The Owensboro Metropolitan Planning Commission
met in regular session at 5:30 p.m. on Thursday,
December 13, 2007, at City Hall, Commission Chambers,
Owensboro, Kentucky, and the proceedings were as
follows:

MEMBERS PRESENT: Drew Kirkland, Chairman
  Gary Noffsinger
  Judy Dixon
  Dave Appleby
  Scott Jagoe
  Irvin Rogers
  Keith Evans
  Martin Hayden
  Madison Silvert, Attorney

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CHAIRMAN: I would like to welcome everybody
to the December 13th meeting of the Owensboro
Metropolitan Planning Commission.

Will you please rise. Our invocation will be
given by Ms. Judy Dixon.

(INVOCACTION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Let us consider the minutes of the
November 8th meeting. Are there any 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.

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.

I would like to take this time, Mr. Scott Jagoe will be retiring from the commission after this meeting. I would like to take this opportunity to present Scott with a plaque and thank him for his dedication years of services from 1999 to 2007 for serving Daviess County and the City of Owensboro and the City of Whitesville.

Scott, appreciate having you on board. Thanks for all the help you've given us. We appreciate all your service.

Mr. Noffsinger, next order of business.

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ZONING CHANGE

ITEM 2

1117 Allen Street, 0.160 acres
Consider zoning change: From R-4DT Inner-City Residential to I-1 Light Industrial.
Applicant: Steven Mayton

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

(MR. BRIAN HOWARD SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. This recommendation is made subject to the following findings of fact:

FINDINGS OF FACT:

1. The subject property is located in a Central Residential Plan Area, where light industrial uses are appropriate in very-limited locations;

2. The current zoning classification of R-4DT Inner-City Residential is appropriate for the subject property;

3. The expansion of I-1 Light Industrial zoning is not a logical expansion into the Allen Street blockfront because it would create the only industrial zoning within the 1101 block of Allen Street;

4. The criteria for expansion into a residential area across an intervening street have not been met; and,

5. The subject property adjoins R-4DT Inner-City Residential zoning to the south which is consistent within the entire blockfront.
MR. HOWARD: We would like to enter the Staff Report into the record as Exhibit A.

MR. NOFFSINGER: Mr. Chairman, before we move any further I do need to make a statement.

On Items 2 through 6 Zoning Changes, the action taken tonight by the Planning Commission will be a recommendation. The action they take will become final in 21 days unless someone files a request here tonight or in the offices of the OMPC within 21 days requesting that the City of Owensboro or the Daviess County Fiscal Court take final action. So, again, the action of the Planning Commission becomes final in 21 days unless someone files a petition for City of Owensboro or Daviess County to hear the item.

CHAIRMAN: Thank you.

Is there anybody here representing the applicant?

MR. MAYTON: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Would the applicant like to make a statement?

MR. MAYTON: Yes. My name is Steve Mayton. I own the property.
MR. MAYTON: I'm Steve Mayton. I'm the one that owns the property that abuts this lot. I've owned it for the last six years. It hasn't been developed. Nobody wants to develop it. I need to expand my existing business. On the Allen Street side they're referring to, there will be a 65 foot offset from that street that will be green space and parking lot. The property years ago used to be I-1. To me it's a logical expansion so I can expand my business without having to go buy the property somewhere else. That's why I think it should be rezoned to I-1.

CHAIRMAN: Mr. Mayton, is this property, isn't it right next-door to the railroad tracks?

MR. MAYTON: Yes. The railroad tracks are to the north. There's a big warehouse right straight across the street on Allen Street. It actually, the warehouse's address is 12th Street, but it has access off of Allen Street and it's zoned I-1.

CHAIRMAN: When going to an I-1 zone, exactly what is going to be your nature of your business?

MR. MAYTON: I have a restoration shop on the Daviess Street side. If I add on to my existing building, my access will come off my parking lot from Daviess Street to this. It won't have access off
Allen Street. Won't affect it in any way as far as traffic or anything like that is concerned.

CHAIRMAN: So you will not have, you don't want any access off of Allen Street. Are you going to expand your building back into that area?

MR. MAYTON: Yes.

CHAIRMAN: So there will be no open area or storage or anything going on back there?

MR. MAYTON: No, sir.

CHAIRMAN: Be a little bit more specific.

Exactly what kind of operation do you run? Don't you do --

MR. MAYTON: I restore antique cars, boats, motorcycles. Just anything like that. I've been there for six years. I haven't had one complaint. Nobody has ever complained about what I did, my building that I built or anything. I haven't had any problem with anybody in the neighborhood that I know of. I think my building added to the neighborhood and raised their property value rather than took away.

Nobody wants to put a house 50 feet from a railroad track. The lot has been sitting there vacant for six years and I just felt like it would be better used if I got to rezone it.

CHAIRMAN: What you're going to put back in
there will be your building. You will expand back
there with your building. Everything you do will
actually be inside?

MR. MAYTON: Yes. There will be a parking
lot. I'll have to have more parking space so I can
expand my building. Everything will be inside the
building.

CHAIRMAN: Does anybody else got any questions
of the applicant?

(NO RESPONSE)

CHAIRMAN: As the commission knows the Staff
has recommended for denial. Does anybody on the
commission have any other thoughts?

(NO RESPONSE)

CHAIRMAN: Are there any further comments?

(NO RESPONSE)

CHAIRMAN: No further comments by anybody.

Mr. Appleby.

MR. APPLEBY: Thank you.

CHAIRMAN: Chair is at the point now where we
need to make a motion.

MR. APPLEBY: Mr. Chairman, I'm going to make
a motion for approval with the condition that there be
no access on Allen Street and would change the
condition that it would be a logical expansion of the
I-1 on Daviess Street in place of the, I guess it
would eliminate Findings of Fact Number 4.

MR. NOFFSINGER: Mr. Chairman, if I might.

CHAIRMAN: Yes, sir, Mr. Noffsinger.

MR. NOFFSINGER: What you may want to look at,
findings of fact Number 1 would still be applicable.
You may also want to consider the location of the
railroad in this area. Also it's been presented in
the testimony that the adjoining property to the west
across Allen Street is zoned and used for I-1 light
industrial, then the property to the east is zoned and
used for I-1 light industrial. Mr. Mayton has
indicated that the property was zoned industrial back
many years ago.

The issue of logical expansion I think you can
certainly find that if you feel this is a logical
expansion. The reason Staff did not determine it to
be that was because of orientation, because we're
moving onto another street, but that's not to say that
you couldn't find it to be a logical expansion of the
existing business. I think all of those you could use
as your findings.

CHAIRMAN: Mr. Appleby.

MR. APPLEBY: Then the Findings of Fact would
be Number 1 would still apply.
Number 2 would be eliminated.

Number 3 would be the expansion of I-1 Light Industrial zoning is a logical expansion of the existing industrial zoning.

Number 4 would not apply and neither would 5.

Am I reading that right?

MR. NOFFSINGER: Right. You might want to talk about the railroad track and the uses in the area.

MR. APPLEBY: There will be an additional findings of fact that the property adjoins the railroad track and the three surrounding properties are currently zoned I-1 and used for light industrial use. That would be my findings of fact.

MR. NOFFSINGER: That would be contained in the report and the testimony.

Any commitments that are made here on record that are said here tonight can be used at a later date in terms of commitments you've made on the zoning change. The record, we do keep a permanent record and that record will be used in the future to make sure that you adhere to what's said here tonight.

CHAIRMAN: Mr. Mayton, you understood obviously my question about open area storage and about enclosed work area for your business?
MR. MAYTON: Right. The last six year I've been there everything has been kept inside.

CHAIRMAN: I wanted you to know that part of your testimony was going to be things that you're also agreeing to.

MR. MAYTON: Yes.

MR. APPLEBY: And understand we're limiting access, we're not going to have any access on Allen Street.

MR. MAYTON: That's fine. I didn't want access off Allen Street. It's too small.

