OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

NOVEMBER 5, 2009

The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, November 5, 2009, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: C.A. Pantle, Chairman
Ward Pedley, Vice Chairman
Ruth Ann Mason, Secretary
Gary Noffsinger, Director
Madison Silvert, Attorney
Judy Dixon
Marty Warren
Sean Dysinger
Clay Taylor

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CHAIRMAN: Let me call the Owensboro Metropolitan Board of Adjustment to order. I want to welcome all of you this evening.

We start our meeting each month with a prayer and pledge to the allegiance. We ask you to join us if you so desire. Judy Dixon will have our prayer and pledge of allegiance.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Again, I want to thank all of you for coming. Welcome you. If you have any comments on any of the items, please come to one of the podiums, state your name and we'll have you sworn in and have

it on record if there's something down the road to question something about.

When you're talking on any item, we'll listen to any new items or new suggestions or new questions or new comments. We'll listen to those. If you start calling and saying the same thing over and over, we'll call you out of order.

With that we'll go ahead with our first item which is the minutes of the last meeting in October. They're in the office. We have no corrections I think that need to be added. With that I'll entertain a motion to dispose of them.

MR. WARREN: Motion to approve the minutes as written.

MR. DYSINGER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please, sir.

CONDITIONAL USE PERMITS

ITEM 2

530 Carlton Drive, zoned I-1
Consider a request for a Conditional Use Permit in order to operate a 135 bed penal institution.
Reference: Zoning Ordinance, Article 8, Section 8.2C2

Applicant: Dismas Charities Properties, Inc.

MR. SILVERT: Would you state your name for the record, please.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: Before we start with this item, I would like to read into the record, there are ten Conditional Use Permits on the agenda tonight so we would just like to remind the Board of their authority in approving Conditional Use Permits.

By statute, Kentucky Resolution Statute 100.237, the Owensboro Board of Adjustment has the power to hear and decide applications for Conditional Use Permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations that may be suitable only in specific locations in the zone only if certain conditions are met.

By definition, a conditional use means a use which is essential to or would promote the public health, safety or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located or in adjoining zones, unless restrictions on location, size, extent and character of performance are imposed in addition to

those regulations imposed by the zoning ordinance.

A Conditional Use Permit is the legal authorization to undertake a conditional use, pursuant to authorization by this board. The board has the authority to approve, modify or deny any application for a conditional use permit. If a conditional use permit is approved, the board may attach any necessary conditions for the proper integration of the use in the area.

Consideration of the Conditional Use Permit application by the board requires a statement of the factual determination by the OMBA which justifies the issuance or denial of the conditional use permit. Findings of fact supporting the OMBA decision must be stated in the motion to approve or deny. In addition to these findings, the OMBA must include in a motion to approve any specific conditions which must be met in order for the use to be permitted and properly integrated into the area.

We would like to enter this into the record as Exhibit A.

On to Carlton Drive.

ZONING HISTORY

The subject property is currently zoned I-1 Light Industrial. OMPC records indicate the property

was rezoned from B-4 to I-1 in 1990.

There was a Conditional Use Permit to operate a community residential correction center approved in May of 1990 and a Conditional Use Permit for the placement of the mobile classroom for an existing institutional facility approved in October 1990.

Dismas Charities provide re-entry services for 135 state offenders back into society by performing public services for government and non-profit agencies in the Owensboro area. Residents are provided with dormitory, bathroom, laundry, and social services at the current location.

The applicant is proposing to build a 3,457 square foot addition to the existing penal institution. All other elements of the previous conditional use permit, including the number of inmates, are to remain the same.

LAND USES IN SURROUNDING AREA

The property to the north is zoned B-4 General Business and R-3MF Multi-Family residential and is vacant land and an apartment complex. The properties to the west and east are zoned B-4 General Business. The property to the west is an office building and the property to the east is a bowling alley. The property to the south is zoned B-5 Business/Industrial and is

used for business purposes.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements - Penal or Correctional Institutions - 1 for each employee on maximum shift - 7 employees, plus 1 per every 25 inmates - 135 inmates, 13 required spaces.

2. Landscaping requirements - 1 tree every 40 feet plus a continuous 3 foot high element along the vehicle use area boundaries to the north and south.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Thank you.

Any comments at this time from the Staff?

MR. NOFFSINGER: No, sir.

CHAIRMAN: For information is there anyone here speaking in opposition of this item?

MR. SILVERT: State your name, please.

MS. SULLIVAN: Mike Sullivan.

Good evening. Mike Sullivan. I'm the attorney for the applicant, Dismas. Just as a bit of background.

There's been no significant additions or modifications to that campus since 1990. The purpose of this building is to improve the living conditions of the inmates there. More bedroom space, more

bathroom space, and laundry facilities.

We have three representatives from Dismas here. T.C. Cox, the local director, Holly Munoz, the assistant director, and Faith Goode who is regional vice president. We also have our engineers here, Associated Engineers, Kelly Gardner, to answer any questions as well.

CHAIRMAN: Does anyone else have any items they want to bring up right now?

(NO RESPONSE)

CHAIRMAN: Any board members have questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have any comments?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none entertain a motion to dispose of the item.

MR. DYSINGER: Mr. Chairman, given the fact that the proposed use is just an existing, an extension of the existing use and therefore is compatible with the neighborhood, further I find that the use contributes in a significant and positive way to this community's health, safety and welfare, I move that we grant the Conditional Use Permit.

MS. DIXON: Second.

CHAIRMAN: A motion has been made and a second. Is there any other question or comments from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 3

3152 Commonwealth Court, zoned B-4
Consider a request for a Conditional Use Permit in order to construct and operate a 5,000 square foot childcare facility for 92 children.
Reference: Zoning Ordinance, Article 8, Section 8.2B3
Applicant: David Martin; M&P Properties, Inc.

MR. PEDLEY: Mr. Chairman, I need to disqualify myself on this item because I'm a co-applicant on the issue and I will leave the room and you bring me back in.

CHAIRMAN: So noted.

(MR. WARD PEDLEY LEAVES ROOM AT THIS TIME.)

ZONING HISTORY

The subject property is currently zoned B-4 General Business. OMPC records indicate there have

been no Zoning Map Amendments for the subject property.

There was a Final Development Plan approved for the subject property in December 2008.

To accommodate the proposed building the property line between lot 6 and lot 7 will need to be moved. As a result, an amended Final Development Plan and Minor Subdivision Plat will need to be approved reflecting the change to the property line.

The applicant is proposing to construct and operate a 5,000 square foot childcare facility for 92 children ages 6 weeks to 12 years. The facility's operating hours will be from 6:00 a.m. to 6:30 p.m.

LAND USES IN SURROUNDING AREA

The property to the north is zoned A-U Urban Agriculture and is farm land. The property to the west is zoned I-1 Light Industrial and is an existing industrial use. The properties to the south and east are zoned B-4 General Business and are proposed buildings for business uses.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements – Child day-care centers – 2 plus 1 for every 10 children – 11 required spaces.

2. Landscaping requirements – 1 tree every 40

feet plus a continuous 3 foot high element along the vehicle use area boundaries.

SPECIAL CONDITIONS

1. Approved Amended Final Development Plan.

2. Approved Minor Subdivision Plat.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit C.

CHAIRMAN: Thank you.

Is there anyone wishing to speak in opposition of this item?

(NO RESPONSE)

CHAIRMAN: Hearing none is the applicant here and do you have anything you want to add?

(NO RESPONSE)

CHAIRMAN: Board have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Hearing none entertain a motion to dispose of the item.

MR. TAYLOR: Mr. Chairman, move to approve the Conditional Use Permit. The request is permitted in this zone and it will provide a betterment to the community and thereby provide more child care in that

area.

I do place the special conditions upon this Conditional Use Permit: 1. Approved Amended Final Development Plan; 2. Approved Minor Subdivision Plat.

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Any other question or comments from the board?

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

(MR. WARD PEDLEY REJOINS MEETING AT THIS TIME.)

ITEM 4

2628 New Hartford Road, zoned B-4
Consider a request for a Conditional Use Permit in order to operate a lawn maintenance business
Reference: Zoning Ordinance, Article 8, Section 8.2H8/33a
Applicant: Jerry Yeiser & Betty Y. Yeiser

MR. NOFFSINGER: Mr. Chairman, the applicant has requested that this item be postponed until our

December meeting which will be on the first Thursday in December at 5:30.

MR. DYSINGER: Mr. Chairman, move to postpone this item per the applicant's request.

MS. MASON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries. Be postponed until December.

Next item.

ITEM 5

4801 Sutherland Road, zoned A-R
Consider a request for a Conditional Use Permit in order to operate an indoor baseball recreational facility with four accessory baseball/softball infields without lighting and a hitting range for seasonal recreational use.
Reference: Zoning Ordinance, Article 8, Section 8.2B11/13
Applicant: Sports Warehouse, Inc., Stephen E. Aull & Christine M. Aull

ZONING HISTORY

The subject property is currently zoned A-R Rural Agriculture. OMPC records indicate there have been no Zoning Map Amendments for the subject property.

There was a Conditional Use Permit approved in 2002 to operate a golf driving range and a Conditional

Use Permit approved in October 2007 to operate an indoor baseball recreational facility with four accessory baseball/softball infields without lighting for seasonal recreational use.

In 2007 the Conditional Use Permit was approved for a 4,320 square foot building, the applicant is seeking to expand the building to 8,589 square feet. The applicant states the expansion is for storage purposes and does not interfere with or change the main open area of the building or its intended use. All other elements of the previous Conditional Use Permit will remain the same.

The facility is operated by appointment only and not open to the general public.

LAND USES IN SURROUNDING AREA

The properties to the north are zoned A-U Urban Agriculture and is a single family residence. The property to the west is zoned B-4 General Business and is Sports Warehouse and Greater Vision Baptist Church. The properties to the south and east are zoned A-R Rural Agriculture appear to be farm land.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements – Recreational Activities, indoor – 1 for each employee on maximum shift plus 1 for every 2 participants plus 1 for every

3 spectator seats. Recreational Activities, outdoor – 1 for each employee on maximum shift plus 1 for every 3 participants plus 1 for every 3 spectator seats.

2. Landscaping requirements – none

SPECIAL CONDITIONS

1. The facility shall operate by appointment only.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Thank you.

Does anybody have any opposition to this item?

(NO RESPONSE)

CHAIRMAN: Is the applicant here and do you have any comments at this time?

APPLICANT REP: No.

CHAIRMAN: Board members have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item.

MS. DIXON: Move to approve based upon the facts that there is no opposition and it's an expansion of the existing conditional use permit.

Subject to the zoning ordinance requirements and the special condition previously stated.

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Any other questions or comments from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 6

2901 Veach Road, zoned B-4
Consider a request for a Conditional Use Permit in order to construct a 26 foot by 30 foot building expansion in the floodway.
Reference: Zoning Ordinance, Article 18, Section 18-4(b)3, 18-5(b)4, 18-6(b)3
Applicant: William & Joan Kolok; Kolok Wood & Stone, LLC

ZONING HISTORY

The subject property is currently zoned B-4 General Business. OMPC records indicate there was a Zoning Map Amendment Application and a Variance Application submitted for the October 2009 Planning

Commission Meeting. The applicant had requested a zoning change to R-1 B Single Family Residential to operate a home occupation. The applicant can operate his proposed use within the current B-4 zoning classification provided site development requirements are met. Both items were postponed and we have received a letter from the applicant asking that both items be withdrawn at the November 2009 Planning Commission Meeting.

This Conditional Use Permit is to construct a 26 foot by 30 foot expansion to an existing building in the floodway.

All other permits as may be required by the Army Corps of Engineers or the Kentucky Division of Water must be obtained prior to the issuance of a conditional use permit as per Article 18-4(b)(3)(c). Certification from a registered professional engineer must be provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge as required by Article 18-5(b)(4)(a) of the Zoning Ordinance. A Stream Construction Permit from the Division of Water, a letter from the Army Corps of Engineers and a letter of no impact from a registered professional engineer were all submitted with the

application.

LAND USES IN SURROUNDING AREA

The properties to the north, south, west and east are zoned B-4 General Business, the property to the north appears to be used for residential purposes, the property to the south is a business office, the property to the west is a medical office complex and the property to the east is the Owensboro Christian Church Campus.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements – Offices – 1 for every 400 square feet – 4 required parking spaces.

2. Landscaping requirements – none

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

CHAIRMAN: Is the applicant present and do you have any comments at this time?

State your name, please, sir.

MR. KOLOK: My name is William Kolok. I don't have anything else to add.

CHAIRMAN: Does the board have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have anything else or questions?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Is anyone wishing to speak in opposition of this item?

(NO RESPONSE)

CHAIRMAN: Hearing none I'll entertain a motion to dispose of the item.

MR. PEDLEY: Mr. Chairman, motion for approval based on the findings it's compatible use in the neighborhood. It will not have an adverse influence on future development because the Veach Road area is already a mixed use area of B-4 and the application of the Stream Construction Permit from the Division of Water, a letter from the Army Corps of Engineers and a letter of no impact from a registered professional engineer were all submitted with the application.

MR. WARREN: Second.

CHAIRMAN: A motion has been made and a second. Any other comments or questions from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 7

1324 West 3rd Street, zoned R-4DT
Consider a request for a Conditional Use Permit in order to construct and operate an 8 bed residential treatment and support facility for boys ages 12-17.
Reference: Zoning Ordinance, Article 8, Section 8.2A7/6a
Applicant: St. Joseph's Peace Mission for Children, Inc.

ZONING HISTORY

The subject property is currently zoned R-4DT Inner City Residential. OMPC records indicate there have been no Zoning Map Amendments for the subject property.

There was a Conditional Use Permit to construct and operate a residential treatment and support facility for a maximum of 8 boys ages 12-17 approved in August 2007.

This Conditional Use Permit application is to increase the size of the original building from 39 feet by 70 feet to 39.58 feet by 76 feet. All other elements of the previous Conditional Use Permit are to remain the same.

LAND USES IN SURROUNDING AREA

All the surrounding properties are zoned R-4DT Inner City Residential and are used for residential

purposes.

ZONING ORDINANCE REQUIREMENTS

The following criteria apply to a conditional use permit for a residential transitional home:

1. Any person residing in the referenced housing situation shall be subject to all state, federal or local jurisdiction laws.

2. The facility shall be located within 1/2 mile of public transit.

3. The facility shall not be located within an identified historic district recognized by the legislative body.

4. The facility shall employ an on-site administrator, who is directly responsible for the supervision of the residents and the implementation of house rules.

5. The applicant shall provide the Board of Adjustment, the Zoning Administrator, the public and the residents a phone number and address of the responsible person or agency managing the facility.

6. A fire exit plan shall be submitted with the conditional use application showing the layout of the premises, escape routes, location, operation of each means of egress, location of portable fire extinguishers, and location of the electric main. The

fire exit plan shall be prominently displayed within a common area within the facility.

7. Hallways, stairs and other means of egress shall be kept clear of obstructions.

8. The facility shall comply with all applicable building and electrical codes.

9. A list of house rules shall be submitted to the Board of Adjustment with the application for a conditional use permit and shall be prominently displayed in a common area within the facility. The rules should be adequate to address the following: Noise control, disorderly behavior, property garbage disposal, and cleanliness of sleeping areas and common areas.

10. The Owensboro Metropolitan Board of Adjustment may impose additional conditions as may be necessary for the proper integration of the use into the planning area.

The applicant has submitted material with the application that addresses each of these items.

Also, based on zoning ordinance requirements, a total of seven parking spaces and vehicular use area landscaping consisting of a 3 foot continuous element with 1 tree every 40 feet are required. The site plan submitted with the application shows seven parking

places to the rear of the proposed building with access to the parking from an alley and the required landscaping.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit F.

CHAIRMAN: Is the applicant here and have any comments at this time?

MS. BELL: June Bell, the Director. No, sir, I have no comments.

CHAIRMAN: Is anyone wishing to speak in opposition of this item?

(NO RESPONSE)

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

(NO RESPONSE)

CHAIRMAN: Staff have any comments?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item.

MS. DIXON: Move to grant the Conditional Use Permit based upon the findings that there has been no stated opposition, that it's an expansion of the existing use and meets a need that exist in our community, subject to the zoning ordinance requirements which have been addressed in the

application.

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Does the board have any other questions or comments at this time?

(NO RESPONSE)

CHAIRMAN: Staff have any other comments?

MR. NOFFSINGER: No, sir.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item, please.

ITEM 8

11901 Highway 951, zoned EX-1
Consider a request for a Conditional Use Permit in order to construct a 60 meter meteorological tower to measure wind speed, wind direction, and vertical wind speed for a minimum of one year and a maximum of two years.
Reference: Zoning Ordinance, Article 8, Section 8.2K6
Applicant: Heartland Wind, LLC c/o Iberdrola Renewables, Inc.; Jerry Winn

ZONING HISTORY

The subject property is currently zoned E-X1 Coal Mining. OMPC records indicate there have been no Zoning Map Amendments for the subject property.

This Conditional Use Permit is for a temporary

meteorological tower to measure if this area is suitable for harvesting wind energy. If it is determined the area is suitable for a wind farm, the property will need to be rezoned back to its original agricultural zoning and a Conditional Use Permit Application to operate a wind farm will need to be approved.

LAND USES IN SURROUNDING AREA

The properties to the north are zoned E-X1 Coal Mining and A-R Rural Agriculture and are used for agriculture purposes. The properties to the south, west and east are zoned E-X1 Coal Mining and are used for agriculture purposes.

ZONING ORDINANCE REQUIREMENTS

None.

SPECIAL CONDITIONS

1. The tower shall be in place for a maximum of 2 years from the date of approval.

2. Rezone the property from E-X1 to A-R if it is determined the area is suitable for a wind farm.

3. Apply for a Conditional Use Permit to operate a wind farm if the area is found suitable.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit G.

CHAIRMAN: Is the applicant here and have any

comments on the item at this time?

APPLICANT REP: No comments.

CHAIRMAN: Is there any opposition to this item?

(NO RESPONSE)

CHAIRMAN: Board members have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Staff have anything else to add?

MR. NOFFSINGER: No, sir.

CHAIRMAN: Entertain a motion to dispose of the item.

MS. MASON: Mr. Chairman, I move for approval with the findings that there is no opposition. It will not have an adverse influence on future development and harvesting wind energy could be a betterment to our community, with the special conditions that the tower shall be in place for a maximum of two years from the date of approval, rezoning the property from E-X1 to A-R if it is determined the area is suitable for a wind farm, and then to apply for a Conditional Use Permit to operate a wind farm if the area is found suitable.

MR. PEDLEY: Second.

CHAIRMAN: A motion has been made and a

second. Any other comments or questions from the board?

(NO RESPONSE)

CHAIRMAN: Staff have anything else?

MR. NOFFSINGER: No, sir.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Before we start the next two items, I'm going to ask our attorney to state a couple of things for us.

MR. SILVERT: Thank you, Mr. Chairman.

I was informed earlier this week that there was a group of individuals represented by an attorney this evening who would be presenting a case. It is not typical that we will have two organized represented sides in a Conditional Use Permit application, and then probably also comments from the public that will need to be taken. I just want to review how this board will be hearing the evidence this evening.

First, the applicant will be given an opportunity to present their proof, and the entirety of their proof on their initial case.

Secondly, the attorney that contacted me, Mr.

Ralph Wible, will be provided the opportunity to present his proof which may include witnesses as well as statements from those that he represents.

Following that Mr. Wible and his case will be provided the opportunity to direct questions to the chair. Those questions will then be redirected to the applicant as to avoid any conflict. That is the way that it will be done all evening.

Following the answer to those questions, we'll open it up to those persons who wish to speak and are not otherwise represented by counsel on either case. At that opportunity they can direct questions to the chair to be directed to either party that has presented a case or general statements as to why or why not this conditional use application should be granted.

Following that both of the parties that are represented this evening will be provided an opportunity to give a summation first by Mr. Wible and then by the applicant.

CHAIRMAN: Everyone hearing the statement, we'll proceed.

ITEM 9

1300 Daniels Lane, 1041 Pleasant Valley Road, Zoned P-1
Consider a request for a Conditional Use Permit in order to construct and operate a 477 bed hospital.

Reference: Zoning Ordinance, Article 8, Section 8.2C1
Applicant: Owensboro Medical Health System, Inc.

MR. WARREN: Mr. Chairman, due to the possible appearance of a conflict of interest, I will need to recluse myself from this item.

CHAIRMAN: So noted, sir. We'll excuse you.

(MR. MARTY WARREN LEAVES ROOM AT THIS TIME.)

ZONING HISTORY

The subject property is currently zoned P-1 Professional/Service. OMPC records indicate there have been 4 Zoning Map Amendments for the subject property:

* Rezoning from R-1 to I-2, 1977
* Rezoning from R-1A and I-2 to I-1, 1986
* Rezoning from I-1 to I-2, 1999
* Rezoning from I-1 and I-2 to P-1, September 2009

A Certificate of Need has been filed with the application as required by the Cabinet for Health and Family Services, Office of Health Policy.

Findings based on the Phase I Environmental Site Assessment prepared by Associated Engineers dated March 21, 2007 and submitted to the Owensboro Metropolitan Planning Commission on October 27, 2009:

* Historically the property has been used

primarily for agriculture purposes. As the result of agricultural use it is possible that hazardous substances could be present in the soil due to the application of herbicides or pesticides requisite to standard agricultural practices. There is not historical evidence that herbicides or pesticides were released on the property in significant quantities other than through standard agricultural practices.

* This investigation discloses no areas of off-site contamination which could potentially migrate onto the property.

* No evidence of significant petroleum product releases or spills was observed on the property or otherwise disclosed by this investigation.

* A 24 inch crude oil pipeline crosses the property. In the event of a leak or rupture it could result in significant contamination. No evidence of present or past releases from this source were disclosed.

LAND USES IN SURROUNDING AREA

The property to the north is zoned I-1 Light Industrial and is the CSX railroad and a weigh station. The CSX railroad located north of the subject property has a switching yard located just west of Pleasant Valley Road. Two tracks cross

Pleasant Valley Road with multiple other storage tracks located within the switching yard. The properties to the south are zoned A-U Urban Agriculture, B-4 General Business and R-1A Single Family Residential and is used for agriculture and residential purposes. Also to the south is Yellow Creek. The properties to the west is zoned 1-2 Heavy Industrial and I-1 Light Industrial and are used for offices and the storage of crude oil. The properties to the east are zoned I-1 Light Industrial and A-U Urban Agriculture and are used for industrial and residential purposes.

ZONING ORDINANCE REQUIREMENTS

1. Parking requirements – as required by Article 13 of the Zoning Ordinance and the 2006 International Building Code and shown on the site plan submitted with the application.

2. Landscaping requirements – as required by Article 17 of the Zoning Ordinance and shown on the site plan submitted with the application.

SPECIAL CONDITIONS

The following conditions were approved with the September 2009 Zoning Map Amendment and are recommended with this Conditional Use Permit Application:

1. At the intersection of US 60 East and Daniels Lane, install a third northbound approach lane for right turns and designate the middle approach lane for left and through movements;

2. At the intersection of Daniels Lane and Access #3, south of the railroad crossing, provide a right turn lane or a 300-foot radius curve for a one-way lane for southbound traffic entering the site;

3. Widen Daniels Lane between US 60 and Access #3, using the City's urban template standard of a 40-foot roadway width consisting of three 12-foot lanes and a two-foot wide curb and gutter section on either side. Sidewalks are to be provided for pedestrian access. Include a 50-foot northbound left turn storage lane before beginning a 35 to 1 taper south of Access #3. Install an upgraded and widened railroad crossing to CSX standards with the addition of automatic gates;

4. Widen Pleasant Valley Road between the new expressway connector road intersection and the intersection with the site connector road (Access #4) north of Yellow Creek using the City's urban template standard of a 40-foot roadway width consisting of three 12-foot lanes and a two-foot wide curb and gutter section on either side. Sidewalks are to be

provided for pedestrian access. Provide north of Access #4 a 35 to 1 taper to transition back to the existing roadway. Maintain the reconstructed roadway above the 100 year floodplain, replacing the existing box culvert in the floodway of Yellow Creek, and provide a vertical transition back to the existing roadway elevation at the northern termination of the horizontal taper;

5. Provide a northbound right-turn lane or a 300-foot radius curve for a one-lane entry road at the intersection with the site connector road (Access #4);

6. Implement a way-finding signage program on US 60 E, US 60 Bypass and the expressway connector prior to the opening of the hospital;

7. Install Intelligent Transportation System advanced warning signs on US 60 to notify motorists of a train on the tracks and to use an alternative route such as the bypass provided that the KYTC will permit the signs;

8. Work with the local transit authority to extend bus service to the site; and,

9. All improvements, including a connection to the existing bypass or the Northeast Expressway shall be completed prior to the issuance of an occupancy permit.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit H.

