Ms. Dixon.

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 8

4150 Ridge Road, 10.783 acres
Consider zoning change: From EX-1 Coal Mining to A-R
Rural Agriculture
Applicant: William Zachary Callery

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal
is in compliance with the community's adopted
Comprehensive Plan. The findings of fact that support
this recommendation include the following:

FINDINGS OF FACT:

1. The subject property is located in a Rural
Maintenance Plan Area where rural farm residential uses are appropriate in general locations;

2. The subject property is a large tract over 10 acres in size with agricultural potential;

3. The subject property has access to a public street via a private drive;

4. All strip-mining activity has been completed and all disturbed areas have been reclaimed;

and,

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

MS. STONE: We would like to enter the Staff Report as Exhibit F.

CHAIRMAN: Do we have anybody representing the applicant?

(NO RESPONSE).

CHAIRMAN: Do we have any questions?

(NO RESPONSE)

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

MR. HAYDEN: I make a motion for approval with the Staff Recommendations and the Findings of Fact 1 through 5.
CHAIRMAN: Motion for approval by Mr. Hayden.

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.

ITEM 9

3100 Block Trails Way, 5.313 +/- acres
Consider zoning change: From R-3MF Multi-Family Residential to R-1C Single-Family Residential
Applicant: Jagoe Development, LLC

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation include the following:

FINDINGS OF FACT:

1. The subject property is located in an Urban Residential Plan Area, where urban low-density residential uses are appropriate in limited locations;

2. The use of the subject property as a residential subdivision conforms to the criteria for Urban Residential Development;

3. Sanitary sewer service is currently available to the site; and,
4. The proposed rezoning is a logical expansion of the adjoining R-1C zone and is consistent with the adjoining neighborhoods.

MS. STONE: We'd enter this Staff Report as Exhibit G.

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. MILLER: Motion to approve.

CHAIRMAN: Motion for approval by Mr. Miller.

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Items:

ITEM 9A

The Trails Of Heartland, 5.313 acres
Consider approval of major subdivision preliminary plat.
Applicant: Jagoe Development, LLC
MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. It's use is consistent with the underlying zoning and it meets the criteria outlined in the subdivision regulations and zoning ordinance.

CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions of the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

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, please.
ITEM 10

303, 327 East 14th Street, 4.005 acres (Postponed March 12, 2009)
Consider approval of preliminary development plan.
Applicant: Martin & Bayley, Inc.; Rexel Southland

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Engineering Staff and Planning Staff. It's found to be in order. Its use is consistent with the underlying zoning and it's recently changed by this commission. The plan meets with the adopted public improvement specifications, the zoning ordinance and sub reg and is ready for your consideration. Before construction can take place there will need to be a final development plan approved.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Rogers.

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.

Next item.

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COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

ITEM 11

President's Place, 26.7 acres
Consider approval of major subdivision preliminary
plat/final development plan.
Applicant: Wabuck Development Company, Inc.;
Christian Care Communities

MR. NOFFSINGER: Mr. Chairman this plat has
been reviewed by the Planning Staff and Engineering
Staff. It's found to be in order. Its use is
consistent with the underlying zoning. The
development is proposed to be constructed in
compliance with the local adopted zoning ordinance,
subdivision regulations and public improvement
specifications.

CHAIRMAN: Is anybody 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.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval.

MR. PEDLEY: Second.

CHAIRMAN: We have a motion for approval and a second. All in favor raise your right hand, please.

(ALL BOARD MEMBERS PRESENT RESPOND AYE.)

CHAIRMAN: Motion passes unanimously.

Next item, please.

MINOR SUBDIVISIONS

ITEM 12

2400 Grimes Avenue, 1445 Ragu Drive, 1.615 acres
Consider approval of minor subdivision plat.
Applicant: J&L Welding and Machine Shop, Inc.

MR. NOFFSINGER: Mr. Chairman, this plat comes before you to subdivide an existing lot of record with the existing development on the property. The issue is regarding the access to the property. Planning Staff in review of the application have recommended that the lot division could take place, but a shared driveway would have to be utilized for both lots. There's already an existing driveway to the property on Ragu Drive. Both streets are major collector streets and carry a 250 foot spacing requirement. The applicant is proposing a driveway on Grimes Avenue
that's not consistent with the adopted access standards. It's located in close proximity to a rail line. Planning Staff feel that because it does not meet this proposed access, does not meet the adopted spacing standards and its location in close proximity to the existing rail line and it should not be approved.

