OWENSBORO METROPOLITAN PLANNING COMMISSION

JUNE 13, 2013

THE OWENSBORO METROPOLITAN PLANNING COMMISSION

MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY, JUNE 13, 2013, AT CITY HALL, COMMISSION CHAMBERS, OWENSBORO, KENTUCKY, AND THE PROCEEDINGS WERE AS FOLLOWS:

MEMBERS PRESENT:  WARD PEDLEY, CHAIRMAN
                IRVIN ROGERS, VICE CHAIRMAN
                DAVID APPLEBY, SECRETARY
                GARY NOFFSINGER, DIRECTOR
                MADISON SILVERT, ATTORNEY
                TIM ALLEN
                STEVE FRY
                JOHN KAZLAUSKAS
                GREG BLACK
                LARRY BOSWELL

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CHAIRMAN:  CALL THE OWENSBORO METROPOLITAN PLANNING COMMISSION JUNE 13, 2013 MEETING TO ORDER. WE'LL BEGIN OUR MEETING WITH A PRAYER AND PLEDGE OF ALLEGIANCE TO THE FLAG. MR. ROGERS WILL LEAD US. WOULD YOU PLEASE STAND.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  I WOULD LIKE TO WELCOME EVERYONE. ANYONE WISHING TO SPEAK ON ANY ITEM WE ASK YOU TO COME TO ONE OF THE PODIUMS, STATE YOUR NAME AND BE SWORN IN. PLEASE SPEAK INTO THE MICROPHONE. WE HAVE PEOPLE AT HOME WATCHING.

OHIO VALLEY REPORTING
(270) 683-7383
ALSO, COMMISSIONERS, IF YOU WOULD SPEAK INTO
THE MICROPHONE.

WITH THAT THE FIRST ITEM IS TO CONSIDER THE
MINUTES OF THE MAY 9, 2013 MEETING. ARE THERE ANY
ADDITIONS, CORRECTIONS?

(NO RESPONSE)

CHAIRMAN: IF NOT THE CHAIR IS READY FOR A
MOTION.

MR. BOSWELL: MOVE THE MINUTES BE ACCEPTED.

CHAIRMAN: WE HAVE A MOTION BY MR. BOSWELL.

MR. KAZLAUSKAS: SECOND.

CHAIRMAN: SECOND BY MR. KAZLAUSKAS. ANY
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.

NEXT ITEM.

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ZONING CHANGE

ITEM 2

2745 HAYDEN ROAD, 0.67 ACRES
CONSIDER ZONING CHANGE: FROM R-1A SINGLE-FAMILY
RESIDENTIAL TO I-1 LIGHT INDUSTRIAL
APPLICANT: RAY, INC.; DAC PROPERTIES, LLC
MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. HOWARD: BRIAN HOWARD.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: I WILL NOTE THAT THE ZONING CHANGES HEARD TONIGHT WILL BECOME FINAL 21 DAYS AFTER THE MEETING UNLESS AN APPEAL IS FILED. IF AN APPEAL IS FILED, WE WILL FORWARD THE RECOMMENDATION OF THE PLANNING COMMISSION ALONG WITH THE TRANSCRIPT OF THE MEETING AND ALL APPLICABLE DOCUMENTS TO THE APPROPRIATE LEGISLATIVE BODY FOR THEIR FINAL ACTION.

WITH THAT I'LL PROCEED WITH THE STAFF REPORT. YOU ALL RECEIVED A COPY OF IT. AS YOU KNOW, IT IS FOR A DENIAL SO I WILL READ THE STAFF REPORT INTO THE RECORD.

DEVELOPMENT PATTERNS

THE SUBJECT PROPERTY IS LOCATED IN AN AREA OF PRIMARILY RESIDENTIAL AND AGRICULTURAL USES. ALL SURROUNDING PROPERTIES ARE CURRENTLY ZONED R-1A SINGLE-FAMILY RESIDENTIAL WITH RURAL RESIDENCES AND FARMLAND ARE THE GENERAL LAND USES.

ACCORDING TO THE APPLICANT'S FINDINGS, THE SITE HAS BEEN USED FOR VARIOUS NON-RESIDENTIAL USES OVER THE YEARS, INCLUDING AN AUTO BODY SHOP, AUTO REPAIR SHOP, PEST CONTROL BUSINESS, LAWN SERVICE,
REMODELING SHOP, AND STORAGE BUILDING. PVA RECORDS INDICATE THAT THE MAIN STRUCTURE WAS BUILT IN 1968 AND THE BUSINESS TYPE WAS LISTED AS CONSTRUCTION. AN ADMINISTRATIVE APPEAL WAS APPROVED BY THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENTS IN AUGUST 2001, TO CHANGE FROM ONE NON-CONFORMING USE AS AN AUTOMOBILE BODY/PAINT SHOP TO ANOTHER NON-CONFORMING USE AS A PEST MANAGEMENT BUSINESS. THE APPEAL WAS APPROVED WITH THE CONDITION THAT A 24' X 25' DRIVE APRON BE PAVED. AN ADDITIONAL APPEAL WAS FILED IN FEBRUARY 2012, BUT WAS WITHDRAWN PRIOR TO THE BOARD OF ADJUSTMENT HEARING THE ITEM.

ZONING WAS NOT IN COMPLIANCE WITH THE LAND USE PLAN.