CHAIRMAN: Thank you.

Is the applicant ready at this time?

MR. NOFFSINGER: Before we do, I think Mr. Kamuf has raised an issue on the improvements on Pleasant Valley Road.

Mr. Kamuf, would you like to state your position?

MR. SILVERT: State your name, please.

MR. BAKER: Jason Baker.

(JASON BAKER SWORN BY ATTORNEY.)

MR. BAKER: During the rezoning hearing where those conditions were set forth, there was a provision left, for the improvements for Pleasant Valley Road were intended to tie in with the same type of roadway section that was proposed through the state project. That was going to carry on through.

I believe the conditions that were set forth in the rezoning hearing stated that it could be either an urban section with curb and gutter or as per the city engineer's requirement.

MR. KAMUF: I've got the transcript if you want to go over it.

MR. NOFFSINGER: Let's hear from Brian Howard.

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: I believe Mr. Baker is correct. There were some changes made to the findings and conditions very close to the time of the meeting. I believe those were the changes that were made and I believe his statements are correct.

MR. NOFFSINGER: Mr. Kamuf, you do have the transcript, correct, from the Planning Commission hearing?

MR. KAMUF: I do.

MR. NOFFSINGER: It was the Staff's intent to include the conditions per what the Planning Commission approved.

MR. KAMUF: And we agreed with that.

MR. NOFFSINGER: Let the record reflect that.

CHAIRMAN: Proceed, Charlie.

MR. KAMUF: I represent Owensboro Medical Health System concerning the conditional use of the new hospital.

I might point out that the building of the hospital is probably the most important undertaking in our community in years.

As Melissa stated, on September 10th OMPC

unanimously approved this project with 9 conditions, and she just reviewed those nine conditions.

We are now here to get a conditional use to build the hospital in a P-1 zone.

As you can see on the film, this property is located, as you can see there with the blue arrow, that property is 147 acre tract. On the north side it is bounded by the railroad tracks, on the east side by Daniels Lane, and on the west side by Pleasant Valley, and on the south side by Yellow Creek. The property is located in a circular ring road. As you can there, this is the red area that we're talking about. In a circular road.

On the west side of Pleasant Valley Road is the main entrance to the hospital. On the east side is the secondary entrance to the hospital. All the hospital complex will take place within the red area, within the ring area that you see.

Important enough is the green line. The green line is a connecter road that connects the bypass to the Pleasant Valley Road. This road is not only bid out. This road is under construction as we speak. As a result of this road and the completion of this connecter road, a project, as I stated which is under way, will eliminate any transportation or hospital

access issues caused by the railroad which is on the north side. The connecter road will allow for unobstructed access to the hospital 24/7.

Also you see the orange road. The orange road is the extension, is the bypass extension and certainly one of the main reasons that the hospital is built in this area is because of that interchange and the closeness to the proposed bypass. That is a phase 2 area. The phase 1 is under construction as I explained and the other part is phase 1, which is way to the north of the picture. It is also under construction at the present time from up at the truck stop on Highway 60 to 144.

The use of the subject property for a new hospital will be compatible with the surrounding neighborhood. Previously the 140 acre tract that we just showed you was utilized for road crop over 100 years.

The importance of this photo, you see the area in white. That is designated as the urban surface area of Owensboro. Now, what does that mean? The site is located within that area. There are all utilities within that area. According to the OMPC's Comprehensive Plan Section 430 it states, "A major policy of our community is to encourage urban type

growth to be concentrated in and around the existing urbanized area of Owensboro and within the urban service area."

The proposed hospital site is located there within that urban service area and it's nearly in the central part. It's not weighed to one side or the other. It's within that urban service area.

In 1999 the tract was rezoned from I-1 to Heavy Industrial in the anticipation of using it for industrial park. The property was annexed at that time. Since that time the property has always been part of the City of Owensboro under the annexation policy.

The OMPC finding of record in 1999 stated that the proposed use of heavy industrial was compatible with the neighborhood and was recommended and approved without any reservation. There were no conditions. There were no requirements of any off site improvements.

The city, county and the economic development properties have abandoned this site as an industrial park. They have not had any success in marketing this property as an industrial park. Therefore they made a conscious decision to sell the subject property to Owensboro Medical Health System for the sole purpose

of building a hospital complex.

The existing uses in the immediate area remain unchanged from 1999 to the present. For residential uses in 1999 are the same as they are today. The use of the subject property for a hospital complex is not only compatible with the land uses in the area, but the hospital will serve as a buffer area between residential uses and mixed uses.

Let me give you some of the permitted uses in a heavy industrial area. Automobile and truck repair. Parking lot or structures. Tar retreading and recapping. Truck terminals and freight yards. Machine welding and other metal workshops. Manufacturing and assembly. The sell of manufacturing goods, and warehouses. Those are just some of the uses in a heavy industrial area.

Certainly in comparison with those uses that I've just stated, the proposed use of the subject property for a hospital is more compatible with the surrounding area than the permitted uses that we talked about.

Let me point out another area as far as heavy industrial.

According to Article 8 of the OMPC Regs, I-1 heavy industrial is intended for what? Manufacturing

industrial and related use which involve potential nuisance factors. The proposed use of the property as a hospital eliminates the potential nuisance factors associated with heavy industrial. Hospitals are compatible with residential development as long as their properly designed with landscape buffers and other amenities.

The design team considering placing sitting lakes, sitting areas, landscape features and walking trails with the new hospital complex. There is a long-range plan to inner-connect the City's Greenbelt to the subject property when the Greenbelt becomes available.

The use of the subject property as a hospital is very compatible with the residential area. This is true of the former hospital, now the Health Park located on Ford Avenue.

The development of the subject property for any use would certainly affect the roadway system in the area. The type of heavy traffic resulting from I-2 Heavy Industrial would be high traffic with a significant increase in industrial material transported by the area roadways. The traffic generated by OMHS would be less detrimental to the area and can be totally mitigated by off-site

improvements.

As pointed out, the construction of the hospital will not have an adverse affect on the surrounding neighborhood, but in fact will blend into the area acting as a buffer between the existing mix uses.

Now, we have professionals that I think that will testify now on each issue that was raised in the planning and zoning by the Staff Report and a lot of the other issues.

The first witness I would like to call is Dr. Barber.

I want to get this in the record. This is the power point presentation that I would like to get into the record that we have just gone over.

MR. SILVERT: Let it be noted that Mr. Kamuf has asked that the power point he just presented be submitted into the record.

MR. KAMUF: Then we'll have the resumes of the different individuals, and let's put those in so I don't have to come back up here every time.

MR. SILVERT: For those of you who didn't hear, the CV's for all the witnesses that Mr. Kamuf is going to call today have been presented for the record as well.

State your name please for the record.

MR. BARBER: Jeff Barber.

(JEFF BARBER SWORN BY ATTORNEY.)

MR. BARBER: What I would like to provide in my part of the presentation is some project background to show that we have done due diligence and that has been very consciously moved forward over a four year period of this project.

I'm the president and CEO of the Owensboro Medical Health System. I serve as pleasure to the Board of Directors. I'll introduce the 2009 Board of Directors to you.

There are four physicians on the board. Dr. Buchanan, Dr. Maddox, Dr. Knight and Dr. Schell who represent the medical staff. We have ten community members: Alan Braden, Bob Carper, Dr. Billy Chandler, George Henderson, Joe Iracane, Ann Murphy Kincheloe, Billy Joe Miles, Gerald Poytner, G. Ted Smith and Terry Woodward.

Terry Woodward has been on our board for about two weeks. We really appreciate him joining the board and working with us.

Many of these members have been with us since the beginning of this project. Also a represented name up there is Dr. Millsap who is the chief of

medical staff, and he's elected in that position by the medical staff and our board members.

The team that's been assigned to work on this project is myself, Bop Carper, who is an OMHS Board Member, Greg Strahan, Chief Operating Officer, John Hackbarth, our Chief Financial Officer, Ward Begley, our Chief Legal Officer, Steve Johnson, Executive Director of Government and Community Affairs, and Scott Kingsley, Manager of Corporate Safety and Security. You'll hear from them this evening.

In moving forward with this project, the Board of Directors empowered us and encouraged us, in fact gave us the direction and leadership to move forward with our ability to hire those consultants we felt necessary to get the best background information we could to make the best decisions and recommendations to the board as possible.

In doing so, our consulting team includes Mr. Kamuf, who is our zoning attorney. Emil Slavik with Gresham Smith & Partners who is master facility planning. Tracy Johnson with Health Strategies & Solutions. William Hays, traffic engineering with Barge, Waggoner, Sumner & Cannon. Carl Horneman and Deborah Bilitski with Wyatt Tarrant & Combs, our legal counsel for the board and for the project. Tim Hooker

with Lineback Funkhouser, Environmental Counselor. Jim Baker and Don Bryant with Bryant Engineering, our civil engineering group. Our architecture group is represented by Mark Bultman with HGA. Turner Universal is our construction company represented by Merrill Bowers. SSR, mechanical electrical, plumbing and IT engineering firm with John Alsentzer. Associated Engineers, the geotechnical engineering, with Kelly Gardner. Enterprise Engineering, our civil engineering group for tank structural assessment, Stephen DiGregorio. KLMK Group is our project advisory services, Patrick Duke and David Carter. A lot of folks.

We tried to bring in the very best that we could find to consult with us and provide us good background, good information and help us in our decision making processes. They've also helped us in making the recommendations to the board. The board has unanimously approved in our moving forward with the project and I'll bring you up to date on where we are at this point in time.

Something that I think is a point of clarification. The yellow, of course, is Daviess County. The blue surrounding areas are ten other counties that we serve. We are a Regional Medical

Center. Not a Daviess County Hospital per se, but Regional Medical Center.

Why do I say that? Spencer County to the north of us in Indiana has no hospital. We serve that population. Perry County has a 25 bed, very small critical access hospital. We serve that population. Breckinridge County likewise has a 25 bed critical access hospital. Also depended upon us as a safety net hospital for them. Hancock County has no hospital. Ohio County has a 25 bed critical access hospital. McLean County has no hospital. Muhlenberg County has a small 100 bed hospital plus a nursing home. Webster County has no hospital. The other two counties have hospitals and help us in provision of care to the west of us and those counties.

These counties depend upon us for their medical care as a Regional Medical Center. We accept that and we hold ourselves accountable for the provision of that medical care. We felt that since the majority of our immigration from the outer counties comes from the north, east, southeast and east side that moving to the east side of the county was the best location to be in the center of our population draw area. That was one of the reasons for selecting the site.

Also, as we look forward to planning what we would do in the future we look backwards to see what we have done in the past.

This is an overhead view of the current campus in 1974. You can see on the upper left-hand side of this picture a curve roadway which is actually the railroad. It cuts across our campus and through our parking lot. The lower left-hand side is Triplett, southward bound state highway. The lower right-hand side is Parrish Avenue, state highway. Then our furtherest most boundary at this point in time in 1974 was Center Street.

You can see the red cross on the top of the building is the helipad. That was a new addition in the 1974 era. Next to it was the emergency room. Below that cross and still is our operating platform. Below that are the labs and pathology and pharmacy areas. Good adjacencies for a building built in this era. Not a bad design. You can notice the parking lot even at that point in time were completely full.

In looking to the future I'm sure that the designers of this building and the construction project was thinking this will hold us for quite some time to come.

I jump forward now to 2006, a 32 year period

to the new campus. You can see that we doubled the size of the campus with the center line being that Center Street. The new emergency room over on the right-hand side of Center Street is further away from our labs, our operating rooms, our cath labs, our pharmacy, and pathology areas. Not good adjacencies. Travel time from the emergency room back to the operating room and cath lab are pretty long. It's about a quarter of a mile traveling in-house.

Hathaway Street, which is -- I could point with this, but you all can't see it so I'll try to describe it to you.

The furtherest road on the right-hand side of your screen is Breckinridge Street, a northward bound one-way road. One street over from that is Hathaway. Under Hathaway Street is the large storm sewer. We have 110 foot right-of-way. We cannot build on that road. We only have parking lots and we span that with walkway. So that limits our ability to expand on this campus.

To the north of us is still the railroad. With us having more parking lots our patients, visitors and staff have to cross the railroad tracks and cross the busy streets to get to the parking areas. Not a safe environment for pedestrian traffic.

Not a good circulatory environment for vehicular traffic. We are one of the top two generally for automobiles accidents in the city with the mall being the number one usually.

Entrance to and exit from the campus in a vehicle is very difficult. It's easy to get on, but you don't always find yourself in the right place so you have to get off again generally on a one-way street and find another entrance.

Pedestrian traffic in and around the campus is exposed to high level of traffic and weight finding within the expanded building structure is very difficult to say the least. I'm sure many of you have been in the facility and firsthand witnessed that.

So we look at these side by side. In a 32 year period and knowing what we know about the demographic makeup in our Regional Medical Centers, if we have expanded that much in 32 years, what will we do in the next 32 years or 40 years or 50 years as we look to the future?

A lot of limitations on this campus. A lot of inability for us to expand on this campus either vertically or horizontally.

We're in the same earthquake zone here as we would be anywhere else in the city. Same basic soils

that we're building on anywhere else in this facility. About 70 percent of this facility was built prior to the current codes. Would have to be renovated or taken down because some of them don't meet any codes.

So renovation was an option we needed to look at and what could we do with our current campus was another option we needed to look at.

We do have a commitment as we did on the Ford campus when Mercy Hospital was taken down. There's a lot of concern about what will happen. Will this become a blank to the community. Because of our commitment to the community we have the Health Park, an Outpatient Diagnostic Center, a primary care center, a medical office building. The campus is quite attractive and has been a real asset to the community.

We anticipate and our future plans with the Parrish Campus, the current campus, retaining it as an asset to the community and has been based on the types of things that we will have on that campus. The Mitchell Memorial Cancer Center will remain there. We will have our University of Louisville Nursing Program will remain on that campus. Our sleep labs. Our University of Kentucky Pharmacy Program. We're working with the University of Louisville to put a

residency program for family medicine, community health residents on that campus, a primary care certain, an outpatient diagnostic center. Quite possibly another free clinic. We're working with some local community agencies to take some of the buildings that do meet code and we're looking at what we need to do with those buildings that do not meet the code and bring those down with landscaping and other attributes to make that a better area.

Our cancer research program is growing quite rapidly and is, I guess I can use the term cannibalizing more office space as they go. Not literally, but from a perspective of occupying more and more space and needing more space for research.

So this campus still has a useful life for us, but not as an acute care hospital.

Our vision for the new campus is as follows. We want a safe environment. Not only for our employees and staff and medical staff, but for the patients and visitors and family members who come to that campus. We want it to be attractive to health care professionals so we can continue to recruit and retain the professionals that we have. We want it to be patient and family centered and easy to navigate, which our current campus is not. We want it to be

efficient for the staff and efficient patient flow and optimize staffing and work with an expanded bed capacity as well as expanding staffing capacity.

We want to be able to continue to use advanced technology. You all know that technology in today's world is a very rapidly moving target and we're trying our very best to keep up with it. We've recently added the perivinchi robot. We have the latest technology in radiation therapy.

Our current campus is not designed for us to continue to add this technology. It has not the infrastructure nor the space for us to do that. So we are building the new design and ability to grow with advance technology.

Economically feasible is a big issue for us. We've had the number one financial advisor for the health care industry, Kaufman Hall, has worked with us for almost two years now and worked through various projections and agree with the projections that they've made that this is very economically and very feasible project for us. Bond rated agencies, our bonds have never been rated in the past. They've come in and rated us. They agree with Kaufman Hall that this is very financially feasible.

We want the new campus to continue to be

supportive of higher education because we have agreements and relationships and programs with Vanderbilt, with UK, U of L, Kentucky Wesleyan, Brescia, Western Kentucky University, and many, many other universities in and around the State of Kentucky and Indiana that train our pipeline or work force people that we would bring in to the community to staff our expanded bed capacity.

The new facility or a revised facility needs to be flexible, adaptable and visually appealing. Again, people like to work in a visually appealing place. Patients needs to be calmed down and feel comfortable coming to the hospital. All of us have been patients, most of us have been patients at one time or another. We're not necessarily thrilled about going to the hospital, but when going to the hospital we would like to be a little more at ease from a visually appealing perspective, but also to know that we've have the very best professionals and the very best quality of care to be provided to us.

Enhance the beauty of the community. I spoke to our commitment to that and gave you an example of that with the Ford Campus where the old Mercy Hospital was. We continue to do that with the Parrish Campus and we'll do that with the new building as well.

We're not taking this on lightly. We've been busy and involved with this since early 2006.

It's difficult to read the slide. Basically demonstrates that from 2006 through 2013 we have a program outlined for us. The early part was doing due diligence, getting a lot of consultants involved with us. Making sure that the decisions that we were being recommended to the board and the decisions of the board was making and the leadership that they were providing was substantially evaluated. The due diligence has and will be done in the future based on projected and based on vast experience.

I think as you'll see as we move through this presentation tonight that we have done our due diligence. We're very concerned about how we go to the new hospital, about the site, about the care that will be delivered, and about being a Regional Medical Center to a 11 county area.

At this point in time I would like to introduce Emil Slavik with Gresham Smith, which is one of the two consulting firms that helped us in the early days look at the site, the current site and help us make the decision to move forward.

Emil.

Tracy Johnson is also with him and she's with

Health Strategies & Solutions.

MR. SILVERT: Could you state your name, please.

MS. JOHNSON: Tracy Johnson.

(TRACY JOHNSON SWORN BY ATTORNEY.)

MR. SILVERT: State your name, please.

MR. SLAVIK: Emil Slavik.

(EMIL SLAVIK SWORN BY ATTORNEY.)

MS. JOHNSON: Thank you very much. It's a pleasure to be here.

Health Strategies & Solutions partnered with Gresham Smith & Partners four years ago to develop a master plan for Owensboro.

We were engaged to look at how to renovate the existing campus in order to support the strategic plan and the regional addition that the hospital was then undertaking.

Health Strategies & Solution is a national strategy firm. We have clients all over the United States. All of our clients are hospitals and health care systems. As the leader of the current facility planning practice within that firm, I've done numerous master plans across the country. My clients are included, I believe, in the resume that is in your packet, as well as my background as a consultant.

The master planning process that we have developed over those years, it's a very comprehensive and detailed process that engages in a collaborative process with the client in order to uncover all the issues around the existing campus.

Our particular role as a strategy firm is to help make sure that the master plan is reflected of the strategic plan of the organization. It's not just physical issues that we have our architecture partner address, but it's making sure that clinical priorities, strategic priorities get translated into the physical aspects of a project.

The process include interaction of all levels of the organization from departmental managers, senior administrative leadership, medical staff leadership, and the board members. Six month process that was completed included a fair amount of technical and detailed analysis that goes into this type of a project.

The master plan, as I said, was based on the strategic plan by the hospital and it's realization goal which had two particular aspects. One, the desire to increasingly add more tertiary, more complex services to this medical system that were not currently available.

Two, to actually provide care to many more people. Some outside in the more peripheral service area. So we kept those two things in mind.

We have also knew that some service line would be growing faster than others. To make sure that those services were developed that we had facilities to support that growth.

In our process we developed demand projections. We looked at a five year horizon. Our process incorporates population base, population growth and aging. We looked at new traits. We look at targeted market share, gains, and also we look at translating all of that into future bed need, how many OR's you need, admission rooms, all the dynamical capacity that a hospital will need by department and translate that into basic requirements. So a lot of technical detail. We worked through all of that with all the departments and with the steering committee that oversaw this multiple steering committee that included clinical leadership, operational and administrative representatives as well as the board.

We found after going through that entire process that in order to achieve the regionalization goal that the hospital had set out to do, they were going to have to significantly increase the capacity

and space and improve the infrastructure of the current campus in order to accommodate that.

The challenge to at the same time improve quality, be able to add all the technologies that Dr. Barber talked about, and to reconfigure a campus that had been growing over time. Not everything was located where it needed to be located. To improve those operational efficiencies was going to require significant reconfiguration of the existing campus in order to authorize the kind of care that the medical system wanted to provide.

Clearly doing nothing wasn't an option. The goal was to provide the best care in the community that the system could afford. So the two options were do the extensive renovation to the existing campus. We worked together to develop what that kind of option would look like and how much it would cost. Or think about replacing the entire hospital at another site.

I'm going to turn this over to Emil. He's going to describe those two options.

MR. SLAVIK: I want to bring your attention to the third mark there. "Doing nothing and maintaining the existing campus as it does not allow for future growth and would significantly erode the hospital's ability to deliver high quality health care to the

community."

That's a significant finding. I want to explain that kind of in detail of why it lead to the two options that we're talking about.

When you come in and look, it's important to understand that as Tracy was doing her demographic analysis and operational analysis, we were in fact looking at the ages, histories, infrastructures and all the details in the buildings and the component parts of those buildings that were built over time in what I call the legacy and the legacy infrastructure of the hospital here.

Gresham Smith & Partners is a national health care firm who are in the top 12 in modern health care typically in the top 10. I am a national health care consulting, licensed architect. I've practiced nationally in our health care consulting group and really look at what hospitals need to do to be competitive in the future.

One of the things that's happening is the definition of the word hospital is changing. What people went to as a hospital in the 1960's is not what you go to the hospital for today. You go for what is called tertiary or quaternary care, as Dr. Barber talked about, with technology in basic kind of things

that are not classic of a community hospital. That's why you see the ratings so high here of the hospital in its top five percent. The operational efficiencies that they get their nursing accolades that they have in going forward. They're practicing more than just what a hospital does as a health system.

So we had to compare that in their legacy facilities, which you see in the second column there. Renovation of existing site to a brand new hospital and make that a very understandable and logical decision matrix for the board and the people who would be involved, as well as this community.

One of the keys to this is understanding the innate efficiency of a hospital that a competitor would come here and build just down the street. Gresham Smith & Partners does work for for-profit hospitals. We're actually one of the largest providers of free-standing hospitals in the country over the last ten years. So we can show you what that competitor would do. Come in here and sit down next to the community in order to compete with this fine system which you've got here.

It's very important that they understood what a competitor or not for profit could come in and do.

When we look at the legacy of the buildings,

you see, as Tracy was doing her numbers we had to come up with a comparable in order to look at her numbers as they evolved and while we were looking at the square footage in our natural practice standpoint. That benchmark number became 500 beds. That is not a recommendation for 500 beds. Nobody is doing that. She was looking at her numbers. We had had a benchmark in the parallel track going down. So the benchmark for all of our numbers for comparison is a 500 bed hospital, which at that time lead to the community growth prior to our current economic circumstances.

Building grossing factors, when we went in and looked at that we found that renovation of the existing hospital across multiple strategies. In other words, step out, build a couple of new centers of excellence and then build back in and renovate into the existing hospital or renovate in a circular motion, you know, to create the entire core of the hospital. In other words, I think 17 different scenarios that we looked at and how do you renovate this facility and keep in operation? Most of those came in at about 1.1 million square feet. The one that we like the best that got the hospital most efficient and most competitive to that free-standing

hospital had about 545,000 square feet of new square footage out in parking lots, but then it went in and renovated almost 230,000 square feet of hospital and demolished even more of that nearby in order to allow those adjacencies to happen. The remainder was approximately 325,000 square feet of existing.

The important thing to know about that existing hospital remaining is those are some of the oldest and most legacy oriented buildings you've got. The reason for that is those older buildings are where the infrastructural hospital started. Where the first power plant lines went into. Where the first electrical lines went into, the utility lines. Then as the hospital evolved, I like to use the term, a hospital grows like cancer. In other words, we like to put little bumps on hospitals and get that new piece of technology. This hospital has that history, classic of American hospitals, where bump after bump after bump happens and that leverages that initial infrastructure as you go forward. That's the worst possible way to allow growth to happen, but that's the nature of the US health care system. I can show you that all the way across this country.

So what we found out was we had approximately 1.1 million square feet of space with only 300,000

square feet of it untouched as we went forward. That's a significant investment.

