OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

NOVEMBER 7, 2002

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The Owensboro Metropolitan Board of
Adjustment met in regular session at 6:00 p.m. on
Thursday, November 7, 2001, at City Hall, Commission
Chambers, Owensboro, Kentucky, and the proceedings
were as follows:

MEMBERS PRESENT:  C. A. Pantle, Chairman
Becky Stone
Marty Warren
Ruth Ann Mason
Judy Dixon
Tim Miller
Bill Williams
Ward Pedley
Stewart Elliott
Attorney

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CHAIRMAN:  Call the Owensboro Metropolitan
Board of Adjustment to order. I welcome you all this
evening.

First item on the agenda is the minutes of
the last meeting. They're on record in the office.
We haven't found any mistakes or additions.

Anybody need to add anything to them?

(NO RESPONSE)

CHAIRMAN:  Entertain a motion to dispose
of it.
MS. DIXON: Move to approve.

MR. WILLIAMS: Second.

CHAIRMAN: A motion has been made and a second to approve. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item on the agenda.

The first thing I want to welcome all of you. I know this may be a controversial meeting, but we're going to set some guidelines to start with. We'll listen to all the testimony from both sides until it gets to be repetitive, repetitious. Then we're going to cut you off and vote on it one way or the other. Address all of your comments to the Chair. Come to the microphone. You'll be sworn in by counsel because we'll have it on record in case there's legal action or something and all of this will be on record.

With that we'll go ahead with the first item. Becky, would you state it, please.

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CONDITIONAL USE PERMIT

ITEM 2

1117 Daviess Street, 201, 205, 211 East 12th Street, in an I-1 zone (Map N-4) (POSTPONED)
Ohio Valley Reporting
(270) 683-7383
Consider request for a Conditional Use Permit to construct and operate an indoor shooting range with a maximum of 16 shooting lanes and an accessory sales area and office. Reference: Zoning Ordinance, Article 8, Section 8.2BC/13

Applicant: Ron Sanders, Smith Machine & Supply Company, Inc.

MS. STONE: Section 8.2BC/13, that's the section that allows as a Conditional Use Permit an indoor recreation center. Section 8.2J5 Note 37. That allows a retail area accessory to a permitted use in an I-1 zone. That's limited to retail sales and personal services including facilities for serving food only for employees or visitors to any permitted use and having no display space or signs visible from the exterior of the building.

This item has been advertised for public hearing. It was postponed from last month's board agenda. Adjoining property owners have been notified and it's ready for your consideration.

We do have several letters of support and opposition that we need to address to be placed into the record. What I'll do is read the name of the letter and whether it's in support or opposition.

We have Gregory C. Franzman in support. Myron McLain in support. John R. Combs and Vicki Combs in opposition. Erik Benner opposed. Gary and Trudi

Eight in opposition and two in support.

CHAIRMAN: Let the record show that, please.

The applicant, can you come forward and be sworn in.

MR. ELLIOTT: State your name for the record, please.

MR. SANDERS: Ron Sanders.

(MR. RON SANDERS SWORN BY ATTORNEY.)

MR. SANDERS: Mr. Chairman, Members of the Board, thank you for your service to the Daviess County Board of Adjustments.

I served on the Hopkins County Joint Planning Commission and I can certainly appreciate your service to this board.

I also appreciate the interest of the area of the neighbors and their diligence in protecting their community. They have brought forth issues that should concern the public based on problems that have plagued other indoor and outdoor ranges. Let me assure you and the public that we have no intentions of repeating the past mistakes of others.
Regardless of where we propose to locate
our indoor range in Daviess County, we are required to
obtain a Conditional Use Permit. The standard for
meeting the criteria for promoting health, safety and
welfare would be the same regardless of location.

By using the latest technology, new indoor
ranges can safely be located almost anywhere. Ranges
can be found in shopping malls and basements of office
buildings. In fact, the Navy has two ranges using the
same technology that we propose on a nuclear aircraft
carrier.

Your approval of this location will allow
transformation of an industrial property, which has
been an eyesore for decades, into an attractive
community resource. Our facility will have adequate
parking, landscaping beyond requirements, and
attractive, neighbor-friendly outside lighting.

Sport Shooters will provide gun safety and
will in fact provide 2,000 gun safety courses for
free. This is a $100,000 value to the community that
will improve public safety. We will promote
responsible ownership of firearms through youth
programs such as Boy Scouts merit badge programs.
These programs will also be provided at no cost to the
participants.
Sports Shooters will provide law enforcement and the public with a convenient, safe facility to maintain proficiency. We will offer law enforcement agencies with a facility for training or certification, day or night, regardless of the weather. We have held preliminary discussions with several law enforcement agencies on the local, state and federal levels. The response has been excellent from the majority of these agencies contacted. If this permit is approved, we will conduct further discussions on their specific needs.

Sport Shooters will provide law enforcement and the public with an environmentally safe alternative to outdoor ranges. Lead will be recycled in accordance with the EPA regulations as opposed to outdoor ranges where 100 percent of the lead is released into the environment.

Sport Shooters will be a good neighbor. We will have fund raisers for area charitable organizations. We will sponsor several tournaments each year that will support tourism and retail activities.

Sport Shooters will provide jobs to the area. Our employees will be highly trained and experienced. They will be well paid and receive a
full benefit package.

The issues of lead, noise and safety are of concern to Sport Shooters and will be addressed by design, construction and operation.

Let's first talk about lead. The largest source of lead contamination is bullet impact on steel plate in the range. The bullet fragments and dust is created. The lead dust can be transported by air circulation and settle on floors and walls. Furthermore, ventilation systems can recirculate lead dust or vent lead dust outside the facility. We will use a wet trap system.

If you would, I would like to show a video of the exact precise system that we're going to be using. We're going to show that. You can get rearranged and we'll show that.

(VIDEOTAPE SHOWING)

MR. SANDERS: I will show you, this is what they were shooting. That's the size of the last demonstration that they were -- obviously, you're not going to be shooting anything like that.

