

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 MARCH 11, 2010

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, March
5 11, 2010, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Drew Kirkland, Chairman
9 Ward Pedley, Vice Chairman
10 David Appleby, Secretary
11 Gary Noffsinger, Director
12 Madison Silvert, Attorney
13 Rev. Larry Hostetter
14 Tim Allen
15 Irvin Rogers
16 Keith Evans
17 Rita Moorman

18 * * * * *

19 CHAIRMAN: I would like to welcome everybody
20 to the March 11th meeting of the Owensboro
21 Metropolitan Planning Commission. Please rise while
22 our pledge of allegiance and invocation will be given
23 by Mr. Dave Appleby.

24 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

25 CHAIRMAN: Our first order of business will be
to consider the minutes of the February 11, 2010
meeting. Are there any additions, corrections?

(NO RESPONSE)

CHAIRMAN: If not, the Chair is ready for a

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1 motion.

2 MR. PEDLEY: Motion to approve.

3 CHAIRMAN: Motion for approval by Mr. Pedley.

4 MS. MOORMAN: Second.

5 CHAIRMAN: Second by Ms. Moorman. All in
6 favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 ITEM 2

11 2010 Census Complete Count Committee update

12 MR. SILVERT: State your name, please.

13 MS. STONE: Becky Stone.

14 (BECKY STONE SWORN BY ATTORNEY.)

15 MS. STONE: I suppose everybody got their
16 mailer that the Census form will be coming to them.
17 It will be out in the next week or so and should be
18 returned to the Census the first of April. There is
19 going to be sort of a special project ongoing in
20 Census Tracts 2, 3 and 4 because they're considered
21 undercounted Census tracts. Just fill out your form
22 and get it in so we can get a complete count.

23 CHAIRMAN: Thank you, Ms. Stone.

24 -----

25 PUBLIC HEARING

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1 ITEM 3

2 Consider revisions to the Owensboro Metropolitan
3 Public Improvement Specifications, Chapter 3, Streets

3

4 MS. STONE: The revisions to Chapter 3 Streets
5 have to do with street services and the standards.
6 This was proposed by the city engineer and endorsed by
7 the county engineer. Sinan Rayyan from the county is
8 here to answer any questions you might have.

9 MR. NOFFSINGER: I do have one question,
10 Ms. Stone.

11 Would you describe how we got to this point in
12 terms of who has looked at this other than the city
13 and county engineer?

14 MS. STONE: Certainly.

15 The city engineer proposed this at the Public
16 Improvements Committee meeting. A subcommittee was
17 formed with a developer, an engineer, the city and the
18 county engineer, and myself, and the proposal was
19 reviewed. The developer I think had taken that to the
20 Home Builders Association for their input and the
21 recommendation that subcommittee wants to adopt these
22 changes.

23 CHAIRMAN: Are there any questions?

24 (NO RESPONSE)

25 CHAIRMAN: Next item, please Mr. Noffsinger.

1 MR. NOFFSINGER: I think we need to take a
2 vote on this.

3 CHAIRMAN: Do we need to vote on it?

4 MR. NOFFSINGER: Yes. Because you are
5 actually amending the public improvement
6 specifications so you will need to take a vote.

7 CHAIRMAN: Okay. Since there are no
8 questions, no questions from the commission, the Chair
9 is ready for a motion.

10 MR. PEDLEY: I make a motion to approve the
11 proposed amendment.

12 CHAIRMAN: Motion for approval by Mr. Pedley.

13 MR. ALLEN: Second.

14 CHAIRMAN: Second by Mr. Allen. All in favor
15 raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimously.

18 Next item, please.

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20 ZONING CHANGES

21 ITEM 4

22 416, 418, 420 Wing Avenue, 419 Montgomery Avenue,
0.465 acres

23 Consider zoning change: From B-4 General Business to
B-5 Business/Industrial

24 Applicant: Green Valley Development, Inc.

25 MR. SILVERT: State your name, please.

1 MR. HOWARD: Brian Howard.

2 (BRIAN HOWARD SWORN BY ATTORNEY.)

3 MR. HOWARD: First I'll note that all
4 rezonings heard tonight will receive a recommendation
5 from the Planning Commission. If no comments are
6 applied with the office on those recommendations, they
7 will become final 21 days after the meeting. If an
8 appeal is filed, which those forms are available on
9 the back table, at our office, and on the website,
10 then we will forward that on to the appropriate
11 legislative body for their final review and
12 consideration of the application.

13 With that I'll read the Staff Report.

14 PLANNING STAFF RECOMMENDATIONS

15 The Planning Staff recommends approval subject
16 to the conditions and findings of fact that follow:

17 CONDITIONS:

18 1. Submission and approval of a site or
19 development plan;

20 2. Eliminate parking spaces that require
21 backing into the public right-of-way;

22 3. Gravel parking areas shall be removed and
23 returned to grass, paved or appropriately screened as
24 required for outdoor storage area;

25 4. Vehicular use area screening shall be

1 installed where paved parking areas are adjacent to
2 the road right-of-way;

3 5. All vehicular use areas are required to be
4 paved;

5 6. Access shall be limited to a maximum of 40
6 percent of the road frontage or 40', whichever is
7 less;

8 7. A six foot solid wall or fence with one
9 tree every 40 linear feet within a 10' landscape
10 easement shall be installed along the south property
11 line of 419 Montgomery Avenue and 420 Wing Avenue;
12 and,

13 8. All lighting shall be directed away from
14 the residentially zoned property.

