The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, October 2, 2008, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

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CHAIRMAN: Call the Owensboro Metropolitan Board of Adjustment to order. We'll begin our meeting with a prayer and the pledge of allegiance to the flag. Mrs. Dixon will lead us.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I would like to welcome everyone. Anyone wishing to speak on any item, we welcome your questions and comments. We ask that you come to one of the podiums, state your name and be sworn in.

First item on the agenda is to consider the minutes of the September 4, 2008 meeting. Are there any additions or corrections?

(NO RESPONSE)
CHAIRMAN: If not chair is ready for a motion.

MR. PANTLE: Move for approval as in the office.

MS. DIXON: Second.

CHAIRMAN: We have a motion and a second. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously. The minutes are approved.

Next item.

MR. NOFFSINGER: Under Conditional Use Permits, Item 2, Mr. Chairman, the City of Owensboro has requested that this item be postponed until our November meeting. That will be the first Thursday in November. You will need to vote on a postponement.

CHAIRMAN: Chair is ready for a motion for postponement on this item.

MS. DIXON: Move to postpone.

MS. MASON: Second.

CHAIRMAN: We have a motion and a second. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ITEM 3

7601 Iceland Road, zoned I-2
Consider a request for a Conditional Use Permit to replace an existing 56' x 24' office building with a 52' x 48' office building for a weigh station in a floodway.
Reference: Zoning Ordinance, Article 18, Section 18-4(B)(3) and 18-5(B)(4)
Applicant: DeBruce Grain, Inc. and Kinder Morgan Bulk Terminals, Inc.

MR. SILVERT: State your name.

MR. WILLIAMS: Zack Williams.

(MR. ZACK WILLIAMS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is zoned I-2, Heavy Industrial. The OMPC records indicate that four conditional use permits have been approved for this property as follows:

June 1, 2006, to erect three steel grain bins, one dryer foundation and support equipment for a barge loading and unloading facility in a floodway.
April 10, 2003, to erect two steel grain bins to store grain in a floodway.
December 7, 2001, to erect 12 silo tanks to store bulk commodities in a floodway.
September 3, 1998, to construct a storage building within a floodway.

LAND USES IN SURROUNDING AREA
The subject property is zoned I-2 Heavy Industrial. The property is bound to the west by the Ohio River. The property to the north is zoned A-R, Rural Agricultural and the properties to the east and south are zoned I-2, Heavy Industrial.

ZONING ORDINANCE REQUIREMENTS

All of the requirements have been met by the applicant:

1. A Stream Construction Permit for Construction In or Along a Stream was issued by the Kentucky Division of Water on July 28, 2008.

2. A determination from the U.S. Army Corps of Engineers that a permit is not required from the agency, dated August 29, 2008.

3. Certification from a design professional was made on September 11, 2008, that the proposed construction will not cause a rise in the base flood elevation during a base flood discharge.

MR. WILLIAMS: I 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 like to speak in opposition on this application?
CHAIRMAN: Any board members have any questions of the applicant?

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

MR. PANTLE: Mr. Chairman, hearing no opposition I move for approval because it's compatible in the area. It had conditional uses in 1998, 2001, '03 and '06 to the same property, and all requirements have been approved by the Division of Water, Corps of Engineers and design professional certificate has been obtained.

CHAIRMAN: We have a motion by Mr. Pantle. Do I hear a second?

MR. WARREN: Second.

CHAIRMAN: We have a second. Comments or questions on the motion?

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ITEM 4

3223 Baybrook Street, zoned R-1C
(Postponed at the September 4, 2008 meeting)
Consider a Variance to reduce the prescribed building setback along Dalton Street from 25' to 15' for the purpose of enlarging the principle building.
Reference: Zoning Ordinance, Article 8, Section 8.5.7(c)
Applicant: J&W Building-Remodeling Dream Design, Melissa Pate and Mary Ann B. Pate

MR. WILLIAMS: The subject property is at the intersection of Baybrook and Dalton Street and was developed with a platted street side yard building setback of 15 feet.

The zoning regulations enacted after the Scottish Home Subdivision developed in the '50s have a prescribed street side yard setback of 25 feet.

This application is before you because the applicant's desire to construct a room addition on the house that will encroach into the prescribed 25 foot setback, but will not encroach into the platted 15 foot setback. The applicants are requesting a variance of 10 feet, effectively returning the building envelope to what was intended when the property was developed.

The situation is typical for this area in the Scottish Home Subdivision. One-half of the homes on corner lots within one block of the subject
intersection have structures that encroach into the prescribed 25 street side yard setback. For this reason and the fact that the subdivision was planned in such a way that it expected the development of up to 15 feet of the street side yard lot line.

Approving the variance will not alter the essential character of the general vicinity. Additional, if approved, the Variance will not cause a hazard or nuisance and will not affect public health, safety or welfare because the proposed room addition will be 16 feet 11 inches from the public right-of-way.

Finally, since the Scottish Homes Subdivision was planned and platted to accommodate this request and 50 percent of the corner lots in the vicinity are developed in the same way, approving this variance will not be an unreasonable circumvention of the zoning regulations.

