OWENSBORO METROPOLITAN PLANNING COMMISSION

September 8, 2016

The Owensboro Metropolitan Planning Commission met in
regular session at 5:30 p.m. on Thursday, September 8,
2016, at City Hall, Commission Chambers, Owensboro,
Kentucky; and the proceedings were as follows:

MEMBERS PRESENT:  Fred Reeves, Chairman
                    Larry Boswell, Vice Chairman
                    Irvin Rogers
                    Beverly McEnroe
                    Manuel Ball
                    Terra Knight, Attorney
                    Brian Howard, Director
                    John Kazlauskas
                    Steve Frey
                    Lewis Jean

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MR. CHAIRMAN:  Call the Owensboro Metropolitan
Planning Commission to order. And we start every meeting
with a prayer and pledge to the flag. Beverly McEnroe will
do that for us this evening.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

MR. CHAIRMAN:  The first item we want to discuss
is the minutes of our last meeting. All of you should have
received a copy in the mail and had a chance to review
them. I would entertain a motion regarding the minutes,
please.

Mr. Kazlauskas?

MR. KAZLAUSKAS:  Make a motion to approve.
MR. CHAIRMAN: Motion by Mr. Kazlauskas. Do we have a second?

MS. McENROE: Second.

MR. CHAIRMAN: Second by Ms. McEnroe. Questions or concerns about the motion?

All in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

Opposed, like sign.

Minutes are approved.

We have several people in the audience tonight. Let me make a couple of comments for you. You may not have been to a Planning Commission meeting before, so I'll just kind of tell you how we operate so that you'll be able to participate if you would like. I know we have a couple of items this afternoon that there might be some opposition to, and we certainly welcome your point of view.

We will hear the application. Then we'll hear from the applicant. We will entertain questions from the commissioners. And if anyone would like to speak in support of the application or in opposition of the application, we ask that you come to one of the podiums and please be sworn in. We'll ask that you stand close to the mic so that you can be heard because our proceedings are recorded by our stenographer down front. We'll ask
that any questions or concerns you have, you address it to
the chair; and I will pass those concerns on to the
applicant or the appropriate person. We don't talk back
and forth across the medium here.

Also, Commissioners, I'll remind you to please
speak into the mic so that you can be heard also.

So with that, Mr. Howard, what do we have on the
agenda?

MR. HOWARD: All right. For zoning changes, I
will note that zoning changes heard here tonight will
become final 21 days after the meeting unless an appeal is
filed. If an appeal is filed, we will forward a record of
the meeting on with all appropriate documentation to the
appropriate legislative body for them to take final
action.

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ZONING CHANGES

ITEM 3

3620 Edna Court, 2.0 acres
Consider zoning change:
From I-1 Light Industrial to R-3MF Multi-Family
Residential
Applicant: Earl Hayden; O'Bryan Heirs c/o John M. Wright

MS. KNIGHT: Please state your name.

MR. HILL: Mike Hill.

(MIKE HILL SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS:
The planning staff recommends approval subject to the condition and findings of fact that follow:

Conditions:

1. Approval of a final development plan to demonstrate compliance with zoning ordinance requirements, including but not limited to parking, landscaping, building setbacks, access management, and signage.

Findings of Fact:

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;

2. The subject property is located in an Urban Residential Plan Area where urban mid-density uses are appropriate in limited locations;

3. The use of the property as multifamily residential conforms to the criteria for Urban Residential development;

4. This proposal is a logical expansion of existing R-3MF zoning to the north;

5. At 2.0 acres, the proposal is not a significant increase in R-3MF zoning in the vicinity and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area; and

6. Sanitary sewer service is available to the
subject property.

Staff requests that the staff report be entered into the record as Exhibit A.

MR. CHAIRMAN: Thank you.

Is anyone here representing the applicant?

Would you like to make any comments at this time?

Commissioners, do you have any questions regarding the application or the applicant?

Yes, Mr. Boswell?

MR. BOSWELL: Thank you, Mr. Chairman. Just one question. I know this is in the staff report, but it was mentioned that access to the site must be complaint with applicable sections of the zoning ordinance. If you take a look at the conceptual drawing, it does show one, apparently one, access off of Edna Court. Is it anticipated that's going to remain there on Edna Court?

MS. KNIGHT: Please state your name for the record.

MR. BAKER: Jason Baker.

(JASON BAKER SWORN BY ATTORNEY.)

MR. BAKER: The concept plan actually shows two access points: One being back toward the rear, off the end of the cul-de-sac there; and then one kind of up closer to the O'Bryan Boulevard, I believe it is.
MR. BOSWELL: Thank you. That answered my questions.

MR. CHAIRMAN: Mr. Howard, I assume that meets our requirements.

