The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, December 14, 2006, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Drew Kirkland, Chairman
Gary Noffsinger
Scott Jagoe
Tim Miller
Jim Gilles
Irvin Rogers
Nick Cambron
Judy Dixon
Dr. Mark Bothwell
Martin Hayden
Stewart Elliott, Attorney
Madison Silvert, Attorney

CHAIRMAN:  Want to welcome everyone to our December 14, 2006, Owensboro Metropolitan Planning Commission meeting. Our invocation and pledge of allegiance will be given by Ms. Judy Dixon.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  Our first order of business is to consider the minutes of the November 9, 2006 meeting. Are there any questions, additions, corrections?

(NO RESPONSE)

CHAIRMAN:  If not the chair is ready for a motion.
MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

CHAIRMAN: Second by Dr. Bothwell. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Our next order of business is to recognize Dr. Mark Bothwell for his services to the Owensboro Metropolitan Planning Commission. This will be Mark's last meeting as he has decided to retire and he will not be with us in 2007.

DR. BOTHWELL: Just from the commission.

CHAIRMAN: Just from the commission. In appreciation, Mark, would you come over here.

(PRESENTATION TO DR. MARK BOTHWELL.)

CHAIRMAN: Mr. Noffsinger, our next order of business, please.

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ZONING CHANGES

ITEM 3

290 Coleman Chenault Lane, 1.480 acres
Consider zoning change: From R-1A Single-Family Residential to A-U Urban Agriculture
Applicant: Stuart Everly

MR. ELLIOTT: State your name, please.
MR. HOWARD: Brian Howard.

(MR. BRIAN HOWARD SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

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

FINDINGS OF FACT:

1. The subject property is located in a Rural Community Plan Area, where rural small-lot residential uses are appropriate in general locations;

2. The subject property has road frontage on a publicly maintained roadway; and,

3. At 1.480 acres in size, the subject property should be large enough to accommodate an on-site septic system.

MR. HOWARD: We would like to enter the Staff Report as Exhibit A.

CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions?

MS. McGRATH: I do have a question. I've never done this before.

CHAIRMAN: Ma'am, step to the podium and we'll
swear you in.

MR. ELLIOTT: State your name, please.

MRS. McGRATH: Juanita McGrath.

(MRS. JUANITA McGRATH SWORN BY ATTORNEY.)

MRS. McGRATH: I have a question. I have property at 10951 Mill Street which is I guess against him in the back part of the property. I don't understand what his plans are, or what he's going to put there, and what we'll be looking at or seeing. This is the first I've heard about this. I had no idea.

CHAIRMAN: Do we have anybody representing the applicant?

MR. EVERLY: I'm here.

CHAIRMAN: Would you step to the podium, please.

MR. ELLIOTT: State your name, please.

MR. EVERLY: Stuart Everly.

(MR. STUART EVERLY SWORN BY ATTORNEY.)

MR. EVERLY: I'm not sure what you want.

MRS. McGRATH: What are you putting on the property?

MR. EVERLY: I'm planning on moving a mobile home in.

CHAIRMAN: Ma'am, would you direct the
questions to us and then we'll get them. Why don't you just give me like one, two, three, four your questions.

MS. McGrath: What he's going to put there? Who is going to live there? How many people is going to be there? What we're going to have to be seeing? If they've going to have a grain bin there or what it's going to be.

Chairman: If you will be seated, I'll pursue your questions.

Mr. Everly: I'm just planning on moving a mobile home in there for a residence. I'm not sure who is going to be living there yet. I still have to work all of that out.

Chairman: Is this mobile home going to be for rent?

Mr. Everly: It's possible for rent or for sale.

Chairman: Do you have any other questions?

Mrs. McGrath: I don't understand --

Chairman: Ma'am, you'll have to step to the podium so we can record this.

Mrs. McGrath: If it's going to be a residence, what is the change from R-1A Single residence to an AU Urban Agriculture?
CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Yes, ma'am, and those are very good questions.

Right now the property is zoned R-1A, which is single-family residential. It would allow placement of a manufactured home, double-wide, on the property without anything other than a building permit. He would not have to come before this board or any other board. He could put that double-wide manufactured home on the property or he could place a single-wide manufactured home on the property or he could place a single-family stick built residence on the property by just obtaining a building permit. That's the way it's zoned now.

If it's rezoned to A-U Urban Agriculture, then that would enable you to place a single-wide manufactured home on the property without any special permission. It would also allow you to use an under pinning type material to skirt the perimeter of that unit.

If it's R-1A Single-Family, you potentially can still put a single-wide manufactured home on the property, but you have to go before another board with a conditional use permit and you have to use a concrete or masonry type skirting around the perimeter.
of the unit.

In terms of the size of the property, I don't think it has anything to do other than with the fact that he's wanting to place a manufactured unit on the property. By having an A-U zone it would enable him to do it a little differently than what he would in an R-1A classification. To my knowledge that's the reason for the rezoning.

MR. EVERLY: That's correct.

MS. McGrath: That's all I wanted to know.

CHAIRMAN: Thank you.

Do you have any further statements you'd like to make?

MR. EVERLY: No, sir.

CHAIRMAN: Thank you.

If there are no further questions, the chair is ready for a motion.

MR. MILLER: Mr. Chairman, motion for approval based on Planning Staff Recommendations and Findings of Facts 1, 2 and 3.

CHAIRMAN: Motion for approval by Mr. Miller.

MR. JAGOE: Second.

CHAIRMAN: Second by Mr. Jagoe. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.

Next item, please.

MR. NOFFSINGER: Mr. Chairman, Item 4 has been withdrawn from the agenda.