IF THE SITE WERE TO BE REZONED, THE SITE MUST BE BROUGHT INTO COMPLIANCE WITH THE CURRENT ZONING REGULATIONS. SITE IMPROVEMENTS WOULD INCLUDE, BUT NOT BE LIMITED TO, PAVING OF ALL VEHICULAR USE AREAS, VEHICULAR USE AREA LANDSCAPING, AND A 10' PERIMETER EASEMENT WITH A SIX FOOT SOLID ELEMENT AND ONE TREE EVERY 40 LINEAR FEET. THE APPLICANT SHOULD ALSO BE AWARE THAT CHANGES OR ALTERATIONS TO THE STRUCTURES OR USES ON THE SITE MAY REQUIRE BUILDING, ELECTRICAL, AND HVAC PERMITS. THE OMPC BUILDING AND ELECTRICAL DIVISION SHOULD BE CONTACTED PRIOR TO ANY CONSTRUCTION ACTIVITY OR CHANGES.

SPECIFIC LAND USE CRITERIA

THE APPLICANT'S PROPOSAL IS NOT IN COMPLIANCE WITH THE COMPREHENSIVE PLAN. THE PROPOSAL DOES NOT MEET THE REQUIREMENTS OF THE COMPREHENSIVE PLAN FOR A LOGICAL EXPANSION OF EXISTING INDUSTRIAL ZONE OR USE. WHILE THE SITE HAS A HISTORY OF NON-RESIDENTIAL USE, A PREVIOUS REQUEST FOR ZONING CHANGE WAS DENIED BY THE PLANNING COMMISSION AND THERE IS A PROVISION IN THE ZONING ORDINANCE TO ALLOW THE CONTINUANCE OF NON-CONFORMING USES AND SITE THROUGH AN ADMINISTRATIVE APPEAL TO THE BOARD OF ADJUSTMENTS. THE ADMINISTRATIVE APPEAL CAN ALLOW THE USE, OR SIMILAR
USE, TO CONTINUE ON THE SITE PROVIDED THAT THE
PROPOSED USE IS NOT MORE INTENSE AND THAT THE SCOPE OF
SITE IMPROVEMENTS IS NOT EXPANDED.

PLANNING STAFF RECOMMENDATIONS

THE PLANNING STAFF RECOMMENDS DENIAL SUBJECT
TO THE FINDINGS OF FACT THAT FOLLOW:

FINDINGS OF FACT:

1. STAFF RECOMMENDS DENIAL BECAUSE THE
PROPOSAL IS NOT IN COMPLIANCE WITH THE COMMUNITY'S
ADOPTED COMPREHENSIVE PLAN;

2. THE SUBJECT PROPERTY IS LOCATED IN AN
URBAN RESIDENTIAL PLAN AREA, WHERE LIGHT INDUSTRIAL
USES ARE APPROPRIATE IN VERY LIMITED LOCATIONS;

3. THE PROPOSAL DOES NOT SATISFY THE LAND USE
PLAN REQUIREMENTS OF A LOGICAL EXPANSION OF EXISTING
INDUSTRIAL USE OR ZONING;

4. THE INDUSTRIAL USE IS INAPPROPRIATE FOR
PREDOMINATELY RURAL RESIDENTIAL AREA DUE TO THE
POTENTIAL FOR NUISANCES; AND,

5. WHILE THE SUBJECT PROPERTY DOES HAVE A
HISTORY OF NON-RESIDENTIAL USE, THE ZONING ORDINANCE
allows for the continuance of non-conforming uses and
sites through the administrative appeal process
through the board of adjustments.

MR. HOWARD: WE WOULD LIKE TO ENTER THE STAFF
REPORT INTO THE RECORD AS EXHIBIT A.

CHAIRMAN: IS ANYONE HERE REPRESENTING THE APPLICANT?

MR. SILVERT: WOULD YOU STATE YOUR NAME, PLEASE?

MR. CAMP: DODD CAMP. I OWN DAC PROPERTIES. (DODD CAMP SWORN BY ATTORNEY.)

MR. CAMP: FIRST OFF, I APPRECIATE YOUR TIME TONIGHT. I WOULD LIKE TO INTRODUCE THE CO-APPLICANTS WITH RAY, INC.

THIS IS STEVE RAY AND NATHAN WOOSLEY.

IN THE PACKAGE THAT YOU WERE PRESENTED, YOU'LL FIND SOME OF THEIR WORK WHICH IS KIND OF THE SCOPE OF SOME OF THE WORK THAT THEY WILL BE CONDUCTING AT THE PROPERTY.

WE READ OVER THE PLANNING STAFF RECOMMENDATIONS AND BASICALLY WE DON'T REALLY AGREE WITH ANY OF THEIR FINDINGS ON THAT. KIND OF HIGHLIGHTED JUST COME OF THE BULLET POINTS REAL QUICK.

NUMBER 1 OF THE PLANNING STAFF RECOMMENDATION: STAFF RECOMMENDS DENIAL BECAUSE THE PROPOSAL IS NOT IN COMPLIANCE WITH THE COMMUNITY'S ADOPTED COMPREHENSIVE PLAN.

THAT PROPERTY WAS BUILT, THAT BUILDING WAS BUILT IN 1968. HAD THE CURRENT ZONING REGULATIONS
BEEN IN PLACE AT THAT TIME, I'M SURE IT WOULD HAVE BEEN ZONED I-1. THE CONSTRUCTION OF THE BUILDING AND THE LAYOUT OF THE PROPERTY HAS NEVER AND WILL NEVER WORK OUT FOR RESIDENTIAL USE. IT'S ALWAYS BEEN A GARAGE. IT'S ALWAYS BEEN JUST AS YOU SEE. A COUPLE OF LITTLE CHANGES, BUT OTHER THAN THAT THERE'S NO RESIDENTIAL USE OF THAT PROPERTY OR THAT BUILDING THE WAY THAT IT'S SET UP.

