

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 APRIL 9, 2009

3 The Owensboro Metropolitan Planning Commission  
4 met in regular session at 6:00 p.m. on Thursday, April  
5 9, 2009, at City Hall, Commission Chambers, Owensboro,  
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: Drew Kirkland, Chairman  
8 Judy Dixon, Vice Chairman  
9 David Appleby, Secretary  
10 Gary Noffsinger, Director  
11 Madison Silvert, Attorney  
12 Tim Miller  
13 Ward Pedley  
14 Irvin Rogers  
15 Wally Taylor  
16 Martin Hayden  
17 Rita Moorman

18 \* \* \* \* \*

19 CHAIRMAN: I would like to welcome everyone to  
20 our April 9, 2009 meeting. Our invocation will be  
21 given by Ms. Rita Moorman.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: Our first item of business is to  
24 consider the minutes of the March 12, 2009 meeting.  
25 Are there any corrections, additions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a  
motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

1 MR. TAYLOR: Second.

2 CHAIRMAN: Second by Mr. Taylor. All in favor  
3 raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, Mr. Noffsinger.

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8 PUBLIC HEARING

9 ITEM 2

10 Consider revisions to the Public Improvement  
11 Specifications, Chapter 7 exhibit drawings and  
12 Chapters 8 and 11 text and exhibit drawings.

13 MR. NOFFSINGER: The Public Improvement  
14 Specification Committee has met several times to  
15 review the current Public Improvement Specifications  
16 for development in Owensboro, Daviess County. These  
17 are the design requirements for streets and sanitary  
18 sewers and the infrastructure that's required in new  
19 developments.

20 I'd like to recognize Mr. Joe Schepers, the  
21 city engineer, that's here tonight that has worked and  
22 put quite a bit of time in on revising these drawings  
23 and exhibits, as well as Mr. Ward Pedley who worked  
24 with Joe Schepers on these, and Planning Staff and the  
25 county engineer, Sidan Rayan.

MR. SILVERT: State your name, please.

1 MS. STONE: Becky Stone.

2 (BECKY STONE SWORN BY ATTORNEY.)

3 MS. STONE: Gary pretty much covered the  
4 items.

5 This is Chapter 8 which is Surface Drainage  
6 and Chapter 11 which is Erosion Prevention & Sediment  
7 Control revisions, and then two exhibits in Chapter 7.

8 As Gary stated, the city and county engineer  
9 are both here tonight. So if you have questions on  
10 these items, I will defer to them for questions  
11 because they're the technical experts.

12 CHAIRMAN: Thank you, Ms. Stone.

13 Are there any questions?

14 (NO RESPONSE)

15 CHAIRMAN: Any questions from the commission?

16 (NO RESPONSE)

17 CHAIRMAN: If there are no questions, the  
18 chair is ready for a motion.

19 MR. PEDLEY: Mr. Chairman, make a motion for  
20 approval.

21 CHAIRMAN: Motion for approval by Mr. Pedley.

22 MR. MILLER: Second.

23 CHAIRMAN: Second by Mr. Miller. All in favor  
24 raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 Next item, please.

3 -----

4 ZONING CHANGES

5 ITEM 3

6 1411 Bosley Road, 0.337 +/- acres  
7 Consider zoning change: From B-4 General Business to  
8 I-1 Light Industrial  
Applicant: Hagan Construction Company; Charles D. &  
Laura J. Hagan

9 MR. SILVERT: State your name, please.

10 MR. HOWARD: Brian Howard.

11 (BRIAN HOWARD SWORN BY ATTORNEY.)

12 MR. HOWARD: I will note that all rezoning  
13 that will be heard tonight by the Planning Commission  
14 will become final 21 days after the meeting unless an  
15 appeal is filed with the Planning Commission office.  
16 Those appeal forms are available on the back table,  
17 our website and in our office. If an appeal is filed,  
18 we will forward the meeting minutes, recommendations  
19 and all the applicable materials to the appropriate  
20 legislative body where they are scheduling hearings.

21 PLANNING STAFF RECOMMENDATIONS

22 Staff recommends approval because the proposal  
23 is in compliance with the community's adopted  
24 Comprehensive Plan. The conditions and findings of  
25 fact that support this recommendation include the

1 following:

2 CONDITIONS:

3 1. No direct access to Bosley Road shall be  
4 permitted;

5 2. Access to Calhoun Street shall be brought  
6 into compliance with zoning ordinance requirements and  
7 be located a minimum of 50 feet from the property  
8 line; and,

9 3. Sidewalks shall be installed along the  
10 Bosley Road rights-of-way.

11 FINDINGS OF FACT:

12 1. The subject property is located in a  
13 Business Plan Area, where light industrial uses are  
14 appropriate in limited locations;

15 2. The use of the property for mini storage  
16 warehouse is consistent with nonresidential uses;

17 3. The proposal is a logical expansion of  
18 existing I-1 Light Industrial zoning located across  
19 Bosley Road to the west;

20 4. The expansion should not be significantly  
21 increase the extent of industrial uses that are  
22 located in the vicinity and outside of Industrial  
23 Parks; and,

24 5. The expansion should not overburden the  
25 capacity of roadways and other necessary urban

1 services that are available in the affected area.

2 MR. HOWARD: I would like to enter the Staff  
3 report into the record as Exhibit A.

4 CHAIRMAN: Is anybody representing the  
5 applicant?

6 APPLICANT REP: Yes.

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

9 (NO RESPONSE)

10 CHAIRMAN: Does anyone from the commission  
11 have any questions of the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: If not the chair is ready more a  
14 motion.

15 MR. MILLER: Motion to approve based on  
16 Planning Staff Recommendations, Conditions 1 through 3  
17 and Findings of Fact 1 through 5.

18 CHAIRMAN: Motion for approval by Mr. Miller.

19 MS. MOORMAN: Second.

20 CHAIRMAN: Second by Ms. Moorman. All in  
21 favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25 ITEM 4

1 3441 Fairview Drive, 6.461 acres  
2 Consider zoning change: From A-U Urban Agriculture to  
3 B-4 General Business  
4 Applicant: Vincent Hayden; Paradise Landing, LLC

5 PLANNING STAFF RECOMMENDATIONS

6 Staff recommends approval because the proposal  
7 is in compliance with the community's adopted  
8 Comprehensive Plan. The conditions and findings of  
9 fact that support this recommendation include the  
10 following:

11 CONDITIONS:

12 1. Access to Fairview Drive shall be limited  
13 to the proposed public street only;

14 2. Connection shall be made to the Wal-Mart  
15 property via a private extension of the public road;  
16 and,

17 3. Sidewalks shall be installed along all  
18 public rights-of-way.

19 FINDINGS OF FACT:

20 1. The subject property is located in a  
21 Business Plan Area, where general business uses are  
22 appropriate in limited locations;

23 2. The use of the property for commercial  
24 development is consistent with nonresidential uses;

25 3. The proposal is a logical expansion of  
existing B-4 General Business zoning to the east,

1 south and west;

2 4. The expansion should not significantly  
3 increase the extent of commercial uses that are  
4 located in the vicinity;

5 5. The expansion should not overburden the  
6 capacity of roadways based on the Traffic Impact Study  
7 submitted in conjunction with the rezoning; and,

8 6. The expansion should not overburden other  
9 necessary urban services that are available in the  
10 affected area.

11 MR. HOWARD: We would like to enter the Staff  
12 Report into the record as Exhibit B.

13 CHAIRMAN: Is there anybody representing the  
14 applicant?

15 (NO RESPONSE)

16 CHAIRMAN: Does anybody have any questions?

17 (NO RESPONSE)

18 CHAIRMAN: If not the chair is ready for a  
19 motion.

20 MR. HAYDEN: I'll make a motion for approval  
21 with Staff Recommendations.

22 CHAIRMAN: We have a motion for approval by  
23 Mr. Hayden.

24 MR. ROGERS: Second.

25 CHAIRMAN: We've got a second by Mr. Rogers.



1 All in favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 Related Items:

6 ITEM 4A

7 3441 Fairview Drive, 6.461 acres  
8 Consider approval of preliminary development plan.  
9 Applicant: Vincent Hayden; Paradise Landing, LLC

10 MR. NOFFSINGER: Mr. Chairman, Planning Staff  
11 has reviewed this application. It's found to be in  
12 order. It is recommended for approval.