ITEM 5

3015 Old Hartford Road, 2.555 +/- acres
Consider zoning change: From I-1 Light Industrial to P-1 Professional/Service
Applicant: Western Kentucky Regional Blood Center, Inc.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the current zoning is inappropriate and the proposed rezoning is more appropriate. The conditions and findings of fact that support this recommendation include the following:

CONDITIONS:

1. Access shall be limited to the existing access point. No additional access to Old Hartford Road shall be permitted.

2. Vehicular use areas shall be screened with a three foot element and one tree every 40 linear feet when abutting residentially zoned property or road right-of-way.

FINDINGS OF FACT:

1. The subject property is located in a Business Plan Area, where business uses, which would
encompass professional/service uses, are appropriate
in limited locations;

2. The subject property has been used by the
regional blood center for 26 years;

3. Based on the historical use of the
property, the proposed P-1 zoning classification is
more appropriate than the current I-1 zoning
classification; and,

4. The proposed P-1 zoning would serve as a
buffer between the residential property to the north
and the industrial property to the south.

MR. HOWARD: We would like to enter the Staff
Report as Exhibit B.

CHAIRMAN: Somebody here representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of
the applicant?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval based on
Planning Staff's Recommendation, Findings of Facts 1,
2, 3 and 4, and Conditions 1 and 2.

CHAIRMAN: We have a proposal for approval by
Mr. Rogers.

MS. DIXON: Second.

CHAIRMAN: Second by Ms. Dixon. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 6

2600 West 10th Street; 1008, 1016, 1018, Omega Street; 2517, 2521, 2523 Lancaster Avenue, 1.84 acres

Consider zoning change: From I-1 Light Industrial and R-4DT Inner-City Residential to I-2 Heavy Industrial

Applicant: Judson Ray Drewry and Gloria Jean Drewry

PROPOSED ZONE & LAND USE PLAN

The applicant is seeking an I-2 Heavy Industrial zone. The subject property is partially located in a Professional/Service Plan Area, where heavy industrial uses are appropriate in very-limited locations and partially located in a Central Residential Plan Area, where heavy industrial uses are generally not recommended.

SPECIFIC LAND USE CRITERIA

(A) Building and lot patterns; outdoor storage areas - Building and lot patterns should conform to the criteria for "Nonresidential Development" and outdoor storage yards to - "Buffers for Outdoor Storage Yards." Furthermore, a building
or outdoor storage, loading or working areas (except for accessory parking areas) should be located at least three-hundred (300) feet from any urban residential area and one-hundred (100) feet from any other area except those containing light industrial or agricultural/forestry uses.

(B) Logical expansions outside of Industrial Park - Existing areas of Heavy Industrial use that are located outside of planned Industrial Parks may be expanded onto contiguous land that generally abuts the same street(s). Such an expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area. Also, such an expansion should be of adequate size and shape to provide the separation from incompatible uses cited in criteria (a) above.

APPLICANT'S FINDINGS

The proposed rezoning is in substantial compliance with applicable criteria as set forth in the Comprehensive Land Use Plan.

The subject property is located in a professional/service plan area (where heavy industrial uses are appropriate in very limited locations) and central residential plan area. The line that establishes the boundary between the land use plan
areas indicates that the land use plan did not anticipate the consolidation of the subject parcels into a single tract with a common use. It is our contention that the professional/service land area is the appropriate plan area for this property.

Applicant, in July 2001, rezoned part of the property at 2600 West Tenth Street (0.42 acres) from B-4 General Business to I-1 Light Industrial.

Applicant, in March 1996, rezoned part of the property at 1008, 1016, 1018 Omega Street (0.86 acres) from B-4 General Business and R-4DT to I-1 Light Industrial.

The property located at 2517 Lancaster Avenue was purchased by the applicant in 1998. The property located at 2521 Lancaster Avenue and 2523 Lancaster Avenue was purchased in 2005. The properties located at 2521 and 2523 Lancaster Avenue consisted of several dilapidated houses, piles of building materials, and other debris. Since the purchase of these properties by the applicant, he has made substantial changes in the neighborhood, such as:

1) clearing the debris from the property
2) removal of all old structures from the property; and
3) constructing a solid, attractive fence
around the perimeter of the properties.

Applicant desires to continue the use of the subject property as an auto and truck parts storage business and as a salvage yard. Applicant has been operating a parts storage and salvage operation at 1008 Omega Street for the past ten (10) years.

Applicant was unaware that he was operating a salvage yard in violation of the local OMPC regulations.

Applicant desires to expand his business operation on the properties located on Omega Street, 10th Street and Lancaster Avenue to include a salvage operation, which includes disassembling disabled vehicles and the recycling of automobile and truck parts, and to store and disassemble disabled vehicles.

A conditional use permit application has been filed with this rezoning application since the salvage operation requires said permit.

Criteria

(A) Building and Lot Patterns:

As pointed out in the staff report of the previous rezoning at 2600 West Tenth Street, which is part of the subject property (July 12, 2001 rezoning from B-4 to Light Industrial), the area can be considered a mixture of residential, industrial, recreational and assembly uses. The heavy industrial
use of the property has been on-going in this Mechanicsville Section of Owensboro for over 40 years. The major uses of the past 40 years of this property includes but are not limited to, a salvage yard, oil field, storage yard, welding shop and auto and truck storage. The applicant has a long-standing, good relationship with his neighbors and the majority support the applicant's endeavors to rezone the subject property.

FOCUS AREA:

In the focus area which is bounded by Crabtree Avenue, Old Henderson Road, West Tenth Street and an extension of the west property line of the Davco property due south to Old Henderson Road, there are presently three salvage operations.

1) In October 2002, the property at 1920 McFarland Avenue (1.84 acre tract) was rezoned from B-4 to I-2 Heavy Industrial for vehicle salvage. This rezoning also required a variance and conditional use permit.