MR. JAGOE: Are those both going to be conditions of the zoning?

MR. APPLEBY: Are you making that a -- would that be a condition, the outdoor storage?

MR. NOFFSINGER: That can certainly be a condition, if you want to reenforce that. The gentleman has made that statement. I think that can be used in the future in terms of use of this property, but you can reenforce that through a condition.

MR. APPLEBY: We make that a second condition.

CHAIRMAN: So, Mr. Appleby, are you ready to tie it into a motion?

MR. APPLEBY: I think so.
Make a motion for approval with the condition there be no access on Allen Street. The second condition there will be no outside storage of vehicles.

Findings of Fact: Number 1, The subject property is located in a Central Residential Plan Area, where light industrial uses are appropriate in very-limited locations;

2. Expansion of I-1 Light Industrial zoning is a logical expansion of the existing zoning;

3. There are light industrial uses on three sides of the property; and,

4. The property is located adjacent to the railroad track.

CHAIRMAN: Mr. Appleby has made a motion for approval based on conditions and findings of fact. Do I have a second?

MR. EVANS: Second.

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

(Board Members Scott Jagoe, Irvin Rogers, Dave Appleby, Drew Kirkland, Keith Evans, Martin Hayden responded AYE.)

CHAIRMAN: All opposed.

(Board Member Judy Dixon responded NAY.)
CHAIRMAN: We've got six for and one against.

The motion carries.

Next item, please.

ITEM 3

10760 Jackson Road North, 49.470 acres
Consider zoning change: From A-R Rural Agriculture
and EX-1 Coal Mining to A-R Rural Agriculture
Applicant: Jared L. Gibson

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

2. A portion of the subject property is
designated as prime agricultural farmland according to
the "Important Farmlands" map created by the US
Department of Agriculture Soil Conservation Service
dated March 1980;

3. The subject property has frontage on and
access to Jackson Road North which is an existing
street with no new streets proposed;

4. There is no mining activity on the subject
The Owensboro Metropolitan Zoning Ordinance Article 12a.31 requires that property shall revert to its original zoning classification after mining.

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

CHAIRMAN: Is there anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

MS. DIXON: Move for approval based upon Planning Staff Recommendations and Findings of Fact 1, 2, 3, 4 and 5.

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, please.

ITEM 4
1937 Leitchfield Road, 2050 East Parrish Avenue, 3.46 acres (postponed from 11/8/07)
Consider zoning change: From A-U Urban Agriculture and P-1 Professional/Service to P-1 Professional/Service
Applicant: Dale Buskill, SMB Properties, LLC

PLANNING STAFF RECOMMENDATIONS

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

CONDITIONS:
1. Access to 2050 East Parrish Avenue shall be limited to approval locations as shown on the final development plan approved on January 4, 2007;
   2. The need for a right-turn decel and storage lane should be evaluated when access is established on East Parrish Avenue; and,
   3. Access to 1937 Leitchfield Road shall be limited to a single access point on Leitchfield Road in compliance with the Access Management Manual.

FINDINGS OF FACT:
1. The subject property is located in an Urban Residential Plan Area where professional/service uses are appropriate in limited locations;
2. The subject property is a logical
expansion of an existing P-1 Professional/Service zone located immediately west of the subject property; and,

3. The proposed rezoning will not significantly increase the extent of the P-1 zoning classification in the vicinity and will not overburden roadway capacity and other urban services that are available in the affected area.

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

Also I would like to add that the commissioners have been given a copy of a map that I'm going to show at this point and enter it into the record as well. It may take a minute for it to come up on the screen.

 Basically this outlines to our understanding as is stated in the applicant's packet what their proposal is as far as access and as far as viewing the proposal tonight.

 Basically it shows where the approved access location is for the property of East Parrish Avenue, which is Dr. Block's property. Basically an approximate location of where they propose to relocate the access and then access across the street which is not in alignment with their proposed location and in an area where there could be some conflict.
I would like to enter that into the record as well. Thank you.

MR. ROGERS: Mr. Chairman, I need to disqualify myself on this one.

CHAIRMAN: Let the record show that Mr. Rogers is disqualifying himself.

Is there anybody representing the applicant?

MR. SILVERT: State your name, please.

MR. KAMUF: Charles Kamuf.

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)

MR. KAMUF: Judy and Board Members, I represent Dr. Block and also Dale Buskill concerning the rezoning out there on Highway 54.

I think as Brian stated, it was continued from the last meeting and it was continued because Dr. Block was at a medical seminar in Atlanta.

I think this just helps in line with the photograph that has been shown. We have a small copy of this for everybody, for the board. It really is in line with what you see up on the screen.

I might point out is that this is the Buskill/Block property. This is the property that you rezoned last month, which is further down the road. This track that we see here on the Block property, the block property here is about two point something
acres. The other track that you see here in the yellow is 1.7 acre tract of ground.

    We have an access point. In January of this year by a development plan, you all approved an access point, which I will show you in just a second, along this line. The only thing that we're asking tonight is that that access point be shifted further east approximately 200 feet so that it will not only serve one property, it will serve two property owners. So that's what this argument will be about tonight. Is that we want to shift.

    If you'll show that next exhibit.

    What we have here, this is the January approval. If you look at the bottom of it according to that plat, it shows at the bottom that this is a final development plan. It covers the property. At that time I believe there was one building on the Block property. You'll see later that we have approximately four buildings on the property. The access point that you see on that particular map that is designated as Exhibit A is this point right here on the big map. That's right here. It will be to the west of the subject property. What we intend to do is to have one joint access that you see in green on the big map. This will be the joint access for both the
Block and the Buskill property.

Now, the proposed, this is the proposed map that you see which will show the -- this is the joint access that you saw in the green on the property. It will be a joint access for both the Block and the Buskill property. It will be shifted from right here where I show here approximately 200 feet up to this particular point.

The access that we had was for a single property owner. This will be now for a joint property owner.

Block will give up his access point that you see on the one exhibit. I guess it's Exhibit A. He will now ask for on Exhibit B that he have a joint access for both properties. So it will serve two properties instead of one.

Since the filing of this application prior to November and since the board hearing at the last meeting, there has been one major development in this particular area. That the last meeting on November 8th by unanimous decision this board approved the rezoning of the Hinton property which is at this corner here. It's on your big map that you see as Exhibit C. You all approved that by unanimous decision.
What you actually did is you approved this property which is, it's a stone throw, I don't know how many feet, from the subject property. What it did, what you actually did at that time is you approved it. If you see this little exhibit that I show you at this time, on the first part it was approval with no conditions and it was approved with access to Highway 54.

If you'll turn to the third page, which is underlined in yellow when you get it. It was approved without any limitation as to the access on Highway 54. If you look at the conditions that was requested by the Staff, it said, "The existing access to East Parish Avenue should be closed and access be limited to east shall be closed and access shall be limited to Wing Avenue." You all approved that without any condition whatsoever.

The issues that we're here to discuss tonight will be three.

One, the first condition that you all have requested is that access to Parrish Avenue shall be limited to a final development plan.

We're asking you to do no more than amend Dr. Block's final development plan and change the access point as I went over.
The second condition is a right turn decel storage lane shall be evaluated. We think that the decel storage lane should be evaluated at the time that the Buskill property has a final development plan. The Block final plan was approved without a right turn decel lane.

We have a traffic engineer here who will testify concerning that. Basically at that time it will be up to the state highway engineer to make that call. The third condition that's requested is that access to 1937 Leitchfield Road be limited to a single access point. We think that the primary access point would be better if it was on 54 and the secondary access point would be better if it was on the Leitchfield Road area.

The Hinton property that you rezoned last month is in the area that we have in purple. At that time the Hinton property as you can see was in a sharp curve. There was some question in the Staff Report about the sharp curve on the property that we're going to have in a few minutes. As you can see at that time, along Highway 54 on the Hinton property it was 196 feet to that point that you have the center line of the proposed entrance.