MR. HOWARD: It does. Edna Court is a local street, so there's not a spacing standard. They're basically limited to 40 percent of their frontage, so that would certainly be in compliance.

MR. CHAIRMAN: Okay. Any other commissioners have any questions?

Would anyone in the audience like to speak in support or opposition of this application? If so, please come to the stand.

MS. KNIGHT: Please state your name, sir.

MR. OVERALL: Cary Overall.

(CARY OVERALL SWORN BY ATTORNEY.)

MR. OVERALL: Me and my wife own Cheer Zone. I'm not a very good speaker, by the way. Sorry about that. Own Cheer Zone on 3644 Edna Court, which this property backs up to. Our thing is the safety factor. When we first built this 16 years ago, the whole area that we were around was not residential; and it's kind of crept into the residential area. With this going into residential, we have over 500 athletes -- we have school squads, new drivers that are with the school squads --
coming in and out of the property on a weekly basis. With
the residences going there, we figure with the people
coming back from work, it's going to be during our busy
hours. Our busy hours are normally 4 to 8.

Sorry again. I'm not a real good speaker.

We're just really worried about how it's going
to affect that. We have a lot of young drivers, a lot of
17-year-olds. And it's going to create a lot of extra
traffic.

We've also had -- and I know this doesn't
necessarily affect here. We've had vandalism issues
across the street. On Edna Court, everything was --
nothing residential. And across the street were
residential. We've had vandalism problems through the
past years; some people over there.

If it goes through -- which, I mean, it might --
one thing that we're definitely against is moving project
buffer boundaries from 20 feet to 10 feet because that
just pushes everything so much closer to our property,
which, again, is sort of a safety issue as far as -- we
have a lot of young athletes that live in the neighborhood
around there, that walk to the Cheer Zone. We also have
people who park out in the streets, which will be right
where they're pulling in and pulling out.

That's about all I have to say. Thank you.
MR. CHAIRMAN: Thank you, Mr. Overall.

Anybody have any questions for Mr. Overall?

Would anyone else like to speak?

MR. HAGAN: Yes, sir.

MS. KNIGHT: Please state your full name for the record.

MR. HAGAN: Donnie Hagan.

(DONNIE HAGAN SWORN BY ATTORNEY.)

MR. HAGAN: I'm just thinking about myself. If you guys look, our property is across the street, at the end of the cul-de-sac, zoned light industrial. When you come in off Carter Road, everything's commercial to the left and the right all the way till you get to Edna Court. And the residential stuff kind of started there and went on when we bought it. We're going to be land-locked up in there, driving through four-plexes to get to our property. As far as a commercial piece of property, it's going to hurt me. My property will go down 20 percent. Who wants to drive in front of 32 apartment buildings to get to a commercial piece of property? If we had known that -- and I'm sure they're the same way; and either one of the two trucking companies right across the street will be the same way, because that's what both of them are, trucking companies -- we would have never went in there.

That's not a residential area. It wasn't
intended to be a residential area. It hasn't been a month ago I went down talking about possible professional zoning for my property, and I was told no. It's zoned professional to the side of us, right there to the side. And I was shot down before I ever even got started. When we built it, we wanted to change the setbacks a little bit, and we were told no on the setbacks. The rules just seem to be changing here.

It's not for the betterment of the businesses in there to go residential.

MR. CHAIRMAN: Which is your property, sir? I'm having a hard time --

MR. BAKER: All the way back in the corner. If you're looking at what I'm looking at up there, go down the street and to the left.

MR. CHAIRMAN: Is it where one is, here? It's next to the Overall property?

MR. HAGAN: 3645. All the way at the end of the cul-de-sac.

MR. CHAIRMAN: Yeah. Okay. I wanted to --

MR. HAGAN: So, you know, I'm just saying we're going from a light industrial piece of property in a light industrial neighborhood; and now we're going to throw up a bunch of four-plexes in there, eight-plexes. You're killing -- you're killing my resale value, for sure. Who
wants to go in there now and drive by all the apartments
and do any kind of commercial stuff? I'll probably lose
my tenant that's in there.

If we had known this was coming in here at the
beginning, nobody, none of us, would have bought back in
there. You know, this is all laid out; and I've heard a
lot of time was invested in this when it was all made 15
years ago, whenever. All well-laid out. Commercial in
one part. Professional. Business. Light industrial on
another street.

It's not that the property can't sell. They're
building a new building right across the street right now,
another trucking place. So it's not like it's valueless
unless it goes residential.

What will happen next is they'll move over to
the other pieces over on the other side, on the business
side of the street over there, in front of Jagoe's and in
front of the doctor's office; and that'll all go
residential, so...

It's killing me, and I'm hardly existing.

MR. CHAIRMAN: Now, you said that you went down
to the office and talked about rezoning yours to
professional?