13 CHAIRMAN: Any questions?

14 (NO RESPONSE)

15 CHAIRMAN: If there are no questions from the  
16 audience, any questions from the commission?

17 (NO RESPONSE)

18 CHAIRMAN: If not the chair is ready for a  
19 motion.

20 MS. DIXON: Move to approve.

21 CHAIRMAN: Motion for approval by Ms. Dixon.

22 MR. TAYLOR: Second.

23 CHAIRMAN: Second by Mr. Taylor. All in favor  
24 raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

1                   Next item, please.

2           ITEM 5

3           1212 JR Miller Boulevard, 2.53 acres (Postponed  
4           March 12, 2009)  
5           Consider zoning change: From I-1 Light Industrial to  
6           B-4 General Business  
7           Applicant: Ron Sanders

8           PLANNING STAFF RECOMMENDATIONS

9                   Staff recommends approval because the current  
10           zoning is inappropriate and the proposed zoning is  
11           more appropriate in that the proposed zoning serves  
12           more to encourage several goals and objectives of the  
13           Comprehensive Plan. The findings of fact that support  
14           this recommendation include the following:

15           CONDITIONS:

16                   1. Access to JR Miller Boulevard shall be  
17           limited to the access point as shown on the  
18           preliminary development plan submitted in conjunction  
19           with the rezoning request;

20                   2. Access to East Parrish Avenue shall be  
21           limited to the existing alley access point;

22                   3. A minor subdivision plat to identify the  
23           access points as shown on the development plan and to  
24           indicate any approved variances shall be submitted to  
25           the OMPC;

                  4. Lighting on the site shall be directed  
                  away from the residences;

1           5. Sidewalks shall be provided along all  
2 street rights-of-way; and,

3           6. A final development plan shall be  
4 submitted to the OMPC before issuance of building  
5 permits.

6 FINDINGS OF FACT:

7           1. The subject property is located in an  
8 Industrial Plan Area, where general business uses are  
9 appropriate in limited locations;

10           2. The subject property has not developed  
11 under the current I-1 Light Industrial zoning  
12 designation due in part to the incompatibility with  
13 the adjacent historic residential neighborhood;

14           3. The proposed request would encourage the  
15 development of neighborhood businesses to serve nearby  
16 residents;

17           4. The proposed request would serve as a  
18 buffer from the more intense Heavy Industrial zoning  
19 to the east across JR Miller Boulevard;

20           5. Contiguous property located on the  
21 southeast corner of JR Miller Boulevard and East  
22 Parrish Avenue has been recommended for general  
23 business uses;

24           6. The proposed request would encourage a  
25 complementary commercial area within an existing

1 developed neighborhood; and,

2 7. The current zoning is inappropriate and  
3 the proposed zoning is more appropriate because of the  
4 proximity to the historical residential neighborhood.

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

7 CHAIRMAN: Is there anybody representing the  
8 applicant?

9 APPLICANT REP: Yes.

10 CHAIRMAN: Does anybody have any questions of  
11 the applicant?

12 Please step to the podium.

13 MR. SILVERT: State your name, please.

14 MS. TOOLEY: My name is Janet Tooley.

15 (JANET TOOLEY SWORN BY ATTORNEY.)

16 MS. TOOLEY: The question is could we figure  
17 which way the historical neighborhood is in comparison  
18 to this map? I can't see that well.

19 CHAIRMAN: Mr. Howard, would you return to the  
20 podium?

21 MR. HOWARD: It will basically be to the left  
22 of this property along Parrish Avenue.

23 MS. TOOLEY: We have concerns about it  
24 blocking the sunlight because everybody right now is  
25 raising gardens. We have children playing back there.

1 We have pets. We're also concerned about how close it  
2 will be for air flow, for fire control. Our historic  
3 neighborhood could go up like a match if there's any  
4 danger there. Just general questions like this. Will  
5 it increase the flow of sewage, drainage? Will it  
6 block our only access to our property which is in the  
7 alley? We have concerns about this? We have other  
8 neighbors here and others waiting at home there that  
9 are too elderly to come tonight.

10 CHAIRMAN: Yes, ma'am.

11 Mr. Howard.

12 MR. HOWARD: Some of the ones that I remember,  
13 as far as the drainage goes. Whenever the applicant  
14 comes in with a final development plan, it will  
15 require the city engineer's review and approval. That  
16 approval would not allow the site to generate any more  
17 drainage running off of it than is currently on the  
18 site.

19 The air flow, fire control, those types of  
20 issues, there will be an alley that separates the  
21 commercial property from the residences that back up  
22 to it that face on Daviess Street, I believe. So  
23 there will be separation between the two. Those would  
24 meet the building code separation requirements.

25 The alley access. The alley will remain open.

1 The applicant is proposing to use the alley as a means  
2 of ingress and egress. The alley would not be closed  
3 to any of the existing traffic that's on there.

4 Any other questions?

5 CHAIRMAN: As I recall, I think you've covered  
6 them.

7 Ms. Tooley, were there any other questions  
8 that you had that he did not cover?

9 MS. TOOLEY: Well, my concerns is the  
10 vagueness of the covering of how many people will be  
11 accessing that alley. It's in bad shape right now and  
12 could not stand any more public thoroughfare on there.  
13 There's a lot of comings and going, ingress to that  
14 alley, it won't hold up.

15 Another thing, I can stand at my back, in my  
16 lot and spit and hit the next building over there. So  
17 if he has something that -- it's a concrete building  
18 now. You have no worry about fire, but if there's  
19 something that can catch fire, that is not enough  
20 room. That's something I would like for you to  
21 consider.

22 As far as drainage, I also consider the sewer.  
23 The old neighborhood has had trouble with their sewers  
24 at the beginning.

25 CHAIRMAN: I'll bring the applicant up, but I

1 can assure you the applicant would be just as strongly  
2 concerned about that as you would be.

3 Would the applicant please come forward,  
4 please?

5 Ms. Tooley, would you sit down and we'll swear  
6 him in.

7 MR. SILVERT: State your name, please.

8 MR. SANDERS: Ron Sanders.

9 (RON SANDERS SWORN BY ATTORNEY.)

10 MR. SANDERS: As far as the construction, it  
11 will be nonflammable materials. I remind you that the  
12 existing building there, the old Davis building does  
13 have a wooden roof with the asphalt shingles. So  
14 there's fire hazard with that building as it stands  
15 now. It is concrete block. New construction will be  
16 steel or masonry and not flammable.

17 As to the access to the alley, that's a  
18 continuing issue. We would like to locate the  
19 building as far away from that alley as we can.  
20 However, this 50 foot situation we've got off JR  
21 Miller is crowding us, is pushing us back towards  
22 those houses. We would like it further, closer to the  
23 highway. You'll be seeing those other requests later.

24 As far as the alley, we don't plan on using  
25 the alley for our traffic. We will be directing the

1 traffic in front of the, between the building and the  
2 facility, but it would be using the Parrish entrance  
3 which we would set that at the prescribed 30 foot. It  
4 will give them actually some better access because  
5 there will be a right turn and a left turn out of the  
6 alley that will be providing. As far as access on  
7 north end of the alley, they will be able to cross out  
8 through our property and either go over to Daviess  
9 Street and proceed north or south from there or go  
10 over to JR Miller and proceed north or south from  
11 there. So they'll actually improve their access to  
12 the alley from what they have now. The city owns the  
13 alley as it stands now. I will have to maintain an  
14 egress and ingress to the north end of the alley from  
15 here on.

16 CHAIRMAN: Thank you.

17 Are there any further questions?

18 (NO RESPONSE)

19 CHAIRMAN: Are there any questions from the  
20 Staff?

21 Mr. Noffsinger, would you like to make a  
22 statement?

23 MR. NOFFSINGER: Yes, Mr. Chairman.

24 At this time in considering the zoning of the  
25 property and not the site development requirements,



1 that will consider a variance to allow the building to  
2 be closer to the alley than what the ordinance allows  
3 as our next Item 5A.

4 Then 5B we will be considering an approval of  
5 a preliminary development plan for the site  
6 characteristics, traffic flow of the property.