15 FINDINGS OF FACT:

16 1. The subject property is located within a
17 Business/Industrial Plan Area, where general business
18 and light industrial uses are appropriate in general
19 locations;

20 2. The subject property lies within an
21 existing area of mixed industrial and commercial land
22 uses;

23 3. The Comprehensive Plan provides for the
24 continuance of mixed use area; and,

25 4. The proposed land use for the subject

1 property is in compliance with the criteria for a
2 Business/Industrial Plan Area and a B-5
3 Business/Industrial zoning classification.

4 MR. HOWARD: We would like to enter the Staff
5 Report into the record as Exhibit A.

6 While I'm here we did have a letter submitted
7 to the office that they requested that I read into the
8 record so I will do that now.

9 "My name is Melissa Boarman. My family and I
10 live at 428 Wing Avenue. It has been our home for
11 almost 12 years. To the direct right of us is 416
12 Wing Avenue that has an empty lot separating our
13 properties. In the 11 1/2 years, we have seen many
14 businesses come and go. Each with a bigger and better
15 dream than the other. 416 Wing has been anything
16 from: A cable install company, to an antique
17 furniture store, to a window replacement company, to
18 two separate pallet businesses, to just recently a
19 small motor repair shop.

20 "Now there is a proposal for a zone change
21 from business to business/light industrial. As not
22 only a neighbor but the direct one next-door, I have a
23 right to be concerned. Concerned about what sort of
24 'industry' will be housed there and the traffic it
25 will accumulate on our already very busy street. The

1 parking for 416 has completely been done away with by
2 the addition of a chain link fence in the lot between
3 my house and 416. So where is the parking lot?
4 Approximately 80 percent of the lot is now fenced in.
5 It is being used to accommodate a fence company
6 operating out of the building at 419 Montgomery, and
7 to accesses the lot they back into the fence on Wing
8 Avenue. So if 416, 418 and 420 Wing Avenue are to be
9 re-zoned, do they not need an adequate parking lot?
10 Even if they are not rezoned, does a business not need
11 one parking space per employee and enough for
12 approximately customers? Because there is no parking
13 on Wing Avenue.

14 "I want to make sure that all codes are
15 followed to the letter. I do not want someone to move
16 in and not maintain what they have. Right now it
17 looks like a dumping ground. I understand that trash
18 is not your area, but codes and laws are. The fence
19 is no too much of a bother. Once the wrapping is
20 finally complete it should look better. I just don't
21 want people parking on Wing Avenue as they have in the
22 past. It is hard enough to back out of my driveway.

23 "I am a very good neighbor. This is my home
24 and family next door to the re-zoning. I just want
25 the business owners and Planning & Zoning to remember

1 this.

2 "Thank you, Melissa Boarman."

3 I would like to enter that into the record as
4 Exhibit B.

5 CHAIRMAN: Is there anybody here representing
6 the applicant?

7 APPLICANT REP: Yes.

8 CHAIRMAN: Does anybody have any questions of
9 the applicant?

10 (NO RESPONSE)

11 CHAIRMAN: If there are no questions of the
12 applicant, the Chair is ready for a motion.

13 MR. ROGERS: Motion for approval based on
14 Planning Staff Recommendations with Conditions 1
15 through 8 and the Findings of Fact 1 through 4.

16 CHAIRMAN: We've got a motion for approval by
17 Mr. Rogers.

18 MR. APPLEBY: Second.

19 CHAIRMAN: Second by Mr. Appleby. All in
20 favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 Next item, please.

24 ITEM 5

25 308 East 25th Street, 4.344 acres

Consider zoning change: From I-1 Light Industrial to

1 B-5 Business/Industrial

Applicant: W4 Investments, LLC

2

3 PLANNING STAFF RECOMMENDATIONS

4 The Planning Staff recommends approval subject
5 to the conditions and findings of fact that follow:

6 CONDITIONS

7 1. Submission and approval of a site or
8 development plan;

9 2. Eliminate parking spaces that require
10 backing into the public right-of-way;

11 3. Gravel parking areas shall be removed and
12 returned to grass, paved or appropriately fenced as
13 required for outdoor storage area;

14 4. Vehicular use area screening shall be
15 installed where paved parking areas are adjacent to
16 the road right-of-way;

17 5. All vehicular use areas are required to be
18 paved;

19 6. Access to East 25th Street shall be
20 consolidated into a single access point in compliance
21 with the access management manual;

22 7. No access shall be permitted to JR Miller
23 Boulevard as stipulated in the special access
24 restrictions adopted by the MPO Transportation Policy
25 Committee on October 24, 1985;

1 8. A six foot solid wall or fence with one
2 tree every 40 linear feet within a 10' landscape
3 easement shall be installed along the south and east
4 property lines where adjoining residential zoning;
5 and,

6 9. All lighting shall be directed away from
7 the residentially zoned property.