MR. HAGAN: You know, I just -- they know in the
office if they're going to support it or not support it.
And I had somebody wanting to buy my building. So I just went down, friendly -- I get along with them; don't have a problem with them -- and talking about professional. They said I couldn't go professional. And the street right behind me is professional. I don't see what the difference is jumping across the street to go residential in a commercial area or me just trying to go professional, which is still -- seems more logical to me to go professional in a business area.

MR. CHAIRMAN: But you weren't told that you couldn't make an application?

MR. HAGAN: No, I was not told I couldn't make an application, but I'll probably make one now. All right. That's all I've got to say.

MR. CHAIRMAN: Okay. Thank you. Mr. Hagan, right?

MR. HAGAN: Hagan.

MR. CHAIRMAN: Anybody have any questions of Mr. Hagan?

MR. BOSWELL: Yes, Mr. Chairman. I'm just curious for more information and everything else. When this was originally developed as Heritage Park, was it not originally developed for a mixed-use type, which would be industrial/commercial?

MR. HAGAN: Our street is all zoned -- Edna
Court is all zoned light industrial. The next street 
over, if I'm not mistaken, is all zoned B-4 business, one 
way or another. And the street -- so the main warehouses 
beside us is still light industrial, and the street behind 
us is all zoned professional.

So I'm assuming the plan is to keep the 
professionals and doctors, the daycares all on one street; 
the light industrial people all together on another 
street; the business people over closer to Carter Road 
where there's -- there was never any residential from the 
beginning where we're at, the other side of the street 
over, which makes more sense.

MR. BOSWELL: Thank you.

MR. HAGAN: Thank you.

THE CHAIRMAN: Mr. Howard, am I correct also 
that one of the co-applicants is the original owner to 
this property, Brian Ayers?

MR. HOWARD: I believe that's correct, yes.

THE CHAIRMAN: So this is one application by --
the Haydens intend to buy or would like to buy the estate;
is that right? So the developers of the entire 
development there are the ones that are selling the land,
and with this intended purpose; is that correct?

MR. HOWARD: That's my understanding, yes.

MR. CHAIRMAN: Okay. Any other questions?
MR. BALL: I've got a question for staff.

THE CHAIRMAN: Yes, Mr. Ball?

MR. BALL: Based on what we're hearing here, you know, it was -- I'm sure it was rezoned as part of a larger development at one point in time. However, rezoning this to R-3MF is in compliance with the comprehensive plan, correct?

MR. HOWARD: That's right. And as Mr. Hagan was pointing out, and I didn't talk to him when he came in the office, but the comprehensive plan is a flexible document. It allows multiple zones to go in multiple plan areas in different ways. And it's all based on criteria. This one meets the criterion, you know, as documented in the staff report; and we recommend approval of it.

It's very possible that the P-1 -- and again, I don't have it in front of me; but sometimes the way it'll read is if there's a logical expansion along the same street. And in this instance, you know, the P-1 he's talking about is on a different street. They back up -- they're not on the same street. That may be part of the criteria there that was looked at, so -- but there's a lot of flexibility to it.

MR. BALL: Thank you.

MR. CHAIRMAN: Any other questions?

MR. KAZLAUSKAS: Mr. Chairman?
MR. CHAIRMAN: Yes?

MR. KAZLAUSKAS: Going back and looking over this again, I'm just wondering if Staff can tell us what that means, two-story units. The impact that it's going to have on traffic out there has been brought to our attention. There's a lot of cars coming through there now; and with this additional property, it's certainly going to have an impact on the traffic in these cul-de-sacs. Just one road out through there, so...

MR. KAZLAUSKAS: I'm sorry. I'm concerned. I'm wondering if the Staff can enlighten us about future traffic problems in that area.

MR. HOWARD: Sure. I'll do my best. Based on the Institute of Traffic Engineers, the ITE Trip Generation Manual, the average number of trips per day produced by a multi-family residence is seven trips per day. So if you're looking here, there are eight four-plexes, which are 32 units. Average of seven trips per day -- that's going and coming combined -- per unit would be about 224 additional traffic trips per day that this site would generate. Just for comparison purposes, a single-family residence would generate typically, on average, ten trips per day. So this would be the equivalent of, say, 22, 23 single-family residences as far as trip generation production.
MR. CHAIRMAN: Does that address your concern, Mr. Kazlauskas, or at least give you the information you wanted? May not have addressed your concern.

MR. KAZLAUSKAS: I understand what he's saying about calculated trips per unit, but I'm just wondering about the way that these roads are laid out. The number of trips, is it going to cause problems in the future, traffic coming and going, especially with traffic coming down to the end of that cul-de-sac, as far as this gentleman -- both of these gentlemen back there. Because that's going to be heavily-trafficked. I mean, heavily-traveled road. And these units are certainly going to put additional cars and people on the streets. So I'm just wondering, are those roads capable of handling all that traffic?

