The Owensboro Metropolitan Planning Commission
met in regular session at 5:30 p.m. on Thursday,
October 8, 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  
                Ward Pedley  
                Irvin Rogers  
                Wally Taylor  

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CHAIRMAN:  I would like to welcome everybody
to the October 8, meeting of the Owensboro
Metropolitan Planning Commission.  Will you please
rise for our invocation, please.  Our invocation will
be given by Ms. Judy Dixon.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Our first order of business is to
consider the minutes of the September 10, 2009
meeting.  Are there any questions, additions,
corrections?

(NO RESPONSE)

CHAIRMAN:  If not the chair is ready for a
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.

ITEM 2

Presentation by Carolyn Franklin about the 2010 Census Complete County Committee.

MS. FRANKLIN: Thank you for letting me come and present about the 2010 census. It's the ten year census count. It is how $425 billion is divided up annually based on the ten year census. That's over $4 trillion. So in nine years our 2010 censuses population comp figures will still be being used to divide up the amounts. So it's critical that we get the amounts correct for the communities to get your fair share of the funding.

What a complete count committee is, is just that. It's the trusted voices, the leaders of the community, the people that know the people or how to get out to all aspects of the community seniors,
children, faith based. All the community leaders to
make sure that we get the word out, get the word out,
get the word out so that in March and April of 2010,
April 1st of 2010 is census day. The forms start
going to the homes in March.

You have a sample in your packets. It's a
sample, only a sample. Please don't return them.
This is not the real form, but it's pretty much what
it's going to look like. It's the honor system. It's
self-reporting. So when everyone gets their form next
year, just fill it out and send it in. That's all.

If someone does not want a visit to their
home, that's all they have to do is fill out the form.
If the form is not returned, a follow-up postcard
comes or another form. If that's not returned, that
activates an actual in-person visit which cost us $90
million for every one percent of the population that
we have to follow up with. So that's why we're doing
this ahead. We're partnership folks out partnering
across the state and across the country to get the
word out for everyone to return their forms so we get
our correct population counts.

Whoever you all know for the complete count
committees, that is exactly who we are looking to do
the outreach to. You all have the committee. You set
the agenda. You all know your communities better than anybody. That's what this is all about. It's all about when this happens next year everyone has been somehow informed, touched, got the word out. You all know how to do that. You're the planning folks.

Whatever I can provide, whatever feedback we can do, that is the whole point. To get the funding for your community. All the population figures are delivered to the president at the end of 2010. Starting April 1, 2011 those population counts go back to the states. That is then for potential redistricting. Then the population numbers are distributed like that. It's just critical. We have a whole program for census in the schools because the children are the undercounted population. So we have special outreach for that as well.

Do any of you all have any questions?

(NO RESPONSE)

CHAIRMAN: Very good. Thank you very much.

MS. FRANKLIN: I have something else. You all have a packet. In the information in your packet, it's got various information. Any information in there you can use all or in part for drop-in articles, newsletters, quotes, anything like that. You all have a partnership agreement on one side, on the left side
of your packet. On the back of it is a variety of ways you can partner, folks you know can partner with the census. My name is on one side of it. You can fill out the other side. Feel free to copy and distribute. This is how we get the word out. Whether it be a link to your website, a link to your organization or people you know website. Drop-in article. There's a variety of ways. So please look at your partnership agreement and we will be following up to pick up partnership agreements. Thank you.

CHAIRMAN: Thank you.

Mr. Noffsinger, our next item, please.

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CELLULAR TELECOMMUNICATIONS FACILITIES PER KRS 100.987

ITEM 3

3560 Hayden Road (Postponed September 10, 2009)
Consider approval of a wireless communications tower.
Applicant: Daviess County School District Finance Corp.; AT&T Wireless

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: This application comes before you as a mono pole cellular antenna tower that is 199 feet tall. They're seeking placement on the Meadow Lands Elementary School property. The lease site area that
they're proposing is a 100 by 100 foot lease area.

They've submitted a minor subdivision plat to the office, it's a related item on the agenda, for the creation of that lease area. They state in their application material that there are no other suitable locations in the vicinity, no other collocations that they could use within the vicinity and that the new tower will provide better cell phone service to the community.