8 FINDINGS OF FACT:

9 1. The subject property is located within a
10 Business/Industrial Plan Area, where general business
11 and light industrial uses are appropriate in general
12 locations;

13 2. The subject property lies within an
14 existing area of mixed industrial and commercial land
15 uses;

16 3. The Comprehensive Plan provides for the
17 continuance of mixed use areas; and,

18 4. The proposed land use for the subject
19 property is in compliance with the criteria for a
20 Business/Industrial Plan Area and a B-5
21 Business/Industrial zoning classification.

22 MR. HOWARD: We would like to enter the Staff
23 Report into the record as Exhibit C.

24 CHAIRMAN: Do we have anybody representing the
25 applicant?

1 MR. BAKER: Yes.

2 CHAIRMAN: Do we have any questions of the
3 applicant?

4 Yes, sir. Please step to the mike.

5 MR. SILVERT: State your name, please.

6 MR. WILLINGHAM: Gary Willingham.

7 (GARY WILLINGHAM SWORN BY ATTORNEY.)

8 MR. WILLINGHAM: As I stated, my name is Gary
9 Willingham. I own G&L Properties, LLC.

10 We own two pieces of property that back to the
11 subject property, the rezoning. We certainly do not
12 object to the rezoning as it is already zoned
13 industrial. Our concern, and as the gentlemen just
14 stated, our concern is, and I do have some pictures
15 that I have taken of our properties that back to the
16 subject property for rezoning, is the lack of
17 maintenance to the adjoining fence and boundaring
18 areas all along the west side of Cloverdale.

19 We own multiple properties on Cloverdale. We
20 have two on the west side and three on the east side.
21 We have spent a lot of money on those properties to
22 bring that neighborhood back up to speed. It was in a
23 state of deterioration when we started buying
24 properties in 2000.

25 With that said, I have no problem with the

1 rezoning at all, but I would like to know what is
2 planned by the applicant to accommodate some type of a
3 blind along the boundary properties along the back
4 side of our properties. As I stated, I have pictures
5 here that I would like to give to the commission for
6 them to look at.

7 My tenants, which are good tenants and I've
8 had in place for a long time, they have seen the
9 property go from, which was Suburban Propane at one
10 time, to a vacant lot for a long time, and has now
11 been purchased, which is good for the City of
12 Owensboro. I can appreciate that. But since that has
13 happened, we have seen a lot of heavy equipment
14 brought in there. Crane booms, things like that that
15 have just been -- tractor-trailers, trailers have been
16 brought in there. Not abandoned, but placed on the
17 property. When my tenants walk out their back door,
18 that's what they have to look at. They have to look
19 at rusting --

20 CHAIRMAN: I think we've got a mental picture
21 of what your concerns are.

22 MR. WILLINGHAM: I think the gentleman here
23 stated something about fencing or blinds.

24 CHAIRMAN: That's what I'm going to do. I'm
25 going to bring him back and then we'll call up on one

1 of the representatives of the property to testify
2 also.

3 MR. HOWARD: It was Condition Number 8, which
4 requires a six foot solid wall or fence with a tree
5 every 40 linear feet within a 10 foot landscape
6 easement along the property lines where it joins
7 residentially zoned property. That is a condition
8 requirement of the zoning ordinance.

9 MR. WILLINGHAM: With that said there is
10 already a 6 foot chain-link fence there that has not
11 been maintained, that is overgrown with weeds, trees,
12 poison ivy that my tenants, myself included, has gone
13 out and had to clean that.

14 CHAIRMAN: Let me ask the purchaser, if you
15 would be seated. Let me ask the purchaser to come up
16 and we'll have him address those concerns also.

17 MR. WILLINGHAM: I would like to have in the
18 record the pictures. I was asked to bring pictures
19 in.

20 CHAIRMAN: Very good. If you would, if you'd
21 go ahead and distribute the pictures and then we'll
22 give them and we'll have those as part of your
23 exhibit. We can go ahead and do a couple of things at
24 once.

25 MR. SILVERT: State your name, please.

1 MR. BAKER: Jason Baker.

2 (JASON BAKER SWORN BY ATTORNEY.)

3 MR. BAKER: The applicant has agreed to all of
4 the conditions that are set forth. As far as the use
5 of the land in behind, it is currently a storage yard.
6 It does have a screen or a fence around it. Any
7 upgrades that are necessary to that fence to bring it
8 in compliance, you know, he's agreeing to those
9 conditions.

10 With regard to anything parked in there, with
11 it being a screened in area, it's an outdoor storage
12 area. I don't know that he's held to any other
13 standard other than that.

14 CHAIRMAN: I think based on the standard that
15 was set by in the conditions that you all would need,
16 and I think this gentleman here was stating, I think
17 his greatest concern is possibly the upkeep of the
18 fencing and everything. I think with that I think
19 we'll call Mr. Sterett to the mike.