By these findings the Staff recommends approval.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone here like to speak in opposition of this application?
CHAIRMAN: Any board members have any questions of the applicant?

MR. TAYLOR: Mr. Chairman, move to approve the Variance based on the finding of facts that there was the intended purpose of the subdivision to be platted like this. So it will adversely affect the public safety or welfare, and will not alter the essential character of the general vicinity since currently homes in the area are developed along the same way. It will not cause a hazard or nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

CHAIRMAN: We have a motion by Mr. Taylor.

MR. PANTLE: Second.

CHAIRMAN: Second by Mr. Pantle. Comments or questions on the motion?

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.
ITEM 5

3200 Highland Pointe Drive, zoned B-4
Consider a Variance to reduce the number of parking spaces for a proposed planned multi-family residential development from 528 required parking spaces to 455 spaces as per Article 13, Section 13.77 of the Owensboro Metropolitan Zoning Ordinance and to increase the maximum building height allowed in a Multi-Family Residential Zone from 36’ to 40’.
Reference: Zoning Ordinance, Article 13, Section 13.77 and Article 8, Section 8.5(f).
Applicant: Thompson Thrift, d/b/a Watermark Residential and Highland Pointe Holdings, LLC

MR. WILLIAMS: The subject property is zoned general business and must be rezoned to multi-family residential before building permits may be issued.

The applicants are seeking the Variances first in order to determine whether the project can be built as designed. The applicant has requested two variances that will be handled in turn beginning with the reduction in parking.

The zoning ordinance mandates required parking and spillover parking. The applicant intends to provide all of the required 408 parking spaces and request a reduction in the spillover parking from 120 to 47 spaces. This is a reduction of 14 percent from the total parked parking mandated.

State as ratio design ordinance mandates 2.44 parking spaces per dwelling unit for this development as planned. The applicants are requesting to provide
2.11 parking spaces per dwelling units. Because the applicant is planned to provide
the necessary vehicle use area screening and adequate
maneuvering space, a reduction in the number of
parking spaces will not adversely alter the character
of the area.

The applicant argues that the parking mandated
by the zoning ordinance is in excess by comparison to
standards recommended by the Urban Land Institute and
the American Planning Association. These standards
are 1.75 and 1.5 parking spaces per housing unit
respectively. Documentation of these recommendations
have been provided by the applicants.

Staff review of a field study conducted by the
Institute of Traffic Engineers determined that the
average peak demand for a suburban apartment complex
of this size is 1.36 spaces per unit or 293 parking
spaces. This is actual observed peak demand in the
field. This number is based upon 44 suburban
apartment complexes.

The highest observation in the study did not
exceed 1.94 parking spaces per unit. Thus it's
reasonable to conclude that the applicant's proposal
to provide 2.11 parking spaces per unit is adequate to
handle the average peak parking demand and will not
create an unsafe or congestive parking situation or
cause a hazard or nuisance to the public.

Additionally, because the applicants will
provide all of the required parking, 39 percent of the
mandated spillover parking and the anticipated demand
should not exceed that which will be provided.
Granting this variance is not an unreasonable
circumvention of the zoning ordinance.

By these findings the Staff recommends
approval with the following condition:

1. Subject to rezoning the property from
general business to multi-family residential.

With regards to the variance requesting an
increase in the maximum building height, the
applicants contend that the zoning regulation will
accommodate an average ceiling height of 8 feet. The
applicant is determined that a particular market
segment can be served by providing luxury apartments
at this location with 9 feet ceilings.

Because the development will be in a mixed use
area containing zones with no height limitation,
granting the variance will not alter the general
character of the area.

For the same reason granting the variance will
have no affect on public health, welfare or safety and
will not create a nuisance to the public.

The ceiling height is an essential part of the character and the appeal of the apartment design.

Since adjacent properties have no limit on the height of buildings, denial of this variance is unnecessary. Therefore approval will not allow an unreasonable circumvention of the zoning regulations.

By these findings the Staff recommends approval with the following condition:

1. Subject to rezoning the property from general business to multi-family residential.

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

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone here like to voice an opinion or have any questions or concerns of this application?

(NO RESPONSE)

CHAIRMAN: Any board members have any comments or questions on the application?

(NO RESPONSE)

CHAIRMAN: This is a two-part variance. Variance for the height and variance for parking
spaces. It may be considered jointly or separately.

Chair is ready for a motion.

MR. TAYLOR: Mr. Chairman, I move for approval both variances jointly. I do this on the condition that the subject property does be rezoned from B-4 to R-3 MF.

I do this based on the fact that neither variances will adversely affect the public health, safety or welfare. Because of the screening and maneuver space being provided it will not alter the essential the essential character of the general vicinity on either variance, and it will not cause a hazard or nuisance to the public, nor will it allow an unreasonable circumvention of the requirements since it does exceed the amount of the demand for the parking area.

CHAIRMAN: We have a motion by Mr. Taylor. Is there a second?

MS. DIXON: Second.

CHAIRMAN: Second by Ms. Dixon. Comments or 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 unanimously.

We need one final motion.

MR. WARREN: Motion 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 14 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 30th day of October, 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