

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 DECEMBER 14, 2006

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

8 MEMBERS PRESENT: Drew Kirkland, Chairman
9 Gary Noffsinger
10 Scott Jagoe
11 Tim Miller
12 Jim Gilles
13 Irvin Rogers
14 Nick Cambron
15 Judy Dixon
16 Dr. Mark Bothwell
17 Martin Hayden
18 Stewart Elliott, Attorney
19 Madison Silvert, Attorney

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

24 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

25 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.

1 MS. DIXON: Move to approve.

2 CHAIRMAN: Motion for approval by Ms. Dixon.

3 DR. BOTHWELL: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

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

13 DR. BOTHWELL: Just from the commission.

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

16 (PRESENTATION TO DR. MARK BOTHWELL.)

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

19 -----

20 ZONING CHANGES

21 ITEM 3

22 290 Coleman Chenault Lane, 1.480 acres
23 Consider zoning change: From R-1A Single-Family
24 Residential to A-U Urban Agriculture
Applicant: Stuart Everly

25 MR. ELLIOTT: State your name, please.

1 MR. HOWARD: Brian Howard.

2 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

3 PLANNING STAFF RECOMMENDATIONS

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

8 FINDINGS OF FACT:

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

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

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

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

19 CHAIRMAN: Is anybody here representing the
20 applicant?

21 APPLICANT REP: Yes.

22 CHAIRMAN: Does anybody have any questions?

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

25 CHAIRMAN: Ma'am, step to the podium and we'll

1 swear you in.

2 MR. ELLIOTT: State your name, please.

3 MRS. McGRATH: Juanita McGrath.

4 (MRS. JUANITA McGRATH SWORN BY ATTORNEY.)

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

12 CHAIRMAN: Do we have anybody representing the
13 applicant?

14 MR. EVERLY: I'm here.

15 CHAIRMAN: Would you step to the podium,
16 please.

17 MR. ELLIOTT: State your name, please.

18 MR. EVERLY: Stuart Everly.

19 (MR. STUART EVERLY SWORN BY ATTORNEY.)

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

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

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

25 CHAIRMAN: Ma'am, would you direct the

1 questions to us and then we'll get them. Why don't
2 you just give me like one, two, three, four your
3 questions.

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

9 CHAIRMAN: If you will be seated, I'll pursue
10 your questions.

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

15 CHAIRMAN: Is this mobile home going to be for
16 rent?

17 MR. EVERLY: It's possible for rent or for
18 sale.

19 CHAIRMAN: Do you have any other questions?

20 MRS. McGRATH: I don't understand --

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

23 MRS. McGRATH: If it's going to be a
24 residence, what is the change from R-1A Single
25 residence to an AU Urban Agriculture?

1 CHAIRMAN: Mr. Noffsinger.

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

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

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

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

1 of the unit.

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

9 MR. EVERLY: That's correct.

10 MS. McGRATH: That's all I wanted to know.

11 CHAIRMAN: Thank you.

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

14 MR. EVERLY: No, sir.

15 CHAIRMAN: Thank you.

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

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

21 CHAIRMAN: Motion for approval by Mr. Miller.

22 MR. JAGOE: Second.

23 CHAIRMAN: Second by Mr. Jagoe. 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 MR. NOFFSINGER: Mr. Chairman, Item 4 has been
4 withdrawn from the agenda.

5 ITEM 5

6 3015 Old Hartford Road, 2.555 +/- acres
7 Consider zoning change: From I-1 Light Industrial to
8 P-1 Professional/Service
9 Applicant: Western Kentucky Regional Blood Center,
10 Inc.

11 PLANNING STAFF RECOMMENDATIONS

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

17 CONDITIONS:

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

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

25 FINDINGS OF FACT:

1 The subject property is located in a
2 Business Plan Area, where business uses, which would

1 encompass professional/service uses, are appropriate
2 in limited locations;

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

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

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

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

14 CHAIRMAN: Somebody here representing the
15 applicant?

16 APPLICANT REP: Yes.

17 CHAIRMAN: Does anybody have any questions of
18 the applicant?

19 (NO RESPONSE)

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

22 MR. ROGERS: Motion for approval based on
23 Planning Staff's Recommendation, Findings of Facts 1,
24 2, 3 and 4, and Conditions 1 and 2.