20 MR. SILVERT: State your name, please.

21 MR. STERETT: William Sterett.

22 (WILLIAM STERETT SWORN BY ATTORNEY.)

23 CHAIRMAN: Mr. Sterett, you understand the
24 questions that one of your possible future neighbors
25 is having. I think if you would just address his

1 concerns with the type of maintenance upkeep and
2 everything that you've done over the span of your
3 business career I think would be ample.

4 MR. STERETT: Basically when I purchased the
5 property it was I-1. We're trying to get it what I
6 feel like is more zoned appropriate for that area.

7 As far as the fence, I'm not aware of any
8 issues with it. I know it's come down several times
9 from the wind storm. Having the screen on it
10 obviously causes a lot more maintenance issues, but
11 we've addressed those as they've come up.

12 Again, I'm not aware of any current issues
13 there is. Vehicles park there. That's one of the
14 reasons why the property was purchased, you know, was
15 to store equipment. I don't think there's anything
16 there that the property is not zoned for currently.

17 As far as what the intentions are, the
18 intentions are to get, hopefully get the zoning change
19 and improve the property.

20 I'll add to that the city, I guess, is
21 currently doing some drainage issue. They've been
22 working over there at the property to improve the
23 drainage in that area.

24 Any other questions?

25 CHAIRMAN: Do you have any other concerns or

1 questions of the applicant?

2 Would you just step to the mike.

3 MR. WILLINGHAM: No. I think I've stated my
4 concerns pretty clearly. I think the pictures pretty
5 much speak for themselves.

6 Like I say, I'm just concerned, you know,
7 about the maintenance. It is not being maintained.
8 There's no guarantees in life at all, but what
9 guarantees do I have that this is going to continue to
10 be maintained. It's a mess back there. The pictures
11 speak for themselves.

12 CHAIRMAN: Mr. Noffsinger.

13 MR. NOFFSINGER: Mr. Chairman, I would like to
14 clarify to make sure the applicant and this gentleman
15 understands the Condition Item Number 8.

16 A 6 foot solid wall or fence. This is a
17 chain-link fence that's there now. So that would
18 indicate that the chain-link fence would have to be
19 removed along that east boundary and possibly I think
20 it's at the south boundary, and replaced by a solid
21 wall or fence.

22 So I want to make sure I understand you're in
23 agreement with these conditions, but I want to make
24 sure we all understand that that chain-link fence is
25 going to have to come down and there's going to be a

1 new solid wall or fence there.

2 Now, in terms of the maintenance, if you want
3 to address the maintenance or the type of fence you're
4 going to put up, you can do that. Certainly our
5 condition is that it be a solid wall or fence which
6 could be a brick wall. It could be a white vinyl
7 fence, privacy fence or it could be a wooden privacy
8 fence.

9 MR. STERETT: I was under the impression that
10 the current fence with the screening was appropriate.

11 MR. BAKER: I think the existing fence, Gary,
12 has all slats installed.

13 MR. NOFFSINGER: Not according to the
14 pictures.

15 MR. BAKER: If there are places where that is
16 not, they would add the slats would be the intent.

17 CHAIRMAN: I think I'll have Mr. Sterett take
18 a look at the pictures, one of the exhibits.

19 I'm sure when Mr. Sterett takes possession of
20 the property, I'm familiar with other properties that
21 he has in town and things that his family has done
22 over a span of years, and they've always done it in a
23 first class manner. I would expect nothing to be done
24 different that you would take over over there; is that
25 correct?

1 MR. WILLINGHAM: With all due respect, I
2 appreciate that, but that's just not the letter of the
3 law. I mean if Mr. Noffsinger is stating that this
4 needs to be a solid brick and/or concrete block fence
5 --

6 CHAIRMAN: Wait a minute now. He said a
7 solid. Not solid brick.

8 MR. APPLEBY: It can be a chain-link fence
9 with slats.

10 MR. WILLINGHAM: If they want to come in there
11 and rip all that vegetation out of the fence, more
12 power to them. With that said, I'll agree with that
13 too.

14 I have no problem with this commission or
15 Mr. Sterett at all. It's just that --

16 CHAIRMAN: The present condition of what it is
17 now bothers you. The future owner and what the
18 condition is now he can't be held responsible for what
19 it is now. He's got certain conditions that he has to
20 meet and he's very aware of it. What I'm saying to
21 you is, in the past he has been forced with other
22 things and his family has been forced with other
23 things and they've done a first class job. I would
24 not expect anything but that for the future.

25 MR. WILLINGHAM: I appreciate that.

1 CHAIRMAN: As far as the letter of the law,
2 the letter of the law is what he has to abide by.

3 MR. WILLINGHAM: I misunderstood.

4 CHAIRMAN: I'm sure that he will take care of
5 that. If he doesn't, there are alternatives, but
6 there's what he agreed to and there's what will be.