On the new hospital side, the comparison again for 500 beds was approximately 1 million square feet. It assumed the cancer center, some of those other pieces would be brought out of the main hospital infrastructure. Again, that's classic of the kind of planning we want to do because we don't want everything bunched up against the core of that hospital these days. We want the hospital to grow and change and be allowed to change as it goes forward.

Two thousand square feet per bed is actually a low number. Academic medical centers, tertiary care, quaternary care facilities tend to be around 2400 and do go as high as 3200 square feet. So 2,000 square feet per bed is a very reasonable number for this exercise for those folks who might think that 1 million square feet is a lot of square feet.

The most important point in this slide is the renovation will take seven years or more. For those of you who have renovated part of your house, it is seven years of back to back phased construction one aggressive construction project after the other on site, continuing to disrupt entrances that people go into, nursing patterns, how doctors get back and

forth, how supplies get back and forth, and disrupting you almost every year in the entrances that you can come into or where you can park. So it's an ongoing negative to operations as you go forward. Whereas the replacement hospital is a step away from it. Do the best quality of care you can in the legacy facilities. Then at some day five years from now walk into that new facility and be able to provide that same quality of efficient care hopefully better as you go forward.

This slide here is one of several slides. The reason I through it into the presentation here it is important to understand all those little red arrows up there. Those are all the entrances into the hospital. It's not coordinated. It's why you get lost inside this facility.

The colors up there show the invasive part of the expansions and/or the renovations that need to be done relative to this hospital. You'll notice that we did not jump out into a parking lot and build new buildings. Essentially that makes an already inefficient legacy hospital continue that trend of cancer. It would be putting another bump on this hospital.

So what we wanted to do in the preferred scheme was come back and stay close to the core of the

hospital. Where those key relationships between physician and bed and how an anesthesiologist has to go between services and make sure those are as tight and efficient as possible. That's, again, what a competitor hospital is going to come in here and do to you. That's the standard by which we're building this new hospital.

So as efficiency factors played heavily in here as we went forward, so again those core services would be inefficient for that seven and a half years. In fact, two-thirds of the square footage that the hospital people currently use.

I'm going to turn it back over to Tracy.

MS. JOHNSON: As we develop these options, the next part of the process was to evaluate the two options.

The evaluation criteria that we developed were based on the six strategic goals that were in the Owensboro Medical Health System Strategic Plan.

The goals included quality, staff development, medical staff development, regionalization, capital capacity and utilization, and some other goals. There were some other considerations that we wanted to also include in the evaluation including things like time to implementation, political community concerns, which

were certainly discussed, and regulatory constraints.

You'll notice that there were 17 criterias that were used to evaluate the two options. The level of investment required were certainly one of those criteria, but we had many others that related to the functionality of the campus and the building, the quality of care to patients, safety. All those issues. The ability to grow over time, long-term flexibility, and many other of these criterias to ensure the long-term viability of this medical center as well as its growth.

Just as an example there are many analyses done to support this and then we summarized the pros and cons for each of the criteria. In all these we went through a multi-layered process with the board, medical staff, senior leadership to discuss all of these findings and get input.

So here's just an example of the kind of things that we found on the criteria of functionality of the siting campus.

Under the renovation option, absolutely the solution that Emil went through was clearly going to make quite a few improvement. Was going to add capacity to try to maximize functionality, but it's never going to be ideal. There's just no way when

you're trying to fix a building that's been built over decades to optimize all of the relationships that you could optimize in a new site solution.

Dr. Barber also talked to many of the problems that would still remain even with that solution. No internal circulation route. You still have the sewer line was underground. You couldn't build over. You are still bounded by all of those roads. You were never going to fix that. You still had the railroad that was going very close by, very close to the ICU. Vibration issues. A lot of concern about access to that site. Not even be able to get past a train when it was going by. All the issues and safety issues around pedestrians.

That site also goes very much vertical and it gets harder and harder to blend in with the community under those circumstances.

The replacement hospital you wouldn't have those issues. There was someone that was discussed quite a bit about the reuse of the vacant campus. If you were going to move, what were you going to use that for? I think a lot of consideration has been done around that. You've heard some of the alternatives.

I also want to show you one more example of

the kind of thinking that went into the evaluation around quality. Attractiveness to the patient, the patient's satisfaction. Trying to optimize the care to patient was one of the key criteria for the board. Their ability to access, way finding, all of that in this renovation project. It would be improved with the renovation, but it wouldn't be optimal.

There's also remaining issues like you can't fix floor heights. There's ramping. There's still long hallways, still long horizontal distances that cannot quite be fixed, which you could do in a replacement hospital project.

I would point out at the very bottom most bullet there. What turned out to be a huge issue to the board members in particular was having lived through a renovation already at the hospital. Understanding the disruption that that causes, potential loss in patient value, potential considerations around patient safety, as well as satisfaction were uppermost in their minds in how disruptive that was going to be and potentially dangerous. That was a big concern.

So this was the type of evaluation we did. There was many more pages of this that we went through at the time of the process.

All this evaluation lead to the board which they subsequently approve. It seemed to us we had done some costing, project cost between the renovation and the replacement hospital project. They were not really that far apart. Renovation to do all of that improvement was going to cost about 95 percent of what it would cost to replace it. Clearly we were going to get a much better final product and a better long-term solution with the replacement hospital project.

So there was a cost differential of about six percent. By the time you factored in the time required for renovation, the disruption to operations, it's very hard to quantify what that means in terms of work around, in terms of decreased operation of efficiencies and also the potential impact on patient safety and quality would really erode that cost differential pretty fast.

Emil is going to speak to the rest of the recommendation.

MR. SLAVIK: On the second bullet there you see the replacement hospital project represents the best opportunity for a bunch of things. Those bunch of things speak exactly to the health system. Again, it's Owensboro Medical Health System. Not a singular hospital located downtown right now. We have to

provide service to that whole area. So, again, a singular building doesn't answer all of those questions. It's how does the system happen and how do we grow in order to evolve that.

One of the things that very much lead to that replacement statement is when you build a hospital building, either myself or the other architectures are going to speak, that building as a hospital is good for 40 years.

Dr. Barber showed you an example in roughly a 35 year time frame of the evolution of that campus across multiple buildings. It was rather dramatic photographs of before in the '70s and where we are today with that hospital campus.

Each of those little bumps that I talked about before, when you build it for the first time it's good for 40 years. Then you can go back into that building essentially once, renovate it for 30 years by redoing most of the infrastructure, electrical, the windows, the plumbing, all of those things. Those all fail at about 40 years in a health care building. You get to redo it once in order to make that building viable still for lower levels of acute care. After you're done with that, that building becomes support stuff.

So when we build a building it really is a 100

year legacy in health care. That's how well we're building them and we continue to do that today.

The difference between when those buildings were built in the '70s is we did something called form follows function. Everybody has kind of heard that in architecture terms or building forms. Today we're better than that. Form has to allow enhanced function. What that means is the building can't just be good enough for what you want it to be today. If we design this hospital right now today for what we wanted it to be today, that would be wrong because five years from now it's this years building. We have to be much better than that as we go forward.

When we do these replacement facilities or replacement pieces on the downtown campus here, we're handcuffed by the form follows function of today. So that's why the replacement hospital statement is up there. It offers in the new building those patient's safety, quality, functionality, operational things that Tracy talked about and we very much believe is the standard of care that you want to do currently in some very interesting legacy buildings in a very good efficient building as we go forward.

The final bullet there, consider the replacement option if financing, land acquisition,

reuse of existing site, MOB development, and community issues are resolved.

So we knew those would be issues as we went forward. Again, that's what this form is about and what all the people here are talking about.

We're going to turn now to some site selection characteristics. The Hammes Company was also part of our original work effort. The things that architects recommend to clients that we look at today, those have not changed much from four to five years ago when this study was undertaken.

Location being, where do you look at a hospital? Service area and growth are absolutely key. The demographics and how you make sure that patients are coming to the quality of health care is a survival strategy for hospitals. You have to make sure that they're serving people extremely well so that nobody can come in here and compete with that and take that away from you.

Access. You saw that the drawings before relative to the site, access again. We want a retail health care. We actually don't want to go to the hospital. We want to get better. So hospital is that evolving term as we become more and more retail oriented.

Size and shape of the land parcel obviously. The land parcel that we were built on here started out as a single block. Then you saw again on the drawings that Dr. Barber showed you, we had to grow and expand across a whole city street and take two super-blocks within downtown. That's not a good strategy unless the downtown commission is playing with you in order to have that happen over a 100 year time frame. So you very much want to know where you start and how the ring road that you saw implied up there enables you to grow because we do know these buildings will be used for 100 years.

Property features, topography. That's how much the land goes up and down. The actual usable surface area, because topography can eliminate that.

Public utilities, geotechnical, zoning and restrictions. You've heard more than enough about that tonight.

Surrounding context. One of the major things for health care in the future is, again, we aren't going to the hospital. We're going to get better. Hospital is a dirty word. We want to be a healthy community, healthy environment. So we design hospitals now such that you can be comfortable in, you can find your way through it. Your responsibility as

a patient is to get in there and out of there as quickly and as healthy as you can and having your family support you. So we want to make sure that the context allows that to happen via courtyards or views or the access for parking.

Wellness versus illness. I just touched on that.

Then the cost to improve; in other words, what's the infrastructure that is or isn't there that's yet to be depleted. Again, this site is within the urban zone defined previously by Dr. Barber.

So I'm going to turn it over here to the folks whose actually ran the site selection process. Look forward to answering questions later. Thank you.

MR. SILVERT: State your name, please.

MR. CARPER: Bob Carper.

(BOB CARPER SWORN BY ATTORNEY.)

MR. CARPER: You heard a great deal of analysis that's gone in to getting this to the point as to where should we build this hospital.

The board had unanimously agreed at that point in time that it was time to build a replacement hospital. The next step in that is where do you build it?

Out of the Planning Committee came a committee

called the Property & Facilities Committee. I'm fortunate enough to chair that committee. It's composed of the people that you see there on that screen. Bob Schell is a surgeon. He's on the board of director. Jim Carothers is an orthopedic surgeon. He is not on the board. Roshan Mathew is a cardiologist, he is not on the board. Bob Knight is the head of the emergency department. He is on the board. Ann Kincheloe, who most of you know, is on the board. Dean Jones is the past president of Texas Gas. George Collignon is an architect here in town. Greg Strahan is the administrative representative on this committee.

As you can see, it's a diverse committee. We set it up specifically that way because we wanted ideas that came in that weren't strictly board members or part of the administration. We wanted decisions and comments made by people other than those that had been actively involved in it. It gave us a new set of eyes. So what we're about to do is to go pick the site for this new hospital.

When we made the decision to do that, the decision was that we would get as many sites around this community as could be offered to us. As a result, there were people within the hospital, those

of us that knew sites that might be available. Those were made known. We also put an ad in the newspaper and said anyone who has a site that is conceivably capable of having the hospital on it, we'd like to know about that site, and we got some of those.

From all of that we got 16 sites. As was mentioned before by Gresham Smith, Hammes had worked with them on some of the work and we hired Hammes to come in and do the evaluation of the sites. We wanted the expertise that would look at that. They're a group that review sites to determine compatibility with hospitals, what you can do with the facilities that the site had.

The original list of 16 were narrowed down to two sites that met the criteria that had been set for the building of a new hospital. It is obvious Pleasant Valley site was unanimously approved by the Board of Directors at a later date.

The sites that had been looked at are the ones that are shown here. Two sites that were recommended to the board, the one on the left side, site Number 15 I believe it is circled in red, and site Number 6, which is the Pleasant Valley/Daniels Lane. We looked at both of these and reviewed them.

Looked at them from the site analysis criteria

that had been developed. Access to major roadways. Visibility from the roadways. Availability of public transportation. A rail corridor that did not come through the property. It could be there, but we didn't want it cutting through the property. Initial land available. Future ability to add land.

Access to the infrastructure. You can't build a facility of this size without having electric, water, sewer, gas, things that are necessary to provide the functions for the hospital, phone.

The extent of the likely site work. How much work was going to have to be done on this site in order to make it available for the hospital.

Access to an aquifer for geothermal systems. This was one of the things that we looked at from an energy saving standpoint.

Location relative to current patient population. Location relative to likely future service areas.

Healing environments. That was discussed before by Gresham Smith. It's become more and more important in the healing of the patient. That they're in an environment that blends itself to the healing.

Annexation. Was it annexed or did it need to be annexed?

Flight patterns. Environmental/architectural concerns. City population or city concerns about it in the surrounding area. Opposition by surrounding communities.

Access to the high speed fiber network. We're going to build a hospital in there, were we going to get a great deal of objection from the surrounding subdivisions. The one on the west side had subdivisions that were right tight to it.

The demographic analysis that's shown here, population growing in the counties to the south, and the east, and the west is what's occurring. There are pockets of growth in Southern Indiana that we feel will come in and utilize the hospital. OMHS current enjoys very high market share in the immediate area to the south, east and north. I said west before and those are where some of the growth is, but we're accessing people from the south, east and north.

Competition in Henderson and Evansville on the western side naturally will decrease the number of people we should get from there, but I think the issue that deals with that is we're in the top five percent in the nation. Our people are highly qualified. Our surgeons are becoming and the doctors that service our hospital are becoming more qualified as things go

along. They're learning the new techniques. That will draw people in even from the competition in the western area. Will realize under-served areas to the south, east and north, as Jeff had talked about before, those that don't have hospitals will come in here.

We didn't just do it on an arbitrary basis. It wasn't just me standing around talking about this. Hammes created the numerical evaluation of two sites that were recommended to the board.

The site between Pleasant Valley and Daniels Lane was the site that scored highest in the numerical evaluation.

Our committee then went to the board with the recommendations that this site was the most compatible with allowing us to build the hospital and create this healing facility that we want to and make it a regional area and it was the best site to do it.

Now, did we pick the site. We've got to do an analysis on that site. Just picking the site doesn't end the decision. There's a tremendous amount of analysis that has to go on with that site. Is it in fact the one that can serve what we need to do?

Bill Hays will talk to you about some of the analysis that was done.

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

MR. HAYS: Bill Hays.

(BILL HAYS SWORN BY ATTORNEY.)

MR. HAYS: Good evening. I'm with the engineering firm of Barge Waggoner Sumner & Cannon. My particular area of focus is in traffic and municipal engineering. Actually the bulk of my career was spent in public sector here in Kentucky, in Louisville and in Bowling Green.

My task in this was to look at the traffic issues and in particular the inner-face with the railroad, the inner-face with proposed and existing traffic facilities to see what the impact of the hospital complex on this site, how it would affect the adjacent roadways. Not just when the hospital opens, but further into the future. Actually we looked to the year 2024, 15 years away. We looked at circumstances whether or not the expressway would be constructed. We took that even if it did or if it did not. So we looked at different combinations and possibilities here of what could occur.

What I want to focus on, because you've heard the list of recommendations already. I don't want to repeat those in detail. One of the concerns obviously

that we had looking initially at the site was that you did have two north main line of the CSX Railroad as it runs from Louisville to Henderson. This is a very old line that is actually relatively slow in terms of it's speed limit because it winds and twists and goes along and follows south of the Ohio River.

The actual number of trains here has remarkably changed very little from 1960's to the 1970's. You have nine trains per day and a couple of switching operations on either side of the switch yard that we've already mentioned.

The switch yard, as you heard, is to the west of the proposed site. It's also to the east of the existing site. So between these two, the existing and proposed you have this freight facility. This yard has in the past has served a major function because you had 34 years ago two other railroads come into your city. You have the Illinois Central and then you had a branch of the L&N that ran out of Russellville. Both of those tracks are long gone. This yard is still being an interchange or transfer facility. Really only serves your local freight traffic here in this area. Its role has evolved and changed over the years.

We took a look at what the accident histories

on the two crossings at the proposed site. The crossing at Daniels Lane and the crossing at Pleasant Valley Road. We look back as far as we could into the Federal Railway Administration records and we could find one accident back in 1979 that involved $250 of property damage.

So we said, okay, what happens to the rest of the city? So we looked all the public and private crossings in the city limits of Owensboro. There are about 50 of those. In the last ten years, there have been a total of 15 accidents. One of those was an injury accident of a pedestrian. It occurred right in front of the hospital on Triplett. There was another accident of vehicle damage only on J.R. Miller Boulevard. Very close to the hospital.

So there is some difficulty in getting away from the railroad track because it goes through the middle of town, but we didn't want to do that comparison of the accident histories of the current location versus the proposed.

We also looked at the prediction model that the Federal Railroad Administration office on line. Once the chance of accidents occur in sections in the future based on that history and the two intersections we're looking at for this proposed site, Daniels and

Pleasant Valley Road, both have roughly low chances of an accident in the future in the order of 50 years or more.

So in terms of relative accident rates at the new site, it's certainly reasonable to say it's as good as if not likely somewhat better than your existing site.

The other question we had was, what was going to be delayed at these two crossings? At the Pleasant Valley Road crossing, the railroad speed limit is 25 miles an hour. Now, unlike we do on a highway, railroads actually comply with their speed limits. We knew the train should not be going very fast at Pleasant Valley Road, and there would be more switching operations. We want to try to avoid rounding traffic through Pleasant Valley Road. At Daniels Speed limit picks up much more, up to 40 miles an hour. So you think logically a train of a given length is going to get by that crossing faster simply because it's going faster. So you have less delay as a result. So that was one of the reasons we wanted to focus on Daniels Lane rather than Pleasant Valley Road as the route from the north. You can go across the railroad track across there.

Now, as you've already heard, there is an old

road as we well known on the US 60 bypass. That will certainly be in terms of our way finding program the preferred route to go. You do want to take one of those two streets. Recommended you take Daniels Lane, and it will in fact lead you into the corridor of the hospital quicker.

The recommendations that have been already been entered into the record. I'm quite sure you don't want me to read back through, but let me highlight just a couple of things very quickly here that was supplement and put in context for you.

If you look at the slide, the bottom of the photo there you see the blue, which is the expressway connecter. This is the road that the Kentucky Transportation Cabinet is constructing. As you've already heard, it's under way. Our goal was to tie into that. So we literally tied into the end of their three lane section on as it terminates on Pleasant Valley Road. You simply pick that up and bring it up to the hospital site.

Now, because we do cross, this is in floodway in Yellow Creek, we also have to raise that crossing, that culvert structure above the 100 year floodplain. In fact, all of Pleasant Valley Road will be above the 100 year floodplain between the new connecter road and

the hospital site. So that you'll have as your primary site there the majority of people use to get to the hospital will be above the 100 year floodplain.

Daniels Lane interestingly enough is above the 500 year floodplain. So the secondary access in case of some type of catastrophic flooding, you have a road at that level. The hospital itself is going to be a building, finished floor elevation will be above the 500 year floodplain.

So if any of you were here for 1937 flood, which was about a 380 year return period, you have some assurance that the hospital will be able to function even in that type of event.

The other thing I want to mention very briefly was you heard that public transit extension was recommending. You may not be aware exactly where the public transit system ends right now. The red route east terminates, actually turns around halfway on US 60 east, halfway between Pleasant Valley Road and Daniels Lane. So our recommendation is simply to extend that a little further into the hospital campus. I think busing in Nashville, I can tell you it's a very important part of the community. We certainly want to encourage that as we also want to encourage pedestrian facilities with the sidewalks and hopefully

in the future the Greenway and other connections they have there.

With that the next segment of the selected site analysis deals with chemical storage of facilities. For that I'd like to introduce Carl Horneman of Wyatt Tarrant & Combs to speak on that issue.

MR. SILVERT: State your name, please.

MR. HORNEMAN: Carl Horneman.

(CARL HORNEMAN SWORN BY ATTORNEY.)

MR. HORNEMAN: Owensboro Medical Health Systems requested that we assist in evaluating some operations adjacent to this property having noted that they were recognized by the Planning Staff as potential issue for the site.

We looked at three operations. One, the Marathon facility, bulk storage of crude oil petroleum. I believe it's west of the site. Commonly known as the Owensboro Terminal. Petroleum products stored and distributed at the TransMontaigne facility northeast of the facility, new Marathon Pipeline that runs along the west and southern boundary of the facility.

We looked at three aspects of these operations. First we looked at the location of the

tanks and truck loading operations to proximity to the site. See if that suggested any risk or threat to operations on that property.

As far as the pipeline, we looked at standards that regulate the operation, maintenance and inspection of that facility to see if those were robust and reliable for preventing releases or releases from that operation.

Then we also looked at air pollution emissions. Company's operations to see if they might pose any type of threat or risk to the hospital facility.

As far as proximity of tanks, aboveground storage tanks of the site, our first effort was to determine whether there were standards both imposed by law or by industry practice. On the setback of aboveground storage tanks for petroleum and crude oil, the trails, setback requirements notably being imposed so that an operation does not pose a threat or risk to neighboring properties. Recognize that some of these facilities have some age.

We also want to evaluate whether they were in compliance with any such standards or rather to assure that they weren't grandfathered. What we first discovered was the Kentucky Building Code, which has

also been adopted by Daviess County and the City of Owensboro has within it a portion of it a flammable and combustible liquids code. It's developed by the National Fire Protection Association and is known commonly as NFPA 30. NFPA 30 does have setback requirements for flammable and combustible liquids. They approve petroleum products. We've readily found that there was a standard adopted in Kentucky directly at the facility to give us some comfort about whether these tanks might pose a risk.

Not wanting to try to interpret that standard ourselves directly, we retained an expert to assist us. Enterprise Engineering, Inc. is a company that both designs both tanks and both terminal facilities throughout the world, throughout the United States. They have offices in Alaska and also at Fremont, Maine. We've brought an engineer from that operation by the name of Steve DiGregorio on board to assist us and evaluate this. Not only to evaluate NFPA 30, but also to help us understand were there any industry practices or industry standards that would also warrant examination to see if there was an indication of a hazard based on proximity.

Mr. DiGregorio is a registered professional engineer in 15 states. He has a bachelor's degree in

civil engineering, has a master's degree in structural engineering, and has been practicing for a number of years designing tanks in facilities in a number of locations throughout the United States and Japan. His resume is included in the materials that you received and you can see his experience. He is also a certified API Standard 653 inspector, aboveground storage tank inspector, and he's also a certified structural engineer.

His analysis has been provided in a written report. A copy of which I have with me, and it's also been provided to you in the pack of materials that was handed out in the beginning of the presentation.

Mr. DiGregorio looked at each of these tanks using information about the capacity and material stored in those tanks that we obtained through the Tier Two reporting information that must be followed with the local environmental management agency. This is Tier Two Emergency Hazardous Chemical Inventory information, and also information we received from the State of Kentucky, Division of Air Quality and permits that have been issued to the TransMontaigne facility.

The conclusion that Mr. DiGregorio reached is that each of these tanks comply fully with the setback requirements required by NFPA 30.

In his report there's a detailed schedule of each tank. What the NFPA setback requirement is and what setback he calculated distance between the property line and those tanks or the subject property of those tanks based on measurements he could make with aerial photographs.

He also advised us on the API standards. He looked at a number of standards that are identified in his report. API stands for the American Petroleum Institute, which develops industry standards that are commonly followed by the petroleum industry and would be directly applicable to this type of operation.

He found that there were no API standards imposed or recommended setback requirements specifically. EAPI Standard 2610 does recommend that NFPA 30 be followed. So it showed an industry acceptance of the NFPA standard as being the premier standard for determining a safe setback for tank operations.

He also looked at the truck filling operations at both of these facilities and the setback requirements that are specified in NFPA 30 for both of those operations. He found that those equally complied.

He also noted that the adjacent properties,

the most close adjacent properties were residential. These tanks are already in the vicinity, certainly much closer to residential properties than they would be to the subject site.

At this point if it would pleases the board I would like to move the introduction of Mr. DiGregorio's report into the record.

Thank you.

CHAIRMAN: So noted.

MR. KAMUF: Ms. Court Reporter, will you mark that, please.

MR. HORNEMAN: Is a report with the letterhead Enterprise Engineering, Inc.

MR. SILVERT: It should also be noted for the record that a copy of all of the materials submitted have now been provided to Mr. Wible.

MR. HORNEMAN: To assess the pipeline we delve into the regulatory system programs that were ample to the pipelines that are used to transport crude oil. We determined that the Pipeline & Hazardous Material Safety Administration which is held within the United States Department of Transportation has adopted very comprehensive regulations governing the safety and operation, construction safety and operation of material of pipelines that are used to transport

hazardous liquids.

Those requirements are detailed, setout in detail in Title 449 of the Federal Code of Regulations in Parts 195 which is titled Transportation of Hazardous Liquids by Pipeline.

