The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, March 11, 2010, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Drew Kirkland, Chairman
                   Ward Pedley, Vice Chairman
                   David Appleby, Secretary
                   Gary Noffsinger, Director
                   Madison Silvert, Attorney
                   Rev. Larry Hostetter
                   Tim Allen
                   Irvin Rogers
                   Keith Evans
                   Rita Moorman

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CHAIRMAN:  I would like to welcome everybody to the March 11th meeting of the Owensboro Metropolitan Planning Commission. Please rise while our pledge of allegiance and invocation will be given by Mr. Dave Appleby.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Our first order of business will be to consider the minutes of the February 11, 2010 meeting. Are there any additions, corrections?

(NO RESPONSE)

CHAIRMAN:  If not, the Chair is ready for a
MR. PEDLEY: Motion to approve.

CHAIRMAN: Motion for approval by Mr. Pedley.

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 2

2010 Census Complete Count Committee update

MR. SILVERT: State your name, please.

MS. STONE: Becky Stone.

(BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: I suppose everybody got their mailer that the Census form will be coming to them. It will be out in the next week or so and should be returned to the Census the first of April. There is going to be sort of a special project ongoing in Census Tracts 2, 3 and 4 because they're considered undercounted Census tracts. Just fill out your form and get it in so we can get a complete count.

CHAIRMAN: Thank you, Ms. Stone.
ITEM 3
Consider revisions to the Owensboro Metropolitan Public Improvement Specifications, Chapter 3, Streets

MS. STONE: The revisions to Chapter 3 Streets have to do with street services and the standards. This was proposed by the city engineer and endorsed by the county engineer. Sinan Rayyan from the county is here to answer any questions you might have.

MR. NOFFSINGER: I do have one question, Ms. Stone.

Would you describe how we got to this point in terms of who has looked at this other than the city and county engineer?

MS. STONE: Certainly.

The city engineer proposed this at the Public Improvements Committee meeting. A subcommittee was formed with a developer, an engineer, the city and the county engineer, and myself, and the proposal was reviewed. The developer I think had taken that to the Home Builders Association for their input and the recommendation that subcommittee wants to adopt these changes.

CHAIRMAN: Are there any questions?

(NO RESPONSE)

CHAIRMAN: Next item, please Mr. Noffsinger.
MR. NOFFSINGER: I think we need to take a vote on this.

CHAIRMAN: Do we need to vote on it?

MR. NOFFSINGER: Yes. Because you are actually amending the public improvement specifications so you will need to take a vote.

CHAIRMAN: Okay. Since there are no questions, no questions from the commission, the Chair is ready for a motion.

MR. PEDLEY: I make a motion to approve the proposed amendment.

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. ALLEN: Second.

CHAIRMAN: Second by Mr. Allen. 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 4

416, 418, 420 Wing Avenue, 419 Montgomery Avenue, 0.465 acres

Consider zoning change: From B-4 General Business to B-5 Business/Industrial

Applicant: Green Valley Development, Inc.

MR. SILVERT: State your name, please.

Ohio Valley Reporting
(270) 683-7383
MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: First I'll note that all rezonings heard tonight will receive a recommendation from the Planning Commission. If no comments are applied with the office on those recommendations, they will become final 21 days after the meeting. If an appeal is filed, which those forms are available on the back table, at our office, and on the website, then we will forward that on to the appropriate legislative body for their final review and consideration of the application.

With that I'll read the Staff Report.

PLANNING STAFF RECOMMENDATIONS

The Planning Staff recommends approval subject to the conditions and findings of fact that follow:

CONDITIONS:

1. Submission and approval of a site or development plan;

2. Eliminate parking spaces that require backing into the public right-of-way;

3. Gravel parking areas shall be removed and returned to grass, paved or appropriately screened as required for outdoor storage area;

4. Vehicular use area screening shall be
installed where paved parking areas are adjacent to
the road right-of-way;

5. All vehicular use areas are required to be
paved;

6. Access shall be limited to a maximum of 40
percent of the road frontage or 40', whichever is
less;

7. A six foot solid wall or fence with one
tree every 40 linear feet within a 10' landscape
easement shall be installed along the south property
line of 419 Montgomery Avenue and 420 Wing Avenue;
and,

8. All lighting shall be directed away from
the residentially zoned property.

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 area; and,

4. The proposed land use for the subject

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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 A.

