OWENSBORO METROPOLITAN PLANNING COMMISSION

JULY 10, 2008

The Owensboro Metropolitan Planning Commission
met in regular session at 5:30 p.m. on Thursday, July
10, 2008, at City Hall, Commission Chambers,
Owensboro, Kentucky, and the proceedings were as
follows:

MEMBERS PRESENT:  Drew Kirkland, Chairman
                    Judy Dixon, Vice Chairman
                    David Appleby, Secretary
                    Gary Noffsinger, Director
                    Madison Silvert, Attorney
                    Tim Miller
                    Jimmy Gilles
                    Wally Taylor
                    Keith Evans
                    Martin Hayden
                    Rita Moorman

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CHAIRMAN:  I would like to welcome everybody
to our July 10th meetings of the Owensboro
Metropolitan Planning & Zoning Commission.

Will you please rise.  Our invocation and
pledge of allegiance will be given by Mr. Tim
Miller.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  This being our first meeting after
the 4th of July a thought just occurred to me I
remembered back from my days in American history.

Of the 56 signers of the American Declaration
of Independence, 9 of those men lost their lives in
the war. Eight of those men their wives were tortured
and lost their lives in the war. Twelve of them had
their houses completely destroyed and burned to the
ground. Seventeen of the members that signed the
Declaration of Independence lost everything they had.
One of the members lost 13 children and his wife,
disappeared in a raid by the British and were never
found.

As we embark upon the things that we face in
life, we think of those guys that put their life,
their family, their fortune on the line and gave us
the freedoms that we have today. Not one of them
recanted their position, changed their position,
decided to get more information or look back. Thank
God for those men that gave us what we have today.

A little flashback. I was thinking about
American history.

Now we'll go on. Let's consider the minutes
of the June 12th meeting. Are there any corrections,
additions?

(NO RESPONSE)

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

MS. DIXON: Move to approve.
CHAIRMAN: Motion for approval by Ms. Dixon.

MR. TAYLOR: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

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PUBLIC HEARING

ITEM 2

Consider text amendment to Article 3 of the Owensboro Metropolitan Zoning Ordinance to permit an increased height of walls and fences in residential side and rear yards adjoining streets.

MR. SILVERT: State your name, please.

MS. STONE: Becky Stone.

(BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: This text amendment has been prepared in order to clarify the heights of fences in residential zones and to be consistent with the Kentucky Building Code for pool enclosures.

What we are proposing currently fences cannot exceed a three foot height in front yards. The definition in the current ordinance of front yard also includes side yards and rear yards where they adjoin streets. So we're making this change so that the side
yard and rear yard where they adjoin streets can be
four feet in height, which is consistent with the
enclosure height requirement in the Kentucky Building
Code.

The Planning Staff recommends the approval of
the Zoning Text Amendment based upon the following
Findings of Fact:

1. The current zoning ordinance requirement
of a maximum front yard height of three feet for
fences and walls has created unintended consequences
as applied to side and rear street yards;

2. The proposed text amendment will allow
reasonable heights in street side and rear yards for
the purpose of residential privacy and enclosures for
swimming pools and outdoor spaces;

3. The proposed text amendment will ensure
consistency and interpretation of allowable fence and
wall heights in residential zones for corner lots,
double frontage lots and interior lots; and,

4. The number of variances requested and
issued by the OMBA identifies the need to change the
ordinance for practical application and fenced in wall
heights consistent with the adopted building codes
within the community.

MS. STONE: We'd like to enter the Staff
Report as Exhibit A.

If anybody has any questions, I'll be glad to answer them.

CHAIRMAN: Does anybody in the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Does anybody on the commission have any questions?

(NO RESPONSE)

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

MR. MILLER: Motion to approve based on Staff recommendations and Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval by Mr. Miller.

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 3

Consider text amendments to Article 8 of the Owensboro Metropolitan Zoning Ordinance to permit allowing limited retail uses as a conditional use in A-U Urban Agriculture zones.

MS. STONE: This text amendment is before you
as a request from the Daviess County Fiscal Court. Currently the zoning ordinance allows limited retail uses within an A-R zone with the conditional use permit, but does not permit that within an A-U one.

This text amendment would amend the ordinance to allow conditionally permitted limited retail uses within the A-U zone.