What makes that important is that according to
the required guidelines it was suppose to be 500 feet.
So you approved it with 167 foot.

As you see the Wing Avenue exit there, the
Wing Avenue exit allowed them at that time the access
point. So they asked for the access point to be at
the intersection where you see the center line.

The access point at that area that you have
the Hinton property was for one property owner. The
board at that time decided that an access point was
good to have on Highway 54 for the Hinton property.

Now, when you see this other exhibit, what
makes this different is this is about a two acre track
of ground that you have on the Block property. As you
can see, the curve is not near as sharp that we have.

The access point, there was some question
about the access point that you see here across from
the property. As you compare these two pieces of
property, the access point I would say on this area
that you have here is across from a strip center which
is a traveled area that also I think is an area for
Wholesale Petroleum. It is a lot more, there's a lot
more traffic at that particular area than there would
be that we see along this area here.

The track that you see where you have the
green area is in line somewhat with the driveway
across the road. I think all of us know that when you have this driveway across the road it will be closed at a later date. I don't think there's any question that there's a driveway to this house here. I think it goes to a Mr. Welch. I'm not for sure. That driveway eventually will be closed because you can see it will not go to the rest of this traffic that will be closed because of these buildings here.

The proposed access that we have here on this property if you see is 465 feet or 468 feet from the intersection of Leitchfield Road. So the other one that you approved last month was 168 foot, but we'll have the engineer to testify that there's nothing magic about whether it's 468 or 168. It depends up on the question.

We think that our proposed rezoning tonight is a lot stronger case than the one that you approved last week.

CHAIRMAN: Mr. Kamuf, excuse me. You've done a great job with all the maps and everything. Big question I need to ask is: This property in yellow, the Dale Buskill property, where is their entrance and exit?

MR. KAMUF: Where is their entrance?

CHAIRMAN: Yes.
MR. KAMUF: It will be joined, you see in the
green.

CHAIRMAN: So you are proposing to close the
Buskill property entrance and there's going to be one
joint; is that correct?

MR. KAMUF: No. The block property will be,
if you see the Block property which is at the end of
the red. It's on one of those exhibits. I think it's
Exhibit A.

CHAIRMAN: Right. But we've got the Dale
Buskill property down here. Isn't their access to
East Parrish Avenue up there pretty close to this one
that you're proposing?

MR. KAMUF: I'm sorry, Mr. Chairman, I don't
understand.

MR. NOFFSINGER: Excuse me.

Mr. Chairman, the Buskill property does not
have frontage on 54. Therefore it does not have a
driveway or an access to 54. It's frontage and
driveway access is limited to Leitchfield Road.
The proposal Mr. Kamuf is sharing with you
tonight is to get Mr. Buskill a driveway onto 54.

CHAIRMAN: Okay.

MR. KAMUF: The reason for that is along this
particular area that you see through here is that
there was some land that they wanted to interchange. So Mr. Buskill and Mr. Block will interchange some land and make it where it's convenient for both of them to have that joint access in the green where both of them would share it to Highway 54.

CHAIRMAN: I'll have to ask Mr. Buskill some questions. Just had to clear myself up on where we were going.

MR. JAGOUE: Can I ask a question?

CHAIRMAN: Please.

Mr. Kamuf, Mr. Jagoe has a question.

MR. JAGOUE: The property that's in front of Mr. Buskill's, is adjacent to Parrish Avenue. Where would you anticipate that they would have access?

MR. KAMUF: That is a very good question. We are willing at this time to give them access from, it would be a shared access between Buskill, Block and whoever those individuals would be. We're willing to do that. We have not made an agreement with them.

CHAIRMAN: Who owns, do we know of record who owns this property?

MR. NOFFSINGER: Yes, sir, we do. That property is owned by Welsh. Last name is Welsh. They are represented here tonight.

MR. KAMUF: We have a traffic engineer here,
Bill Hays. If you would pass those. Mr. Hays has had a great deal of experience with the City of Bowling Green in making application of the access manual. He graduated in engineering at Vanderbilt University. He's had 33 years of experience with all of the traffic. He's prepared over 100 traffic impact studies. I think he'll tell you that the safest place along this highway to have an access point will be the proposal that we have asked you all to approve. Mr. Hays is here.

CHAIRMAN: Mr. Kamuf, I hate to interrupt you. I think at this point in time, at least for my behalf and maybe the rest of the commission, I think we need to hear from Mr. Buskill to make sure if he's in on this. If he's agreeable to this at this point in time as far as having this point.

MR. APPLEBY: It's his application.

CHAIRMAN: Okay.

MR. NOFFSINGER: It's his application. What you I think will hear from in just a moment is from the adjoining property owner, Welsh, that has this frontage all along Kentucky 54, Parrish Avenue from where they're proposing the access point to Leitchfield Road. I think that is the fact. Mr. Buskill as part of this application has no frontage on
CHAIRMAN: All right.

MR. JAGOE: Just one more point of clarification. On Exhibit B, is the proposed for the Block property.

MR. KAMUF: That's correct.

MR. JAGOE: That does front 54, correct?

MR. KAMUF: Which exhibit?

MR. JAGOE: Exhibit B.

MR. KAMUF: David Weaver can answer that.

MR. SILVERT: State your name, please.

MR. WEAVER: David Weaver.

(MR. DAVID WEAVER SWORN BY ATTORNEY.)

MR. WEAVER: I'm an employee of Bryant Engineering. We worked on the conceptual plan with Dr. Block as well as this currently approved final development plan. We've also been working directly with Dale Buskill on his site.

Scott, I think what you're looking at is this area through here would be an exchange in the future. Dale would acquire this in an ingress/egress easement we would place in that area.

MR. JAGOE: Actually my question is, do they own to the right of way where the parking lot sits against 54?
MR. WEAVER: Dale Buskill does not.

MR. JAGOE: Does the Block property?

MR. WEAVER: The Block property does. The Block property right now is somewhat irregular. There's a finger that comes out along in front of Dale Buskill's property.

MR. JAGOE: So they do have frontage through there.

MR. WEAVER: They will have frontage through there after the property is transferred from Dr. Block to Dale Buskill.

MR. APPLEBY: I think he's asking about the Block property.

MR. JAGOE: The Block property has frontage?

MR. WEAVER: That's correct. All the frontage along here is Dr. Block's.

MR. JAGOE: All along 54.

MR. WEAVER: Yes. With the exception that once you get past this point, once you get past the green area on this map, the area that's not colored is the Welsh property. This area through here is actually right of way.

MR. JAGOE: I'm just speaking to Exhibit B. The one that you have there. Is access allowed anywhere along that property?
MR. WEAVER: Dr. Block currently has an approved access point. He has an approved final development plan. His current approved plan --

MR. APPLEBY: Exhibit A.

MR. JAGOE: I thought Exhibit A was the Buskill property.

MR. APPLEBY: No. Exhibit A is the Block property.

MR. WEAVER: This is Dr. Block's current approved access point. He'll be moving this access point to a joint access point here on property that will be transferred to Dale Buskill.

MR. APPLEBY: That's the way it exist right now.

CHAIRMAN: I think maybe the commission is getting a grip of this.

Scott, I appreciate your efforts there in going through the exhibit.

MR. JAGOE: I was just trying to determine where the access was, where the approved access is for the Block property on Exhibit B.

MR. WEAVER: If you look at Exhibit B. You see the two squares here. Those are actually, I left those on there intentionally. That was the --

MR. JAGOE: It got it. Thank you.
MR. NOFFSINGER: Which is also Exhibit A approved plan.

CHAIRMAN: At this point in time maybe it would be easier, I hate to hold up your expert witness, but I think at this point in time maybe for the sake of the commission we may bring the Welshes up, if there's somebody representing that party, and see. That was the access that I was trying to find out. I got through my exhibits. That's really the access, I need to find out where that is. Obviously we have that, but I'd like Mr. Welsh to testify.

