The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, August 6, 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
Marty Warren
Judy Dixon

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CHAIRMAN:  I would like to call the Owensboro Metropolitan Board of Adjustment to order. We welcome you and we start our meeting each night with a prayer and the pledge of allegiance. We ask you to join us if you so desire. Marty Warren will be giving the prayer.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Again I want to welcome each one of you to the meeting. If you have any comments on any item or statements to say about each one of them, please come to one of the podiums and state your name so we'll have it of record.
With that the first item we have is to consider the minutes of the July 2 meeting. They're in the office. Are there any problems?

MR. NOFFSINGER: No, sir, other than the date I think that's shown on the transcript has 2008. We just need to make sure that it is clear that it's from the July 2009 meeting.

CHAIRMAN: With that correction I'll entertain a motion to dispose of the item.

MR. WARREN: Motion to approve the minutes as written with the correction.

MS. MASON: Second.

CHAIRMAN: A motion has been made 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

413 Booth Avenue, zoned R-1B
Consider a request for a Conditional Use Permit in order to operate a church satellite location for prayer ministry outreach.
Reference: Zoning Ordinance, Article 8, Section 8.2B4
Applicant: Word and Spirit Ministry Center; A&K Properties, LLC - Karen K. Martin-member.

MR. SILVERT: State your name, please.
MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

ZONING HISTORY

The subject property is currently zoned R-1B Single-Family Residential. OMPC records indicate there have been no Zoning Map Amendments on the subject property.

The applicant proposes to pave a gravel area in the rear of the property to meet the parking requirements.

LAND USES IN SURROUNDING AREA

The property to the north, south, west and east are zoned R-1B Single-Family Residential and all are used as single-family residences.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - Churches, Sunday Schools, Parrish Houses - for churches and Sunday Schools; 1 for every 5 seats in the main auditorium (minimum of 5); for parish houses; 1/each bed - total required 5.

2. Landscaping requirements - none.

SPECIAL CONDITIONS

1. Pave the gravel area in the rear of the property to meet the parking requirements.

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

CHAIRMAN: Are there any comments for or against in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Hearing none is the applicant here and do you have any comments on the item at this time?

APPLICANT REP: No comment.

CHAIRMAN: Board members have any questions of the applicant?

MS. DIXON: Can you just explain a little bit about what this is?

MR. SILVERT: State your name, please.

MS. MARTIN: Karen Martin.

(KAREN MARTIN SWORN BY ATTORNEY.)

MS. MARTIN: What we do is allow people to come at a time to receive prayer ministry. It's just a brief time of prayer. They just come in on Wednesday afternoon from 2:30 to 5. We're just there to receive people who want to come in and have a time of prayer and then they leave. That's basically what we do.

MS. MASON: Only on Wednesday? It's only
going to be used on Wednesdays?

  MS. MARTIN: At this time it's only used on
  Wednesdays.

  MR. WARREN: And this isn't like groups of
  people, is it?

  MS. MARTIN: It's just one or two people come
  at a time during that period of time.

  CHAIRMAN: Any other questions from the board?

  MS. DIXON: What kind of signage do you plan
  on having on the building? Just the shell that's
  hanging there now.

  MS. MARTIN: There's a sign that we took up
  that just has Healing Wounds of Owensboro on it and a
  time that we're open. It's up against the porch realm
  at the flower bed. I don't know if it's allowed to be
  out in the yard where it's more seeable. If it's not
  allowable, we'll move it. If it's not, if it's okay
  where we have it.

  CHAIRMAN: Any other comments or questions?

  (NO RESPONSE)

  CHAIRMAN: Staff have anything else?

  MR. NOFFSINGER: Mr. Chairman, I just want to
  advise that the Board may wish to set conditions on
  the Conditional Use Permit. You do have that
  authority in terms of hours of operation, days,
signage and whatnot. Just want to advise you that you do have that right to set limitations. Right now there are no hours of operation, days or anything like that contained in the application. So it would be at this point wide open.

CHAIRMAN: Jim, come forward, please. State your name.

MR. MISCHEL: Jim Mischel.

(JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: This is a residential zone. In a residential zone of this kind the signage would be limited 2 square feet.

I don't know if that is what you have or not.

MR. WARREN: That can be in the yard.

MR. MISCHEL: As far as the ordinance, it can be in the yard or on the house, unless you all make it a condition.

CHAIRMAN: Any questions of Jim?

(NO RESPONSE)

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 it is compatible in the residential neighborhood and it will not have an adverse influence on that, and with the condition that
it will pave the gravel area in the rear of the
property to meet the parking requirements, and that
their signage will be the zoning ordinance in a
residential zone.

CHAIRMAN: Is there a second to the motion?