If you've read your Staff Report, you will see from the Staff Report that there are bases in the comprehensive plan to recommend denial and we have proposed some findings in that event. However, there are reasons in the comprehensive plan that the text amendment may be approved also and the Staff would recommend your approval based on the request from Daviess County Fiscal Court with the following findings of fact:

1. The A-U Urban Agriculture zone is designated by the Owensboro Metropolitan Zoning Ordinance as a zone that is located in areas appropriate for conversion to urban development within the Urban Service Area and identified Rural Communities;

2. The Comprehensive Plan states that development policies for Rural Communities should
generally follow the development policies for the Urban Service Area;

3. The Comprehensive Plan contains an adopted goal to "Avoid the introduction of urban activities that would have a detrimental effect on residential activity, but allow some mixture of appropriate nonresidential uses";

4. Allowing conditionally permitted limited retail uses within an AU Urban Agriculture zone would promote the development of limited retail sales in Rural Communities and the Urban Service Area while providing protection to residential and agricultural uses in these areas by limiting the intensity of the allowable commercial activity; and,

5. The addition of a provision to conditionally permit limited retail sales in the AU zone will accommodate a less intense array of retail uses within the Rural Communities and the Urban Service Area, while still providing for a property owners' right to rezone to the more urban zone of B-4 General Business if the criteria of the Comprehensive Plan can be met.

We'd like to enter this Staff Report as Exhibit B.

CHAIRMAN: Are there any questions?
CHAIRMAN: Are there any questions from the commission?

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

MR. APPLEBY: Motion for approval based on the Staff's Findings of Fact 1 through 5.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. GILLES: Second.

CHAIRMAN: Second by Mr. Gilles. 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

Portion of 3275 Highland Pointe Drive, 2.387 acres
Consider zoning change: From B-4 General Business to I-1 Light Industrial
Applicant: Triple H&B Investments, LLC; Highland Pointe Holdings, LLC

CHAIRMAN: Mr. Noffsinger, I need to remove myself from this vote and turn the gavel over to Ms. Dixon.

MR. NOFFSINGER: Mr. Howard, would you please
state the appeal procedure.

MR. HOWARD: Sure.

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: As a note, all four rezonings that will follow will become final based upon Planning Commission's recommendation 21 days from the meeting date, unless an appeal is filed. The appeal forms are on the back table. They're available on our website and available in the office. If an appeal is filed, then it will be forwarded to the appropriate legislative body whether the city commission or Daviess County Fiscal Court for final hearing.

So with that I'll read the Staff's Recommendation.

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:

CONDITIONS

A final development plan submitted and approved prior to the issuance of building permits.
FINDINGS OF FACT

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

2. The subject property will be used as an Atmos Energy facility that will be nonresidential in nature.

3. The proposed rezoning is a logical expansion of existing I-1 Light Industrial zoning located immediately east of the subject property; and,

4. The I-1 Light Industrial expansion should not significantly increase the extent of the industrial uses that are located in the vicinity and outside of Industrial Parks and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

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

MS. DIXON: Does anyone in the audience have any questions or any concerns?

(NO RESPONSE)

MS. DIXON: Anyone on the commission have questions?

(NO RESPONSE)

MS. DIXON: If not the chair is ready for a
MR. APPLEBY: Motion to approve based on Staff Recommendations with one condition and Findings of Fact 1 through 4.

MR. MILLER: Second.

CHAIRMAN: Motion by Mr. Appleby. Second by Mr. Miller. Any questions on the motion?

(NO RESPONSE)

MS. DIXON: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MS. DIXON: Motion carries.

RELATED ITEMS:

ITEM 4A

Highland Pointe, 82.157 acres
Consider approval of amended major subdivision preliminary plan.
Applicant: Highland Pointe Holdings, LLC

MR. NOFFSINGER: Madam Chairman, this application has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. Its use is found to be consistent with the adopted comprehensive plan and the rezoning you just considered as well as the zoning ordinance and separates it.

MS. DIXON: Anyone in the audience have a
question or a concern to express?

(NO RESPONSE)

MS. DIXON: Any questions by any of the commissioners?

(NO RESPONSE)

CHAIRMAN: Hearing none the chair is ready for a motion.

MR. APPLEBY: Motion for approval.

MR. TAYLOR: Second.