In addition to this longstanding regulatory program, in 2002 congress adopted what's titled the Pipeline Safety Improvement Act which mandates some increase requirements for pipeline operators that are relevant to this site.

Within the 2002 Pipeline Safety Improvement Act were requirements of pipeline operators develop was known as an integrity management plan and within that integrity management plan they must identify what's called high consequence areas. Those are areas that include which are over here pipelines that are within short distance of navigable waters as well as pipelines that are in high population areas. Those are areas with a population of greater than 50,000 people.

Based on this definition of a high consequence area whether it's Owensboro and this pipeline that crosses the Ohio River, a short distance from this site, this segment of this pipeline would include a high consequence area.

Pipeline operators that operate pipelines in a high consequence area now based on this act are required to conduct a baseline assessment of the integrity of the pipeline. They must complete that assessment throughout all high consequence areas by February of 2009.

That baseline assessment includes such things as pressure testing, external corrosion assessment, as well as internal and external evaluation devices.

Not only does this baseline assessment need to be conducted for these high consequence areas, it must also reassess the area and a frequency no less than once every five years.

In addition, the standards set out very detail timing for correcting any defects that are found in those inspections including for certain types of discovery that be corrected immediately including reduction of pressure in the line if necessary to assure that a rupture does not occur. The longest period for correcting any defects discovered is 180 days.

So as a result we felt very comfortable that this pipeline operation was very heavily regulated, was subject to requirements that would assure the protection of this.

In addition to the regulatory requirements that are imposed, the pipeline operator must also report annually its progress at meeting requirements. It's progress reports are available on-line through the Pipeline Hazardous Material Safety Administration web site. I've looked at that web site. There are reports of numerous years including up through the year 2007. In those reports Marathon Pipeline Company has disclosed that its evaluation of 656 miles of pipeline, of that 651 had been completed through the year 2007. It seems evident that at that rate that they were well ahead of the February 2009 deadline for completing a full assessment.

The last thing I mention we also sought to evaluate the air emission from these operations. To assist with that we retained Mr. Tim Hooker with the Linebach Funkhouser firm. He's an environmental engineer who has a bachelor's and master's degree in chemical engineering from the University of Louisville. Has been practicing in the environmental field as an engineer for more than 20 years both in the consulting capacity and also working within the industrial environmental health and safety operations.

Rather than repeat what he has assessed, he is here tonight and I would like to introduce him so that

he might share with you directly what his analysis is. Thank you.

MR. SILVERT: State your name, please.

MR. HOOKER: Tim Hooker.

(TIM HOOKER SWORN BY ATTORNEY.)

MR. HOOKER: Tonight I would like to provide the board with my findings related to the emissions from the petroleum storage and handling operations of TransMontaigne and Marathon Pipeline's operations.

As been stated earlier, those operations are located to the west and north of the proposed hospital site. My review has been based on documentation of records obtained from the Kentucky Department of Environmental Protection.

Those records that I've reviewed include permit applications, permits, admission inventories and other correspondence between the State of Kentucky and those facilities.

The first thing to know is that the TransMontaigne facility stores and distributes gasoline and diesel fuel. The facility primarily consist of eight storage tanks and unloading equipment.

The Marathon Pipeline facility stores and transfers crude oil. That oil is stored in four

storage tanks at that facility.

Both facilities are regulated by the Division for Air Quality for the emission of volatile organic compounds.

You may ask what volatile organic compounds are. Volatile organic compounds are regulated because they could lead to the formation of ground-level ozone.

There is a National Ambient Air Quality Standard for ozone. Daviess County is attainment for that standard right now. These emissions, as I said, do potentially react to the sunlight. They form ground-level ozone, but typically this occurs miles downwind from the emission source.

So it's not expected that these emissions from either of these facilities would form ozone in concentrations that would exceed the National Ambient Air Quality Standard at the hospital. You would expect that if this was to occur, it would be something well downwind. That's a typical phenomenon.

Both facilities it should be noted also are subject to the permitting and registration requirements of the Division for Air Quality.

TransMontaigne's operating permit that's been issued by the Division for Air Quality limits

emissions to minor source levels. While the Marathon Pipeline's potential emissions are low enough they don't trigger the permitting thresholds that only are registered. They do not have a permit. They're not required due to the magnitude of those emissions being below permit threshold.

Both of the facilities it should be noted is subject also to performance standards for the storage of volatile organic liquids. This is a new source performance standard that was developed and issued by the US EPA. So both of those facilities are subject to that. They have operations that they have to comply with that requirement. That requirement is that you must have controls on tanks to minimize emissions.

Both of these facilities utilize in some of their tanks either internal or external floating roofs to limit these emissions.

So in summary based on my evaluation, emissions from both of these facilities, both TransMontaigne and Marathon Pipeline operations are highly regulated and the emissions are limited to a level that I believe protects the proposed hospital location and the surrounding community.

I'll be glad to answer questions after the

presentation.

Next I'd like to introduce Mr. Scott Kingsley who is the manager of corporate safety and security.

MR. SILVERT: State your name, please.

MR. KINGSLEY: Scott Kingsley.

(SCOTT KINGSLEY SWORN BY ATTORNEY.)

MR. KINGSLEY: Thank you.

I'm going to speak on hospital emergency preparedness.

We have two regulatory oversight agencies which is the Centers for Medicare and Medicaid Services and a Joint Commission for the Accreditation of Healthcare Organizations, which is commonly known as the Joint Commission.

CMS guidelines for hospitals require that we do Emergency Operation Plan. We must address those areas such as natural disasters, bio-terrorism, utilities disruptions, nuclear or industrial accidents and/or mass casualties.

Those Emergency Operation Plans, they help the hospital identify our capabilities and establish our response procedures when the hospital cannot be supported by the local community for 96 hours.

We look at certain areas such as communication, resource and assets, security and

safety, staff, utilities and patient care. I think through a lot of training and dedication and work from our Staff, we experienced that during our January of '09 ice storm where we, as the town, was shutdown completely, but we operated in full capacity at the hospital.

Also the Joint Commission guidelines require the hospital do a Hazard Vulnerability Analysis, which is to identify the potential emergencies that can affect our demand for services and our ability to provide those services.

The HVA assesses all of our vulnerability to different types of events in terms of potential for occurrence and severity of their impact.

The hospital we take the results from the HVA and we conduct disaster drills based on the highest ranking of identified hazards that we find through that HVA.

Currently we're in the active process of engaging our leading hospital emergency preparedness firm to assist us in developing the HVA for the new hospital site.

Also we're required to have disaster drills two times a year, either in response to an actual emergency or in planning drills.

The hospital must participate in at least one community-wide drill that's relevant to the priority of emergencies identified in its hazard vulnerability analysis.

These drills must be critiqued to identify deficiencies and opportunities for improvement so we can determine what we need to drill on and what we need to work on in the future.

As currently our requirements exist at the existing site and they're being developed for the new site. So certainly our new facility will assist us in our disaster planning efforts.

I would like to introduce to you Mark Bultman. He is from HGA and he'll speak on the design and development plan.

MR. SILVERT: State your name, please.

MR. BULTMAN: Mark Bultman.

(MARK BULTMAN SWORN BY ATTORNEY.)

MR. BULTMAN: To this point you've heard a lot about the due diligence that went in to the selection of this site. In the making of the decision to build a new hospital, you've heard a lot about the investigation that went into some of the details associated with some of the adjacent properties, the railroad tracks, all of those things. I'm happy to be

here and get to talk a little bit about the design of the site and give a little bit of the preview of the design of the site building as well.

Just recall that Dr. Barber had talked about division statement that was set by the hospital and their investigation of the master plan and the long-term vision for providing care to this community and the surrounding region.

A few of the key points that came out as a consequence to us and particularly meeting are things like the quality of care, providing access to care, family and patient centeredness, enhancing the beauty of the community, and job creation and development.

In addition to that, I think there's a couple of others that stood up to me and those were things like providing an efficient hospital that smooths a lot of the operational challenges that we deal with today. A hospital that's easy to navigate. I think that's something that responses to the idea of patient and family centeredness. Then finally the idea that this is, and it's a point that came across very clear even from the early going. That this is not a replacement hospital. This is a new hospital. This is a hospital that is not seeking simply to take what they have today and build it on a new site and be in a

new building. They want to do things better. They want to innovate. They want to create a new environment. They want to make an impact on the community and really respond to that statement of enhancing the beauty of the community. We take that very seriously as we get into the design.

A little bit of project facts. We've certainly gone through an exercise. You saw before that there were some stats when they were doing the master plan about some assumptions of number of beds and demographics and such.

The current data has lead us to the determination that we will build a total of 442 beds associated with the new facility. So you can see that already this project is beginning to respond to the demand for growth and vision of the hospital growing to a Regional Medical Center.

In a little bit I'll talk about how this site responds to the opportunity providing further growth. You can see that most of that growth is occurring within the medical and surgical bed capacity, the ICU capacity.

Then also we'd note that on the women's health side that they're providing some new services associated with women's care in the form of a Level 2

nursery that is currently not a service provided in the Owensboro area.

I'd also like to note that in the information submitted with the CON, it references 477 beds. We're building 442 at this point. Of the 447, they are licensed or of the 477 you're licensed for 447 and there's 30 additional transitional care beds. Just to make sure that you make that distinction between that and what we're building.

The next slide, this slide is what we call the Phase I site plan. Phase I in the sense that this is not the last time that we're going to build on this site. We anticipate that growth will continue in the future. This is what has been submitted and will be reflected in the construction over the next years.

A couple of things to note here. In addition to all the due diligence and study that was done in selecting of the site, there are a few other things that now as we reach design that you have to look at.

The first would be the soils. It's standard practice to do some testing on soils to confirm the stability of the soils. Therefore we can make informed decisions about how we construct the building with the structures. Such structures systems we would use. That work was done on this site and we

determined that it is a Site Class D which is not at all unusual and certainly within this area. I think typical what you would find.

You take instances as our firm, for example, we're working on a recently completed hospital in St. Louis that was very similar in nature. We're working on one in Jersey very similar. Obviously California, very familiar with sites and challenges out there. Our firm does a great deal of work there.

We collected the information and made informed decisions about how to move forward. Really not presenting, really from our perspective as professionals not a unique challenge in any way.

The second thing was that was talked a little bit before was the idea that this facility is in a floodplain. I think it made mention that as we looked at that we set the building elevation, the floor slab elevation for this building at a level that is above the 500 year floodplain.

So when the project is completed, you see that east to west road that connects between Pleasant Valley and Daniels Lane. Everything to the north of that will have been filled such that that area will no longer be in a floodplain when the project is done. Those maps will be revised. That portion of the

property and the hospital itself will no longer be in the floodplain. I think we in doing our early investigation determined that that was the right approach and appropriate for this use on the site.

Talk a little bit about the organization of the site itself. You've heard about some of the off-site roadway improvements that are going to be made, the fact that we have the connecter coming off of 60 bypass that will be coming soon. That is deemed to be the primary access point to the site. The traffic study supports that notion. Thus we have located the primary access point to the site just north of that connecter. Placing an emphasis on convenience for patients and families as they enter the site. That road then is connected to Daniels Lane and begins to form the basis of what will ultimately be a ring road on this site that provides access to all of the points and all the different entries associated with the hospital.

Dr. Barber had talked about some of the challenges with the existing campus and the fact that you've got state highway bounding on either side. You've got railroad tracks and additional traffic challenges associated with that.

That's one of the great things about this site

that gets us excited as we look at the design is coming right off the connecter, your quick right-hand turn to the site. Then we have the opportunity now to organize this site and flow of traffic on this site in a way that is the least complicated possible.

So as you look at it, you're heading east on that connecter road you have very few choices frankly in how you access the building. You have a left-hand turn that would take you to the outpatient and diagnostic entry. Then you have a right-hand turn there just below the crescent-shaped building that is the inpatient entry.

So very few choices as far as patient and visitors go. Very clearly organized as you'll see in images in a few minutes.

The masting of the building makes it very intuitive to look for entries as you approach the site. One of the really exciting things about this site and one of the things that we're really focusing on addressing, based on your experience on the current site.

The other thing that it does for us, that connector road from east to south, that is the primary access plan. For patients to the north, that is the access point for staff and service vehicles. So we

get to separate those. One of the challenges today is that those things are commingled on Parrish Avenue and some of the other streets around the hospital.

We've been able to separate those two by virtue of how we organize the site. Thinking to or speaking to one of the division statements of responding to patient and family centeredness and creating that healing environment, that's one of the first things that you're going to want to do when you begin your approach design of the site.

The second thing of this or another thing at this site offers based on its location and some of the opportunities or some of the challenges is we talked before about the fact that we're raising the building above base floodplain. We're using soil from the site to do that. It gives us an opportunity to create some of those ponds that you see there in blue to begin to frame what the experience is going to be like for patients as they come to the hospital. As I mentioned before, nobody wants to go to the hospital, but when you do go to the hospital you want that to be a quality experience. You want that to be a healing experience. We've put a lot of thought into how we frame that experience from the moment you enter the site off of Pleasant Valley Road until the time that

you get into the hospital.

Next thing that was very important to the administration and to the board was that we address growth on this site, both for the near-term and for the long-term. We talked about this as a 100 year building. Frankly, this campus may last beyond that yet.

So the areas that you see in pink now on top of the building are opportunities for growth.

Back up point a second.

The rectangular building, the large yellow rectangular building is where most of the diagnostic and treatment services would occur. So things like surgical and procedure services. Then the crescent-shaped building is the inpatient bed tower. The orange building is the MOB. Then the two smaller buildings to the north of both of those elements is the service area where you have the loading dock and some of those things.

So in this image you see that we're planning to grow vertically. The larger rectangular building where the procedure, surgical and diagnostic services are. We also have the ability to grow that to the east and the west. We also have the ability to grow beds on top of that building. We can meet, this plan

suggest that we can meet the needs for growth of this hospital for a very long time to come. That's before really we ever expand beyond the current footprint of the hospital as proposed for this site. Certainly offers a great deal of flexibility for the hospital over time.

The other thing I like to point out that's really exciting about this site is that in creating the healing experience for patients who also have the opportunity to do something great for the community, which in the creation of those ponds you'll see some dashed yellow lines that weave their way through the site. That's the beginnings of an indication of how we might handle some walking paths on the site, walking, jogging, whatever the case may be, and how those start to weave through some of those ponds that were created. How you weave through the site. How we weave through the landscape that we're going to create on the site. The intent is that that's available for family members that need to step away that are visiting a family member that's in the hospital. A little bit of a reprieve and a moment's peace. They can step out of the hospital or go for a walk and collect themselves. Could be for staff members on a break wanting to stay fit. Frankly, it can be open to

the community. I think it was mentioned before that there's a desire to connect this site to the Greenway some day. The idea is that those paths give us an opportunity to do that.

I mentioned or I talked about how the building would grow. The hospital itself would grow. We also have the ability to grow the campus.

Now you see in this image, this is the long-term master plan for this. There's really not a timetable assigned to it. You can see that we have the opportunity for a great deal of growth on this site. There is no specific plan that says we're going to build this here, this here, this here. What this is suggesting is that as opportunities for additional development on the site occur, how would you zone that.

We've completed the ring road and then said, here's how you would develop this site over time and here's some parcels within the 147 acres and how you would develop those and how you might provide parking for each of those services.

The idea here is that everything inside the ring road would be associated with providing care to patients. So it's either related specifically to the acute care hospital or it's related to outpatient

services.

Anything on the outside of the ring road would be ancillary services. So it would be things that would be in support of the hospital's mission, but not necessarily directly providing care or acute care or for outpatient care. It could be pharmacies or whatever the zoning would permit as the case may be. That's a little bit about the site.

Having undertaken the site design we're working in parallel to start to begin to design the building. This is kind of the outcome of an exercise called master planning where we start to look at the adjacencies of the departments. You start to look at where things are going to occur within the building. How they're going to relate to each other. How patients would move through the facility. How families move through the facility. Supplies and materials and all of those things.

Dr. Barber talked about the challenges associated with the existing hospital and the desire to approve operations and to approve the quality of the care through this new facility. This facility has to support all of those things. So we spent a great deal of time and study and detailed the investigation of what is the right relationships of all of those

services that the hospital provides so that we optimize the efficiency and realize all of the gains that they want to in their new site. Then also provide flexibility and adaptability over time to respond to changing technologies.

This was the outcome of that. In a second here I'm going to show what you that form begins to look like as we start to design the exterior of the building. You're looking at the bed tower across the healing pond right here. It's a nine-story bed tower. That's where all of the patient rooms would occur.

As we turn around to the side here you're beginning to see some of the support services like the materials management dock and the utility plat.

Coming around here to the larger rectangular building, that's where diagnostics and surgical and women services is. You'll see the entry in about the middle of that building there.

As you come around now you're seeing the end of the spine. That spine is the connecter tissue between the diagnostic and treatment, and the inpatient care. It's also the entry for outpatients and diagnostics. Now you're looking at the inpatient entry. Really the most prominent elevation of the building from the entry point on Pleasant Valley Road

off of the connecter as you go by on the bypass. This is really the elevation that I spoke before about, intuitive way finding. This is the building that provides the most prominent portion of it. This is where the entries occur. This is kind of an intuitive way towards finding entrances and easy way finding for patients and family members.

That was a three-D model of the building on the site without a lot of trees or landscape.

This is an image that we are working on beginning to now incorporate those trees and ponds and the landscape into it, to bring the total picture together. So now you can see that looking back at that bed tower again and looking across the pond, you can start to see an indication of a walking path next to that tree. This is really conceptual in nature yet, but you can start to understand that when we were talking earlier about the site plan and the idea providing an asset to the community, that we are very committed to doing that.

Driven to some degree by the idea of providing a healing environment for the hospital's patients and for the members of the community that seek care there, but also for the community at large because we want to do something. The hospital has said they're committed

to doing or enhancing the beauty of the community. Certainly these architects were committed to that as well.

Then this is the view as you enter from Pleasant Valley Road and the connecter. You can see again how we strategically place ponds to frame those views. You can see that nine-story connected tissue, the spine that we call it. How prominent that is from this view point and how naturally as you are given opportunities to turn off, you will have used entrances and such.

Really excited about the challenges the hospital has laid in front of us and all of the work that's been done to get us to this point. Really looking forward to taking this further and moving ahead with this and realizing the vision as you see here.

I think now I'm going to hand it over to Dr. Barber. He's got a few closing remarks.

CHAIRMAN: Let me interrupt.

We've been here almost two and a half hours. Let's take ten minutes, recess, and we'll start back with Mr. Barber.

- - - - (OFF THE RECORD) - - - -

CHAIRMAN: Call the meeting back to order.

Dr. Barber.

MR. BARBER: I'm going to give you a quick close. I don't have any more slides so you're safe on that part.

When we started this project back in 2006, we didn't anticipate it growing to be what it's grown to be today. However, our board, which is a volunteered community board of 14 people, have given us a lot of leadership and made some really tough decisions and has charged us with providing them with a lot of good information, a lot of factual information, a lot of historical information and just a lot of information in general about the flow through the system, how our system works, where we expect to go, financial strength, and so on and so forth.

My career is in hospital administration, health care services, organizations, education is in that. That's what I do and I do it pretty well I think.

In fact, my expertise is not in road development, site development, architectural studies and so on and so forth. That's why we went out and got the very best we could. Part of our criteria for selection of these consultants was that they must have done something currently in an area somewhat like what

we are. Not necessarily a small rural community, or rural community or small suburban area, but one that had the seismic issues that we have like California and New Jersey. One that had the soil composition that we have here, floodplain issues, wetland issues and other issues like that so that they can give us based on their experience in places that they have currently been involved in to build, we visited those sites as well. So we've seen what they've done. We know what they can do and what they have done. That's lead us to hiring them to be our consultants. So we're very proud about the quality of the consultants that we've had in. I'm most proud as the administrator of the hospital and the board and the tough decisions that they've made and the direction that they've given us to provide them the best information possible. I think you all got that tonight. Thank you for allowing us to present it.

MR. KAMUF: Mr. Chairman, we'll go now into the floodplain considerations if that's okay with the board and your attorney.

CHAIRMAN: Please.

MR. KAMUF: Floodplain considerations, all improvements associated with the project will be designed in accordance with local, state and Corp of

Engineer standards and requirements. The applicant has filed all the necessary permits replacing fill in the floodplain. We have filed a stream construction permit from the Division of Water, a General Water Quality Certification from the Division of Water, a US Army Corps of Engineer permit, and a No Rise Certification letter from Bryant Engineering. We have Jason Baker of Bryant Engineering to answer any questions concerning permits, replacing fill in the floodplain, and we have Tim Sandefur of Wetland Services to answer any questions concerning wetlands. He has a BS in Wetland Ecology from the University of Kentucky. We have filed everything necessary for this application. We're here to answer any questions from the board or anybody that has a question.

CHAIRMAN: Does the board have any questions up to this point with the applicant?

(NO RESPONSE)

CHAIRMAN: Does the board have any comments to add at this time?

MR. NOFFSINGER: Mr. Chairman, since we're going to consider Item 10 concurrent with Item 9, I need to read that item into the record before we proceed.

ITEM 10

1300 Daniels Lane, 1041 Pleasant Valley Road, Zoned P-1
Consider a request for a Conditional Use Permit in order to construct and operate a hospital in the floodway.
Reference: Zoning Ordinance, Article 8, 18, Section 8.2G4/27, 18-4(b)3, 18-5(b)4, 18-6(b)3
Applicant: Owensboro Medical Health System, Inc.

MR. SILVERT: Now would be appropriate to have the Staff Report read into the record as well.

ZONING HISTORY

The subject property is currently zoned P-1 Professional/Service. OMPC records indicate there have been four Zoning Map Amendments for the subject property:

* Rezoning from R-1 to 1-2 in 1977
* Rezoning from R-1A and I-2 to I-1 in 1986
* Rezoning from I-1 to I-2 in 1999
* Rezoning from I-1 and I-2 to P-1, September 2009

All other permits as may be required by the Army Corps of Engineers or the Kentucky Division of Water must be obtained prior to the issuance of a conditional use permit as per Article 18-4(b)(3)(c). Certification from a registered professional engineer must be provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge as

required by Article 18-5(b)(4)(a) of the Zoning Ordinance. A General Water Quality Certification from the Environmental and Public Protection Cabinet, a Stream Construction Permit from the Division of Water, a letter from the Army Corps of Engineers and a letter of no impact from a registered professional engineer were all submitted with the application.

MR. NOFFSINGER: At this point I would like to stop you and just say that the rest of the Staff Report is identical to the Staff Report that we've read further. So if there's no objection, we would like to enter this Staff Report in total, but not to be redundant.

MR. KAMUF: That's fine with those changes as far as the nine conditions.

MR. NOFFSINGER: Yes. Pleasant Valley Road, that's correct.

MR. WIBLE: That's fine.

CHAIRMAN: Does the Staff have any other comments at this time?

MR. NOFFSINGER: No, sir.

MR. KAMUF: Just one second.

That's the case. I think there are three other witnesses that want to testify, but they can testify after Mr. Wible gets through as far as just

independent witnesses.

CHAIRMAN: Do they any new information we ought to hear before he starts?

MR. KAMUF: No. They're not our witnesses. They're independent witnesses.

CHAIRMAN: Thank you.

MR. SILVERT: Could you state your name for the record.

MR. WIBLE: My name is Ralph Wible. I'm a retired lawyer six years now.

For some reason or another for those of you who remember your bible stories, I am reminded at this time of the story of David and Goliath. I don't really know why.

I have four speakers, at least I started out the evening with four speakers. I have three now. Bill VanWinkle, who many of you know, left. Bill is a diabetic. He was going to read into the record a letter from his good friend Buzz Norris. Bill is a former city commissioner. Buzz has held many positions. So I would like to read that letter now since my reader is gone. If you want to swear me to that honestly.

MR. SILVERT: No, that's fine.

MR. WIBLE: "Good Evening members of the Board

of Adjustment,

"I am sorry that my health did not allow me to speak to you in person so that you could hear the passion in my voice and see it in my face. I was Daviess County Judge/Executive from 1990 to 1998 and served on the Owensboro-Daviess County Hospital Board during that time.

"I am greatly troubled by the hospital's bull-headedness in pursuing this site. For example, Jeff Barber originally told the paper that they would not build in the flood plain, but after this site was found to be in the flood plain, they stuck with it. There are other issues regarding this plan that others are discussing tonight so I want to concentrate on what I know the most about and that is the infrastructure costs and traffic issues, that this site has that building at the current campus does not.