Additionally, Sport Shooters will utilize a three-stage air filtration system for air recirculated or vented outside. The second stage filter is a HEPA filter that will be replaced every
six months.

Cleanup of the facility will be accomplished on a weekly basis using a central vacuum system, which will also use a HEPA filter. Discharge air from the vacuum system will be further filtered by the exhaust air system.

A third party on a semi-annual basis will accomplish air monitoring. Vented air will be included in this monitoring. A baseline soil test will be taken prior to opening and will be conducted on an annual basis thereafter. Results of these tests will be posted in a prominent place within our facility.

Employees will be base line tested upon employment and will be checked on a semi-annual basis or as required by OSHA, whichever is more frequent. Employee medical records are confidential and cannot be made public.

On the issue of noise. Sport Shooters will meet the Owensboro Noise Ordinance.

All exterior walls will be 8 inches concrete walls. Ballistic rubber will reduce noise at the firing line. Acoustic materials will line exterior walls and be utilized in ceilings.

HVAC systems will utilize baffles and use

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barriers to prevent sound from escaping through the ventilation system.

All access to the range will be through a double door airlock system with the two doors set at 90 degrees.

Range hours will be limited from 9 a.m. to 10 p.m. Monday through Saturday and 12 noon to 8 p.m. on Sunday.

All service doors will be treated with acoustic materials.

On the issues of safety. Employees will be experienced and trained.

Weapons brought in or taken out of the facility must be unloaded and in a carry bag or case. Law enforcement officers with badge displayed are exempt from this requirement.

State-of-the-art-security systems and security cameras will be in continuous use.

Attractive, neighbor-friendly security lighting will be used.

Eight inch steel reinforced concrete walls 11 feet high and ceiling baffles will prevent errant shots from escaping the range.

Ballistic rubber and lexan panels will stop any accidental discharge within the range and

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reduce injury potential from a resulting ricochet.

Responsibility of gun ownership will be our number one objective. We will accomplish our objective through comprehensive training courses with gun safety the prime focus.

Sport shooting is fun, it's safe, and it's a great recreational value.

We therefore ask that you approve our request for a Conditional Use Permit to operate a state-of-the-art indoor firing range on property we own. We will transform an industrial eyesore into a community resource. We will operate in compliance with EPA and OSHA regulations. Our 10,000 square foot facility will improve area health by preventing the discharge of lead into the environment as compared to outdoor ranges. Sport Shooters will improve public safety through gun safety courses and proficiency training. We will improve public safety by providing local, state and federal law enforcement officers with a practice and training facility. Our facility will improve the welfare of the community by providing quality jobs and supporting area charities.

Thank you for your consideration.

I do have some schematics I'll let you look at.

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Do you want to ask questions now?

CHAIRMAN: Does any board member have any questions of the applicant at this time?

MR. PEDLEY: Yes, Mr. Chairman. I have two questions.

Question 1, how many employees will you have on duty and will any of those employees be outside the building?

Question 2, what control you have over customers and other people outside the building in the parking lot such as unloading, loading and unloading the gun before they enter your building? How will you know when they arrive in your parking lot in their automobile, get out of their automobile, unload their gun and put it in a carrying case? How will you know when they go back out of your building and get back in their car will they reload their gun and put it in their car?

There are a lot of accidents that happen when loading and unloading guns. You have a residential neighborhood immediately across the street from your parking lot. If someone accidentally discharges that gun, it could go into one of those homes. It could go most anywhere. What control do you have over that?
MR. SANDERS: To answer your first question about employees. Employees will only be outside the facility for maintenance, lawn care, security camera adjustment, that sort of thing. They will not have any duties outside the range other than those functions.

To answer your second question. We don't have any control over anybody outside our facility. It's just like any other business or in the parking lot here at city hall. You don't have any control over that either. I mean if somebody does something wrong, then you have control. They have to break the law before you can do something about it.

We have a lot of people that have a concealed to carry permits. They walk around in a lot of places with a loaded firearm. We would hope that they would have some proficiency in working with that firearm. Right now there's not a facility where people can be trained adequately and gain proficiency in use of that firearm. That's one of the things that we hope to do. Is that the training that we're going to have available is going to reduce the incidence of an accidental discharge. Not only in our parking lot, but any other parking lot or anyone else's home. That's one of the things that we're going to be
evocating is gun safety and responsibility in gun
ownership and firearm ownership.

MR. PEDLEY: Thank you.

CHAIRMAN: Any other questions of the
applicant?

(NO RESPONSE)

MR. SANDERS: Any time you're ready for
another question, let me know.

CHAIRMAN: Does anyone else wanting to
speak in favor of this item at present?

(NO RESPONSE)

CHAIRMAN: Thank you.

Ones in opposition, who wants to start
first?

State your name for the record, please.

MR. GLENN: My name is Robert Glenn. I'm
with the Seven Hills Neighborhood Alliance. I apologize
in advance. I'm going to speak and leave.

(MR. ROBERT GLENN SWORN BY ATTORNEY.)

MR. GLENN: I spoke briefly before the
city commission a couple of weeks ago. Our position,
the Seven Hills Neighborhood Alliance, even though
this will not go in our neighborhood, our feeling is
the way I feel about an incident that has occurred in
my home state Nevada.
For 30 years the nation struggled with what to do with its nuclear waste. For 30 years the State of Nevada fought a very lonely battle much as the Owensboro Alliance is fighting tonight. They didn't want all of our nuclear waste dumped in its state.

Well, finally something called the Screw Nevada Bill was passed. A lot of money changed hands and guess where that nuclear waste is headed. My home state.

Why? Because they said it was an ugly, insidious place called the nuclear test site and that that was a good place to put it because it was decrepit and a proper place to put it.

There were lots of alternatives, lots of good arguments, lots of environmental impact studies that indicated if an earthquake occurred that nuclear waste could splinter, destroy the water table and possibly threaten the cities of Reno and Las Vegas.