The application materials are complete. They meet all guidelines and requirements in regards to residential structure, setbacks. Height at 199 feet is below the 200 foot maximum allowed by ordinance.

Their screening plan calls for a 6 foot tall chain-link fence and a double row of staggered pine trees. No signs proposed on the site. They are providing opportunities for co-location and they are not requesting any waivers.

With that we have the findings that:

1. The application is complete with all materials in accordance with the Owensboro Metropolitan Zoning Ordinance;

2. The site is in compliance with all design criteria of the Owensboro Metropolitan Zoning

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Ordinance; and,

3. The permanent tower will improve cellular telephone service for users within the community; and,

4. By providing the opportunity for three additional service providers on this tower, we are promoting the goal of the Comprehensive Plan to encourage collocation in order to minimize the number of telecommunications tower.

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

CHAIRMAN: Are there any questions?

(NO RESPONSE)

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

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

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

MR. PEDLEY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The motion carries unanimously.

Next item please, Mr. Noffsinger.
Related Item:

ITEM 3A

3560 Hayden Road
Consider approval of a minor subdivision plat.
Applicant: Daviess County School District Finance Corp.

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. The plat comes to you as an exception to the subdivision regulations in that the lot does not have frontage on public right-of-way. It is an undersized lot from the zone that it's in. However, it is for a cell tower. There is a notation on the plat that states that it's for that purpose and not for building, residential building activity. So with that we would recommend that you grant approval.

CHAIRMAN: Is anybody here representing the applicant?

MR. SULLIVAN: Yes, sir. I'm Terry Sullivan with SBA Network Services.

MR. SILVERT: Let me swear you in, Mr. Sullivan.

(TERRY SULLIVAN SWORN BY ATTORNEY.)

CHAIRMAN: Mr. Sullivan, why don't we wait and see if there are any questions. If there are any
technical questions, we'll call them up.

Are there any questions of the applicant?

(NO RESPONSE)

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

MR. APPLEBY: Move for approval.

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.

Next item, please.

ITEM 4

343 Sutton Lane
Consider approval of a wireless telecommunications tower.
Applicant: William R. Mathis; AT&T

MR. HOWARD: This application comes before you tonight as a temporary cellular on wheels tower. It's 115 feet tall.

This site has previously had a temporary tower approved. They are in the process of working on a permanent location. The temporary tower came as a result of the water tower that was removed on Fourth Street. So they're asking for another extension of
six months while the final lease is worked out. Basically this site will have the two "boat trailer" type of things on the site. One will house the tower and the other will have the support equipment. The tower will not require illumination. It meets setback requirements, the residential structure requirement. It's below the maximum height requirement.

They do ask for a couple of waivers. One is on the evergreen requirement for screening around the site. In their application materials, they state that there is existing trees in the area, and due to the temporary nature of the site they would request that those be waived. I guess, that's the only waiver. I'm sorry, I thought there was a second. Those waivers have previously been granted from the Planning Commission.

We present this with findings that:

1. The application is complete with all materials in accordance with the Owensboro Metropolitan Zoning Ordinance;

2. Compliance with all design criteria of the Owensboro Metropolitan Zoning Ordinance; and,

3. Temporary in nature, the proposed tower will provide much needed cellular phone service while
plans for a permanent tower are completed and approved.

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

CHAIRMAN: Is there anybody here representing the applicant?

MS. JACOBS: My name is Kathy Jacobs with Retail Brokerage Services. I work for AT&T.

CHAIRMAN: Let me see if there are any questions.

Are there any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission have any questions?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

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

121 Woods Road
Consider approval of a wireless telecommunications tower.
Applicant: Herman R. & Martha L. Miller;
Powertel/Memphis, Inc. d/b/a T-Mobile Kentucky

MR. HOWARD: This tower comes before you as a 199 foot tall lattice type cellular structure. It is located on U.S. Highway 60 West closer to Henderson County boundary.

The lease area that they were proposing is an 80 by 80 foot lease area. They have submitted a minor subdivision plat that should create that lease area of tract. Their application is complete with all materials submitted to the office.