THIS IS A CHANCE, RIGHT NOW WE'RE TRYING TO GET SOMETHING CORRECTED THAT PROBABLY SHOULD HAVE BEEN DONE 45 YEARS AGO.

NUMBER 2: THE SUBJECT PROPERTY IS LOCATED IN AN URBAN RESIDENTIAL PLAN AREA, WHERE LIGHT INDUSTRIAL USES ARE APPROPRIATE IN VERY LIMITED LOCATIONS.

THE PLANNING STAFF HAS ELUDED TO THE PREVIOUS REQUEST BACK IN 1997 FOR A ZONING CHANGE TO I-2 HEAVY INDUSTRIAL. THAT WAS OVER 26 YEARS AGO. WITHIN THAT 26 YEARS THERE HAVE BEEN NUMEROUS CHANGES BOTH IN THE CITY AND THE COUNTY.

CHANGE ONE: YOU COME OUT FROM THE BYPASS. ALL THAT DEVELOPMENT ALONG THE BYPASS THERE, THERE WAS NOTHING THERE 27 YEARS AGO EXCEPT FOR A TRAILER PARK WHERE THE ROCA BAR AND THE HOTEL AND ALL THOSE ARE. I'M SURE THAT WASN'T PART OF THE ORIGINAL COMPREHENSIVE PLAN EITHER.
WE DIDN'T PLAN TO SHUT DOWN 27 YEARS AGO. WE
DIDN'T PLAN ON SHUTTING DOWN THE HOSPITAL TO BUILD A
$385 MILLION ONE OUT THERE IN SOME FARMLAND OUT ON
THIS SIDE OF TOWN.

JUST A MILE DOWN THE ROAD THERE IS NOW A LOT
THAT IS FOR SALE, 10.2 TRACT OF LAND ON THE CORNER OF
DANIELS LANE AND HAYDEN ROAD. IT'S MARKETED AS
COMMERCIAL POTENTIAL FOR $1.2 MILLION.

RECENTLY IN A RESIDENTIAL AREA ON 142, GRANTED
IT IS ON THE CORNER OF 142 BUT IT STILL DOES NOT FRONT
HIGHWAY 54, THERE WAS A POWDER COATING BUSINESS THAT
WAS APPROVED. THAT'S EVEN FURTHER OUT INTO THE RURAL
AREA.

THERE'S A FIRE DEPARTMENT RIGHT ACROSS THE
STREET FROM OUR PROPERTY.

THE COMPREHENSIVE PLAN I'M SURE HASN'T MADE
ALLOWANCES FOR THE WIDENING OF THRUSTON-DERMONT ROAD
WHICH AS THE DEVELOPMENT KEEPS MOVING OUT THERE, THE
TRAFFIC COUNT ON THRUSTON-DERMONT ROAD IS TREMENDOUS
RIGHT NOW. IT'S ALMOST DANGEROUS TO GET IN AND OUT
OUT THERE. THERE'S LOTS OF CHANGES THAT HAVE TAKEN
PLACE SINCE THEN THAT WEREN'T IN THE ORIGINAL
PROPOSAL.

THERE'S ALSO A CHURCH THAT'S RIGHT UP THE
STREET THAT HAS NOW BEEN SOLD AGAIN. THEY TOO BRING
IN A LOT OF EXTRA TRAFFIC.

NUMBER 3 ON THE PLANNING STAFF
RECOMMENDATIONS: PROPOSAL DOESN'T SATISFY THE LAND
USE REQUIREMENTS OF A LOGICAL EXPANSION OF EXISTING
INDUSTRIAL USE OR ZONING.

THE PROPERTY, THE BUILDING AND ITS USES WERE
AROUND BEFORE THE LAND USE PLAN WAS IN PLACE. IF
ANYTHING, IN A LOT OF OTHER CIRCUMSTANCES THERE ARE
THINGS THAT ARE GRANDFATHERED IN. THE PROPERTY WOULD
BE A GOOD PLACE TO BE GRANDFATHERED IN.

THE KEY WORD IS "EXPANSION." WE'RE NOT
LOOKING TO EXPAND ANYTHING. WE'RE SIMPLY REQUESTING
THE ZONING BE PUT IN PLACE THAT SHOULD HAVE BEEN DONE
ORIGINALLY. THERE'S ONLY SIX-TENTHS OF AN ACRE THERE.
THERE'S NOT A WHOLE LOT OF ROOM TO BUILD ANYTHING REAL
ELABORATE.

NUMBER 4 ON THE PLANNING STAFF
RECOMMENDATIONS: THE INDUSTRIAL USE IS INAPPROPRIATE
FOR THE PREDOMINATELY RURAL RESIDENTIAL AREA DUE TO
THE POTENTIAL FOR NUISANCES.

THE KEYWORD HERE IS "NUISANCES." THE PROPERTY
IS ONLY SIX-TENTHS OF AN ACRE. IT'S NOT BIG ENOUGH TO
CREATE ANY HUGE NUISANCE. IT'S NOT SET UP TO BE ABLE
TO HANDLE LARGE TRUCKS OR HIGH TRAFFIC. THE SIZE AND
THE LAYOUT OF THE BUILDING AND THE PROPERTY WOULD
ACCOMMODATE THE SAME TYPE OF BUSINESSES THAT ARE
ENCOMPASSED WITH AN I-1 CATEGORY ZONING. ABOUT ANY OF
THE BUSINESSES THAT HAVE BEEN IN THERE SINCE THIS
BUILDING HAS BEEN BUILT FALLS INTO THIS CATEGORY.

LESS THAN HALF A MILE UP THE ROAD -- WELL, WE
ALREADY TALKED ABOUT THE CHURCH THERE.