7 At this time we're considering only the zoning  
8 aspect of it. We're considering a change from light  
9 industrial to B-4 general business. Now, B-4 general  
10 business generally you would anticipate more traffic,  
11 more vehicles coming onto the property.

12 In Industrial generally you have uses that are  
13 more like heavy trucks. Not as much traffic  
14 generation vehicles, cars on the property. Generally  
15 B-4 General Business uses are more compatible with  
16 adjoining residential uses. It's not that they're  
17 necessarily ideal to be up next to residential uses,  
18 but generally they're more compatible than industrial  
19 uses.

20 I hope that helps the folks understand what  
21 we're considering at this point. We will have an  
22 opportunity to talk about building setbacks and site  
23 development requirements on our next item.

24 CHAIRMAN: Any other questions?

25 (NO RESPONSE)

1           CHAIRMAN: If there are no more questions from  
2 the commission or from the audience, the chair is  
3 ready for a motion.

4           MR. APPLEBY: Motion for approval based on the  
5 Staff Recommendations with Conditions 1 through 6 and  
6 on Findings of Fact 1 through 7.

7           CHAIRMAN: We've got a motion for approval by  
8 Mr. Appleby.

9           MR. ROGERS: Second.

10          CHAIRMAN: We've got a second by Mr. Rogers.  
11 All in favor raise your right hand.

12          (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13          CHAIRMAN: Motion carries unanimously.

14          Next item, please.

15          Related Items:

16          ITEM 5A

17          1212 JR Miller Boulevard, proposed B-4 (Postponed  
18          March 12, 2009)  
19          Consider request for Variances in conjunction with an  
20          application for zoning change to reduce the roadway  
21          buffer on JR Miller Boulevard from 50 feet to 40 feet;  
22          to reduce the roadway buffer on East Parrish Avenue  
23          from 50 feet to 40 feet; to reduce the building  
24          setback on East Parrish Avenue from 75 feet to 42  
25          feet; to reduce the building setback on JR Miller  
26          Boulevard from 75 feet to 57 feet; and to reduce the  
27          rear yard setback from 20 feet to 5 feet.  
28          Reference: Zoning Ordinance, Article 8, Section  
29          8.5.16(c), Article 13, Section 13.6221  
30          Applicant: Ron Sanders

31          MR. HOWARD: Under Special Circumstances, are

1       there special circumstances that do not generally  
2       apply to land in the general vicinity or in the same  
3       zone?

4               The subject property has frontage on JR Miller  
5       Boulevard, East Parrish Avenue and Daviess Street with  
6       a single access proposed to JR Miller Boulevard,  
7       alley access to East Parrish Avenue and two access  
8       points to Daviess Street. An application for a Zoning  
9       Map Amendment from I-1 to B-4 has been submitted along  
10       with the variance and a preliminary development plan  
11       as part of the redevelopment of this property. A  
12       minor subdivision plat was previously approved for the  
13       property that establishes access to JR Miller  
14       Boulevard and identifies required setbacks.

15               Separate proposals have been considered for  
16       the subject property in the past. In 1995, an  
17       administrative appeal was filed to propose the  
18       continuance of outdoor storage on the property citing  
19       the opinion of the applicant that the use was  
20       nonconforming and should be allowed to continue. This  
21       application resulted from a violation issued by the  
22       Zoning Administrator that the nonconforming use of  
23       outdoor storage had been enlarged and must be screened  
24       in accordance with the zoning regulations. The  
25       Owensboro Board of Adjustment heard the administrative

1 appeal and the appeal was denied in May of 1995. In  
2 2002, the current owner of the property made  
3 application to the Owensboro Metropolitan Board of  
4 Adjustment for a conditional use permit to locate and  
5 operate an indoor shooting range with accessory sales  
6 area and office space. The OMBA considered this  
7 request, and after extensive public testimony and  
8 evidence presented, the OMBA denied the conditional  
9 use permit application in November of 2002.

10 The applicant states that the current roadway  
11 buffer of 50 feet will greatly prohibit the  
12 development potential of the subject property because  
13 this buffer significantly reduces the depth of the  
14 property. The requested reduction in roadway buffer  
15 along both JR Miller Boulevard and East Parrish Avenue  
16 along with the proposed front and rear yard setback  
17 variances will allow additional room on site to  
18 develop the property. The zoning ordinance  
19 requirement for rear yard setback is 20 feet since the  
20 property adjoins residential zoning. However, there  
21 is a public alley between the property and the  
22 residential zoning. With the 10 foot alley and the  
23 requested 5 foot setback, there will be a good  
24 separation between the site and the residential  
25 zoning. The zoning ordinance does not require a

1 screening element between commercial and residential  
2 zoning where there is an intervening alley, but the  
3 solid back wall of a building could also serve as a  
4 visual buffer between the two. The requested front  
5 yard setback variances result from the roadway  
6 classifications of JR Miller Boulevard and East  
7 Parrish Avenue. Both are arterial roadways with a 75  
8 foot building setback from the centerline of the road.  
9 With the applicant attempting to maximize the site for  
10 commercial development, the site cannot meet the  
11 applicable building setback requirements. However,  
12 the site could be developed with a smaller commercial  
13 use on the property that would meet parking  
14 requirements within the parameters of the prescribed  
15 building setbacks. The building setback variances  
16 will allow additional room on site for construction  
17 which will help the site develop more efficiently but  
18 are not excessive with the roadway buffer that will be  
19 maintained and the right-of-way that will be dedicated  
20 for future roadway improvements if needed. The  
21 developer is not being required to provide a traffic  
22 impact study for the property. The size of the  
23 development will likely meet the new KYTC requirements  
24 for a traffic impact study but the requirements were  
25 not in place at the time of the application. The

1 state will be requiring traffic impact studies for all  
2 developments that meet a minimum threshold. The  
3 developer will be required to get a permit from the  
4 state for any access to state transportation system.  
5 As part of the variance request, the applicant is  
6 being asked to dedicate right-of-way instead of  
7 installing roadway improvements such as the potential  
8 right-turn lane and to demonstrate that a future  
9 right-turn lane can be accommodated within the 40 foot  
10 remaining if a roadway buffer variance is granted. As  
11 part of the development, the sidewalk along JR Miller  
12 Boulevard should be installed to accommodate the  
13 future right-turn lane so that it will not have to be  
14 removed in the future and reinstalled.

15 The City Engineer's office has informed our  
16 staff that there is a potential for a right turn lane  
17 to be installed on JR Miller Boulevard at this  
18 location. The newly adopted downtown plan proposes  
19 reconfiguration of downtown streets. A traffic study  
20 is currently under way to determine the needed  
21 rerouting of traffic with the proposed changes. This  
22 may impact the intersection of JR Miller Boulevard and  
23 East Parrish Avenue and may necessitate the  
24 construction of a right turn lane. Even absent of  
25 additional volume from proposed changes in the

1 downtown area, this is a major intersection of  
2 principal and minor arterial streets and the  
3 accommodation for a future turn lane should not be  
4 compromised. The developers engineer has provided a  
5 preliminary design to the City Engineer that  
6 demonstrates that the anticipated improvement could be  
7 adequately constructed within a 40 foot dimension. To  
8 accommodate for this potential the Staff would  
9 recommend that if this variance is granted the  
10 applicant be required to dedicate the reduced roadway  
11 buffer along JR Miller Boulevard and East Parrish  
12 Avenue as public right-of-way. Based on engineering  
13 criteria, the dedication of the right-of-way would  
14 provide adequate room for the potential right turn  
15 lane along JR Miller Boulevard. With previous  
16 variances to reduce roadway buffers, the dedication of  
17 additional right-of-way to accommodate potential  
18 improvements has been required in cases such as 1221  
19 Frederica Street, at the CVS Pharmacy, and 2318  
20 Frederica Street at Walgreens Pharmacy. A variance at  
21 303 East 14th Street and 1200 Moseley Street was being  
22 considered by the OMBA at this evenings meeting. They  
23 approved the roadway buffer reduction on JR Miller  
24 Boulevard with a similar recommendation for the  
25 dedication of the 10 foot roadway buffer relief for

1 public right-of-way. In 1992, the property owners at  
2 215 East 18th Street petitioned the City of Owensboro  
3 for closure of approximately 40 feet of right-of-way  
4 on JR Miller Boulevard at East 18th Street. The OMPC  
5 held a public hearing on the request with  
6 recommendations by GRADD, OMPC Staff and City Staff to  
7 retain the right-of-way at this major intersection for  
8 future transportation improvements. The OMPC  
9 recommendation to the City of Owensboro was to retain  
10 the right-of-way and it was not closed. Similarly,  
11 the 50 foot right-of-way at the intersection of East  
12 25th Street and JR Miller Boulevard was retained when  
13 217 East 25th Street was developed as a convenience  
14 store.