25 CHAIRMAN: We have a proposal for approval by

1 Mr. Rogers.

2 MS. DIXON: Second.

3 CHAIRMAN: Second by Ms. Dixon. 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 2600 West 10th Street; 1008, 1016, 1018, Omega Street;
10 2517, 2521, 2523 Lancaster Avenue, 1.84 acres
11 Consider zoning change: From I-1 Light Industrial and
12 R-4DT Inner-City Residential to I-2 Heavy Industrial
13 Applicant: Judson Ray Drewry and Gloria Jean Drewry

14 PROPOSED ZONE & LAND USE PLAN

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

22 SPECIFIC LAND USE CRITERIA

23 (A) Building and lot patterns; outdoor
24 storage areas - Building and lot patterns should
25 conform to the criteria for "Nonresidential
26 Development" and outdoor storage yards to - "Buffers
27 for Outdoor Storage Yards." Furthermore, a building

1 or outdoor storage, loading or working areas (except
2 for accessory parking areas) should be located at
3 least three-hundred (300) feet from any urban
4 residential area and one-hundred (100) feet from any
5 other area except those containing light industrial or
6 agricultural/forestry uses.

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

17 APPLICANT'S FINDINGS

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

21 The subject property is located in a
22 professional/service plan area (where heavy industrial
23 uses are appropriate in very limited locations) and
24 central residential plan area. The line that
25 establishes the boundary between the land use plan

1 areas indicates that the land use plan did not
2 anticipate the consolidation of the subject parcels
3 into a single tract with a common use. It is our
4 contention that the professional/service land area is
5 the appropriate plan area for this property.

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

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

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

- 22 1) clearing the debris from the property
- 23 2) removal of all old structures from the
24 property; and
- 25 3) constructing a solid, attractive fence

1 around the perimeter of the properties.

2 Applicant desires to continue the use of the
3 subject property as an auto and truck parts storage
4 business and as a salvage yard. Applicant has been
5 operating a parts storage and salvage operation at
6 1008 Omega Street for the past ten (10) years.
7 Applicant was unaware that he was operating a salvage
8 yard in violation of the local OMPC regulations.

9 Applicant desires to expand his business
10 operation on the properties located on Omega Street,
11 10th Street and Lancaster Avenue to include a salvage
12 operation, which includes disassembling disabled
13 vehicles and the recycling of automobile and truck
14 parts, and to store and disassemble disabled vehicles.

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

18 Criteria

19 (A) Building and Lot Patterns:

20 As pointed out in the staff report of the
21 previous rezoning at 2600 West Tenth Street, which is
22 part of the subject property (July 12, 2001 rezoning
23 from B-4 to Light Industrial), the area can be
24 considered a mixture of residential, industrial,
25 recreational and assembly uses. The heavy industrial

1 use of the property has been on-going in this
2 Mechanicsville Section of Owensboro for over 40 years.
3 The major uses of the past 40 years of this property
4 includes but are not limited to, a salvage yard, oil
5 field, storage yard, welding shop and auto and truck
6 storage. The applicant has a long-standing, good
7 relationship with his neighbors and the majority
8 support the applicant's endeavors to rezone the
9 subject property.

10 FOCUS AREA:

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

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

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

24 3) In January 1978, the property located at
25 the 2000 block of Lancaster Avenue and the 1000 block

1 of Graves Lane was rezoned from I-1 Light Industrial
2 and R-3 Residential to I-2 Heavy Industrial. In
3 December 1994, the Owensboro Metropolitan Board of
4 Adjustments granted a variance for the property at
5 2024, 2026 and 2228 Lancaster Avenue. On or about the
6 same time, the OMBA granted a conditional use permit
7 for the same property.

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

19 (B) Logical Expansion Outside of Industrial
20 Parks:

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

25 (C) Industrial Parks:

1 This criteria is not applicable.

2 TYPE II FINDINGS

3 In the alternative, the existing zoning
4 classification given to the subject property is
5 inappropriate and the proposed zoning classification
6 is appropriate.