They are requesting a couple of waivers with the application. They meet all the requirements as far as illumination, staffing and signs; however, due to the lease area size, the lattice type tower structure setback is one-half the height of the tower. With only an 80 by 80 lease area that cannot be accomplished within the 80 by 80 lease area. However, within the boundary of the parent tract the setback could be accomplished. So with that we would feel that the waiver request is reasonable. Otherwise, it meets all the requirements as far as screening and other applicable signs, location. They are providing
co-location opportunity on the tower as well.

With that we enter the Staff Report into the record with the following findings:

1. The application is complete with all materials in accordance with the Owensboro Metropolitan Zoning Ordinance;

2. The site is in compliance with all design criteria of the Owensboro Metropolitan Zoning Ordinance; and,

3. The permanent tower will improve cellular telephone service for users within the community; and,

4. By providing the opportunity for three service providers on this tower, we are promoting the goal of the Comprehensive Plan to encourage co-location in order to minimize the number of telecommunication towers.

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

CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Let's see if there are any questions.

There are any questions?

(NO RESPONSE)
CHAIRMAN: If there are no questions the chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

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 Item:

ITEM 5A

121 Woods Road
Consider approval of a minor subdivision plat.
Applicant: Herman R. & Martha L. Miller

MR. NOFFSINGER: Mr. Chairman, Planning Staff and Engineering Staff have reviewed this plat. It's found to be in order. It comes to you as an exception to the subdivision regulations in that it does not have frontage on the public right-of-way and it is undersized to meet the minimum lot size of the zone that it's located; however, there is a notation on this plat that states it is to be used for cell tower purposes only, and they have provided an access easement from public right-of-way to this lot. So with that we would recommend it be approved.

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(270) 683-7383
CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: So noted.

Are there any 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.

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ZONING CHANGES

ITEM 6

2901 Veach Road, 0.193 acres
Consider zoning change: From B-4 General Business to R-1B Single-Family Residential
Applicant: William & Joan Kolok; Kolok Wood & Stone, LLC

PROPOSED ZONE & LAND USE PLAN

The applicant is seeking an R-1B Single-Family Residential zone. The subject property is located in
a Business Plan Area, where urban low-density residential uses are appropriate in very-limited locations.

SPECIFIC LAND USE CRITERIA

(A) Building and lot patterns - Building and lot patterns should conform to the criteria for "Urban Residential Development" (D6)

(B) Existing, expanded or new sanitary sewer - Urban Low-Density Residential uses should occur only where sanitary sewer systems exist or may be expanded or where new systems may be properly established.

(C) Only logical expansions - In Business plan areas, completely new locations of Urban Low-Density Residential use should not be established. However, existing areas of this use may be expanded onto contiguous land.

PLANNING STAFF REVIEW

GENERAL LAND USE CRITERIA

Environment

* It appears that the subject property is not located in a wetlands area per the US Department of Agriculture Soil Conservation Service, map dated March 6, 1990.

* The subject property is located in a special flood hazard area and floodway per FIRM Map.

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2059CO276D.

* It appears that the subject property is outside the Owensboro Wellhead Protection area per the GRADD map dated March 1999.

* The developer is responsible for obtaining permits from the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

Urban Services

All urban services, including sanitary sewers, are available to the site.

Development Patterns

The subject property is surrounded by B-4 General Business zoning classification on all sides. The B-4 zoned property to the north is an existing single-family residence. All other surrounding land uses are consistent with B-4 zoning classifications.

The applicant states in their findings that the property to the south is a single-family residence being used as an insurance office. An insurance office is permitted within B-4 zoning classification and although the structure may have been a single-family residence at one point, it has been converted to a commercial structure. The subject property also has a history of commercial use. It
appears as though the property has been used as a

gifts and ceramics shop since around 2001.

The applicant proposes to use the subject
property as an art studio and single-family residence
and to construct an addition on the existing
structure. The use of the property as an art studio
with an accessory dwelling is permitted in a B-4
General Business zoning provided that required parking
can be met on site. The applicant was unable to
develop a plan with sufficient parking due to a tree
on the property that the applicant did not want to
remove.

