The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, March 5, 2009, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

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CHAIRMAN: Call the meeting to order of the Owensboro Metropolitan Board of Adjustment at this will time. We start our program each day with a prayer and pledge of allegiance. We invite you to join us at this time. Judy Dixon will have our prayer.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I want to welcome all of you to the Board of Adjustment meeting at this time. If you have any items you need to discuss or speak on any item, please come to one of the podiums, state your name and be sworn in. We'll recognize you and go from there.
The first item of business is to consider the minutes of the February 5th meeting. They're on record in the office. Anything need to be added?

MR. NOFFSINGER: No, sir.

MS. DIXON: Move to approve.

CHAIRMAN: A motion has been made.

MR. PEDLEY: Second.

CHAIRMAN: And a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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CONDITIONAL USE PERMITS

ITEM 2

2400 Friendship Drive, zoned R-3MF Consider request for a Conditional Use Permit to construct a 10,519 square foot building for a community center and non-profit philanthropic offices within a residential zone. Reference: Zoning Ordinance, Article 8, Section 8.2B7, Section 8.2B10 Applicant: Wabuck Development Co., Inc.; Christian Care Communities, Inc.

MR. SILVERT: State your name, please.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned R-3MF
Multi-Family Residential. OMPC records indicate there have been no Zoning Map Amendments on the subject property. The subject property has been shown on previous Major Subdivision Preliminary Plats, noted for future development. The subject property is currently vacant.

A new Combined Major Subdivision Preliminary Plat/Final Development Plan for this multi-family residential development is planned to be submitted in the near future.

The proposed use of the new building will include 3,906 square feet dedicated for use by only the residents of the proposed multi-family developments. It will additionally contain 2,665 square feet for a public community center and 3,948 square feet for office spaces for various philanthropic service agencies.

LAND USES IN SURROUNDING AREA

The property to the north is zoned R-3MF Multi-Family Residential and is being used as duplexes. The property to the south is zoned R-3MF Multi-Family Residential with an existing neighborhood. The property to the west is zoned A-U Urban Agriculture and is single family residences. The property to the east is zoned R-1C and is an
existing neighborhood.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - Community Centers,
   Public - 1 per every 600 square feet - 5;
   Philanthropic institutions and clubs - 1 per every 250
   square feet - 16; total required 21.

SPECIAL CONDITIONS

1. Submittal of a Combined Major Subdivision
   Preliminary Plat/Final Development Plan.

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

   CHAIRMAN: Is there any comments on record in
   the office before or against?

   MR. NOFFSINGER: No, sir.

   CHAIRMAN: Is anyone wishing to speak in
   opposition of this item?

   (NO RESPONSE)

   CHAIRMAN: Is the applicant here?

   APPLICANT REP: Yes.

   CHAIRMAN: Do you have anything you would like
   to add at this time?

   APPLICANT REP: Not unless you have questions.

   CHAIRMAN: Any board members have any comments
   or questions of the applicant?

   (NO RESPONSE)
CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none entertain a motion to dispose of the item.

MS. MASON: Mr. Chairman, I move for approval. My findings of fact since there's no opposition and it's a logical expansion, the community center is a logical expansion of the existing use of the property and is a compatible development to the land use in this neighborhoods, and subject to the zoning ordinance that was mentioned earlier and it's subject to the special conditions that were mentioned earlier.

CHAIRMAN: Is there a second?

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Any other comments or questions from the board?

(NO RESPONSE)

CHAIRMAN: Anything else from the Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.
ITEM 3

9378 Highway 144, zoned B-4, R-1A to A-U
Consider request for a Conditional Use Permit to
maintain and operate an existing cemetery.
Reference: Zoning Ordinance, Article 8, Section 8.2J1
Applicant: St. Williams Cemetery; Ernest T. Isbill &
Diocese of Owensboro

ZONING HISTORY

The subject property is currently zoned B-4
General Business and R-1A Single-Family Residential.
OMPC records indicate there was a Zoning Map Amendment
application submitted and approved by the Planning
Commission on February 12, 2009. The subject property
is currently used as a cemetery.
A Minor Subdivision Plat has been submitted
and will be approved once the Zoning Map Amendment has
been finalized.