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

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

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

24 PLANNING STAFF REVIEW

25 The subject property is located in the 2600

1 block of West Tenth Street, the 1000 block of Omega
2 Street and the 2501 block of Lancaster Avenue. Land
3 use criteria applicable to this proposal are reviewed
4 below.

5 GENERAL LAND USE CRITERIA

6 Environment

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

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

21 Urban Services

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

24 Development Patterns

25 The subject property is located in an area of

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

9 These same zoning classifications, with the
10 addition of I-2 zoning, are present within the focus
11 area the applicant describes in their findings. OMPC
12 has prepared a map showing the focus area which
13 includes the street right-of-way, parcel boundaries
14 and zonings which is included as an exhibit with this
15 staff report. Based on the boundary of the focus
16 area, as defined by the applicant, the applicant
17 states that the predominant land use in this area is
18 non-residential. However, there is approximately
19 72.15 acres of land within the focus area and 54.01%
20 is currently zoned R-4DT Inner-City Residential. The
21 next highest percentage is 26.59% zoned either I-1
22 Light Industrial or I-2 Heavy Industrial with the
23 majority of the industrial zoning being in the heavy
24 industrial category. The remaining acreage included
25 10.43% zoned P-1 Professional/Service and 8.97% zoned

1 B-4 General Business. As these numbers demonstrate,
2 the area is composed of a variety of land uses and
3 zonings, but more than half of the property is zoned
4 residential while industrial zonings only account for
5 a little more than one quarter of the overall total.

6 As the applicant stated in their findings,
7 portions of the subject property have been rezoned on
8 two different occasions. The first rezoning was in
9 March 1996 for 1008, 1016 and 1018 Omega Street. At
10 that time that applicant indicated the use for the
11 property was the expansion of a truck repair business
12 that had been in operation for approximately one year.
13 The second rezoning was located at 2600 West Tenth
14 Street in July 2001, at which time the applicant
15 stated that the intended use for the property was for
16 a transmission repair shop. There was no mention of
17 using the property as a salvage yard, or any other
18 heavy industrial use, in either previous rezoning
19 application. The use of the property as a salvage
20 yard is not a permitted use under an I-1 zoning
21 classification and it is difficult to argue for the
22 continuation of a business that has been in violation
23 of the zoning ordinance, especially when the use of
24 the property as a salvage yard was started without the
25 required application and permitting processes followed

1 and considering the applicant has previously stated on
2 two separate occasions that the property would be used
3 for purposes other than the uses stated within this
4 application.

5 Land-Use Intensity, Clusters and Buffers

6 In I-2 Heavy Industrial Zones, any building or
7 outdoor storage, loading or working area (except
8 accessory parking areas) should be located at least
9 three-hundred (300) feet from any urban residential
10 area and one-hundred (100) feet from any other area
11 except those containing light industrial or
12 agricultural/forestry uses. The location of
13 residential zoning to the west and north requires a
14 300-foot buffer to be established in those locations.
15 Since the property is surrounded by non-industrial
16 zones, the buffer requirements would be required if
17 the rezoning is approved. The applicant does state in
18 their findings that the application for variance to
19 reduce the required buffers has been submitted. At
20 the time of preparation of this staff report, neither
21 a conditional use permit application nor variance
22 application has been submitted. However, we do
23 anticipate their submittal to the Owensboro
24 Metropolitan Board of Adjustments based on the
25 applicant's statements.

1 The zoning ordinance requires a minimum 8-foot
2 high solid wall or fence around salvage yards in
3 accordance with Section 17.311 of the Owensboro
4 Metropolitan Zoning Ordinance. Salvage yards are
5 defined in Section 14.51 of the Zoning Ordinance as
6 inclusive of auto wrecking yards. A fence has already
7 been installed around the property which appears to
8 meet this requirement. However, one tree per 40
9 linear feet is also required as part of the landscape
10 screening which may require the applicant to plant
11 additional trees.

