The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, February 7, 2007, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Ward Pedley, Chairman
                    Gary Noffsinger, Director
                    Marty Warren
                    Sean Dysinger
                    Ruth Ann Mason
                    Judy Dixon
                    Clay Taylor
                    Madison Silvert, Attorney

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CHAIRMAN: We begin our meeting with a prayer and the pledge of allegiance to the flag. Madison will lead us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: We would like to welcome everyone. Anyone wishing to speak on any item may do so. We ask that you come to one of the podiums and state your name and be sworn in.

With that the first item on the agenda is consider the minutes of the January 3, 2008 meeting. They have been read and they're on file in the Planning Office. Are there any additions, corrects?
(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

MR. TAYLOR: Second.

CHAIRMAN: There's been a motion and a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The minutes are approved.

Next item.

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CONDITIONAL USE PERMITS

ITEM 2

720 West Byers Avenue, zoned B-4
Consider request for a Conditional Use Permit for a child daycare with a maximum capacity for 49 children from 6 a.m. to midnight daily.
Reference: Zoning Ordinance, Article 8, Section 8.2B3
Applicant: Kids Town Child Care and Massie Clark Development Company, Inc.

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(MR. BRIAN HOWARD SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned B-4
General Business and OMPC records do not indicate any zoning changes on the subject property. There is an existing pharmacy on the subject property and is shown on the site plan submitted with the application.
With the existing pharmacy on the subject property, the addition of the daycare will generate the need for a final development plan since there will be two principal buildings and uses on the subject property. The parking requirement for the daycare is seven spaces with one required to be handicap accessible. Required parking must also be provided for the existing pharmacy and addressed on the final development plan.

Access to the subject property was established on a minor subdivision plat that was approved by the OMPC in March 1993, and is limited to the existing access point along the west side of the property. No additional access to West Byers Avenue will be permitted.

LAND USES IN SURROUNDING AREA

The property to the north, across West Byers Avenue, is zoned R-3MF Multi-Family Residential with existing apartments on the property. The property to the east is zoned R-1B Single-Family Residential with single-family residences. The property to the west and south are both zoned B-4 General Business with various commercial shops and offices.

Since the adjoining property to the east is zoned R-1B Single-Family Residential, screening
between the subject property and the residential property will be required. The screening requirement includes a 10 foot landscape buffer with a six foot high continuous element with one tree every 40 linear feet.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirement - Daycare - 2, plus one per 10 children - 7, Pharmacy - 1 per 400 square feet - 8, 15 Total

2. Ten foot landscape buffer with a six foot high fence and one tree every 40 feet along the entire east boundary.

3. Submittal and approval of a final development plan.

SPECIAL CONDITIONS

1. Access to West Byers Avenue shall be limited to the existing shared access point only. No additional access to West Byers Avenue will be permitted.

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

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone here in opposition of this
application?
(NO RESPONSE)
CHAIRMAN: The applicant have anything you would like to state to the board?
APPLICANT REP: No.
CHAIRMAN: Any board members have any questions of the applicant?
(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.
MR. DYSINGER: Move to approve the conditional use permit given the findings that the proposed use is compatible with the surrounding area and there are no objections.
MS. MASON: Second.
CHAIRMAN: We have a motion and a second. Any questions on the motion?
(NO RESPONSE)
CHAIRMAN: All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries.
Next item.
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VARIANCE
ITEM 3
2501 Littlebrook Trail, zoned R-1C
Consider a Variance to increase the height of a fence from 3 feet to 6 feet to be installed along Hillbrooke Parkway.

Reference: Zoning Ordinance, Article 3, Section 3-7(g)(2)

Applicant: Mike & Cindy Hamilton

MR. NOFFSINGER: Mr. Chairman, the applicant has submitted a letter and made part of the application from their Mr. Nicholas Gates of Meyer, Haynes, Crone & Meyer, LLP that there are no deed restrictions on the property that would prohibit the height variance as requested in this application.

MR. HOWARD: I'll just give a little bit of background as to the request.

Basically this is a corner lot. Per the ordinance it has two front yard setbacks that are required. However the house fronts Littlebrook Trail. Hillbrooke Parkway is to the side of the home. Generally the height of a fence along the side of the home would be six foot, however a front yard setback is limited to three foot.

Kentucky Building Code requirements state that a fence surrounding a pool shall be a minimum of four feet. So based upon that, they would not be able to install a pool without a variance of some sort. They requested a variance to six feet.

I will note that on the site plan it appears
along the rear part of the property that there is some type of utility easement. I'll just note that the fence should either be located outside of that utility easement or they should have the approval from the appropriate utilities that it's okay to construct that with the easement. We do permit fences although we do look at the height requirement.

That's why it's before you here tonight and will be happy to answer any questions that you may have.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone here in opposition of this application?

(NO RESPONSE)

CHAIRMAN: Any board members have any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve the variance because there are special circumstances that would present a hardship and that it will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity;
will not cause a hazard or a nuisance to the public;
and will not allow an unreasonable circumvention of
the requirements of the zoning regulations.

MR. WARREN: Second.

CHAIRMAN: We have a motion and a second. Any
questions or comments on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

OTHER BUSINESS

ITEM 4

3905 Carter Road, zoned B-4
Monthly review of paint ball screening and operation
since the January 3, 2008 meeting,

MR. NOFFSINGER: Mr. Chairman, Zack Williams
of the Planning Office who has been working with Mr.
Mischel and zoning enforcement will give that report.

MR. SILVERT: State your name, please.

MR. WILLIAMS: Zack Williams.

(MR. ZACK WILLIAMS SWORN BY ATTORNEY.)

MR. WILLIAMS: Since the last Board of
Adjustment meeting we have visited the property once
to ensure that the fence at 3844 McIntire Crossing had
been repaired.
We had received on the 28th of January a letter from Ms. Ginger Carter stating that it had not been repaired. Today I went out there and took pictures, which you have before you now, showing that the fence has been repaired.

I have this letter from her that I will give to the court reporter for it to be entered into the record.

There's nothing to report other than he has been complying with the request from the homeowner.

CHAIRMAN: Do we need to read this letter into the record?

MR. NOFFSINGER: No, sir. Each member has been given a copy of that letter. The letter has been entered into the record by Mr. Williams. I think it's just a matter of notifying you. If you have no further questions chair might want to entertain a motion to adjourn.

CHAIRMAN: With that no more action needed on this at this time so we're ready for a motion to adjourn the meeting.

MS. DIXON: Move to adjourn.

MS. MASON: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: We are adjourned.

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

I, LYNNETTE KOLLER FUCHS, Notary Public in and
for the State of Kentucky at Large, do hereby certify
that the foregoing Owensboro Metropolitan Board of
Adjustment 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 10 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the
25th day of February, 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