The point is why would we want the same logic to build an environmentally possibly catastrophic industry just a few feet away from a neighborhood that the city, quoting Waymond Morris, has clearly indicated a slated for redevelopment. They're going to spend a lot money in the old

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Owensboro neighborhood, and they already have, some of the neighbors in this area, to make this a better neighborhood. Make it a safer more attractive place to live. We're basically gutting all of that if your decision tonight, and I'll respect your decision. I'm sure it'll be a difficult one, I appreciate your public service to this city and our community, is to allow these people to use this property in this way.

There are 20 or 30 other uses that the people that own this property could put it to besides a gun range.

There are a couple of other very quick arguments I want to make.

The biggest one is I don't think this particular business is going to succeed. I've talked to a number of law enforcement people who indicate they have other places to go and practice firearms use. When the regional training center is built that Chief Kazlauskas wants, they'll go else where.

There's not a market for this.

Secondly, I would also suggest that the potential for an accident, the potential for just one person in a parking lot to make an error in judgment or an error in loading or unloading a weapon, much as your question was posed, is too great a risk.
One accident would be too many, one accidental death. As other people will point out, there's a propane tank, there's a hospital nearby. There's a lot of potential hazards. If this business goes bye-bye, it doesn't exist after six months, or a year, or a year and a half, I will suggest to you then we've got a massive cleanup. Possibly a cleanup that not only the citizens of this community would have to bare, but we might have to go to that federal government and ask for this to be treated as a superfund site for this particular site to be cleaned up. That cost, as you know, thousands of dollars, hundreds of thousands, maybe even millions of dollars, and you have to wait to be on a list for that to occur. Sometimes it can take a decade or more for superfund toxic waste site to be cleaned up. That's the kind of lead contamination with or without this system.

I'm a debate coach. I tell my debaters always look at who is saying what. Who is the source of the evidence. This gentleman just showed you a very slickly produced infomercial. A company promoting a product telling you the product works. You're all very intelligent people. I would suggest where is the EPA? Where is there an objective third
party source that says this system where the top of
the line quality filter system put in. We don't know
that they put that system in. They might go for a
lesser version that doesn't work as well. You have
nobody but the company that sells this particular
product telling you it works.

We've all seen the Nordic tracks. We've
all seen more than enough particular products hocked
on television through infomercials. You get home and
you find out that you've got to have properly trained
employees to make it work. You've got to have people
with high degrees of skill, training and knowledge to
make sure the systems are maintained. There's no such
assurance being given here. You only have the
proprietor of that product telling you that product is
great. I don't think that's enough assurance for this
neighborhood. I don't think it's enough assurance for
this community.

I respectfully ask you to reject this
waiver, this special use permit, and encourage these
individuals to find some other valuable use. Some
other type of business that is not environmental and a
safety hazard to the old Owensboro area. I wouldn't
want it in my neighborhood. I know nobody else would.
I hope you reject their application. Thank you.
CHAIRMAN: We'll stick to the testimony.

We're not going to have applause, please.

Next speaker.

MR. ELLIOTT: State your name, please.

MR. DARLING: Bob Darling.

(MR. BOB DARLING SWORN BY ATTORNEY.)

MR. DARLING: Mr. Chairman, Board Members, Counsel, Professional Staff, Citizens, tonight the Owensboro Neighborhood Alliance would like to take a few minutes to oppose the granting of this Conditional Use Permit for an indoor gun range and retail gun shop at 12th and J.R. Miller.

Our neighborhood alliances encompasses neighborhood and businesses east of Frederica Street and north of Parrish Avenue including the friends of neighbors surrounding this proposed range.

Just over 50 days ago when this indoor range was proposed, most of us gathered here tonight would learn more about this type of business than we ever wanted to. We hope you will join us in our concern.

The three most important words in real estate are, location, location, location. In this we find the problems with this business it will entail.

First let me start with the business

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itself. This indoor range will allow a person with a
gun to fire a weapon inside a building. Seem simple,
but the range brings up all the problems. A bullet
would seem to be number one, but with the use of
traps, such as this nail used here, we believe the
bullet will be trapped.

Our problems with the gas the discharge
produces. In discharge the material of great concern,
and that's lead. Remember that material? It's stuff
we took out of gasoline, pencils, paint. Remember
why? It's poisonous. The human body doesn't like it
and high levels in the body it kills which brings us
to our concern to the environment in and around this
range.

The Sanders have asked us tonight to put
all of our faith in their plan to protect our
neighborhood from this hazard.

When a shooter discharges their weapon,
the lead in the air from the explosion either settles
on a surface of the range, on the shooter, or is
pulled through the air system into the HEPA filters.

The best HEPA filters remove 99.97 percent
of whatever enters the filter, but .03 still is
expelled. Because of this several state EP agencies
have produced manuals on lead on indoor ranges.

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The first one I'll discuss will be Florida, Pinellas County, Florida. I had a long conversation with them. This manual is produced for indoor ranges on how they operate a great indoor range, St. Petersburg, Florida.

If you go through here and read almost any section of it, you find that it discusses lead is a problem.

I talked to the gentleman down there and he said they just had a problem with a range down there. That the employees were not being monitored. They were mopping the floors at night. They were taking their water from the mop water, throwing it out the back door. They had to seal the parking lot because the land that the water had been put on was contaminated.

We found almost every large state has some type of manual produced for gun ranges. Some of these manuals are for police ranges. Some of these are just for the regular gun range.

I'd like to call your attention to the one from Washington called "Lead hazards at indoor firing ranges." I'll read just a paragraph or two here. It says, "Most firing ranges in Washington State are relatively small operations offering instruction and
target practice to competitive and recreational shooters. Most cities and counties also run firing ranges for law enforcement officers. Exposure to airborne and settled lead dust at firing ranges put employees, instructors and customers at risk for lead poisoning. Take-home exposure is especially dangerous to children age six and younger because lead is toxic to the brain and can cause permanent damage." At the bottom, that's the main point that they stress.