The applicant is seeking a residential zone in
order to eliminate on-site parking that would be
required in the B-4 zone. An art studio could also be
conditionally permitted in an R-1B zone allowing
employees and customers, but under the conditional use
permit, parking requirements must be met. An art
studio can be accomplished as a home occupation within
a residential zone provided that specific requirements
of the zoning ordinance are followed. The following
criteria apply:

1. The use is clearly incidental and
secondary to use for dwelling purposes;

2. The use is conducted entirely within a
dwelling and not in an accessory building;

3. The use is carried on only by residents of the dwelling, with no non-resident employees or agents;

4. No commodities are sold except as are produced on the premises;

5. The use does not require external alteration of the dwelling; and,

6. The use does not adversely affect the use permitted in the immediate neighborhood by excessive traffic generation or noise.

If used as a home occupation, the applicant should be aware of each criterion and understand that customers are not permitted, retail sales is not permitted, and no additional employees other than residents of the dwelling are permitted.

The rezoning of the subject property to a residential zone will require a ten foot landscape easement, six-foot element and one tree every 40 linear feet where adjoining commercial zoning to the north, east and south. The applicant has submitted a variance in conjunction with the rezoning to eliminate all buffers and screening requirements as stated. If developed under the commercial zoning classification, the proposed use of the property would not require any
screening from the adjoining properties.

In the vicinity of the subject property, Veach Road is classified as a major collector roadway with a 250' access spacing standard. The site currently shares a drive with the property to the south.

The subject property is located within the floodway. The applicant proposes to construct an addition to the existing structure on the subject property. Since the addition will be within the floodway, a conditional use permit is required along with supporting documentation from appropriate regulating agencies for construction in a floodway.

The applicant has submitted an application for conditional use permit.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is not in compliance with the Comprehensive Plan. The surrounding property is zoned entirely B-4 General Business which is appropriate within a Business Plan Area. With the exception of the property to the north, which is still maintained as a single-family residence, land uses in the vicinity are consistent with B-4 zoning classification. The subject property has a history of use for non-residential purposes. The use of the property as proposed by the applicant can be
accomplished within the current zoning classification if adequate parking is provided on-site. The subject property does not adjoin any single-family residential zoning and is therefore not a logical expansion.

PLANNING STAFF RECOMMENDATIONS

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. This recommendation is made subject to the findings of fact that follow:

FINDINGS OF FACT:

1. The subject property is located in a Business Plan Area, where urban low-density residential uses are appropriate in very-limited locations;

2. The current zoning of the property and all surrounding properties is B-4 General Business which is consistent with the Business Plan Area in which the property is located;

3. With the exception of the property to the north, land uses in the vicinity are consistent with B-4 zoning;

4. The subject property has a history of non-residential use as a gifts and ceramics shop;

5. The proposed use of the property can be accomplished under the current zoning classification;
6. The proposed rezoning does not satisfy the logical zoning expansion criteria of the Comprehensive Plan; and,

7. The current zoning is appropriate for the proposed use and accessory dwelling and the proposed zoning is less appropriate.

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

CHAIRMAN: Thank you.

Is there anybody representing the applicant?

MR. KOLOK: Yes. My name is Bill Kolok.

BILL KOLOK SWORN BY ATTORNEY.)

MR. KOLOK: I am an artist. I have lived in Owensboro for 30 years. I teach at Kentucky Wesleyan. I'm shortly going to retire and I'm looking for a space to continue my profession as an artist.

The space that I chose, this building has had two businesses in it before. Neither of them were successful in that area. The space is small. It is on a floodway so it would be difficult for another business to take it. So I'm not sure -- so I don't think it would be an adequate space for a new business.

My daughter is recently back from the Peace Corp in Africa and is going to school in Owensboro and
plans on living there.

Although both structures are, on either side of the yard, are businesses, they both look like houses. I have spent a lot of time and money and effort making the front of my building look like a house again. Grass and bushes, etcetera, etcetera.

I don't sell here in Owensboro. I sell out of galleries in Nashville, Chattanooga and Cincinnati. I need a place to work and be able to store my work while I'm waiting for exhibition space on other places.

I don't plan on selling retail out of Owensboro to be quite frank. Owensboro doesn't have a very good retail market for the kind of art that I do.

If anyone has any questions, I will gladly answer them now.

CHAIRMAN: It seems like to me, based on the case, that it would be, if you would maintain to be for classification and put in the parking, you've got a piece of property that's valuable not only to you but to you in the future when you ultimately decide to retire/retire.

