

## 1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 FEBRUARY 8, 2001

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4 The Owensboro Metropolitan Planning  
5 Commission met in regular session at 6:00 p.m. on  
6 Thursday, February 8, 2001, at City Hall, Commission  
7 Chambers, Owensboro, Kentucky, and the proceedings  
8 were as follows:

9 MEMBERS PRESENT: Drew Kirkland, Chairman  
10 Gary Noffsinger  
11 Nick Cambron  
12 Dave Appleby  
13 Mike Armstrong  
14 Scott Jagoe  
15 Sister Vivian Bowles  
16 Judy Dixon  
17 Martin Hayden  
18 Stewart Elliott,  
19 Attorney

20 \* \* \* \* \*

21 CHAIRMAN: I would like to welcome  
22 everybody to the February 8, 2001, Owensboro  
23 Metropolitan Planning & Zoning Commission.

24 Our first order of business is our  
25 invocation and pledge of allegiance will be given by  
26 Mr. Scott Jagoe.

27 (INVOCATION AND PLEDGE OF ALLEGIANCE)

28 CHAIRMAN: Mr. Noffsinger, our first order  
29 of business.

30 MR. NOFFSINGER: First item will be to

Ohio Valley Reporting  
(270) 683-7383

1 consider the minutes of the January 11, 2001, meeting.

2 CHAIRMAN: Does anybody have any  
3 questions, additions about the minutes?

4 (NO RESPONSE)

5 MR. APPLEBY: Motion for approval.

6 CHAIRMAN: Motion for approval by Mr.  
7 Appleby.

8 MR. HAYDEN: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next order.

14 ITEM 2

15 Consider adoption of the Comprehensive Plan updated  
16 parts 000-700, including Overview, Principles and  
17 Assumptions, Population, Economy and Employment, Land  
18 Use, Transportation, Community Facilities, and  
19 Environment. (POSTPONED)

18 MR. NOFFSINGER: Mr. Chairman, we are  
19 pleased to announce that the Comprehensive Plan is now  
20 complete. It's been the 2001 update to the  
21 Comprehensive Plan which is a guide for land use  
22 within our community. It's taken several years to do.  
23 The plan has been updated. It's 100 percent complete  
24 and we are now ready to entertain any public comment  
25 as to the plan.

1                   CHAIRMAN: Is there anybody from the  
2 audience that would like to make any comments on the  
3 Comprehensive Plan?

4                   (NO RESPONSE)

5                   CHAIRMAN: Anybody from the commission  
6 that would like to make any comments or have any  
7 questions?

8                   MR. CAMBRON: Just glad it's done.

9                   MR. NOFFSINGER: So are we.

10                  CHAIRMAN: On behalf of the citizens of  
11 Owensboro, Daviess County and Whitesville, our board,  
12 Gary, I'd like to thank you, Mr. Adams, Mr. Mischel,  
13 Ms. Watson for coming on board and helping complete  
14 the plan. I know what a task it's been. We certainly  
15 appreciate all your work. We had a change in the  
16 staff. We had some time where you all had to pull  
17 extra duty with the retirement of Mr. Anderson. So  
18 we certainly appreciate all your efforts and we still  
19 got it done. Actually it was done in January, but we  
20 postponed it to add more input from the community. So  
21 thank you all for a job well done. We certainly  
22 appreciate all of it. Thank you very much.

23                  We need to entertain a motion.

24                  MS. DIXON: Move to approve.

25                  MR. CAMBRON: Second.

1 CHAIRMAN: Ms. Dixon has a motion for  
2 approval. Mr. Cambron has a second. All in favor of  
3 the Comprehensive Plan raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 MR. CAMBRON: I have a question here, Mr.  
7 Chairman.

8 Is this on our web page yet, Mr.  
9 Noffsinger?

10 MR. NOFFSINGER: Yes, sir. Our web page  
11 is currently under construction. We're in the process  
12 of dumping information on to that web site. There's  
13 quite a bit of information that is being put in. The  
14 site is not fully functional at this time; however, a  
15 copy of the plan is available on the website via  
16 e-mail.

17 MR. CAMBRON: Thank you so much.

18 CHAIRMAN: Next item.

19 -----

20 PUBLIC FACILITIES PLAN  
21 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

22 ITEM 3

23 9661 KY 56 (Map CO-12)  
24 Building Construction  
25 Consider comments regarding the placement of a  
portable classroom at the West Louisville Elementary  
School.  
Referred by: Daviess County Board of Education

1                   MR.NOFFSINGER: This application has been  
2                   filed for a modular classroom that will be used  
3                   temporarily at the West Louisville Elementary School.  
4                   Planning Staff has reviewed the proposal. Found no  
5                   conflict with the Comprehensive Plan and it's ready  
6                   for your consideration.