2) In May 1979, the property at 1120 Crabtree Avenue (West Side Auto, Inc. - 2.46 acres) was rezoned from R-3 and I-1 to I-2 Heavy Industrial.

3) In January 1978, the property located at the 2000 block of Lancaster Avenue and the 1000 block
of Graves Lane was rezoned from I-1 Light Industrial and R-3 Residential to I-2 Heavy Industrial. In December 1994, the Owensboro Metropolitan Board of Adjustments granted a variance for the property at 2024, 2026 and 2228 Lancaster Avenue. On or about the same time, the OMBA granted a conditional use permit for the same property.

As part of this rezoning application, the applicant is requesting a variance. The variance criteria requires a 300-foot buffer from any residential area and a 100-foot buffer from any other area except those containing Light Industrial or Agricultural. The purpose of the 300-foot buffer is to protect the adjoining property owners. The applicant has made every effort to contact each property owner individually to address any of their concerns. The response from the neighbors has been supportive of the rezoning.

(B) Logical Expansion Outside of Industrial Parks:

Although the proposed rezoning is not a logical expansion of heavy industrial zoning, because it is not contiguous, there is a logical expansion of many mixed uses and heavy uses within the focus area.

(C) Industrial Parks:
This criteria is not applicable.

TYPE II FINDINGS
In the alternative, the existing zoning classification given to the subject property is inappropriate and the proposed zoning classification is appropriate.

The Comprehensive Land Use Plan and corresponding land use areas did not fully take into consideration the wide range of mixed uses and heavy industrial uses already existing throughout this area. The predominant land use in this area is non-residential. There is a history of heavy industrial uses in this area for over 40 years, but more importantly for this rezoning request, the principal land use in the area is industrial, both light and heavy.

There has been a history of I-2 Heavy Industrial rezoning with conditional uses and variances for salvage operation in the immediate area for many years.

Directly across the street of the subject property is located the Dugan Best City Park which was formerly the city dump.

PLANNING STAFF REVIEW
The subject property is located in the 2600
block of West Tenth Street, the 1000 block of Omega Street and the 2501 block of Lancaster Avenue. Land use criteria applicable to this proposal are reviewed below.

GENERAL LAND USE CRITERIA

Environment

According to a study prepared by the US Department of Agriculture Soil Conservation Service dated March 6, 1990, it appears that the subject property is not located in a wetlands area. The subject property is partially located in a special flood hazard area per FIRM Map 21059C0120C. The developer is responsible for obtaining permits as may be required by the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

It appears that the subject property is not in the vicinity of the Owensboro Wellhead Protection area according to a map created by the GRADD office dated March 1999.

Urban Services

All urban services, including sanitary sewers, are available to the site.

Development Patterns

The subject property is located in an area of
mixed residential, commercial, professional/service and industrial land uses. The property to the north and west are zoned B-4 and R-4DT, the property to the south is B-4 and the property to the east is P-1. Uses include a nursing home, city park, city garage, church and limited retail uses. The subject property is partially zoned I-1 light industrial and partially zoned R-4DT.

These same zoning classifications, with the addition of I-2 zoning, are present within the focus area the applicant describes in their findings. OMPC has prepared a map showing the focus area which includes the street right-of-way, parcel boundaries and zonings which is included as an exhibit with this staff report. Based on the boundary of the focus area, as defined by the applicant, the applicant states that the predominant land use in this area is non-residential. However, there is approximately 72.15 acres of land within the focus area and 54.01% is currently zoned R-4DT Inner-City Residential. The next highest percentage is 26.59% zoned either I-1 Light Industrial or I-2 Heavy Industrial with the majority of the industrial zoning being in the heavy industrial category. The remaining acreage included 10.43% zoned P-1 Professional/Service and 8.97% zoned
B-4 General Business. As these numbers demonstrate, the area is composed of a variety of land uses and zonings, but more than half of the property is zoned residential while industrial zonings only account for a little more than one quarter of the overall total.

As the applicant stated in their findings, portions of the subject property have been rezoned on two different occasions. The first rezoning was in March 1996 for 1008, 1016 and 1018 Omega Street. At that time that applicant indicated the use for the property was the expansion of a truck repair business that had been in operation for approximately one year. The second rezoning was located at 2600 West Tenth Street in July 2001, at which time the applicant stated that the intended use for the property was for a transmission repair shop. There was no mention of using the property as a salvage yard, or any other heavy industrial use, in either previous rezoning application. The use of the property as a salvage yard is not a permitted use under an I-1 zoning classification and it is difficult to argue for the continuation of a business that has been in violation of the zoning ordinance, especially when the use of the property as a salvage yard was started without the required application and permitting processes followed
and considering the applicant has previously stated on
two separate occasions that the property would be used
for purposes other than the uses stated within this
application.

Land-Use Intensity, Clusters and Buffers

In I-2 Heavy Industrial Zones, any building or
outdoor storage, loading or working area (except
accessory parking areas) should be located at least
three-hundred (300) feet from any urban residential
area and one-hundred (100) feet from any other area
except those containing light industrial or
agricultural/forestry uses. The location of
residential zoning to the west and north requires a
300-foot buffer to be established in those locations.
Since the property is surrounded by non-industrial
zones, the buffer requirements would be required if
the rezoning is approved. The applicant does state in
their findings that the application for variance to
reduce the required buffers has been submitted. At
the time of preparation of this staff report, neither
a conditional use permit application nor variance
application has been submitted. However, we do
anticipate their submittal to the Owensboro
Metropolitan Board of Adjustments based on the
applicant's statements.
The zoning ordinance requires a minimum 8-foot high solid wall or fence around salvage yards in accordance with Section 17.311 of the Owensboro Metropolitan Zoning Ordinance. Salvage yards are defined in Section 14.51 of the Zoning Ordinance as inclusive of auto wrecking yards. A fence has already been installed around the property which appears to meet this requirement. However, one tree per 40 linear feet is also required as part of the landscape screening which may require the applicant to plant additional trees.