While I'm here we did have a letter submitted
to the office that they requested that I read into the
record so I will do that now.

"My name is Melissa Boarman. My family and I
live at 428 Wing Avenue. It has been our home for
almost 12 years. To the direct right of us is 416
Wing Avenue that has an empty lot separating our
properties. In the 11 1/2 years, we have seen many
businesses come and go. Each with a bigger and better
dream than the other. 416 Wing has been anything
from: A cable install company, to an antique
furniture store, to a window replacement company, to
two separate pallet businesses, to just recently a
small motor repair shop.

"Now there is a proposal for a zone change
from business to business/light industrial. As not
only a neighbor but the direct one next-door, I have a
right to be concerned. Concerned about what sort of
'industry' will be housed there and the traffic it
will accumulate on our already very busy street. The

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parking for 416 has completely been done away with by
the addition of a chain link fence in the lot between
my house and 416. So where is the parking lot?
Approximately 80 percent of the lot is now fenced in.
It is being used to accommodate a fence company
operating out of the building at 419 Montgomery, and
to accesses the lot they back into the fence on Wing
Avenue. So if 416, 418 and 420 Wing Avenue are to be
re-zoned, do they not need an adequate parking lot?
Even if they are not rezoned, does a business not need
one parking space per employee and enough for
approximately customers? Because there is no parking
on Wing Avenue.

"I want to make sure that all codes are
followed to the letter. I do not want someone to move
in and not maintain what they have. Right now it
looks like a dumping ground. I understand that trash
is not your area, but codes and laws are. The fence
is no too much of a bother. Once the wrapping is
finally complete it should look better. I just don't
want people parking on Wing Avenue as they have in the
past. It is hard enough to back out of my driveway.

"I am a very good neighbor. This is my home
and family next door to the re-zoning. I just want
the business owners and Planning & Zoning to remember

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"Thank you, Melissa Boarman."

I would like to enter that into the record as Exhibit B.

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: If there are no questions of the applicant, the Chair is ready for a motion.

MR. ROGERS: Motion for approval based on Planning Staff Recommendations with Conditions 1 through 8 and the Findings of Fact 1 through 4.

CHAIRMAN: We’ve got a 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, please.

ITEM 5

308 East 25th Street, 4.344 acres

Consider zoning change: From I-1 Light Industrial to Ohio Valley Reporting

(270) 683-7383
B-5 Business/Industrial

Applicant: W4 Investments, LLC

PLANNING STAFF RECOMMENDATIONS

The Planning Staff recommends approval subject to the conditions and findings of fact that follow:

CONDITIONS

1. Submission and approval of a site or development plan;

2. Eliminate parking spaces that require backing into the public right-of-way;

3. Gravel parking areas shall be removed and returned to grass, paved or appropriately fenced as required for outdoor storage area;

4. Vehicular use area screening shall be installed where paved parking areas are adjacent to the road right-of-way;

5. All vehicular use areas are required to be paved;

6. Access to East 25th Street shall be consolidated into a single access point in compliance with the access management manual;

7. No access shall be permitted to JR Miller Boulevard as stipulated in the special access restrictions adopted by the MPO Transportation Policy Committee on October 24, 1985;

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8. A six foot solid wall or fence with one tree every 40 linear feet within a 10' landscape easement shall be installed along the south and east property lines where adjoining residential zoning; and, 

9. All lighting shall be directed away from the residentially zoned property.

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 C.

CHAIRMAN: Do we have anybody representing the applicant?

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(270) 683-7383
MR. BAKER: Yes.

CHAIRMAN: Do we have any questions of the applicant?

Yes, sir. Please step to the mike.

MR. SILVERT: State your name, please.

MR. WILLINGHAM: Gary Willingham.

(GARY WILLINGHAM SWORN BY ATTORNEY.)