MR. HOWARD: And I'll address that aspect, too. I would say yes. Edna Court, O'Bryan Boulevard -- I, again, don't have the plans in front of me, but I would venture to guess that Edna Court and O'Bryan Boulevard are both 34-foot streets with curb and gutter and sidewalk. Well, not a sidewalk in the industrial; but 34-foot streets, which would be more than adequate to accommodate an additional 225 trips per day. Those side streets can -- you know, they can handle a lot more traffic than that.

MR. KAZLAUSKAS: Okay. That's what I wanted to
know.

MR. CHAIRMAN: Mr. Overall, did you want to say something?

MR. OVERALL: Yeah. And again, I'm not -- I just want to reiterate. Being a dead-end street, we have roughly 500 people coming in weekly. Because we operate five days a week, that means that's a hundred trips for us in and out. Sometimes that's double that. You have parents coming in, dropping their kids off, and then coming back out. There's a lot of traffic already. With the cul-de-sac being a two-way street, there's one way in and one way out. And I just see it being a huge problem. With the new construction -- there's going to be the trucking company up in the corner -- that's going to create more backup, I think. I just hope this spot doesn't create huge traffic at the end and affect our customers as well.

MR. CHAIRMAN: Thank you, Mr. Overall.

MR. BALL: Mr. Chairman?

MR. CHAIRMAN: Yes, Mr. Ball?

MR. BALL: I've got another question. Is it possible that an industrial use could generate the same amount of traffic as this?

MR. HOWARD: Sure. And it would depend on the type of use. Certainly, you know, if you had a small
manufacturing operation that had numerous employees, then it could certainly generate two hundred and twenty-something trips a day as well. It could generate significantly more. If you have a small trucking firm and then an office in there and you have three staff, then, you know, you're not going to generate much traffic at all.

MR. BALL: Just depends on the use?

MR. HOWARD: Yeah, it definitely depends on the type of use that would go in there.

MR. BALL: Thank you.

MR. CHAIRMAN: Other questions?

Mr. Boswell?

MR. BOWSELL: Thank you, Mr. Chairman. I'm just curious, if this were approved, how long of a period are we talking about to build this out once it would be started? Is this something that would take a year, 18 months, two years before you would reach that type of traffic volume?

MR. BAKER: I think, based on the phasing of the project, the plan is to build two buildings early on and two buildings later. But the intent would be with, as they fill up, to make sure that they would build them as they fill up, basically. So there will be only two buildings up front; and if the market bears, building the
next two buildings after that.

MR. BOSWELL: So it could -- depending what the
market does, I mean, it could be a while before you see
the type of traffic volume that we're talking about?

MR. BAKER: Yeah.

MR. BOSWELL: All right. Thank you.

MR. CHAIRMAN: Other questions?

Yes?

MR. OSBORNE: My name's Joel Osborne.

(JOEL OSBORNE SWORN BY THE ATTORNEY.)

MR. CHAIRMAN: Yes, Mr. Osborne?

MR. OSBORNE: The state being the Commonwealth
of Kentucky herein, I would like to address the chairman
regarding the procedure and submit this request for the
legislative body to decide zoning map amendments.

My first concern is access to the law. If this
request is subject to accordance of KRS, the Kentucky
Revised Statutes, as quoted here, 100.211 and also
100.347. I would like to make the request that those
specific laws in full detail be made available and
provided to anyone that comes to these meetings or any
member of the public that requests a copy of those laws in
writing. I've had some difficulty actually clarifying the
language of the law and obtaining current copies in order
to exercise my rights as a citizen. So that's my first
request.

Second request is -- I have okay vision, so the doctor tells me. I can't read the street names up here, or the business names. I don't know exactly where this zoning amendment is proposed and who's involved and what's at stake. Without that information, I think it's impossible to make a fair decision. Thank you.

MR. CHAIRMAN: Thank you.

MR. OSBORNE: One last statement. A request for motion to provide the law in its entirety, made available in print.

MR. CHAIRMAN: That information is available at our office anytime you want to.

MR. OSBORNE: I'd like to request that -- where's your office?

MR. HOWARD: 200 East Third Street.

MR. OSBORNE: I'll be there tomorrow. Thank you.

MR. CHAIRMAN: Thank you.

Any other questions?

MS. KNIGHT: Mr. Chairman, I would also point out, if --

Forgive me; Mr. Osborne is your name?

MR. OSBORNE: Yes.

MS. KNIGHT: -- has Internet assess, all those
are available online. There's also a law library at the Judicial Center. All that information is available for free as well.