MR. KOLOK: The problem is the parking is the problem. I'm a one person artist. I don't plan on opening up a retail store, but I am required to have
five parking places, which if I build that building in
the back, which I have approval from the Division of
Water and Corp of Engineers, there isn't enough room
to build those five places without me digging up my
front yard, which both my neighbors still have and
putting parking in the front, which I think would make
it a non-attractive place. If I could find a way to
eliminate the parking problem, I would be happy to
stay with B-4. This was the only alternative that we
could think of at the time.

CHAIRMAN: Mr. Noffsinger, aren't there
ramifications with him doing or not doing as far as --

MR. NOFFSINGER: Mr. Chairman, I think
Mr. Mischel and Mr. Howard worked with the applicant.
It was my understanding that the parking could be
gained on site in the rear. I did not work with the
applicant and I think we would need different
information.

CHAIRMAN: Would you sit down, please.

Mr. Mischel, which one of you wants to come to
the podium first?

MR. SILVERT: State your name, please.

MR. MISCHEL: Jim Mischel.

(JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: Yes, we have worked with the
applicant in the past on the parking situation. We worked with Mr. Weaver, David Weaver, with Bryant Engineering on that. He's worked on the parking. I think where one of the problems is there's a tree in the backyard. The applicant would like to save that tree instead of removing it. You would have to ask Mr. Weaver, but I think if that tree was removed, he's been working on a layout where the parking could be met. You're allowed to have ten percent parallel parking. I think he was going to allow one space for parallel parking. You might ask Mr. Weaver. We had a lot of discussions. We tried a lot of different angles and he worked on it. We did not receive a final layout for a B-4 zone. We've had discussions and at the last minute they decided to go for the residential zoning.

CHAIRMAN: Thank you, Mr. Mischel.

Mr. Weaver, would you step to the podium, please.

MR. SILVERT: State your name, please.

MR. WEAVER: David Weaver.

(DAVID WEAVER SWORN BY ATTORNEY.)

MR. WEAVER: We did prepare a conceptional layout for Mr. Kolok. He is correct in stating that to meet the required parking that was discussed with
Mr. Mischel, we would have to put one space in the front. There's really not room for parallel parking along the side because of the shared drive.

I've got a conceptional parking layout that shows how it could work with parking. Mr. Kolok also is right, he would have to eliminate his large maple tree in the back.

If you guys would like to see it, you're welcome to.

CHAIRMAN: Why don't you bring it forward.

(MR. WEAVER COMPLIES WITH REQUEST.)

MR. WEAVER: If you look, you can see where there's a Number 1. That indicates the parking spot that has to be created in the front of the property. The remaining four required spaces could be put in the back with the elimination of the oak tree. Of course, the reality is that that parking is real congested and really doesn't meet all the required dimensions.

MR. KOLOK: Mr. Chairman, can I speak?

CHAIRMAN: Yes, sir.

MR. KOLOK: I'm sort of stuck between a rock and a hard place. That maple tree, which is old and beautiful, as an artist I find it difficult to take that tree down. If I could eliminate some of the parking places, which would not be a problem because
it's not a retail store so I'm not going to have people coming and going. I've been a teacher for almost 40 years now. I certainly don't want to teach after I retire so I'm not going to bring students in.

I think one of the things that has happened is a language problem. Artists call the space they work a studio, but under the guideline a studio is an assembly, like a music studio or a dance studio. My idea is a space to work and a space to store my work so that I can keep it clean, keep it fresh until I bring it to a gallery, studio. If we could call it a storage place, I would happy to do it that way.

CHAIRMAN: Let me ask.

Mr. Mischel, would you return.

Are there restrictions that we could place on this deed and this property? Very obviously he has a case where he's not going to do or we could put restrictions where he actually couldn't do retail. You know, have restrictions where we, you know, where we could reduce the parking spaces based on maybe reducing the square footage of his working space. Is there any criteria or any area where we could?

MR. MISCHEL: Just by nature of him applying for a home occupation, that would limit retail business. We just had some discussions. I don't know
if this would help, but if he had -- he was talking
about having a residence there. If he had a residence
there, you could have that in a B-4 zone if he kept it
B-4. I don't know if this would help. You're to have
two parking spaces for a residence. If he limited his
studio to 400 square feet, that would be 1 to 200,
that would be two. Instead of five he could take it
down to four spaces.