12 SPECIFIC LAND USE CRITERIA

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

1

2 PLANNING STAFF RECOMMENDATIONS

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

7 FINDINGS OF FACT:

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

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

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

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

24 MR. HOWARD: We would like to enter the Staff
25 Report as Exhibit C.

1 I also have two other items that I need to
2 enter into the record as well.

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

6 It reads, "Good Morning, Gary. Last week we
7 received the Notice for the Proposed Zoning Change for
8 the following addresses: 1008, 1016 & 1018 Omega,
9 2600 West 10th Street, and 2517, 2521 & 2523 Lancaster
10 Avenue.

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

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

23 I would like to enter that as Exhibit D.

24 Then I'd like to read into the record the
25 Notice of Zoning Violation that has been given to the

1 applicant. This was sent out after a complaint from a
2 neighbor that prompted an investigation.

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

18 I would like to enter that as Exhibit E.
19 Included with that Violation Notice are pictures of
20 the subject property which we will enter into the
21 record as well.

22 CHAIRMAN: Thank you.

23 Is anybody representing the applicant,

24 MR. ELLIOTT: State your name, please.

25 MR. KAMUF: Charlie Kamuf.

1 (MR. CHARLIE KAMUF SWORN BY ATTORNEY.)

2 MR. KAMUF: As the record show, I represent
3 Mr. and Mrs. Ray Drewry. This is a rezoning of
4 several pieces of property. Four of them are from
5 R-4DT and three from Industrial to Heavy Industrial.

6 The property is being used as a salvage yard.
7 In addition to the zoning, we have filed a variance
8 request and also a condition request.

9 This is a map and I also have a hand-out, and
10 the hand-out is a small little area showing exactly
11 what the big one shows.

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

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

19 Number 1 is the subject property that I've
20 just talked about.

21 Number 2 is the Dugan Best Park.

22 Number 3, 4 and 5 are these areas right in
23 through here. All of those particular areas that we
24 have five, three and four, that is all zoned and it's
25 zoned Heavy Industrial and it is zoned as a

1 conditional use and a variance for a salvage yard.

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

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

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

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

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

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

24 Mechanicsville Subdivision to the City of
25 Owensboro, the reason it's called Mechanicsville is

1 because that's where most of the storage yards were.
2 They disassemble vehicles. They disassemble
3 automobiles. They sold different parts. At one time
4 in that particular area they had dynamite storage.

5 Another particular area that you see right
6 here, this is the former Evan's Packing. They had
7 slaughter houses in that area.

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

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

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

23 The next one in 1979, this particular area
24 that you see right here that I've just explained, it
25 was rezoned to heavy industrial for a salvage yard and

1 it also has a conditional use and a variance.

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

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

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

12 As I'll show you here with these photographs,
13 it is, the property is zoned commercial. The reason
14 that it is not zoned industrial or heavy industrial is
15 because it is exempt because it is city property.
16 Here is what is next-door to our property. I'll pass
17 these around.

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

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

23 What I hand you now is I have prepared a
24 package of every adjoining lot owner to this property.
25 There's eight of them. Everybody joins in not only do

1 not object to the rezoning, all of these individuals
2 and all of these entities, including the City of
3 Owensboro, we have a letter, and also the Neighborhood
4 Alliance request that this property be rezoned.

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

8 "Dear Mr. Drewry," - and this is signed by the
9 facilities maintenance superintendent for the city.

10 "Dear Mr. Drewry. I am writing to inform you that as
11 the Superintendent of the Facilities Maintenance
12 Department for the City of Owensboro, I have no
13 problems or concerns about the rezoning of your
14 property from an I-1 to an I-2. I applaud your
15 continued efforts to maintain your property in a very
16 clean and professional manner, and as your neighbor,
17 it is greatly appreciated. Our department holds
18 itself to high standards of maintenance and
19 professionalism, and I am very pleased to see that as
20 our neighbor you provide the same efforts."

21 The next one. Probably the most important
22 people that direct the zoning of Daviess County is the
23 Neighborhood Alliance. There was some question
24 mentioned by Brian that the Neighborhood Alliance did
25 not approve this rezoning. Well, let's see what this

1 letter says. We also have one of the officers here
2 from the Neighborhood Alliance.