MR. WILLINGHAM: As I stated, my name is Gary Willingham. I own G&L Properties, LLC.

We own two pieces of property that back to the subject property, the rezoning. We certainly do not object to the rezoning as it is already zoned industrial. Our concern, and as the gentlemen just stated, our concern is, and I do have some pictures that I have taken of our properties that back to the subject property for rezoning, is the lack of maintenance to the adjoining fence and boundaring areas all along the west side of Cloverdale.

We own multiple properties on Cloverdale. We have two on the west side and three on the east side. We have spent a lot of money on those properties to bring that neighborhood back up to speed. It was in a state of deterioration when we started buying properties in 2000.

With that said, I have no problem with the...
rezoning at all, but I would like to know what is planned by the applicant to accommodate some type of a blind along the boundary properties along the back side of our properties. As I stated, I have pictures here that I would like to give to the commission for them to look at.

My tenants, which are good tenants and I've had in place for a long time, they have seen the property go from, which was Suburban Propane at one time, to a vacant lot for a long time, and has now been purchased, which is good for the City of Owensboro. I can appreciate that. But since that has happened, we have seen a lot of heavy equipment brought in there. Crane booms, things like that that have just been -- tractor-trailers, trailers have been brought in there. Not abandoned, but placed on the property. When my tenants walk out their back door, that's what they have to look at. They have to look at rusting --

CHAIRMAN: I think we've got a mental picture of what your concerns are.

MR. WILLINGHAM: I think the gentleman here stated something about fencing or blinds.

CHAIRMAN: That's what I'm going to do. I'm going to bring him back and then we'll call up on one
of the representatives of the property to testify also.

MR. HOWARD: It was Condition Number 8, which requires a six foot solid wall or fence with a tree every 40 linear feet within a 10 foot landscape easement along the property lines where it joins residentially zoned property. That is a condition requirement of the zoning ordinance.

MR. WILLINGHAM: With that said there is already a 6 foot chain-link fence there that has not been maintained, that is overgrown with weeds, trees, poison ivy that my tenants, myself included, has gone out and had to clean that.

CHAIRMAN: Let me ask the purchaser, if you would be seated. Let me ask the purchaser to come up and we'll have him address those concerns also.

MR. WILLINGHAM: I would like to have in the record the pictures. I was asked to bring pictures in.

CHAIRMAN: Very good. If you would, if you'd go ahead and distribute the pictures and then we'll give them and we'll have those as part of your exhibit. We can go ahead and do a couple of things at once.

MR. SILVERT: State your name, please.
MR. BAKER: Jason Baker.

(JASON BAKER SWORN BY ATTORNEY.)

MR. BAKER: The applicant has agreed to all of the conditions that are set forth. As far as the use of the land in behind, it is currently a storage yard. It does have a screen or a fence around it. Any upgrades that are necessary to that fence to bring it in compliance, you know, he's agreeing to those conditions.

With regard to anything parked in there, with it being a screened in area, it's an outdoor storage area. I don't know that he's held to any other standard other than that.

CHAIRMAN: I think based on the standard that was set by in the conditions that you all would need, and I think this gentleman here was stating, I think his greatest concern is possibly the upkeep of the fencing and everything. I think with that I think we'll call Mr. Sterett to the mike.

MR. SILVERT: State your name, please.

MR. STERETT: William Sterett.

(WILLIAM STERETT SWORN BY ATTORNEY.)

CHAIRMAN: Mr. Sterett, you understand the questions that one of your possible future neighbors is having. I think if you would just address his
concerns with the type of maintenance upkeep and
everything that you've done over the span of your
business career I think would be ample.

MR. STERETT: Basically when I purchased the
property it was I-1. We're trying to get it what I
feel like is more zoned appropriate for that area.

As far as the fence, I'm not aware of any
issues with it. I known it's come down several times
from the wind storm. Having the screen on it
obviously causes a lot more maintenance issues, but
we've addressed those as they've come up.

Again, I'm not aware of any current issues
there is. Vehicles park there. That's one of the
reasons why the property was purchased, you know, was
to store equipment. I don't think there's anything
there that the property is not zoned for currently.