"During the rezoning process, Planning and Zoning, as a condition of approval, is requiring the reconstruction of both Pleasant Valley Road and Daniels Lane. According to recent estimates by GRADD each of these will cost at least $6.5 million each. In addition, there is talk of the extending of Fairview Drive over to Pleasant Valley to service the site at a cost of another $6.4 million. Who is going

to pay for these roads? The county doesn't build roads. Its General Fund budget is only around $45 million and its Road Fund is around $3.5 million. The city doesn't have the money to spend on roads outside the city limits. Is the hospital going to add this $13 plus million to its plan.

"Also during OMU's recent rate increase hearing with the city it was disclosed that OMU will spend over $5 million on putting in new electric service to this area. Who is going to pay for that? Are OMU rate payers going to be hit with another increase to cover this cost or is the hospital going to add this to its finance plan.

"Finally I want to address the most absurd part of this plan, that is putting a stoplight on the bypass. This will, without a doubt, cause a large number of accidents with this light on an expressway, especially coming from US 60 where the light will be at the bottom of the Railroad overpass. Just think the hospital will be the cause of more accidents and injuries. Also I am sure the state will require the speed limit be lowered to 45 miles per hour or less between KY 54 and US 60 causing big traffic congestion problems. Finally as Judge-Executive I was deeply involved in the most successful decade our county had

in economic development since the 1950's. I know the importance of the bypass looking like an interstate highway when we were recruiting companies to come to Owensboro. The bypass will no longer look like an interstate on state highway maps and this change will have an effect on recruiting industry at a time when we desperately need jobs.

"This stop-light is not a short-term issue. To complete the Bypass extension will cost over $70 million and the state highway 6-year road plan already has three times as many projects as there is dollars, with no funding improvement in sight. It may be ten years or more before the rest of the Bypass extension is built. After all, it was just a matter of a year or two before the rest of the extension was constructed. The hospital would wait to build.

"For the future of our community, I urge this board not to approve the conditional use permit before you tonight. Thank you for listening to my remarks."

MR. SILVERT: Mr. Wible, will you submit that letter into the record?

MR. WIBLE: I will.

MR. SILVERT: Mr. Kamuf, do you have any objection to that?

MR. KAMUF: My only objection is to the

relevancy of some of the remarks.

MR. WIBLE: Now, the other speakers who will speak for our group in this order are Mr. Arthur Harold, Jeff Sanford and David Smith.

I also would like to file in the record one other item. It's not as bad as it looks. This is ten copies of it. The reason I made so many copies I have one for each board member and one for Mr. Kamuf, if each member would like to have a copy. It is a very important report by Dr. Stephen Obermeier, a PhD in Engineering from Purdue with his emphasis on geology and civil engineering and mathematics. He can't be here tonight. One of our other speakers will discuss this report, but I would like to file it. It's an Affidavit I should have said. The top one is the original.

MR. SILVERT: State your name, please.

MR. SANFORD: My name is Jeff Sanford.

(JEFF SANFORD SWORN BY ATTORNEY.)

MR. SANFORD: I don't have a power point like they did, but I just have copies I would like to give to the board.

I would like to start tonight, my name is Jeff Sanford. I'm a small business man. I coach basketball at Owensboro High School so I deal with all

kinds of people every day. About a year and a half ago I got involved in a little politics.

MR. KAMUF: Excuse me. Are you going to swear the witness?

MR. SILVERT: He's been sworn in.

MR. SANFORD: As a small business man, I am used to being David taking on Goliath all the time every day. I will cast no stones towards you though I promise.

Why I am here is for the people of Owensboro. When I ran for office, I knocked on over 2,000 doors. I didn't think this issue would be an issue at all. Someone said it would, but what I heard from the community is they were against this site. I had no other information on the economics or anything at the time, but I knew they were against the site. I'm very concerned for the poor and how they're going to get to the site. I'm on a board where I know a lot of our workers walk to work. A lot of the poor walk to the hospital. I'm just very concerned for that group of people. Basically I don't think public transportation can get them there in a timely fashion. I'm very short tonight. I don't have much more to say, but I know from hearing from the public and the people that I talk to daily, they are very concerned about the

site being where it is.

If you look at the map, you can see where the people live. I have kids that can't get rides to practice. I'm really concerned that with an illness of any kind of them getting that far out, you may say, oh, it's not that far. Well, it is to a lot of people that don't have cars. We're all probably pretty much in this room very fortunate, but there's a lot of people out there who are not as fortunate as we are. They do not have access. To take a bus would take them at least an hour to get to the new site. I am concerned for this group of people.

Is it going to affect me personally? Probably not, but it will affect the elderly and the unfortunate or the poor. That's what I wanted to say tonight. Thank you very much.

CHAIRMAN: Mr. Wible, you've got your next one.

MR. WIBLE: Yes. He's coming, sir.

MR. SILVERT: Could you state your name for the record, please.

MR. HAROLD: Arthur Harold.

(ARTHUR HAROLD SWORN BY ATTORNEY.)

MR. HAROLD: Thank you very much. We've all been here a long time tonight. I had planned on

keeping my comments brief, but after witnessing the rehashing of the presentations that were made earlier and all the comments by the consultants, I am going to take my few minutes. I think you will find by the end of my presentation or my comments that they are relevant to the thing you're evaluating tonight totally relevant.

Let me back up and start with I told you my name. My background is I was born and raised in Owensboro. I came back here to work in 1971 and I worked here my entire career. I've dealt with boards of directors, management teams, and feel like I have experienced what Mr. Barber and the hospital board are going through.

My purpose in getting involved was I'm only interested in what's best for Owensboro and Daviess County. I don't have a dog in this fight in any form or fashion other than that. I want what's best for us. We have a hospital that is awesome. It's the economic engine of our community and of Western Kentucky. I think previous management and boards have positioned this hospital to where we can even be having this discussion tonight. Based on the way they have handled our health care facility and needs here in this community in the past.

This bold vision that we're seeing put forth tonight is under my valuation the risk reward is out of sync.

I would love to see a new hospital or more importantly I would love to see a tremendous enhancement to the existing location that we have. Doing nothing is not an option. We know we need to keep moving forward. I submit we probably should be looking for the next 20 years what we're going to do and not be talking about what we're going to do for the next 60 years.

The concern I have started out really with the financial aspect of this. Going from a 168 million in debit to at least 502 million, and I will tell you that it's going to be 575 million. That's the bond authority that has been given to them and they will have to use that in order to produce what they've shown you tonight.

I'm worried about that long-term. Not right now. Not right now, but seven, ten years from now I think we're going to be real sorry, if you approve this and we go forward that this has ever happened.

I would much prefer to see this economic engine grow cautiously and carefully and expand at a phase and a pace in which we know we are not putting

it at risk. Because if you think about if this does fail and these bonds are not paid on time, we're not going to own that hospital any more. This community won't. It's going to be owned either by some for-profit hospital or it's going to have to be bought by the city and county government again.

In any event, I'm not going to belabor that potential, but to ignore it is not right.

The experience I have in consultants and visioning, I was CEO for a company for ten years. I know what that requires. We're all here tonight because the chairman of the board of the OMHS had a vision for a new hospital. He brought in management that agreed with that and now management is executing that vision. I submit to you that the board has bought into that. Not all of them. So I want to clarify that as we have heard numerous times how this is unanimously approved, this, and that, maybe the site originally was unanimously approved. I cannot talk of that, but we all know, and if we don't I'm telling you tonight, I know that their most recent vote on going forward with this project was not anywhere near unanimous. So there are people on that board that have serious concerns about this.

I want to submit to you that Ann Kincheloe is

on that board and Ann Kincheloe should not even vote. She has a conflict of interest. Her son is on the senior management team. I don't know why that -- that leads into my other comments and thoughts about the OMHS as to their transparency.

The only transparency we have seen has been forced transparency brought on because they had to come before the city commission to get the ordinance approved to do the capital bonding.

I remember reading in the Messenger-Inquirer some time ago, January of '08 I think. I don't think it was January of '09. Where Ann Kincheloe said, we're going to be more transparent. I stood up and applauded. I never heard from the lady again. The only time I've heard from this hospital is when it came September when they had to come down here and tell us what they were doing. All of us that are trying to catch up with this only get information after it's forced to be handed out. So we're having to run way behind.

This is the largest transaction in this county's history. I think it needs to be looked at, relooked at from every angle for every citizen.

The asset we're talking about is we've got a net worth of over $250 million to our citizens right

now.

If this is such a good decision, I submit why is the hospital giving us the media blitz now that they're paying for to explain why it's so good for us?

I question the super regional concept of which the chairman has embarked upon. I think we're already a regional hospital and continue to be one by improving our existing campus. Keep in mind three things have changed significantly since the vision was espoused.

One, our economy is experiencing the greatest recession since the great depression. Unemployment is approximately ten percent. We have got health care reform right before us. So the revenue stream is somewhat uncertain obviously with health care.

If the board and management had wanted to look at a different avenue, they could have based on that and none of us would have faulted them.

Those two things were substantial changes from when this was originally conceived.

The third thing is the downtown development. We're spending $80 million at least downtown doing downtown development. This existing campus is very close to that. That wasn't on the arising either when this was done before. You can read very easily the

number of cities that are trying to go back and build within their core and not go out and do more suburban sprawl like this will be.

So I submit those three reasons alone it should have been rethought.

Let me mention a couple of other things about the finances that have been brought up since they were on the slides tonight. We originally were going to have $500 million hospital. Now we're going to have a $385 million hospital. That's per their slides.

This whole endeavor of $657 million worth of money is going to go somewhere. We're going to get $268 million worth of brick and mortar which includes the hospital and the medical office building that's been promised to come on-line the same day of which the new hospital opens.

I'm not qualified to comment on whether that's enough or not, but what I've been told it was going to be $487 to $500 million deal, and now it's going to be no more than $385, I'm questioning what we're getting.

I was told by the slides that Kaufman Hall presented that it was because that's what they should have tried before now. As the hospital rebutted, my questions as evidenced right here, not sent to me but sent through their board members and only some of

their board members to members in the community, they have said right here, in essence if we run short on money we can afford to have our debt at the level of which we propose because we can raise rates. I'm not an expert on knowing how the rates work either, but it's right here for anybody that wants to read it.

All along we've asked the hospital to tell us the impact this is going to have on cost of health care in our community. All we're told is about the quality. Our quality is at 96 percent now in evidently what is an unacceptable building. I would love to see the old part torn down and the new part put up. There's a bunch of people in this community too. Let me give you that example because this leads into this issue tonight.

I got involved just wondering about this. Asking people by my own survey as I went through the community for the last nine, ten months, what do you think about this? What do you think about it? I can tell you my own survey, which nobody has to pay a penny for, 90 to 95 percent of the people don't like this location. That is backed up by the fact that I know for a fact that one of the board members of the OMHS right now was quoted as saying, "If you ran that survey I know 95 percent of the people in Owensboro

are not in favor of this."

I have a great deal of respect for the board, but I am concerned who is the board representing. If that's the case, Daviess Countians don't want this location. I think that we ought to at least know that. When a board member admits that they agree with that, then I question who that board member is really serving.

One of the things that was on the slide I was going to mention was under the recommendation to approve this was consider replacement of your hospital option. You do this option if the financing is in order. Well, we're paying off bonds at 168 million that Merrill Lynch representative quoted that they were paying 5.84 percent for last year and then turned around and said we're going to refinance that at 6 1/2 percent on triple B rated bonds for 30 years. That doesn't make a lot of sense to me either.

The land acquisition, the reuse of the existing site. We heard more tonight about the reuse of the existing site than we've heard before. Still question that. We've also heard they're going to tear down the old, which it needs to be.

The last one of the things was medical office building development, which is not a problem, and the

community issues. I submit the community issues have not been resolved.

Let me mention one other number since our hospital to me with the evidence of their paid help tonight and their media blitz and they're acting like our federal government with their money. I have to remind you that $88 million of this proposed endeavor is not going for one penny of brick and mortar. There's an additional 40 million that's going to put in an escrow for bond reserve for 30 years until the bonds are paid off. That means $128 million. $128 million that we're doing. Plus we're going to put in $155 million of our own down payment. So now I think that's -- I had the number here. Anyway, large numbers to get a $268 million new facility which includes medical office building. Twenty million dollars of that 88 million is going just to get out of the current financing.

In any event, I digressed in the financial aspects simply because they went into all the stuff that they went into tonight. Let me get to the point of what you want to know about as it relates to the site.

I don't think I've heard anyone tonight say that the site soil is appropriate. Before I talk

about that, I want to talk about the Hammas site selection report that had the 16 sites that were evaluated.

The site we're talking about here ranked seventh on that report. The other site that was seriously considered rank fifth. This gives you evidence. I was in business. I know. If I had a vision I wanted to get it through, I would go find a consultant that would help support my vision and my plan. No disrespect to all the professionals that are here and have done a great job and are very smart, but I also know that consultants. You keep shopping until you find one that will support your vision.

Now, having said that their consultant here, they didn't want to follow their information. Sixteen sites. They select two final ones. One is ranked fifth. One is ranked seventh by Hammas. Was November 27, 2006.

I don't know why they didn't compare the site number that was ranked number one, two, three and four, but evidently somebody didn't like those sites. There was 19 criteria used to evaluate those sites. Nineteen. We come down to number five and number seven and their chosen as one and two. The board evaluates that. They learn on March 7, 2007, they

learn at that time that the soil on both of those sites is rated F. And F rating, A, B, C, D, E, F. The worst that you can have. So we're now going to put our hospital on the soil that is rated the worst by their own geotechnical engineers. Their names are Associated Engineers, Inc. They did the geotechnical investigation on these sites.

March 7th the hospital was informed. March 21st this site was confirmed again. F grade on the soil.

Now, I don't know why that hadn't been disclosed. They're very transparent organization with full disclosure. I'll let them address that themselves.

That's all I have to say tonight. Thank you for listening. Obviously you can tell I'm passionate about Owensboro and Daviess County. I want the best for our county. I'm delighted with the hospital and growth in which it's had in the past years and proud to say that we have a great hospital. I just want to see that continue. I'd like to see it continue with a more prudent approach that ensures that we're going to have that for the next 60 years and that it's going to be under control of our community and not somebody that's not from our community such as a for-profit

company that could care less about all of the things we do here and all the good work that this hospital does here in our community now. Thank you again for your time.

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

MR. SMITH: My name is David Smith.

(DAVID SMITH SWORN BY ATTORNEY.)

MR. SMITH: The first thing I would like to do is you all have been given an Affidavit from Stephen Obermeier and I would like to read this for public consumption because I believe it has some issues and some points in here that I want to read, and I will stop and make highlights.

His affidavit is entitled "SEISMIC ISSUES IN REGARD TO PROPOSED SITE FOR NEW HOSPITAL IN OWENSBORO, By Dr. Stephen Obermeier.

"My thoughts following relate to earthquake hazards to the proposed new site for a hospital in Owensboro on the east side of town. My comments are in the context of (1) very recently discovered evidence of strong seismic shaking near Owensboro, and (2) the unknown location of the next very strong "New Madrid" earthquake. And (3) site conditions for the proposed new site.

"Recent Discoveries

"About two years ago seismic liquefaction features were discovered in the banks of the Green River, due south of the town of Stanley about ten miles west of Owensboro. This discovery is reported in a scientific article (attached) written by Ron Counts of the Kentucky Geological Survey, Prof. James Durbin of University of Southern Indiana, and by Stephen Obermeier. The features of interest are the upward extending intrusions of sand and gravel into the fine-grained sediments exposed in the banks of the Green River. These features were caused by seismic liquefaction at a greater depth, likely between several meters and 10 meters. The liquefaction features clearly were caused by strong seismic shaking. But the timing is not yet constrained except that it occurred some time in the past 10,000 years. No effort has been made to learn if the features occur much closer to Owensboro. As a minimum I, Stephen Obermeier, estimate the earthquake magnitude was in the range of around a 6 (because of the gravel in the dike), and very possibly as high as a magnitude of 6.5.

"From the viewpoint of seismic hazards (as per the criteria used by the US Geological Survey), the

liquefaction features are from an 'active' fault system. And, because the features were only very recently discovered, their presence has not yet been incorporated into the official earthquake hazards maps for the Owensboro region."

This is a very strong point to make. I want to reiterate now, "The seismic hazards indicate liquefaction features from an active fault system near Owensboro." Something that maybe even the engineers that you all have not run across this evidence.

"Unknown location of the next 'New Madrid' Earthquake.

"Effects of the great New Madrid earthquakes of 1811-12 (M 7-8) are well documented throughout the central US and also in the Owensboro area. Seismic liquefaction was extensive in the epicentral region, to the extent of making 30-foot wide breaks where sediments literally floated about on the liquefied sediment. In Owensboro the river banks collapsed extensively.

"It has been proven within the past 10 years or so that very strong earthquakes (M 7-8) in the New Madrid region recur on the order of some 800 years or so. According to official US Geological Survey hazard assessments, smaller but still very destructive

earthquakes are estimated to occur in the immediate new Madrid region much more frequently. This information is well known to the engineering community.

"But what is not known to many engineers is that great New-Madrid-strength earthquakes also occur outside the immediate vicinity of New Madrid. This has been proven conclusively within the past 10 to 15 years. For example, numerous M-6.6 to 7+ earthquakes have struck much closer, in the lower Wabash Valley, from fault systems that are still 'active.' These Wabash Valley earthquakes are almost certainly from the same fault system that caused the great New Madrid earthquakes of 1811-12.

"Furthermore, it has been proven in the past few years that very strong earthquakes also occur many miles, perhaps hundreds, south of the main New Madrid region. Thus, the epicentral region is wandering. (See attached outline of very recent meeting hosted by US Geological Survey, Memphis, Tennessee, Oct 28-29, 2009, with title of paper by Tuttle)."

To reiterate this last section. Smaller but still very destructive earthquakes occur in the region much more frequently from fault systems. The Wabash Valley Earthquakes are almost certainly from the same

fault system that cause the New Madrid earthquakes. The epicentral region is wandering.

"This wandering effect of very large earthquakes (M 6.5-7+) has not yet been incorporated into official US Geological Survey hazards studies or maps."

Finally he's going to discuss the site conditions for the proposed site.

"Site Conditions for Proposed Hospital Site.

"Finally, how does this information relate to the proposed new hospital site? Seismic shaking at the site may pose hazards from two sources: From liquefaction, and from shaking alone.

"I do not have soils information adequate to assess the liquefaction hazard at the proposed site because detailed borings are not available to the public. However, the site is almost certainly situated on Ohio River sediments that were laid down between 10,000 and 20,000 years ago, when flooding from melting glaciers was extensive. From field investigations I have done personally, there are many places in Owensboro and in the Owensboro area where these river sediments are quite liquefiable from seismic shaking.

"I have been informed that the depth to

bedrock at the proposed site is on the order of 150+ feet. Whatever the depth to bedrock, it is a virtual certainty that river sediments lie above bedrock. I have also been told that the developer proposed to use piles to bedrock. Piles typically are of little use in mitigating liquefaction hazards.

"In contrast I have seen the soil boring logs for soils that underlie the current Owensboro Medical Health System campus. Those Soils there are not liquefiable" on the basis of lack of liquefiable (i.e. granular) materials in the critical depth.

"Shaking alone would require design for any new hospital structure (i.e., beams, columns, etc.). Parts of the existing OMHS campus have been designed for structural shaking, although I do not know the adequacy.

"Finally, the proposed site is very near an oil storage area, and oil and gas pipelines go through the site. The oil storage tanks are quite old in my understanding, and thereby may be very prone to rupture and spillage from even light shaking. And the buried pipeline may be prone to rupture from liquefaction."

So the very pipeline near this site that runs through it may be prone to rupture from liquefaction.

"In summary, in my professional opinion there are many major issues regarding seismic safety of the proposed hospital facility that have not yet been addressed by the developer:

"Finally, I wish to note that I am unavailable to make an oral presentation because of a prior commitment. I am presently doing geologic/engineering work in the field on a project funded by the US Nuclear Regulatory Commission, to evaluate the seismic hazard in the approximate region between Knoxville and Chattanooga, Tennessee. I have not asked for a consulting fee for this write-up.

"Stephen Obermeier, Ph.D., civil engineering."

I want to follow up with something that has been here. The hospital at times has made light of these petroleum storage facilities. The following facts stand out about the appropriateness of locating a major medical facility.

First, it's been pointed out that TransMontaigne Product Services operates a bulk gasoline terminal station to the north. It dispenses gasoline and diesel fuel. As they've said, five diesel storage tanks with 3.2 million gallons with over a million gallons, by the way, in tanks that are between 50 and 60 years old. Probably not built to

earthquake standards.

There's two gasoline tanks also holding 3.2 millions, and over 700,000 gallons that are in a tank that's over 35 years old.

The terminal currently processes 380 million of gasoline per year and 420 million gallons of diesel per year through their truck loading facility.

Infamously 440,000 gallons of year at their barge loading facility which developed a leak and that's the Reynold's Tobacco Warehouse that's being torn down because of the pipeline leak to the barge loading.

Second, Ashland has a crude oil storage facility on the south of the tracks. A major crude pipeline runs beside and through the hospital site along Pleasant Valley Road and Yellow Creek. There are four storage tanks with a 32 million gallon barrel capacity. There's a 20 inch pipeline. There's been a little bit of discussion on their part about this. A 20 inch crude pipeline that goes from old storage tanks in Patoka, Illinois into Owensboro to these storage tanks, and that a 24 inch pipeline from Owensboro to the Ashland refinery at Catlettsburg. It moves about 9.3 million gallons of crude oil a day.

What is significant though is that this

pipeline from Owensboro to Catlettsburg suffered a pipe failure and leak in January of 2000 near Winchester. The pipeline has a maximum -- I know earlier, I think someone has said in the newspaper that nothing is under pressure as far as the crude oil. This pipeline has about 780 pounds per square inch pressure on it. When the spill occurred, it had over 600 pounds per square inch.

Almost a half a million gallons of crude oil was spilled with cleanup cost over $7 million. What is pertinent about this as well is that Ashland in doing their inventory of the line had noticed there was a disruption, a disturbance in the line. They just didn't think it was going to be major enough to cause an oil leak.

So even though they may have systems in place to look at it, there is still human judgment that occurs as to whether or not a dimple in a pipeline is subject to rupture.

So regardless of everything that can be put into place, there is still human error can occur in judgments.

Lastly the pipeline coming into Owensboro from Illinois had a major rupture just a year ago. In last August in Southern Illinois, over a quarter million

gallons of oil was spilled. The pipeline rupture created a crater 45 feet wide and 60 feet long. This by the way is what runs through the hospital property.

If that oil pipeline had -- this was a quote from the Evansville paper. If that oil pipeline break had happened anywhere else instead of a remote farm field in Wayne County, it might have well been labeled an environmental catastrophe. The director of Evansville Vanderburgh County EMA said, "If you're going to have a spill of that magnitude, it was the right place to have it."

This spill covered a three acre area. The spokesman for the environmental, Illinois EPA said, "It was more or less an explosion because it was under pressure so it covered a large area."

There have been discussion about the site classes. Basically the site class is the different subsurface profiles that increase or decrease earthquake motions. It's based on a subsurface profile for the top 100 feet. You have six site classes from A to F. It's determined by three tests, standard penetration test, a velocity test and an undrained sheer strength test.

At least some of these tests have been performed by the hospital. Whether or not they will

release them and there may be even more updated ones. There could be that more testing has been done since the 2007 testing that he referred to.

Basically a Site Class F, which at least part of this site is definitely a Site Class F. I would venture to say a majority of it is. Means that you have liquefiable quick clay or collapsable soil.

One of the things, and I'm going to end here in just a minute on going back a little bit.

One of the things I would urge you as a board today is if at a minimal, if we have not been able to present enough to deny the conditional use permit, at a minimum I would like to see this board of adjustment postpone deciding this for another month to give the hospital time to release all of its geotechnical data to the public for inspection so that independent consultants, not paid by the hospital, can look through all the soil boring logs and make a judgment about the sites.

As it is now, I'm sure we would love to have a chance to have other people look at these site classes to see whether or not this is a suitable site for not only for earthquake reasons.