MS. DIXON: Motion by Mr. Appleby. Second by Mr. Taylor. Any questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 5

9401-9707 Blocks Highway 951, 5001-5101 Blocks Free Silver Road, 65.535 acres
Consider zoning change: From A-U Urban Agriculture and EX-1 Coal Mining to A-U Urban Agriculture
Applicant: Teresa Louise Millay Estate

PLANNING STAFF RECOMMENDATIONS

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

1. The subject property is located in a Rural Community Plan Area where agricultural/forestry uses are appropriate in general locations;

2. All strip-mining activity has been completed and all disturbed areas have been reclaimed as open grasslands and woodlands; and,

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

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

CHAIRMAN: Ms. Dixon has returned the gavel to me and I will ask if there are any questions in the audience?

(NO RESPONSE)

CHAIRMAN: Does anybody on the commission have any questions?

(NO RESPONSE)

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

MR. HAYDEN: I make a motion to approve with Staff Recommendations and Findings of Fact 1 through 3.
CHAIRMAN: We have a motion for approval by Mr. Hayden.

MS. DIXON: Second.

CHAIRMAN: We've got a 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 6

1313 Moseley Street, 0.794 acres
Consider zoning change: From I-1 Light Industrial to B-5 Business/Industrial
Applicant: Robert Higdon

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. All pavement within the road right-of-way shall be removed and the grass strip between the curb and sidewalk shall be replaced;

2. Curb cuts cannot be located closer than 50 feet to the property line at the intersection of Moseley Street and East 14th Street.
3. Vehicular use area screening shall be installed when adjoining road right-of-way to include a three foot element and one tree every 40 linear feet; and,

4. All vehicular use areas must be paved and traffic shall circulate on-site with no backing into the street permitted.

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 uses area; 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 E.

CHAIRMAN: Does anybody from the audience have a question?
CHAIRMAN: Does anybody on the commission have a question?

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

Ms. Dixon: Move for approval based upon Planning Staff Recommendations, Conditions 1 through 4 and Findings of Fact 1, 2, 3 and 4.

CHAIRMAN: We've got a motion for approval 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: Motion carries unanimously. Next item, please.

ITEM 7

2601 Old Henderson Road, 2740 McFarland Avenue, 1.232 acres
Consider zoning change: From I-1 Light Industrial and R-4DT Inner-City Residential to I-1 Light Industrial
Applicant: Unique Granite & Marble Shop; Rick Thomas Custom Builders, Inc.

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:

CONDITIONS

Install and maintain appropriate outdoor storage screening, including a six foot tall element and on tree every 40 linear feet.

FINDINGS OF FACT

1. The subject property is partially located in a Business Plan Area, where light industrial uses are appropriate in limited locations and partially located in a Central Residential Plan Area, where light industrial uses are appropriate in very-limited locations;

2. The subject property is currently used for a granite and marble business with outdoor storage which is nonresidential in nature;

3. The proposed rezoning is a logical expansion of existing I-1 Light Industrial zoning located immediately south and east of the subject property; and,

4. The I-1 Light Industrial expansion should not significantly increase the extent of the industrial uses that are located in the vicinity and outside of Industrial Parks and 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 F.

CHAIRMAN: Does anybody in the audience have any questions?

MR. SILVERT: State your name, please.

MR. CLARK: My name is Tony Clark.

(TONY CLARK SWORN BY ATTORNEY.)

MR. CLARK: Tonight I'm here as an adjoining property owner. I own immediately east of this particular property and have owned it for probably 20 years.

I have four duplexes right on that side of the street. The numbers go backwards. You're rezoning request is 2740, but at 2732, 2726, 2720 and 2714. In addition slightly west and across the street I also own 2747. I want to clarify something too. The property is owned by CTC Investments, LLC. and I am the managing member of that particular organization who owns title to that.

I called Rick yesterday, Rick Thomas. First of all a couple of weeks ago I did receive in the mail the notice. I set it aside because I like Rick Thomas, and this makes it tough. I don't want to do
anything to impede progress in the City of Owensboro, Kentucky. God knows we need to go forwards and not backwards.

Having 33 years experience in Owensboro, Kentucky in real estate, I have watched property by virtue of encroaching and something change and what it does to the adjoining property. Having owned these for many years, they came from McEroy & Partners is where it originally came from, McEroy & Partners. I happen to own it for many years. Spent a lot of money maintaining these four duplexes. On today's market value of about 75,000 on these specific four individually.

Both to the left and both to the right of the property the present zoning is RR-4DT. I'm confident you all have a copy of that. If you don't, I can show you a copy of the present use both to the east and both to the west of the properties that we presently manage and own.