SPECIFIC LAND USE CRITERIA

The proposal does not meet the specific requirements of the Comprehensive Plan. It appears as though the required outdoor storage yard screening requirements could be established but the buffering requirement from incompatible land uses cannot be met without the issuance of a variance. The proposal is not a logical expansion of a contiguous heavy industrial zone that abuts the same street. Though the area is characterized by a mixture of uses, that does not substitute for the logical expansion criteria as stated within the Comprehensive Plan. A conditional use permit would also be required for the use of the property as an automobile salvage yard.
PLANNING STAFF RECOMMENDATIONS

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation include the following:

FINDINGS OF FACT:

1. The subject property is partially located in a Professional/Service Plan Area, where heavy industrial uses are appropriate in very-limited locations and partially located in a Central Residential Plan Area, where heavy industrial uses are generally not recommended;

2. The proposed rezoning is not a logical expansion of a contiguous heavy industrial zoning;

3. The use of the property as an automobile salvage yard does not fit into the character of the surrounding properties; and,

4. Two previous rezoning applications for portions of the subject property did not indicate any intended use of the property as an automobile salvage yard although that use of the property was started in violation of the zoning ordinance.

MR. HOWARD: We would like to enter the Staff Report as Exhibit C.
I also have two other items that I need to enter into the record as well.

We received a letter from Joe Schepers, the city engineer, which was copied to Tony Cecil and Bob Whitmer.

It reads, "Good Morning, Gary. Last week we received the Notice for the Proposed Zoning Change for the following addresses: 1008, 1016 & 1018 Omega, 2600 West 10th Street, and 2517, 2521 & 2523 Lancaster Avenue.

"We have property in the vicinity of this site, namely our Facilities Maintenance shop and our Dugan Best Center. I have discussed this proposed zoning change with Bob Whitmer and Tony Cecil. Due to the timing of the meeting we will not be able to have anyone from the City present to represent our position. However, due to the past concerns of our City Commission, our Community Development Department, and our Neighborhood Alliances, we do oppose this zoning change.

"If you have any questions, please feel free to call me at the number below."

I would like to enter that as Exhibit D.

Then I'd like to read into the record the Notice of Zoning Violation that has been given to the
applicant. This was sent out after a complaint from a
neighbor that prompted an investigation.

The description of the zoning violation
states, "The properties located at 1008, 1016 and 1018
Omega Street are currently being used as a salvage
storage yard. The subject properties are zoned I-1
(Light Industrial) and the operation of a salvage
storage yard is not permitted in an I-1 zone.
Additionally, a re-zoning of the subject properties
from B-4 (General Business) to I-1 received final
approval on April 16, 1996. A condition to the
approval was that 1008, 1016 and 1018 Omega Street be
 consolidated to a single tract. At this time, no
minor subdivision plat has been submitted to
consolidate the three tracts. In violation of Zoning
Ordinance, Article 8, Section 8.2 G4 and the re-zoning
application approved April 16, 1996."

I would like to enter that as Exhibit E.

Included with that Violation Notice are pictures of
the subject property which we will enter into the
record as well.

CHAIRMAN: Thank you.

Is anybody representing the applicant,

MR. ELLIOTT: State your name, please.

MR. KAMUF: Charlie Kamuf.
MR. KAMUF: As the record show, I represent Mr. and Mrs. Ray Drewry. This is a rezoning of several pieces of property. Four of them are from R-4DT and three from Industrial to Heavy Industrial. The property is being used as a salvage yard. In addition to the zoning, we have filed a variance request and also a condition request. This is a map and I also have a hand-out, and the hand-out is a small little area showing exactly what the big one shows.

CHAIRMAN: Mr. Kamuf, why don't you just start down there and we'll hand them out and you can consider them with your proposal.

MR. KAMUF: The property that we have in front of you here tonight, the subject property is Number 1 that we see there. As we have a listing on the side, you can see exactly what I'm going over. Number 1 is the subject property that I've just talked about.

Number 2 is the Dugan Best Park.

Number 3, 4 and 5 are these areas right in through here. All of those particular areas that we have five, three and four, that is all zoned and it's zoned Heavy Industrial and it is zoned as a
conditional use and a variance for a salvage yard.

As you get up you see seven and eight, these particular pieces of property, this is McCarty’s Wrecker Service, and Number 8 is the County Garage, the State Garage.

As you get down a little further, you see we have Number 10 is the West Side Salvage lot. It's zoned industrial. 12, 14 and 13 are over on McFarland. Those properties are zoned I-1.

The surrounding area that we have, we have letters in contra to just what has been offered by Brian. We have letters from the Neighborhood Alliance. They are here to testify.

One the neighbors who used to be one of the officers of the Board of Adjustment, Mr. Melvin Smith, he is here to testify concerning the rezoning.

Here is another plat that we have. I have a small plat so you can pass this one around.

This property, as you can see in the red here, this is the subject property. The property that I have red here, this is known as the Mechanicsville Subdivision to the City of Owensboro. A lot of you, I see some of you shaking your head.

Mechanicsville Subdivision to the City of Owensboro, the reason it's called Mechanicsville is
because that's where most of the storage yards were. They disassemble vehicles. They disassemble automobiles. They sold different parts. At one time in that particular area they had dynamite storage. Another particular area that you see right here, this is the former Evan's Packing. They had slaughter houses in that area.

All along this area that you see on the far side over here was known as Devins Ditch. It's Devins Ditch is where they had Shiny Town.

The reason that I show you this particular plat that you're going to see is that if you look on here it has Dugan Best Park. Scratched through it is the city dump. So this area down here has a long history for years and years concerning a heavy industrial use.