MR. SILVERT: State your name, please.

MR. WELCH: Denny Welsh.

(MR. DENNY WELSH SWORN BY ATTORNEY.)

MR. WELSch: I tell you guys, this is a little bit overwhelming for me.

I'm here representing my father who owns the two adjoining properties. He also owns the property across the road which is several acres. When I say several, probably between two and three acres. He owns the property that has access on 54 that adjoins this property that we're talking about.

My father has a little heart condition. He didn't feel like he needed to be here today.

Stress-related with all of this stuff. My brother and
I are trying to do what we can to make this clear. I think if you listen to me and forget the razzle-dazzle, you will have a clear understanding of what's going on here and what we're talking about. Okay. Like I said, I don't have a lot of experience in this area, but I do understand what this hearing is about. It basically is boiling down to access. CHAIRMAN: Mr. Welsh, that's our question. Where is your access?

MR. WELSCH: We don't have access on 54 right now. My father's family has owned all of that property for back into, he grew up on that land, 100 years ago. It's been in my family history. When my grandparents died, they separated it between the four brothers and sisters. Then it become divided into two. My father bought part of it out and one of my aunts and uncles bought the other part of it out. So it was basically divided into two properties.

Then at some point 54 was built through there. Then they come along and the state took my dad's home and he moved it up on the hill. It cut right down through both people's properties, my aunt's and my father's, which was still that whole little piece of land. Okay?
CHAIRMAN: Okay.

Mr. Noffsinger, does Mr. Welsh have the potential for an access to 54 because he's going to be --

MR. NOFFSINGER: Yes. Mr. Welsh does have potential for access to 54 and here's why. He does not currently have an access point to the property at 2065 Parrish Avenue, which is on 54. There's not one there currently. However, there is a driveway located across Parrish Avenue going to their existing residence. They own property on the other side at 2065 Parrish Avenue. That driveway is existing. That driveway was put in by the state when 54/Parrish Avenue was constructed in this area. This driveway will be allowed to continue from here on out. When that property is considered for rezoning, it is likely that the driveway access will be afforded at that location where the existing driveway is and across from Leitchfield Road.

Now, the property on this side of 54 where the subject property is located does not have access to Highway 54, but in the future if it does it will need to be in alignment with the driveway across Parrish Avenue. So Mr. Welsh is concerned and we're concerned with what happens in the future if there's an access
point across from their existing driveway to the home, and then there's an access point at the proposed location that Mr. Kamuf has explained to you.

The Planning Staff is not proposing, we're not proposing to deny access to 54. Mr. Block has access to 54 at an approved location. The rezoning you considered last month down the road we did not deny access to 54. They had an existing access point onto 54. The Planning Staff was recommending that that be closed; however, the applicant made an argument as to why the existing access point should remain open. If it were closed they would have no access to 54. Their only access would be Wing Avenue. That case has been brought up here tonight, but we weren't proposing a new access point there. Here we're proposing a new access point at a different location, which has an affect on this gentleman's future access. That's our concern. If the proposed location Mr. Kamuf has described to you works for the Welsh's and they're willing to close the driveway to the home upon redevelopment of that property, then we would be recommending to you that the access point be located as Mr. Kamuf has stated, but it's my understanding that the Welshes aren't willing to do that because they don't want to lose their accessibility that they
have and future accessibility to Kentucky 54.

So that's kind of where we're at. We're not denying anyone access to 54. They're going to have access to 54. They have frontage on 54, but it's a question of where to put it. If we approve it where Mr. Kamuf proposes it, then you are going to have a conflict with left turn movements.

I know the traffic engineer is here to talk to you about that. I would think that he's going to have to address that because you would have two driveways offset in a bad direction. Meaning you have vehicles that are coming head on wanting to make left turns and they're going to hit before they get to the driveway. That is a serious transportation issue.

CHAIRMAN: My question will be: If Mr. Buskill agrees to some proposal on this side, with Mr. Buskill and Mr. Welsh, if they agree to some joint entrance where Mr. Kamuf is proposing, he will not lose this access to the house until that property is developed, correct? We're not going to close him off to his house.

MR. NOFFSINGER: That's correct, but in the future should that property across the road, where the house is, be redeveloped, then that driveway would need to be closed because you would have driveways
that are offset in the wrong direction, unless they
were in alignment. Now, if a deal can be reached to
where the proposed driveway is in direct alignment
with that home, the driveway to the home and Mr. Block
and Mr. Buskill and Mr. Welsh agree to that, then
that's certainly doable, but what we want to avoid is
having driveways that are offset in the wrong
direction because of left turn movements.

MR. WELSH: I don't think you all appreciate
the left turn access that we're talking about. You
don't find streets all over town that are not -- you
don't have these things lined up like that. There's
only one place on 54 that's like that, and that's
right there at Alvey Park and across from the county
garage and the access to the Owensboro Youth
Development Center where my office has been for 25
years. So I've traveled 54. I've worked that road.
I go to my father's home. I come back and I make
those left-hand turns into the Owensboro Youth
Development Center where the access to Alvey Park
Drive is practically the same to a what they're
showing you. What happens is just like Mr. Noffsinger
said. You've got people coming. They end up caught
in the middle of the turn lane and they're stopping.
Then what happens? You've got another car that's
coming up the road and they want to make a turn and they're looking at their access all of a sudden their access is blocked. They can't get into the turn lane. So you've got people running in the back of each other. You've got people hitting head on. You've got people jumping out because they can't see somebody coming out. Then they jump out and cause an accident there. We've seen accidents like that for years. People come into the building and they say they saw this terrible accident up on the hill. The next thing they say, you know, it's somebody that worked there. They say, somebody is going to get killed out there.

CHAIRMAN: Mr. Welsh, what we're trying to do, as Mr. Noffsinger has mentioned, is the possibility of lining up this exit that Mr. Kamuf is proposing for his client with the driveway to your house and give you access on property that you currently own and somebody else with agreement with all parties. You would end up with an access at minimal cost.

MR. WELSH: Yes, but the thing about it is the access, we don't have a development plan for either side of the road. We didn't come in here prepared to show some kind of development plan.

CHAIRMAN: We're trying to line this up in the future to give you potential to do whatever you wanted
MR. WELSH: That's what I would like to do too, but I'd like and my father would like with both of his pieces of property, he should be able to line them up the way he -- come before you and ask to have them lined up the way he wants to. He might want at some point to move or whoever develops the land. It's not going to be me. It's not going to be my father. Whoever develops the land say on the other side of the road, they might come along after they clear everything down they want to move the access up ten feet or they might want to move -- and they don't have the access on the other side and they want to line them up.

CHAIRMAN: Once we have an access from this Buskill and Block property --

MR. WELSH: But they have access, but it's down at the other end of the road.

CHAIRMAN: Yes, sir, I understand that. Through their proposal if we were to consider that and put them in an access point there, then your access point, any future access points you would have with the closing of the house would have to come off the measurement of that access point.

MR. WELSH: The property would be worthless if
you didn't have the access.

CHAIRMAN: You would be given access. What
Mr. Noffsinger said is what we would like to do at
this point in time is to align or get an agreement
with all the property owners, get an access on this --

MR. WELSH: See, I don't have the liberty to
do that.

CHAIRMAN: I'm sorry.

MR. WELSH: I don't have the liberty to sell
off pieces of --

CHAIRMAN: Wait a minute. We're not trying
to -- what we're trying to do is get this access lined
up with the other access.

MR. WELSH: But the other access comes in to
our property.

CHAIRMAN: Correct. Then it's set for the
future. Anything you want to do in the future your
access points would be lined up. You would have an
access point. This part of the process you wouldn't
have to go through.

MR. WELSH: You understand where you're
putting the access if I take that across the road
compared to how far that access is to this whole
property all the way down to Leitchfield Road?
Several hundred feet. If I'm trying to sell this
property and somebody wants to develop it and that's the only option they've got for their access is right down there at the very end of the property.