You have to be very careful when you're in a gun range to wash your hands. They even recommend that employees take showers before they leave. They recommend that you leave their clothes in the range. That you do not take them home because taking clothes home that you've used in the range, putting them in the family washing machine and then washing clothes from the family machine will transfer the lead, whatever amount is there, from the adult's clothes to the kid's clothes. Most states have very strict manuals on how to do this.

Even the professionals can have problems handling this lead hazard. As reported in the Courier Journal this Monday, the Louisville Police Department spent $200,000 on cleanup on their indoor range in 2000 and had two instructors tested positive for lead.

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poison.

Gun users, instructors, even employees must follow lead safety rules at the range or they run the risk of carrying this hazard home to their family or out into the neighborhood. Without complete test in a timely manner, this hazard can escape the building undetected and cause problems outside.

Without any oversight required by law, this neighborhood will have to depend on whomever the current owner of any of this business for any protection from this hazard.

Bob Dunn mentioned the case in Nevada. There was also in the Courier Journal the same article. They discussed that in Sparks, Nevada, an indoor gun range was closed this year after lead contamination was found in the building and nearby businesses. One of those business was a cheerleading practice facility used by children. The Nevada range was also found to have contaminated settlement in a storm drain catch basin outside the building and minor surface lead contamination was found on the pavement. That's a current ongoing investigation.

Should any unsolvable problems with lead contamination occur on the Owensboro site, all the corporation would have to do is declare bankruptcy and
allow others to pay for the cleanup cost.

This is 60-feet, property line to property line, from homes in the neighborhood. It's also located right next-door to a wholesale food distributor.

Let's move to outside the building. By the way, while we have plans for the building, how will this 11-foot concrete block building look? How will that add to the character of this historic neighborhood.

Let's discuss Germantown. The City of Owensboro announced about two weeks ago that between private and public investment they're going to be spending within about a four block area $5 million on redevelopment. This property sits right catty-corner across from the police station, which the gun range proposed will be right behind.

If the city believes in this neighborhood, they wouldn't be spending $5 million if they didn't think that we'd get a return from this neighborhood. You know, the neighbors there, a lot of them are here tonight, they believe in the neighborhood and they've put a lot of time and money in their houses and property. That's one thing I can say about the citizens of this neighborhood is they believe in that.
A lot of other places in a lot of other communities citizens will just flee or go to different neighborhoods or move out of town. These citizens believe in our neighborhood.

Next thing. How is everyone going to arrive at Mr. Sanders front door? They only have access on 12th Street right here through the narrow streets of the neighborhood. This business does not have access from J.R. Miller. The present plan calls for 36 parking spots.

Mr. Sanders has said, and he did it tonight, that he will give away 2000 free training courses and expects to have tournaments there. Mr. Sanders when asked during the Owensboro City Commission meeting how many people will use his range said, I hope a lot. Where will everybody park? Of course, in the surrounding neighborhood. Nothing like having the Daviess County Fair in your backyard several times every year.

During any tournament anyone not being able to park on the lot will have to park somewhere in the area and carry their guns through the neighborhood.

We're also concerned with all of these guns being carried through the area because it will
increase the chances of criminals doing hold-ups to secure guns. Remember you're not suppose to be carrying a loaded weapon. Well, OPD is close. The officers are out on patrol. They're not stationed next door.

Let's skip to one of our greatest concerns, all of these people carrying weapons in and out of the range. Mr. Sanders has stated that no one will be allowed to carry a loaded weapon in the range. Human nature what it is people forget whether their weapon is loaded or not. Human nature being what it is, people drop or accidentally discharge their guns at times even in cases.

Directly across from J.R. Miller from this property are two tanks. One with 36,000 gallon capacity of propane and another with 11,000 gallons capacity of hydro, but they can be pierced by the caliber of bullet that would be allowed to be shot on its range. I think he just showed you one. Any of these tanks hit in the right spot would be a death blow for much of Owensboro. When these tanks were installed on J.R. Miller this was just a set of railroad tracks.

Let's talk about the property being zoned industrial. The reason for this zoning is not that
any industry has ever set on this site, but because starting in the 1800s railroad tracks ran next to this property.

Some of the houses in this neighborhood, in fact, also have the same industrial zoning. As to the railroad area not being fit for homes, all one has to do is cross Frederica Street to the west and for almost a mile houses are next to the tracks.

We have heard and read that this range would be used for law enforcement use, but to date no law enforcement agency of Daviess County has come out in support of this range. The new OPD Chief Kazlauskas said that the neighbors have a right for concern over the lead issues. We have a letter from the newly re-elected Sheriff Cain that states he would support the new OPD Regional Training Center.

This new training center by the way would be built on 27 acres in Daviess County. Not 60 feet from homes.

Let's clear up one other misconception that the proponents of this range have been saying. While they are impressed with the facilities at the FBI range in Quantico, that site is on 5200 acres, which is bigger than the entire City of Evansville.

While I mention Evansville let's talk.
about their indoor range. It's located behind the mall in an industrial park 1200 feet from any house or apartment.

Let's talk about the indoor range discussed in the Courier Journal, an article Monday. It is even located in an old brick yard not 60 feet away from homes. Sixty-feet, that's approximately the distance from Mr. Pedley to Kate standing in the back of the room. Sixty-feet from homes, churches, school buses, everything in a normal neighborhood.

In my internet search of 2,720 cites returned on indoor gun range, I did not find one located in a neighborhood. I looked at every hit that had an address that was a business. If it had a map, I looked at it to see what it was close to.

What I've have tried to say in a short time as I could, if this business was being located in the county next to the new skeet range or away from homes or neighborhoods, you would only have two people here tonight. Mr. Ron Sanders and Mr. Lee Sanders. None of the rest of us would be here.

Our point is location, location location.

Tonight we are here and we have over 500 signature for this Conditional Use Permit to be denied. As one concerned neighbor of this range said
to me last night, is the convenience of a gun range
more important than the safety of our citizens.

Thank you.

CHAIRMAN: Any questions of the speaker?

(NO RESPONSE)

MR. ELLIOTT: State your name, please.

MS. HIGDON: Kate Higdon.

(MS. KATE HIGDON SWORN BY ATTORNEY.)