15           The granting of these variances would not  
16 alter the essential character of the vicinity because  
17 there are existing structures along JR Miller  
18 Boulevard that encroach into the roadway buffer.  
19 However, these structures predate the zoning ordinance  
20 and we find no record of roadway buffer reductions  
21 granted to date. Additionally, with the right-of-way  
22 dedication, the public health, safety and welfare will  
23 be increased by providing adequate space for an  
24 anticipated transportation improvement. The variances  
25 can only be supported if the developer agrees to the



1 dedication of the right-of-way which is reasonable  
2 because the variances will allow 25 foot net gain of  
3 additional property for the applicant to develop while  
4 providing the city with sufficient right-of-way to  
5 make future roadway improvements.

6 HARDSHIP? Would strict application of the  
7 regulation deprive the applicant of the reasonable use  
8 of the land, or create an unnecessary hardship on the  
9 applicant?

10 If a reduction in the roadway buffer is not  
11 granted the property would not be developed as  
12 proposed but could be developed in a different  
13 configuration or for a different use. However, any  
14 development requiring parking would have obstacles to  
15 designing site improvements due to the size and shape  
16 of the lot. Some relief will likely be needed on the  
17 lot to make it viable for redevelopment.

18 APPLICANT'S ACTIONS? Are the circumstances  
19 for which the applicant has sought a result of the  
20 applicant's actions taken after adoption of the zoning  
21 regulations?

22 The applicant did not do that.

23 CONDITIONS:

24 1. Approval of a Preliminary and Final  
25 Development Plans.

1                   2. Approval of a Minor Subdivision Plat  
2 dedicating the reduced roadway buffer as right-of-way  
3 along both JR Miller Boulevard and East Parrish  
4 Avenue, showing the relocated drive on JR Miller  
5 Boulevard, and reflecting changes to setbacks on the  
6 lot.

7                   We would enter the Staff Report into the  
8 record as Exhibit D.

9                   CHAIRMAN: Thank you, Mr. Howard.

10                  Are there any questions from the audience?

11                  (NO RESPONSE)

12                  CHAIRMAN: Are there any questions from the  
13 city commission?

14                  (NO RESPONSE)

15                  CHAIRMAN: Mr. Noffsinger, do you have a  
16 comment?

17                  MR. NOFFSINGER: No, sir.

18                  CHAIRMAN: If not the chair is ready for a  
19 motion.

20                  MS. DIXON: Mr. Chairman, I make a motion that  
21 we grant the Variance based upon the Findings of Fact  
22 that it will not adversely affect the public health,  
23 safety or welfare; it will not alter the essential  
24 character of the area; it will not cause a hazard or a  
25 nuisance to the public; and it will not allow an

1 unreasonable circumvention of the requirements. Based  
2 upon the conditions as stated by the Staff Report.

3 Although, I don't require that the developer  
4 make the roadway improvements, I do make the condition  
5 that the right-of-way be dedicated to the future  
6 right-turn lane.

7 I've lived in this city and pretty close to  
8 this area all my life and know that this is a  
9 congested intersection. I've walked it.

10 Because of the increased number of cars that  
11 are anticipated by a development at this lot, it's  
12 evidenced by the preliminary development plan, the  
13 development will no doubt exacerbate the traffic  
14 congestion that is already congested intersection.

15 CHAIRMAN: We have a motion for approval by  
16 Ms. Dixon.

17 MR. MILLER: Second.

18 CHAIRMAN: Second by Mr. Miller. All in favor  
19 raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 ITEM 5B

24 1212 JR Miller Boulevard, 2.53 acres  
(Postponed March 12, 2009)  
25 Consider approval of preliminary development plan.

1 Applicant: Ron Sanders

2 MR. NOFFSINGER: Mr. Chairman, this plan has  
3 been reviewed by the Planning Staff and Engineering  
4 Staff. It is not in order based upon the variance  
5 that you just approved. It does not meet the  
6 condition of the right-of-way dedication along East  
7 Parrish Avenue and JR Miller Boulevard. Also, the  
8 location of the sidewalk and issue on that development  
9 plan.

10 We would recommend that -- I think there are  
11 some folks here tonight that want to talk about site  
12 development requirements and I think certainly they  
13 should be heard and we should hear from the applicant.  
14 Certainly at this point this plan Staff cannot  
15 recommend that it be approved.

16 CHAIRMAN: There are any questions from the  
17 audience?

18 (NO RESPONSE)

19 CHAIRMAN: Any questions from the commission  
20 or statements?

21 (NO RESPONSE)

22 CHAIRMAN: If not the chair is ready for a  
23 motion.

24 MS. DIXON: Move to deny based upon our  
25 previous motion and its granting.

1 CHAIRMAN: Motion for denial by Ms. Dixon.

2 MR. TAYLOR: Second.

3 CHAIRMAN: Second by Mr. Taylor. All in favor  
4 raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 ITEM 6

9 1621 Moseley Street, 0.619 +/- acres  
10 Consider zoning change: From I-1 Light Industrial to  
11 I-2 Heavy Industrial  
12 Applicant: Transit-Mix Concrete Company, Inc.

12 PLANNING STAFF RECOMMENDATIONS

13 Staff recommends approval because the proposed  
14 I-2 Heavy Industrial zoning classification is more  
15 appropriate than the current I-1 Light Industrial  
16 zoning. The conditions and findings of fact that  
17 support this recommendation include the following:

18 CONDITION:

19 Install vehicular use area screening where  
20 vehicular use areas adjoin public rights-of-way.

21 FINDINGS OF FACT:

22 1. The subject property is located in a  
23 Business/Industrial Plan Area, where heavy industrial  
24 uses are appropriate in very-limited locations;

25 2. The subject property has historically been

1 in use as a concrete plant and the use predates the  
2 current zoning regulations;

3 3. The subject property is located on Moseley  
4 Street which is zoned entirely industrial within this  
5 block front; and,

6 4. The current zoning classification of light  
7 industrial is not appropriate for the subject property  
8 and the proposed zoning of I-2 Heavy Industrial is the  
9 more appropriate zoning classification for the subject  
10 property.

11 MS. STONE: We would like to enter the Staff  
12 Report into the record as Exhibit E.

13 CHAIRMAN: Are there any questions from the  
14 audience?

15 MS. ANN GILBERT: Yes.

16 CHAIRMAN: Yes, ma'am. Please step to the  
17 podium.

18 MR. SILVERT: State your name, please.

19 MS. ANN GILBERT: My name is Ann Gilbert.

20 (ANN GILBERT SWORN BY ATTORNEY.)

21 MS. ANN GILBERT: I live right behind  
22 Transit-Mix. My house is in front of Transit-Mix. To  
23 me I don't think or we feel like it doesn't need to be  
24 heavy zoning. What he's talking about is that lot and  
25 that lot will be right up beside our house. True

1       enough it is a commercial zoning and they have been  
2       there as long as I've been a little girl. But he's  
3       got all that lot across the street that he can use and  
4       they go from like 2:00 in the morning until like 6:00  
5       in the afternoon. They have dust coming up. We have  
6       kids. We've got a lot on the side of our house and  
7       that's where our kids play at.

8                During the summertime when it's hot, the dust  
9       from those trucks, which we have put up with for a  
10      long time, that comes through.

11             So if he makes that heavy industrial coming  
12      through that way, you won't be able to talk. You  
13      won't be able to hear. You won't be able to raise  
14      your windows. You won't be able to do anything  
15      because those trucks coming up that way.

16             Another thing also, he has asked us to buy our  
17      house. I feel like that with him putting that up  
18      there, that's a way of trying to make us move, but I  
19      don't think he needs to do that. I think he can leave  
20      that lot vacant and go across the street where his  
21      other building is and knock that big hill down and  
22      finish across the street and do what he needs to do.  
23      I don't think he needs to come up beside our house.