CHAIRMAN: What would be the criteria?
Obviously I'm not an artist. Is the criteria for his
studio actually where he is doing the work as opposed
to where he stores his work? Like I assume he's going
to be doing many pieces and projects, but he's only
going to be working on one or two at a time.

MR. MISCHEL: Well, we originally agreed under
B-4, at one time it was 1 to 200 square feet for the
entire structure. We told him, I think, Mr. Weaver,
that if they could show us where the studio was, we
could do the 1 to 200 for that and the rest of it, if
they set up storage, we would count that for storage.
I think that's what the parking is based on, right?

MR. WEAVER: Yes, I believe that's correct.

MR. MISCHEL: It would have been more.

MR. WEAVER: Yes. Mr. Kirkland, your comment
as opposed to an avenue where you wouldn't have, where
you could eliminate the ability to have retail sales.

That was kind of the whole premise for the rezoning.

To put it back into a residential zoning classification. I believe Mr. Kolok stated his daughter intends to live there after she comes back from the Peace Corp and that he's going to use the rear addition for his studio space.

CHAIRMAN: Is my sort of assumption or my question about the amount of square footage that's actually used for studio work area, etcetera, can that be defined as opposed to area that's used for storage, accumulation or just storage?

MR. WEAVER: You would have to ask Mr. Kolok, but I believe the intent is for the addition to be a studio space, and then the remainder to function as living space for his daughter and for storage.

I also think, Mr. Kolok could speak to this, but it's my understanding that he does large rock carvings and that's part of the intent of keeping the oak tree because a lot of what he does will be outside.

MR. KOLOK: True.

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Mr. Chairman, I think you're on the right track. I'd like to ask Mr. Mischel a
couple of questions.

One, the five parking spaces that are shown here, is that a minimum amount that they have to provide or is that parking requirement calculated based upon square footage used? In other words, do they have to have at least five and maybe more or could they have three or four depending on how much of the building is used for the studio?

MR. MISCHEL: I believe the way we calculated it, we were counting the studio. He would show us on the drawing a studio square footage and we would do that 1 to 200. Then the rest of it supposedly is going to be storage and we calculated that on that.

MR. NOFFSINGER: Some uses require a minimum of 5 spaces and 1 per 200. Is this that type of use?

MR. MISCHEL: This is not a minimum.

MR. NOFFSINGER: So it depends on how you allocate the use in that building as to how many parking spaces are required?

MR. WEAVER: That's correct.

MR. NOFFSINGER: If it is rezoned to residential, then the only, the residence can only be occupied by the folks doing the work. If your daughter is employed there, part of it, then certainly she could live there, but if not it creates a zoning
issue. It might be in your best interest to keep the zoning you have and to work with this parking calculation to make sure you allocate your space so that you meet the minimum say four spaces and only use for the art studio and the business use that area where you can meet the parking and then the rest of it remain residential.

Of course, as we're working with the downtown plan, we're making provisions for this type of use that the applicant is requesting. For those types of uses to be located in the downtown area. This is certainly outside of the downtown master plan, but I think you can still do what you want to do, but I think you can do it better under the zone you're in, but take a look at that parking allocation and requirement based upon, and using a maximum square footage devoted to that studio as you can get parking.

MR. MISCHEL: And I think, Mr. Noffsinger, you had a point there with the home occupation. The people that live in that home occupation should be the one doing the work. So if he's not technically, if he does not live there, he should not be doing the work there under home occupation. Should be by the occupants of that structure.

MR. NOFFSINGER: But you could get a
conditional use permit to operate the studio, I guess, would be the next step. That you can get away from that step if you keep the zoning, B-4 zoning in the place that you have now.

MR. KOLOK: If I called the building storage, which is about 960 square feet, and I want to build a 700 square foot space to make art, and I'm not going to use it as retail, so I don't need parking, according to this document, it says, individual storage doesn't require any parking, if I call it parking. If I call it individual storage. That's what I was saying earlier. Part of this is me on learning to speak the right language. I would be glad to do it that way and leave it at B-4. I want a studio and I want a place to store it. My daughter certainly can live at my house. We have plenty of room and she's there now.