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

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

1 The next letter we have is from Keith Free.
2 "The Community Development Department for the City of
3 Owensboro has not experienced any property maintenance
4 issues in regards to your business and property
5 located at 1008 Omega Street. Recently you did
6 purchase two dilapidated structures next to your
7 business and removed them, improving the appearance of
8 the area. We appreciate your past efforts to improve
9 the area and look forward to working with you in the
10 future."

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

19 The next three letters are adjoining
20 neighbors. Adjoining this property is the Davco
21 Resthome. The Davco Resthome had about eight
22 questions and we answered them. They're not here
23 tonight to object. Mr. Drewry has talked to them and
24 they have no problem with this rezoning. This is
25 right next-door. This is where this property is

1 located. Number 19 is a resthome that we see there.

2 The last letter that we have is from the Wings
3 of Faith Church of God. Directly to the north, Number
4 20, is a church. As part of this church, here is what
5 they have to say: Dated November 20, 2006. "The
6 Wings of Faith congregation is 100 percent behind Mr.
7 Drewry. He has been our neighbor and friend for over
8 ten years. Ray has helped our church many times and
9 we have never had a problem with him or his workers.
10 We hope they will be our neighbors for many more
11 years."

12 I would like to introduce that.

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

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

21 If you consider 16, which I showed you those
22 pictures of the facilities maintenance building, it
23 might be zoned B-4, but it's a heavy industrial use
24 because it's exempt from any type of zoning. In 1985
25 this property was rezoned and I have a copy.

1 MR. CAMBRON: Mr. Kamuf, are you speaking of
2 Number 15? Is that what you're speaking of?

3 MR. KAMUF: Fifteen.

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

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

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

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

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

25 This is your finding from the board that was

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

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

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

23 As far as what you all have done in the past,
24 you all have not favored a strict interpretation of
25 the logical expansion docket.

1 I was here for the hearing last year. At Miss
2 Daisy's Tea Room on 24th Street, you all rezoned that
3 property. It did not touch any area. The Planning
4 Staff, as they do, they followed the A, B, C rule.
5 The Planning Staff recommended that it be denied.

6 You all unanimously approved that tea room
7 when it did not touch any type of zoning next to it
8 that was the same as it was or proposed to be.

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

14 If you look at the back page that we have.
15 Here is your all's definition as to what logical
16 expansion is. It does not say that it has to touch.
17 On the back page it says this, "The Land Use Plan
18 recognizes" -- this is underlined on the back page.
19 "The Land Use Plan recognizes the need for existing
20 sites to be able to expand their current operations
21 where they have existed for many years, since the land
22 surrounding the subject property is of mixed use" -
23 that's what we have here - "and is shown on the Land
24 Use Plan even though there is some residential use
25 continuing."

1 As we see up here, in this particular area, if
2 you use the whole focus group, the whole focus area in
3 this and this, it's predominately nonresidential that
4 you see here and here in those particular areas.

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

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

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

24 So in conclusion we have a couple of neighbors
25 here that would like to testify. I also have

1 Mr. Drewry that can tell you about the background of
2 this property if you would like to.

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

9 What we're saying is just like the rezoning in
10 1985. What could be any different? In other words,
11 this is a lot easier rezoning here than it was in 1985
12 where they zoned the property on Number 15. At that
13 time -- we have in addition to the rezoning, we have
14 addition to our position Number 15.

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

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

22 CHAIRMAN: Mr. Kamuf, let me at this point in
23 time, obviously we're going to let Mr. Drewry make his
24 statement, but at this time why don't we see what kind
25 of questions we'll have rather than some of the

1 witnesses being redundant. If we have questions,
2 comments, then we can bring these people forward. I'm
3 sure we'll be calling upon Mr. Drewry to ask
4 questions.

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

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

13 MR. KAMUF: Sure.

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

19 MR. KAMUF: Yes.

20 CHAIRMAN: And you know that.

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

25 CHAIRMAN: But they're not arbitrarily going

1 and zoning this and zoning that. They're following
2 the strict guidelines that is laid down by the
3 Comprehensive Plan. The Commission has the right and
4 it's charged to make individual rulings on these
5 applications, but the Staff is doing a job and the job
6 which they're charged to do.