To go back also. To bring home the fact of what these gasoline storage facilities. Even if there

was a note about how there are no requirements or that it meets the requirements for facilities locating near existing oil tanks, I would love to know if there are standards if you try to locate new oil tanks somewhere. If the hospital was already built, would the oil tanks be allowed to be put there? Maybe they are. That's an answer that hopefully your all's consultants would know with Wyatt.

To bring home what these tanks can do. Remember how I said Patoka, Illinois has oil storage facility much larger than Owensboro, but similar facility. About five years ago they had a small little problem.

(MR. SMITH SHOWS PHOTOGRAPH.)

MR. SMITH: I would venture to say that I don't think if I'm sitting in a hospital I want to look out my window and see what these volunteer fire departments were seeing.

This fire was seen 15 miles away from this storage tank. How far did you all say? I believe it's a couple of hundred feet, couple of thousand feet maybe at most.

You know, I just think it's a point to be made. That we are dealing with our only public health facility. What are the risks of an earthquake of a

magnitude 6 happening that would cause soil amplification in the next 20 years that they're so proud of? I don't know. A geologist probably could tell us that it's surprisingly high that we're going to have a 6.0 in the next 20 years.

What's the chance of a pipeline rupturing in Owensboro along that site? I don't know, but what was the chance it was going to rupture in Winchester or Brandon City, Illinois.

What was the chance of lightning striking an oil tank? I don't know. We see what it did when it struck in Patoka. To end I want to show you what it did when it struck in -- I want to show you what it did to a storage tank in Texas. Again, remembering is this where you want your hospital located close to?

(TELEVISION BROADCAST SHOWN ON TV'S.)

MR. SMITH: We'll put these nice big things I am sure, I'm sure you'll want to hang these on your walls as exhibits.

MR. SILVERT: Do you have reduced submittal copies?

MR. SMITH: Not with us, but I'm sure we could provide them.

MR. SILVERT: Thank you.

MR. DYSINGER: The two pipeline breaks that

you mentioned, were this pipeline specifically?

MR. SMITH: The one in Winchester is specifically, it's a 265 mile pipeline that goes from Owensboro to Catlettsburg. So the Winchester pipeline was this pipeline. It was constructed in 1973.

The one in Granite City, Illinois is the pipeline that feeds from Patoka into that storage tank, but that pipeline itself does not touch hospital property. But the same company owns it, same maintenance standards, etcetera.

MR. DYSINGER: I got you.

CHAIRMAN: Mr. Wible, do you have something else?

MR. WIBLE: No. That's it. Thank you, sir.

CHAIRMAN: Mr. Kamuf.

MR. KAMUF: Mr. Chairman, I think there are three independent witnesses here.

Judge Reid Haire is here and Nick Brake and Kevin McClarin. They're all three here. They're independent witnesses. They're not part of -- then I want to answer those other questions that just came up. These are three independent witnesses.

You're with the highway department?

MR. McCLARIN: Right.

CHAIRMAN: Mr. Kamuf, when your three speak,

they've got some other comments they want to make and then we'll rebuttal.

MR. KAMUF: Right. These are not my -- but I do have rebuttal for what I've just heard on the last three.

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

MR. McCLARIN: Kevin McClarin.

(KEVIN McCLARIN SWORN BY ATTORNEY.)

MR. McCLARIN: I'm chief district engineer for Kentucky Transportation Cabinet in District II, which is out of Madisonville. We manage 11 counties of state roadway projects and that sort of thing.

We have Owensboro Bypass extension going on right now. I just wanted to clarify a few things and update a little bit about that based on what was said.

There's two sections that we're dealing with here. Section I and section II.

Section I was made earlier this summer for approximately $35 million or something in that order.

It goes from 144 to the east. It will include a connector road from the existing bypass over to Pleasant Valley Road. When you connect to the existing bypass, you've got an issue that is a little bit uncommon. Certainly we would be the first to

agree that you've got to fully control the access highway. Why do you want to do something different? Why do you want to in this case introduce a signal?

Certainly it's not something that's commonly done. What we've got here though is a temporary situation. That part of the bypass is going to be separated completely and it will no longer be the bypass in a few years.

What is the schedule? How long is temporary you would ask? Do we know when the letting date is? Are we talking 12 months or are we talking 12 years? I do not have a letting date for Section II.

Is it in the six year plan? Yes, it is in the six year plan. The right-of-way activities, design is completed on Section II as it is on Section I. After design, of course, you move into right-of-way. We've bought right-of-way for Section I, but we also bought right-of-way for Section II. So right-of-way is clear on Section I and Section II, and utilities are under way, utility relocation.

Again, what that tells one is that the commitment is there to continue the Owensboro bypass and to let that project. When? I can't answer that at this point.

Section I is literally going to come to 144

and stop. You would have a multi-million dollar project sitting there with right-of-way built or bought and ready on Section II.

We'll be getting off on a ramp in the interim. I do not see that lasting for very long. The conditions of the existing Owensboro bypass are such that you've got two signals on it right now. One at the beginning and one at the end.

What we're doing is adding a temporary signal that changes what I would call the end of the bypass. When we put up a signal that's very very dangerous. Certainly you have travel patterns that people are used to. We're not going to take this lightly when we add a signal here at this location. The manual on uniform traffic control devices will be followed completely. Press releases will be put out on a basis that's more than once, more than twice to let the public know when it's going to happen, where it's going to happen, why it's going to happen, and the route that we'll take.

When we put up a signal, we've got a certain time period where it will be on flashing. That's dictated to us. We'll certainly have it on flash for a week or thereabouts. We'll put additional signs that you don't commonly see with the new signal.

Those additional signs will have flashing beacons on them to alert the ongoing traffic that may be operating under habit to get their attention.

Also rumble strips are something that we've got at the current end of the bypass. We'll put more of those out.

Certainly, again, as you would agree, we do not like to take a fully controlled access highway and change that. We don't normally do it. We're usually arguing on the other side certainly.

What we are going to have is a bypass extension of nearly five miles that will add a fully controlled access highway. It will add infrastructure to Owensboro with the sacrifice of a short-term signal at this location.

When it's all said and done, the bypass travelers that are going through, the through traffic will experience five less traffic signals.

As you travel through road construction projects all over the nation, there's inconveniences and sacrifices that have to be made. We apologize for that and we try to minimize that to the greatest extent as possible, but without that inconvenience then you don't get the payoff in the end.

Another item that was brought up was the

location of the signal on downgrade. This is something that we had consultants out of WMB, a consultant out of Lexington, to design this project and looked closely at that. The grades on the bypass were built in such a way that the standards were more stringent than the normal two-lane roadway that you would have out in the rural area because it is a bypass. It is high speed traffic. It's four lane divided highway. The grades are such that it would accommodate signal where grade would not be the problem.

I don't have a letting date. As soon as we do, we'll communicate that with Judge Haire and the public. I do anticipate it from my experience, from my understanding, there is a commitment to let this project. It is in a six year plan.

Any questions on that?

That's really all I have. I just wanted to clear some things up. I look forward to completion of the project. I think it will be a great enhancement. It's something that was put in the six year plan through normal channels years ago. We're building it now. Thank you.

MR. KAMUF: Next witness is Nick Brake.

MR. SILVERT: State your name, please.

(NICK BRAKE SWORN BY ATTORNEY.)

MR. BRAKE: Nicolas Brake. I'm the president and CEO of the Greater Owensboro Economic Development Corporation.

My objective here tonight is to say a few things from a broad perspective about the importance of this for our community's economy and why this site is the best site for this particular project.

Some of the community we think are approaching this opportunity of a new hospital from the perspective of our last century. From this point of view hospital serves the same basic function of a church or a grocery store in providing services to people that live in the community.

Hospitals don't count when it comes to economic development they say. I'm going to challenge us to view this opportunity in the context of our present global economic age. In this environment the drivers of regional economies, especially in mid-size or small regions like ours or no longer just large companies. They're institutions like hospitals and research universities.

While it's certainly true that our hospital does take seriously their fundamental mission of taking care of our people. Like our growing medical

systems around the country, OMHS has successfully pursued an economic development mission that make it more than just a community hospital. Since we don't have nor will ever likely have a research university, the hospital, as been pointed out, is our driver.

As a result they have positioned Owensboro as a regional medical hub with innovative partnerships in research, in teaching and economic development. The location in Eastern Daviess County adjacent to the I-64/I-65 corridor, which we meagerly call the bypass extension, we call the 64/65 corridor, is the best location for OMHS to expand for the good of our economy.

The economic development importance of hospitals is evident in looking at our peer communities. University of Louisville economist Paul Coons, works closely with us and identify these regions for us as a way to benchmark ourselves against like communities.

None of these communities that we regularly study have research universities. All are similar to Owensboro in terms of population and infrastructure. We have used these regions as benchmarks recently in examining the impact of our current recession.

Those with a large percentage of workers and

medical occupations has significantly lower unemployment rates. Six to eight percent during this recession.

Those with the smallest concentration medical workers have the largest unemployment rates. Thirteen to sixteen percent. Owensboro is about middle of the road.

A great example for one of our benchmark communities that has transitioned from a manufacturing base to health care is La Crosse, Wisconsin. Let me tell you just a minute about what's going on there.

They developed one of the largest medical clusters per capita in the United States. They do not have a research university. They have a regional university campus, which we're positioned to have with the expansion of WKUO and many other higher ed partnerships. Many of which are connected to OMHS.

La Crosse is a couple of hours from the Mao Clinic. They have numerous partnerships much in the way OMHS collaborates with hospitals in Louisville and Nashville.

The medical cluster of La Crosse consist of almost 9,000 people. Their bachelor degree attainment rate is 27 percent. Higher than the national average and a full 10 percentage points above ours.

During the recession over the past year, their unemployment rate topped out at around eight percent and has averaged around six percent for most of the recession. Ours topped out, I don't think it's topped out yet, but it's hovered around ten.

They have active research partnerships, technology transfer component that has lead to the formation of companies and new jobs. Not just jobs at their hospitals, but company formation and technology transfer opportunities. Their example is a great chance for us to look at how we transform our economy.

Given the way global economics and global economic forces have decimated many small regions throughout the midwest and the southeast, not supporting the expansion of this hospital will be a potential betrayal of our economic prosperity.

The days of us being a solely manufacturing based economy are over. This expansion will further diversify our economy. We have seen these forces touch us in the last month and in the last couple of weeks at Hon, at GE, and the headline you'll see in the paper tomorrow at Daramic with 100 more layoffs.

We have a unique opportunity to retrain our work force. I have sat across the table eye to eye with these folks for the last two weeks. I take that

home with me. Many of these people are seeking retraining in the medical field.

The location on the eastern side of the county is strategically superior to the current hospital site on Parrish Avenue. We know the location pretty well because OMHS bought it from Economic Development properties. We represented this site and marketed this site for a number of years, thanks to the work of Waitman Taylor years ago in getting it set up.

It is a clear opportunity for growth in the community hospital to a regional medical center and a regional medical hub. OMHS will be in a position to capitalize on the Southern Indiana, North Central Kentucky markets further away from Evansville, closer but not too close to Louisville.

Don't underestimate what that extension, what that corridor and what that position is going to mean for the markets.

This location will enhance the hospital services as an export industry. In manufacturing, we're familiar with export industry and the primary jobs that come along with it. This hospital will be a bigger export industry because of that location. That means primary dollars circulating through our economy more than we already see.

I want to address the issue of the Parrish Avenue campus. If you look at the former Mercy Hospital on Ford Avenue, OMHS has made that property very attractive and a functional part of their health system focusing on wellness. I'm there every day.

I know the plans have not been finalized, but certainly there are exciting opportunities for the best use of the Parrish campus. I welcome the opportunity to collaborate with OMHS in downtown development.

I mentioned earlier higher education and research. It would be a tremendous way to help aid the further expansion of allied health programs and applied research programs in our education world.

The OMHS campus is also close to our new business accelerator. Center for business and research. It's an incubator program for high-tech company start ups. The Parrish campus could also be a fully functional technology park for many of these companies to grow into. The possibilities are limitless. The commitment from OMHS is strong and the track record of previous property development is exceptional.

Lastly I want to address the expansion of OMHS and the potential for well plan expansion along this

new corridor.

It is not a question if development will occur along that corridor. It is more of a question of when. Allowing plan expansion of the hospital along that route puts the community in the driver's seat to leverage sustainable development rather than allowing unplanned suburban expansion to occur as a consequence of that new highway.

I look forward to working with Gary Noffsinger, his work and the Planning Commission and others in ways that we can help plan for this whole corridor to grow in the right manner.

The options are clear. If we want OMHS to be Owensboro's hospital, then they can stay right where they're presently located. If we want them to be a region's medical center, a catalyst of economic change, then approve this tonight so that we can together make and take the next step to helping our region be competitive in our current century. Thank you.

MR. SILVERT: Could you state your name, please.

MR. HAIRE: Reid Haire, Daviess County Judge-Executive.

(REID HAIRE SWORN BY ATTORNEY.)

MR. HAIRE: Good evening, gentlemen and ladies. It's been a long evening I know. As I told you at the break, I've experienced some of those myself.

I would like to make a few comments, if I may, relative to the issue before you tonight. There's been an abundance of information given. Some of it relevant to the question of a conditional use permit and some of it pertaining to the overall issue of hospital expansion. If you will allow me, I'd like to address both parts of that discussion.

With regard to the question of a conditional use permit. I believe the representatives of OMHS have demonstrated to you that they have exercised due diligence, have done the necessary research and have done a comprehensive job of fully addressing those issues which the board of adjustment considers when reviewing any plan. So the basic question becomes, has OMHS complied with the standards you set for any business which comes before you asking for a conditional use permit? In my judgment the answer is, yes. A conditional use permit should be granted.

Now, with regard to the second issue out there, that of the reasonableness of a hospital expansion.

Over the years local governments have established standards which any entity must go through to do business in Daviess County.

There are regulatory agencies as well as governing bodies. Now, in the case of OMHS, the regulatory body of OMPC decided that this endeavor complied with comprehensive plan and recommended the zoning determinations. The City of Owensboro, the city commission, unanimously endorsed that decision. Although Daviess County Fiscal Court had no say in the zoning issue, it does have three board appointments; Ann Kincheloe, Bob Carper and Alan Braden. The court unanimously supported each of those appointments. Those three people unanimously supported the expansion.

As of a side on that, Ann Kincheloe, I'm glad you voted. I expect you to vote. I would be disappointed if you decided not to vote on that. I think it was extremely inappropriate that that issue was brought up. These appointments are fiscal court's alter ego with regard to OMHS.

Nick Brake has addressed the economic development factors relating to the hospital expansion. Yesterday I received a letter from Gary Osborne, business manager for the International

Brotherhood of Electrical Workers. He states that this project will be one of the largest electrical installations performed in Daviess County. The project will create much needed jobs and provide career opportunities.

I was on the hospital board for over five years. Let me assure you it is the most complex institution I've ever been associated with. Therefore, we want the very best people in the administration and on the board. Smart people. Compassionate people. Efficient and capable people. We have them and I trust them.

With regard to the statement earlier made about the chairman of the board having in his mind the creation of a new hospital at the time the interviews were held for the current administration. I can tell you categorically, because I participated in those interviews, that is absolutely false.

So I urge you as the Daviess County Judge-Executive not to let those who oppose this have their way. To be sure there are risks, and real progress is never without risk. I have faith in the wisdom of the board and the hospital administration.

You know if we focus only on the road blocks without offering a truly viable alternative, then this

community really loses. Don't let supposition or hysteria or misinformation cause you to detour from doing the right thing. To a greater or lesser extent there will always be nay singers so it is here, but what is at stake is the very future of our community. You are a wise board. I ask that you approve the conditional use permit. Thank you very much.

CHAIRMAN: You got another one?

MR. KAMUF: I have Kelly Gardner. We have two and I think that's pretty well it.

MR. WIBLE: Excuse me, Mr. Chairman. Are we now going into rebuttal or are these independent witnesses?

CHAIRMAN: They've still got statements, presentation.

MR. KAMUF: This rebuttal.

CHAIRMAN: This is rebuttal?

MR. KAMUF: Yes.

MR. WIBLE: There's another independent --

CHAIRMAN: We'll get back over here, Charlie.

MR. KAMUF: Okay.

MR. SILVERT: State your name, please.

MS. ROBERTS: My name is Forest Roberts.

(FOREST ROBERTS SWORN BY ATTORNEY.)

MS. ROBERTS: I am speaking on behalf of the

Pennyrile Group of the Sierra Club.

Whether we want to admit it or not climate changes and reality and we need to consider the environmental consequences in every decision we make. Especially the decision in building a new hospital.

The decision to place the new hospital on the Daniels Lane site appears to have been made without any consequences or any consideration of the negative consequences to the environment.

Placing it there will result in the paving over of acres and acres of land which is now farmland and open space. It is in a floodplain and I suggest, and I think this is a strong possibility, that when the construction is through adjacent pieces of property will be subject to flooding due to increase runoff. The site chosen is not in a central location where people can get there by public transportation or by walking or riding their bikes. They will have to drive their car.

Not only does this make a hardship on people that don't have cars, but it adds to global warming that due to the result of the carbon emission that will be put in the atmosphere due to the increase traffic.

Owensboro wants to be a progressive forward

thinking city which attracts and maintains young people. However, to have to do this you have to in fact make a progressive forward thinking decision. The idea that progress means going to the edge of town and developing new land is a very old fashion and backward thinking concept. In fact, it's a concept that's been around thousands of years. It used to be called slash and burn. You claim an area of land. You exploit for its uses and then you move on leaving that site in worst condition than when we found it.

This is what will happen to the Parrish Avenue site. There's already in that area large areas of vacant land where the hospital has bought houses, raised them and then just left the land there to be empty.

Although tonight they talked about possible uses for that site. Nothing was mentioned that resulted revitalization of the area, and I doubt seriously if the area will be fully utilized. Will result in more blight and decay in that area.

Progressive cities have tried to redevelop their core areas. Some have used large hospital projects such as this one to revitalize whole sections of the city.

Two examples are Memphis and Miami. This

could happen in Owensboro. With the entire area along Triplett Street south of the railroad tracks being developed into a mixed use area with new housing, restaurants and retail areas along the new hospital on the existing campus.

It has been acknowledged that moving the hospital to Daniels Lane will attract additional development in an area. Why would we allow this to happen on good farmland when we have lots in the city that are in need of redevelopment.

In response to Nick Brake's comments about being able to control the growth along the new corridor. You can control the growth whether or not the hospital is there. In fact, I would hope you would control the growth whether or not the hospital is there and it can be maintained in the Parrish Avenue campus I think quite easily. The reasons that were given tonight as to why that can't happen I found to be very weak, especially in view of the environmental consequences that will result of this move.

I heard nothing in this long presentation tonight about sustainability. I heard nothing about solar energy. I heard nothing about geothermic energy. I heard absolutely nothing that would put any

kind of lower footprint on the environment.

We can no longer look at development in the traditional way. We have to be innovative and creative in order to make a society environmentally sustainable. Placing the hospital on existing farmland and creating a new area of urban sprawl does not meet this criteria and should not be allowed. Thank you.

CHAIRMAN: Do you have anybody else?

MR. WIBLE: I don't know if anybody else wants to speak.

CHAIRMAN: Anyone else wishing to speak in opposition?

MR. JAMES KAMUF: I would like to, sir.

CHAIRMAN: State your name please, sir.

MR. JAMES KAMUF: My name is James Lacy Kamuf. I'm sure probably Charlie appreciates the distinction tonight.

(JAMES KAMUF SWORN BY ATTORNEY.)

MR. JAMES KAMUF: I couldn't agree more with the lady today that spoke about the Sierra Club. Probably everybody in this room knows that I've been very much against the hospital for many different reasons. The more I learn about it the more I'm opposed to it. But I am going to try to -- we've

talked about economics tonight and it does surprise me that Nick Brake, I think economic development counsel, has been supportive of developing downtown would come and speak tonight about moving one of our downtown assets to the east end of this community. To me how can you develop downtown and then move one of our largest things that we have going for us downtown to the eastern part of this community. That does surprise me.

I would like to support the lady that spoke about, I think she's a member of the Sierra Club. I didn't quite catch her name, but I want to thank you for getting up here and speaking because I couldn't agree with you more.

If you do want to be a progressive city, you have to do progressive things. This is a classic case of urban sprawl. I think of an independent agency or somebody where they study this. This would be a case study for an urban sprawl in this community.

We have a location for our hospital right now and it's where it's at. Again, go back to the example, we're about to tear down our state building in order to build a private hotel. We can do that, but we can't find room to build on our present campus. That just amazes me. I think that is part of your

responsibility. I'm not quite sure what your responsibilities are. I don't have attorneys, of course. I don't have a power point presentations. I don't have aerial pictures, but I do believe that if there was a referendum in this community, I have to believe the 95 percent figure or the 90 percent figure. That the basic majority of people that I've talked to are not for this. They just think it's absolutely even absurd really that we're considering this in this economic environment. We all cannot be nurses and doctors. We have to have somebody employed doing something other than being involved in health care. I mean it's obvious. We just think that this is going to be a great economic driving engine, but it's not necessarily. It's a service industry. People are forgetting that.

This development, I'm going back to the development apartment. It's like we do have new roads in this community and that's going to work both ways. As people can travel efficiently -- like, for instance, in Spencer County they have a new road now that's going to bring them even quicker. People working for Alcoa are going to be able to get to Evansville even quicker now. This is going both -- the Natcher is now a free roadway. We're going to

have a lot of people really being able to chose where they want to go for the hospital.

This notion of district, we're going to be a regional district hospital, which I'm sure we are, but if you think Henderson County, this hospital is really going to attract Henderson County away from Deaconess or Spencer County is really going to all of a sudden come this hospital, I just don't see it. I don't see where that access is going to be that much easier than going to Evansville. So I think it is true about this road development is going to lead to people really being able to access a hospital, but it might not necessarily be our hospital.

Another thing that really bothers me, is this study really definitive about this floodplain? Like the Sierra Club, the lady from the Sierra Club mentions, it's going to be an environmental impact. You're going to have to ship all this dirt in to get this above the floodplain.

To me that seems absurd to thinking about progressive community. That we're going to move our hospital and go out here and ship thousands of tons worth of earth in to get this above flooding. Why even designate an area as a floodplain and then you're going to build one of your most valuable assets in the

middle of a floodplain.

Another thing that really bothers me too, because I come from an industrial background. This was I think is considered professional. It's an industrial site for a reason. It has oil tanks. I've sat here and listen tonight and I was amazed what this piece of property has. It's close to your power plant. Therefore your grid, you're 275 KV lines running in. That's why you want to build an industrial site there because you have oil. You have your power plant there. It is designated as an industrial site basically and it probably needs to be designated as industrial site. We have GE closing. We have Hon closing. Now probably one of our best industrial sites in this community is going to be used to move our hospital to that site when it probably really does need to be an industrial park. That really just kind of amazes me.

You know, like the health care, the health strategies and solutions, organizations that come up here, I really didn't even know what they were talking about. I don't know what tertiary is. It could be very valid. It probably is or it could be some flimflam. I really don't know.

Then to go out and build nine stories up too.

That just kills me that we're going to go in the middle of a bean field and build nine stories up. We have a Planning and Zoning Commission here, I would think that that would be an issue. If we're just going to build nine stores, why don't we just build nine stories up where we're at? That just kind of blows my mind.

The reason that we are surrounded by state hospitals around the hospital is, is because people want to get to the hospital. They use Parrish and they use Triplett and they use Breckinridge because they access the hospital that way. Then they talk about these are problems. These are state highways probably because they lead to your local hospital and it's why your local hospital is at that location. To say that's an excuse that we can't do anything there.

If you look to the south of the hospital, there really has been a lot of homes just raised, which kills me they were raised. When you tear something down, you call it raise. It does really bother me. There's lots of things that bother me.

You've got all that land there and then you go out in the middle of a bean field and build nine stories high.

We have train switches. We've got trains. I

forgot that we've got tanks and oil lines and everything else leading to this piece of property and we've even got a train switch yard out there. That's why we're having some of the problems. This is an industrial site.

I would like to speak about this auxiliary road that's being talked about here. To me I heard this as kind of an off-hand rumor, but it kind of got reinforced tonight. This auxiliary road we want to build around the hospital, that's really for private development. That is about an individual going out there that wants a pharmacy or physical therapy organization. He can build on this auxiliary road. That's what the big part of this is. People can't take their private business or health care organization and build around the hospital where it's at presently. So I think that should be a consideration too. This is going to add traffic to this area, congestion.