MS. HIGDON: My name is Kate Higdon. I
know a lot of people to hear from so I'll try to be
brief and try not to repeat anything anybody has said.

I'd like to speak before you from three
different points of view tonight. Number 1) I come
from a family of five in which three of my brothers
make their living due to guns. They own their own
hunting guide businesses. Taking people into Mexico,
New Mexico on hunting guides. Now, I myself would be
a great customer of Mr. Sanders if this was not in a
residential area.

The point I'm trying to make is that I am
by no means an anti-gun activist at all; however, I
feel that it is just preposterous that we would even
think about placing an in-door gun range in this
neighborhood. I can't even believe I'm here.

My second point of view is a professional
point of view. I am the executive director of CRY, a non-profit organization that seeks to enhance the appearance of Owensboro/Daviess County. CRY's concerns here deal with the esthetics of placing a business like this in the middle of a neighborhood that is trying so desperately to revitalize itself.

What will the building look like? What landscaping buffers will be used, if any? What kind of signage? These are the issues that CRY has concern with.

My last point of view is that my little girl lives at 1302 Allen Street which is about three blocks from where this gun range is going to be placed. That's where she's going to be growing up, we hope the rest of her life.

Now, according to the manual, which I believe you have, for an in-door gun range is written by the Pinellas County Government, Department of Environmental Management, states that children are at a higher risk for lead poisoning. Exposure to very low levels of lead can adversely affect the development of a child's brain, nervous system and bone. In addition, the lead can be absorbed and stored in their bones all through their development.

So if they're exposed to it now, it will be stored
there forever. It doesn't go away.

Now, God blessed my husband and I with a very healthy child and we feel it is our responsibility to keep her safe, but right now at this moment I want you to understand that part of my responsibility lays in your hands. I'm begging you, please don't fall short of her.

Please notice also that you have never seen me here before even though several zoning issues from my neighborhood come before this board. I don't typically get too excited about these things, but now we're talking about safety matters and to me this is different.

I'd also like to state that if in-door gun ranges are apparently so safe, according to Mr. Sanders in his research, then why was it so easy for all of us to find documentation stating the opposite; about lead poisoning, other items that come about resulting from these facilities. They mention the Reno, Nevada, an in-door gun range with a state-of-the-art ventilation system. I called and talked to the reporter that wrote that article. He said that that gun range was new, meaning it had a new ventilation system. It wasn't 15 years old. It was a new gun range. Still, they had such bad contamination.
that the general manager said the walls could not be cleaned. They have to be torn down.

Also there was a local cheer gym where children attend that was next-door and it had to be closed because of lead contamination. The general manager at the gun range urged the parents of those children to take them and have them tested. Now, me being a parent and living in that neighborhood, that causes extreme alert in my mind.

The reason for the problems with the lead contamination here is that when they investigated they found that the ventilation filters were disposed of improperly and also that the ventilation system itself wasn't working right and no one knew for how long. Now, no one knows for how long because like Mr. Sanders doesn't tell you is that even though he promises he'll do all these things, there is no agency out there to make sure that those steps are taken.

There is no agency. OSHA only comes in when they feel that someone has reported a problem; otherwise, there's no one that's going to check and make sure he's doing all of those things to assure our safety.

Now, this business does not belong near my children and it doesn't belong near your children.

I'd like to point out that Mr. Sanders has stated that
his employees will be given blood tests every six months to test for lead. Am I the only one here that finds that odd that where you work you go to work and every six months you have blood taken to test for lead poisoning? As far as I know, they don't even do that in nuclear power plants where you think that you have increased chance for all sorts of pollution. So to me he's stating there in his own words that this is a dangerous place.

I'm begging you, I'm begging you, and I'm a proud woman so for me to be here and stand here and beg you, I'm begging you do not approve this Conditional Use Permit. This is not a proper facility to be placed in this neighborhood. Thank you.

CHAIRMAN: Any other speakers?

Come forward and state your name for the record, please.

MR. MORRIS: Laura Robinson Morris.

(MS. MORRIS SWORN BY ATTORNEY.)

MS. MORRIS: Board of Adjustment and Mr. Sanders, I'm here to speak as just an ordinary citizen who lives in a similar -- not a similar neighborhood, but in a neighborhood here in Owensboro. I haven't been here very long, but I've met a couple of the families that live in the J.Z. Moore neighborhood.
They have invested a lot of time, energy, money to stabilize a neighborhood that had begun to spiral down. We're proud of their efforts and our city has supported that. We brag about our J.Z. Moore Historic neighborhood. I think that we all have to look after each other and that's why I am here tonight. I certainly wouldn't want this in my neighborhood or next to my house; however, I also shoot and fish and hunt and I'm familiar with guns. I have several of my own.

There are a lot of inappropriate uses I think for anything in particular areas. That location is not a good place for a sewer processing plant. It's not a good place for a gun range. Although, I do commend Mr. Sanders for finding the latest technology and that's really wonderful. There are a lot of empty lots in our downtown area that don't have homes near them and where large amounts of common energy and money haven't been invested. I would recommend to him if he would like to be a good neighbor that he check out some of those places and retract his request which would put him in a neighborhood where all the neighbors would be upset, and that is not being a good neighbor. Thank you.

Oh, one other thing. I notice in your
brochure, which I picked up on the table, it talks about conditional use. A use that is essential to or would promote the public health, safety or welfare, but which would impair the integrity and character of the zoning which it's located. I suggest that this is not one of those things. Thank you.

CHAIRMAN: Thank you.

Any board member have any questions of the speaker?

(NO RESPONSE)

CHAIRMAN: Next.

MR. ELLIOTT: State your name, please.

MR. COMBS: John Combs.

(MR. JOHN COMBS SWORN BY ATTORNEY.)