7                   CHAIRMAN: Is there anybody representing  
8                   the Daviess County Schools here?

9                   (NO RESPONSE)

10                  CHAIRMAN: Does anybody in the audience  
11                  have any questions?

12                  (NO RESPONSE)

13                  CHAIRMAN: Any of the commissioners have  
14                  any questions?

15                  (NO RESPONSE)

16                  MR. CAMBRON: Is Chair ready for a motion.

17                  CHAIRMAN: Chair is ready for a motion.

18                  MR. CAMBRON: Motion for approval.

19                  CHAIRMAN: Mr. Cambron has a motion for  
20                  approval.

21                  MS. DIXON: Second.

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

24                  (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25                  CHAIRMAN: Motion carries unanimously.

1 Next item, please.

2 -----

3 CELLULAR TELECOMMUNICATIONS FACILITIES  
4 PER KRS 100.987

5 ITEM 4

6 3790 Earls Lane (Map N-12)  
7 Consider approval of a wireless telecommunication  
8 tower.  
9 Applicant: Crown Communications, Inc.,  
10 Westel-Milwaukee Company, Inc.

11 MR. NOFFSINGER: Mr. Chairman, this  
12 application has been reviewed by the Planning Staff.  
13 The application is found to be in order. Mr. David  
14 Pike is here representing the applicants and if you  
15 have any questions I'm sure he's capable of answering  
16 them.

17 CHAIRMAN: Mr. Pike, would you mind if I  
18 ask if there are any questions from the audience?

19 MR. PIKE: I was hoping you would, Mr.  
20 Chairman, having learned my lesson on that issue  
21 previously.

22 CHAIRMAN: Thank you.

23 Does anybody in the audience have any  
24 questions?

25 (NO RESPONSE)

CHAIRMAN: Do any of the commissioners  
have any questions?

1 (NO RESPONSE)

2 CHAIRMAN: Mr. Pike, if you have no  
3 comments you need not be sworn in and we will vote on  
4 this application.

5 MR. PIKE: Any time a lawyer can avoid  
6 being sworn in, that's just fine.

7 CHAIRMAN: Thank you.

8 MR. NOFFSINGER: One thing I'd like to  
9 add. This site is at the intersection of the US 60  
10 bypass and Parrish Avenue. It's very near the Green  
11 Belt Park of the area of the Audubon Plaza Shopping  
12 Center. The applicant's site plan was reviewed by the  
13 City Parks & Recreation Department. They prepared a  
14 landscape plan, a recommended landscape plan. The  
15 applicant has reviewed that plan, made a few changes  
16 to it, but the plan is acceptable to the Parks  
17 Department as well as the applicant. I'd just like to  
18 make that condition to any approval that that  
19 landscape plan be implemented.

20 MR. PIKE: I appreciate Mr. Noffsinger  
21 bringing that tonight.

22 CHAIRMAN: Wait just a minute. If we're  
23 going to get you on record, we'll need to get you  
24 sworn in.

25 MR. PIKE: I probably need to stipulate on

1 this.

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

4 MR. PIKE: David Pike.

5 (MR. DAVID PIKE SWORN BY ATTORNEY.)

6 MR. PIKE: For the record my name is David  
7 Pike. I'm the regional counsel for Crown  
8 Communication, Incorporated.

9 Mr. Noffsinger is correct. We were  
10 tendered a draft landscaping plan. We could not  
11 accommodate that exact configuration because we are  
12 not authorized to do planning outside of the 100 by  
13 100 foot lease area. We have however indicated that  
14 we will do a comparable amount of planning within our  
15 leased area that would be satisfactory to the staff of  
16 OMPC.

17 CHAIRMAN: Is that correct, Mr.  
18 Noffsinger?

19 MR. NOFFSINGER: Yes, sir.

20 CHAIRMAN: If we have no further comments  
21 or questions, Chair is ready more a motion.

22 MS. DIXON: Move for approval.

23 MR. HAYDEN: Second.

24 CHAIRMAN: We have a motion for approval  
25 by Ms. Dixon. Mr. Hayden has a second. All in favor



1 raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Thank you, Mr. Pike.

5 MR. PIKE: Thank you very much, Ladies and  
6 Gentlemen.

7 CHAIRMAN: Next item.

8 -----

9 ZONING CHANGE - CITY

10 ITEM 5

11 1117 Allen Street, 0.384 acres (Map N-4)  
12 Consider zoning change: From R-4DT Inner-City  
13 Residential to I-1 Light Industrial.  
14 Applicant: Stephen Mayton, John & Frieda Calhoun

15 MR. ELLIOTT: State your name, please.

16 MR. MAYTON: Stephen Mayton.

17 (MR. STEPHEN MAYTON SWORN BY ATTORNEY.)