MR. OSBORNE: Due to some extenuating circumstances beyond my control, and possibly beyond the knowledge of this panel or commission, Internet access can be limited -- and the law library hours are extremely limited -- as well as the difficulty of getting through security, getting to the law library, and obtaining access to the laws, which has so many versions that are outdated. Without legal advice, of which it is subject to conflict of interest due to financial and economic concerns, an individual such as I really does not have a chance of justice.

So I'm here to request that we start with full access of complete details for law clarification for all citizens -- thank you -- regardless of your Internet access, your economic status, or any other limitation that is bestowed, or for any reason or disability that may or may not exist. Thank you.

MR. CHAIRMAN: Thank you. That becomes part of the record, your request.

Do we have any other questions by the commissioners?

Any other questions or concerns from the
audience?

If not, then the chair will entertain a motion.

Mr. Ball?

MR. BALL: I'd like to make a motion to approve
based on Staff recommendations one through six and
condition number one.

MR. CHAIRMAN: Have a motion by Mr. Ball. Do we
have a second?

MR. BOSWELL: Second.

MR. CHAIRMAN: Second by Mr. Boswell. Questions
or concerns about the motion?

All in favor of the motion, raise your right
hand.

(All board members except Mr. Jean responded
aye.)

Opposed, like sign.

(Lewis Jean opposed.)

MR. CHAIRMAN: The motion is passed.

RELATED ITEM 3a

3620 Edna Court, proposed R-3MF
Consider a request for a Variance in order to reduce the
project boundary buffer from 20 feet to 10 feet along the
southern and western property lines.
Reference: Zoning Ordinance, Article 10, Section 10.432
Applicant: Earl Hayden; O'Bryan Heirs c/o John M. Wright

MR. HILL: This application is related, as Mr.
Howard attested, to the previous case that was just
discussed.

CONSIDERATIONS:

SPECIAL CIRCUMSTANCES: The subject property is a two-acre parcel that is proposed, as you know, to be rezoned to R-3MF to allow development as multi-family residential. The conceptual site plan that is on the screen currently, which was provided by the applicant, shows four two-story, eight-plex buildings for a total of 32 proposed dwelling units. Article 10 of the zoning ordinance, which is related to Planned Residential Development Districts, or Development Projects, which this is considered one -- so Article 10 applies to this development. Specifically, within Article 10, Section 10.432 requires a 20-foot project boundary buffer around the perimeter of all planned residential development projects. The street frontages in this case, Edna Court and O'Bryan Boulevard, are required by the zoning ordinance to have a 25-foot front building setback. The applicant's development plan -- excuse me -- conceptual plan complies with the front setback requirements along Edna and O'Bryan. But the plan does not comply with the 20-foot project boundary buffer around the southern and western perimeters of this development.

So applicant is requesting a variance to reduce the project boundary buffer on those two property lines from
20 feet to 10 feet to allow replacement of the structures on the site.

And you can see on the site plan where the encroachments are on portions of the buildings.

The subject property is surrounded on three sides by nonresidential properties; I-1 zoning to the east and south, and B-3 zoning to the west. Typically, multi-family residential developments are adjacent to other residential developments where you would not have a requirement for a ten-foot perimeter landscape easement.

In this case, since this property is located adjacent to business- and industrial-zoned properties, the zoning ordinance does require a ten-foot landscape easement, which would also include a six-foot tall solid element as well as a tree planted every 40 feet.

HARDSHIP: So Staff feels that there's no hardship in this case. The applicant could still theoretically provide a layout for the development in compliance with the building setback.

APPLICANT'S ACTIONS: Staff does not feel that the relief that is being sought is the result of the applicant's willful violations of any zoning ordinance requirements.

FINDINGS:

Staff believes that granting the variance will
not:

1. Adversely affect the public health, safety, or welfare because the applicant will provide a six-foot-tall solid element that will provide screening along the southern and western property lines.

2. Alter the essential character of the general vicinity because adjacent properties, some of which are currently vacant, are commercially and industrially zoned.

3. Will not cause a hazard or a nuisance to the public as the six-foot tall solid element will also improve security for the subject property as well as for adjacent properties.

4. Allow an unreasonable circumvention of the zoning ordinance regulations as the required landscape easement and screening element will still meet the intent of the required project boundary buffer.

STAFF RECOMMENDATION:

Staff recommends approval of the variance request subject to the following conditions:

Conditions:

1. Obtain all necessary building and electrical permits, inspections, and certificates of occupancy and compliance.

2. Approval of a final development plan to demonstrate compliance with zoning ordinance requirements,
including but not limited to parking, landscaping, building setbacks, access management, and signage.

Staff requests that this staff report be entered into the record as Exhibit B.

THE CHAIRMAN: Thank you.

Anyone here representing the applicant?

Do you wish to make any comments at this time?

MR. BAKER: No.

THE CHAIRMAN: Commissioners, do you have any questions regarding this variance application?

Mr. Kazlauskas?