MR. COMBS: My wife and I live at 1205 Allen Street. The back of our property is approximately one block from this. I'm not going to take much of your time, but I wanted to read you an e-mail which I received from my middle son when this issue first came up. My middle son was a member of the Army Reserve here in Owensboro back during the time of Desert Storm. He was a tank commander. He was a member of the rifle team of the Army Reserve. He is a gun enthusiast and this is what he sent to us by e-mail.
"John and Vicki, please feel free to quote a gun enthusiast, me, that gun ranges belong outside city limits. I own a rifle and a pistol and would never under any circumstances fire either one inside of city limits. Besides I would love to have a local range with both in-door and out-door facilities. I am willing to drive 15 or 20 miles for a few good hours of practice in a relatively safe environment."

I know this is an emotional issue, but it seems to me even if he is my own son that that makes imminent rationale sense. We don't need a gun range in or near any residential neighborhood. There's a lot of space outside the city limits. I'm not speaking just for the J.Z. Moore neighborhood. I don't want to see this in any residential neighborhood in Owensboro. Thank you.

MR. ELLIOTT: State your name, please.

MS. CONDER: Christine Conder.

(MS. CHRISTINE CONDER SWORN BY ATTORNEY.)

MS. CONDER: I'm here to address you all as a new neighbor to this neighborhood. My husband and I have always loved the architectural and style of older homes.

In April we purchased one in the 1200 block of Allen. We absolutely love it. It's a
beautiful home, but we have spent a lot of money so far trying to maintain it and keep it up. We feel our investment is important to us. We have four children. My oldest son is pictured at the school bus stop which is right across the street from this property. Of course, my main concerns are safety for my four children. We have a fenced back yard, but our front and side doors do not have a fence around the yard so our kids have to go down to the cars, we park on the street. We do not have off street parking. My concern is if Ron Sanders has a lot of traffic coming and going from this range that my children will get hit. Like was brought up before about people are going to be carrying weapons even if they are in cases. I don't want them walking by my house. That really concerns me.

The neighbors in this neighborhood are so wonderful. The neighborhood that we came from last time they didn't care what was going on in that neighborhood. We had people that sold drugs a couple of doors down. Nobody did anything or said anything. I think that's really important that there are some people that really care enough about where they live to stand up and say this is not the right location.

As a mother I just ask anyone who has
children or grandchildren, you know, would you want this in your neighborhood. You just have to ask yourself that question. I hope that you will decline this Conditional Use Permit. Thank you.

CHAIRMAN: Any other speakers?

State your name for the record, please.

MR. LINDSEY: Ron Lindsey.

(MR. RON LINDSEY SWORN BY ATTORNEY.)

MR. LINDSEY: I just want to put a little bit of a different spin on things.

I think what we're asking is that a business man really won't be granted the opportunity to pursue his business. Well, we just came from a meeting down there at the Daviess County Courthouse and I think everybody seen or at least think everybody seen the article in today's paper that said Daviess County was considering or entertaining the idea of opening up the skeet trapshoot out there on Highway 60 East. Well, after attending this meeting actually what they did is they went ahead said that, yes, it is open for discussion. Yes, there is revenue to develop this. They're talking anywhere from 50,000 to $150,000 for the tax payer dollars to help develop this facility into a shotgun type shooting area.

What I presented to them and before them
was wouldn't the 72 acres out there, wouldn't this be a great facility for someone to enter into a partnership and have an in-door shooting range out there. Have it protected with a berm. You'd already have the parking out there. You would have the people that were trained out there. It would be an area that was for shooters. What they went, and it will be in tomorrow's paper, what they went ahead and decided is that they are going to open up discussion for, and I'll quote it exactly, "Public private type partnership." What they're saying is that, yes, they will help develop it and they are looking at private citizens that want to start a business of that nature and they would help them to get it going. I just thought that should be brought up. Wouldn't that be a great idea or a great way out for a different location. Thank you.

CHAIRMAN: Thank you. Any other speakers?

MS. LINDSEY: My name is Susan Lindsey.

(MS. SUSAN LINDSEY SWORN BY ATTORNEY.)

MS. LINDSEY: Good evening, Mr. Chairman and Members of the Board. Again, my name is Susan Lindsey. I live at the 700 block of Allen which is a couple of blocks away from the proposed site. I'm not going to take a whole lot of your time.
I sat down over the last few days — my
dad always told me if you have a hard decision to make
and you're not sure which way to go, to do the Ben
Franklin test. That is drawing a line down the center
of a page. Put the good aspects and the bad aspects
and making a decision from that. If you all will take
a few minutes, I know you all know how to read. I
hope I've printed this large enough.

The benefits to the community of Owensboro
what I could come up with were four. This is not for
the benefits of the Sanders. The benefits of our
community. The risks that I came up with: Increased
traffic accidents, because we're going to have more
traffic to that area than what we have now.
Accidental discharge increase. I know where I live
that there are probably people who walk down the
street every day with a gun in their pocket, but I
don't see it. I would hate to live somewhere where
people were walking up and down the street with guns
out, even though they were bagged, knowing that those
guns were visible even if they're unloaded. I mean
that's just not a very comforting feeling. There
would be an accidental discharge increase because
there will be an increase of concentration of firearms
in the area.

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There would be increase crime, as Mr. Darling said. It has been well stated that these weapons when they are brought onto the premises are to be unloaded. Can you imagine how many people out there -- we have a fairly low crime rate. I lived in Dallas, Texas for 13 years so compared to that it's fairly low. Thinking that these guns will be unloaded would come up and try to take those guns and use them in a crime.

Another one is, of course, the increase lead exposure, contamination, lead poisoning, decrease in public parking, which has been covered.

Again, there is no monitoring by the EPA or OSHA. I spoke with Pat Bartlett with Clean Air Quality Control, which is our state's EPA, and he said that, he told me that I could quote him. I spoke with him on Monday. He said, when there are no regulations, there is nothing for me to enforce. He said, the only way that I would be called in or would have any way to do anything about any problem there is if there were actual lead emissions or some type of hazardous emissions being brought out into the air that we could actually see. That's a scary thought to me.

The cost of cleanup to the city and the

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tax payers if there were a lead problem and they close
down.