18 MR. MAYTON: I've learned that - - this is  
19 the first time I've tried to get the property rezoned  
20 and the zoning committee recommended that I just get  
21 half of the property rezoned and that I needed to get  
22 an extension in order to have the proper paperwork and  
23 stuff done. I'd like to make as part of the record  
24 that the zoning would approve, give their  
25 recommendation for the rezoning if I do that.

CHAIRMAN: What you are requesting is a

1       postponement?

2                   MR. MAYTON:  Yes, because I need to have  
3       the property rezoned I-1 and the other half  
4       residential.

5                   CHAIRMAN:  So you're making a request to  
6       the board to have this rezoning change postponed,  
7       correct?

8                   MR. MAYTON:  Yes.

9                   MR. JAGOE:  Are you sure that's what his  
10      question was?

11                  SISTER VIVIAN:  It sounded like he thought  
12      if he did it that that was automatic.

13                  MR. MAYTON:  No.  No.  I'm trying - - I  
14      was told that if I rezoned just half of it that I  
15      would get the Planning & Zoning's recommendation to do  
16      that.  If I try to get the whole thing rezoned they  
17      won't.

18                  MR. APPLEBY:  You mean the staff's  
19      recommendation?

20                  MR. MAYTON:  Yes.

21                  CHAIRMAN:  Mr. Noffsinger.

22                  MR. NOFFSINGER:  If I may just make a  
23      comment.  I think what he's asking is in terms of he's  
24      acting upon the Staff Report which alluded to perhaps  
25      it would make for a better application if only a

1     portion of the property were rezoned to industrial  
2     versus all of the property. This commission cannot  
3     make a commitment as to whether or not it would be  
4     approved or if they would consider it favorably until  
5     such time as they go through the public hearing  
6     process.

7             However, you do have the right to ask for  
8     a postponement so that you could amend the application  
9     to reduce the acreage by submitting a new drawing, by  
10    submitting a new legal description, and also by having  
11    the item readvertised in the Messenger-Inquirer as  
12    well as notifying adjoining property owners that you  
13    are amending the application.

14            So this commission has to act upon a  
15    postponement. Now, the postponement if we come back  
16    next month then this board would only be considering  
17    the rezoning of a portion of the property and then  
18    they would receive a recommendation from the Planning  
19    Staff and they would hear from you as the applicant as  
20    well as the property owners within the area if they  
21    have any concerns and then they would forward a  
22    recommendation on to the legislative body which would  
23    be the city commission for final action.

24            Now, Staff did allude to perhaps it would  
25    make for a better application if you were to reduce

1 the acreage, but making no guarantees as to whether or  
2 not in the end it would be approved or not approved.

3 MR. MAYTON: Right. I realize that.

4 CHAIRMAN: The only thing we're going to  
5 vote on is postponement and that is your only request  
6 that really has any bearing to us. What you're going  
7 to do, how you're going to break it up has no bearing  
8 on us until you actually present it. Do you  
9 understand?

10 MR. MAYTON: Yes.

11 CHAIRMAN: Now the Chair is ready for a  
12 motion.

13 MS. DIXON: Move to postpone.

14 CHAIRMAN: Motion for postponement by Ms.  
15 Dixon.

16 MR. JAGOE: Second.

17 CHAIRMAN: Second by Mr. Jagoe. All in  
18 favor for postponement raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 MR. CAMBRON: Mr. Chairman, do we not need  
21 to read the Zoning Staff Report.

22 CHAIRMAN: Not for postponement.

23 MR. CAMBRON: I did not know.

24 CHAIRMAN: See you next month. Thank you.

25 Next item.

1

2

-----  
ZONING CHANGES - COUNTY

3

## ITEM 6

4

4100 Block Medley Road, 10.040 acres (Map N-81)  
(POSTPONED)

5

Consider zoning change: From A-U Urban Agriculture to  
R-1C Single-Family Residential.

6

Applicant: Robert J. Wimsatt

7

MR. NOFFSINGER: Mr. Chairman, this

8

rezoning was considered by the Planning Commission at

9

their last meeting. It was postponed due to some

10

drainage concerns within the area. We have Ms. Becky

11

Watson here from the Planning Staff that can give you

12

a brief summary of what's taken place since that time.

13

MR. ELLIOTT: State your name, please.

14

MS. WATSON: Becky Watson.

15

(MS. BECKY WATSON SWORN BY ATTORNEY.)