For years the property to the east has always been mowed and maintained, well taken care of. The property to the west has just gradually encroached from the I-1 industrial off of McFarland Road continually forward to McFarland.

Again, I've never said anything even though
that I knew that the violation exist on that R-4DT lot.

Do you all have a copy of that?

MR. APPLEBY: We've got it.

MR. CLARK: You can see where the line presently is that shows the light industrial an then the front of it. Item Number 24 on that plat if you're looking at it, on the plat right there.

Well, that line has been, you know, obviously been used for some time. I went back this morning to take a good look, just to take a look myself. Quite honestly I didn't realize that it was there, encroaching toward the fence, etcetera.

Again, I called Rick and I talked to Rick yesterday about my concerns.

Again, after 33 years of experience, when I look at the property as the zoning changes into an unfavorable zoning, it has both positive and negative effects. Positive effects on the property because of the I-1 zoning, the limited amount of property available.

On a multi-family, on four nice duplexes, all brick, generate a fair amount of money, which is an income stream to the investment organization just like what Rick's is to his organization. It will devalue
Has anybody taken a look, Planning & Zoning, have you all been to specifically look and visit the site?

CHAIRMAN: Yes.

MR. CLARK: Drew has. Got it. I'm asking you to --

CHAIRMAN: Have you completed? Because now you've made a statement that it will depreciate the value of the property.

MR. CLARK: Just based upon 33 years of experience.

CHAIRMAN: That's a statement that I assume that you're making.

MR. CLARK: That's correct.

CHAIRMAN: We as a commission, you know, many people come before us and they make statements as such. Obviously with your 33 years of experience, I assume you know that no verbal appraisal cannot be entered without factual contents.

MR. CLARK: Correct.

CHAIRMAN: In today's housing market, and especially in today's rental market, to make a statement of such that any movement in that direction to depreciate property values is something, you know,
if you're going to make that statement before this board, we need to know what is the basis, other than your 33 years of experience.

MR. CLARK: As I look around through town, whether it's Crabtree Avenue or if it's Sweeny Street or Leitchfield Road, as you watch, again, I'm in favor of progress so please understand me. I definitely want that to happen. From a Progressive situation, but not at the cost of next-door.

When you look at the properties that I have seen, as they go up against Sweeny or whatever and suddenly you've got property and then all of a sudden adjoining property owners are buying. They may have a shot-gun house for 20,000, but before it's over they -- it's just by virtue of the nature of the adjoining.

Again, in my residential area, you know, I would not want that beside my home. That multi-family is a home. They do generate good dollars. They generate real good dollars.

CHAIRMAN: I hate to keep coming back to my same question, but I believe I will. What evidence do you have of your statement that it will depreciate the value of the property next door?

MR. CLARK: The value in rental property is
purely based upon basically one thing. That's income
that is produced. The ability to produce the income
based upon the desirability of the tenant who wants to
live in a descent safe neighborhood free of rodents,
trash. These units are good units. They're nice
units. The visualization that I can see is that in A)
not being able to rent or to lower the rent. As you
lower the rent, you're devaluing the property just
based upon the lowering of the rent.

Again, if you did go look and if you did look
and decide, the various stacks of stone and the
granite that are right up against it, I didn't realize
it was that much there. Again, I have managers who
manage the property for me. I'm not there on a
day-to-day basis to look at that. Upon looking at it
today, I have to be honest and tell you I do not think
that it's been properly used based upon the zoning up
to this point. Sorry to speak against the zoning.

CHAIRMAN: Excuse me. Once again, does this
mean, in my understanding if the property devalues,
then the only way that a true rent equation would work
means that the rent would go down?

MR. CLARK: Correct.

CHAIRMAN: Have you had to lower your rent in
this area on any of these properties?
MR. CLARK: You know, I really have not been able to increase the rent. I have not been able to increase it.

The issue I have concerned now is -- for Rick, I have no problem with Rick per se to do what he wants to do. He said he wanted to build a building there to contain it. I have a problem in the sale of that property. Once the zoning is done and the zoning is taken care of, that zoning is permanent for perpetuate.

CHAIRMAN: Mr. Clark, I hate to go back to this again. In today's economy and today's market, if I am to assume all of these properties are full; is that correct? It's an assumption I'm making.

MR. CLARK: They continually -- again, on that particular spot there's eight units. Generally there's just one turning all the time. So that gives you about, what, a 75 percent occupancy.