24             CHAIRMAN: Is there somebody representing the  
25      applicant?

1 MR. AGNER: Yes.

2 CHAIRMAN: Be seated and we'll let him answer  
3 your questions.

4 MR. SILVERT: State your name, please.

5 MR. AGNER: Kim Agner.

6 (KIM AGNER SWORN BY ATTORNEY.)

7 MR. AGNER: I think Ms. Gilbert may be  
8 referring to the lot where the church is. That lot is  
9 not included in this.

10 My intention, I didn't even know I had to  
11 change zones. Mr. Mischel explained that to me.  
12 Because it's a concrete plant it needs to be changed  
13 to I-2. I want to put up a silo in behind the silos  
14 that are existing. I think she may be thinking I'm  
15 talking about the lot where the church is.

16 MS. ANN GILBERT: Yes.

17 CHAIRMAN: Mr. Agner, direct your comments to  
18 me and then I'll let him speak.

19 Ms. Gilbert, when it becomes your turn I'll  
20 let you have the podium also. Thank you.

21 MR. AGNER: I'm done.

22 MR. APPLEBY: You're not changing the use of  
23 this lot that's zoned I-1? It's been an I-2  
24 application all these years?

25 MR. AGNER: No. It's been I-1 all these



1 years, but it's supposed to have been I-2 they  
2 informed me when I wanted to put a silo up. Actually  
3 it's from the tree line to just south of the office.  
4 I'm not doing anything with the vacant church lot.

5 CHAIRMAN: Mr. Agner, just for me. That means  
6 the lot which would be on East 16th Street. The  
7 address would be 400 East 16th. You're not really  
8 going to do anything on that lot; is that right?

9 MR. AGNER: Well, the numbers are all messed  
10 up there. You're talking about the corner lot there?

11 CHAIRMAN: Yes. East 16th is the, looks like  
12 it's the corner lot on Moseley and 16th.

13 MR. AGNER: I think that's 100 by 150. That's  
14 still vacant. There is no zoning change on that.

15 CHAIRMAN: The zoning change is where your  
16 main plant is, correct?

17 MR. AGNER: Exactly.

18 CHAIRMAN: All you're going to do as far as  
19 changing of business or business operation or anything  
20 that you would do on that location, you're just going  
21 to add silo, correct?

22 MR. AGNER: Yes, sir.

23 CHAIRMAN: In other words, there will be no  
24 more trucks. There will be nothing changed about your  
25 former business today as it will be as you become I-2?

1 MR. AGNER: I hope we get busier.

2 CHAIRMAN: I realize that. Basically, you're

3 --

4 MR. AGNER: You're correct.

5 CHAIRMAN: -- caught in the conforming  
6 situation where you were actually grandfathered  
7 nonconforming I-1 Light Industrial. When you changed,  
8 when you wanted to make an addition, you went to I-2,  
9 but there will be no real change in your business.

10 MR. AGNER: That's correct.

11 CHAIRMAN: Ms. Gilbert, you want to step back  
12 to the podium.

13 In the statement there that Mr. Agner made, we  
14 were talking about his basic change is going to be of  
15 his main plant there on Moseley Street. He's changing  
16 the footprint. He's adding a silo on that location.  
17 He will not be doing anything, according to his  
18 testimony, anything different after the zoning change  
19 than he did before the zoning change. He had been  
20 grandfathered in as an I-1 Light Industrial and was  
21 able to operate as an I-1 Light Industrial. He's  
22 since changing or adding a silo to his business. With  
23 the changing of that to get the building permit he had  
24 to upgrade his zoning change from an I-1 to an I-2,  
25 but the nature of his business will not change at all.

1 MS. ANN GILBERT: Okay. So he won't be  
2 putting anything over the side of house. He's just  
3 going to be changing to heavy industrial so he can --

4 CHAIRMAN: Add a silo.

5 MS. ANN GILBERT: Okay. I got you.

6 CHAIRMAN: The only plot is the 1621 Moseley  
7 Street plot. He, of course, obviously owns that other  
8 property, but the construction is going to be on the  
9 1621 Moseley Street.

10 MS. ANN GILBERT: Okay.

11 MR. APPLEBY: The lot you were most concerned  
12 about is the one that's at 400 East 16th, the corner  
13 lot, which is next-door to you?

14 MS. ANN GILBERT: Yes.

15 MR. APPLEBY: Nothing is changing on that  
16 zone. That's still I-1.

17 CHAIRMAN: Ms. Gilbert, I've made some  
18 statements from the testimony that I took from Mr.  
19 Agner. Let me bring him back, before you bring  
20 anybody else up, let me bring him back to confirm  
21 absolutely what I said was correct.

22 Mr. Agner, would you return.

23 Were the statements I made in regards to your  
24 business absolutely correct?

25 MR. AGNER: Yes, sir. The corner lot no

1 plans. That's not in the zoning change.

2 CHAIRMAN: I just want to make sure that the  
3 statements that I relayed to Ms. Gilbert were  
4 absolutely accurate.

5 Ms. Gilbert, was there somebody else that  
6 would like to speak or did that clear up all your  
7 concerns about zoning change?

8 MS. ANN GILBERT: Yes. Someone else would  
9 like to speak.

10 CHAIRMAN: Come forward, please.

11 MR. SILVERT: Would you state your name,  
12 please.

13 MS. GILBERT: Mary Gilbert.

14 (MARY GILBERT SWORN BY ATTORNEY.)

15 MS. GILBERT: What I was wanting to know is  
16 I'm not real sure. Is the silo what he has up now?

17 CHAIRMAN: What he has up now is a zoning  
18 change on 1621 Moseley Street. He needs to get a  
19 zoning change to be able to build the silo. Because  
20 in a light industrial zone he would not be able to do  
21 the silo and continue his business as it is. He was  
22 grandfathered in as light industrial. Then when he  
23 made a change for a building application to put in the  
24 silo, he had to move to an I-2 zone.

25 MS. MARY GILBERT: My question will be: Will

1 this be built up to maybe cut down on dust, dirt and  
2 noise? That's my question.

3 CHAIRMAN: I'll get that answered. Do you  
4 have another question so I can do them all at the same  
5 time?

6 MS. MARY GILBERT: Exactly what is a silo  
7 anyway?

8 CHAIRMAN: We'll bring Mr. Agner up to answer  
9 that question.

10 Mr. Agner, 1) What is a silo? 2) Will this  
11 silo cut down on dirt and noise?

12 MR. AGNER: There is an existing silo there.

13 CHAIRMAN: Would you go into a little bit more  
14 description about exactly what is a silo.

15 MR. AGNER: A silo is a round steel tower. It  
16 won't be as tall as the one I have now. They hold  
17 cement flash, you know, slag. I've got dust  
18 collectors on the system. A lot of the dust comes off  
19 the alley. That's a city alley. Any other questions?

20 CHAIRMAN: That was the questions that she  
21 relayed to me. Thank you.

22 Ms. Gilbert, he answered your question about  
23 the silo and the dust. He said a lot of the dust is  
24 related actually to the unpaved alley which would be a  
25 city alley.

1 MR. SILVERT: State your name, please.

2 MS. HAGAN: Nedra Gilbert Hagan.

3 (NEDRA GILBERT HAGAN SWORN BY ATTORNEY.)

4 MS. HAGAN: I don't see where this is going to  
5 -- the alleyway does cause problems with dust and all.  
6 But the dust in the alley is predominately from the  
7 cement from the company. I don't see where  
8 health-wise is going to be beneficial to our family  
9 home to build this silo. I'm sorry about the zonings  
10 and what have you, but I've lived there for 31 years.  
11 The last 11 years I've been married. I've been off on  
12 my own. But I know these people. They're there at  
13 2:00 in the morning in the summer. They work all  
14 hours of day and night. To me it's ridiculous.  
15 They're trying to run us out of our property. I'm  
16 sorry, that's my feeling on it. If I'm wrong, I'm  
17 sorry, but I don't see building a silo closer to the  
18 house.

19 My children play there in the summer while I  
20 work. This is going to cause health problems for  
21 them. I just don't see the point unless we can come  
22 to some kind of agreement.