7 MR. WILLINGHAM: If that's what the applicant
8 is agreeing to, then I have no problem with that.
9 Like I said, my issue -- I will go one step further
10 though.

11 The six foot fence as shown in some of those
12 pictures, those crane booms and stuff are being
13 stacked up two and three high. That rises, you know,
14 10, 15, 20 foot in the air, and it still at that point
15 becomes an eyesore. As I understand, the City of
16 Owensboro, JR Miller boundaries that. I was under the
17 impression that beautification is -- I was just in
18 Planning & Zoning the other day and there's a big wall
19 up there with pictures all about beautification. And
20 to drive down JR Miller and see that is not very
21 beautiful.

22 There again, I understand Mr. Sterett has a
23 business that he operates cranes and so forth and that
24 is part of the business.

25 CHAIRMAN: Before we go any further, I'll let

1 Mr. Noffsinger address that.

2 Mr. Noffsinger.

3 MR. NOFFSINGER: Both the applicant and this
4 gentleman here that owns the adjoining property have
5 very valid considerations and valid points. That's
6 why we're here tonight in planning.

7 Really the challenge we have as a Planning
8 Commission and as the Staff is to balance out the good
9 of the business and the good of the landowner. Let me
10 tell you it is a challenge. Sometimes no matter what
11 you do, you're not going to do the right thing because
12 you're going to make people happy and you're going to
13 make some people unhappy.

14 This Commission, based upon the zoning
15 ordinance, this Commission because this is simply a
16 zoning change and it's not a use that requires a
17 Conditional Use Permit, by ordinance the applicant is
18 not bound by a height limitation in terms of that
19 storage area. If they were seeking a Conditional Use
20 Permit such as a salvage yard, auto wrecking yard,
21 then the Board of Adjustment, which is a different
22 board, would be considering the stacking of materials,
23 but in this particular case there is no ordinance that
24 actually says you can only stack so high.

25 Now, this board may enter into a discussion

1 with the applicant to determine how high the materials
2 would be stacked. There may be some agreement there,
3 but there's no specific ordinance that actually
4 addresses that.

5 So what they're doing out there right now in
6 terms of the storage of materials at whatever height,
7 is certainly in compliance with the local ordinance.

8 In terms of screening, if you use those
9 screening slats, you run the risk of wind damage as
10 well as the vegetation growth. We found they do
11 become a maintenance problem.

12 Now, my Staff tells me that you can use the
13 screening slats. Hopefully if you do use screening
14 slats, they will be something of a solid color, a
15 uniform color across there that would be pleasing to
16 those adjoining residents. This board's job is to
17 make sure that they do meet the minimum requirements.
18 I would say that the chain-link fence with slats would
19 meet that, as well as the trees.

20 Now, the stacking of materials, how high the
21 storage is, that's an area that really this board
22 would have to enter into discussion with the applicant
23 to see what they're willing or not willing to do in
24 terms of stacking. Because they can do that now under
25 the existing zoning they have.

1 MR. STERETT: Can I add that in those pictures
2 a lot of that material that's there was left by former
3 tenants. The lease has run out. So we're trying to
4 contact them to try to get a lot of that stuff
5 removed. Like junk cars and boats that has kind of
6 piled up there. So that is in the process.

7 MR. WILLINGHAM: What about the
8 tractor-trailers?

9 CHAIRMAN: Let me get you to address and we'll
10 go like that. We don't want to get into a cross
11 match.

12 MR. WILLINGHAM: What about the trailers and
13 all that kind of stuff? I don't know. If I see
14 improvements and stuff to it once this is approved,
15 you know, you'll never hear from me ever again. I'm
16 not here to give anybody a hard time. As long as
17 Mr. Sterett when this is done, as long as the
18 improvements are made and the slats are put in the
19 fence, as Mr. Noffsinger has recommended, I don't have
20 a problem with that. I really don't. I just want to
21 see something better than what is there right now.

22 As far as the stacking, I understand what
23 Mr. Noffsinger is saying there. I guess if it gets
24 out of control, which I hope Mr. Sterett will not
25 allow that to happen, which we're in agreement he is a

1 good business man. We don't think that will happen.
2 I have no problem at all. I'm just concerned with
3 where we're at right now and what's going to be done
4 to make the necessary improvements.

5 CHAIRMAN: Thank you.

6 Mr. Sterett, as I looked at those pictures, I
7 think it was pretty easy to identify what obviously is
8 your type of material. Some of those trailers, those
9 trailers are not yours?

10 MR. STERETT: Correct. Right. A lot of
11 materials were basically dropped there. Fencing and
12 stuff. Obviously if somebody is paying a lease, I
13 can't go in there and dictate to them what they store
14 there and what they do not.

15 As I said, the lease has run out and we
16 contacted, you know, try to contact the people that
17 owned the cars and boats and whatever that is. I
18 guess we'll do whatever due diligence we need to do to
19 get that removed. It's just a process that --

20 CHAIRMAN: That's all you can do under the
21 powers of the lease.

22 The fence improvement and those sort of things
23 will just come under normal maintenance, if the
24 transfer will be yours.