Close proximity to homes. We've got food
service establishments. We not only have Davis
Distributors right next to it, about a block and a
half away is Jack & Jenny's Restaurant. They have
window air conditioners. Any lead that goes into the
air is going to be pulled in through those air
conditioners. It's going to go right on the food and
be given to the customer. That scares me. Really
frightens me a lot.

The school bus stop. There's also a
church which I think Bob put up here. The New Life
Worship Center is right behind it. People do play
basketball. They have youth activities at that area.

There is a child care facility also which
I don't think we have a picture of, that abuts the New
Life Worship Center. It's right, I think, next-door
and in front of it.

Also on this picture right here, this blue
thing, that's a child's pool. Okay. That's where
they play out in the pool, right across the street.

This is the lot. That's how close that is. It's just
a real frightening thing.

In the benefits I've got it's a convenient
location. It is a source of tax income for the city. There is some job opportunity there. There would be a benefit to the shooter, as Mr. Sanders says, for bettering their skill. Okay. Making them a better target shooter.

I also put that particular point in the risks because of the sniper incident that we've just gone through as a country. That's something we need to think about. It's going to make better shooters out there. The intent is good to make them safer shooters, but you're also training them. They are involved in training.

I'm asking just as -- like I say I'm a couple of blocks away from this, but as a citizen of Owensboro, I'm asking that you please deny this Conditional Use Permit. I think there's a better place for it. Not in the middle of downtown next to a neighborhood and all of these different businesses.

Thank you very much for your time.

CHAIRMAN: Thank you, ma'am.

Any other speakers?

(NO RESPONSE)

CHAIRMAN: Any board member have any questions at this time?

MS. DIXON: Did we say that we have
somebody here from the health department?

MS. STONE: There is someone from the health department. Mark Sears is from the health department.

CHAIRMAN: Would you come forward. State your name for the record, please.

MR. SEARS: Mark Sears. I'm the Environmental Health Director for the Green River District Health Department.

CHAIRMAN: Appreciate you being here. We have a couple of questions.

(MR. MARK SEARS SWORN BY ATTORNEY.)

MS. DIXON: Do we at present have any mechanism which you would routinely check for lead in a facility or the surrounding area?

MR. SEARS: No. There is currently no regulatory over this type of operation. The lead prevention program in the Department of Public Health is geared towards identifying children with elevated blood levels due primarily to lead base paint. There's not a current mechanism for doing routine on this type of facility.

CHAIRMAN: Are you qualified to do ground testing?

MR. SEARS: Personally I am not.
CHAIRMAN: Does the health department do that?

MR. SEARS: Yes. The health department does have one inspector that has a state certification for doing lead sampling. We don't actually do analysis.

CHAIRMAN: In other words, you take it and send it off?

MR. SEARS: Right. I would have to get some clearance through the state as to whether or not that could be done on a routine basis or spot check basis.

CHAIRMAN: Any other questions?

MR. WILLIAMS: Has this neighborhood been checked for lead?

MR. SEARS: Not that I'm aware of.

MR. MILLER: In your opinion would the proximity of this location to say J.R. Miller Boulevard, would that have some affect on the lead content maybe in the soil from the exhaust or whatever from cars?

MR. SEARS: That type of question probably would need to be addressed to the Division of Air Quality because we don't deal with air quality issues.

MS. MASON: What do you do when you test a
home for lead poisoning?

MR. SEARS: Our standard protocol, if through one of our clinics a child is identified as having an elevated lead blood level, we send an inspector out to do an initial assessment on the property, look for pealing paint or possible sources of contamination. Based on that assessment, we send a certified sampler in to collect samples and send them to the laboratory department of health for analysis.

CHAIRMAN: Any other questions of this gentleman?

(NO RESPONSE)

CHAIRMAN: Thank you at this time.

Any other comments from the objectors?

(NO RESPONSE)

CHAIRMAN: Does the applicant have anything you want to add at this time?

MR. SANDERS: Yes, Mr. Chairman. I'd like to respond to some of the questions that have been brought forth.

On the issue of law enforcement, that's entirely up to those agencies who they use, but we've also talked to state and federal agencies that would be using our facility and they have expressed interest in it.
The other part is that this facility can save the city a great deal of money on duplication of that type of service.

As far as cleaning up the site of superfund, the only place that we'll have any kind of toxic material is in the fluids. When we put the fluid in, it's not toxic, but over a period of time when the bullets strike it's going to become toxic and you have to have that removed by hazard material team. Our estimate on that to remove that fluid and the toxic material, that's really the dust, lead dust that's collected. It's about $2,000. That's not a million dollar thing. That's all that toxic materials contained right there.

As far as other services that use this type of facility, the FBI uses it, the secret services uses it, the military uses it. In fact, we've got a whole list of agencies that use this exact same technology.

As far as children six and under, we're not going to allow children in the range. Children under ten have no business in there. That's just not going to be allowed.

The discussion of the Louisville range, that range used the old smash plate technology. Not
this new technology.

We will not be using concrete blocks. We are using poured concrete, steel reinforced concrete walls that were solid concrete, poured concrete 11 feet high.

A lot has been made by propane tanks. Propane tanks is on the opposite side of our parking lot. Our range is between our parking lot and those tanks. That's not an issue. You're not going to have any kind of round from our parking lot that would ever go over there.

As far as industrial site, that's the old ice house. That does have historical use as an industrial site. Machine works and all sorts of things that have been there over a number of years. It is and it has continued to be over the last 100 years that we can determine used for industrial purposes. We can't really speak to other ranges that have problems. We're just not going to do the same thing that they did and repeat those issues. You can do all kind of things wrong. We don't intend to follow in their foot steps. Really that's all I had.

CHAIRMAN: While you're at the mike, does any board members have any other questions of the applicant?
MS. DIXON: You mentioned the clean up with taking a liquid out, $2,000. How often is that done?

MR. SANDERS: Every two years.

CHAIRMAN: Any other questions?

(NO RESPONSE)

CHAIRMAN: Thank you for this time.

The opposition, do you have anything else you all want to add?