MR. KAZLAUSKAS: These don't come before us that often, and so I'm concerned about what specific need that the applicant has that this variance is being changed from 20 to 10 feet.

MR. CHAIRMAN: Would the applicant like to address that, please?

MR. BAKER: The primary reason, when you go for development plan, normally you have — or planning and development, there are other things that come about, such as, you know, reducing front setbacks, making various changes.

In this particular case, the need for it is basically dictated by the layout. Obviously, you change the layout, you change the need for it. And that's pretty
much the extent of it. In this particular case, the area
will require that landscape buffer anyway, and it prevents
you -- the buffer prevents you from putting buildings in
those areas, but not anything else. So obviously it just
changes the layout, the impact it will have on the plan.
So, you know, it impacts the layout.

MR. KAZLAUSKAS: Okay. Thank you.

MR. CHAIRMAN: I think I have a question, too.
So in effect, what you're saying is that without this
variance, the buildings, particularly on the, I think,
west side, would need to be smaller buildings; that they
couldn't fit in the footprint with a 20-foot buffer?

MR. BAKER: Yeah, it could have that impact. Of
course, we'd assume that all the buildings would be the
same --

MR. CHAIRMAN: Sure.

MR. BAKER: -- for economic reasons and design
reasons. There is -- we've made those assumptions. And
what you see is kind of what we have. Of course, I could
look at various things and maybe come up with something
different. But what we have is we have a building that's
already designed. It's already been built before, so
we're trying to capitalize on that and taking that
footprint and applying it to another lot. So, you know,
that's our goal, is to build something --
MR. CHAIRMAN: I understand. So if you stayed that 20-foot buffer; in effect you would come to the east and would have to squeeze the parking lot?

MR. BAKER: Yeah. When you get to laying out a parking lot, the actual dimensions are all standardized dimensions. You have 18-foot deep parking spaces. So all of that layout is to meet a standard. And, you know, so you would have to modify that collection of parameters to adapt to whatever change you might make. And what we've done here is we've taken that -- my phone's ringing.

Sorry.

What we've done here is taken that combination of standards and dimensions and the building size that is desirable and created a conceptual layout that you see here.

MR. CHAIRMAN: So the building being -- I mean, the lot being what it is, if the lot were ten feet wider all along this west side, you wouldn't need a variance; is that correct?

MR. BAKER: Correct.

MR. CHAIRMAN: If it were a different lot, then using the existing building plans you have would be sufficient?

MR. BAKER: Yeah.

MR. CHAIRMAN: And the parking sufficient?
MR. BAKER: And meeting the parking requirement, standard-wise as well as count-wise.

MR. CHAIRMAN: Okay. That answered my question.

Thank you very much.

Mr. Kazlauskas?

MR. KAZLAUSKAS: Just to be sure, Mr. Chairman, -- and maybe the Staff can enlighten me on this -- the request for variance is not impacted by the number of required parking places for these buildings? I mean, if the 20-foot setback was enforced, they would still have enough room for the recommended parking places that they need for these four constructed buildings?

MR. HOWARD: If I'm following your question right, the end result at the end of the day, whatever they propose on the lot, whether the variance is approved or not, they have to meet the overall parking requirement. So I think as Mr. Baker was describing, the buildings, the way they're laid out now, encroaching that building setback. So they'll either have to narrow the buildings or modify the footprint of those in order to meet the requirements.

If they didn't change the parking layout, they made the buildings smaller, if they still met the overall parking requirement, it would still be approved.

MR. KAZLAUSKAS: I'm not making myself very
clear. Would they have enough space for the required
parking?

MR. HOWARD: The parking layout they have shown
--

MR. KAZLAUSKAS: Because they have to have a
certain number of parking spots for each building, right?

MR. HOWARD: That's correct.

MR. KAZLAUSKAS: Without granting the variance,
will they have enough parking to satisfy --

MR. HOWARD: Yes.

MR. KAZLAUSKAS: -- the criteria?

MR. HOWARD: Yes. They have enough space to
provide the required parking.

MR. KAZLAUSKAS: That was my concern.

MR. HOWARD: Okay.

MR. KAZLAUSKAS: Sorry I didn't make it clear
the first time.

MR. CHAIRMAN: Any other commissioners have
questions?

Mr. Boswell?

MR. BOSWELL: Thank you, Mr. Chairman. I have
just a curious question. If the variance is granted with
the ten feet, let's just suppose in the future another
developer wanted to put something on the west side, for
example, and they wanted a variance for ten feet too.
Does that present a problem with those being so close
together if both of them were granted variances?

MR. HOWARD: From a building codes perspective,
no. As long as you maintain ten feet off the property
line, you don't have to -- you would meet building code,
fire rating, firewall rating requirements. So that would
be the minimum, really, that you look for.