I tell you another thing. When I was a child, I remember the controversy about moving Mercy and consolidating it with Daviess County Hospital. People were really upset about that. I have to concede that point.

To me that is somewhat logical. You want to

consolidate your facilities in one location. Now we're going to have the cancer center, to me we're spreading out these facilities again. You're going to have the cancer center at the old campus. You're going to have some facilities out here, the way I understand it, on the east end. You're going to have the pharmacy schools and everything else at the present location of the hospital. I mean does anybody know really to go? It gets more and more confusing again where you go for medical treatment to me. This is why we consolidated this to begin with. We want the hospital in the center of our town.

I tell you another thing. Does anybody really think we're going to develop this piece of property? We're trying to redevelop our downtown district and then we're going to let the largest employer, one of the things we still do have going for us in this community. And do we honestly think that this property is going to be developed?

Like going back to the OMH example where Mercy used to be. You know how that was a great success. I can't afford to use the facilities at the Mercy Hospital location right now. I can't afford to go to the gym that's $50 a month. There's going to be a lot of people in this community that can't afford those

kind of services. If that's what we're going to do with the old hospital location, I think the lady from the Sierra Club is exactly right. It's going to be urban bright. I think this commission really does have to take that into consideration too. What are you going to do with this downtown location now?

I will sit down. Thank you very much for the time. I know it's been a long night. I apologize if I took too much time.

MS. DIXON: Is this an approximate time for a board member to have some questions?

CHAIRMAN: Yes, ma'am, if you so desire.

MS. DIXON: I just had a thought here since Mr. Sanford had handed out the maps about where the workers live. Do we have anybody, either side or up here, have any information on where people live with regard to the current location as opposed to the proposed location on Daniels Lane, as far as demographics? How many hundred live here and there?

MR. DYSINGER: Are you talking about actual like workers or are you talking about population?

MS. DIXON: No. Population.

MR. DYSINGER: That's an excellent question.

CHAIRMAN: Does Staff have anything you could add to that?

MR. NOFFSINGER: I think Melissa has some demographic information in terms of the existing facility as well as the proposed facility and population served.

MS. EVANS: We have a population distribution photograph, and then also a map of the existing hospital site and the proposed hospital site.

It was done based on the 2000 census data. The map actually included -- we put a census block, when the center point of those census blocks fell within a radial distance. We did that from a half mile radius, one mile, two mile, three, four, five and a seven mile radius to show the differences in the populations.

CHAIRMAN: Did that answer your question, Judy?

MS. DIXON: It does.

CHAIRMAN: Is there any -- gentleman, would you come forward and state your name.

MR. LOTT: Jim Lott.

(JIM LOTT SWORN BY ATTORNEY.)

MR. LOTT: Jim Lott. I'm an Owensboro resident. I hope I'm not a nay sayer as Mr. Haire said. I'm here basically for information.

I'm retired from the railroad. I worked for

the railroad for 34 years so I know a little bit about what's going on out in that part of town. I walked it. Looked at it for a long time.

Your job here as a board is to keep us safe. That basically is my only concern. I'm not sure whether I'm for or against this.

The soil out there needs to be, it needs to be made sure it's safe. I know from working out there environmentally it was pretty bad. I've only been gone for about two or three years.

MR. DYSINGER: What do you mean, sir, environmentally?

MR. LOTT: It's just bad soil. It could burn real easy. You're talking about -- they're talking putting this thing right next to the railroad yard. You can ask one of those doctors what methane can do to you, if you had a methane leak from the railroad yard. Doesn't make any difference whether we had a methane leak if it was downtown or anywhere, it would kill a bunch of people. Lots of people. That to me could be a hazard. Just like I said, I'm not -- I don't know whether I'm for or against it. It sounds like it's pretty good to me, but my only objection is for you to take care of us to make sure that we're safe. Thank you.

CHAIRMAN: Thank you.

MS. DIXON: With this information that Melissa gave us, could you elaborate a little bit on this?

MR. NOFFSINGER: Melissa or Becky.

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

MS. STONE: Becky Stone.

(BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: We simply were providing numbers based on radial distances from the existing and the proposed hospital site.

You can see as the radius is smaller, the population near the existing site is higher than the population served at the new site. At a three mile radius there's a little over twice as many people served at the old site as at the new site, but then as the radius gets wider as you go out further, the population evens out. So it's seven miles it's virtually the same. That's what our analysis showed.

CHAIRMAN: Any other board member have any questions or comments right now?

(NO RESPONSE)

CHAIRMAN: Mr. Kamuf, you ready for rebuttal?

MR. KAMUF: Yes, I am.

Carl Horneman.

MR. SILVERT: Sir, I believe you've been previously sworn. If you could just state your name for the court reporter.

MR. HORNEMAN: Carl Horneman.

I would like to just respond to some of the comments made by Mr. Smith this evening. He shared with the board some information about a pipeline rupture in the Winchester, Illinois area in 2000 as well as a rupture in Southern Illinois in August of 2005.

I would like to suggest to the board that those are not relevant to the pipeline issue associated with this property for a couple of reasons.

One, the large rupture in 2000 closed level 4 of the Pipeline Safety and Crude Act. Was an act which mandates the assessment of much more aggressive assessment and the integrity of pipelines throughout the system and certainly doesn't relate to the type of aggressive assessment in monitoring that's required today in high consequence areas. I'm not familiar with Winchester, but I belive it's not the population center of the size of Owensboro and certainly the high consequence area requirements were not in affect in 2000.

Same thing in the August 2005 rupture in the

Illinois area. That was clearly out in a very rural area and not subject to pipes and monitoring requirements that are in affect today. These are apples and oranges.

The comment was also made that emergency response personnel commented if that rupture had occurred in any other area it might have caused an environmental catastrophe. I think it's relevant that the comment was made it was possibly an environmental capacity. It was not a public health threat. Environmental capacity, certainly if a rupture occurred in the Ohio River it would create a huge environmental impact. Would not have an impact on the hospital operation.

The fact that crude oil can have an adverse environmental affect does not mean a release from this pipeline would pose any risk of threat to residents or visitors of this hospital facility.

If you'll recall the diagram, it showed the pipeline in relation to the development plan. It's to the south of that development. Hydraulically away from the flow of the land in that area and there's a large containment structure design to be built on that property for retaining storm water. Certainly would prevent any flow from entering the site in the area of

the hospital.

So the fact that a large area was affected by a rural farm area rupture has no relevance to the type of impact that a rupture, should one even occur, which would be very unlikely with the aggressive monitoring that is required in this environment.

Secondly, it bothers me that that rupture happened not withstanding the fact that a dent or some type of anomaly had been discovered in the pipeline and ignored of concern of human error.

With the Pipeline Safety Improvement Act regulations now eliminate that issue of human error by being very specific about what corrective action thus be taking in response to various anomalies that are discovered in the pipeline. It's not left to human error any longer.

I'm just reading from a fax sheet provided by the US Department of Transportation on implementing the integrity of management for hazardous liquid operators. It says, for example, top -- must be repaired within 60 days.

A top dent with any indication of metal loss, fracture, stress, must be corrected immediately. A top dent of two percent diameter that affects the pipe -- must be repaired within 180 days.

So the issue that they have contributed to the event in 2000 certainly is not an issue that would be presented in the pipeline along this property.

I would also like to note that there are no sensitive environmental areas being created by the hospital. If there were a rupture in this pipeline, it would affect the sensitive environmental areas that are in this vicinity of the property whether the hospital is there or not. In fact, the fact that there would be some containment structure there might lessen the impact should that occur.

There was also some testimony about fire hazards that are presented by the storage of oil in bulk storage tanks. Some pictures were presented of a fire in bulk storage tank I think in Patoka. I think those are also apples and oranges. If you will notice, that photograph does not depict any rupture of that tank. Certainly it's probably scary, but it's certainly not an indication that anyone was threatened by that fire other than by seeing the bright light or those people that had to fight the fire.

The setback requirements from the National Fire Protection Association fully adequately protect neighboring properties from events such as this. That's what they're design to do. In this case, that

largest tank that's at the Owensboro Terminal, the setback requirement, if you look at the report it says it's required to be 175 feet. The actual distance of that tank from the property boundary is 350 feet. Over 375 feet from the project site.

So even in an unlikely event the fire might occur with one of those tanks, certainly would not pose a threat to any occupants on this property. A fire of that nature is certainly a very rare event. I think those tanks have been there since, the earliest tank 1968. So we're talking about 40 years. Certainly not seen a fire like that. In the remote possibility once every 40 or 50 years you might get a bright light, I certainly don't think will affect the hospital operation.

Same thing with regard to the tank, the video that you saw that had been subject to a lightning strike. Won't suggest that that cannot be compared to the situation adjacent to this property because we have no comparison of what type of lightning protection was provided for that facility versus this facility.

Again, those sites have been there for a number of years without incident from lightning. I would positive that may well be much better lightning

protection than the facility that was shown in Texas and presented here tonight.

MR. DYSINGER: Mr. Chairman, I ask a question.

You mentioned the National Fire Protection Association setback numbers for fuel tanks. Are those specific to a primary acute care facility or just any sort of building?

MR. HORNEMAN: Those are for any building. The intention of those setback requirements are so that any properties use occur adjacent to a facility and be adequately protected.

MR. CHAIRMAN: Let me ask one question too.

Wherever a tank is there has to be a reservoir area to accept everything that's in it if it breaks; is this correct?

MR. HORNEMAN: That is correct, yes. It's called secondary containment. These tanks would be subject to the secondary containment requirement.

One other thing I did intend to mention too. These tanks are actually at a point in the pipeline operation where a pumping station we're actually monitoring the pipeline occur. In addition to being a high consequence area, this is a very close location where monitoring is actually conducted I understand public pipeline operation. So it would be very -- be

one of the first areas to detect any kind of anomaly should one occur. Thank you.

MR. SILVERT: State your name, please.

MR. GARDNER: Kelly Gardner.

(KELLY GARDNER SWORN BY ATTORNEY.)

MR. GARDNER: I'm Kelly Gardner. I'm the structural engineer and manager for Associated Engineers. I manage our Owensboro office. Indulge me for a few background information.

I'm a registered engineer in six states and have been a practicing engineer in Owensboro for the last 12 years.

MR. DYSINGER: Mr. Chairman, could the witness speak up.

CHAIRMAN: Speak up please, sir.

MR. GARDNER: Associated Engineers, we have two offices and we've been around since 1958. We started out doing mining engineering and detect drilling and surveying. So we've got quite experience and history within that field.

When the hospital board narrowed those choices from 16 sites down to 2 they contacted us to provide what's called a Phase I Environmental Assessment and a Preliminary Geotechnical Assessment on both sites. That was back in March of '07. That preliminary

report for this site was alluded to earlier.

Subsequently once the design had progressed or the site depict and as I progressed to the Pleasant Valley site, once the county had their idea where the building would be, what the building level would be, we would then contact and perform a full in-depth geotechnical investigation which involved drilling 20 holes on the site.

Both of those lead to the determination we needed additional, a third investigation which we consulted with kind of a colleague, a professor that specializes in seismic soil evaluations. He provided us with a third report related to the site.

All three reports did indeed come back with a site classification. However, we then in consultation with the project structure engineer and our consulting seismologist. There are methods out there called soil modification which we can use on this site and change it from a Site Class F to a Site Class D. Which for those not in the field it dramatically reduces the impact to the building, the design loads, and the structure in general.

In fact I had an e-mail conversation with the lead structural engineer to double check some notes and end up on the design progress. That is indeed

what they're doing. It's going to be designed for a Site Class D based on the site modifications being implemented.

One other side note. When we did a preliminary geotechnical investigation at both sites they both actually came out Site Class F. One on the east side and one on the west side. If client will let me tell you, I know several other sites in town. Central part of town, southern end. E's and F's are all over it. This site is not really all that unusual for Owensboro, Daviess County, and really anywhere along the river you're going to have similar conditions with soft soils, primarily sands, liquefiable potential, but there are modern ways. We've been using these techniques for the last ten years on coal mine sites. We feel like we've got appropriate remediation approach for the situation.

MR. PEDLEY: I have a question for you, sir. Are you saying that all of your borings were Site Class D?

MR. GARDNER: No. The initial boring indications were Site Class F. The soil as is a Site Class F. But with soil remediation techniques we can change the soil characteristics and get it to a Site Class D.

MR. PEDLEY: Get it to a Site Class D?

MR. GARDNER: Yes. I failed to mention previously. This is a copy of my personal report. ESA Phase I, our Preliminary Geotech, and then the seismologist report, the Pleasant Valley site. I don't know if they have a copy of that or not.

MR. KAMUF: Be sure that's in the record. File that as the next exhibit.

MR. WIBLE: What is that?

MR. SILVERT: Could you restate what the name of that report is?

MR. GARDNER: That includes the Preliminary Phase 1 Environmental Assessment, the Preliminary Geotechnical Report, the final full Geotechnical Report, and the seismologist report all for the Pleasant Valley site.

I was asked to try to get comparison of the site characteristics of the Pleasant Valley site for say a downtown site or somewhere else in Owensboro, Daviess County. As I say, they're identical essentially. It's been said that the existing hospital site is somewhat better, but I know for a fact very, very near there is a Site Class F. I worked on it personally several years ago.

These soil conditions like I said are not

unusual for just the east side of town. It's a large majority of Daviess County and really anyplace, anywhere along the river it's like that. That's why we have techniques we've learned over the years. We've got ways to improve the soils and not be so costly.

MR. PEDLEY: A lot of the downtown area is a Site Class C. Can you tell us the difference in Site Class D and Site Class C.

MR. GARDNER: Sure. I would first disagree unfortunately with the downtown. It would be hard for to find a Site Class C in downtown Owensboro. The primary reason is we've got about 112 to 120 feet from surface grade down to bedrock. As you get about 20 or 30 feet down, you hit the alluvial sands. With loose sands that's the problem where we are. That's when the ground shakes the more pressure gets in it, it goes to jello. We've got that. It's very prevalent. There are maps from the Kentucky Geological Survey.

Downtown do not have a Site Class C. It's E or F at the best.

MR. PEDLEY: It's D or what?

MR. GARDNER: E or F. Some parts, southeast part of the county there's some D's and C's at the higher elevations. The closer the bedrock is to the

finish grade, that's where you get the better site classifications.

MR. PEDLEY: I did core drillings Tuesday on a site two-tenths of a mile from the hospital's proposed site. I found Site Class D. Basically the general area is Site Class D.

MR. GARDNER: It's highly variable. I've been from one side of the street to the other and got two different site classifications. That's the problem. That's the unknown. That's why we do the investigations. That's why we do the 20 plus holes out under the footprint of the proposed building.

MR. PEDLEY: Have you done core drilling downtown?

MR. GARDNER: Our firm has done some, yes. I can't really say where, but yes.

MR. PEDLEY: The existing hospital, would you have any idea what that class might be?

MR. GARDNER: I know the site across one of the streets, that's a Site Class F, and another one about three blocks away is a Site Class D.

MR. PEDLEY: I'm just trying to get a comparison with the existing hospital and the proposed site. The seismic code and design of the hospital based on --

MR. GARDNER: That's another thing I want to point out. Like I said, I've been in contact with the project engineer. Again, just today we were having a discussion.

They're well aware of the Kentucky Building Code which is based on the International Building Code. I've served on some state level code advisory committees through the Structural Engineer Association of Kentucky. I'm a board member of that. We've had extensive input in Frankfort with our state level building code. The design teams, they're very well versed on Daviess County seismic issues, Kentucky Building Code issues.

The hospital is categorized like on a category three facility which is an essential facility by the building code and that forces all the design elements and design loads to the highest standard that is under regulation right now. The design team is obviously following that standard.

CHAIRMAN: Any other questions on the board member of this gentleman?

(NO RESPONSE)

CHAIRMAN: Next item, Mr. Kamuf.

MR. KAMUF: I believe that's it right now. See what they've got.

CHAIRMAN: Mr. Wible, do you have any rebuttal?

MR. WIBLE: Yes, I do. Mr. Smith.

MR. SILVERT: If you could just state your name again for the record.

MR. SMITH: Yes. It's David Smith.

I do want to mention that the pipeline failure in Winchester, the anomaly was a less than two percent anomaly in the depth. I'm not quite certain if I understood what your all's requirements are. When they found the anomaly it was less than two percent of the depth and it had to be over two percent for Ashland to repair it. So they didn't repair it and we know what happened. So standards, you know, you still have errors and we're dealing with a hospital site. I agree, I mean what hospital doesn't want to be next to an environmental problem.

I do want to ask a question though of the person from Associated Engineers. How are you going to modify the soil and how much is it going to cost extra --

CHAIRMAN: Direct it to the board.

MR. SMITH: I'm sorry. He made a comment that they're modifying the soil. It would be interesting to see what that is going to cost the hospital to

modify the soil over the acreage. Then in light of the fact that they just now decided to present the entire geotechnical report and all the seismic reports. Again, I would like to ask this board to consider a 30 day delay to allow independent people to look at this report. Again, I would like to ask that. Just to allow us the opportunity to view this information that they just now released. As you know, they had the opportunity. They released the environmental statement to you guys two weeks ago. They choose not to give that to you all two weeks ago. To give us an opportunity to look at that information. So I would again like to ask this board to consider allowing a 30 day delay to allow us to do that.

I do want to mention a couple of questions regarding the former state engineer comparing train accident reports.

Gary, you may know this answer. I'm trying to think. I believe there was 700 cars per day that travel down Pleasant Valley Road.

MR. NOFFSINGER: I cannot confirm that.

MR. SMITH: I mean it is a very small number of cars that cross that crossing compared to Triplett Street. There is a large number of vehicles. I think it goes -- I think it's common sense to know that if

there's a whole lot of cars going across the train crossing as opposed to very few, you're going to have more accidents at the one that has a lot of cars going across it. I think that was sort of a very misleading statement to say there's only been one accident in 50 years compared to 15 throughout the rest of the town.

What is the pounds per square foot that this hospital, the nine store tower, the soil has to be up to? I'm curious to know the pounds per square foot that the soil is supposed to contain, is supposed to hold, the psf, this nine-story tower. Then we have heard -- I did talk to McClarin before he left. This is not a temporary stoplight. This is a multi -- I think anyone in this room knows that it's going to take a couple of years to build this road. Even it was let tomorrow, it will take a couple of years. So this is not a stoplight. It's not like a construction stoplight where it's going to be up for 30 days while they repair a bridge. This is a stoplight that's going to be there for a period of years.

Finally we have heard a lot of talk about this super regional hospital. It would be interesting to the chair for them to divulge what they have told us before. Apparently all the counties except for Daviess, Ohio and McLean and Hancock, less than 15

percent of the public in those areas go to our hospital.

The Darman Health Care Act shows that the Owensboro referral region is Owensboro, Daviess County, McLean County, Ohio County, Hancock County, and only the section of Spencer County that is the Reo/Rockport/Grandview area. All others, people in Muhlenberg County are referred to hospitals in Nashville. People in Tell City are referred to hospitals in Evansville. People in Breckinridge County are referred to hospitals in Louisville.

The reality is that even if you got, I mean you all are admitting here today that your potential growth is in Breckinridge County, Perry County and Spencer County. Add up the populations of those counties and see what your real potential growth is. I think you're taking a shotgun after a fly because there's not enough people in those counties. Truthfully they don't have a whole lot of income. When you start getting into eastern Breckinridge County, they're much closer to Hardin Memorial. When you get in Northern Perry County, they're much closer to Louisville hospitals. I think some of this is bounded by reality.

You know, we would all want Owensboro to be a

major metropolitan area of 5 million people. We all want us to be in La Crosse, Wisconsin where you don't have a major metropolitan area with major hospitals 30 minute drive away, but the reality is is we are where we are. We don't have a four year state university like La Crosse. We do have the Evansville health care market which is dwarf hours unfortunately. We have the fact that basically no one in Evansville comes to Owensboro to do anything unfortunately.

The other point, Chair, I would like to know is what is this current occupancy rate for the hospital? They're wanting to add on the number of beds and yet I'd be curious to know what's the percent of occupancy now? I would hope it's better than our hotel occupancy in the mid '40s.

I believe that's the only questions I had regarding -- although I do want to make one statement. A lot of the statements today about being an economic engine, creating jobs, and all of these things can be done at the Parrish Avenue Campus. I don't believe any one of us over here that have raised questions does not want to see this community grow, does not want to see this hospital become a better endeavor. We're just all questioning the location of how to do it. Not the ultimate goal of creating a regional

university, regional medical center. After all to the best of my knowledge Louisville is a regional medical center and all of their hospitals are clustered downtown or most of their hospitals are clustered downtown. You don't have to be at a green field suburban site to attract people to your hospitals. This hospital proves that it's the quality of the work force and the quality of the care that attracts people. Not where you put the location.

CHAIRMAN: Mr. Kamuf, you've got somebody to come forward.

MR. SILVERT: Would you state your name, please?

MS. MURPHY: Mary Lou Murphy.

(MARY LOU MURPHY SWORN BY ATTORNEY.)

MS. MURPHY: I'm Mary Lou Murphy. I'm the director of strategic planning for Owensboro Medical Health System.

The item that I would like to respond to is the population distribution map that was handed out just a bit ago.

I just want to point out that this data, the census data is for the year 2000. Strategic planning, part of my job is to really understand the demographics of the market. To understand where

people live, how old those people are, the average income for those different areas. We look at all of that information for our 11 county service area.

I would venture to say that if you looked at the census data for 2008 it would look a great deal different, as far as where your population, where your people live.

In 2000 the Wal-Mart was not on 54. You did not have near the business development or the communities in that region. That was one of the considerations when looking at site development, was where do the people live. Truly that's where they live. I would just ask that you step back and really take a look at that.

The other thing I wanted to comment too was the comment about people from Indiana coming here. I would disagree. Another thing that I have the responsibility to look at is through the Kentucky Hospital Association we have, that's where we get our market share data. They have a reciprocal agreement with the Indiana Hospital Association. What that basically means is that we share our inpatient data. If you are a patient in the hospital in Indiana or Kentucky, we have access to that data as far as how many days you were in the hospital, why you were

there, who the attending physician was. Based on that I know that people from Indiana come to Owensboro Medical Health System for their care. Spencer County, I'm not good at quoting statistics right offhand, but we do get a great deal of patients from there, from all of those 11 counties that we talked about.

I just wanted to comment to that. Is there any questions?

CHAIRMAN: Any questions of this lady?

(NO RESPONSE)

CHAIRMAN: Mr. Gardner, would you come forward and answer the questions on what it cost to change from F to D, how much foot poundage you need for a nine-story building.

MR. GARDNER: I'll answer what I can.

The first question regarding bearing capacity. I believe our report says as is, somewhere between 1,000 to 1,500 psf allowable soil bearing capacity. By soil remediation techniques that were considering will be designed for 4,500 psf bearing capacity.

Dramatic increase, which means it can hold a lot more load, that also means that our building foundations and our building structure will be reduced in cost because it won't have to be so robust so a lot less expensive.

We don't have a cost estimate yet on the soil remediation because we're evaluating three or four options at this point. We have not got any hard, to my knowledge, the design team hasn't gotten any hard numbers from the contractors and that sort of thing. It's really to early in the design process to do that. They're still in the schematic phase design. Building loads are kind of floating around there, column loads, that sort of thing. They need to get a little further along in their design of the building before you can trace those loads down to the foundation systems. Don't have cost, hard number for that right now.

One other thing I want to point out, I may not have made clear earlier. This project will be designed per the Kentucky Building Code. It will be reviewed by several code agencies, local and state level. Not just for the building structure but for fire, sewer, water, plumbing, the whole nine yards. So there's going to be a lot of scrutiny and review of the design as the process goes along.

MR. WIBLE: May I ask a question for this gentleman, Mr. Chairman?

CHAIRMAN: You may.

MR. WIBLE: My question is: How far down is the bedrock?

CHAIRMAN: How far is the bedrock?

MR. GARDNER: We drove a hole that went down 132 feet to shell and then penetrated another, I believe, 8 feet until it got to a harder stratus. So roughly 140 feet to hard rock.

Can I add one more thing? It was mentioned earlier in the report that they thought the owner was considering driving miles for foundation. That's not what we're talking about. That's not the kind of system we're talking about, our soil remediation. Those don't get the benefit. Those would not change from a Site Class F to a Site Class D. These other methods that we're looking at is where we need to benefit.

MR. WIBLE: Next question I have for him, Mr. Chairman, is: What is meant by soil remediation? Is it pallets? Is it putting in new soil? What does it mean?