WE HAVE SPOKEN TO THE NEIGHBORS AND THE
ADJOINING PROPERTY OWNERS AND ALL OF THEM ARE HOPEFUL
THAT THESE IMPROVEMENTS WILL TAKE PLACE, AS YOU'LL SEE
IN YOUR BINDER, WE'LL BE ABLE TO GO IN AND DO THE
CHANGES THAT WE WOULD LIKE TO DO.

NUMBER 5 ON THE PLANNING STAFF
RECOMMENDATIONS: WHILE THE SUBJECT PROPERTY DOES HAVE
A HISTORY OF NONRESIDENTIAL USE, THE ZONING ORDINANCE
ALLOWS FOR THE CONTINUANCE OF NON-CONFORMING USES AND
SITES THROUGH THE ADMINISTRATIVE APPEAL PROCESS
THROUGH THE BOARD OF ADJUSTMENTS.

KEY PHRASE, "HISTORY OF NONRESIDENTIAL USE."
THE PROPERTY HAS NEVER BEEN USED JUST AS RESIDENTIAL.
AS FAR AS I CAN TELL FROM TALKING TO THE PREVIOUS
PEOPLE THAT HAVE LIVED IN THE AREA, THE HAYDENS WHO
OWNED THE PROPERTY THAT SUR Rounds THAT PROPERTY, AND
IT ACTUALLY CAME OFF OF THE ORIGINAL HAYDEN CORNER.

WE AS FUTURE BUYERS OF THE PROPERTY WANT TO BE
GOOD NEIGHBORS AND UPDATE THE BUILDING TO THE
GUIDELINES PLANNING AND ZONING HAVE LAID OUT.

WE AGREE TO SUBMIT A DEVELOPMENTAL PLAN.

THROUGH THE ADMINISTRATIVE APPEAL PROCESS,

THOUGH IT HAS WORKED OUT IN THE PAST, LENDING

INSTITUTIONS HAVE REALLY CRACKED DOWN ON THEIR

UNDERWRITING. SO TO MAKE THAT PROPERTY MARKETABLE AND

BE ABLE TO CONTINUE TO FINANCE AND SELL THAT PROPERTY

IN THE FUTURE, THE PROPER ZONING NEEDS TO BE PUT IN

PLACE. ADMINISTRATIVE APPEALS ARE GREAT, BUT AGAIN,

IT DOESN'T WARRANT US GOING OUT AND SPENDING 30 TO

$40,000 TO PAVE THE PROPERTY, WHICH YOU CAN SEE THE

PICTURES IN THERE. I HAVE THE CURRENT PICTURES, AND

THEN WE HAVE A DETAILED DRAWING OF WHAT THE PROPERTY

WOULD LOOK LIKE FINISHED WITH IT PAVED, PARKING

SPACES, THE LANDSCAPING, AND THE FENCE.

IT'S GOING TO BE AN ASSET TO THE NEIGHBORHOOD.

NOT A LIABILITY.

IN CLOSING, WITH GROWTH COMES CHANGE. DAVIESS

COUNTY HAS CHANGED A LOT IN THE LAST 27 YEARS SINCE

THE I-2 WAS REQUESTED, AND WE DO AGREE WITH THAT

DECISION. BACK THEN HAD NO TIME OR PLACE FOR IT.

DAVIESS COUNTY HAS CHANGED EVEN MORE IN THE

LAST 45 YEARS SINCE THE BUILDING WAS BUILT.

WE'RE NOT ASKING TO APPROVE A MAJOR CHANGE TO

YOUR COMPREHENSIVE PLAN. THE BUILDING WAS HERE BEFORE
ANY MASTER PLANNING AND ZONING WAS IN EFFECT. IT HAS BEEN USED SINCE BEFORE THE ZONING LAWS AND BUSINESS THAT FALLS IN PLACE.

WE'RE JUST ASKING THAT THE PROPER ZONING BE PUT IN PLACE ON THE PROPERTY TO ENCOMPASS WHAT THE BUILDING WAS MEANT TO BE USED FOR. WE ARE ASKING THAT YOU ALLOW US TO GROW OUR BUSINESS, BE A GOOD NEIGHBOR AND A GREAT ADDITION TO THE AREA. THANK YOU.

CHAIRMAN: IS THERE ANYONE HERE THAT WOULD LIKE TO SPEAK IN OPPOSITION ON THIS, HAVE ANY COMMENTS OR QUESTIONS ON THIS APPLICATION?

(NO RESPONSE)

CHAIRMAN: ANY COMMISSION MEMBERS HAVE ANY QUESTIONS OF THE APPLICATION?

(NO RESPONSE)

CHAIRMAN: DOES THE STAFF HAVE ANYTHING ADDITIONAL?

MR. HOWARD, DO YOU HAVE ANYTHING ADDITIONAL TO PRESENT TO THE COMMISSIONERS OR, MR. NOFFSINGER, DO YOU HAVE ANYTHING FOR THE COMMISSIONERS?

MR. HOWARD: I DON'T HAVE ANYTHING ELSE TO ADD AT THIS TIME, UNLESS THE BOARD HAS SOME QUESTIONS. I'D BE GLAD TO ANSWER THEM.

CHAIRMAN: COMMISSIONERS, DO YOU HAVE ANY QUESTIONS?
(NO RESPONSE)

CHAIRMAN: THANK YOU, MR. HOWARD.

MR. NOFFSINGER, DO YOU HAVE ANY COMMENTS?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: COMMISSIONERS, DO YOU HAVE ANY QUESTIONS OR COMMENTS? IF NOT, THE CHAIR IS READY FOR A MOTION.