25 MR. STERETT: Yes, sir.

1 CHAIRMAN: Mr. Noffsinger, as far as stacking,
2 Mr. Sterett would is governed by the ordinance just
3 like everybody else. There is no requirement as far
4 as height of the stacking as long as he has his six
5 foot fence; is that correct?

6 MR. NOFFSINGER: That is correct. Unless he's
7 willing to accept a height limitation as part of the
8 rezoning.

9 CHAIRMAN: Do you have any further statements,
10 Mr. Sterett?

11 MR. STERETT: No, I do not.

12 CHAIRMAN: Do you have any other questions or
13 statements?

14 MR. WILLINGHAM: I would just ask Mr. Sterett
15 or the commission to ask Mr. Sterett is he willing to
16 accept within reason, you know, some type of stacking
17 limitations back there. There again, a 6 foot fence
18 does not do any good when you've got a 20 foot crane
19 boom stacked up in the air. It does not do any good.

20 MR. APPLEBY: You understand though that under
21 the current zoning he has no limitation?

22 MR. WILLINGHAM: I understand that.

23 MR. APPLEBY: A B-5 zone is somewhat more
24 restricted than light-industrial zone. It's an
25 improvement to the location.

1 MR. WILLINGHAM: Yes, sir.

2 MR. APPLEBY: It's going to prohibit a whole
3 lot of uses that would be less desirable in the
4 neighborhood.

5 In my way of thinking, a B-5 zone it's a step
6 up. A lot of things in a light industrial zone could
7 go in there right now that would be worse than what is
8 possibly there. I don't know if it would or not.

9 MR. WILLINGHAM: There again, I guess I'm a
10 little confused here as to whether or not he's willing
11 to limit the height restrictions. If I'm being told
12 by the commission that --

13 MR. APPLEBY: We can ask him.

14 MR. WILLINGHAM: I believe that's what I --
15 within reason, within reason. I'm not saying --

16 CHAIRMAN: You realize as the board to enforce
17 the ordinance is a written all the way uniformly.
18 Mr. Sterett would have the option --

19 Gary, correct me I'm wrong.

20 If we try to put a restriction on a height
21 stacking --

22 MR. WILLINGHAM: No, sir, that's not what I'm
23 asking.

24 CHAIRMAN: Then I misunderstood you.

25 MR. WILLINGHAM: That's not what you stated.

1 You said that you could ask Mr. Sterett if he would be
2 willing to accept a height limitation. That is my
3 question. Is he willing to accept a height limitation
4 or are we going to have to have a 6 foot fence with
5 another 20 foot of crane booms and/or storage. Here
6 again, I'm not trying to be hard to get along with.
7 If he's not going to store that type of stuff back
8 there, then this is a non-issue.

9 CHAIRMAN: The thing about it is the zoning
10 that he's going to, as Mr. Appleby very well pointed
11 out, an I-1 classification, which it is now, you know,
12 they can do light industrial work. They can put
13 different type things in there in an I-1 and not come
14 for a zoning change and they can literally do anything
15 they want to do. He can improve the screening and be
16 done with it.

17 MR. APPLEBY: What do you anticipate putting
18 back there and how high is it going to be?

19 MR. STERETT: I can't answer that question.
20 Right now we currently have some like some crane booms
21 are stored there. I don't think it's stacked up high.
22 I think maybe the issue maybe it's on a trailer. I
23 can't exactly recall. Of course, that makes it
24 taller. We're not actively storing a crane boom
25 there. It's just maybe something that is not at our

1 present location.

2 I guess to answer the question, I would not be
3 able to accept or would not be able to accept any kind
4 of restriction on height because I can't tell anybody
5 what's going to happen in that property in the next
6 two years. The property is for lease or for sale. If
7 I accept some type of height restriction, it might
8 hinder the use of the property going forward.

9 Again, we're trying to move it from an I-1 to
10 a B-5. So we're trying to improve the property.
11 We'll do our best to remove anything that's an eye
12 sore there. We have been removing things. I think
13 you probably noticed. If you live there, we have
14 moved a lot of items off that property and we're going
15 to continue to do so.

16 CHAIRMAN: Yes, ma'am.

17 MS. MOORMAN: There was a lot of fence there
18 and it was an eye sore. Had vegetation grewed up on
19 it. There were no slats in it. You will clean that
20 up, put slats in it?

21 MR. STERETT: Correct. I've agreed to the
22 conditions.

23 MR. NOFFSINGER: And a time frame, what's your
24 time frame on doing that?

25 MR. STERETT: I don't have a time frame at

1 this point. I'm trying to get the zoning done. At
2 that point we'll make a plan to go forward.

3 CHAIRMAN: What would you think would be a
4 reasonable time frame for you all, Mr. Sterett, to
5 complete the slats?

6 MR. STERETT: I'll have to look into it. I'm
7 not sure exactly. I don't go to the property every
8 day so I'm not exactly for sure what condition it's
9 in. So I'll just need to assess, you know, whether
10 that fence -- again, it might not be that we want --

11 CHAIRMAN: Yes. It appeared to me that there
12 was going to have to be some maintenance done. You
13 know, there's growth in the fence. It will be a
14 little bit of an undertaking.