MR. NOFFSINGER: Excuse me.

Based upon the access management manual standards that these folks are required to live by and anyone that's developing on Parrish Avenue, Mr. Welsh, that's where the access would be. In line with where the drive is to the residential house now. Because it's suppose to be a minimum of 500 feet from the intersection of Leitchfield Road.

I can tell you that most likely Staff would not recommend moving your access point any closer to Leitchfield Road because that is a major intersection.

Now, if you can work a deal with these folks and we can alignment the driveways, and we're certainly supportive of that, but we have no way of making you do that. I think it would be --

MR. WELSH: I'm not inclined, I didn't come here to make deals today. I'm not inclined to -- go ahead, I'm sorry.

MR. NOFFSINGER: I think in terms of where your access to that property would be and could be in the future, I think it could be a workable situation amongst the three parties for that driveway to be
located on your property in alignment with the
driveway that goes to the residential home. Whatever
deal you strike, that's up to you. I'm just saying
the way I see the property developing down the road
for access, it needs to be across from the residential
property.

MR. WELSH: So I don't have to sell; is that
right?

CHAIRMAN: We've got the engineers here that
could help us craft a proposal. What very likely you
could end up with, Mr. Welsh, is access to 54. No
cost in the road or the entrance and the exit. End up
with your other property set up with an alignment of
the driveway, there again through no cost of your own.

MR. NOFFSINGER: And also Mr. Block could
possibly retain the driveway that has already been
approved so that all of these developments have more
than one or two ways out and you would not have to
sell your property to them depending on the deal you
reach. It could still be owned by you, but they do
all the construction. Then you do have access for the
future, where your access should be in the future and
could be. I'm not trying to push you in that
direction. That opportunity is there if the parties
could come together.
MR. WELSH: I don't have any idea what -- you all are kind of throwing stuff at me. I'm not ready to make a decision on it. It's been overwhelming.

MR. WEAVER: Mr. Chairman, if I could speak to that.

CHAIRMAN: Absolutely.

MR. WEAVER: David again with Bryant Engineering.

The two access points, the existing access point to Mr. Welsh's property across the street and the proposed access point we've got here are only 19 foot out of line. If we align the two access points to allow Mr. Welsh to have access straight across from ours in the future, all would have to happen was Mr. Welsh would have to grant an ingress/egress easement to allow all three parties to share the common access point.

MR. APPLEBY: You're not actually on his property, are you?

MR. WEAVER: We would be on his property with the access.

MR. JAGOE: Nineteen feet.

MR. WEAVER: Well, the center of the access would be 19 feet. It would actually be more than that with the easement.
MR. APPLEBY: I'm looking at the right-of-way though, David. This in green is your property?

MR. WEAVER: That in green is the property.

MR. APPLEBY: From there to the road is right-of-way?

MR. WEAVER: Yes.

MR. APPLEBY: Is there a reason you can't put a bend in this road to align with his access point on the right-of-way today?

MR. WEAVER: Typically the state highway department allows a 15 degree skew off the perpendicular. It's very likely that we could do that with a skew. Obviously we'd have to check in the office.

MR. APPLEBY: Then you wouldn't really effect him at this point. What I'm getting at is, if that were a possibility and you agree in your proposal to if in the future he wants that access, he has a right to it. He doesn't have to do anything today. He doesn't have to give up anything. He doesn't have to agree to any access points or anything else. He can make his case when he comes in in the future. Am I thinking right?

MR. NOFFSINGER: Well, except that you've already established an access point and you forced him
MR. APPLEBY: We haven't forced him to do anything. He can argue it when he comes in here in the future is what I'm getting at.

MR. NOFFSINGER: I think you've significantly reduced his chances of having access to 54.

MR. APPLEBY: Other than right here.

MR. NOFFSINGER: On the opposite side of 54. To the property on the same side of 54 as the Block and Buskill property I think you've significantly reduced it.

MR. APPLEBY: If they give him the right to their access road?

MR. NOFFSINGER: If they give him that right then --

MR. APPLEBY: That's what I'm saying. That's a condition. That they have to give him access to that access.

CHAIRMAN: But if he would come down and they would acquire 15, 20, 50 feet of his property, they could line those things right up.

MR. APPLEBY: As I understand, this gentleman is not in a position to do that, if I'm hearing him right.

CHAIRMAN: I understand that.
MR. APPLEBY: He doesn't want to make that decision.

MR. WELSH: The basic thing is we're not developing this property at this time. The land has just been filled. You can't develop anything on it for a year or two anyway. We're not going to develop it. We're going to wait and try to sell it to somebody and then whoever develops it would want to come in with their access and run it however they might -- it might be feasible to whatever they might want to do. I don't have any idea. It won't be me developing anything.

CHAIRMAN: Mr. Welsh, what we're saying is we're putting you a step ahead.

MR. WELSH: No. You're putting me where you want me. You're putting me where they want me.

CHAIRMAN: No. We're putting you where the access makes the most sense whereas you end up with a piece of property that has an access. It's existing. There's no -- you don't have to come back to get an access. It already exist on your property plus somebody else is paying to put it in.

MR. WELSH: If they don't have that access and we come back, our line across the road lines up with our property, we can ask for an access there. It's as
simple as that.

CHAIRMAN: Absolutely.

MR. WELSH: At this point I have no interest.

CHAIRMAN: How far is the existing access, Gary, from where --

MR. JAGOE: If they put their access in where they're proposing right now, that doesn't line up with his across the street and there's no agreement between the two property owners, that puts Mr. Welsh at a disadvantage. Where they're at, access is going to go; is that correct?

MR. NOFFSINGER: That's a correct statement.

CHAIRMAN: Because where is he going to get his 500 foot from the intersection?

MR. JAGOE: Where does he get his 500 foot from the intersection now if this proposal was not in front of us and he had a proposal in front of us?

MR. NOFFSINGER: There is a driveway across 54.

MR. JAGOE: So that gives him the access across?

MR. NOFFSINGER: Not by right. That gives him the opportunity to come before this commission as have been done in the past and say, there's one established across the street. We don't have 500 feet, but this
is the logical point to place it.

MR. JAGOE: Okay.

MR. WELSH: The bottom line to me, if they want to develop their property now, they can use the access that's been granted and develop it utilizing that. You've got all these engineers and lawyers and you can't come up with a plan how you can develop that property together without having to come in here and use an access that we're not --

CHAIRMAN: Do you understand that in the future if their access, the original granted access on 54, if we deny this request and they have their original access there on 54, more than likely the only place that you're going to be able to get an access is right across from the driveway.

MR. WELSH: That's right. That access becomes much more valuable because we don't have three properties and three developments running into this access. When somebody wants to develop the property across the street, their access will be okay and he won't have this big mass of cars running in and out of there and crossing all kinds of traffic.

CHAIRMAN: I don't know. I can ask.

Mr. Appleby, is that a correct statement?

MR. APPLEBY: I don't know. That's not my
field of expertise.

        CHAIRMAN: Mr. Jagoe?

        MR. JAGOE: I'd have to have a traffic
engineer look at it.

        MR. WELSH: You can't say what will happen.

Your all's position is planning, if you look at eight
or ten years down the road. This situation out there
at Alvey Park Drive didn't happen overnight.

        CHAIRMAN: Mr. Welsh, that's really what we're
trying to do in this situation is look to the future.

We're getting one access or we're considering moving
one access down here. This is going to be -- if we
leave his access where it is up here, when you come
back and ask for an access or your heirs or whoever
comes back before us, their situation is going to be
moved 18, 19, 20 feet from what this is at a full cost
to you and that's it.

        MR. WELSH: It won't cost me anything.

        CHAIRMAN: Somebody will be paying for that
access at that point in time. What we're trying to do
is just tidy the whole thing up. Do away with one
access. Give you an advantage of the possibility or
potential with their agreement and your agreement with
the potential for one access there. They're
potentially -- I can't speak for them obviously.
They're potentially at this point in time will bear the burden of the total cost. The only difference is you're going to be 18 feet one way or the other is the only access you would gain would be greater in the future.