16

MS. WATSON: We had a meeting at the

17

property after the complaint was made last month at

18

the Planning Commission meeting concerning the

19

drainage deficiency on Deer Haven Drive. The project

20

engineer, the project developer, the City of Owensboro

21

Engineer and Assistant, Vice Chairman of the Planning

22

Commission and myself met to see what the problem

23

might be there.

24

The project engineers are proposing to

25

regrade the base coat to a small degree before the

1 final coat is put down on the property. They are also  
2 going to place an accessible curb at that location.  
3 For the immediate need, they've placed a silt fence  
4 for erosion control. So once the final construction  
5 is completed on the street, we feel like all the  
6 drainage problems will be alleviated.

7 CHAIRMAN: Ms. Watson, I have a question  
8 of you. Did you notify the complainant of this  
9 action?

10 MS. WATSON: Yes. I sent a letter to Ms.  
11 Ketterman after we met on the property. We tried to  
12 contact her before so she could be present at the  
13 meeting, but I was not able to get ahold of her by  
14 telephone.

15 CHAIRMAN: Didn't you also try to contact  
16 her after you made your visit?

17 MS. WATSON: I sent a letter after I made  
18 my visit.

19 CHAIRMAN: Did you ever hear any response?

20 MS. WATSON: No, I haven't heard from her.

21 CHAIRMAN: Thank you very much.

22 Is there anybody from the audience that  
23 has any comment?

24 Yes, ma'am.

25 MS. KETTERMAN: Yes, I would like to reply

1       about that matter.

2                   MR. ELLIOTT:  Let me swear you in.  State  
3       your name, please.

4                   MS. KETTERMAN:  Freida Kettermann.

5                   (MS. FREIDA KETTERMAN SWORN BY ATTORNEY.)

6                   MS. KETTERMAN:  Number, one I was in  
7       Florida for three weeks.  We were not notified that we  
8       were needed here.  I had my little say the last time I  
9       was down here.  The neighbors knew I was in Florida.  
10      I had 50 messages on my machine when I got home and  
11      none of them was from her.  I had some hang ups, but  
12      the hang ups didn't even have a telephone number.  I  
13      received this letter and the first paragraph really  
14      puzzles me.  Its says, "On Friday the 19th" - I left  
15      for Florida the 18th - "an investigation was made  
16      regarding your complaint about a drainage deficiency  
17      in front of your home on Deer Haven Drive.  Present at  
18      the site were the project engineers, the project  
19      developer, the City of Owensboro Engineer and  
20      Assistant, a Planning Commissioner member and myself.  
21      Every effort was made to contact you so that you could  
22      be present at the meeting, but I was unable to reach  
23      you by telephone.  Well, all of my neighbors knew  
24      where I was at.

25                   MS. WATSON:  I didn't try to contact any

1 members.

2 CHAIRMAN: Wait a minute, Ms. Watson.

3 We'll let her complete.

4 MS. KETTERMAN: What I'm saying is I  
5 wasn't given warning and a lot of people take  
6 vacations. I was in Florida three weeks. We got back  
7 the 2nd. I received this after I got back, this  
8 letter.

9 When she says that they put up this little  
10 silt screen out there, yes, it's a little silt screen.  
11 The mud has washed. I've called every day from  
12 Florida, when I was down there, my neighbors. We've  
13 had one rain up here since I was down there. The mud  
14 still washes underneath that. They've had to come out  
15 every time it does rain, scoop up the mud, put it back  
16 in my yard or pack it off. So that doesn't help a  
17 bit. I've talked to some other people about when it's  
18 going to be done, what time limit. In a year or so.  
19 Well, this spring I'm having my yard landscaped. Who  
20 is going to pay for it when it washes away? I'll pay  
21 for it once and that's all. That's all I have to say.

22 CHAIRMAN: Thank you.

23 Does the applicant have any comments or  
24 suggestions?

25 MR. CAMBRON: Before he comes up can we



1 get Mr. Bryant up here. I want to ask him a question.  
2 I think Mr. Bryant can answer these questions maybe a  
3 little.

4 MR. WIMSATT: I just have a basic comment.

5 MR. ELLIOTT: State your name, please.

6 MR. WIMSATT: Bob Wimsatt.

7 (MR. BOB WIMSATT SWORN BY ATTORNEY.)

8 MR. WIMSATT: I just wanted to make a  
9 point to the commission that I have complied with  
10 everything that the city engineer and everybody has  
11 asked me to do with any of this project. You know, I  
12 made the commitment last month. Certainly if there  
13 were any corrections or improvements that needed to be  
14 made we would do it. We've done what the city  
15 engineer required. I continue to stand behind that  
16 commitment. If there is a problem in the future,  
17 we'll take care of it. I don't know what to say other  
18 than that.