CHAIRMAN: Which is excellent. I know the job you do. I've known you for years. I know the way you keep your property. I know the way you manage your business. I know your upkeep and everything else.

The thing this board is faced with, as you realize, we've got contiguous property that is running one beside the other. If one party cannot show, you
know, you can make a statement of such about decreasing value and property value, but if there's nothing that we've got to go on, if you've got problems with what he's doing as far as his possible screening and things that we can definitely enforce upon him that will clean up this area, which is within our power to do.

I can't take a rash statement the property did going to go Heck in a hand basket, we're going to have to devalue property. We're going to have vacant properties. We're not going to be able to rent them. If this has not occurred over the past some time, it's tough to use that statement. But if you've got specific instances where things that need to be sheered up, cleaned up, then we can obviously deal with those.

MR. CLARK: I believe in time I could bring that to you. I cannot do it tonight.

The issue, you know, through the years here as I look back and I've had on the Kamuf property to the west, whenever South Central Bank wanted to rezone, we had to sign off on that and we did sign off of it. It was a good thing. The bank is a good thing.

The industrial zoning on it, when you look at parcel 115 or Number 37 on that map, what's the zoning
of that one?

MR. NOFFSINGER: Mr. Chairman, I believe Mr. Clark is referring to a map that you do not have. The map you have is different. That's why you're not going to be able to find those numbers.

CHAIRMAN: We've got a five.

MR. APPLEBY: You've got street address.

CHAIRMAN: Which is 2732 McFarland. We've got have 4 which is 2505 Old Henderson Road. We have a 1 which is 2725.

MR. CLARK: What I'm referring to the property that's immediately west of the subject property requesting rezoning.

CHAIRMAN: Which would be Number 7, 2725.

MR. CLARK: Well, my numbers aren't matching with those numbers.

CHAIRMAN: Those are street addresses.

MR. CLARK: There's no street address on what I have.

MR. APPLEBY: It's commercial, B-4.

MR. CLARK: Correct. B-4 there to that. Then you've got R-4DT to the north and you have that also to the east.

CHAIRMAN: If you've completed your
statements, what I would like to do is why don't we bring the applicant before us. Is Mr. Thomas here?

    MR. THOMAS: Yes, sir.

    CHAIRMAN: Why don't we bring Mr. Thomas before us and let's see if some of these concerns and situations, which are things that are very important to you and to us as a commission, and see if we can address those.

    MR. CLARK: Thank you.

    CHAIRMAN: Mr. Thomas.

    MR. SILVERT: State your name, please.

    MR. JACOBS: Marty Jacobs.

    MR. SILVERT: Mr. Jacobs, I recognize the oath you took as an attorney.

    CHAIRMAN: We better swear in Mr. Thomas.

    MR. THOMAS: Rick Thomas.

    (RICK THOMAS SWORN BY ATTORNEY.)

    MR. JACOBS: Mr. Chairman, with your permission, I'd like to distribute a color coded plat which I think better sets forth what the zoning is in the area.

    CHAIRMAN: Thank you, Mr. Jacobs. While you're doing that, Mr. Thomas, would you mind taking the stand there and address a few questions.

    Do I need to restate concerns or would you
just like to address the concerns yourself? Did you hear Mr. Jones (sic)?

MR. THOMAS: Yes, I did.

CHAIRMAN: Would you like to just take those or would you like me to categorize them?

MR. THOMAS: He had mentioned the value of the property going down. Like I say, I don't understand that. I don't see where that would change at all. We've had the same use that it's been used for 20 years or more. It's all been fenced in one unit for a long time. I've been in that area around 13 years and it's been fenced in a lot longer than that in one unit with all the same use.

Mr. Chairman, what other concerns?

CHAIRMAN: He was saying about the possible upkeep being questionable. The pieces of granite that are laying around, but that obviously is the business that you're in.

MR. THOMAS: Yes. We do have stone around, pallets of stone, rack of stone. They are all within the fence line and we do have a screen on the fence. It's 88 percent blockage on the screen.

The outside, we had trouble with neighbor cars parking between the fence and the street so we keep all of that killed down to where there's not any
growth up in that area. I'm not really sure what the
maintenance issues would be other than that. The
fence has some age to it, but the screen is new. Just
a couple of years old.

CHAIRMAN: Mr. Jones (sic), would you like to
return and be specific. We've got him under oath and
we could get you to make your charges of what his
direct problems are. We're not going to go back and
forth. I'll come back to you.