MR. ROGERS: MR. CHAIRMAN, WOULD LIKE TO ASK MR. CAMP WHAT'S CURRENTLY GOING ON AT THAT LOCATION?

MR. CAMP: CURRENTLY I USE THE BUSINESS, THE BUILDING FOR MY BUSINESS, WHICH BASICALLY I JUST USE IT FOR STORAGE. I OWN A CHAIN OF LAUNDRY MATS AND RENTAL PROPERTY. SO I USE ONE BUILDING TO STORE MY STUFF IN AND DO MY REPAIRS. THEN THEY LEASE THE OTHER BUILDING. WE HAVE A CONTRACT TO SELL THE PROPERTY TO THEM. THEY'RE IN THE PROCESS OF WORKING ON FINANCING, AND THIS IS ONE OF THE CONDITIONS OF THE FINANCING.

MR. MILLER: WHAT WOULD THEY DO WITH THE PROPERTY?

MR. CAMP: THEY WOULD CONTINUE WITH RAY, INC., WHICH IS AIRBRUSH. THEY PAINT CUSTOM PARTS FOR CARS AND SO FORTH. YOU SAW WHERE THEY PAINTED THE MAYOR'S, BOTH THE CITY AND THEN THE DARE CARS AND STUFF LIKE THAT. CONTINUE DOING JUST THAT. THERE'S PROBABLY TWO OR THREE CARS FROM THE EMPLOYEES IN THE PARKING LOT AT OHIO VALLEY REPORTING (270) 683-7383
ANY TIME AND THAT'S ABOUT IT.

MR. MILLER: WHAT ABOUT YOUR STORAGE, WOULD YOU CONTINUE TO USE YOUR STORAGE?

MR. CAMP: NO. THEY ALREADY HAVE PLANS TO TAKE THAT OVER WHEN WE'RE FINISHED.

CHAIRMAN: ANY OTHER QUESTIONS FROM THE COMMISSIONERS?

MR. BOSWELL: HOW CLOSE IS THE NEAREST RESIDENTIAL HOUSE FROM THAT FACILITY?

MR. CAMP: PROBABLY, THE CLOSEST ONE IS PROBABLY 400 YARDS, 3 OR 400 YARDS. IT'S ACROSS AND THEN THERE'S A FIELD. THE LADY THERE, MS. LINDSEY, WE'VE SPOKEN WITH HER ON SEVERAL OCCASIONS AND SHE IS HOPING THAT WE GET THIS THROUGH SO THEN WE CAN SPRUCE IT UP AND PAVE THE PARKING LOT AND STUFF LIKE THAT. SO SHE'S FULLY AWARE.

MR. BOSWELL: THANK YOU.

CHAIRMAN: MR. KAZLAUSKAS, YOU HAVE A QUESTION?

MR. KAZLAUSKAS: SIR, YOU'VE MADE MENTION TWO TIMES NOW ABOUT THE HAYDENS AND LINDSEYS, BUT THERE'S NOBODY HERE. YOU'RE SPEAKING FOR THEM. THERE'S NO ONE HERE TO REPRESENT THEM. NO FAMILY MEMBER. NOBODY FROM THE HAYDEN FAMILY OR LINDSEY FAMILY?

MR. CAMP: NO. WE ASKED MR. SAM HAYDEN ABOUT
IT. HE SAID THAT HE WASN'T GOING TO BE ABLE TO MAKE IT, BUT IF YOU WANTED TO CALL HIM HE'D BE MORE THAN HAPPY TO TALK TO YOU. I UNDERSTAND.

MR. KAZLAUSKAS: I MEAN IT'S TO YOUR BENEFIT.

MR. CAMP: I UNDERSTAND. IT WASN'T FOR A LACK OF TRYING ON OUR PART.

MR. KAZLAUSKAS: IT'S TO YOUR BENEFIT FOR MR. HAYDEN AND THE LINDSEYS TO BE DOWN HERE TO SPEAK ON YOUR BEHALF.

MR. CAMP: YES, SIR.

MR. KAZLAUSKAS: I BELIEVE THAT'S ALL I HAVE.

CHAIRMEN: ANY OTHER QUESTIONS FROM THE COMMISSIONERS?

MR. ALLEN: YES. I'VE GOT A QUESTION FOR BRIAN.

BRIAN, THIS IS GOING TO BE REZONED OR THEY'RE ASKING FOR IT TO BE REZONED TO I-1?

MR. HOWARD: YES.

MR. ALLEN: IS THE I-1 THE ONLY APPROPRIATE ZONING THAT WOULD BE APPROPRIATE FOR THE NEW BUSINESS, THE AIR BRUSHING BUSINESS?

MR. HOWARD: I WOULD THINK SO, YES, BASED ON MY UNDERSTANDING OF WHAT THE SCOPE OF THEIR BUSINESS WOULD BE. IT'S NOT A RETAIL ESTABLISHMENT THAT WOULD MAYBE BE APPROPRIATE IN A B-4 ZONE WHERE THEY'RE
SELLING PARTS AND THAT TYPE OF THING. THEY'RE DOING CUSTOM WORK, LIMITED STAFF, NO CUSTOMERS COMING AND GOING. SO IT REALLY I DON'T THINK WOULD FIT UNDER THE RETAIL DEFINITION. BASED ON THE HISTORY OF USE, THE HISTORY OF THE USE HAS BEEN INDUSTRIAL IN NATURE. THAT'S WHAT YOU WOULD ANTICIPATE THE ZONING POTENTIAL CHANGING TO THROUGH THIS TYPE OF PROCESS. IT'D BE MORE DIFFICULT TO MAKE A CASE TO ZONE TO B-4 BECAUSE IT HASN'T BEEN USED FOR RETAIL OR COMMERCIAL PURPOSES HISTORICALLY.