The focus area that we're talking about, back to the other map. In 2002 this board approved this Number 10, which is a wrecker storage on McFarland Avenue. It approved a rezoning. The rezoning was for a salvage wrecker yard. It also had a conditional use and a variance.

The next one in 1979, this particular area that you see right here that I've just explained, it was rezoned to heavy industrial for a salvage yard and
it also has a conditional use and a variance.

Number 6 as you see is the property that you know as the West Side Auto Parts. It's on the corner of Crabtree Avenue and McFarland.

Basically the area that we're talking about is heavy industrial. It's been heavy industrial from the beginning of time.

Now, the property across Dugan Best Park that we see right here, that is the facilities building, the maintenance facility building for the City of Owensboro.

As I'll show you here with these photographs, it is, the property is zoned commercial. The reason that it is not zoned industrial or heavy industrial is because it is exempt because it is city property.

Here is what is next-door to our property. I'll pass these around.

That's a heavy storage for telephone poles, what the maintenance building looks like.

This is the other side of the building where it's storage for culverts. It's fenced in. The other area is inside of the facilities maintenance building.

What I hand you now is I have prepared a package of every adjoining lot owner to this property. There's eight of them. Everybody joins in not only do
not object to the rezoning, all of these individuals
and all of these entities, including the City of
Owensboro, we have a letter, and also the Neighborhood
Alliance request that this property be rezoned.

Let me review the first letter. If I can,
I'll go over it. The first letter that you have in
your package, it's from the City of Owensboro.

"Dear Mr. Drewry," - and this is signed by the
facilities maintenance superintendent for the city.
"Dear Mr. Drewry. I am writing to inform you that as
the Superintendent of the Facilities Maintenance
Department for the City of Owensboro, I have no
problems or concerns about the rezoning of your
property from an I-1 to an I-2. I applaud your
continued efforts to maintain your property in a very
clean and professional manner, and as your neighbor,
it is greatly appreciated. Our department holds
itself to high standards of maintenance and
professionalism, and I am very pleased to see that as
our neighbor you provide the same efforts."

The next one. Probably the most important
people that direct the zoning of Daviess County is the
Neighborhood Alliance. There was some question
mentioned by Brian that the Neighborhood Alliance did
not approve this rezoning. Well, let's see what this
letter says. We also have one of the officers here from the Neighborhood Alliance.

"Dear Planning and Zoning. The Dugan Best Neighborhood Alliance is writing this letter in support of Drewry's Auto Parts being rezoned from I-1 to I-2. Mr. Drewry's business, at 1008 Omega Street, has been a bright spot in the neighborhood. The landscaping and fencing around his business is second to none. We meet monthly across from his business at the Dugan Best Center and most of us didn't know what was in the enclosed area. The place is always so neat and clean. We hope the zoning change will be granted. Our greatest fear is that if Mr. Drewry is forced to move, some one else may move in that location and not keep the place in the condition that the neighborhood has been accustomed to seeing."

The next letter that we have -- directly to the south is the Daviess-McLean Baptist Association. What they have said in the last paragraph, let's just look at the last paragraph. "We recommend that the Owensboro Metropolitan Planning Commission and Owensboro Metropolitan Board of Adjustment approve his request. We understand that these changes will allow Mr. Drewry to continue his operation at 1008 Omega Street."
The next letter we have is from Keith Free.

"The Community Development Department for the City of Owensboro has not experienced any property maintenance issues in regards to your business and property located at 1008 Omega Street. Recently you did purchase two dilapidated structures next to your business and removed them, improving the appearance of the area. We appreciate your past efforts to improve the area and look forward to working with you in the future."

Next letter, and the next four letters are from the adjoining neighbors and each one of them, a couple of them are here tonight. The last conclusion is that, "We recommend that the Owensboro Metropolitan Planning Commission and the Owensboro Metropolitan Board of Adjustment approve his request. We understand these changes will allow Mr. Drewry to continue his operation at 1008 Omega Street."

The next three letters are adjoining neighbors. Adjoining this property is the Davco Resthome. The Davco Resthome had about eight questions and we answered them. They're not here tonight to object. Mr. Drewry has talked to them and they have no problem with this rezoning. This is right next-door. This is where this property is
located. Number 19 is a resthome that we see there.

The last letter that we have is from the Wings of Faith Church of God. Directly to the north, Number 20, is a church. As part of this church, here is what they have to say: Dated November 20, 2006. "The Wings of Faith congregation is 100 percent behind Mr. Drewry. He has been our neighbor and friend for over ten years. Ray has helped our church many times and we have never had a problem with him or his workers. We hope they will be our neighbors for many more years."

I would like to introduce that.

The most important argument that this property should be rezoned is what has happened in the past.

In 1985 the staff recommended denial from an R-4DT to heavy industrial for the property at 1201 Omega. Here is 1201 Omega. This property that we see. So if you have this argument, in other words, at that time that was a pretty far jump to get property rezoned for heavy industrial.

If you consider 16, which I showed you those pictures of the facilities maintenance building, it might be zoned B-4, but it's a heavy industrial use because it's exempt from any type of zoning. In 1985 this property was rezoned and I have a copy.
MR. CAMBRON: Mr. Kamuf, are you speaking of Number 15? Is that what you're speaking of?

MR. KAMUF: Fifteen.

Let's look at the findings of fact that they have. This vote was a six to two vote. It was the property -- let me point this out exactly where this property is again. You understand it's a stone throw away from this property that we see here.

Here is what the board said, I have those yellow parts underlined. "The property is unsuitable for residential development. The existing Devins Ditch sewer and associated easement."

Here is where Devins Ditch is. Devins Ditch is the one that coming directly through here. It's the one that goes all the way through the western part of Daviess County.

"The property is at a lower elevation than the adjoining residential designated area."