As far as what the intentions are, the
intentions are to get, hopefully get the zoning change
and improve the property.

I'll add to that the city, I guess, is
currently doing some drainage issue. They've been
working over there at the property to improve the
drainage in that area.

Any other questions?

CHAIRMAN: Do you have any other concerns or
questions of the applicant?

MR. WILLINGHAM: No. I think I've stated my
concerns pretty clearly. I think the pictures pretty
much speak for themselves.

Like I say, I'm just concerned, you know,
about the maintenance. It is not being maintained.
There's no guarantees in life at all, but what
guarantees do I have that this is going to continue to
be maintained. It's a mess back there. The pictures
speak for themselves.

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Mr. Chairman, I would like to
clarify to make sure the applicant and this gentleman
understands the Condition Item Number 8.

A 6 foot solid wall or fence. This is a
chain-link fence that's there now. So that would
indicate that the chain-link fence would have to be
removed along that east boundary and possibly I think
it's at the south boundary, and replaced by a solid
wall or fence.

So I want to make sure I understand you're in
agreement with these conditions, but I want to make
sure we all understand that that chain-link fence is
going to have to come down and there's going to be a
new solid wall or fence there.

Now, in terms of the maintenance, if you want
to address the maintenance or the type of fence you're
going to put up, you can do that. Certainly our
condition is that it be a solid wall or fence which
could be a brick wall. It could be a white vinyl
fence, privacy fence or it could be a wooden privacy
fence.

MR. STERETT: I was under the impression that
the current fence with the screening was appropriate.

MR. BAKER: I think the existing fence, Gary,
has all slats installed.

MR. NOFFSINGER: Not according to the
pictures.

MR. BAKER: If there are places where that is
not, they would add the slats would be the intent.

CHAIRMAN: I think I'll have Mr. Sterett take
a look at the pictures, one of the exhibits.

I'm sure when Mr. Sterett takes possession of
the property, I'm familiar with other properties that
he has in town and things that his family has done
over a span of years, and they've always done it in a
first class manner. I would expect nothing to be done
different that you would take over over there; is that
correct?
MR. WILLINGHAM: With all due respect, I appreciate that, but that's just not the letter of the law. I mean if Mr. Noffsinger is stating that this needs to be a solid brick and/or concrete block fence --

CHAIRMAN: Wait a minute now. He said a solid. Not solid brick.

MR. APPLEBY: It can be a chain-link fence with slats.

MR. WILLINGHAM: If they want to come in there and rip all that vegetation out of the fence, more power to them. With that said, I'll agree with that too.

I have no problem with this commission or Mr. Sterett at all. It's just that --

CHAIRMAN: The present condition of what it is now bothers you. The future owner and what the condition is now he can't be held responsible for what it is now. He's got certain conditions that he has to meet and he's very aware of it. What I'm saying to you is, in the past he has been forced with other things and his family has been forced with other things and they've done a first class job. I would not expect anything but that for the future.

MR. WILLINGHAM: I appreciate that.
CHAIRMAN: As far as the letter of the law, the letter of the law is what he has to abide by.

MR. WILLINGHAM: I misunderstood.

CHAIRMAN: I'm sure that he will take care of that. If he doesn't, there are alternatives, but there's what he agreed to and there's what will be.

MR. WILLINGHAM: If that's what the applicant is agreeing to, then I have no problem with that. Like I said, my issue -- I will go one step further though.

The six foot fence as shown in some of those pictures, those crane booms and stuff are being stacked up two and three high. That rises, you know, 10, 15, 20 foot in the air, and it still at that point becomes an eyesore. As I understand, the City of Owensboro, JR Miller boundaries that. I was under the impression that beautification is -- I was just in Planning & Zoning the other day and there's a big wall up there with pictures all about beautification. And to drive down JR Miller and see that is not very beautiful.

There again, I understand Mr. Sterett has a business that he operates cranes and so forth and that is part of the business.

CHAIRMAN: Before we go any further, I'll let
Mr. Noffsinger address that.

Mr. Noffsinger.