MR. WEAVER: Mr. Chairman, can I speak to that?

CHAIRMAN: Absolutely.

MR. WEAVER: Dave Weaver with Bryant Engineering once again.

We've talked amongst ourselves and we feel as though we can align the two access points via PI in the middle of 54 and put a 15 degree skew and stay on our property. Although we feel as though the better alternative would be to do a perpendicular access point as we have it shown. If Planning Staff is willing to work with us, I believe we can stay off of the Welsh property and still line up the two access points.

Do you follow me, Gary?

MR. NOFFSINGER: Yes, however I still have concern over this gentleman's right of access in the future. That's the concern we're going to have regardless because what we don't want to have occur is for there to be an access point 200 feet or 250 feet
from this proposed access point.

MR. WEAVER: Yes. Certainly can't speak to that tonight as far as what a developer might try to do with the Welsh property in the future.

CHAIRMAN: Let me ask you a question, please. A rough estimate of what just a straight line proposed access is going to cost if you don't care to divulge. I'm looking for a ballpark figure.

MR. WEAVER: Are you talking about just the access point itself?

CHAIRMAN: Yes.

MR. WEAVER: Construction, concrete apron out 54 which will probably be about 36 feet wide. Ten to fifteen thousand.

CHAIRMAN: The total and that would --

MR. WEAVER: Just for the portion on the right-of-way.

CHAIRMAN: But I mean running the road on in.

MR. WEAVER: Yes. I think that would get you. What we would do, I think what would make the most sense to me, of course, to go ahead and grant the ingress/egress easement out to the property line which would obviously touch the Welsh property. Then all three properties could use the access point we're proposing and it would still align with the access
point across the street. If it was constructed in that manner, there wouldn't be damage to the Welsh property whatsoever that I can see.

CHAIRMAN: And they would have access?

MR. WEAVER: Yes. If in the future they're allowed to keep their access point across the street, because it would be in alignment with what they're proposing, then they would have access via ingress/egress easement to the access point we're looking to construct.

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: At this point Planning Staff has made a recommendation. I think we've made it clear in terms of what our concerns are. Until the three parties can come together, I don't know what to offer because certainly we have a concern in working with the applicants as well as Mr. Welsh that's raised certainly a concern he has about the future accessibility to his property. I would like to see all three parties work together on it and come back to us with a plan that everyone is in favor.

MR. JAGOE: What was just described though would keep the existing driveway across the street, an access, would it not? I think it would keep the existing driveway across the street. It aligns the
access and then it gives Mr. Welsh egress on that access. Is that not what I heard?

MR. NOFFSINGER: I hope that's what you heard. I'm not sure until we see what -- I would like to see it on paper.

MR. JAGOE: If the engineer can draw it and engineer that, that it meets those standards, I think that's what you're looking for, correct?

MR. NOFFSINGER: Sure.

MR. JAGOE: Plus he gets, the adjacent property owner doesn't lose across the street by virtue of that or isn't held back from an egress across that.

CHAIRMAN: But in the future, Mr. Jagoe, I believe, and correct me if I'm wrong, but in the future Mr. Welsh potential to get another access to 54 would be -- say he said, okay, I've got access up there, but I don't want it. I want one in the middle of my property.

MR. NOFFSINGER: And we wouldn't recommend it. That's why we're concerned about what happens here tonight with the proposal. I think we need to have a firm proposal drawing that everyone is agreeable to and the state highway department has reviewed so that we know that what we're doing here tonight is
protecting all interest in the future.

CHAIRMAN: Mr. Welsh, would you be willing to meet with maybe with the aid of the Staff sort of helping you with the jargon and wording and the directions, meeting with the Staff and with Mr. Kamuf's group to maybe come back to us with something that every --

MR. WELSH: I don't know that I have -- I don't know. Right now we came in with the assumption you were going to deal with what they're proposing. You all for some reason have got switched off to changing stuff up and putting us in a position we have no idea what they're even proposing. All I knew was that these accesses didn't line up. I know what it's like from living out and driving on, working on 54 from the time this road was built and what it's like at Alvey Park and where the old county garage is and any access to the state juvenile justice. It's just unthinkable that you could put something up, an access like that and they don't line up.

CHAIRMAN: That's what we're trying to set up in the future.

MR. WELSH: That's what I'm trying to say. My proposal is that they use the access that you've given them. That way I don't have to deal with putting in
an access now or worrying about an access now. When
the developer that wants to develop our property, can
look at it and come to you with some kind of a plan of
how they want to proceed with whatever they have in
mind. You have granted them an access. All they have
to do is use it. For some reason they feel like they
need to come forward down here at the edge of our
property. It's not necessary.

CHAIRMAN: You understand as a commission what
we're trying to do is if we can get all parties to
agree, instead of having two accesses, and your access
is going to have to be very similar to where they're
proposing right now.

MR. WELSH: And I know, but we won't have
three developments.

CHAIRMAN: In the future, and we can do away
with one driveway.

MR. WELSH: But we won't have three
developments using it. Potentially whatever is going
to happen across the road. I mean you've got two or
three acres across the road that's going to be
developed in probably the next --

CHAIRMAN: So in other words what you're
telling me is you would rather the Staff or the
commission to make a decision now or would you rather
tell me that you will talk with them in good faith and maybe we can bring it back up next month and all parties could be agreeable?

MR. WELSH: I guess we could go that route.

MR. HAYDEN: Let's see if I understand this.

To go back and put the access where it is now, Buskill property don't have any access off of 54. If you put access where they have it now and they put the curb in, line it up, line it up with the access across the road, I think that's what we were talking about the whole time. Is lining the two accesses up. If you move it to the distant, Buskill still don't have access to 54. Is that right?

MR. NOFFSINGER: That's correct. This is really all about getting the Buskill property access to 54.

Mr. Welsh, the Planning Staff position has not changed. We stand firm in our recommendation to this commission, but this commission has the opportunity to review Planning Staff's recommendations, to listen to the applicant, to listen to you, and then make a decision. All we as the Planning Staff can do would be advise.

Now, the Planning Staff certainly would be interested if the three parties could come together so
that everyone uses a single entrance and everyone
wins. That's what we would like to see happen, but if
that can't happen, then we would stand firm in our
recommendation. This board does not have to follow
that.

CHAIRMAN: Mr. Hayden, thanks for your
summary.

We have not recognized you, but I believe
we've got another one of the Welshes. Why don't we
swear him in and see if maybe -- I think we might be
heading to a potential consensus.

MR. SILVERT: State your name, please.

MR. GAYLE WELSH: Gayle Welsh.

(MR. GAYLE WELSH SWORN BY ATTORNEY.)

MR. GAYLE WELSH: I just wanted to make one
comment and clear something up for the record that I
think was a misrepresentation by Mr. Kamuf. Not
intentionally, but I did want to bring that to your
attention.

He made the comment that this curve, and I'm
failing with my directions here, coming toward the
park area, toward Frederica Street, that direction.

He made the comparison to that curve as being, he made
the comparison to that curve on the property that you
just approved back in November, I think, as a very
comparable situation. My comment is it's not comparable because that curve is a blind situation coming around that corner. My dad's property elevates there and you cannot see coming around that corner.

We came here tonight, our entire intention coming here tonight we had a concern about safety. That's why we came here. Our second concern was our future property access. You know, making the right decision for our property. I just wanted to clear up for the record that that corner is a blind corner. We are very concerned about safety for our dad. That is important.

CHAIRMAN: Just for the record. Mr. Welsh, you're a brother to the other Mr. Welsh?

MR. GAYLE WELSH: Brother.

CHAIRMAN: And you all are also a son to the property owner?

MR. GAYLE WELSH: Right.

CHAIRMAN: Thank you.