As we have here, as I showed you from this big map, we have a mixed area. All of the red that you see is heavy industrial. All of the blue that you see is light industrial. All of the yellow that you see -- I'm sorry, the blue is B-4. The yellow all that you see is light industrial.

This is your finding from the board that was
presented to the legislative body. "There is a
mixture of commercial, residential and industrial
within the immediate area. Dugan Best Park." We have
that here. "Peters Construction Office," and the
Peters Construction Office is the building now that I
talked about being the facilities maintenance building
for the City of Owensboro. "West Side Auto Parts."
Here is West Side Auto Parts here. "A welding shop, a
pipeline maintenance company." Number 5, which I
think is critical here, "Rezoning the tract to I-2
would not compromise the existing integrity of this
area."

So they found that it did not. I'm saying
here that with all of the adjoining property owners
that we have, every one of them, a nursing home, we
have the neighborhood association alliance. That it
is compatible.

If you all recall last year, the key issue by
the Staff in this case is that it does not meet the
logical expansion argument. My argument previously is
what? That it does. If you jump over what is a use,
a heavy industrial use, it will be contiguous.

As far as what you all have done in the past,
you all have not favored a strict interpretation of
the logical expansion docket.
I was here for the hearing last year. At Miss Daisy's Tea Room on 24th Street, you all rezoned that property. It did not touch any area. The Planning Staff, as they do, they followed the A, B, C rule. The Planning Staff recommended that it be denied. You all unanimously approved that tea room when it did not touch any type of zoning next to it that was the same as it was or proposed to be.

The next one I cite, as far as making an interpretation of what you all have made as far as a logical expansion, in 1993 at Thruston on a vote of 9 to 0 you all approved a rezoning that did not touch any commercial on either side nor across the street.

If you look at the back page that we have. Here is your all's definition as to what logical expansion is. It does not say that it has to touch. On the back page it says this, "The Land Use Plan recognizes" -- this is underlined on the back page. "The Land Use Plan recognizes the need for existing sites to be able to expand their current operations where they have existed for many years, since the land surrounding the subject property is of mixed use" - that's what we have here - "and is shown on the Land Use Plan even though there is some residential use continuing."
As we see up here, in this particular area, if you use the whole focus group, the whole focus area in this and this, it's predominately nonresidential that you see here and here in those particular areas.

Here is the last definition that you all use is what is a logical expansion. "Considering the use of the entire area," - that's what you would do in this case - "the requested rezoning would be a logical expansion of the business areas adjacent to this property."

The test is "use the entire area." It does not have to touch to meet the precedent that you all have used in the past. You all have used many time. Miss Daisy's Tea Room, this property up on 60, at Thruston.

The prevalent use to this area, in my opinion, is nonresidential. Now, when you get on this side it's certainly different, but in this particular area that you see, and there are many uses that you see down there such as the community facilities building. There's another one up here at Number 9. These places are not zoned heavy industrial, but their use is heavy industrial. This Number 9 is used as a salvage yard.

So in conclusion we have a couple of neighbors here that would like to testify. I also have
Mr. Drewry that can tell you about the background of this property if you would like to.

I think the most important thing is that Mr. Drewry went out and knocked on every door in his neighborhood and he talked to these people. All of them support this. This is not just kind of a mellow favoring of a rezoning this. This is where you have requested you to rezone this property.

What we're saying is just like the rezoning in 1985. What could be any different? In other words, this is a lot easier rezoning here than it was in 1985 where they zoned the property on Number 15. At that time -- we have in addition to the rezoning, we have addition to our position Number 15.

If you have any questions, we'll try to answer them, but we think that the area is compatible. What makes it compatible more than anything else is the fact that all of those neighbors have come in here and say, it is compatible.

Mr. Drewry is here. He would like to make a statement and also Mr. Melvin Smith who used to be --

CHAIRMAN: Mr. Kamuf, let me at this point in time, obviously we're going to let Mr. Drewry make his statement, but at this time why don't we see what kind of questions we'll have rather than some of the
witnesses being redundant. If we have questions, comments, then we can bring these people forward. I'm sure we'll be calling upon Mr. Drewry to ask questions.

Mr. Kamuf, I'd like to make several comments to you. One, the maintenance garage next-door that is owned by the City of Owensboro does not meet the I-2 requirements. It possibly could be I-1, but it is definitely not an I-2.

Second, when the Staff is charged with reviewing these applications, you know that the Staff is guided by the Comprehensive Plan.

MR. KAMUF: Sure.

CHAIRMAN: They're not taking arbitrary decisions on each one of these situations. They're guided by the Comprehensive Plan, which is passed by both the City, the County Commission and the City of Whitesville.

MR. KAMUF: Yes.

CHAIRMAN: And you know that.

MR. KAMUF: The point I was making, Mr. Chairman, they have A, B, C, and D to do. They have to follow what they think is the Comprehensive Plan and what it does. Our position is --

CHAIRMAN: But they're not arbitrarily going
and zoning this and zoning that. They're following
the strict guidelines that is laid down by the
Comprehensive Plan. The Commission has the right and
it's charged to make individual rulings on these
applications, but the Staff is doing a job and the job
which they're charged to do.

MR. KAMUF: Sure. And I don't take issue with
that.

CHAIRMAN: You made some comments that
somewhat appeared that you might be.

MR. KAMUF: Well, I didn't intend to. What
I'm saying is that the staff has these A, B, C, D, and
if it doesn't meet D, it's their job to say, hey, it
doesn't meet the Comprehensive Plan.

CHAIRMAN: Correct. It's their job.

Let's see what we've got in the way of any
comments or question.

Do we have any comments or questions from
anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Do we have any questions from
anybody on the Staff?

(NO RESPONSE)

CHAIRMAN: Mr. Drewry, as the owner of the
property, would you like to make a statements?
MR. ELLIOTT: State your name, please.