MR. ALLEN: THANK YOU.

MR. CAMP: I'D LIKE TO MAKE A COMMENT.

THEY WANTED ME TO BE SURE TO POINT OUT THAT THE MAJORITY OF THEIR BUSINESS THEY HAVE, THEY DO PARTS ALL OVER THE COUNTRY. SO MOST OF IT IS JUST -- LIKE CORVETTE PARTS IS THEIR SPECIALTY AND MOTORCYCLE PARTS. THEY COME OFF THE INTERNET. THEY'RE SHIPPED TO THEM. THAT'S UPS AND THAT'S BASICALLY ABOUT THE SCOPE OF THEIR BUSINESS.

CHAIRMAN: ARE THERE ANY OTHER QUESTIONS?

MR. NOFFSINGER: I WOULD LIKE TO MAKE A COMMENT, MR. CHAIRMAN, ON BEHALF OF THE STAFF AND THE STAFF REPORT.

THE STAFF REPORT WAS WRITTEN FOR DENIAL NOT BASED UPON THE PROPOSED BUSINESS. YOU OBVIOUSLY HAVE
A CLEAN BUSINESS. YOU DO BEAUTIFUL WORK. THAT'S NOT
THE BASIS FOR THE STAFF REPORT.

THE BASIS FOR THE STAFF REPORT IS THAT YOU'RE
REQUESTING FOR AN I-1 LIGHT INDUSTRIAL ZONE. IT'S IN
AN AREA THAT THE COMPREHENSIVE PLAN HAS RECOGNIZED AND
PROJECTS RESIDENTIAL ACTIVITIES TO OCCUR. ONCE THE
ZONING TO I-1 IS COMPLETED, ANYTHING THAT'S ALLOWED IN
THAT I-1 ZONE MAY LOCATE ON THAT PROPERTY IN THE
FUTURE. WHERE NEIGHBORS MAY NOT HAVE AN ISSUE RIGHT
NOW, NEIGHBORS SHOULD HAVE SOME CONCERNS AND QUESTIONS
IN TERMS OF WHAT THE FUTURE MIGHT BRING AND HOW THIS
PROPERTY MIGHT AFFECT FUTURE VALUES AND FUTURE
DEVELOPMENT ON THEIR PROPERTY. OBVIOUSLY, THERE ARE
NO NEIGHBORS HERE THAT HAVE ANY QUESTIONS. IT'S JUST
THE APPLICANT AND YOU HAVE THE STAFF REPORT, BUT
THAT'S THE BASIS FOR THE STAFF'S REPORT. WE RECOGNIZE
THE HISTORY OF THE PROPERTY AND THE BOARD OF
ADJUSTMENT HAS BEEN ACCOMMODATING IN TERMS OF
ADMINISTRATIVE APPEALS TO ALLOW NONRESIDENTIAL
ACTIVITIES TO OCCUR ON THE PROPERTY WITHIN A LIMITED
SCOPE.

HOWEVER, ONCE THE PROPERTY IS REZONED, IT'S
REZONED THAT WAY FOREVER. IT CAN'T BE CHANGED.
WE CERTAINLY APPRECIATE YOUR BUSINESS HERE IN
OWENSBORO AND DAVIESS COUNTY. WE WANT TO SEE YOU GROW
AND WE WANT YOU HERE. I JUST HOPE THAT YOU UNDERSTAND
THE BASIS FOR THE STAFF REPORT AND IT HAS NOTHING TO
DO WITH YOUR PARTICULAR BUSINESS. IT'S WHAT THE
FUTURE COULD BRING.

CHAIRMAN: THANK YOU, MR. NOFFSINGER.

ANY FURTHER QUESTIONS?

MR. BLACK: YES. I JUST HAVE A QUICK QUESTION
AND IT GETS BACK TO THE RECOMMENDATION ABOUT
INAPPROPRIATE FOR RURAL RESIDENTIAL, POTENTIAL
NUISANCE. THAT'S WHAT YOU'RE REFERRING TO. THAT
SOMEHOW IN THE FUTURE THIS COULD TURN INTO A NUISANCE,
WHICH HAS NOTHING TO DO WITH WHAT'S GOING ON RIGHT
NOW.

MR. HOWARD: THAT'S CORRECT. WE HAD
DISCUSSIONS WITH THE APPLICANT AND, AS MR. NOFFSINGER
STATED, WHAT THEY'RE DOING NOW IT APPEARS TO BE GREAT.
IF YOU DID HAVE AN INDUSTRIAL USE THAT REQUIRED SEMI
TRUCKS AND THAT TYPE OF THING IN THE FUTURE, THAT'S
WHERE THAT STATEMENT COMES FROM BECAUSE THERE COULD BE
SOME ISSUES AT SOME POINT.

MR. APPLEBY: THE PREVIOUS APPLICATION WAS FOR
HEAVY INDUSTRIAL REZONING?

MR. HOWARD: THAT IS CORRECT. THAT'S RIGHT.

MR. APPLEBY: SO THIS IS DIFFERENT.

MR. HOWARD: THAT'S CORRECT.
MR. BLACK: ONE MORE.

I ALSO ASSUME THAT YOU'RE GOING TO CONTINUE TO DO WHAT YOU'RE DOING FOR AN INDEFINITE PART OF THE FUTURE. THERE'S NO PLANS FOR ANY CHANGE?

MR. CAMP: THAT'S CORRECT.

MR. BOSWELL: I'VE GOT A QUESTION.