19 CHAIRMAN: Thank you, Mr. Wimsatt.

20 Mr. Cambron, did you want - -

21 MR. CAMBRON: Yes, get Mr. Bryant to come  
22 up to the microphone for a second.

23 MR. ELLIOTT: State your name, please.

24 MR. BRYANT: Don Bryant.

25 (MR. DON BRYANT SWORN BY ATTORNEY.)

1                   MR. CAMBRON: Mr. Bryant, can you  
2           elaborate a little. You went out there and you shot  
3           some grade and showed where it was high and so on and  
4           so forth there.

5                   MR. BRYANT: Yes. The base course, the  
6           base asphalt was in place. Of course, that's a rough  
7           course to be followed later by the surface course.  
8           The center of the street, the grade is a little bit  
9           high right in the center. It will have to be lowered  
10          a little bit before the asphalt is placed, the final  
11          asphalt is placed. Of course, without the surface  
12          there we have about a one-inch depression around the  
13          radius which is typical. You'll find that any  
14          construction area where the street is running  
15          construction you're going to have some silt and it's  
16          going to settle against the curb because you've got a  
17          one-inch lip where the silt is trapped along the base  
18          of the curb. That will all be taken care of when the  
19          surface is placed.

20                   I think there's going to be some sidewalks  
21          there that was actually placed by the people who  
22          installed the unit on the lot. That sidewalk did not  
23          have a provision for handicap access and that's going  
24          to be reconstructed before it's completed. With that  
25          and the final grading there shouldn't - - we see no

1 reason why there's going to be any problem at that  
2 location.

3 MR. CAMBRON: That's all the comment I  
4 have.

5 CHAIRMAN: Mr. Cambron, let me ask you a  
6 question. Didn't you go out there?

7 MR. CAMBRON: Yes, I did.

8 CHAIRMAN: If I read the letter correctly  
9 we had you and two engineers and Ms. Watson from the  
10 staff.

11 MR. CAMBRON: I think we had only one  
12 engineer if I'm not mistaken. Anyway, it was the city  
13 engineer that came out. I'm sorry. And you're an  
14 engineer, aren't you, Mr. Bryant.

15 MR. BRYANT: Yes.

16 MR. CAMBRON: I think the problem was  
17 looked at and evaluated. I think it's going to be - -

18 CHAIRMAN: Were you satisfied?

19 MR. CAMBRON: Oh, very much so, yes.

20 MR. JAGOE: Just out of curiosity if I  
21 could ask Mr. Bryant a question.

22 Is the problem erosion coming from an  
23 existing site that does not have erosion control on it  
24 or is it just that the dirt is settling in the street  
25 and the cap of the street is not on yet?

1                   MR. BRYANT: There could be some erosion  
2                   from up the hill from off-site, but I think some of it  
3                   is coming actually from the lot itself right at the  
4                   corner. Spilling over the curb. The water is coming  
5                   at a higher velocity, it hits the radius and there's a  
6                   flat area in there and the property slopes down where  
7                   the silt settles out. You're going to have a small  
8                   amount of silt there after a rain regardless of what  
9                   you do until the final asphalt is in place, but you  
10                  see that in all of your subdivisions.

11                 MR. JAGOE: I'm aware of that. The silt  
12                  fence is put in place just to hold back where the  
13                  water is washing across the curb?

14                 MR. BRYANT: That's right. Just contain  
15                  it. It will have to be maintained. If the silt pits  
16                  is working properly, it will have to be cleaned  
17                  because it's going to trap silt. That means it's  
18                  working.

19                 MR. JAGOE: Thanks.

20                 CHAIRMAN: Yes, ma'am, would you like to  
21                  make a final comment?

22                 MS. KETTERMAN: They talk about they're  
23                  going to do this and they're going to do this and I've  
24                  heard this for a year. That's the only reason I come  
25                  down here last month. I've heard it for a year.

1       That's silt stuff has been out for a year. When it  
2       rains, and you're not talking about spring rains.  
3       You're talking about light rains. I don't know if  
4       they realize the spring rains in Kentucky and  
5       Owensboro are ridiculous, but they have built up each  
6       section, each home to where it kind of comes down in  
7       layers. Ours is pretty close to the bottom. They  
8       loosen the dirt up just this past week. Now when we  
9       get these rains that's coming in, I wish all of you  
10      would just come out and look. I've got tapes where  
11      the street is just flooding. My backyard it's just  
12      rolling down through the hill. It's hilly ground.  
13      There should have been a provision. They don't have a  
14      gully. They don't have a wash way. They don't have a  
15      way for it to come down this way. It comes straight  
16      down in my yard and through my yard and takes my yard.  
17      I wish you'd just come and look.