MR. DREWRY: My name is Ray Drewry.

(MR. RAY DREWRY SWORN BY ATTORNEY.)

MR. DREWRY: I'm Ray Drewry. I own and operate a used and rebuild auto parts business. Mainly differential and power steering and straight shift transmission parts.

I do not work on vehicles as such. I work on anything from a jeep to anything as far as parts go. I salvage a few vehicles to get parts to be able to rebuild and keep in stock. There's not a whole lot.

I had been in business for over a year when I bought the property at 1008 and 1016 and 1018 Omega Street. At that time I went down and I seen Roger Anderson. I asked him what I should do. We talked and probably didn't make myself plain enough, but he suggested I-1 classification is what I needed to be. Ended up being a truck repair shop, which I don't work on vehicles. I never have. The whole time I've been there I have never worked on vehicles. I just do parts.

In 2001 the property over on 2600 West 10th, I wasn't using but part of the building so I had a transmission shop that wanted to rent the place. So I
went and reclassified it as I-1 for a transmission shop. Well, that lasted about two months and they folded so I got the property back. That's where the I-1 classification for transmission shop come in at to answer that.

A little history on the property. From 1950 to 1965 the garage was used as a salvage operation by a garage and salvage operation by R.C. McFarland, A. Riley, Sr., Jesse and Jim Jones, W.D. Coleman, Donnie and Archie Miller, and Bert Edwards.

In 1965 Chester Miller rented it from John Miller and later bought it. Chester used it as a welding shop and a metal storage and parts of cars, trucks, vehicles, tractors and so forth for over 25 years.

Whenever he retired he rented it and later sold it will to T&L Pipe Construction.

Kevco was in the 2600 West 10th Street building for a little while and I was on 1008 Omega. When they went out I bought 2600 West 10th and expanded it into my property.

I'm to a stand still. I can't buy no more property because I've got a church on one side and a resthome on the other. That's it. That's about all I can say about it. I had a misunderstanding. When I
got the classification as I-I thought I could, you
know, salvage a few vehicles, and I did before I got
the classification and the time afterwards and
everybody, the inspection department from the city and
everybody else has seen it. They've been down there.
Last year when I tore the property down on Lancaster
Avenue, there was about six of the people from the
department or whatever down there. They said
something about giving me indication to get rid of
that stuff. That's all I've got to say.

CHAIRMAN: Mr. Drewry, thanks for your
statement.

Does anybody on the commission have any
questions of Mr. Drewry?

(NO RESPONSE)

MR. KAMUF: Mr. Chairman, I just have one
other thing. Let me pass these around. There was
some question about what this property looks like.
May I just pass these around and let you look at it.
This is the reason that none of the neighbors come in
and object because it's probably, it's as nice of --
if you want a salvage yard, it's kind of hard to have
one that's any better. He has trees around it, a high
fence. I think it looks pretty nice, but let me pass
these around.
CHAIRMAN: Mr. Drewry, you are complimented on the appearance of your facility. You've always kept your place impeccably clean. The fencing, it's very well done. You do a very good job.

MR. DREWRY: Thank you.

MS. DIXON: I have a question of the Staff. How do we reconcile the difference in what Staff read and as far as statement from Keith Free and the Tony Cecil was different from what these letters indicated?

MR. NOFFSINGER: I think I can probably answer that. The e-mail came unsolicited to me from Joe Schepers, the city engineer. He copied Bob Whitmer and Tony Cecil on that e-mail. He stated just as Brian read.

The letter that you have from Keith Free speaks about property maintenance issues. I don't think he copied anyone on that, but obviously he's talking about property maintenance issues there.

The letter from Lelan Hancock, Facilities Maintenance Superintendent, was copied to Tony Cecil. So that was the only letter. There were two different types of letters or correspondence to Tony Cecil. One from Lelan Hancock that he was copied on. The second one was an e-mail to me from Joe Schepers that Tony
Cecil was copied on. I'm not sure how much communication they've had. The only thing we have from the city is a copy of an e-mail from Joe Schepers stating exactly as Brian read into the record and submitted into evidence.

MR. CAMBRON: Is chair ready for a motion, Mr. Chairman?

CHAIRMAN: Yes, sir, Mr. Cambron.

MR. CAMBRON: First, Mr. Drewry, I want to commend you. You've made that place look great. As I think back as a child and used to go down there, it was nothing like that. Nothing like that.

I don't know exactly how to word this, but I'm going to try the best I can.

I'm going to recommend approval based upon the most logical and practical use of this property in the Mechanicsville Subdivision. Based upon the Findings of Fact from the neighbors, these are letters that were submitted as --

CHAIRMAN: Excuse me, Mr. Cambron. I think this may be an exhibit and you can refer. You can just refer to it neighbors exhibit.

MR. CAMBRON: The findings of fact that I'm basing my judgment on, my recommendations are from the property owners at 2526 West 10th, 2529 West 10th,
2523 West 10th, 2517 West 10th, 1002 Omega Street,
1007 Omega Street, 2516 Lancaster Avenue, 2526
Lancaster Avenue, and 2538 Lancaster Avenue. My
recommendation is for approval, but with one caveat
there. That is that Mr. Drewry applies and gets his
conditional use permit. I want to make darn sure that
I did understand, and I may need to ask Mr, Kamuf to
come up.

Has your client applied for a conditional use
permit?

MR. KAMUF: We've paid the fees. We've
applied for a conditional use permit and the variance,
and it will be heard before the Board of Adjustment
on January 4th.

MR. ELLIOTT: Variance.

MR. KAMUF: The variance is for the 300 foot
on the residential and 100 on the commercial.

MR. CAMBRON: I misunderstood what you said.
My recommendation is for approval and that's
where it stops at that point.