MR. NOFFSINGER: Both the applicant and this gentleman here that owns the adjoining property have very valid considerations and valid points. That's why we're here tonight in planning.

Really the challenge we have as a Planning Commission and as the Staff is to balance out the good of the business and the good of the landowner. Let me tell you it is a challenge. Sometimes no matter what you do, you're not going to do the right thing because you're going to make people happy and you're going to make some people unhappy.

This Commission, based upon the zoning ordinance, this Commission because this is simply a zoning change and it's not a use that requires a Conditional Use Permit, by ordinance the applicant is not bound by a height limitation in terms of that storage area. If they were seeking a Conditional Use Permit such as a salvage yard, auto wrecking yard, then the Board of Adjustment, which is a different board, would be considering the stacking of materials, but in this particular case there is no ordinance that actually says you can only stack so high.

Now, this board may enter into a discussion
with the applicant to determine how high the materials
would be stacked. There may be some agreement there,
but there's no specific ordinance that actually
addresses that.

So what they're doing out there right now in
terms of the storage of materials at whatever height,
is certainly in compliance with the local ordinance.

In terms of screening, if you use those
screening slats, you run the risk of wind damage as
well as the vegetation growth. We found they do
become a maintenance problem.

Now, my Staff tells me that you can use the
screening slats. Hopefully if you do use screening
slats, they will be something of a solid color, a
uniform color across there that would be pleasing to
those adjoining residents. This board's job is to
make sure that they do meet the minimum requirements.
I would say that the chain-link fence with slats would
meet that, as well as the trees.

Now, the stacking of materials, how high the
storage is, that's an area that really this board
would have to enter into discussion with the applicant
to see what they're willing or not willing to do in
terms of stacking. Because they can do that now under
the existing zoning they have.
MR. STERETT: Can I add that in those pictures a lot of that material that's there was left by former tenants. The lease has run out. So we're trying to contact them to try to get a lot of that stuff removed. Like junk cars and boats that has kind of piled up there. So that is in the process.

MR. WILLINGHAM: What about the tractor-trailers?

CHAIRMAN: Let me get you to address and we'll go like that. We don't want to get into a cross match.

MR. WILLINGHAM: What about the trailers and all that kind of stuff? I don't know. If I see improvements and stuff to it once this is approved, you know, you'll never hear from me ever again. I'm not here to give anybody a hard time. As long as Mr. Sterett when this is done, as long as the improvements are made and the slats are put in the fence, as Mr. Noffsinger has recommended, I don't have a problem with that. I really don't. I just want to see something better than what is there right now.

As far as the stacking, I understand what Mr. Noffsinger is saying there. I guess if it gets out of control, which I hope Mr. Sterett will not allow that to happen, which we're in agreement he is a
good business man. We don't think that will happen.
I have no problem at all. I'm just concerned with
where we're at right now and what's going to be done
to make the necessary improvements.

CHAIRMAN: Thank you.

Mr. Sterett, as I looked at those pictures, I
think it was pretty easy to identify what obviously is
your type of material. Some of those trailers, those
trailers are not yours?

MR. STERETT: Correct. Right. A lot of
materials were basically dropped there. Fencing and
stuff. Obviously if somebody is paying a lease, I
can't go in there and dictate to them what they store
there and what they do not.

As I said, the lease has run out and we
contacted, you know, try to contact the people that
owned the cars and boats and whatever that is. I
guess we'll do whatever due diligence we need to do to
get that removed. It's just a process that --

CHAIRMAN: That's all you can do under the
powers of the lease.

The fence improvement and those sort of things
will just come under normal maintenance, if the
transfer will be yours.

MR. STERETT: Yes, sir.

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CHAIRMAN: Mr. Noffsinger, as far as stacking, Mr. Sterett would be governed by the ordinance just like everybody else. There is no requirement as far as height of the stacking as long as he has his six foot fence; is that correct?

MR. NOFFSINGER: That is correct. Unless he's willing to accept a height limitation as part of the rezoning.

CHAIRMAN: Do you have any further statements, Mr. Sterett?

MR. STERETT: No, I do not.