MR. GAYLE WELSH: My last comment was I also want to clear up another thing, and I couldn't see the maps that Mr. Kamuf was utilizing. He had alluded to the fact, again for the record, that I got the impression when he made the comment that I thought he was referring to my dad's driveway, Mr. Welsh's
driveway across the road be closed. There's no intention of closing that driveway at this point.

CHAIRMAN: No, sir.

MR. GAYLE WELSH: He's very healthy. He's doing fine. I think we can come to a resolution here tonight. I mean we're not here to beat a dead horse, but we want to resolve this. We didn't come here prepared to go forward other than that.

CHAIRMAN: You see what --

MR. GAYLE WELSH: Yes. I completely understand.

CHAIRMAN: That way we can bundle all this up. Line up your dad's property, both sides. In the long run should help your all's position dramatically and it cleans up the whole area for us. You all end up with an access at no cost, assuming this party agrees to that. If you all would say, yes, we will negotiate with them in good faith where we could tell them, hey, we can come back and smooth this whole thing out. The commission is happy. The Staff is happy. We have two accesses and you all have a lined up access, which I think obviously you all are sort of in a tough situation now. The Staff would be willing to help you on your part to sort of work through some of the wordage and everything. If I could get that agreement
from you, I can go back to Mr. Kamuf and his group.
If they agree to it, then we can propose to postpone
it with their approval and move on with this.

MR. GAYLE WELSH: I think our family would
agree we have open ears, but we can't guarantee you --

CHAIRMAN: No, I didn't ask. I just say you
would be willing to negotiate in good faith where
you're not going to say, well, we're not going to do
it.

MR. GAYLE WELSH: Absolutely. That's
agreeable.

CHAIRMAN: Mr. Kamuf, may I bring you back to
the stand. Did you hear what I was talking to with
Mr. Welsh? Did you understand what we were doing? I
know you've got expert witnesses here and everything
else and we're not trying to not use them, but at this
point in time I think this line up and this agreement
with the Welsh property is the key to the whole
situation.

MR. KAMUF: It's very important.

CHAIRMAN: We understand it. If we can get
this behind us and they agree to negotiate in good
faith with you all, would your party be willing to
negotiate with them? Obviously we're going to have an
alignment of the driveways is what we're asking for,
trying to get done, with you all bearing the cost of
putting the driveway in and then whatever property
alignments we have, then that will be between you all
to work out. If it's 15 feet, 20 feet or whatever.
They end up with a free driveway. You all can work
those out. Maybe we can have an attorney oversee
that.

Mr. Kamuf, are you agreeable to that?

MR. KAMUF: I have to talk to my -- give me a
second.

CHAIRMAN: A brief moment.

MR. KAMUF: This is Mr. Block.

MR. SILVERT: State your name, please.

DR. BLOCK: Steven Block.

(DR. STEVEN BLOCK SWORN BY ATTORNEY.)

DR. BLOCK: On our behalf, the one issue we
have with this is that we have already approached them
prior to coming here to try to make some sort of
common agreement before we got to this point. We've
already brought an expert witness anticipating an
antagonistic response from them. Now we are told
after brought this gentleman here tonight, that now
we're able to have a meeting to try to come to some
sort of agreement. We have already made these
channels to try to get this done in the past.
Just for the record I want it to be known, for my lot alone I already have a final development plan approved. There's a lot of discussion going on about lining up entry points adjacent, directly across from the residential driveway. There is no approved entry point at that location right now. I will behemothly fight any attempt to get an approval point directly across from the residence because it is within the guideline of the Planning Commission that it has to be beyond 500 feet. I would certainly rather have the two entry points 19 across from one another than 35 or 40 feet from where they would be at the existing point that it is now.

CHAIRMAN: Would you want just a moment to consult with Mr. Kamuf?

Mr. Welsh, I think we've changed some situations for you all. Hopefully -- you understand where the Staff is coming from. I think maybe your brother, we're trying to put together for everybody. Hopefully your all's situation maybe has changed from some of the comments that he has made and maybe you all didn't really understand that really you're not going to get an entrance or an exit much different than this exit right there. It's going to be maybe 19 feet one way and that's going to be it. Your point is
going to be there. You've got a golden opportunity
now to seize upon the opportunity to get one for free
or negotiate with them. I think maybe in the past
maybe you all did not understand.

Let me get both of you since you both sort of
represent your dad.

Let me pause just a moment and let me see if
maybe Mr. Kamuf is --

Are you speaking now for the group, Mr. Kamuf?

MR. KAMUF: Mr. Chairman, I know you all have
taken a long time tonight to try to work this out. We
want to work it out. We're willing to work with the
Staff in any way to work this out. I know you've
listened to us. We've presented our side, but we're
willing to work with the Staff and work with Mr. Welsh
in trying to resolve this.

CHAIRMAN: In other words, the previous
comment was not really --

MR. KAMUF: I think I'm giving you the final
answer.

CHAIRMAN: That's your final comment and
you're going to stick with it, right?

MR. KAMUF: Yes.

CHAIRMAN: To the expert witnesses, I
appreciate you coming down here. We weren't even to
the point that we need to hear what you had to say
until we get this situation cleared up with the other
property owner because -- I hope you understand the
situation we were in. We were just to a point where
we needed to get this ironed out. I'm sure you can
understand that you've been here or been in a
situation like this before.

MR. KAMUF: I want to thank you for your
consideration. I know it's been a tough issue. I
appreciate trying to work together to work both sides
out with the Staff.

CHAIRMAN: Mr. Kamuf, am I to assume that
you're going to propose a postponement?

MR. KAMUF: Yes.

CHAIRMAN: Thank you. Merry Christmas.

I think at this point in time with no further
comment I think the chair is ready for a motion.

MS. DIXON: Mr. Chairman, I move that we
postpone this issue until the January meeting so that
all parties concerned can work with their
representative and the Staff to come up with a fair
and equitable agreement between the two and in the
interest of safety for the use of 54.

CHAIRMAN: Ms. Dixon, thank you for that
proposal.
We've got a motion by Ms. Dixon for postponement.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT - WITH THE DISQUALIFICATION OF MR. ROGERS - RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 5

1300-1500 Blks River Road, 3200-3400 Blks Medley Road, 126.633 acres

Consider zoning change: From I-1 Light Industrial and EX-1 Coal Mining to A-U Urban Agriculture

Applicant: Robert Wimsatt

PLANNING STAFF RECOMMENDATIONS

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

CONDITION:

Access shall be in compliance with the standards of the access management manual.

FINDINGS OF FACT:

1. A portion of the subject property is located in a Future Urban Plan Area, where
agricultural/forestry uses are appropriate in general
locations and partially located in an Industrial Plan
Area, where agricultural/forestry uses are generally
not recommended;

2. A portion of the subject property is
designated as prime agricultural farmland according to
the "Important Farmlands" map created by the US
Department of Agriculture Soil Conservation Service
dated March 1980;

3. The subject property is a large tract
capable of agricultural production;

4. There is no mining activity on the subject
property; and,

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

MR. HOWARD: I would like to enter the Staff
Report into the record as Exhibit D.

CHAIRMAN: Is there anybody representing the
applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any comments they
would like to make?

MR. KIRKLAND: Yes.
MR. SILVERT: State your name, please.

MR. KIRKLAND: Drew Kirkland.

(MR. DREW KIRKLAND SWORN BY ATTORNEY.)

MR. KIRKLAND: I'm with Dixieland Properties. On behalf of myself, my brother John Kirkland and my cousin Will Helwig, we own the 1600 Block of River Road that adjoins the property. Just wanted to have on record that we are zoned I-2. That we will be operating heavy industrial equipment. Cranes, anything associated with a scrap yard. Just wanted that to be on record.

CHAIRMAN: Thank you.

Are there any other comments?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval based on Planning Staff Recommendations with one condition and Findings of Fact 1 through 5.

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

MR. EVANS: Second.

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

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

Next item, please.