18                   CHAIRMAN: Mr. Cambron did come and look  
19      and took his time. We did send Ms. Watson from our  
20      staff. We sent the city engineer and we had another  
21      engineer and the developer out there. So we had a  
22      pretty good contingency of people that went. So each  
23      member sort of has their own area. Mr. Cambron took  
24      his time and did go out there and take a look at this.  
25      We have to value his opinion.

1 MS. KETTERMAN: I value everybody's  
2 opinion. I have photographs. I have a video.

3 CHAIRMAN: Thank you.

4 If there are no further comments, - -

5 MR. CAMBRON: Is Chair ready for a motion?

6 CHAIRMAN: Chair is ready for a motion.

7 MR. CAMBRON: Motion for approval for Item  
8 Number 6, 4100 Block Medley Road.

9 CHAIRMAN: Motion for approval by Mr.  
10 Cambron.

11 MR. ELLIOTT: Incorporate the findings of  
12 fact.

13 MR. CAMBRON: Yes, I don't remember what  
14 they were now. I don't have them in front of me.

15 Ms. Watson, do you know what the findings  
16 of facts were there?

17 MR. ELLIOTT: They were read in the last  
18 meeting.

19 MS. WATSON: Here's a copy.

20 MR. CAMBRON: Thanks so much. Findings of  
21 Fact 1 through 4.

22 CHAIRMAN: Thank you, Mr. Cambron. We  
23 have a motion by Mr. Cambron.

24 MS. DIXON: Second.

25 CHAIRMAN: Second by Ms. Dixon. All in

1 favor of the motion raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 MR. NOFFSINGER: item

6 ITEM 7

7 Portion 4617 Sutherland Road, 2.30 acres (Map N-62)  
(POSTPONED)

8 Consider zoning change: From A-R Rural Agriculture to  
B-4 General Business.

9 Applicant: Steve Aull, Forrest Allen Delacey, Shirley  
10 Delacey

11 PROPOSED ZONE & LAND USE PLAN

12 The applicant is seeking a B-4 General Business  
13 zone. The subject property is located in an Urban  
14 Residential Plan Area, where general business uses are  
15 appropriate in very limited locations.

16 SPECIFIC LAND USE CRITERIA

17 (a) Building and lot patterns; outdoor storage  
18 yards - Building and lot patterns shall conform with  
19 the criteria for "Nonresidential Development" (D7) and  
20 outdoor storage yards, with "Buffers for Outdoor  
21 Storage Yards" (D1).

22 (b) Logical zoning expansions of proportional  
23 scope - Existing General business zones may be  
24 expanded onto contiguous land that generally abuts the  
25 same street(s). The expansion of a General Business

1       zone should not significantly increase the extent of  
2       the zone in the vicinity of the expansion and should  
3       not overburden the capacity of roadways and other  
4       necessary urban services that are available in the  
5       affected area.

6           (c)   Expansions across intervening streets - In  
7       Central Residential, Urban Residential, Future Urban  
8       and Professional/Service Plan Areas, the expansion of  
9       an existing General Business zone across an  
10      intervening street should be at least one-and-one half  
11      (1.5) acres in size, but should not occur if this  
12      would significantly increase the extent of the zone in  
13      the vicinity.

14      APPLICANT'S FINDINGS

15           Applicant is seeking a B-4 General Business Zone.  
16       The subject property is located in an Urban  
17       Residential Plan Area where general business uses are  
18       appropriate in very-limited locations.

19           The applicant proposes to relocate his Sports  
20       Warehouse operation presently located on Washington  
21       Avenue to an 80' x 140' building to be constructed on  
22       the subject 2.30 acre tract.   Applicant also proposes  
23       outdoor recreational and sports practice facilities  
24       including an 18-hole mini-golf facility and batting  
25       cages.   Submitted herewith is a conceptual site plan



1 showing the proposed layout including parking and  
2 storm water detention area.

3 1. The application is in substantial compliance  
4 with the adopted Comprehensive Plan. Specific land  
5 use criteria applicable to this zoning change are as  
6 follows:

7 (a) Building and lot patterns: Outdoor  
8 storage yards. Building and lot patterns should  
9 conform with the criteria for "Nonresidential  
10 Development" (D7), specifically, expansions of  
11 existing nonresidential uses and areas. Limited  
12 expansion of existing nonresidential uses and areas  
13 should be accommodated where they reasonably satisfy a  
14 set of "logical expansion criteria". The proposed  
15 rezoning is limited in scope, consisting of 2.30  
16 acres, and clearly constitutes a logical expansion of  
17 an existing B-4 area, being situated directly across  
18 Sutherland Road from an 18-acre site previously  
19 rezoned to B-4 by the OMPC in 1990.