IF THIS WERE REZONED, THAT DOESN'T PRECLUDE ANY OF THE OTHER PROPERTIES OUT THERE FROM POTENTIALLY BEING REZONED IN THAT SAME CLASSIFICATION IN THE FUTURE. IF SOMEONE ELSE WANTED TO OPEN UP A BUSINESS ALONG THE MAIN HIGHWAY, WHAT IS THAT, 405, THRUSTON-DERMONT ROAD?

MR. NOFFSINGER: WELL, IT CERTAINLY OPENS THE DOOR TO OTHER URBAN TYPE USES, NONRESIDENTIAL TYPE USES, FARMING USES. ONCE YOU HAVE THE ZONE ESTABLISHED, THEN THAT OPENS THE DOOR FOR SOMEONE TO COME IN AND ASK FOR A LOGICAL EXPANSION, AS WE HEARD LAST MONTH ON A ZONING CHANGE CASE, OR THE USES IN THE IMMEDIATE VICINITY. THEY WILL USE THIS PROPERTY AS A BASIS TO REZONE ADDITIONAL PROPERTY POTENTIALLY IN THE FUTURE. THEY MAY NOT, BUT THEY CERTAINLY LOOK AT THIS PROPERTY AND THE ACTIONS HERE TO FORM A BASIS FOR WHAT MIGHT HAPPEN IN THE FUTURE.

MR. BOSWELL: THANK YOU.

CHAIRMAN: ANY FURTHER COMMENTS OR QUESTIONS?
(NO RESPONSE)

CHAIRMAN: DO YOU HAVE A FINAL COMMENT YOU WOULD LIKE TO PRESENT?

MR. CAMP: NO.

CHAIRMAN: IF NOT THE CHAIR IS READY FOR A MOTION.

MR. KAZLAUSKAS: I HATE TO DO IT, BUT I'M GOING TO HAVE TO FOLLOW THE STAFF RECOMMENDATIONS BECAUSE OF EVERYTHING THAT'S SURROUNDING THIS. I MAKE A MOTION THAT WE FOLLOW THE STAFF'S RECOMMENDATIONS OF DENIAL BASED ON FINDINGS OF FACT 1 THROUGH 5.

CHAIRMAN: WE HAVE A MOTION BY MR. KAZLAUSKAS. IS THERE A SECOND? IS THERE A SECOND ON THE MOTION?

(NO RESPONSE)

CHAIRMAN: MOTION DIES FOR LACK OF A SECOND.

CHAIR IS READY FOR ANOTHER MOTION.

MR. APPLEBY: MR. CHAIRMAN, I WILL MAKE A MOTION. I HAVE MIXED EMOTIONS ABOUT THIS ITEM. I DO HAVE SOME CONCERNS ABOUT THE FUTURE EXPANSION OF THE ZONE, BUT I CAN APPRECIATE THESE GENTLEMEN'S SITUATION, PARTICULARLY WITH LENDING INSTITUTIONS AND TRYING TO HAVE THE ZONING IN PLACE TO GET THIS DONE. I DO THINK THERE HAVE BEEN CHANGES THAT WEREN'T ANTICIPATED BY THE COMPREHENSIVE PLAN. THIS PROPERTY DOES HAVE A HISTORY OF NONRESIDENTIAL USE SO I WOULD
MAKE A MOTION FOR APPROVAL BASED ON THAT INDUSTRIAL
USES ARE APPROPRIATE IN LIMITED LOCATIONS. THERE HAVE
BEEN CHANGES IN THE AREA NOT ANTICIPATED BY THE
COMPREHENSIVE PLAN. I WOULD ALSO HAVE A CONDITION
THAT IF THE SITE IS TO BE REZONED THE SITE MUST BE
BROUGHT INTO COMPLIANCE WITH THE CURRENT ZONING
REGULATIONS. SITE IMPROVEMENTS WOULD INCLUDE BUT NOT
BE LIMITED TO PAVING OF ALL VEHICULAR USE AREAS,
VEHICULAR USE AREA LANDSCAPING, 10 FOOT PERIMETER
EASEMENT WITH A 6 FOOT SOLID ELEMENT, ONE TREE EVERY
40 LINEAR FEET. THAT'S MY MOTION.

CHAIRMAN: WE HAVE A MOTION BY MR. APPLEBY.

DO WE HAVE A SECOND?

MR. ROGERS: SECOND.

CHAIRMAN: WE HAVE A SECOND BY MR. ROGERS.

COMMENTS OR QUESTIONS ON THE MOTION?

(NO RESPONSE)

CHAIRMAN: ALL IN FAVOR OF THE MOTION RAISE
YOUR RIGHT HAND.

(BOARD MEMBERS TIM ALLEN, IRVIN ROGERS, GREG
BLACK, DAVE APPLEBY, WARD PEDLEY, STEVE FRY AND LARRY
BOSWELL RESPONDED AYE.)

CHAIRMAN: OPPOSED.

(BOARD MEMBER JOHN KAZLAUSKAS RESPONDED NAY.)

CHAIRMAN: MOTION CARRIES.
COMBINED DEVELOPMENT PLANS/MAJOR SUBDIVISIONS

ITEM 3

CHANDLER PARK APARTMENTS, 17.10 +/- ACRES

CONSIDER APPROVAL OF COMBINED FINAL DEVELOPMENT

PLAN/MAJOR SUBDIVISION PRELIMINARY PLAT.

APPLICANT: CS OWENSBORO, LLC

MR. NOFFSINGER: MR. CHAIRMAN, THIS PLAN HAS

BEEN REVIEWED BY THE PLANNING STAFF AND ENGINEERING

STAFF. IT'S FOUND TO BE IN ORDER. THE USE IS

CONSISTENT WITH THE UNDERLYING ZONING AND IT'S READY

FOR YOUR CONSIDERATION.