MR. CLARK: Tony Clark.

CHAIRMAN: I'm sorry.

MR. CLARK: Specifically -- can I ask a
question?

CHAIRMAN: Absolutely.

MR. CLARK: Is a multi-family home considered
residential use?

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Yes, sir, it is.

MR. CLARK: Thank you. Can you put a junk
yard next to a residential use?

MR. NOFFSINGER: If the property is zoned I-2
heavy industrial and a conditional use permit is
approved by the Board of Adjustment, you could place a
junk yard next to a residential use, and provide the
Board of Adjustment approves a variance to allow you
to have the junk yard within 300 feet of a residential zone. I think I covered all of it.

MR. CLARK: I am as much concerned of the future as I am the present. Your position is to look out for the citizens of Daviess County. I do understand. I applaud you for doing your job there.

The other side of the story, I've got to look out for the investments that we have. I ask the question because I live at 1204 Wood Bridge Trail. I wouldn't want the junk yard next to me and I really don't want the industrial zoning with the piles and everything right next-door to me too. I speak honestly, I like Rick Thomas or I would have already some time ago taken action.

MR. APPLEBY: I would like to hear from Mr. Jacobs with regards to your zoning map.

MR. CLARK: I did not see the map.

CHAIRMAN: Mr. Clark, I do apologize, but I think you got my slip. You know I know better.

MR. CLARK: You're fine.

MR. JACOBS: Folks, what I've done is I've distributed a color coded plat which I think better shows what the various mixed uses that are in this area.

The property that's at issue consist of two
lots which have historically been used together. They are the ones that are shown across hatch on this plat. They're identified as Tract 1 and Tract 2.

Now, Tract 1 has always been zoned I-1. Tract 2, which faces on McFarland, is zoned R-4DT. This property was owned by Imperil Construction Company from 1973 to 1998. It's been owned by the current owner since 1998.

It is also, if you go out there and look at it, it is fenced in as if it were one unit. That fence I understand has been there at least 20 or 25 years. For all practical purposes it has been used as one lot for the same use over that very long period of time.

The problem we have, of course, is the tract that faces Old Henderson is I-1. The part on McFarland R-4DT.

What Mr. Thomas intends to do is to have it consolidated once the zoning change was approved. He can then go in and build a storage building on the back to house the various granite and other materials that they work in the shop. He, of course, cannot get a permit at this time to do that without the zoning change. So what he will end up doing is converting mostly outside storage to insides storage, which
frankly should improve the looks in the area as to
what's going on right now.

Couple of the points --

CHAIRMAN: Mr. Jacobs, do you have any idea of
what the exterior of this new construction would be?
Maybe we should ask Mr. Thomas.

MR. JACOBS: I assume it will be a metal
building.

MR. THOMAS: It would be a white metal
building similar to the two buildings that's on the
lot now.

CHAIRMAN: Thank you.

MR. JACOBS: Couple of things that Mr. Clark
said that I'd like to respond to specifically.

One is he talks about I-1 adjoining his four
properties and how that's going to devalue them. If
you will look at the plat, there's already I-1 that
runs all the way along the back of those properties.
I think that's owned by Mr. Higdon that's there.

Also he makes kind of the same argument that,
well, I'm okay with it right now, but what's going
happen down the road. Well, that's the same question
that you can ask with any request for a rezoning,
assuming that those future uses come within the
classification.
I think what we have to look at is what has happened in the past. This property has been used, was used by a construction company for 25 years. It's now used by this basically granite counter top maker for the last ten. I think that's all we can look at. We could speculate all day as to what a potential future use might be.

What we're essentially asking, to make it pretty simple, if you look on the color coded plat there. Tract 2, what is crossed in yellow would become orange and join the other I-1 properties that are in that area.

CHAIRMAN: Mr. Clark, their intentions really are, in my estimation, are actually to improve the property. One of your concerns about exterior storage would now in some period of time, we cannot put parameters on the application, but it sounds like at some reasonably quick period of time it's going to be going from exterior to interior storage. Which would in my estimation probably improve the whole situation down there.

MR. APPLEBY: Tony, I understand your concerns. The way I look at it you are already adjoined by light industrial all the way across the back of those lots to begin with.
MR. CLARK: On the back, that's correct.

MR. APPLEBY: Your concern is what happens when this frontage becomes I-1. By the same token they could ask for it to be rezoned B-4 and a B-4 up against that property, I don't know which is better, which is worse.