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

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

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

15 CHAIRMAN: Correct. It's their job.

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

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

20 (NO RESPONSE)

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

23 (NO RESPONSE)

24 CHAIRMAN: Mr. Drewry, as the owner of the
25 property, would you like to make a statements?

1 MR. ELLIOTT: State your name, please.

2 MR. DREWRY: My name is Ray Drewry.

3 (MR. RAY DREWRY SWORN BY ATTORNEY.)

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

8 I do not work on vehicles as such. I work on
9 anything from a jeep to anything as far as parts go.

10 I salvage a few vehicles to get parts to be
11 able to rebuild and keep in stock. There's not a
12 whole lot.

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

23 In 2001 the property over on 2600 West 10th, I
24 wasn't using but part of the building so I had a
25 transmission shop that wanted to rent the place. So I

1 went and reclassified it as I-1 for a transmission
2 shop. Well, that lasted about two months and they
3 folded so I got the property back. That's where the
4 I-1 classification for transmission shop come in at to
5 answer that.

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

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

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

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

22 I'm to a stand still. I can't buy no more
23 property because I've got a church on one side and a
24 resthome on the other. That's it. That's about all I
25 can say about it. I had a misunderstanding. When I

1 got the classification as I-1 I thought I could, you
2 know, salvage a few vehicles, and I did before I got
3 the classification and the time afterwards and
4 everybody, the inspection department from the city and
5 everybody else has seen it. They've been down there.
6 Last year when I tore the property down on Lancaster
7 Avenue, there was about six of the people from the
8 department or whatever down there. They said
9 something about giving me indication to get rid of
10 that stuff. That's all I've got to say.

11 CHAIRMAN: Mr. Drewry, thanks for your
12 statement.

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

15 (NO RESPONSE)

16 MR. KAMUF: Mr. Chairman, I just have one
17 other thing. Let me pass these around. There was
18 some question about what this property looks like.
19 May I just pass these around and let you look at it.
20 This is the reason that none of the neighbors come in
21 and object because it's probably, it's as nice of --
22 if you want a salvage yard, it's kind of hard to have
23 one that's any better. He has trees around it, a high
24 fence. I think it looks pretty nice, but let me pass
25 these around.

1 CHAIRMAN: Mr. Drewry, you are complimented on
2 the appearance of your facility. You've always kept
3 your place impeccably clean. The fencing, it's very
4 well done. You do a very good job.

5 MR. DREWRY: Thank you.

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

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

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

20 The letter from Lelan Hancock, Facilities
21 Maintenance Superintendent, was copied to Tony Cecil.
22 So that was the only letter. There were two different
23 types of letters or correspondence to Tony Cecil. One
24 from Lelan Hancock that he was copied on. The second
25 one was an e-mail to me from Joe Schepers that Tony

1 Cecil was copied on. I'm not sure how much
2 communication they've had. The only thing we have
3 from the city is a copy of an e-mail from Joe Schepers
4 stating exactly as Brian read into the record and
5 submitted into evidence.

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

8 CHAIRMAN: Yes, sir, Mr. Cambron.

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

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

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

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

23 MR. CAMBRON: The findings of fact that I'm
24 basing my judgment on, my recommendations are from the
25 property owners at 2526 West 10th, 2529 West 10th,

1 2523 West 10th, 2517 West 10th, 1002 Omega Street,
2 1007 Omega Street, 2516 Lancaster Avenue, 2526
3 Lancaster Avenue, and 2538 Lancaster Avenue. My
4 recommendation is for approval, but with one caveat
5 there. That is that Mr. Drewry applies and gets his
6 conditional use permit. I want to make darn sure that
7 I did understand, and I may need to ask Mr, Kamuf to
8 come up.

9 Has your client applied for a conditional use
10 permit?

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

15 MR. ELLIOTT: Variance.

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

18 MR. CAMBRON: I misunderstood what you said.

19 My recommendation is for approval and that's
20 where it stops at that point.

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

24 MR. CAMBRON: Yes, that's correct.

25 MR. JAGOE: Can I question that before I

1 second?