CHAIRMAN: Can you answer that, please?

MR. GARDNER: Generically there are different methods you can employ. Generically we will be drilling holes. They will be filled in with rock, compacting with rock, special equipment, and we will ultimately densify the soil more than it is now. What you end up with is a much stronger soil strata.

Especially with the loose sands we are able to take advantage of the looseness and compact a series of grid, if you will, around the site. That's how we get the soil improvement. It's been used like I said for 20 years plus.

CHAIRMAN: Is that kind of a floating type?

MR. GARDNER: No. It's not really a map foundation type. These are going to go 50 feet. We have to do a 50 foot depth to achieve what we need to achieve. I've done a little of this work. You know, 20 to 30 feet is the norm, but this we have to go deeper because of the combination of heavy loads, sewer ditcher and higher cordis factor because of the building code. All of those fall in to play with this.

Kind of like a rock column, if you will, but it's more than drilling a hole and pour rock in it.

MR. WIBLE: Does that mean it's not, obviously it's not going to bedrock then. It's only going down 50 feet to these caissons.

MR. GARDNER: That is correct. It does not need to go to bedrock.

MR. WIBLE: Do I also understand the witness to say that there's going to be a large quantity of different kind of excavation and then a large quantity

of different type soil put in?

MR. GARDNER: Not for the foundation work. There will be no additional excavation.

Now, I can't address the floodplain and fill issue. Other consultants were hired, but the foundation work, you don't do a mass excavation and replace it with something else.

MR. WIBLE: Did I understand this witness to say that the jelly, the soils, the alluvial soils that turn to jelly start at a depth of 30 feet and go deeper?

MR. GARDNER: Actually I think I hear they're about 20 feet. I don't remember exactly from the boring logs. Generally the Owensboro area is 20 to 30 feet. You've got silts and clays. Then beneath that is where you have the loose sands.

MR. WIBLE: Then how deep are they?

MR. GARDNER: To bedrock typically.

MR. WIBLE: You go all the way to bedrock?

MR. GARDNER: To be 100.

MR. WIBLE: They can turn to jelly?

MR. GARDNER: Yes, they can.

MR. WIBLE: Thanks very much.

MR. GARDNER: Before remediation we take care of that.

MR. SMITH: Before you leave the podium, out of curiosity have you ever done like a fast food restaurant or anything, geotech work?

MR. SILVERT: Could you again address questions to the Chair.

MR. SMITH: I'm sorry.

Mr. Chairman, I'm just curious whether the witness has ever done a geotech job. Just out of curiosity a typical, say a restaurant or a commercial strip center, what is the psf requirements?

MR. GARDNER: Typically 1500 to 2500 psf. Yes, we have done your typical strip mall. Done many metal building foundation for a design for 1500 psf bearing capacity.

MR. SMITH: Is that standard?

MR. GARDNER: Building code allows a minimum of 1500, yes.

MR. SMITH: For commercial --

MR. SILVERT: Again, Mr. Smith, could you please direct your questions to the Chair.

MR. SMITH: I'm sorry.

So, Chair, I suppose that is for commercial developments.

MR. SMITH: That is correct. The Kentucky Commercial Building Code, if you don't do a soils

investigation you have to assume no better than 1500 psf. It was asked to me to point out we don't have any buildings in Owensboro that are bearing on bedrock. There is not a one.

CHAIRMAN: Mr. Kamuf, do you have anything else?

MR. KAMUF: We don't have anything further.

MR. DYSINGER: Opposition did raise the issue of access to the poor, you know, less advantage in the community. None of your folks addressed that. I wanted to give you an opportunity to do that.

MR. KAMUF: I didn't understand the question, excuse me.

MR. DYSINGER: The opposition raised a question regarding access to the new location for less advantage people, which do seem to be centered more in the downtown area. None of your folks addressed that. I wanted to give you an opportunity to do so.

CHAIRMAN: State your name, please.

MR. HAYS: Bill Hayes.

With respect to the community mobility issues, which I think is the question before you, we mentioned already towards the intent to extend the existing bus line. That's not something that the hospital can do. It's the decision of the Owensboro Transit System, but

the hospital, my understanding and certainly a recommendation to allow the buses to come into the campus area, turn around, it makes a turn around. As this thing develops as a medical complex that will be increasingly public transit demand for that. Whereas now I'm not sure what the roundship is out there. It seem to turns arounds mid block of US 60. So this provided certainly a bold destination.

Obviously you have within this community a large number of ADA services, services for seniors in the community would have that provides transportation whether it's for dialysis or anything else.

I did an Economic Impact Study Public Transit in Bowling Green. Went through all the community service agencies and then some. Every community has them. They're substantial. They may not be the ones you are aware of, but people that use them are certainly aware of them.

So there's many means to get to any number of medical services. The ones that would be on the remaining campus. Several things can be there. As well as facilities at the hospital and other cases. You obviously have public taxi services. While the individual trips may be expensive, certainly less expensive than car ownership for someone who is

impacted economically. There are family and friends, church groups, all number of people are available within the community. Mobility within a community is really something that has to be structured and leveraged by a large number of organizations. Without a lot of detail, you all should know more than I do, but there's many different ways to access medical facilities physically, whether the location is to the current site or the site under consideration here or other medical health facilities within the community.

CHAIRMAN: Mr. Kamuf, I personally have one question I want to ask you again.

The fill that is going to be used on the floodplain area will come from the property, and that will retain with the reservoirs and stuff?

MR. SILVERT: State your name again for the record.

MR. BAKER: Jason Baker.

All the fill material will be obtained from on site. There's a one to one displacement requirement within the county. We actually exceed that requirement, which is a positive thing. All the material will be obtained on site. Nothing will be hauled in.

CHAIRMAN: Thank you.

MR. BARBER: I would like to address the access care issue.

The Ford campus does have Convenient Care which is a primary care center. It sees about 32 to 35,000 patient visits a year. We've relocated that about four and a half years ago. It was across from Brescia University on Frederica. When we put it out to the Ford campus it doubled in size. It was put into a community where people could get to it easily.

The Parrish campus where the current hospital is has a large emergency room facility which is a primary care facility as well as an emergent care facility. We plan on keeping that open to serve the community in that Germantown area and the area around there. We anticipate that and along with the University of Louisville Family Medicine Residency Program, which requires a clinic to have service as well as a free clinic, which we hope to have at that site as well, that the population that we'll be serving there for primary care and some emergent care will be in the 35 to 40,000 patient visits a year.

People who come out to the new campus will be coming out because they're acutely ill or need emergent care. If they come for emergent care, it will probably be by ambulance.

If they need to be admitted to the hospital because they're very sick, and nowadays the way health care is delivered, the only way you're going to get admitted to the acute care hospital is because you're very very sick. Transportation will be available for that.

What we hope to leave in place is an additional 35 to 40,000 capacity patient visits a year in addition to the new emergency room at the new hospital, which will add to our capacity to provide even more care.

That's kind of a rounded way to getting to we're adding more capacity and more sites for primary care and the walk-in clinics, which is what this community really needs.

CHAIRMAN: Thank you.

Mr. Kamuf, you have anything else you want to add at this time?

MR. KAMUF: No.

CHAIRMAN: Mr. Wible, anything else?

MR. WIBLE: Yes, Mr. Chairman. One last item from Jeff Sanford.

CHAIRMAN: State your name for the record.

MR. SANFORD: Jeff Sanford.

Mr. Chairman, I had given you a map and it was

workers per square mile. On the map the young lady passed out and some remarks that the young lady made over here is from the year 2000, I believe.

My concern were the people that live near the hospital that have to walk to the hospital. I heard the busing. A lot of them don't use that. I work with these people. I take these kids home from practices to different houses every day. They don't live in the same house every day. They don't live like we do. Urgent Care, that's near where I live. That's a good point, but I don't think they use that. They go to the hospital. They walk there. Taking a cab is, they don't have the money to take a cab. A lot of them don't have jobs.

Just by looking at this map it's easily determined how are they going to get there? They're talking -- I heard circles. Buses and church. A lot of them don't even -- a lot of these people don't -- that doesn't register with them. They just get sick and they walk to the hospital right now. You're going to have a lot of changing to do with these type people. They're not going to be able to get out there.

MR. DYSINGER: Mr. Chairman, I'm curious where Mr. Sanford obtained this data.

CHAIRMAN: Sir, can you answer that?

MR. WIBLE: Census data.

MR. SANFORD: It's very apparent. It doesn't take a brain surgeon, which I'm not. There might be somebody over there who is one. Lots of degrees over on that side.

My main concern are the people that are less fortunate than us that will not have the access. I just do not believe that at that location. That's all.

CHAIRMAN: Mr. Wible, do you have anything else you want to add?

MR. WIBLE: Not until we get ready to sum up, Mr. Chairman.

CHAIRMAN: State your name, sir.

JAMES KAMUF: My name is James Lacy Kamuf.

I'm sorry, but this sounds like a two-tier health care system. That if you're poor and you're in the inner city you go to the clinic, but you don't have access to your hospital in the area. So I really do believe there's an attempt to make a two-tier health care system in this community. Thank you.

CHAIRMAN: Let's take a five minute break.

- - - - (OFF THE RECORD) - - - -

CHAIRMAN: Call the meeting back to order.

Mr. Kamuf, we've got one question we need an answer that we didn't have awhile ago.

What is the occupancy rate at the present hospital?

MR. SILVERT: State your name.

MR. STRAHAN: Greg Strahan.

(GREG STRAHAN SWORN BY ATTORNEY.)

MR. STRAHAN: Of course, the occupancy of the hospital varies from month to month. Today's census was about 283. We have 312 beds that we currently are staffed for because we have some semi-private rooms in addition to the 312 beds for the transitional care unit. Today it was 285. 275 yesterday. It was 283. Was 290 the day before that. So on average it runs about somewhere around 70, 75 percent of occupancy of beds currently in use. Because of the hospital and the condition of the hospital, the narrow hallways, some of the things that we face, we don't have the full licensed beds in service.

CHAIRMAN: Thank you.

We're going to have our rebuttal now. Each one of you gets five minutes.

Mr. Wible, you're first.

MR. WIBLE: I just made randum notes here that I want to emphasize and they skip around.

The comment has been made we need a more efficient building. You can't take an old building and make it efficient.

How many of you have been to Vanderbilt, one of our nation's great hospitals? It's older than this one.

It's interesting that the talk on hazardous conditions was not made by an engineer, wasn't made by a chemist. It was made by a lawyer from Wyatt Tarrant & Combs. He talked about the code setback requirements. If we met all the code requirements, there wouldn't be any danger. Well, there can be fires. We've seen that from the photograph and from the video you all saw. The video was just a lightning bolt striking an oil barrel.

The question is whether you put a hospital next to these things or whether there's not a better place for them.

I'm sure there was talk about how beautiful this was going to be and how soothing it would be to see the lakes. I'm sure this site will be pretty, but will it be safe is the question. Will it serve the poor? I think the fact of the matter is, Mr. Kamuf is right, we're headed toward two-tier health care system. One for those who can afford better care and

those who can't.

We have nothing against the new hospital, the group I speak for. We do object to this place is all.

There is a danger from liquefaction of the soils. This gentleman from Associated Engineers said that soils can turn to jelly in a severe enough earthquake and Dr. Obermeier goes into that subject in great extent.

Now, the solution is going to be to put down some kind of caissons. That they're not even sure what they're going to be themselves. A depth of 50 feet. You've got those same jelly liquefaction soils going down to 140 feet. They're going to be sitting on top of 90 feet of jelly. What's going to happen when that happens? Well, it's like Dr. Obermeier told us, not in his affidavit, but in talking with him those caissons are going to turn to spaghetti is what is going to happen. If it does, we hope it doesn't, but why take the chance of putting a hospital in a place like this? Why put a hospital near oil tanks which can rupture? Why put it near where a pipeline, a 24 inch pipeline, that's a big pipeline, runs right through the property where it can rupture in the case of an earthquake?

The bypass is important for economic

development. Even the witnesses for the hospital recognize that, and it's not going to be available to us any more.

As an economic development advertisement for our community because it's not going to be a nonstop roadway. It's going to have a stoplight in it and we don't know how long that's going to continue.

Now, it may be in the six year plan, but the six year plan has got to be funded. You know how this section one is being built? Not because the State of Kentucky had the money. It's being built only because our community got a larger share than we should have, good, of the economic stimulus money, federal legislature.

There is a possible dangerous affect from lightning on all of this oil and gas stored right there by this property. Why take that kind of a chance?

As Mr. Kamuf said, why put a 9-story building in a bean field. I wish I had his facility with words.

The old site will be left empty. It will either be an empty field or a boarded up slum. That's what we're going to have when this gets done.

This lawyer who is an expert on oil and tanks

and pipelines said that progressive, with progressive monitoring there wouldn't be a rupture of the pipelines in the tanks, but you saw the pictures and you heard David talk about the rupture of the Winchester, Kentucky, and the rupture over in Southern Illinois.

My last point I would make, gentlemen, there's no reason to allow a variance to build a hospital on a location so fraught with hazardous conditions. Thank you.

CHAIRMAN: Mr. Kamuf.

MR. KAMUF: Mr. Chairman and Ladies, I said when I started that this would be probably the most important decision that you'll make sitting on this Board of Adjustment.

Surprisingly enough the county judge came and Nick Brake. I didn't know they were coming, but what did they tell you. They told you how important that decision was to the economy and what would take place.

Anybody can sit over on the far side and start shooting holes. It's like a lawyer getting up and saying, there's reasonable doubt, there's reasonable doubt, there's reasonable doubt. But of the issue today, the issue today is, one, is the site appropriate for the hospital and compatible? What did

I bring you? I brought you the best of the best. If you look every witness -- it's like having a medical malpractice case or whatever you have. You bring the best witnesses that you can possibly get and then let everything happen. That's what we've done. You can go over every witness that I brought you, and I don't belive you can go out throughout the United States and find any better witnesses. What does that tell you? Dr. Barber here, these are the people that you see here tonight that are going to design, they're going to build that hospital, and they're going to tell you where to build it and how to build it. It's that terrific. Don't you feel like you're in good hands with these people that I brought you to testify? In other words, the credibility of the witness is so important and to realize what the credibility of the witness is. What do you do? You look at their demeanor and what they said, why they said it, and how they said it. These witnesses, there was not an issue, a relevant issue. I can sit over and talk about bonds. I can talk about financing. I can talk about those issues. We answered every relevant question, I believe, I hope. Let me say, I hope, to your all's questions.

I'm so proud of these witnesses and putting

them on the stand. They stand for what we stand for, a new community hospital that will create jobs.

The most important thing, we're going to have a better hospital. We're five percent. We're going to get better. We're going to get better service and we're going to have a place where people want to go. We could raise all those issues about getting there and those are side issues, but the key issue is are we doing better for Daviess County by putting that hospital there? The relocation issue is really not an issue. It's been decided.

Bob Carper sits on that board out there and he has heard every one of these people say, this site, this site, and that site. I have a lot of confidence in him. That he picked the site not because he liked anybody, but he picked the site because he really, really believed that was the right site. It's so important, as far as the marketability of the hospital. Why is the hospital in the urban service area a little to the east, but basically central? Because that's where the patients are. In other words, I can get over and say, Breckinridge County might not bring any or Spencer County, but the truth of the matter is, don't you think the marketability of the patient, the big patient people are from the

eastern area and that's the place to build the hospital. I hope we have addressed those issues.

Gary, in your report to the Planning & Zoning you said, we need to address four issues. The compatibility issue. I don't think anybody could say that the property out there is not more compatible for a hospital than it would be for an industrial park. They couldn't do anything with an industrial park. They couldn't do anything with an industrial park so what did they do? They said, let's see it and let's use it for a hospital. Listen to the permitted uses in an industrial park. A repair shop, a welding shop, a manufacturing shop, and storage. In other words, this is more compatible with the neighborhood than anything you can put in.

CHAIRMAN: Thank you.

Have the board members have any questions at this time?

MR. PEDLEY: Mr. Chairman, I have some comments.

First of all, this board is not charged with if the hospital should be built or where it should be built or the cost of the hospital. That's not what this board is charged with.

There has been many opportunities for groups

or individuals to voice their support or opposition over the past several months. This board is only charged with, according to Kentucky Statutes, whether it is a compatible use in the neighbored and if it will allow proper integration into the neighborhood and will not cause an adverse influence on future development of the area.

Mr. Chairman, whenever you're ready for a motion, I'm ready to make a motion.

MR. DYSINGER: Mr. Chairman, we've received dozens and dozens of pages of evidence tonight. To my mind, it's a question of due process that we properly review this evidence we've been given. I think we owe that to both sides. I'm ready to make a motion too, but it'd be to postpone this for 30 days. We shut off the evidence.

MR. PEDLEY: Mr. Chairman, I'm ready to make a motion to move on with it.

CHAIRMAN: Let me hold one minute beforehand.

Before we accept a motion I want to thank you all for being here this evening, your interest for being ladies and gentlemen on both sides. However this vote comes out, please still be that way.

With that I'll entertain a motion.

MR. DYSINGER: Mr. Chairman, given the finding

that we've received new evidence tonight I move that we postpone decision, we shut off the taking of evidence, but we postpone this decision for 30 days until the next regularly scheduled meeting. That we may properly review this evidence that both these sides put time and collected and I think we owe it to them.

MS. DIXON: Second.

CHAIRMAN: There's a motion and a second. Any other discussion or comments?

MR. TAYLOR: My only comment in opposition to that is that if we give 30 days, there's such a large site and so much stuff going on, another question will arise between now and that 30 days. Then are we going to delay it another 30 days and another 30 days. That's my only problem with this. I think that in over five and a half hours we've been put well enough evidence in front of us to make a decision tonight. That's my only comment on the postponement.

MS. DIXON: There won't be new evidence if we close the record.

CHAIRMAN: That's correct.

MR. TAYLOR: Can there not be a question on the evidence that is in question? If there's a 120 page document, I'm assuming there's going to be more

than one question on it. So that could keeping going, you know, 120 questions. You know, one per page. That's my only concern with it. I think that the arguments have been good enough to come up with a conclusion tonight.

MS. DIXON: I have a question on the motion for counsel.

If we close the record to evidence, at that point when we are looking through the documentation that has been given to us tonight, we can confer with either counsel or staff and hear no other evidence; is that correct?

MR. SILVERT: Part of that may be a question for the author of the motion as to what he intended by saying "closing the evidence." If the intent of the motion is to close the evidence and in 30 days hear no new evidence, but merely have an opportunity for someone to make a motion, and there might be debates among this board as to that motion, as there is debate right now as to the motion on the table, then at that point findings of fact would be issued one way or the other, the motion would be voted up or down, and that would be the end of it.

As to this board seeking counsel individually and not corporately, certainly able to talk with

counsel about that, and of course, that would be privileged.

CHAIRMAN: How about Staff?

MR. SILVERT: Might do it in concert with Staff, but certainly not with each other. There should be no discussion of this issue if you take a postponement of the final hearing. There should be no discussion.

MR. DYSINGER: I would say, Clay, to your point of questions arising. I believe Staff and counsel can help us with any questions that come up individually. Further, Clay, the fact that a question may come up is more of a reason to review this evidence properly. Not an argument against it.

MR. TAYLOR: I do think a question is going to come up and I guarantee you I don't understand 85 percent in that book, and maybe the Staff or Madison might not either. To close it off to us who are not experts in that at all is -- I don't understand how it's going to happen because I will not understand 85 percent of that book.

MR. DYSINGER: To that I would just say to those folks get paid an awful lot of money to make that stuff understandable to the regular old folks like us, and I'll trust in their ability to do that.

My motion stands.

MS. MASON: I feel like I personally have heard enough tonight to make a decision.

MR. DYSINGER: A motion has been made and a second, Mr. Chair.

CHAIRMAN: Any other comments or questions before I ask for a vote?

MR. SILVERT: Again, to clarify, this is the motion to close the record and postpone for 30 days.

MR. DYSINGER: Correct.

CHAIRMAN: With that all in favor of closing it raise your right hand.

(BOARD MEMBERS SEAN DYSINGER AND JUDY DIXON RESPONDED AYE.)

CHAIRMAN: Two.

Opposed.

(BOARD MEMBERS WARD PEDLEY, CLAY TAYLOR AND RUTH ANN MASON RESPONDED NAY.)

CHAIRMAN: Three. So it dies for lack of votes.

Now we'll entertain a motion to dispose of Number 9.

MR. PEDLEY: First I have a question. Are we considering both of these?

CHAIRMAN: No. We're going to do Number 9,

which is the number of beds and stuff first.

MR. PEDLEY: We will be considering them separately?

MR. NOFFSINGER: Yes.

CHAIRMAN: Yes. One at a time.

MR. PEDLEY: Mr. Chairman, I make a motion to approve the conditional use permit based on findings of facts, my findings are based on factual information presented on the environmental study, the traffic study the state issued, and the petroleum storage tanks and the pipeline. The floodplain issue has been addressed by the Division of Water and Corps of Engineers as provided in the floodway application. The seismic issue will be addressed by the structural engineers and design for seismic codes.

With that it is a compatible use with the neighborhood and will allow proper integration into the neighborhood because the facility, the architecture of the buildings, the site plan, parking, landscaping, green space, storm water retention, planting trees, possibly some walking paths for hospital visitors will provide a vision of pleasing affect beyond the imagination for the neighborhood, and with the traffic study, environmental study, it will not have an adverse influence on the future

development in the area. In fact, it will enhance it because it will create a buffer from industrial to the north and west to allow for development to the south and east for P-1 zone, B-4 zone, residential zone, typically encouraged around new medical facilities for the development of offices, restaurants, shops, residential, to serve the needs of the hospital the patients and visitors. There is adequate land to the south and east to allow for these needs. Also a new bypass extension and the upgrade of Daniels Lane and Pleasant Valley Road will provide adequate roads for traffic flow.

With Conditions 1 through 9 as read into the record and being the same as approved by the OMPC in 2009 with the exception of adjustment to what Mr. Baker stated and was agreed to by Brian Howard. That's my motion.

MR. TAYLOR: Second.

CHAIRMAN: A motion has been made and a second. Any other comments or questions from the board?

MR. DYSINGER: The only thing I would say, Mr. Chairman, is that the findings are based partially on a seismic report which we have not even reviewed.

MR. TAYLOR: I'd also rebut that they're held

to this high standard of building code, and that will be reviewed before it's ever constructed.

MR. PEDLEY: The structural engineer to meet all seismic codes. It's not for us to decide.

CHAIRMAN: Staff have anything to add?

MR. NOFFSINGER: No, sir.

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

(BOARD MEMBERS WARD PEDLEY, CLAY TAYLOR AND RUTH ANN MASON RESPONDED AYE.)

CHAIRMAN: All opposed.

(BOARD MEMBERS SEAN DYSINGER AND JUDY DIXON RESPONDED NAY.)

CHAIRMAN: Motion carries.

Now the next motion of the floodplain.

MR. TAYLOR: Mr. Chairman, move to approve the conditional use permit to construct the hospital within the floodplain. Same findings of fact that were listed before. It is compatible with the area. There has been due diligence given to mitigate all the risks involved with constructing this hospital in the floodplain. We've heard from numerous expert witnesses and I believe no rebuttal in the fact of the damage of putting it in that area. So I move to approve that conditional use permit based on those

facts.

CHAIRMAN: Is there a second?

MR. DYSINGER: Second.

CHAIRMAN: A motion has been made and a second. Any other comments from the board?

MR. DYSINGER: Unlike the last item, we did hear sufficient evidence on this one to render a decision and thus my second.

CHAIRMAN: Staff have anything to add to it?

MR. NOFFSINGER: No, sir.

CHAIRMAN: All in favor raise your right hand.

(BOARD MEMBERS SEAN DYSINGER, WARD PEDLEY, CLAY TAYLOR AND RUTH ANN MASON RESPONDED AYE.)

CHAIRMAN: All oppose.

(BOARD MEMBER JUDY DIXON RESPONDED NAY.)

CHAIRMAN: Motion carries.

Before I entertain one more motion I know the board extends sympathy to the Masons, Ruth Ann for her mother-in-law. We're thinking about you and you're in our prayer and best luck.

With that I'll entertain a motion.

MS. DIXON: Move to adjourn.

MR. DYSINGER: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

(Meeting ends at 11:00 p.m.)

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

WITNESS my hand and notary seal on this the 30th day of November, 2009.

_____
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