MR. WARREN: Second.

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

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Do you understand the guidelines of
paving and sign and accept that?

MS. MARTIN: Yes.

CHAIRMAN: All in favor raise your right
hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 3

3015 Rinaldo Road, zoned I-2
Consider a request for a Conditional Use Permit in
order to construct and operate an aerial pipeline from
the river or rail loop to transfer points and then to
a tank farm facility in the floodway.
Reference: Zoning Ordinance, Article 8, Section 18,
Section 8.2G4/27, 18-4(b)3, 18-5(b)4, 18-6(b)3
Applicant: Owensboro Riverport Authority

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.

There was a Conditional Use Permit approved at the July 2009 meeting to construct and operate a tank farm facility for liquid fertilizer products. A condition of that Conditional Use Permit was to apply for an additional Conditional Use Permit to build the pipeline connecting the tank farm facility to transfer points and the river or rail loop in the floodway.

All other permits as may be required by the Army Corps of Engineers or the Kentucky Division of Water must be obtained prior to the issuance of a Conditional Use Permit as per Article 18-4(b)(3)(c). Certification from a registered professional engineer must be provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge as required by Article 18-5(b)(4)(a) of the Zoning Ordinance. Also in accordance with the Kentucky Environmental and Public Protection Cabinet, Office of Housing, Buildings, and Construction, a permit for
above ground storage facilities including associated piping will need to be obtained. A Stream Construction Permit from the Division of Water, a letter from the Army Corps of Engineers, a letter of no impact from a registered professional engineer, and a permit from the Kentucky Environmental and Public Protection Cabinet, Office of Housing, Buildings, and Construction were all submitted with the application.

LAND USES IN SURROUNDING AREA

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

ZONING ORDINANCE REQUIREMENTS

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

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

CHAIRMAN: Thank you.

Are there any comments for or against in the office?

MR. NOFFSINGER: No, sir.

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

(NO RESPONSE)

CHAIRMAN: Is the applicant here and have any
comments they want to bring for or against?

APPLICANT REP: We are here, but no comments unless there are questions.

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

(NO RESPONSE)

CHAIRMAN: Staff have anything 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 is since there's no opposition to this application, it's a compatible use with the land use in the surrounding area, and it's also compatible with the approved July '09 Conditional Use Permit that was approved, and that all necessary permits be obtained.

CHAIRMAN: Is there a second?

MR. WARREN: Second.

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

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add to it?
MR. NOFFSINGER: Just for the record they have completed the necessary permit with the Corps of Engineers and Division of Water.

MS. MASON: I saw that down there, but I wasn't sure about every permit they were supposed to get.

MR. NOFFSINGER: They did and it was submitted with the application, yes.

CHAIRMAN: Does the applicant understand all the guidelines?

APPLICANT REP: Yes.

CHAIRMAN: All in favor then raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 4

2351 Triad Drive, zoned I-2 (postponed from the July 2, 2009 meeting)

Consider a request for a Conditional Use Permit in order to construct and operate a marina in the floodway.
Reference: Zoning Ordinance, Article 8, 18, Section 8.2K7/42, 18-4(b)3, 18-5(b)4, 18-6(b)3

Applicant: Owensboro Marina; Pilot Properties, LLC

ZONING HISTORY

The subject property is currently zoned I-2 Heavy Industrial. OMPC records indicate there have

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been no Zoning Map Amendments on the subject property. The subject property is currently used for industrial activity.

The applicant is proposing to use an existing gravel area for parking given the temporary nature of the marina. The applicant is aware that if the marina continues operation after this season the parking area shall be paved.

All other permits as may be required by the Army Corps of Engineers and the Kentucky Division of Water must be obtained prior to the issuance of a Conditional Use Permit as per Article 18-4(b)(3)(c). Certification from a registered professional engineer must be provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge as required by Article 18-5(b)(4)(a) of the Zoning Ordinance. A Stream Construction Permit from the Division of Water, a letter from the Army Corps of Engineers and a letter of no impact from a registered professional engineer were all submitted with the application.

**LAND USES IN SURROUNDING AREA**

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

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - Recreational uses, major outdoor, conditional - 1 for every employee on maximum shift plus 1 per every 3 participants plus 1 per every 3 spectator seats.

2. Landscaping requirements - none.

SPECIAL CONDITIONS

1. Parking area shall be paved if the marina continues operation after this season.

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

CHAIRMAN: Is there any opposition filed in the office?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Anyone in opposition to this item?

(NO RESPONSE)

CHAIRMAN: Is the applicant here and do you have any comments?

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

MR. HUTCHINSON: Thank you.