MR. MISCHEL: Just to clarify. That individual storage area those are like those little mini warehouses. It's kind of a different situation than what we're talking about here on individual storage.

CHAIRMAN: Mr. Kolok, would you return?

MR. KOLOK: Yes.

CHAIRMAN: How many parking spaces can we get
and save the tree?

MR. KOLOK: Three easily. We can do three.

CHAIRMAN: Mr. Weaver, would return to the stand, please.

Can you work, instead of working like you usually do, from the building out, can you work from the parking lot in?

MR. APPLEBY: Can we not get four on there?

MR. WEAVER: It may be possible to get four.

MR. APPLEBY: And save the tree?

MR. WEAVER: You struggle with the handicap spot, especially if you're making a handicap van accessible spot.

MR. APPLEBY: Could we not possibly move that handicap spot to the other side and put your other -- the handicap spot ideally is up closer to the building. Could you not move it furtherest away?

MR. WEAVER: I think there's probably a way we could get it to work.

MR. KOLOK: Because I share a driveway with my neighbor, from what I understand, the parking lot has to be all on my land, even though my neighbor can pull out into my land and I certainly can pull in his land. If we could eliminate that problem, I think we could get four.
CHAIRMAN: Mr. Mischel, it seems like you've got the look in your eye.

MR. MISCHEL: Let me throw one more thing. If they can get three spaces, if they could limit typically the studio to 600 square feet, that would be three spaces. The rest of it if they say is storage, in the past we have taken storage mechanical rooms, usually in the past we do it for office buildings and we discount file storage and mechanical rooms.

MR. APPLEBY: He's storing his supplies and what have you in there. We can work back from that? Say the studio is occupying 600 feet of that addition and the rest of it is art supplies?

MR. MISCHEL: The 600 feet, the studio is 1 to 200 so you have to put a limit of 600 square feet on the studio, which isn't far off I think from what he said, 700 feet.

MR. NOFFSINGER: I think you could also pick up a parking spot in front of the studio there by the sidewalk. Pick up a parallel spot.

MR. WEAVER: It's kind of crowded with the shared access drive. I understand what you're talking about, Gary.

Let me make a suggestion. Instead of acting on this item and the next item as well, what if we
postpone it to allow time for Bryant Engineering and
Mr. Kolok to work with the Staff to see if something
can be resolved as far as the required parking?

MR. APPLEBY: Then he could probably avoid
another meeting, if we can meet the criteria under the
existing zoning. He can get his building permit?

MR. WEAVER: Yes.

CHAIRMAN: And Mr. Noffsinger could sign off
on it?

MR. NOFFSINGER: Yes. We would be glad to do
that. I think that's a wise decision. If we can't,
we come back next month. If we can find a way of
doing it, then the applicant withdraws the application
and move forward.

CHAIRMAN: Mr. Kolok, would you step back to
the stand, please?

MR. WEAVER: That would be a postponement for
both items.

MR. MISCHEL: You would still have the
floodplain issue.

MR. APPLEBY: That's going to be a conditional
use, right?

MR. MISCHEL: Yes.

CHAIRMAN: Did you understand what --

MR. KOLOK: If I built a structure 600 square
feet, we would only need three parking places. Is
that basically --

CHAIRMAN: I don't think he was talking about
limiting your building size. I think he was talking
about limiting your activity size.

MR. APPLEBY: Allocate toward studio.

MR. MISCHEL: Instead of a 700 and some square
feet for a studio, you'd use 600 square feet for
studio and then 100 something would go towards the
storage.

MR. WEAVER: I think what needs to happen is
that you have to agree to a postponement on this item.

MR. KOLOK: That's sounds good to me.

CHAIRMAN: Would you repeat that, please.

MR. KOLOK: Yes. That sounds good to me.

MR. CHAIRMAN: You agree with that? In other
words, you are requesting a postponement?

MR. KOLOK: That's exactly what I meant to
say, yes.

CHAIRMAN: Thank you.

MR. APPLEBY: Move to postpone.

MS. DIXON: Second.

CHAIRMAN: Motion to postpone by Mr. Appleby.