The existing cemetery was found to encroach
into the Isbill property to the west, requiring the
rezoning of the cemetery property to an appropriate
zone and an application for a Conditional Use Permit
to bring the existing property into conformance with
the current zoning ordinance.

LAND USES IN SURROUNDING AREA

The property to the north is zoned R-1A
Single-Family Residential and a B-4 General Business
with existing residences and an existing business.
The property to the south is zoned A-U Urban Agriculture with an existing farm. The property to the west is zoned B-4 General Business with an existing business. The property to the east is zoned R-1A and is the Knottsville Fire Department.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - none.
2. Landscaping requirements - none.

SPECIAL CONDITIONS

1. Final approval of the Zoning Map Amendment Application.
2. Approval of the Minor Subdivision Plat.

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

CHAIRMAN: Is there any opposition or comments in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none is there anyone wishing to speak in opposition of this item?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything you would like to add at this time?

APPLICANT REP: No.

CHAIRMAN: Hearing none any comments or questions from the board?
(NO RESPONSE)

CHAIRMAN: Anything else from the Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none entertain a motion to dispose of the item.

MR. WARREN: Motion to approve the Conditional Use Permit. The findings that it is current use for the property, there is no opposition, and that the special conditions must be met, the final approval of the zoning map amended application, and an approval of the minor subdivision plat.

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Any other comments or questions from the board?

(NO RESPONSE)

CHAIRMAN: Anything else from the Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 4

4815 US Highway 60 East, zoned I-2
Consider request for a Conditional Use Permit to construct and operate a storage and handling facility for liquid petroleum products, by-products and various derivative products, and other liquid materials.

Reference: Zoning Ordinance, Article 8, Section 8.2G/27

Applicant: Yager Materials

ZONING HISTORY

The subject property is currently zoned I-2 Heavy Industrial. OMPC records indicate there have been no Zoning Map Amendments on the subject property.

The subject property is currently vacant.

A Minor Subdivision Plat will need to be submitted and approved for the lot division. An additional Conditional Use Permit will need to be approved to construct the pipe line shown on the site plan in the floodway.

LAND USES IN SURROUNDING AREA

The property to the north, west and east are zoned I-2 Heavy Industrial with existing industrial activity. The property to the south is zoned I-1 with existing farm land.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - Heavy industrial uses, conditional permitted - 1 for every 2 employees on maximum shift (minimum 5) - total required 5.

2. Landscaping requirements - none.

SPECIAL CONDITIONS
1. Approval of a Minor Subdivision Plat.

2. Approval of an additional Conditional Use Permit to build the pipe line shown on the site plan in a floodway.

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

MR. NOFFSINGER: Mr. Chairman, I would like to also add a third condition on this Conditional Use Permit. That be the access to the property be limited to the existing haul road and that there be no direct access to US Highway 60 East. The lot that's being created is a flag-shaped lot which would be okay in an industrial zone and it's being created this way to gain frontage to a public right-of-way, but that frontage that this lot will have should not be used to access the property. It's my understanding the applicant is aware of that and is agreeable to it.

CHAIRMAN: Any comments or objections in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Does anyone wish to speak in opposition of this item?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything you would like to understand at this time or bring up?
MR. BILL WILSON: No.

CHAIRMAN: You understand the third item and accept that?

MR. BILL WILSON: (MR. WILSON NODS YES IN THE AFFIRMATIVE.)

CHAIRMAN: Hearing none entertain a motion to dispose of the item.

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on findings that we've heard no opposition on this application. This is compatible use in an I-2 zone. It will not adversely affect future development because there are similar uses in the area.

The conditions: 1) approval of Minor Subdivision Plat; 2) approve additional Conditional Use Permit to build the pipe line shown on the site plan in a flood; and 3) the condition stated by Mr. Noffsinger.

MR. WARREN: Second.

CHAIRMAN: A motion has been made and a second. Any other comments or questions or questions from the board?

MR. SILVERT: I have one comment.

I want to make sure that the reporter reflected that the attorney for the applicant nodded
in agreement to the third condition.

CHAIRMAN: You understand all three of the conditions?

MR. BILL WILSON: Yes.

CHAIRMAN: Any other comments from the Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 5

10680 US Highway 431, zoned B-4
Consider request for a Conditional Use Permit to construct two (2) two hundred (200) by thirty (30) foot individual storage buildings.
Reference: Zoning Ordinance, Article 8, Section 8.2L7
Applicant: L.D. Jennings, Jr.