20 (b) Logical zoning expansions of  
21 proportional scope. Existing General Business zones  
22 may be expanded onto contiguous land that generally  
23 abuts the same street. The expansion of a General  
24 Business zone should not significantly increase the  
25 extent of the zone in the vicinity of the expansion

1 and should not overburden the capacity of roadways and  
2 other necessary urban services that are available in  
3 the affected area. All urban services are available  
4 to the subject property. Sanitary sewer service  
5 exists along Salem Drive extending east to the  
6 intersection of Veach Road, requiring approximately  
7 850 feet of sewer extension to serve the property. An  
8 existing 6-inch waterline with fire hydrants along the  
9 west side of Sutherland Road provide both water supply  
10 and fire protection. The property is served by  
11 Western Kentucky Gas and Kenergy. Access to the  
12 property is provided by Veach Road and Salem Drive,  
13 via Sutherland Road.

14 (c) Expansions across intervening streets  
15 In Central Residential, Urban Residential, Future  
16 Urban, and Professional/Service plan areas, the  
17 expansion of a General Business zone across an  
18 intervening street should be at least 1.5 acres in  
19 size, but should not occur if this would significantly  
20 increase the extent of the zone in the vicinity. The  
21 proposed rezoning exceeds this minimum while not  
22 significantly increasing the extent of B-4 zoning in  
23 the area.

24 2. The Urban Residential plan area, which  
25 encourages residential development for the subject

1 property, is inappropriate. Residential development  
2 of land in this area is not economically feasible. In  
3 addition, said land is not suitable for residential  
4 development due to flood plain considerations and  
5 subsequent added costs of development.

6 3. There have been major social, physical and  
7 economic changes within the area involved which were  
8 not anticipated in the Comprehensive Plan, and those  
9 changes have substantially altered the basic character  
10 of the area involved. These changes include the  
11 following:

12 (a) Rezoning of the Jones property (Lucky  
13 Strike Subdivision) consisting of two (2) parcels  
14 located on Salem drive from A-U to B-4 General  
15 Business. The larger tract consisting of 18.397 acres  
16 fronts along the south side of Salem Drive and the  
17 west side of Sutherland road, and is situated directly  
18 across the road from the subject property. The  
19 remaining smaller tract fronts on the north side of  
20 Salem Drive and backs up to the By-pass. This  
21 rezoning occurred on May 19, 1990.

22 (b) The abandonment of the L&N Railroad and  
23 the construction of J.R. Miller Boulevard on the  
24 railroad property has provided the area with  
25 additional commercial potential.

1                   (c) Construction of Salem Drive connecting  
2 J.R. Miller Boulevard and Veach Road. This connection  
3 provides for a through highway from Frederica Street  
4 to U.S. 231. The construction of J.R. Miller  
5 Boulevard and Salem Drive has opened up this area for  
6 commercial development.

7                   (d) The continuing expansion of the general  
8 area for commercial development provides for the  
9 economic potential for the subject property.

10 PLANNING STAFF REVIEW

11           The subject property is a portion of 4617  
12 Sutherland Road, which is currently in agricultural  
13 use with two barns located on the property. Land use  
14 criteria applicable to this proposal are reviewed  
15 below.

16 GENERAL LAND USE CRITERIA

17           Environment

18           The property is located in a floodplain, as shown  
19 on the Flood Insurance Rate Map #21059C0280C, with a  
20 base flood elevation of 392 feet above sea level.

21           Urban Services

22           Water and electricity are available to the site.  
23 Sanitary sewers are proposed for extension to be  
24 approved by RWRA. However, the applicant has not  
25 submitted a plan for extending sanitary sewers.

1           Roadway Capacity. The subject property is  
2           located on a rural local road presently serving  
3           farming operations and scattered rural residential  
4           uses. Sutherland Road has a pavement width of  
5           approximately 16 feet with no curb or gutters. The  
6           existing roadway capacity would likely be overburdened  
7           with the proposed general business uses.

8           No improvements have been proposed for Sutherland  
9           Road to serve the proposed development. Public  
10          improvement specifications would require a minimum  
11          roadway pavement width of 34-feet with curb and gutter  
12          and a 4-foot sidewalk, for a new local street serving  
13          general business uses. The existing Sutherland Road  
14          does not approach these minimum dimensions.

15          J.R. Miller Boulevard is planned to extend south  
16          and then west to Frederica Street. Right-of-way has  
17          been acquired for this extension, and upon  
18          construction, a larger area will be opened for general  
19          business activities that will be oriented toward major  
20          streets that are elevated above the 100-year flood.