MR. CLARK: B-4 is better.

MR. APPLEBY: Well, B-4 definitely is going to be more traffic. Is traffic good for bad for residential property?

MR. CLARK: Traffic is good. It brings tenants.

MR. APPLEBY: But it is a logical expansion of an existing zone.

CHAIRMAN: Could I just for a second.

That's correct. Logical expansion. Then immediately to the east of the property then it would be logical that also that R-4DT to the east, which comes to an end. There's nothing there. That would make logical sense to rezone that also.

Mr. Jacobs made a statement a second ago that it's been used for years. So zones really doesn't matter? Because basically it's been used illegal for years by having the outside -- the product is being used. The product is industrial.
CHAIRMAN: I think Mr. Jacobs made the statement that it was used as a construction company for years. Is that what you're referring to as the illegal?

MR. CLARK: No. I'm just saying that if in fact zoning matters, for the years that I've been there or the years I've been there, what was grown in the early years was nothing but grass was grown. Was tall and always over the fence. In other words, did not look good. I'm simply saying that if that's the case, then the product of being used in an illegal zoning, in an R4-DT for some time and apparently we've turned our head from that. We've been doing that.

I guess the question I have for you, most zoning on industrial usually handles in areas that are not as nice of areas that you all like to live in. Including me.

This may not be the appropriate question. But if I was rezoning Goetz Drive tonight next to Sydney Lane, the apartments over there and I was going to bring it in, do you think, and you don't have to answer it, but do you think that your feelings would be the same or would you say, maybe the west side here is not as good, whatever, on that point?

CHAIRMAN: Mr. Clark, I think that's totally
out of line. I think that's totally out of line. I think this commission has a history of looking at each individual, but we do not let any arbitrary statements stand without being questioned and backed up with the facts.

MR. CLARK: Again, the conversation is that it appears to be all right, it appears to be all right. Again, I guess where I'm thinking about it, that be the case, the consideration for the adjoining property owner in this particular case, which happens to be us, I'm not so sure that you're giving the proper consideration for the other. I'd ask you to shun it tonight.

MR. JACOBS: We would like the board to consider it tonight. We don't know what Mr. Clark has in mind other than some delay. I think he's had certainly an opportunity to have his say and Staff has looked at it. We would like the board to act, if you're inclined to do so.

CHAIRMAN: Thank you, Mr. Jacobs.

Mr. Noffsinger.

MR. NOFFSINGER: Thank you, Mr. Chairman.

CHAIRMAN: Wait a minute, Mr. Noffsinger. I have a question before you make your statement.

Mr. Clark made the statement that the place
was overgrown and there was problems in the past. Do you have of record any complaints that were lodged against this property or anything of record?

MR. NOFFSINGER: No, sir, not to my knowledge.

CHAIRMAN: Thank you.

MR. NOFFSINGER: Mr. Jacobs, a question in terms of how you plan to develop the property. Do you plan to have vehicular access to McFarland Avenue?

MR. JACOBS: No.

MR. NOFFSINGER: I understand you're proposing a building to the rear of the property. You're not going to have any vehicular access to McFarland Avenue and that's going to be totally screened and closed off?

MR. JACOBS: It will be screened as is necessary. Depending on what is -- I know the screening requirements as it regards being next to residential as opposed to B-4. That would, of course, be different. We talked about it this afternoon. Mr. Bryant is here and we've talked about the consolidation plat. The plan is we are not asking for access on McFarland. Traffic will come in on Old Henderson and come book out on Old Henderson Road.

MR. NOFFSINGER: The Reason I ask that
question is because it has to do with orientation of
the property and the development. If you're going to
access off of Old Henderson Road and that becomes your
front door, that's where the industrial traffic will
be coming from and then no access to McFarland Avenue.
Therefore you are orienting that development toward
what appears to be a street that has more
industrial/nonresidential activities on it.

MR. JACOBS: Yes.

MR. NOFFSINGER: Thank you.

CHAIRMAN: Mr. Clark, is there any specific
screening or anything that you would --

MR. CLARK: Rick and I have talked about that.
How close to the line, you know, will the building be?
What type of building will it be? Some other
variables.

I speak openly against it. I own four
duplexes. I do understand society and government.
The only comment I make is that I think you need to
take a good look at all parties involved. Take a good
look at all parties involved.