15 MR. STERETT: Right. We might end up
16 refencing the property, but it's not my goal to have a
17 chain-link fence there for -- once the property is
18 developed, obviously we'll want something a little
19 more attractive than an older chain-link fence. It's
20 just property, you know, that we bought it in that
21 condition. Until we have a use for it --

22 CHAIRMAN: So your long-term goal is to just
23 completely eliminate the chain-link fence?

24 MR. STERETT: Correct. Along all four corners
25 of the property.

1 CHAIRMAN: Mr. Noffsinger, the slats, which
2 unfortunately are aluminum, are extremely expensive
3 to do. They make a mat that goes down there that is a
4 screening also that you can't see through. It's a lot
5 more economical, a lot easier to install. It goes up
6 a lot quicker. Is that something that is also
7 agreeable?

8 MR. NOFFSINGER: Yes. Looking at the
9 ordinance it has to maintain 80 percent opacity. So
10 that certainly could be an option. It says, "or other
11 approved material." So you might approve that, again,
12 as long as it --

13 MR. STERETT: That's probably what I would
14 use. I have used that in the past.

15 CHAIRMAN: You're familiar with what we're
16 talking about, Mr. Sterett?

17 MR. STERETT: Yes. I think its original use
18 was screening tennis courts and that kind of thing.
19 It's a little more attractive than --

20 CHAIRMAN: And it's easier to go up. Once you
21 get it cleared, instead of four days you can put it up
22 in four hours and be done with it.

23 MR. NOFFSINGER: Again, I think a time frame
24 is important because this landowner does have issues
25 in terms of the screening. Mr. Sterett can't give us

1 a time frame at this point in terms of what they're
2 going to do. I can see it becoming a zoning
3 enforcement problem for the Staff. Because this
4 gentleman is going to be, you know, three months from
5 now just throwing out numbers. Three months from now
6 wanting to know where his screening is. We're saying,
7 well, he said he was going to do it and we're holding
8 surety and there's not a whole lot we can do at this
9 point. That's why the time frame we think is
10 certainly important to address so that we all know,
11 hey, when can we reasonably expect the screening to
12 occur.

13 MR. APPLEBY: At what point can you enforce
14 it? Once this is passed, this condition, it's in
15 place. If you don't feel it's in a timely manner, can
16 we not enforce it?

17 MR. NOFFSINGER: Yes, we can, but again he has
18 the right to post surety for the improvement. Then
19 it's a matter of taking the steps to cash in on the
20 surety, which means court.

21 CHAIRMAN: I think a reasonable, you know, a
22 reasonable time. You've got April. You're going to
23 have some more snow. You're going to have rain.
24 You're going to have problems throughout the month,
25 but I think we can come to a pretty easy, you know, we

1 want you to have plenty of time. We want you to be
2 able to do it is the thing that we're shooting for.
3 To try and eliminate a little bit of a jam here. I
4 think you understand.

5 MR. WILLINGHAM: There again within reason. I
6 understand.

7 CHAIRMAN: You're the one that the reason is
8 evolving around. Let me just ask you: What would you
9 -- you've been on this side of the fence too.

10 MR. WILLINGHAM: Yes, sir.

11 CHAIRMAN: So what would you think would be a
12 reasonable time?

13 MR. WILLINGHAM: I would think after the
14 zoning change and all of that is done I would say six
15 months.

16 CHAIRMAN: Mr. Sterett.

17 MR. STERETT: I hate to answer that.

18 CHAIRMAN: All we're asking about is the
19 screening of the property. You might get into it and
20 decide the fence isn't worth a darn and want to take
21 the whole thing down and do something different, and
22 with that you'd have everybody's blessing there.
23 That's for sure.

24 MR. WILLINGHAM: Mr. Chairman, with that said
25 I can appreciate that. If he gets into a situation --

1 I am a contractor myself. If he gets into that
2 situation and that is the case, I can live with that.
3 As long as we are seeing some type of progress, some
4 baby stepping our way towards getting it completed.
5 That's fine with me. That's fine with me.

6 CHAIRMAN: Mr. Sterett.

7 MR. STERETT: Again, without knowing the scope
8 of work, I can't really commit to a time frame.
9 Again, we might go in there and the fence might not
10 work. We might have to go in there and some of that
11 vegetation we might have to try and apply some
12 chemical to it to even put the screening in. I don't
13 think the landowners would appreciate me screening
14 over that vegetation. I can assess the situation and
15 then come back with some type of time frame. Without
16 knowing the exact situation tonight, I can't really
17 put a time frame to it.

18 CHAIRMAN: Mr. Appleby.

19 MR. APPLEBY: I don't know. I think we agree
20 it's an eye sore and something is going to have to be
21 done with its condition and it needs to be addressed.