You could go closer, in theory. In an
industrial zone/commercial zone, you can build up to the
property line if you properly rate the walls. It becomes
more costly; but as long as you maintain a minimum of ten
on either side, you'll be fine.

MR. BOSWELL: Second question that I've got is
associated with a little bit of confusion on this variance
request. On Page 164 1/2, there's a question associated
to hardship that requests an answer as "no" if
restrictions of a regulation -- would restrictions of a
regulation deprive the applicant of the reasonable use of
the land or create an unnecessary hardship on the
applicant? If the application is denied, the applicant
could redesign the development to comply with the project
boundary buffer regulations. So it says there's no
hardship.

But then over on Page 160A, on the right-hand,
upper part of the comment section, the very last thing on
there says, "The applicant further contends that the
strict application of the zoning ordinance would deprive
him of reasonable use of the land and would create
unnecessary hardship."

So I guess my question is, will it create a
hardship or will it not create a hardship? Because it
seems like they're conflicting statements.

MR. CHAIRMAN: Do you want to answer that one,
Mr. Howard? I think I understand the answer, but I'm not
sure --

MR. HOWARD: Yeah. And I don't want to speak
for the applicant. Because I think Mr. Boswell is
pointing out two different spots in the application. As
you'll see in our staff report, we said that, no, it would
not create a hardship; that there would be sufficient room
on there, again, if they alter the size of the building to
meet the requirements. But Mr. Baker can potentially
better answer that as far as what they presented in their
application.

MR. BAKER: I'm not here to speak for him. I'm
here to speak about, you know, the layout itself.

With regard to the layout, again, it's a tight
layout with regard to parking counts and overall
dimensions. Otherwise, we wouldn't have this in here
before you. So anything that confines that will likely
impact what can happen on there, so...

MR. CHAIRMAN: Did I not understand you to say, though, that if this variance were not granted, there's the potential that the building would have to be redesigned; so therefore, that is --

MR. BAKER: That's correct.

MR. CHAIRMAN: That's why I think he's saying it's a hardship. Staff says it is not a hardship.

MR. BAKER: I'm sorry. That's what I was getting at.

MR. CHAIRMAN: Mr. Howard, is that accurate?

MR. HOWARD: Yes.

MR. BOSWELL: Thank you.

Mr. Frey?

MR. FREY: I'd like to ask a question of Mr. Overall.

MR. CHAIRMAN: Sure.

MR. FREY: Knowing now the vote didn't go in your favor -- we would love to vote yes for everybody. Knowing that there is a six-foot solid buffer, does 20 feet or 10 feet affect you that much?

MR. OVERALL: I think so, only because we're on both sides of the two empty lands. So if we go ten foot, that would be ten foot -- for a two story building -- closer to our parking lot, closer to us. We already have
a problem, when it shows really bad, getting things
cleaned off. There's no sun. If we go ten feet over on
the other empty side, that's 20 feet, or ten feet on each
side, that we're just kind of encased. You know, I think
it will affect us. I really do.

MR. FREY: Believe me, we would love to vote yes
for everybody.

MR. OVERALL: I appreciate it, yeah.

MR. FREY: Thank you.

MR. CHAIRMAN: Thank you, Mr. Frey.

Anybody else? Any other commissioners have a
question?

Anyone in the audience have any questions or
comments that they would like to make in addition?

If not, then the Chair will entertain a motion.

Yes, Mr. Rogers?

MR. ROGERS: Mr. Chairman, I make a motion for
approval granting the variance with the findings of facts
one through four and the two conditions.

MR. CHAIRMAN: Okay. We have a motion from Mr.
Rogers. Do we have a second?

MR. BALL: Second.

MR. CHAIRMAN: Second by Mr. Ball.

MR. CHAIRMAN: Questions or concerns about the
motion?
All in favor, raise your right hand.

(ALL BOARD MEMBER EXCEPT MR. FREY RESPONDED AYE.)

Opposed, like sign.

(MR. FREY OPPOSED.)

MR. CHAIRMAN: Had one opposition.

ITEM 4

329, 333 & 335 West Parrish Avenue, 0.496 acres
Consider zoning change:
From R-4DT Inner-City Residential to P-1 Professional Service
Applicant: Owensboro Rental Properties, LLC,

MS. KNIGHT: State your name for the record.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS:

The planning staff recommends approval subject to the conditions and findings of fact that follow:

Conditions:

1. The existing residential driveway between 333 and 335 West Parrish Avenue shall be closed and returned to grass with the required sidewalk and curb and gutter replaced; and,

2. Assess to the property shall be limited to the existing public alley only. No additional access to West Parrish Avenue shall be permitted.