Second by Ms. Dixon. All in favor raise your right
hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Related Item:

ITEM 6A

2901 Veach Road, proposed R-1B
Consider request for Variances in conjunction with an application for zoning change to eliminate the required 10' landscape easement, the 6' high continuous element and one tree every 40' of linear boundary along the north, east and south property lines that adjoining B-4 General Business zoning.
Reference: Zoning Ordinance, Article 17, Section 17.311
Applicant: William & Joan Kolok; Kolok Wood & Stone, LLC

MR. NOFFSINGER: Mr. Chairman, the applicant I believe also request postponement on Item 6A, which was a related item.

MR. KOLOK: Yes, I would like to postpone that also.

MS. DIXON: Move to postpone.

MR. APPLEBY: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

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MAJOR SUBDIVISIONS

ITEM 7

Steeplechase, 37.759 acres
Consider approval of amended major subdivision preliminary plat.
Applicant: Thompson Homes, Inc.

Ohio Valley Reporting
(270) 683-7383
MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. It's recommended for approval.

CHAIRMAN: Is anybody here representing the applicant?

MR. PEDLEY: Mr. Chairman, I need to disqualify myself on this item.

CHAIRMAN: Just a moment.

Mr. Silvert.

MR. SILVERT: We would no longer have a quorum.

CHAIRMAN: Could you state your issues, Mr. Pedley?

MR. PEDLEY: Yes. I'm an adjoining property owner so I think I need to disqualify myself.

MR. APPLEBY: You don't stand to gain anything financially from this action on this issue?

MR. PEDLEY: Probably not.

MR. APPLEBY: Just being an adjoining property owner, I wouldn't see how he'd have a --

CHAIRMAN: Mr. Silvert.

MR. SILVERT: I would not think so. If you could state that you don't have anything to gain
whether this passes or doesn't pass.

MR. PEDLEY: I will hear it.

CHAIRMAN: So you have nothing to gain, Mr. Pedley; is that correct?

MR. PEDLEY: No.

MR. SILVERT: Will you do any of the work involved in the changes?

MR. PEDLEY: Probably not, but I've been working with this issue for quite some time. It does join our property. It's an issue that I've been working with for two months.

MR. SILVERT: These changes involve the connector into Lake Forest.

MR. PEDLEY: If you're okay with it --

MR. NOFFSINGER: This is transferring some common area property in the Steeplechase subdivision and attaching it to the Lake Forest development. It also removes that portion of a roadway reservation strip for the outer boulevard that is on paper, been realigned to Millers Mill Road. So they're also removing that. That's it. I don't know of any controversial issues at all there. It's just swapping of some property.

MR. PEDLEY: I withdraw my disqualification.

MR. SILVERT: Is the deed on the property
contingent upon the passing of this?

MR. NOFFSINGER: I don't know who stands to
gain in terms of the property acquisition. Brian
Howard has reviewed this plan.

CHAIRMAN: Mr. Howard, do you see any conflict
for Mr. Pedley on this issue?

MR. HOWARD: Not that I'm aware of. Mr. Riney
might be able to answer this. I believe the last name
of Frakes are the property owners within the Lake
Forest subdivision and would acquire some of the
common area from Steeplechase subdivision. They've
prepared an amended final plat that would address
that. To my recollection Mr. Pedley does not own a
lot that would gain any of the property from the
Steeplechase subdivision common area.

MR. PEDLEY: I withdraw my disqualification.
We do not own those lots any more. They have been
sold to individuals. It's joining their property. I
have no monetary gain on it.

(MR. SILVERT AND MR. PEDLEY CONVERSE.)

MR. PEDLEY: Under counsel's advice I
disqualify myself.

CHAIRMAN: If Mr. Pedley disqualifies himself,
then we do not have a quorum so the issue must be
postponed.
Mr. Silvert, do we have to have a motion for postponement?

MR. SILVERT: It's tabled.

CHAIRMAN: The issue is tabled.

The next item we have is the chair will accept a motion for adjournment.

MS. DIXON: Move to adjourn.

CHAIRMAN: Ms. Dixon has a motion for adjournment.

MR. TAYLOR: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That motion carries unanimously.

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

WITNESS my hand and notary seal on this the
9th day of November, 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

Ohio Valley Reporting
(270) 683-7383