MR. DARLING: Bob Darling. I'd like to answer one or two of the things he's talking about. Of course, if you were standing right in front of the building, you'd definitely hit the propane tank. That's not our concern. Our concern is guns are going to be carried all over the neighborhood. They will be parking down 12th Street which is beside the building which has an absolute direct view of that propane tank. Lot of place bullets could go, but in the wrong direction, Owensboro would be facing something it could not survive.

As far as other federal agencies and everything else, I've talked to several federal agencies. I haven't had a one say that they need the range here in Owensboro. That's what we tried to see,
if there was by chance an honesty for this range by
either the police department or federal agencies or
anything else, that we wouldn't be blocking something
that's truly needed. I think the police department
really wants their own training facility where they
will have out-door training and in-door training and
it will be by themselves on 27 acres. Not in the
middle of the city. That's part of that. Thank you.

CHAIRMAN: You have something else you
wanted to add?

MR. SANDERS: I just give the name of the
person that said that the FBI is interested his name
is Ron Crosman. He is the range master of the FBI in
Quanico.

Also the 12th Street issue. We have told
the city that we'll either petition to open 12th
Street or petition to close it. Mr. Darling is aware
of that. Right now it's in limbo. You can't get in
there. You don't have access off J.R. Miller. We'll
either request that depending on what the city wants
to do. We'll petition to open it or close it. We
will certainly support 12th Street opening for access.

CHAIRMAN: Come forward and state your
name.

MR. SANDERS: My name is Lee Sanders.
MR. LEE SANDERS: There was some statements made a little while ago about lead and that it enters your body and doesn't go away. That's not exactly true. Although it does stay in your body for a period of time, it does leave your system. There are some EPA standards that's called Resource Conservation Recovery Act. There's a very clear standard that you have to follow when you deal with lead. The EPA deals with resource. Not a business. So if you deal with lead, you have to follow their guidelines as far as lead. Not business. So if you're looking for a gun range, you're not going to find regulations on gun range. If you're looking for regulations on lead, you're going to find regulations on lead. You have very specific set of steps that you have to follow when you use that specific material and it goes along with anything, any type of chemical that you use. That's how the EPA regulates.

As far as the ranges and the problems, the range in Nevada, thought they had one of the very state-of-the-art back stop, very state-of-the-art ventilation system, they did not have a very state-of-the-art back stop. It's considered old style smash
plate back stop. Bullet flies into it and explodes on impact. You've got a lot of dust. Even with state-of-the-art back stop, you're going to have a lot of extra dust. It's a lot of extra material for ventilation system to have to try to recover. That caused a lot of problems for them. There's not been a lot of information given out about that. We're using the wet trap system that traps the dust in the water. Fluid that circulates inside the trap so you don't have the dust immediately coming off the range. Next bullet flies in and dust is being picked up from the previous. It takes a lot of dust and is kicked up in the air. There's always smash plate designs you don't have that problem. Thank you.

CHAIRMAN: Thank you, sir.

Sir, you want to comment.

MR. TOOLEY: Isaac Tooley, 1213 Daviess Street.

(MR. ISAAC TOOLEY SWORN BY ATTORNEY.)

MR. TOOLEY: He's talking about getting a petition to close off 12th Street. He's going to close off my driveway. I'm not going to appreciate that. I use it every day four or five times. I go in 12th Street and go up the alley to my backyard. I don't think that will be very nice. Thank you.
CHAIRMAN: State your name again.

MS. HIGDON: Kate Higdon.

I just wanted to comment on the article on Reno, Nevada again that Lee Sanders brought up. Yes, they have a state-of-the-art ventilation system. They have the steel plated traps, but their problem was not so much -- of course, the ventilation system didn't work, but it was also that they disposed of the filters improperly just the regular employees. What guarantee can they give us that their employees aren't going to make a mistake. The point is is it worth the risk that they're taking putting all of our families lives at stake? Is it really worth the risk? That's just the point that we're trying to make.

CHAIRMAN: Thank you.

Does any board member have any questions of the applicant or the ones opposed to the application?

(NO RESPONSE)

CHAIRMAN: Hearing none before I ask for a motion I want to thank you all, both sides, for your orderly manner in the way you presented yourself this evening. That's kind of nice to have for a change. We appreciate it. Thank you.

Now I'll entertain a motion to dispose of
the item, please.

MR. PEDLEY: Mr. Chairman, I have a few comments I'd like to make and then I'm ready to make a motion.

First thing we have to consider is public health, safety and welfare.

Health, certainly a concern for lead. It's no known fact whether it will be or will not be. It is an issue.

Safety, as I stated before, I'm concerned about discharging firearms outside of the building. I visited that job site this afternoon and stood on the lot, proposed parking lot. I could clearly see if a firearm was discharged it would probably, could possibly enter in a building or anywhere else.

Welfare, I think it would have an adverse influence on the neighborhood. It would discourage the homeowners from updating their property probably. It could devalue their property.

Let me read the purpose of the Conditional Use Permit out of the Zoning Ordinance. The purpose is to allow the proper integration into the planning area of uses which are specifically named in the Zoning Ordinance which may be suitable only in specific locations and be zoned only if certain
conditions are met and which would not have adverse influence on existing or future development of the subject property or its surrounding neighborhood.

I believe it would have an adverse influence for reasons stated here tonight in my findings and I make a motion for denial.

MS. DIXON: Second.

CHAIRMAN: Do you want those statements you started with entered into?

MR. PEDLEY: The original statements, yes.

CHAIRMAN: Is there any questions or comments on the motion?

(NO RESPONSE)

CHAIRMAN: Hearing none all in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Any other items on the agenda?

MS. STONE: No, sir.

CHAIRMAN: Need one final motion.

MS. DIXON: Motion to adjourn.

MR. MILLER: Second.

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Meeting is adjourned.

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STATE OF KENTUCKY)
) SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS)

I, LYNNETTE KOLLER, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Board of Adjustment 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 55 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 25th day of November, 2002.

LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 2
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES:
DECEMBER 19, 2002

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

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