Again, we do not see any issues with the lot division so long as they share a drive with the existing lot on Ragu Drive. They do wish for your consideration. They're here tonight to speak to the division.

MR. APPLEBY: I have a question. You said that it's 250 feet. So it's not going to meet at either side. Either Grimes or Ragu, right?

MR. NOFFSINGER: Probably not. I can't see those numbers on the screen. It's a 250 foot spacing standard. They're limited to one, to the existing access point on the property.

MR. APPLEBY: On Grimes Avenue, if I'm looking at this correctly, they've got 239 feet of frontage and they're 25 feet off the line with their proposed access point which would put it at about 264 feet to the center line of Grimes, wouldn't it?

MR. NOFFSINGER: I think Ms. Stone may have
some additional information, but I think it's still --

MS. STONE: Your numbers may be correct.

There is a previous plat of record that limits it to
one access point as well on this property. I can't
really read the numbers either, but it looks like it
may be 250 feet on Grimes, but there's a plat of
record that has a limitation for one access on Ragu
Drive.

CHAIRMAN: Ms. Stone, you're referring to the
property, meaning the property before it was
subdivided was limited to one access only on Ragu?

MS. STONE: Right. Where that existing access
point is, yes.

CHAIRMAN: Obviously it would be or it would
be equitable for both property owners to be able to
share that exit there on Ragu, that entrance on Ragu
Drive?

MS. STONE: That's what we would recommend.
The shared access point.

MR. APPLEBY: Would you be recommending them
move the existing access point to the point on the
line for both lots?

MS. STONE: Or recommend an access easement
across the front entrance lot on Ragu and leave the
access point as it currently exist.
CHAIRMAN: Is there any comments or questions from the audience?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

Do we have the applicant here?

(NO RESPONSE)

CHAIRMAN: If not then we have no questions. The chair will be ready for a motion.

MS. MOORMAN: If they're not here, I make a motion to approve that they only have the one access to their property on Ragu Drive, right?

CHAIRMAN: You're making the motion to approve the Staff's recommendation?

MS. MOORMAN: Staff's recommendation to just have the -- if they're not here to say anything about it, I say we approve it.

CHAIRMAN: Based on the Staff's recommendation?

MS. MOORMAN: Based on the Staff's recommendation that we approve the only access to their property would be on Ragu Drive.

MS. DIXON: Shared access.
MS. MOORMAN: Shared access.

CHAIRMAN: A shared access with access only on
to Ragu Drive.

MS. MOORMAN: Yes.

CHAIRMAN: We have a motion for approval based
on the Staff's recommendations by Ms. Moorman.

MS. DIXON: Second.

CHAIRMAN: We've got a second by Ms. Dixon.

Mr. Noffsinger.

MR. NOFFSINGER: I would ask for you to
consider an amendment to that. It is for approval.
You authorize the Planning Director to sign that plat
once the plat is changed to reflect your action. In
other words, we can't sign the plat tonight. I don't
want to hold anything up should they wish to move
forward with the plat. So that I be directed to sign
the plat as long as it's consistent with your motion.

CHAIRMAN: Ms. Moorman, are you willing to
amend your motion?

MS. MOORMAN: Yes. That's fine.

CHAIRMAN: Would you just go ahead and state
that for the record, please.

MS. MOORMAN: I make a motion on this approval
of the Staff recommendation that we won't do anything
until Gary reads it and signs it.
CHAIRMAN: Giving Gary the authorization to sign it?

MS. MOORMAN: Yes.

CHAIRMAN: Thank you, Ms. Moorman.

Ms. Dixon, didn't you have a second?

MS. DIXON: That would be a second.

CHAIRMAN: Ms. Dixon has a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously. Thank you very much.

Next item, please.

ITEM 13

423, 425 West Pettit Road, 3.263 acres
Consider approval of minor subdivision plat.
Applicant: Frank A. List

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has reviewed this application. It comes before you because I think it slightly exceeds the depth to width ratio. It does both lots. They're taking an existing lot of record and dividing it into two lots.

When you do that, there's a manufactured home on the property and I think a home on the property. So they won't be able to separate them. When you make this division, I think it's slightly exceeds the three to one depth to width ratio. However, given the
development of the property and the fact that they're
not trying to maximize the number of lots on the
property, the lot was created many years ago, that we
would recommend approval.

CHAIRMAN: Do we have any comments? Do we
have any questions?