ITEM 6

635, 815 Triplett Street, 715, 719, 721, 801 East Ninth Street; 800, 804, 805, 810, 814 East Seventh Street; 616, 618, 620, 708-728 Center Street, 10.271 acres

Consider zoning change: From R-4DT Inner-City Residential, B-4 General Business and P-1 Professional/Service to P-1 Professional/Service

Applicant: Wendell Foster's Campus for Developmental Disabilities, Inc.

PLANNING STAFF RECOMMENDATIONS

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

CONDITIONS:

1. Access to Triplett Street and East Ninth Street shall be limited to the access points as approved on the final development plan dated April 2002. No additional access to Triplett Street or East Ninth Street shall be permitted;

2. Approval of a final development plan for the entire campus; and,

3. Approval of a consolidation plat to consolidate the entire subject property into a single tract.
FINDINGS OF FACT:

1. The majority of the property is located in a Professional/Service Plan Area, where professional/service uses are appropriate in general locations;

2. The majority of the subject property is currently zoned P-1 Professional/Service and the remaining portions that are not qualify as logical expansions of the existing P-1 zoning; and,

3. With access as approved on the April 2002 final development plan, the proposed rezoning should not overburden the capacity or roadways and other necessary urban services that are available in the affected area.

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

CHAIRMAN: Is there anybody representing the applicant?

MR. KAMUF: Yes.

CHAIRMAN: Are there any questions?

(NO RESPONSE)

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

MS. DIXON: Move for approval based upon Planning Staff Recommendations, Conditions 1, 2 and 3,
and Findings of Fact 1, 2 and 3.

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, please.

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DEVELOPMENT PLANS

ITEM 7

533 Triplett Street, 1.532 acres
Consider approval of final development plan
Applicant: Jason Ebelhar, Kenneth Boarman

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be consistent with the adopted zoning ordinance and subdivision regulations and its use is consistent with the zoning in the area.

CHAIRMAN: Somebody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Are there any questions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.
MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

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, please.

ITEM 8

512 West Seventh Street, 0.313 acres
Consider approval of final development plan.
Applicant: Roman Catholic Diocese of Owensboro, KY

MR. NOFFSINGER: Mr. Chairman, this development plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. It has been reviewed for consistency with the adopted zoning ordinance and subdivision regulations. A conditional use permit was approved on this property last Thursday by the Owensboro Metropolitan Board of Adjustment. Therefore, it's use is consistent with the approved uses for the subject property.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?
CHAIRMAN: If not the chair is ready for a motion.

MR. HAYDEN: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. EVANS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

ITEM 9

Millers Mill Plaza, 10.8 +/- acres
Consider approval of amended major subdivision preliminary plat/final development plan.
Applicant: Millers Mill Plaza, Lake Forest Community, LLC

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the County Engineer Staff and Planning Staff. It's found to be in order. Its use is consistent with the zoning and the site is in compliance with adopted zoning ordinance and subdivision regulations.

CHAIRMAN: Is anybody representing the applicant?
APPLICANT REP: Yes.
CHAIRMAN: Anyone have any questions of the applicant?
(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.
MR. APPLEBY: Motion for approval.
CHAIRMAN: Motion for approval by Mr. Appleby.
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.
Related Items:
ITEM 9A
4431, 4460, 4470, 4471, 4540, 4551 Springhill Drive;
4754 Whaterwheel Way, 34.121 acres
Consider approval of major subdivision final plat.
For development transfer only, no surety required
Applicant: Lake Forest Community, LLC, Melvin Pagan
MR. NOFFSINGER: Mr. Chairman, this plat has
been reviewed by Planning Staff and Engineering Staff.
It's found to be in order. It is for property
transfer only for development purposes. With that it's ready for consideration.
CHAIRMAN: Somebody here representing the applicant?
APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. HAYDEN: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 9B

Millers Mill Plaza, Unit 1, Lots 1-6, 10.8 +/- acres
Consider approval of major subdivision final plat.
Surety (Certificate of Deposit) posted: $218,298.50
Applicant: Lake Forest Community, LLC

MR. NOFFSINGER: Mr. Chairman, Planning Staff and Engineering Staff has reviewed this plat. Found to be in order with the adopted comprehensive plan as well as the zoning ordinance and subdivision regulations.

CHAIRMAN: Anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions?
MR. JAGOE: Mr. Chairman, I need to disqualify myself.

CHAIRMAN: Mr. Jagoe is going to disqualify himself. Let the record show.

Do we have a motion?

MS. DIXON: Move for approval.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT - WITH THE DISQUALIFICATION OF SCOTT JAGOE - RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

MAJOR SUBDIVISIONS

ITEM 10

The Brooks, Unit 6, Lots 83-84, 0.697 +/- acres
Consider approval of major subdivision final plat.
Surety Previously Posted
Applicant: Owensboro Master Builder, Inc.

MR. NOFFSINGER: Mr. Chairman, this plat has been found to be consistent with the adopted zoning ordinance and subdivision regulations. It's use is in compliance with the adopted comprehensive plan.

CHAIRMAN: Anybody representing the applicant?
APPLICANT REP: Yes.

CHAIRMAN: Do we have questions?

MR. JAGOE: Mr. Chairman, I need to disqualify myself.

CHAIRMAN: Mr. Jagoe is disqualifying himself.

Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. EVANS: Second.

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

(ALL BOARD MEMBERS PRESENT - WITH THE DISQUALIFICATION OF SCOTT JAGOE - RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 11

H&I Development, Lots 30-41, 10.0889 acres
Consider approval of major subdivision final plat.
Surety (Performance Bond) posted: $21,855.50
Applicant: H&I Development

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be consistent with the adopted preliminary plat or approved preliminary plat and ready for consideration.

CHAIRMAN: Somebody representing the
applicant?
(NO RESPONSE)

CHAIRMAN: Do we have any questions?
(NO RESPONSE)

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

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

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, please.

ITEM 12

Highland Pointe, Unit 2, Lots 3-7, 12A, 12B, 21.396
acres
Consider approval of major subdivision final plat.
Surety (Certificate of Deposit) posted: $44,553.56
Applicant: Highland Pointe Holdings, LLC

MR. NOFFSINGER: Mr. Chairman, this plat has
been reviewed by the Engineering Staff and Planning
Staff. It's found to be consistent with the approved
preliminary plat.

CHAIRMAN: Any questions?
(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.
MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. EVANS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 13

Independence Heights, Phase 1, Lots 1-2, 4.07 acres Consider approval of major subdivision final plat. Surety (Certified Check) posted $101,974.11 Applicant: Clayton Watkins Construction Co.

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

CHAIRMAN: Any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. ROGERS: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Rogers.

MR. EVANS: Second.

CHAIRMAN: Second by Mr. Evans. All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN:  Motion carries unanimously.

Next item, please.

ITEM 14

Village Run, 0.541 acres
Consider approval of major subdivision final plat.
For development transfer only, no surety required
Applicant:  Jagoe Development, LLC

MR. NOFFSINGER:  Mr. Chairman, this plat has
been reviewed by the Planning Staff and Engineering
Staff. It's found to be consistent with the adopted
development plans, preliminary subdivision plat and
ready for consideration.

CHAIRMAN:  Mr. Jagoe, you need to disqualify
yourself on this one?

MR. JAGOES:  Mr. Chairman, I'll submit my final
disqualification.

CHAIRMAN:  Mr. Jagoe disqualifies himself.

Any questions?

(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. APPLEBY:  Second.

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

(ALL BOARD MEMBERS PRESENT - WITH THE
DISQUALIFICATION OF SCOTT JAGOE - RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Mr. Jagoe, why don't you make our final and
your final motion, please.

MR. JAGOE: Move to adjourn.

CHAIRMAN: Motion for adjournment by Mr. Jagoe.

MR. EVANS: Second.

CHAIRMAN: Second by Mr. Evans.

Thank you for your service.

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 77 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 2nd day of January, 2008.

________________________________________
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