Findings of Fact:
1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;

2. The subject property is located in a Central Residential Plan Area where professional/service uses are appropriate in limited locations;

3. The proposed use as an accounting office conforms to the criteria for nonresidential development;

4. The proposal is an expansion of existing B-4 General Business zoning to the east;

5. At 0.496, plus or minus, acres, the proposal should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

We would like to enter the Staff report into the record as Exhibit C.

MR. CHAIRMAN: Thank you.

Is anyone here representing the applicant? Do you wish to make any comments? Commissioners, do you have any questions about this application?

Anyone in the audience like to speak about the application? If not, then the Chair will entertain a motion.

Mr. Frey?
MR. FREY: Mr. Chairman, I would like to make a motion for approval based on staff recommendations and findings of fact one through five and conditions one through two.

MR. CHAIRMAN: We have a motion by Mr. Frey. Do we have a second?

Have a second by Mr. Kazlauskas. Questions or concerns about the motion?

All in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. CHAIRMAN: Opposed, like sign. Motion is passed.

MINOR SUBDIVISION PLATS

ITEM 5

9244, 9250 Old Hartford Road, 9.041 acres
Consider approval of a minor subdivision plat
Applicant: Nancy Fulcher

MR. HOWARD: Mr. Chairman and Commissioners, this applicant comes before you requesting exceptions. It's one that I can't sign in-house. There's an existing parcel that is under ten acres. There's an existing home on it. What they're proposing to -- basically, they're building a lot, a nine-tenths of an acre lot, more or less, around the existing home, which will leave a little over eight acres left in the remainder. They've made
notations on the plat that this property won't be further subdivided without meeting the requirements of subdivision regulation.

They're not really attempting to maximize the number of lots. They're just creating a lot around an existing home. It would allow for one additional building site; but on an overall parcel that's over nine acres, we feel that's reasonable. So we would recommend that you consider it for approval.

MR. CHAIRMAN: Any questions by the Board?
Questions by anyone in the audience?
Yes, sir?

MS. KNIGHT: Please state your name for the record.

MR. HAYDEN: Keavin Hayden.

(KEAVIN HAYDEN SWORN BY ATTORNEY.)

MR. HAYDEN: Yes. These two particular properties are -- Ms. Fulcher is an elderly lady. I'm representing her as a listing agent.

On the tract, the larger tract, the eight acres, there's actually also an existing dwelling on there currently. So what she had, she had a situation where we have the smaller tract, where Mr. Howard said the existing home was. That was her home. But there was another home on top, on the larger tract, already there.
So when we went to market it, we were faced with trying to sell two different dwellings that were located on one property. And that was -- that's why we sought the division.

MR. CHAIRMAN: Any questions?
Thank you for that information. It's helpful.
If not, the Chair will entertain a motion.
MR. JEAN: Motion to approve.
MR. CHAIRMAN: Mr. Jean, motion to approve. Do we have a second?
Second by Ms. McEnroe. Questions or concerns about the motion?
All in favor, raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
MR. CHAIRMAN: Opposed, like sign.
The application is approved.
Okay. All of you should have received the financial statements in the mail to review. So I'd ask you if you have any questions or concerns about the financial statements?
If not, then the Chair will entertain a motion.
Mr. Frey?
MR. FREY: Motion to approve.
MR. CHAIRMAN: Motion by Mr. Frey. Second?
MS. MCENROE: Second.
MR. CHAIRMAN: Second by Ms. McEnroe. Questions or concerns about the motion?

All in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. CHAIRMAN: Opposed, like sign.

Financial statements are approved.

Comments by the Chairman: Just very briefly, and I say this, I think, to benefit the people in the audience. I'm very, very pleased with the way this committee approached these applications tonight. You're very diligent in asking questions, trying to be fair to all parties involved. I know each of you've worked hard to make sure that everyone has a fair hearing, that nobody's concern is ignored or is not considered fully; and I think you're to be commended for that. And I appreciate, as a chairman, that you do your job so diligently in that regard. So I want to thank you for how well you listen to everyone in the audience. Just my appreciation.

Any other planning commissioners have any comments?

Mr. Howard?

MR. HOWARD: I don't have any comments.

MR. CHAIRMAN: No comments from Mr. Howard, so we've got one more item for motion, I believe.
MR. BALL: Motion to adjourn.

MR. CHAIRMAN: Motion to adjourn by Mr. Ball. Second by Mr. Boswell. All in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. CHAIRMAN: Opposed, like sign.

We're out of here. Thank you.

(The meeting adjourned at 6:17 p.m.)
STATE OF KENTUCKY )
COUNTY OF DAVIESS )

SS: REPORTER'S CERTIFICATE

I, RHONDA SIMPSON, 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 76 typewritten pages; and that no
signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 4th
day of October 2016.

RHONDA SIMPSON, NOTARY PUBLIC
STATE-AT-LARGE
OHIO VALLEY REPORTING SERVICE
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: AUGUST 17, 2019

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