CHAIRMAN: Do you have any other questions or statements?

MR. WILLINGHAM: I would just ask Mr. Sterett or the commission to ask Mr. Sterett is he willing to accept within reason, you know, some type of stacking limitations back there. There again, a 6 foot fence does not do any good when you've got a 20 foot crane boom stacked up in the air. It does not do any good.

MR. APPLEBY: You understand though that under the current zoning he has no limitation?

MR. WILLINGHAM: I understand that.

MR. APPLEBY: A B-5 zone is somewhat more restricted than light-industrial zone. It's an improvement to the location.
MR. WILLINGHAM: Yes, sir.

MR. APPLEBY: It's going to prohibit a whole lot of uses that would be less desirable in the neighborhood.

In my way of thinking, a B-5 zone it's a step up. A lot of things in a light industrial zone could go in there right now that would be worse than what is possibly there. I don't know if it would or not.

MR. WILLINGHAM: There again, I guess I'm a little confused here as to whether or not he's willing to limit the height restrictions. If I'm being told by the commission that --

MR. APPLEBY: We can ask him.

MR. WILLINGHAM: I believe that's what I --

within reason, within reason. I'm not saying --

CHAIRMAN: You realize as the board to enforce the ordinance is a written all the way uniformly.

Mr. Sterett would have the option --

Gary, correct me I'm wrong.

If we try to put a restriction on a height stacking --

MR. WILLINGHAM: No, sir, that's not what I'm asking.

CHAIRMAN: Then I misunderstood you.

MR. WILLINGHAM: That's not what you stated.
You said that you could ask Mr. Sterett if he would be willing to accept a height limitation. That is my question. Is he willing to accept a height limitation or are we going to have to have a 6 foot fence with another 20 foot of crane booms and/or storage. Here again, I'm not trying to be hard to get along with. If he's not going to store that type of stuff back there, then this is a non-issue.

CHAIRMAN: The thing about it is the zoning that he's going to, as Mr. Appleby very well pointed out, an I-1 classification, which it is now, you know, they can do light industrial work. They can put different type things in there in an I-1 and not come for a zoning change and they can literally do anything they want to do. He can improve the screening and be done with it.

MR. APPLEBY: What do you anticipate putting back there and how high is it going to be?

MR. STERETT: I can't answer that question. Right now we currently have some like some crane booms are stored there. I don't think it's stacked up high. I think maybe the issue maybe it's on a trailer. I can't exactly recall. Of course, that makes it taller. We're not actively storing a crane boom there. It's just maybe something that is not at our
I guess to answer the question, I would not be able to accept or would not be able to accept any kind of restriction on height because I can't tell anybody what's going to happen in that property in the next two years. The property is for lease or for sale. If I accept some type of height restriction, it might hinder the use of the property going forward.

Again, we're trying to move it from an I-1 to a B-5. So we're trying to improve the property. We'll do our best to remove anything that's an eye sore there. We have been removing things. I think you probably noticed. If you live there, we have moved a lot of items off that property and we're going to continue to do so.

CHAIRMAN: Yes, ma'am.

MS. MOORMAN: There was a lot of fence there and it was an eye sore. Had vegetation grewed up on it. There were no slats in it. You will clean that up, put slats in it?

MR. STERETT: Correct. I've agreed to the conditions.

MR. NOFFSINGER: And a time frame, what's your time frame on doing that?

MR. STERETT: I don't have a time frame at
this point. I'm trying to get the zoning done. At
that point we'll make a plan to go forward.

CHAIRMAN: What would you think would be a
reasonable time frame for you all, Mr. Sterett, to
complete the slats?

MR. STERETT: I'll have to look into it. I'm
not sure exactly. I don't go to the property every
day so I'm not exactly for sure what condition it's
in. So I'll just need to assess, you know, whether
that fence -- again, it might not be that we want --

CHAIRMAN: Yes. It appeared to me that there
was going to have to be some maintenance done. You
know, there's growth in the fence. It will be a
little bit of an undertaking.