23 CHAIRMAN: When you say health problems, what  
24 health problems have the children or you had from this  
25 situation?

1 MS. HAGAN: Well, my children have allergies.  
2 Kids being kids they want to play outside in the  
3 summertime. This extra dust and dirt is going to be  
4 flying around. It's not going to do their health any  
5 good. I'm not going to make them stay in the house  
6 due to this industry or what have you.

7 MR. APPLEBY: I think the issue though, you  
8 may or may not understand is, regardless of whether  
9 this zoning, whether we grant this zoning or not, that  
10 concrete plant can still operate there in the zone as  
11 it exist today. So there's still going to be dust.  
12 There's still going to be noise. They're still going  
13 to work at two in the morning whether or not we grant  
14 this zoning. Do you understand that he can still  
15 operate there because he was grandfathered?

16 MS. HAGAN: Yes. Like I said, I've lived  
17 there for 31 years. I've lived with it. I've known  
18 about the noise and all. Whatever is going to happen  
19 is going to happen.

20 CHAIRMAN: Mr. Agner, would you return one  
21 more time for me, please.

22 In your earlier testimony you stated with your  
23 silo it's going to be smaller than the original silo.  
24 You also staid that the silo is equipped with a dust  
25 collector.

1 MR. AGNER: That's correct.

2 CHAIRMAN: Which should eliminate or greatly  
3 negate the dust situation.

4 MR. APPLEBY: For that silo.

5 CHAIRMAN: For that silo.

6 MR. AGNER: That's correct.

7 CHAIRMAN: Does the other silo have a dust  
8 collector on it also?

9 MR. AGNER: Yes, it does.

10 CHAIRMAN: So, in other words, according to  
11 the standards of your industry and the air quality  
12 situation, both silos meet the industry standard?

13 MR. AGNER: The EPA visits us twice a year  
14 usually.

15 CHAIRMAN: Thank you very much.

16 Are there any further questions?

17 Yes, ma'am.

18 MS. MOORMAN: The silo, is it going to butt up  
19 right up to their house or is it going to be on the  
20 other end of the lot?

21 CHAIRMAN: Mr. Agner.

22 MR. AGNER: The silo --

23 MS. MOORMAN: See how the lot is situated. Is  
24 it going to abut right up to the 16th Street side or  
25 is it going to be closer to the other end?



1           MR. AGNER: The silo will be behind the silo  
2 that's there now, butting up against it.

3           MS. MOORMAN: So which end of the lot is that  
4 silo on? The one that you already have.

5           MR. AGNER: The silo is about the middle of  
6 the lot we're talking about.

7           CHAIRMAN: So the additional silo will be  
8 behind or on the south side?

9           MR. AGNER: It will be on the east side.

10          MR. APPLEBY: Closer to the alley.

11          MR. AGNER: Well, they're going to be right  
12 beside each other. I'll feed, this silo will feed  
13 into a weigh hopper at the present silo.

14          CHAIRMAN: It will be on the alley side; am I  
15 correct?

16          MR. AGNER: That's correct.

17          CHAIRMAN: Yes, ma'am, Ms. Gilbert.

18          MS. GILBERT: Are you talking about --

19          CHAIRMAN: Ms. Gilbert, direct the questions  
20 to me. That way we don't get --

21          MS. GILBERT: I was wanting to know, does he  
22 mean is the silo going to be on the side, they have a  
23 tank on the side of the silo that they have now. Is  
24 it going to be -- there's a silo and some trees. So  
25 I'm wondering if they're going to be cutting down

1 those trees and moving that tank and then putting a  
2 silo right there? If so, it's going to be still  
3 pretty close to our house.

4 CHAIRMAN: Mr. Agner.

5 MR. AGNER: Well, the tank I believe she may  
6 be referring to is a water tank. The silo is not  
7 there yet. The silo is not on site yet, the one that  
8 I'm proposing to put after the zoning change.

9 CHAIRMAN: The water being used in the mixing  
10 of the cement products?

11 MR. AGNER: Hot water.

12 MR. NOFFSINGER: Mr. Chairman, I would just  
13 like to state for the record so there's no  
14 misunderstanding.

15 The Gilberts property is zoned I-1 Light  
16 Industrial which is the same as the applicant's  
17 property. However, he's wanting to rezone I-2 Heavy  
18 Industrial.

19 The zoning ordinance does not require  
20 screening elements between I-1 and I-2 properties and  
21 I-1. I'm just wondering if perhaps some type of  
22 screening material along the boundary line that's  
23 common with this property exist or if that would serve  
24 any benefit. It might be acceptable to the neighbors  
25 to move this forward.

1           MR. AGNER: I wouldn't be here if I didn't  
2 need to change the zoning. There is screening.  
3 There's pine trees and other trees along the  
4 borderline. Some are theirs. Some are mine.

5           CHAIRMAN: How big are the pine trees, Mr.  
6 Agner?

7           MR. AGNER: Eighteen, fifteen, eighteen feet.

8           CHAIRMAN: Are there any further questions?

9           (NO RESPONSE)

10          CHAIRMAN: Any questions from by commission?

11          (NO RESPONSE)

12          CHAIRMAN: If not the chair is ready for a  
13 motion.

14          MR. APPLEBY: Motion for approval based on the  
15 Staff's Recommendation within the conditions as stated  
16 and Findings of Fact 1 through 4.

17          CHAIRMAN: Motion for approval by Mr. Appleby.

18          MR. HAYDEN: Second.

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

21          (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22          CHAIRMAN: Motion carries unanimously.

23          Next item, please.

24          ITEM 7

25          2225 Ragu Drive, 2.239 acres

1 Consider zoning change: From I-1 Light Industrial to  
2 B-4 General Business  
3 Applicant: Martin & Bayley, Inc.; Owensboro Daviess  
4 County Industrial Foundation, Inc.

5 MR. NOFFSINGER: Mr. Chairman, I have a letter  
6 from the applicant "requesting one month delay in  
7 reviewing our application. Thank you for  
8 consideration. Sincerely, Jim Wheatstow, Vice  
9 President of Finance."

10 So Staff would recommend that this item be  
11 postponed until our meeting in May. It will be on the  
12 second Thursday of May, and that does require a vote.

13 CHAIRMAN: Do we have any questions?

14 (NO RESPONSE)

15 CHAIRMAN: If not the chair is ready for a  
16 motion.

17 MS. DIXON: Move to postpone until the May  
18 meeting.

19 CHAIRMAN: Motion for postponement by Ms.  
20 Dixon.

21 MS. MOORMAN: Second.

22 CHAIRMAN: Motion for postponement. We have a  
23 second by Ms. Moorman. All in favor raise your right  
24 hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

1 Next item, please.

2 MR. NOFFSINGER: Mr. Chairman, I have the same  
3 to say about Item 7A. We would recommend you postpone  
4 since the applicant is asking for postponement for the  
5 May meeting.

6 MS. DIXON: Move to postpone.

7 CHAIRMAN: Motion for postponement by Ms.  
8 Dixon.

9 MR. MILLER: Second.

10 CHAIRMAN: Second by Mr. Miller. All in favor  
11 raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 ITEM 8

16 4150 Ridge Road, 10.783 acres  
17 Consider zoning change: From EX-1 Coal Mining to A-R  
18 Rural Agriculture  
Applicant: William Zachary Callery

19 PLANNING STAFF RECOMMENDATIONS

20 Staff recommends approval because the proposal  
21 is in compliance with the community's adopted  
22 Comprehensive Plan. The findings of fact that support  
23 this recommendation include the following:

24 FINDINGS OF FACT:

25 1. The subject property is located in a Rural

1 Maintenance Plan Area where rural farm residential  
2 uses are appropriate in general locations;

3 2. The subject property is a large tract over  
4 10 acres in size with agricultural potential;

5 3. The subject property has access to a  
6 public street via a private drive;

7 4. All strip-mining activity has been  
8 completed and all disturbed areas have been reclaimed;  
9 and,

10 5. The Owensboro Metropolitan Zoning  
11 Ordinance Article 12a.31 requires that property shall  
12 revert to its original zoning classification after  
13 mining.

14 MS. STONE: We would like to enter the Staff  
15 Report as Exhibit F.

16 CHAIRMAN: Do we have anybody representing the  
17 applicant?

18 (NO RESPONSE).