ZONING HISTORY

The subject property is currently zoned B-4 General Business. OMPC records indicate there was a Zoning Map Amendment application approved in November 2000 to rezone the subject property from A-U to B-4. The subject property is currently vacant. Landscaping is required between the subject property and the agricultural property of less than 10 acres to the north and west consisting of one tree for every 40'
feet of the linear boundary plus a continuous six foot
element. Vehicular Use Area landscaping is also
required along the east boundary consisting of one
tree every 40 feet along the Vehicular Use Area
boundary plus a 3 foot continuous element. The site
plan as submitted shows the appropriate required
screening.

A Major/Minor Subdivision Plat was approved
October 1999 and a Minor Subdivision Plat was approved
October 2000 for the subject property. A Final
Development Plan was submitted February 19, 2009 for
the subject property as well.

LAND USES IN SURROUNDING AREA

The property to the north is zoned B-4 General
Business and A-U Urban Agriculture consisting of a
vacant lot, a rental house, and a church. The
property to the south is zoned B-4 General Business
with an existing business. The property to the west
is zoned A-U Urban Agriculture with existing farm
land. The property to the east is zoned B-4 General
Business and A-U Urban Agriculture with vacant land
and existing residences.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - Individual storage
   - none.
2. Landscaping elements - 1 tree for every 40 feet of the linear boundary plus a continuous 6 foot element along the north and west boundary and 1 tree every 40 feet along the Vehicular Use Area boundary plus a 3 foot continuous element along the east boundary.

3. In the B-4 zone, conditionally permitted individual storage uses also shall be subject to the following restriction;
   a) Structures to be used as individual storage units shall not be located closer than 25 feet to any residential zone.
   b) An 8 foot high solid wall or fence shall be installed and maintained on all sides that adjoin any other property, except those properties zoned B-1, B-2, B-3, B-4, B-5, I-1 or I-2. Tree planting may also be required as per Article 17 of this Zoning Ordinance.
   c) Building height shall not exceed 15 feet, measured from the finish grade at the loading door(s), to the top of the roof ridge or edge.
   d) Outdoor storage shall be prohibited on the same property as the individual storage structure(s). This shall include automobiles, boats, personal items, etc.
e) All uses other than individual storage shall be prohibited within structures while those structures are being used for individual storage, except for one office or caretaker's residences, which, if present, shall be directly related to the management of the individual storage units.

f) The Owner of the individual storage structure(s) shall be responsible for policing the material and/or items being stored. The Owner shall notify the Zoning Administrator upon discovering any storage not meeting the requirements set forth herein, providing the name, address and phone number of the renter whose storage is in question.

SPECIAL CONDITIONS

1. Approval of a Final Development Plan.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Thank you.

Are there any objections in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Any special requirement from the Staff?

MR. NOFFSINGER: No, sir. There has been one issue raised with the Staff regarding an issue that Staff and our attorney was made aware of. You may
want to hear from our attorney regarding what
discussion there was pertaining to that, but other
than that I have heard of no question or opposition.

CHAIRMAN: Attorney have any comments?

MR. SILVERT: The issue that was brought to
our attention is one of a personal nature between a
neighbor and the applicant. It is one frankly in this
attorney's opinion one of confidential nature because
it took place in a closed court hearing. Does not
reflect, should not be taken into consideration in
this attorney's opinion regarding whether or not this
property could be properly used for this use and
whether this Conditional Use Permit should been
granted in this situation.

I would ask respectfully, ask if there's
anyone in the audience today who is going to speak on
this item as to a personal nature, particularly one
that may be of a confidential court proceeding nature,
that they refrain from doing so because those comments
will not be considered and should not be considered by
this board. The nature of our inquiry has to deal
with the land use and the Conditional Use Permit
that's been applied for and does not have, the nature
of our inquiry does not have anything to do with the
personal feelings between a neighbor and the
applicant. I will leave it at that. I hate to be
that vague, but I feel like I need to.

CHAIRMAN: Appreciate your comments.

Is anyone wishing to speak in opposition of
this item here this evening?

(NO RESPONSE)

CHAIRMAN: Hearing no objections from someone
against the item, is the applicant here and have any
comments you would like to add at this time?