CHAIRMAN: Mr. Cambron has made a
recommendation for approval with conditions and
findings of fact, correct, Mr. Cambron?

MR. CAMBRON: Yes, that's correct.

MR. JAGOE: Can I question that before I
second?

CHAIRMAN: Do you have a question for our attorney or of Mr. Cambron?

MR. JAGOE: I have a question about --

CHAIRMAN: Mr. Cambron.

MR. JAGOE: Yes.

The condition of the variance and conditional use was for the buffering and the landscape requirements and so forth to go along with that?

MR. CAMBRON: Correct.

MR. JAGOE: Is that something that the board of adjustments would address?

MR. ELLIOTT: Yes.

MR. CAMBRON: My recommendation is for his approval, and I don't know if I can do this or not. I can't base it upon him getting his conditional use permit or variance; is that correct?

CHAIRMAN: I don't think he can apply for the conditional use until he gets his zoning.

MR. NOFFSINGER: Exactly.

MR. CAMBRON: Then I want to withdraw my motion and resubmit that if you don't mind.

CHAIRMAN: Mr. Cambron, why don't you just restate your motion.

MR. CAMBRON: My recommendation is for
approval based upon the most logical and practical use
of this property in the Mechanicsville Subdivision and
what I read earlier based upon the findings of fact
from the neighborhood and the letters that came in
from Mr. Kamuf.

CHAIRMAN: Mr. Jagoe.

MR. CAMBRON: Then he could go apply for his
variance.

CHAIRMAN: Are you okay with your question?

MR. JAGOE: Yes. You would just have to meet,
to rezone you would have to meet any buffering and
landscaping and so forth that's in the zoning right
now; is that correct?

MR. NOFFSINGER: That's correct.

MR. JAGOE: That's my question.

MR. CAMBRON: As best he can, yes.

MR. KAMUF: We agree to all of the buffer and
all the landscaping requirements. We agree to do
that.

MR. CAMBRON: Just getting ready to ask you
that.

MR. NOFFSINGER: Except as waived by the board
of adjustment.

MR. KAMUF: Right. Thank you.

MR. JAGOE: Second.
CHAIRMAN: We have a motion by Mr. Cambron.
We've got a second by Mr. Jagoe. All in favor of the
motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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MAJOR SUBDIVISIONS

ITEM 7

Fiddlesticks, Unit 1, Lots 1-22, 71-83, 15.209 acres
Consider approval of major subdivision final plat.
Surety (Letter of Credit) posted: $59,076.60
Applicant: Thompson Homes, Inc.

MR. NOFFSINGER: Mr. Chairman, this
application has been reviewed by the Planning Staff,
Engineering Staff. It's found to be in order and
ready for consideration.

CHAIRMAN: Is anybody representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions of the
applicant?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. CAMBRON: Motion for approval, Mr.
Chairman.
CHAIRMAN: Motion for approval by Mr. Cambron.

MS. DIXON: Second.

CHAIRMAN: Second by Ms. Dixon. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 8

Highland Pointe, Unit 1, Lots 1-3, 9-11, 10.858 acres Consider approval of major subdivision final plat. Surety (Certificate of Deposit) posted $199,863.46 Applicant: Highland Pointe Holdings, LLC

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order and ready for consideration.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

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

MR. HAYDEN: Make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.
DR. BOTHWELL: Second.

CHAIRMAN: Second by Dr. Bothwell. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 9
Lake Forest, Phase 4, Lots 241-244, 254-257, 279-369, 48.926 acres
Consider approval of amended major subdivision preliminary plat.
Applicant: Lake Forest Community, LLC

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order and ready for consideration.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions of the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.
CHAIRMAN: Second by Mr. Hayden. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

MINOR SUBDIVISIONS

ITEM 10

10847, 10865 Nalley Road, 9.974 acres
Consider approval of minor subdivision plat.
Applicant: Martin J. Fulkerson, Daniel G. Fulkerson

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It is found to be in order to present to this commission.

What this plat does it takes two existing lots of record and moves the boundary between the two. It's an even trade of land. It appears that a shed is located on one of the properties that should go to the adjoining property. So they've moved that line over to include that shed on the 4.487 acre tract and then moved the property line and reduced the frontage on the same tract so as to add area like area to the 5.487 acre tract. So with that we're not creating any additional lots. It appears it's even exchange of land. Recommending approval.
CHAIRMAN: Is anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. HAYDEN: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

MR. NOFFSINGER: Mr. Chairman, Item 11 has been withdrawn.

ITEM 12

5201 Roby Road, 4.592 acres
Consider approval of minor subdivision plat.
Applicant: James I. Haynes

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. It is a plat for utility purposes only. It does not have frontage on public right-of-way. There is an easement to the property. With that, since it's for utility purposes,
we would recommend approval.

CHAIRMAN: Anyone representing the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. GILLES: Second.

CHAIRMAN: Second by Mr. Gilles. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

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NEW BUSINESS

ITEM 13

Consider approval of 2007 Filing Dates and Deadlines

MR. NOFFSINGER: You each have been mailed a copy.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

One final motion.

DR. BOTHWELL: Motion to adjourn.

MS. DIXON: Second.
CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY
   )SS: REPORTER'S CERTIFICATE

COUNTY OF DAVIESS)

I, LYNNETTE KOLLER FUCHS, Notary Public in and
for the State of Kentucky at Large, do hereby certify
that the foregoing Owensboro Metropolitan Planning
Commission meeting was held at the time and place as
stated in the caption to the foregoing proceedings;
that each person commenting on issues under discussion
were duly sworn before testifying; that the Board
members present were as stated in the caption; that
said proceedings were taken by me in stenotype and
electronically recorded and was thereafter, by me,
accurately and correctly transcribed into the
foregoing 54 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the

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

COMMISSION EXPIRES: DECEMBER 19, 2010

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY