The Owensboro Metropolitan Planning Commission
met in regular session at 5:30 p.m. on Thursday, May
14, 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
Mark Starnes, Attorney
Tim Miller
Irvin Rogers
Wally Taylor
Keith Evans
Martin Hayden
Rita Moorman

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CHAIRMAN:  I'd like to welcome everyone to the
May 14th Planning & Zoning Commission. Will you
please rise while our invocation and pledge is given
by Mr. Ward Pedley.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Our first item of business is to
consider the minutes of the April 9, 2009 Planning
meeting. Are there any questions, corrections?

(NO RESPONSE)

CHAIRMAN:  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.

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, Mr. Noffsinger.

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ZONING CHANGE

ITEM 2

1805 Frederica Street, 0.22 acres
Consider zoning change: From R-4DT Inner-City Residential to P-1 Professional/Service Applicant: JMN Ventures, LLC

MR. STARNES: Could you state your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: With all the rezonings that you'll hear tonight they will become final 21 days after the meeting unless an appeal is filed. In that case, it will be forwarded to the appropriate legislative body for their consideration. The appeal
forms are available on the back table and in our office and on our web site.

PLANNING STAFF RECOMMENDATIONS

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

CONDITION:

No access shall be permitted to Frederica Street. The existing curb cut to Frederica Street shall be physically closed with the grass strip restored, sidewalk installed and curb and gutter replaced.

FINDINGS OF FACT:

1. The subject property is located in a Central Residential Plan Area, where professional/service uses are appropriate in limited locations;

2. The proposed use as an office meets the requirements for nonresidential development;

3. The proposed zoning change is a logical expansion of existing P-1 zoning located to the north; and,

4. With no access to Frederica Street and
indirect access to West 18th Street via an existing alley, the expansion of P-1 zoning should not overburden the capacity of roadway and 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 A.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions of anybody?

(NO RESPONSE)

CHAIRMAN: Commission have a question?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval based on Planning Staff Recommendations with the one condition and the Findings of Facts 1 through 4.

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

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 3

Portion of 4906 Old Hartford Road, 1.68 acres
Consider zoning change: From A-U Urban Agriculture to
R-1A Single-Family Residential
Applicant: Kishor N. Vora; Independence Bank, Trustee
of the Marian H. Poor Trust U/W

PLANNING STAFF RECOMMENDATIONS

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

CONDITION:

Approval of a consolidation plat to
consolidate the subject property with 27 Stone Creek
Park.

FINDINGS OF FACT:

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

2. The proposed use meets the requirements
for urban residential development;

3. The proposed zoning change is a logical
expansion of existing R-1A zoning located to the west;
and,

4. The consolidated lot will be served by sanitary sewer.

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

CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does any of the commissions have any questions?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval based on the Staff Recommendations with the single condition and Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval by Mr. Appleby.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.
ITEM 4

2225 Ragu Drive, 2.239 acres (Postponed at the April 9, 2009 meeting)
Consider zoning change: From I-1 Light Industrial to B-4 General Business
Applicant: Martin & Bayley, Inc.; Owensboro Daviess County Industrial Foundation, Inc.

PLANNING STAFF RECOMMENDATION

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. No access shall be permitted to East Parrish Avenue;
2. Access to Ragu Drive shall be limited to the right-in only and full access point as shown on the preliminary development plan submitted in conjunction with the rezoning request;
3. Approval of a final development plan prior to the issuance of building permits; and,
4. Sidewalks shall be installed along all public rights-of-way.

FINDINGS OF FACT:

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

2. The proposed use as a convenient store meets the requirements for nonresidential development;

3. The proposed zoning change is a logical expansion of existing B-4 zoning located to the south across East Parrish Avenue; and,

4. With no access to East Parrish Avenue and access on Ragu Drive evaluated by a traffic access study, the expansion of B-4 zoning should not overburden the capacity of roadways and 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 C.

CHAIRMAN: Do we have anybody here representing the applicant?

MR. KAMUF: Mr. Chairman, we're here to answer any questions.

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

MR. KAMUF: Charles Kamuf.

MR. STARNES: My understanding, Mr. Kamuf, is you're an attorney so we recognize your oath in that capacity.
MR. KAMUF: Thank you.
Yes, sir, Mr. Chairman.

CHAIRMAN: Mr. Kamuf, we just wanted to make
sure if you did step to the mike we have you sworn in
or identified properly.

MR. KAMUF: Thank you.

CHAIRMAN: Does anybody have any questions of
the applicant?

(NO RESPONSE)

CHAIRMAN: Any of the commission have any
questions?

(NO RESPONSE)

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

MR. HAYDEN: I make a motion for approval with
Conditions 1 through 4 and the Staff Recommendation
and Findings of Fact 1 through 4.

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

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.
Related Item:

ITEM 4A

2225 Ragu Drive, 2.239 acres (Postponed at the April 9, 2009 meeting)
Consider approval of preliminary development plan.
Applicant: Martin & Bayley, Inc.

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. The plan is found to be in order. The proposed use is consistent with the rezoning that you just heard.

The applicant does come to you asking for an exception to the access spacing standards along Ragu Drive to allow -- they have enough frontage for two driveways on the property; however, due to the topography reasons they need to locate the access points somewhat closer to Kentucky 54 than the Access Management Manual will allow.

They have made a part of the application a traffic study prepared by an engineer. That traffic study indicates that the way they had the access proposed would be safe and provide for efficient access to the site.

So with that we do recommend that you grant permission for the second access point and to waive the access management standards and to approve the
CHAIRMAN: Is anybody here representing the applicant?

MR. KAMUF: Yes, sir. The same.

CHAIRMAN: Thank you.

Do we have any questions of the applicant?

MR. MILLER: Mr. Chairman, I've got just for clarification.

Can I assume by the drawing that the, I guess the east entrance, the one closest to Highway 54, is that entry only?

MR. NOFFSINGER: Yes, sir. That would be right-hand only. That is as recommended by the traffic study.

MR. MILLER: Okay.

CHAIRMAN: Are there any other questions?

(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

1000, 1006 East Fifth Street, 517 Hathaway Street, 0.379 +/- acres
Consider zoning change: From B-4 General Business to I-1 Light Industrial
Applicant: James Gregory Wimsatt

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. No access shall be permitted to East Fifth Street. Access shall be limited to Hathaway Street only;
2. Access to Hathaway Street shall be a minimum of 50 feet from the property line;
3. All outdoor storage areas shall be screened with a six foot solid element with one tree every 40 linear feet.

FINDINGS OF FACT:
1. The subject property is located in a Central Residential Plan Area, where light industrial uses are appropriate in very-limited locations;
2. The proposed use as a parking/storage area meets the requirements for nonresidential development;
3. The proposed zoning change is a logical expansion of existing I-1 zoning located to the east and south;
4. At 0.379 acres, the proposed rezoning will not significantly increase the extent of industrial zoning in the area and outside of industrial parks; and,
5. With no access to East Fifth Street the expansion of I-1 zoning should not overburden the capacity of roadways and 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 D.

CHAIRMAN: Do we have anybody here representing the applicant?

MR. WIMSATT: Yes.

CHAIRMAN: Do we have any questions of the applicant?

(NO RESPONSE)

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

MR. MILLER: Mr. Chairman, I'm full of questions tonight. One more.
The proposed use is temporary parking?

CHAIRMAN: Yes, sir.

MR. MILLER: So what's down the road? I mean what's the use after the parking?

CHAIRMAN: Mr. Noffsinger.

MR. MILLER: Maybe I'm just misunderstanding that.

CHAIRMAN: How do you want to handle that?

MR. NOFFSINGER: I think we probably need to hear from the applicant since it regards use of the property.

CHAIRMAN: Step forward, please.

MR. STARNES: Could you state your name, please.

MR. WIMSATT: James Gregory Wimsatt.

(JAMES GREGORY WIMSATT SWORN BY ATTORNEY.)

MR. WIMSATT: We're planning an expansion on the rest of that block. This will be parking for anybody that needs parking while we're building that expansion.

We have a development plan, but we haven't got the architect, you know, the drawing of the building yet. So it will be a parking lot until then. Then after that it will still be a parking lot. I'm not too sure how much it will be used after that.
CHAIRMAN: I see Mr. Mischel moving to the stand.

Mr. Wimsatt, would you mind Mr. Mischel taking the stand.

MR. STARNES: Could you state your name, please.

MR. MISCHEL: Jim Mischel.

(JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: One reason why we kind of call it temporary parking too is basically they work on vehicles that have been wrecked. If you go with the City of Owensboro's Wrecker Ordinance, to tow cars to a location you have to be in an I-2 Heavy Industrial zone with a Conditional Use Permit, which means you have to be like 300 feet away from a residential zone, 100 feet away from a commercial zone.

In his case, they work on cars and stuff like that. They can have cars there, you know, if they're working and it might be a week or two weeks before they can get to it, that's fine. They can have the car parked there waiting to be serviced, but they shouldn't be bringing cars there just from the wrecker and just parked there and they're collecting fees on it and then they go someplace else to get it fixed. If the car is there to be fixed, that's okay to park
it there or put it in storage behind the fence.
That's kind of his purpose here. Just for the
vehicles he's working on to have them there.

CHAIRMAN: Mr. Miller.

MR. MILLER: Thank you.

CHAIRMAN: Mr. Wimsatt, would you step back to
the podium, please.

You totally understood your classification of
temporary parking?

MR. WIMSATT: Yes.

CHAIRMAN: I just wanted to make sure. Thank
you.

Does anybody else have any further questions?
(NO RESPONSE)

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

MR. ROGERS: Motion for approval based on
Planning Staff Recommendation with Conditions 1
through 3 and Findings of Fact 1 through 5.

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

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.

Thank you very much.

Next item, please.

ITEM 6

Portion of 104 West Ninth Street, 1.29 +/- acres
Consider zoning change: From I-1 Light Industrial and
B-4 General Business to B-2 Central Business
Applicant: City of Owensboro, Bryant Commercial
Multiple, LLC

PLANNING STAFF RECOMMENDATION

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 West Ninth Street shall be
limited to the existing access point. No additional
access to West Ninth Street shall be permitted;

2. Approval of a final development plan for
the subject property; and,

3. All vehicular use areas shall be paved
with appropriate vehicular use area screening
installed on private property between the parking and
the road right-of-way.

FINDINGS OF FACT:

1. The subject property is partially located
in a Business Plan Area, where central business uses
are appropriate in very-limited locations and
partially located in an Industrial Plan Area, where
central business uses are appropriate in very-limited
locations;

2. The subject property is a component of the
Downtown Owensboro Place Making Initiative Master
Illustrative Plan adopted by the OMPC in March 2009
and the request is consistent with the concepts of the
plan;

3. The use of the property for laboratories
and office space will be nonresidential in nature;

4. The proposed zoning change is a logical
expansion of existing B-2 zoning located north of the
subject property across West Ninth Street;

5. The B-2 zoning classification will promote
the redevelopment of an existing building on the site
to provide office and laboratory space for start-up
businesses in the near-downtown area; and,

6. The proposed rezoning is an integral part
of a City of Owensboro initiative to provide new
business opportunities and jobs that will serve the
area.

MR. HOWARD: We would like to enter the Staff
Report into the record as Exhibit E.
CHAIRMAN: Do we have anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions of the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve based upon Planning Staff Recommendations, the Conditions 1, 2, 3 and the Findings of Fact 1 through 6.

CHAIRMAN: We’ve got a 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 7

1031 East 18th Street, 0.554 +/- acres
Consider zoning change: From I-1 Light Industrial to B-5 Business/Industrial
Applicant: Jim Wieder Enterprises, 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:

**CONDITION:**

1. Access to East 18th Street shall be limited to the existing access point only. No additional access to East 18th Street shall be permitted;

2. All vehicular use areas shall be paved with appropriate vehicular use area screening provided;

3. All outdoor storage areas shall be screened with a six foot solid element with one tree every 40 linear feet;

4. A six foot tall element with one tree every 40 linear feet within a 10 foot landscape easement shall be installed along the west boundary where adjoining residential zoning; and,

5. Due to the proximity to residential zoning, all lighting on the site shall be directed away from the residences.

**FINDINGS OF FACT:**

1. The subject property is located within a Business/Industrial Plan Area, where general business
and light industrial uses are appropriate in general locations;

2. The subject property lies within an existing area of mixed industrial and commercial land uses;

3. The Comprehensive Plan provides for the continuance of mixed use areas; and,

4. The proposed land use for the subject property is in compliance with the criteria for a Business/Industrial Plan Area and a B-5 Business/Industrial zoning classification.

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

CHAIRMAN: Is anybody representing the applicant?

MR. YECKERING: Yes. I'm Jim Yeckering.

MR. STARNES: Could you state your name again, please.

JIM YECKERING: Jim Yeckering.

(JIM YECKERING SWORN BY ATTORNEY.)

MR. YECKERING: I just had a question about Condition Number 4. I think there might be something you could do, some sort of variance on part of that. We already have the 40 linear feet with 6 foot tall wall there, fence, but I was wondering if
you could do something with that 10 foot landscape easement. It's an existing commercial type. Part of it is parking lot. I don't know if I'm asking this right.

MR. NOFFSINGER: What we might do is we would amend this language to read that it would be an average 10 foot landscape easement unless a variance is approved by the Owensboro Metropolitan Board of Adjustment. Is that what you're asking for? To have an option that you not have to do it?

MR. YECKERING: I don't really know. If there's a way to not do it at all would be great, but to get through here tonight if you could do an average, I guess that would be one thing and then could we try to get a variance later?

MR. NOFFSINGER: Yes. I believe the ordinance would allow you to average that easement. Then if that doesn't work for you, then you would have the opportunity to go to the Board of Adjustment for a Variance. That would be an application to a separate board, but that doesn't pin you down having to having to provide this as a condition to the rezoning.

MR. YECKERING: That would be great. We could do an average then. Thank you.

CHAIRMAN: Mr. Mischel.
Mr. Yeckering, I think Mr. Mischel is walking this way to the podium to address this.

MR. MISCHEL: Jim Mischel gain. Sound like you have it worked out. I was going to give you a little history on it.

That's where the Diamond Rental place used to be is the property he's talking about. So a lot of people might not know that, but it's the old Diamond Rental place. They have concrete parking lot up to that. It was developed years ago. They do have a fence along there for a buffer of residential. It's in need of repair. He's agreed to make those repairs to the fence. I guess his question is the parking lot that goes up to it. I thought just let you know it's the old Diamond Rental place.

CHAIRMAN: And your opinion, Mr. Mischel, on his request?

MR. MISCHEL: I would say we'll work with him to see if we can average. It might be something in the back. The parking lot only extends up to the front of the building. I would have to talk with him beyond that fence what's back there. He might be able to average that. It's just something we have to work with him. Then potentially go for a variance.

CHAIRMAN: Thank you, Mr. Mischel.
Mr. Yeckering, you understood what he said?

MR. YECKERING: Yes.

CHAIRMAN: Are there any further questions of the applicant?

(NO RESPONSE)

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on Findings of Fact by Staff 1 through 4, and Conditions 1, 2, 3, and 5, and amend item 4 to allow an average 10 foot landscape easement.

Is that what you're asking for, Mr. Noffsinger?

MR. NOFFSINGER: Yes, sir.

MR. PEDLEY: Or come before the Board of Adjustment for a variance.

CHAIRMAN: Does he also have the option to work it out with the Staff in-house?

MR. NOFFSINGER: Yes. That's what we're going to work with him on the average to make sure. If he can meet ordinance, it's great and we won't have to do the Board of Adjustment.

MR. APPLEBY: Second.

CHAIRMAN: We've got a motion by Mr. Pedley for approval. We've got a second by Mr. Appleby. All
in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The motion carries unanimously.

We have one final item.

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NEW BUSINESS

ITEM 8

Consider for approval Fiscal Year 2010 OMPC budget and salary chart.

CHAIRMAN: Everybody received a copy of this for your review. Does anybody have any comments or questions?

(NO RESPONSE)

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

MR. TAYLOR: Make a motion to approve.

CHAIRMAN: Motion for approval by Mr. Taylor.

MS. MOORMAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The motion carries unanimously.

We're ready for one final motion.

MS. DIXON: Move to adjourn.

CHAIRMAN: Motion for adjournment by Ms.
Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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

WITNESS my hand and notary seal on this the 30th day of May, 2009.

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