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

4 MR. JAGOE: I have a question about --

5 CHAIRMAN: Mr. Cambron.

6 MR. JAGOE: Yes.

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

10 MR. CAMBRON: Correct.

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

13 MR. ELLIOTT: Yes.

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

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

20 MR. NOFFSINGER: Exactly.

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

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

25 MR. CAMBRON: My recommendation is for

1 approval based upon the most logical and practical use
2 of this property in the Mechanicsville Subdivision and
3 what I read earlier based upon the findings of fact
4 from the neighborhood and the letters that came in
5 from Mr. Kamuf.

6 CHAIRMAN: Mr. Jagoe.

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

9 CHAIRMAN: Are you okay with your question?

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

14 MR. NOFFSINGER: That's correct.

15 MR. JAGOE: That's my question.

16 MR. CAMBRON: As best he can, yes.

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

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

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

24 MR. KAMUF: Right. Thank you.

25 MR. JAGOE: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 -----

8 MAJOR SUBDIVISIONS

9 ITEM 7

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

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

18 CHAIRMAN: Is anybody representing the
19 applicant?

20 APPLICANT REP: Yes.

21 CHAIRMAN: Do we have any questions of the
22 applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Chair is ready for a motion.

25 MR. CAMBRON: Motion for approval, Mr.
 Chairman.

1 CHAIRMAN: Motion for approval by Mr. Cambron.

2 MS. DIXON: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item.

8 ITEM 8

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

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 and ready for
16 consideration.

17 CHAIRMAN: Is anybody representing the
18 applicant?

19 APPLICANT REP: Yes.

20 CHAIRMAN: Does anybody have any questions of
21 the applicant?

22 (NO RESPONSE)

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

25 MR. HAYDEN: Make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

1 DR. BOTHWELL: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 ITEM 9

8 Lake Forest, Phase 4, Lots 241-244, 254-257, 279-369,
9 48.926 acres

10 Consider approval of amended major subdivision
11 preliminary plat.

12 Applicant: Lake Forest Community, LLC

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

17 CHAIRMAN: Is anybody representing the
18 applicant?

19 APPLICANT REP: Yes.

20 CHAIRMAN: Do we have any questions of the
21 applicant?

22 (NO RESPONSE)

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

25 MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

1 CHAIRMAN: Second by Mr. Hayden. All in favor
2 raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item.

6 -----

7 MINOR SUBDIVISIONS

8 ITEM 10

9 10847, 10865 Nalley Road, 9.974 acres
10 Consider approval of minor subdivision plat.
11 Applicant: Martin J. Fulkerson, Daniel G. Fulkerson

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

16 What this plat does it takes two existing lots
17 of record and moves the boundary between the two.
18 It's an even trade of land. It appears that a shed is
19 located on one of the properties that should go to the
20 adjoining property. So they've moved that line over
21 to include that shed on the 4.487 acre tract and then
22 moved the property line and reduced the frontage on
23 the same tract so as to add area like area to the
24 5.487 acre tract. So with that we're not creating any
25 additional lots. It appears it's even exchange of
land. Recommending approval.

1 CHAIRMAN: Is anybody representing the
2 applicant?

3 (NO RESPONSE)

4 CHAIRMAN: Any questions?

5 (NO RESPONSE)

6 CHAIRMAN: Chair is ready for a motion.

7 MR. HAYDEN: Motion for approval.

8 CHAIRMAN: Motion for approval by Mr. Hayden.

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.

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

17 ITEM 12

18 5201 Roby Road, 4.592 acres
19 Consider approval of minor subdivision plat.
20 Applicant: James I. Haynes

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

1 we would recommend approval.

2 CHAIRMAN: Anyone representing the applicant?

3 (NO RESPONSE)

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

6 MS. DIXON: Move to approve.

7 CHAIRMAN: Motion for approval by Ms. Dixon.

8 MR. GILLES: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item.

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15 NEW BUSINESS

16 ITEM 13

17 Consider approval of 2007 Filing Dates and Deadlines

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

20 CHAIRMAN: All in favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimous.

23 One final motion.

24 DR. BOTHWELL: Motion to adjourn.

25 MS. DIXON: Second.

1 CHAIRMAN: All in favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 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 54 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 3rd day of January, 2007.

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

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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