(NO RESPONSE)

MR. APPLEBY: Motion for approval.

CHAIRMAN: 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.

AGRICULTURAL SUBDIVISION

ITEM 14

11755, 11765 Grandview Drive (Postponed March 12,
2009)
Consider approval of agricultural subdivision plat.
Applicant: Peggy McDaniel & Anita Coons

MR. NOFFSINGER: Mr. Chairman, I think Becky
Stone may have more information on this division than
what I can share.

MS. STONE: This application comes before you
again this month. Last month the Staff made a recommendation not to approve this division because there is no frontage on public right-of-way for the two lots that are being created.

You had asked that someone be here to represent the reason for this division prior to making your decision, and I think the applicant's surveyor is here tonight to describe what they would like to do.

MR. SILVERT: State your name, please.

MS. WIMMER: Linda Wimmer.

(LINDA WIMMER SWORN BY ATTORNEY.)

MS. WIMMER: Peggy McDaniel and her sister, Anita Coons, have owned this property for years. Peggy's husband, John, is in ill health. To set their affairs in order they want to sever their interest in this particular property. They don't plan on subdividing. They just want their interest separated for financial reasons.

MR. APPLEBY: Still agricultural?

MS. WIMMER: Yes. I believe they lease it out. There is 50 foot access provided in the previous deeds which services several farms.

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: The question you stated that this division is for financial purposes to separate
their interest, what do they intend to use the
properties for?

    MS. WIMMER: Nothing. They're just going to
continue to lease out.

    MR. NOFFSINGER: Is it agricultural row crop
or what's it used for?

    MS. WIMMER: Yes, it's row crop. Corn.

    MR. NOFFSINGER: So they have no intentions of
sell or lease to the general public?

    MS. WIMMER: No.

    CHAIRMAN: Do we still have an obligation to
have a right-of-way, Mr. Noffsinger?

    MR. NOFFSINGER: Their existing right-of-way
to the property is not being created by this division.
It's a 15 foot pass way.

    The question of use comes into play because,
you know, is this truly an agricultural division? We
have the applicant's surveyor on record stating that
the intent is for financial purposes, but the use of
the property is for farming.

    So given that I think you may want to consider
approval of this division with no further divisions of
either one of these tracts and tracts in the future
for any reason. I say "any reason." What I'm getting
at is right now if you created the second tract, I
think it's the second tract or you created two additional tracts, if you're creating the two additional tracts you could end up with two additional homes being constructed on the property. I think you may justify it based upon saying, no further divisions of the property. You can consolidate and make fewer lots, but not additional lots. Then you only end up with three potential homes on the property down the road. I think right now you probably have enough land for three now.

MS. WIMMER: I believe we addressed that with an additional note on the plat. That there be no more division without addressing the access issue.

MR. APPLEBY: Without addressing the access.

MS. WIMMER: Right.

CHAIRMAN: Would we want to address the access issue now?

MR. APPLEBY: She's got the note on the plat.

MR. NOFFSINGER: I think it's addressed based upon the existing pass way. In other words, it needs to be understood that they could not create any additional tracts unless they were able to get the adequate frontage along a public road to tie it to these tracts.

MS. WIMMER: They understand that.
MR. NOFFSINGER: Or they build a public street, which probably not likely.

MS. WIMMER: Right.

MR. NOFFSINGER: But that would be the other possibility. You could build three homes on this property right now as it stands with the division. You would still only build three homes, but I think we do need that note and they need to understand that if they were to come in for a one acre division or a two acre division for financing purposes for a home that it would be in conflict with the note that's on the plat and should not be approved.

MS. WIMMER: They are not planning on any division periods.

MR. NOFFSINGER: This will be it?

MS. WIMMER: Yes.

MR. NOFFSINGER: Thank you.

CHAIRMAN: Thank you very much.

Are there any questions?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval with the understanding that there is a note on the plat reflecting there will be no further divisions without
addressing the public access.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

The chair is ready for one final motion.

MS. DIXON: Move to adjourn.

CHAIRMAN: Motion for adjournment by Ms. Dixon.

MR. TAYLOR: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY )
       )SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS )

    I, LYNNETTE 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 63 typewritten pages; and that no signature
was requested to the foregoing transcript.

    WITNESS my hand and notary seal on this the
1st day of May, 2008.


LYNNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:  DECEMBER 19, 2010

COUNTY OF RESIDENCE:  DAVIESS COUNTY, KENTUCKY