Again, when there's benefit there's also --
this is part of progress. When there's benefit to
society, it's a detriment to the others. That's why
I'm here.
CHAIRMAN: Would you explain the detriment, please?

MR. CLARK: I explained it earlier. When an industrial building comes right beside my apartment building, suddenly the building is new and nice. It looks good. Three years later, whatever happens to the industry, it goes down. For me to maintain my buildings, you are right. I do maintain my buildings. I'm not a slum landlord. I would live in anything that we have anywhere in the city. Period.

I feel that the negative effect, with the proximity right beside, I don't have any problem behind it. I don't have any problem at all behind it, but I do have a problem on either side. Either east or west. As I think the negative reaction for the tenants peaceful and quiet enjoyment of their residential lifestyle will be altered.

CHAIRMAN: Does anybody else in the audience have a question or comment?

(NO RESPONSE)

CHAIRMAN: Does anybody on the commission have any questions or comments?

(NO RESPONSE)

CHAIRMAN: Mr. Clark, please be seated.

Mr. Jacobs.
MR. JACOBS: We have nothing further at this time, Mr. Chairman.

CHAIRMAN: Mr. Jacobs and Mr. Thomas, please be seated. Thank you very much.

I think we've heard both sides of this issue. As we on the commission realize, there's certain findings of facts and certain rules in and order that we have to follow. With that being said, the chair is ready for a motion.

MR. HAYDEN: I make a motion we accept the Staff Recommendations with the Conditions and Findings of Fact 1 through 4.

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

MR. EVANS: Second.

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

All in favor raise your right hand.

(BOARD MEMBERS TIM MILLER, JIM GILLES, DAVE APPLEBY, DREW KIRKLAND, JUDY DIXON, WALLY TAYLOR, KEITH EVANS AND MARTIN HAYDEN RESPONDED AYE.)

CHAIRMAN: All opposed.

(NO RESPONSE)

CHAIRMAN: We have eight for and we had one abstain.

Next item, please.
MINOR SUBDIVISIONS

ITEM 8

6080 Jack Hinton Road, 7061 Highway 54, 6.820 acres
Consider approval of minor subdivision plat.
Applicant: Kenneth R. & Rebecca B. Onstott

MR. HOWARD: This plat comes before you this
evening because it is in violation of the three to one
ratio. It greatly exceeds that. The long skinny lot
was created by the Planning Commission plat approval
in June of last year. At which time the Planning
Staff recommended denial of the plat due to the
creation of the long skinny double frontage lot.

Based upon the current configuration with the
excess length to width ratio, Staff still can't make a
positive recommendation on the plat. It comes before
you as an exception and for your consideration.

CHAIRMAN: Do we have any questions or anybody
representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anybody from the commission?

(NO RESPONSE)

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

MR. APPLEBY: Does this improve the situation
or make it worse? I don't see that it makes it any
worse. It actually makes the two lots closer in compliance, doesn't it?

MR. NOFFSINGER: I think you answered your own question, Mr. Appleby.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Mr. Appleby, this has been pretty much your specialty, Mr. Appleby.

We have a motion for approval by Mr. Appleby.

MR. HAYDEN: Second.

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

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 9

5380 Lee Rudy Road, 3.838 acres
Consider approval of minor subdivision plat.
Applicant: Joe L. Rudy, Jr., et al.

MR. NOFFSINGER: Mr. Chairman, this plat comes before you tonight because it does create a lot that will exceed the three to one depth to width ratio if you expand its size. It's not creating an additional lot. It's just making an existing lot larger.

However, it exceeds that three to one and it's a plat that I could not sign in-house, but we would recommend that you grant approval.
CHAIRMAN: Somebody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval 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, please.

ITEM 10

6194 Old Highway 54, 4700 Philpot Heights, 13.526 acres
Consider approval of minor subdivision plat.
Applicant: Jackie W. & Susan Floyd

MR. NOFFSINGER: Mr. Chairman, this plat comes before you. It does take an existing lot of record and makes it larger. However, when you enlarge the lot it exceeds the three to one depth to width ratio. However, we're not creating any additional tracts and
it basically doesn't make the situation any worse or really any better, but it was when the plat was approved there were lots today and it will be two lots tomorrow. So with that we would grant approval.

CHAIRMAN: Any questions from anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Commission?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

I believe we have one final motion.

MS. DIXON: Move to adjourn.

CHAIRMAN: Motion for adjournment 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. 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 45 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the
30th day of July, 2008.

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

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