No comment other than to say that I wanted to thank the Staff for their cooperation and help and guidance that they've given us through this process.
It's kind of a mired of things we found in trying to get a marina put on the river. We stumbled along the way a few times. The Staff was really helpful to us and I want to publicly thank, especially Gary. It's meant a lot. We ended up having a pretty descent boating season because of the marina down there. The river has been pretty bad, but we have been able to salvage this season. I did want to thank the Staff for that before you voted.

CHAIRMAN: Appreciate your comment, sir.

Any other questions or comments from the Board at this time?

MR. WARREN: I have a question.

What are we considering a season?

CHAIRMAN: Staff.

MR. NOFFSINGER: I would say we'll give them until January 1. I doubt you're going to see a whole lot of activity occur in November and December, but that's not going to say they're going to be gone in January. The boating season when it picks up say in April, first of May of next season, if it's still there, then he be thinking about paving a parking area.

CHAIRMAN: Any other questions from the Board?
CHAIRMAN: Any other comments from the Staff?

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

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on findings that it is compatible use with the current zone and all permits have been submitted with the application, Stream Construction Permit, Division of Water, a letter from the Army Corps of Engineers and a letter of no impact from a registered professional engineer were all submitted with the application. The condition is the parking area shall be paved if the marina continues operation after this season.

CHAIRMAN: Is there a second to the motion?

MR. WARREN: Second.

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

(No Response)

CHAIRMAN: Staff have anything else?

MR. NOFFSINGER: No, sir.

CHAIRMAN: The Applicant, you understand the
requirements, guidelines as presented?

MR. HUTCHINSON: Yes, sir.

CHAIRMAN: Hearing no other comments all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

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VARIANCES

ITEM 5

100, 101 Mallard Creek Drive, zoned R-1C
Consider a request for a Variance in order to increase the height of a wall in a side yard along an arterial street from 4' to 5'7" with posts to extend to 6'7".
Reference: Zoning Ordinance, Article 3, Section 3-7(g)(3)
Applicant: JED Rentals Family Part

MS. EVANS: The applicant is requesting to build a 5'7" wall with posts extending to 6'7" to provide a sound barrier between a single-family residential area and an arterial street, JR Miller Boulevard.

There was similar Variance approved at the June 2007 OMBA meeting increasing the fence between the residential property of Fiddlesticks and the arterial street of JR Miller Boulevard from 3' to 8'.

They are requesting that this be 5'7" with posts at 6'7". The other variance that was approved
was from 3' to 8'.

FINDINGS OF FACT

Granting this Variance (1) will not adversely affect the public health, safety or welfare because the proposed wall will provide a sound barrier between the residential property and the arterial street; (2) it will not alter the essential character of the general vicinity because there was a similar variance request granted in the area; (3) it will not cause a hazard or a nuisance to the public because it will provide a barrier for the residential property from the traffic noise on JR Miller Boulevard; (4) and it will not allow an unreasonable circumvention of the requirements of the zoning regulations because a similar variance was granted at the June 2007 OMB meeting. Staff recommends approval.

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

CHAIRMAN: Thank you.

Is there any comments for or against filed in the office?

MR. NOFFSINGER: Yes, sir, there have been.

I spoke with Jim Estes that owns property adjoining this property. He called me on the phone one morning. He made the statement -- well, not a
statement. I'll just kind of tell you what he said.

That he thinks that what they're doing out there looks great. He's all for it. Appreciated our notification to him. Letting him know what was going on and that the opportunity that the neighbors had to weigh in on an issue like this. He certainly was very supportive and appreciated the work that has been on this site.

CHAIRMAN: Is anyone wishing to speak in opposition here this evening?

(NO RESPONSE)

CHAIRMAN: The Applicant, do you have any comments you want to bring at this time?

APPLICANT: No comment.

CHAIRMAN: Board have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

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

MR. WARREN: Motion to grant the Variance with the findings that granting the Variance will not adversely affect the public health, safety or welfare. In fact, it will enhance the safety because of the
wall and hopefully would keep a possible veering car
or vehicle from moving on into a neighborhood area.
It will not alter the essential character of the
general vicinity due to the other variances that have
been granted. It will not cause a nuisance or a
hazard to the public because it is a barrier to sound
of traffic. It will not allow an unreasonable
circumvention due to the previous variances that have
been granted. Not only no opposition but actual
support from the neighborhood.

CHAIRMAN: Is there a second to the motion?
MS. DIXON: Second.
CHAIRMAN: A motion has been made and a
second. Any other comments or questions from the
board?
(NO RESPONSE)
CHAIRMAN: Staff have anything else?
MR. NOFFSINGER: No, sir.
CHAIRMAN: All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries.
I'll entertain one final motion.
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 20 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 26th day of August, 2009.

________________________________________
JANE BELCHER
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

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

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