MR. STERETT: Right. We might end up
refencing the property, but it's not my goal to have a
chain-link fence there for -- once the property is
developed, obviously we'll want something a little
more attractive than an older chain-link fence. It's
just property, you know, that we bought it in that
condition. Until we have a use for it --

CHAIRMAN: So your long-term goal is to just
completely eliminate the chain-link fence?

MR. STERETT: Correct. Along all four corners
of the property.
CHAIRMAN: Mr. Noffsinger, the slats, which unfortunately are aluminum, are extremely expensive to do. They make a mat that goes down there that is a screening also that you can't see through. It's a lot more economical, a lot easier to install. It goes up a lot quicker. Is that something that is also agreeable?

MR. NOFFSINGER: Yes. Looking at the ordinance it has to maintain 80 percent opacity. So that certainly could be an option. It says, "or other approved material." So you might approve that, again, as long as it --

MR. STERETT: That's probably what I would use. I have used that in the past.

CHAIRMAN: You're familiar with what we're talking about, Mr. Sterett?

MR. STERETT: Yes. I think its original use was screening tennis courts and that kind of thing. It's a little more attractive than --

CHAIRMAN: And it's easier to go up. Once you get it cleared, instead of four days you can put it up in four hours and be done with it.

MR. NOFFSINGER: Again, I think a time frame is important because this landowner does have issues in terms of the screening. Mr. Sterett can't give us
a time frame at this point in terms of what they're going to do. I can see it becoming a zoning enforcement problem for the Staff. Because this gentleman is going to be, you know, three months from now just throwing out numbers. Three months from now wanting to know where his screening is. We're saying, well, he said he was going to do it and we're holding surety and there's not a whole lot we can do at this point. That's why the time frame we think is certainly important to address so that we all know, hey, when can we reasonably expect the screening to occur.

MR. APPLEBY: At what point can you enforce it? Once this is passed, this condition, it's in place. If you don't feel it's in a timely manner, can we not enforce it?

MR. NOFFSINGER: Yes, we can, but again he has the right to post surety for the improvement. Then it's a matter of taking the steps to cash in on the surety, which means court.

CHAIRMAN: I think a reasonable, you know, a reasonable time. You've got April. You're going to have some more snow. You're going to have rain. You're going to have problems throughout the month, but I think we can come to a pretty easy, you know, we
want you to have plenty of time. We want you to be able to do it is the thing that we're shooting for. To try and eliminate a little bit of a jam here. I think you understand.

MR. WILLINGHAM: There again within reason. I understand.

CHAIRMAN: You're the one that the reason is evolving around. Let me just ask you: What would you -- you've been on this side of the fence too.

MR. WILLINGHAM: Yes, sir.

CHAIRMAN: So what would you think would be a reasonable time?

MR. WILLINGHAM: I would think after the zoning change and all of that is done I would say six months.

CHAIRMAN: Mr. Sterett.

MR. STERETT: I hate to answer that.

CHAIRMAN: All we're asking about is the screening of the property. You might get into it and decide the fence isn't worth a darn and want to take the whole thing down and do something different, and with that you'd have everybody's blessing there. That's for sure.

MR. WILLINGHAM: Mr. Chairman, with that said I can appreciate that. If he gets into a situation --
I am a contractor myself. If he gets into that situation and that is the case, I can live with that. As long as we are seeing some type of progress, some baby stepping our way towards getting it completed. That's fine with me. That's fine with me.

CHAIRMAN: Mr. Sterett.

MR. STERETT: Again, without knowing the scope of work, I can't really commit to a time frame. Again, we might go in there and the fence might not work. We might have to go in there and some of that vegetation we might have to try and apply some chemical to it to even put the screening in. I don't think the landowners would appreciate me screening over that vegetation. I can assess the situation and then come back with some type of time frame. Without knowing the exact situation tonight, I can't really put a time frame to it.

CHAIRMAN: Mr. Appleby.

MR. APPLEBY: I don't know. I think we agree it's an eye sore and something is going to have to be done with its condition and it needs to be addressed. I guess we could put a time frame in the condition, could we not? Say within 12 months?

MR. NOFFSINGER: Sure. Whatever.