CHAIRMAN: ANYONE HERE HAVE ANY COMMENTS OR

QUESTIONS ON THIS APPLICATION?

(NO RESPONSE)

CHAIRMAN: COMMISSIONERS HAVE ANY COMMENTS OR

QUESTIONS?

(NO RESPONSE)

CHAIRMAN: CHAIR IS READY FOR A MOTION.

MR. APPLEBY: MOTION FOR APPROVAL.

CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

MR. BOSWELL: SECOND.

CHAIRMAN: SECOND BY MR. BOSWELL. 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 UNANIMOUS.

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MAJOR SUBDIVISIONS

ITEM 4

MOONSHINE COURT, 10.406 ACRES
CONSIDER APPROVAL OF MAJOR SUBDIVISION PRELIMINARY
PLAT.
APPLICANT: VINCE HAYDEN

MR. NOFFSINGER: MR. CHAIRMAN, THIS PLAT HAS BEEN REVIEWED BY THE PLANNING STAFF AND ENGINEERING STAFF. IT'S FOUND TO BE IN ORDER. THE USE IS CONSISTENT WITH THE UNDERLYING ZONING AND IT'S READY FOR CONSIDERATION.

CHAIRMAN: ANYONE HERE HAVE ANY COMMENTS ON THIS APPLICATION?

(NO RESPONSE)

CHAIRMAN: COMMISSIONERS HAVE ANY COMMENTS OR QUESTIONS?

(NO RESPONSE)

CHAIRMAN: CHAIR IS READY FOR A MOTION.

MR. APPLEBY: MOTION FOR APPROVAL.

CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

MR. BLACK: SECOND.

CHAIRMAN: SECOND BY MR. BLACK. 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 UNANIMOUS.

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MINOR SUBDIVISIONS

ITEM 5

4188, 4194 HIGHWAY 554, 3.446 ACRES
CONSIDER APPROVAL OF MINOR SUBDIVISION PLAT.

APPLICANT: DAVID L. CLARK

MR. NOFFSINGER: MR. CHAIRMAN, THIS PLAT HAS BEEN REVIEWED BY THE PLANNING STAFF AND ENGINEERING STAFF. IT'S FOUND TO BE IN ORDER. IT DOES COME TO YOU WITH EXCEPTIONS AND BRIAN HOWARD IS HERE TO TALK ABOUT THOSE.

MR. HOWARD: THERE ARE TWO EXISTING LOTS. TRACT 1 IS A SUBSTANDARD LOT. IT DOESN'T MEET THE SIZE REQUIREMENTS.

TRACT 2 IS A LARGER PARCEL THAT DID MEET THE REQUIREMENTS.

THEY'RE MOVING THE PROPERTY LINE OVER I THINK BASICALLY TO KIND OF FOLLOW THE ZONING LINE. WITH THAT THOUGH TRACT 2 RESULTS IN NOT MEETING THE REQUIREMENTS OF THE SUBDIVISION REGULATION, ZONING
ORDINANCE, MINIMUM LOT FRONTAGE IN THE THREE TO ONE RATIO. SINCE THEY'RE NOT CREATING ANY NEW LOTS, NOT MAXIMIZING LOTS, YOU KNOW, BEING CREATED IN THE SCENARIO, AND REALLY CLEANING THIS UP TO FOLLOW ZONING, WE WOULD RECOMMEND THAT YOU CONSIDER IT FOR APPROVAL.

CHAIRMAN: ANYONE HERE HAVE ANY COMMENTS OR QUESTIONS ON THIS APPLICATION?

(NO RESPONSE)

CHAIRMAN: COMMISSIONERS HAVE ANY COMMENTS OR QUESTIONS?

(NO RESPONSE)

CHAIRMAN: CHAIR IS READY FOR A MOTION.

MR. BOSWELL: MOTION FOR APPROVAL.

CHAIRMAN: MOTION FOR APPROVAL BY MR. BOSWELL.

MR. APPLEBY: SECOND.

CHAIRMAN: SECOND BY MR. APPLEBY. 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 UNANIMOUS.

NEW BUSINESS
ITEM 6

CONSIDER APPROVAL OF THE APRIL 2013 FINANCIAL STATEMENTS.

MR. NOFFSINGER: MR. CHAIRMAN, EACH MEMBER HAS BEEN MAILED A COPY OF THE FINANCIAL STATEMENTS AND THEY'RE READY FOR YOUR CONSIDERATION.

CHAIRMAN: COMMISSIONERS, DO YOU HAVE ANY QUESTIONS ON THE FINANCIAL STATEMENT?

(NO RESPONSE)

CHAIRMAN: CHAIR IS READY FOR A MOTION.

MR. APPLEBY: MOVE TO APPROVE.

CHAIRMAN: MOTION FOR APPROVAL BY MR. APPLEBY.

MR. FRY: SECOND.

CHAIRMAN: SECOND BY MR. FRY. COMMENTS OR QUESTIONS ON THE MOTION?

(NO RESPONSE)

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES UNANIMOUS.

WE NEED ONE MORE MOTION.

MR. APPLEBY: MOTION TO ADJOURN.

MR. FRY: SECOND.

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: WE WERE 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 28 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE
WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

WITNESS MY HAND AND NOTARY SEAL ON THIS THE
27TH DAY OF JUNE, 2013.

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
2200 E PARRISH AVE, SUITE 106-E
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES:  DECEMBER 16, 2014
COUNTY OF RESIDENCE:  DAVIESS COUNTY, KENTUCKY

OHIO VALLEY REPORTING
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