22 I guess we could put a time frame in the
23 condition, could we not? Say within 12 months?

24 MR. NOFFSINGER: Sure. Whatever.

25 MR. STERETT: I would agree to that.

1 CHAIRMAN: Yes. That would give you ample
2 time. I think once you get into it --

3 MR. STERETT: I want to it as expeditiously as
4 possible.

5 CHAIRMAN: I mean the way it is now you're not
6 happy with it.

7 MR. STERETT: Right.

8 CHAIRMAN: You're not used to having junk like
9 that.

10 MR. STERETT: Correct.

11 CHAIRMAN: Is that okay with you? To give him
12 plenty of time to access what he needs to do and then
13 get it done?

14 MR. WILLINGHAM: I think six months is plenty
15 of time, sir. Twelve months, that's another year.
16 We're talking about another winter, another rainy
17 season like you just mentioned. I mean the weather is
18 getting ready to break here. Something like that can
19 be jumped on. Mr. Sterett from the pictures, if he's
20 glanced at them, there's going to be no going in there
21 and taking the vegetation out of that fencing that's
22 there. That fencing is going to have to be ripped
23 out. New fencing is going to have to be put in along
24 with slats.

25 Now, what is more economical as far as slating

1 or some other type of fencing, that is totally up to
2 the landowner. If you all approve it and he does it,
3 then that's fine. I think a year is going a little --

4 CHAIRMAN: We were just going --

5 MR. WILLINGHAM: He said he would agree to a
6 year. You through a year out there and he agreed to
7 it. I think a year is a little bit too much. Like I
8 just stated, a year is another winter, another rainy
9 season. Spring is here. If he's going to make
10 improvements to the property, they need to be made.

11 CHAIRMAN: Mr. Appleby.

12 MR. APPLEBY: We'll split the difference.
13 I'll say nine months. I'm ready to make a motion.

14 CHAIRMAN: Nine months.

15 Nine months, Mr. Sterett.

16 MR. STERETT: If it let's us go home, I'm fine
17 with that.

18 CHAIRMAN: Nine months. He'll do it. He'll
19 do right. If not we'll be out there with Jim Mischel.
20 He'll have ten out there.

21 Are you agreeable?

22 MR. WILLINGHAM: I hold you to that.

23 CHAIRMAN: We'll be right there.

24 MR. WILLINGHAM: I'll hold you to that.

25 MR. EVANS: So is that a, yes, you are

1 agreeable?

2 MR. WILLINGHAM: Nine months. Like I say if
3 it goes a year, it goes a year, as long as I am seeing
4 some improvements made on a continual basis. That's
5 all.

6 CHAIRMAN: Do you have any kind of equipment
7 or anything that you could use out there to get this
8 done?

9 MR. STERETT: No.

10 CHAIRMAN: Are there any more questions?

11 MR. NOFFSINGER: Mr. Chairman, again, I'd just
12 like to point out that this case you're hearing
13 tonight is typical of what your Planning Staff goes
14 through on a daily basis. That's our challenge. You
15 get to hear one of these in a great while. We deal
16 with these on a daily basis. Enforcement, it's tough
17 to please the business owner and the applicant and the
18 landowner. It's so critical that you have a good
19 ordinance that addresses as much as you can without
20 leaving that gray area. Because when you get into
21 that gray area and there's room for interpretation,
22 that's where we're really challenged. This is just a
23 taste of what we deal with on a daily basis.

24 CHAIRMAN: I think everybody is happy right
25 now.

1 MR. APPLEBY: Is Chair ready for a motion?

2 MR. WILLINGHAM: I'd like to make one more
3 statement. Mr. Noffsinger, the fence, he's exactly
4 right. You're fortunate that I did not have the time
5 to go up and down the street and knock on doors and
6 there was not another eight or ten neighbors up here
7 taking up more of your time.

8 CHAIRMAN: You did a nice job. This is what
9 we're here for. All right.

10 Mr. Sterett, I assume you don't have anything
11 else to say, do you?

12 MR. STERETT: No, sir.

13 CHAIRMAN: If not, the Chair is ready for a
14 motion.

15 MR. APPLEBY: Mr. Chairman, I make a motion
16 for approval based on Conditions 1 through 9 with
17 Condition 8 to state in addition to the text that this
18 will be completed within nine months, and on the
19 Findings of Fact 1 through 4.

20 CHAIRMAN: We have a motion by Mr. Appleby.

21 MR. EVANS: Second.

22 CHAIRMAN: Second by Mr. Evans. All in favor
23 raise your hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: The motion carries unanimously.

1 The chair is ready for one final motion.

2 MR. PEDLEY: Motion to adjourn.

3 CHAIRMAN: Motion for adjournment by Mr.
4 Pedley.

5 MS. MOORMAN: Second.

6 CHAIRMAN: Second by Ms. Moorman. All in
7 favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously. We are
10 adjourned.

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1 STATE OF KENTUCKY)

)SS: REPORTER'S CERTIFICATE

2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 38 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 27th day of March, 2010.

18

19

20

21

22

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23 COMMISSION EXPIRES: DECEMBER 19, 2010

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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