19 CHAIRMAN: Do we have any questions?

20 (NO RESPONSE)

21 CHAIRMAN: If not the chair is ready for a  
22 motion.

23 MR. HAYDEN: I make a motion for approval with  
24 the Staff Recommendations and the Findings of Fact 1  
25 through 5.

1 CHAIRMAN: Motion for approval by Mr. Hayden.

2 MS. MOORMAN: Second.

3 CHAIRMAN: Second by Ms. Moorman. All in  
4 favor raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 ITEM 9

9 3100 Block Trails Way, 5.313 +/- acres  
10 Consider zoning change: From R-3MF Multi-Family  
11 Residential to R-1C Single-Family Residential  
12 Applicant: Jagoe Development, LLC

12 PLANNING STAFF RECOMMENDATIONS

13 Staff recommends approval because the proposal  
14 is in compliance with the community's adopted  
15 Comprehensive Plan. The findings of fact that support  
16 this recommendation include the following:

17 FINDINGS OF FACT:

18 1. The subject property is located in an  
19 Urban Residential Plan Area, where urban low-density  
20 residential uses are appropriate in limited locations;

21 2. The use of the subject property as a  
22 residential subdivision conforms to the criteria for  
23 Urban Residential Development;

24 3. Sanitary sewer service is currently  
25 available to the site; and,

1           4. The proposed rezoning is a logical  
2 expansion of the adjoining R-1C zone and is consistent  
3 with the adjoining neighborhoods.

4           MS. STONE: We'd enter this Staff Report as  
5 Exhibit G.

6           CHAIRMAN: Is anybody here representing the  
7 applicant?

8           APPLICANT REP: Yes.

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

11           (NO RESPONSE).

12           CHAIRMAN: If not the chair is ready for a  
13 motion.

14           MR. MILLER: Motion to approve.

15           CHAIRMAN: Motion for approval by Mr. Miller.

16           MR. ROGERS: Second.

17           CHAIRMAN: Second by Mr. Rogers. All in favor  
18 raise your right hand.

19           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20           CHAIRMAN: Motion carries unanimously.

21           Next item, please.

22           Related Items:

23           ITEM 9A

24           The Trails Of Heartland, 5.313 acres  
25           Consider approval of major subdivision preliminary  
          plat.

          Applicant: Jagoe Development, LLC



1

2 MR. NOFFSINGER: Mr. Chairman, this plat has  
3 been reviewed by the Planning Staff and Engineering  
4 Staff. It's found to be in order. It's use is  
5 consistent with the underlying zoning and it meets the  
6 criteria outlined in the subdivision regulations and  
7 zoning ordinance.

8 CHAIRMAN: Is anybody here representing the  
9 applicant?

10 APPLICANT REP: Yes.

11 CHAIRMAN: Do we have any questions of the  
12 applicant?

13 (NO RESPONSE)

14 CHAIRMAN: If not the chair is ready for a  
15 motion.

16 MS. DIXON: Move to approve.

17 CHAIRMAN: Motion for approval by Ms. Dixon.

18 MR. TAYLOR: Second.

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

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 Next item, please.

24

25

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DEVELOPMENT PLANS



1 favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item.

5 -----

6 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

7 ITEM 11

8 President's Place, 26.7 acres  
9 Consider approval of major subdivision preliminary  
10 plat/final development plan.  
11 Applicant: Wabuck Development Company, Inc.;  
12 Christian Care Communities

13 MR. NOFFSINGER: Mr. Chairman this plat has  
14 been reviewed by the Planning Staff and Engineering  
15 Staff. It's found to be in order. Its use is  
16 consistent with the underlying zoning. The  
17 development is proposed to be constructed in  
18 compliance with the local adopted zoning ordinance,  
19 subdivision regulations and public improvement  
20 specifications.

21 CHAIRMAN: Is anybody representing the  
22 applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Does anybody have any questions of  
25 the applicant?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a

1 motion.

2 MS. DIXON: Move to approve.

3 CHAIRMAN: Motion for approval.

4 MR. PEDLEY: Second.

5 CHAIRMAN: We have a motion for approval and a  
6 second. All in favor raise your right hand, please.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion passes unanimously.

9 Next item, please.

10

11

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MINOR SUBDIVISIONS

12

ITEM 12

13

2400 Grimes Avenue, 1445 Ragu Drive, 1.615 acres

Consider approval of minor subdivision plat.

14

Applicant: J&L Welding and Machine Shop, Inc.

15

MR. NOFFSINGER: Mr. Chairman, this plat comes

16

before you to subdivide an existing lot of record with

17

the existing development on the property. The issue

18

is regarding the access to the property. Planning

19

Staff in review of the application have recommended

20

that the lot division could take place, but a shared

21

driveway would have to be utilized for both lots.

22

There's already an existing driveway to the property

23

on Ragu Drive. Both streets are major collector

24

streets and carry a 250 foot spacing requirement. The

25

applicant is proposing a driveway on Grimes Avenue

1 that's not consistent with the adopted access  
2 standards. It's located in close proximity to a rail  
3 line. Planning Staff feel that because it does not  
4 meet this proposed access, does not meet the adopted  
5 spacing standards and its location in close proximity  
6 to the existing rail line and it should not be  
7 approved.

8           Again, we do not see any issues with the lot  
9 division so long as they share a drive with the  
10 existing lot on Ragu Drive. They do wish for your  
11 consideration. They're here tonight to speak to the  
12 division.

13           MR. APPLEBY: I have a question. You said  
14 that it's 250 feet. So it's not going to meet at  
15 either side. Either Grimes or Ragu, right?

16           MR. NOFFSINGER: Probably not. I can't see  
17 those numbers on the screen. It's a 250 foot spacing  
18 standard. They're limited to one, to the existing  
19 access point on the property.

20           MR. APPLEBY: On Grimes Avenue, if I'm looking  
21 at this correctly, they've got 239 feet of frontage  
22 and they're 25 feet off the line with their proposed  
23 access point which would put it at about 264 feet to  
24 the center line of Grimes, wouldn't it?

25           MR. NOFFSINGER: I think Ms. Stone may have

1 some additional information, but I think it's still --

2 MS. STONE: Your numbers may be correct.  
3 There is a previous plat of record that limits it to  
4 one access point as well on this property. I can't  
5 really read the numbers either, but it looks like it  
6 may be 250 feet on Grimes, but there's a plat of  
7 record that has a limitation for one access on Ragu  
8 Drive.

9 CHAIRMAN: Ms. Stone, you're referring to the  
10 property, meaning the property before it was  
11 subdivided was limited to one access only on Ragu?

12 MS. STONE: Right. Where that existing access  
13 point is, yes.

14 CHAIRMAN: Obviously it would be or it would  
15 be equitable for both property owners to be able to  
16 share that exit there on Ragu, that entrance on Ragu  
17 Drive?

18 MS. STONE: That's what we would recommend.  
19 The shared access point.

20 MR. APPLEBY: Would you be recommending them  
21 move the existing access point to the point on the  
22 line for both lots?

23 MS. STONE: Or recommend an access easement  
24 across the front entrance lot on Ragu and leave the  
25 access point as it currently exist.

1           CHAIRMAN: Is there any comments or questions  
2 from the audience?

3           (NO RESPONSE)

4           CHAIRMAN: Does anybody have any questions?

5           (NO RESPONSE)

6           CHAIRMAN: If not the chair is ready for a  
7 motion.

8           Do we have the applicant here?

9           (NO RESPONSE)

10          CHAIRMAN: If not then we have no questions.  
11 The chair will be ready for a motion.

12          MS. MOORMAN: If they're not here, I make a  
13 motion to approve that they only have the one access  
14 to their property on Ragu Drive, right?

15          CHAIRMAN: You're making the motion to approve  
16 the Staff's recommendation?

17          MS. MOORMAN: Staff's recommendation to just  
18 have the -- if they're not here to say anything about  
19 it, I say we approve it.

20          CHAIRMAN: Based on the Staff's  
21 recommendation?

22          MS. MOORMAN: Based on the Staff's  
23 recommendation that we approve the only access to  
24 their property would be on Ragu Drive.