(NO RESPONSE)

CHAIRMAN: Hearing no comments from either
side, does the board have any questions at this time?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of
the item.

MR. TAYLOR: Mr. Chairman, move to approve the
Conditional Use Permit based that there is no
opposition. It is generally permitted in this zone.
Won't alter the essential charter of the neighborhood
and provided that all zoning ordinance requirements
are met and that one special condition, the approval
of a final development plan.

MS. MASON: Second.
CHAIRMAN: A motion has been made and a second. Any other comments from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else you want to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: The applicant understand the requirements and everything that are given at this time and agree to them?

APPLICANT REP: Yes, sir.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item.

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VARIANCES

ITEM 6

2645 Frederica Street, zoned P-1
Consider request for a Variance to reduce the roadway buffer from 60 feet from the centerline of the road to 35 feet from the centerline of the road.
Reference: Zoning Ordinance, Article 13, Section 13.6221
Applicant: Gavin C. Roberts, South Central Bank

MS. EVANS: Just a little background on this piece of property.

This Variance has come to us because the applicant is proposing an office building on the
subject property with their required landscaping and parking that will meet the zoning ordinance.

The building proposed, as it's proposed the vehicular use area and the required landscaping would encroach 25 feet into the roadway buffer. The property becomes more shallow as it moves to the north which would prevent the proposed development from meeting the requirements of this lot. The proposed building will be similar in size and charter and that it will be a two-story building of similar size to that building just south of the subject property keeping with the character of the area.

This board has also granted similar variances in this area. For example, properties as 2524 Frederica Street, which was approved in November of 2005; 3515 and 3525 Frederica Street approved May 2001; 3601 Frederica Street approved in June of 2002; and 3633 Frederica Street approved in October of 1993.

All applicable site development requirements other than the roadway buffer can be met as shown on this site plan.

Granting this variance will not adversely affect the public health, safety or welfare; it will not alter the essential charter of the general vicinity; it will not cause a hazard or a nuisance to
the public; and it will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Staff recommends approval with the following conditions:

1. Approval of a Final Development Plan.
2. The proposed office building shall be similar in size, height and character to that of the building to the south.

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

CHAIRMAN: Thank you.

MR. NOFFSINGER: Mr. Chairman, Planning Staff would ask that if this board does make a favorable or take favorable action on this variance request that in your findings of fact you include reference to the Staff Report that has been prepared and submitted into the record. You need to make your findings, but also I believe it ask that you include specifically this Staff Report in your findings.

CHAIRMAN: Thank you.

Any other objections filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone wishing to speak in opposition of this item?
CHAIRMAN: The applicant have anything you want to add at this time?

MR. SILVERT: State your name, please.

MR. BRANCATO: My name is Frank Brancato. I'm here on behalf of the co-applicant, South Central Bank.

We would simply join in Mr. Noffsinger's Recommendation that Staff Report be incorporated in the favorable decision by the panel and be joined in the application because it is consistent with other variances which have been granted by this board over the last 12 years.

CHAIRMAN: Thank you.

Any other comments from the applicant?

(NO RESPONSE)

CHAIRMAN: Hearing none the board have any other comments?

(NO RESPONSE)

CHAIRMAN: Staff?

MR. NOFFSINGER: No.

CHAIRMAN: Hearing none entertain a motion to dispose of the item.

MS. DIXON: Move to approve based upon the Planning Staff report that was entered into the
record. The fact that there have been other similar
variances granted in the same area. That denying this
would create a hardship on the applicant. That it
will not adversely affect the public health, safety or
welfare; it will not alter the essential character of
the general vicinity; it will not cause a hazard or a
nuisance to the public; nor will it allow an
unreasonable circumvention of the requirements of the
zoning regulations.

Based upon Planning Staff Recommendation and
subject to Conditions 1 and 2 in the Staff Report.

MS. MASON: Second.

CHAIRMAN: A motion has been made and a
second. Any other comments from the board?

(NO RESPONSE)

CHAIRMAN: Anything else from the Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: The applicant understand all the
conditions and approve to them?

MR. BRANCATO: Yes.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

MS. DIXON: Move to adjourn.
MR. DYSINGER: 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 23 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 16th day of March, 2009.

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

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