MR. STERETT: I would agree to that.
CHAIRMAN: Yes. That would give you ample time. I think once you get into it --

MR. STERETT: I want to do it as expeditiously as possible.

CHAIRMAN: I mean the way it is now you're not happy with it.

MR. STERETT: Right.

CHAIRMAN: You're not used to having junk like that.

MR. STERETT: Correct.

CHAIRMAN: Is that okay with you? To give him plenty of time to access what he needs to do and then get it done?

MR. WILLINGHAM: I think six months is plenty of time, sir. Twelve months, that's another year. We're talking about another winter, another rainy season like you just mentioned. I mean the weather is getting ready to break here. Something like that can be jumped on. Mr. Sterett from the pictures, if he's glanced at them, there's going to be no going in there and taking the vegetation out of that fencing that's there. That fencing is going to have to be ripped out. New fencing is going to have to be put in along with slats.

Now, what is more economical as far as slating
or some other type of fencing, that is totally up to
the landowner. If you all approve it and he does it,
then that's fine. I think a year is going a little --

CHAIRMAN: We were just going --

MR. WILLINGHAM: He said he would agree to a
year. You through a year out there and he agreed to
it. I think a year is a little bit too much. Like I
just stated, a year is another winter, another rainy
season. Spring is here. If he's going to make
improvements to the property, they need to be made.

CHAIRMAN: Mr. Appleby.

MR. APPLEBY: We'll split the difference.

I'll say nine months. I'm ready to make a motion.

CHAIRMAN: Nine months.

Nine months, Mr. Sterett.

MR. STERETT: If it let's us go home, I'm fine
with that.

CHAIRMAN: Nine months. He'll do it. He'll
do right. If not we'll be out there with Jim Mischel.

He'll have ten out there.

Are you agreeable?

MR. WILLINGHAM: I hold you to that.

CHAIRMAN: We'll be right there.

MR. WILLINGHAM: I'll hold you to that.

MR. EVANS: So is that a, yes, you are
agreeable?

MR. WILLINGHAM: Nine months. Like I say if it goes a year, it goes a year, as long as I am seeing some improvements made on a continual basis. That's all.

CHAIRMAN: Do you have any kind of equipment or anything that you could use out there to get this done?

MR. STERETT: No.

CHAIRMAN: Are there any more questions?

MR. NOFFSINGER: Mr. Chairman, again, I'd just like to point out that this case you're hearing tonight is typical of what your Planning Staff goes through on a daily basis. That's our challenge. You get to hear one of these in a great while. We deal with these on a daily basis. Enforcement, it's tough to please the business owner and the applicant and the landowner. It's so critical that you have a good ordinance that addresses as much as you can without leaving that gray area. Because when you get into that gray area and there's room for interpretation, that's where we're really challenged. This is just a taste of what we deal with on a daily basis.

CHAIRMAN: I think everybody is happy right now.
MR. APPLEBY:  Is Chair ready for a motion?

MR. WILLINGHAM:  I'd like to make one more statement.  Mr. Noffsinger, the fence, he's exactly right. You're fortunate that I did not have the time to go up and down the street and knock on doors and there was not another eight or ten neighbors up here taking up more of your time.

CHAIRMAN:  You did a nice job. This is what we're here for. All right.

Mr. Sterett, I assume you don't have anything else to say, do you?

MR. STERETT:  No, sir.

CHAIRMAN:  If not, the Chair is ready for a motion.

MR. APPLEBY:  Mr. Chairman, I make a motion for approval based on Conditions 1 through 9 with Condition 8 to state in addition to the text that this will be completed within nine months, and on the Findings of Fact 1 through 4.

CHAIRMAN:  We have a motion by Mr. Appleby.

MR. EVANS:  Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN:  The motion carries unanimously.

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The chair is ready for one final motion.

MR. PEDLEY: Motion to adjourn.

CHAIRMAN: Motion for adjournment by Mr. Pedley.

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. We are adjourned.
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 38 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 27th day of March, 2010.

LYNNETTE KOLLER FUCHS
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COMMISSION EXPIRES: DECEMBER 19, 2010
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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