25          MS. DIXON: Shared access.

1 MS. MOORMAN: Shared access.

2 CHAIRMAN: A shared access with access only on  
3 to Ragu Drive.

4 MS. MOORMAN: Yes.

5 CHAIRMAN: We have a motion for approval based  
6 on the Staff's recommendations by Ms. Moorman.

7 MS. DIXON: Second.

8 CHAIRMAN: We've got a second by Ms. Dixon.

9 Mr. Noffsinger.

10 MR. NOFFSINGER: I would ask for you to  
11 consider an amendment to that. It is for approval.  
12 You authorize the Planning Director to sign that plat  
13 once the plat is changed to reflect your action. In  
14 other words, we can't sign the plat tonight. I don't  
15 want to hold anything up should they wish to move  
16 forward with the plat. So that I be directed to sign  
17 the plat as long as it's consistent with your motion.

18 CHAIRMAN: Ms. Moorman, are you willing to  
19 amend your motion?

20 MS. MOORMAN: Yes. That's fine.

21 CHAIRMAN: Would you just go ahead and state  
22 that for the record, please.

23 MS. MOORMAN: I make a motion on this approval  
24 of the Staff recommendation that we won't do anything  
25 until Gary reads it and signs it.



1           CHAIRMAN: Giving Gary the authorization to  
2 sign it?

3           MS. MOORMAN: Yes.

4           CHAIRMAN: Thank you, Ms. Moorman.

5           Ms. Dixon, didn't you have a second?

6           MS. DIXON: That would be a second.

7           CHAIRMAN: Ms. Dixon has a second. All in  
8 favor raise your right hand.

9           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10          CHAIRMAN: Motion carries unanimously. Thank  
11 you very much.

12          Next item, please.

13          ITEM 13

14          423, 425 West Pettit Road, 3.263 acres  
15          Consider approval of minor subdivision plat.  
16          Applicant: Frank A. List

17          MR. NOFFSINGER: Mr. Chairman, the Planning  
18          Staff has reviewed this application. It comes before  
19          you because I think it slightly exceeds the depth to  
20          width ratio. It does both lots. They're taking an  
21          existing lot of record and dividing it into two lots.

22          When you do that, there's a manufactured home  
23          on the property and I think a home on the property.  
24          So they won't be able to separate them. When you make  
25          this division, I think it's slightly exceeds the three  
to one depth to width ratio. However, given the

1 development of the property and the fact that they're  
2 not trying to maximize the number of lots on the  
3 property, the lot was created many years ago, that we  
4 would recommend approval.

5 CHAIRMAN: Do we have any comments? Do we  
6 have any questions?

7 (NO RESPONSE)

8 MR. APPLEBY: Motion for approval.

9 CHAIRMAN: Motion for approval by Mr. Appleby.

10 MS. MOORMAN: Second.

11 CHAIRMAN: Second by Ms. Moorman. All in  
12 favor raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, please.

16 -----

17 AGRICULTURAL SUBDIVISION

18 ITEM 14

19 11755, 11765 Grandview Drive (Postponed March 12,  
20 2009)  
21 Consider approval of agricultural subdivision plat.  
22 Applicant: Peggy McDaniel & Anita Coons

23 MR. NOFFSINGER: Mr. Chairman, I think Becky  
24 Stone may have more information on this division than  
25 what I can share.

MS. STONE: This application comes before you

1       again this month. Last month the Staff made a  
2       recommendation not to approve this division because  
3       there is no frontage on public right-of-way for the  
4       two lots that are being created.

5                You had asked that someone be here to  
6       represent the reason for this division prior to making  
7       your decision, and I think the applicant's surveyor is  
8       here tonight to describe what they would like to do.

9                MR. SILVERT: State your name, please.

10              MS. WIMMER: Linda Wimmer.

11              (LINDA WIMMER SWORN BY ATTORNEY.)

12              MS. WIMMER: Peggy McDaniel and her sister,  
13       Anita Coons, have owned this property for years.  
14       Peggy's husband, John, is in ill health. To set their  
15       affairs in order they want to sever their interest in  
16       this particular property. They don't plan on  
17       subdividing. They just want their interest separated  
18       for financial reasons.

19              MR. APPLEBY: Still agricultural?

20              MS. WIMMER: Yes. I believe they lease it  
21       out. There is 50 foot access provided in the previous  
22       deeds which services several farms.

23              CHAIRMAN: Mr. Noffsinger.

24              MR. NOFFSINGER: The question you stated that  
25       this division is for financial purposes to separate

1 their interest, what do they intend to use the  
2 properties for?

3 MS. WIMMER: Nothing. They're just going to  
4 continue to lease out.

5 MR. NOFFSINGER: Is it agricultural row crop  
6 or what's it used for?

7 MS. WIMMER: Yes, it's row crop. Corn.

8 MR. NOFFSINGER: So they have no intentions of  
9 sell or lease to the general public?

10 MS. WIMMER: No.

11 CHAIRMAN: Do we still have an obligation to  
12 have a right-of-way, Mr. Noffsinger?

13 MR. NOFFSINGER: Their existing right-of-way  
14 to the property is not being created by this division.  
15 It's a 15 foot pass way.

16 The question of use comes into play because,  
17 you know, is this truly an agricultural division? We  
18 have the applicant's surveyor on record stating that  
19 the intent is for financial purposes, but the use of  
20 the property is for farming.

21 So given that I think you may want to consider  
22 approval of this division with no further divisions of  
23 either one of these tracts and tracts in the future  
24 for any reason. I say "any reason." What I'm getting  
25 at is right now if you created the second tract, I

1 think it's the second tract or you created two  
2 additional tracts, if you're creating the two  
3 additional tracts you could end up with two additional  
4 homes being constructed on the property. I think you  
5 may justify it based upon saying, no further divisions  
6 of the property. You can consolidate and make fewer  
7 lots, but not additional lots. Then you only end up  
8 with three potential homes on the property down the  
9 road. I think right now you probably have enough land  
10 for three now.

11 MS. WIMMER: I believe we addressed that with  
12 an additional note on the plat. That there be no more  
13 division without addressing the access issue.

14 MR. APPLEBY: Without addressing the access.

15 MS. WIMMER: Right.

16 CHAIRMAN: Would we want to address the access  
17 issue now?

18 MR. APPLEBY: She's got the note on the plat.

19 MR. NOFFSINGER: I think it's addressed based  
20 upon the existing pass way. In other words, it needs  
21 to be understood that they could not create any  
22 additional tracts unless they were able to get the  
23 adequate frontage along a public road to tie it to  
24 these tracts.

25 MS. WIMMER: They understand that.

1           MR. NOFFSINGER: Or they build a public  
2 street, which probably not likely.

3           MS. WIMMER: Right.

4           MR. NOFFSINGER: But that would be the other  
5 possibility. You could build three homes on this  
6 property right now as it stands with the division.  
7 You would still only build three homes, but I think we  
8 do need that note and they need to understand that if  
9 they were to come in for a one acre division or a two  
10 acre division for financing purposes for a home that  
11 it would be in conflict with the note that's on the  
12 plat and should not be approved.

13           MS. WIMMER: They are not planning on any  
14 division periods.

15           MR. NOFFSINGER: This will be it?

16           MS. WIMMER: Yes.

17           MR. NOFFSINGER: Thank you.

18           CHAIRMAN: Thank you very much.

19           Are there any questions?

20           (NO RESPONSE)

21           CHAIRMAN: If not the chair is ready for a  
22 motion.

23           MR. APPLEBY: Motion for approval with the  
24 understanding that there is a note on the plat  
25 reflecting there will be no further divisions without

1 addressing the public access.

2 CHAIRMAN: Motion for approval by Mr. Appleby.

3 MR. MILLER: Second.

4 CHAIRMAN: Second by Mr. Miller. All in favor  
5 raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 The chair is ready for one final motion.

9 MS. DIXON: Move to adjourn.

10 CHAIRMAN: Motion for adjournment by Ms.  
11 Dixon.

12 MR. TAYLOR: Second.

13 CHAIRMAN: Second by Mr. Taylor. All in favor  
14 raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: We are 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 63 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the  
17 1st day of May, 2008.

18

19

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

22

COMMISSION EXPIRES: DECEMBER 19, 2010

23

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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