21          Roadway capacity to the subject property is  
22          severely compromised during periods of localized heavy  
23          rains, when Sutherland Road is often closed due to  
24          flooding. The subject property and the roadway lie  
25          completely below the elevation of the 100-year flood.

1           Development Patterns

2           The property is located in an area where  
3           agriculture and scattered rural residences are the  
4           prevalent land uses. The property located across  
5           Sutherland Road to the west is zoned B-4 General  
6           Business, but remains undeveloped. Property to the  
7           south, east and north is in agricultural use. There  
8           are no existing general business uses to the east of  
9           J.R. Miller Boulevard.

10          The applicant argues that there have been major  
11          social, physical and economic changes within the area  
12          that were not anticipated in the Comprehensive Plan,  
13          thus changing the development and character of the  
14          area. The rezoning of the acreage west of the subject  
15          property across Sutherland Road does not constitute a  
16          major social, economic or physical change that was not  
17          anticipated in the Comprehensive Plan. At the time of  
18          the rezoning to B-4 of the adjacent property across  
19          Sutherland Road, Salem Drive was not constructed or  
20          anticipated, east of J.R. Miller Boulevard. That  
21          basis was used to recommend a zone change to B-4 in  
22          1990, recognizing the commercial development occurring  
23          eastward from Frederica Street. However, no  
24          commercial development has yet occurred on that  
25          property.

1           The current adopted Comprehensive Plan  
2           incorporates the changes that have occurred with the  
3           construction of Salem Drive and J.R. Miller Boulevard,  
4           and fit well with the currently planned extension of  
5           J.R. Miller Boulevard. The adopted Comprehensive Plan  
6           identifies a Business Plan Area bounded by J.R. Miller  
7           Boulevard, Salem Drive and Sutherland Road. The  
8           Business Plan Area does not extend across Sutherland  
9           Road to the east and the extension of the Business  
10          Plan Area is not appropriate. No general business  
11          uses have developed east of J.R. Miller Boulevard.

12          The applicant contends that the existing Urban  
13          Residential Plan Area is inappropriate. The existing  
14          land use is scattered rural residential uses and  
15          agricultural uses, served by a rural local road. The  
16          existing zoning and Plan Area are appropriate for the  
17          area at this time.

18          Additionally, the property on the southeast  
19          corner at the intersection of J.R. Miller Boulevard  
20          and Salem Drive, which was rezoned to B-4 General  
21          Business, has not yet developed with general business  
22          uses. It remains vacant property, which may  
23          illustrate that the market demand for general business  
24          uses in this area has not yet occurred.

25          SPECIFIC LAND USE CRITERIA

1           Limited expansions of existing nonresidential  
2           uses and areas should be accommodated where they  
3           reasonably satisfy a set of "logical criteria".  
4           Existing General Business zones may be extended onto  
5           contiguous land that generally abuts the same streets.  
6           The B-4 General Business zoning across Sutherland Road  
7           to the west has frontage on Sutherland Road but is  
8           oriented toward a major collector street, Salem Drive,  
9           with frontage on J.R. Miller Boulevard, a minor  
10          arterial. In fact, the subdivision plat for that  
11          property prohibits access points on Sutherland Road.  
12          Therefore, the zoning change for the B-4 property to  
13          the west of the subject property was major-street  
14          oriented, unlike the proposal for the subject  
15          property. The criteria for expansion across an  
16          intervening street is not met, because the contiguous  
17          B-4 General Business zone is not oriented to the local  
18          rural Sutherland Road. Therefore, the criteria for a  
19          "logical expansion" have not been met and the  
20          proposal would constitute a new location of general  
21          business activities.

22          PLANNING STAFF RECOMMENDATIONS

23               Staff recommends denial because the proposal is  
24               not in accordance with the Comprehensive Plan. This  
25               recommendation is made subject to the findings of



1 facts that follow:

2 1. The subject property is located in an Urban  
3 Residential Plan Area where general business uses are  
4 appropriate in very-limited locations;

5 2. The proposal would likely overburden the  
6 roadway capacity of Sutherland Road;

7 3. The proposal does not meet the criteria for  
8 "logical expansion" across an intervening roadway  
9 because the adjacent contiguous B-4 zoning to the west  
10 across Sutherland Road is oriented toward Salem Drive  
11 and J.R. Miller Boulevard, a major collector and a  
12 minor arterial, respectively, with no access points  
13 allowed on Sutherland Road;

14 4. There have been no major social, physical, or  
15 economic changes that were not anticipated in the  
16 adopted Comprehensive Plan that would change the  
17 character of the vicinity of the subject property;

18 5. The current zoning and land use plan area are  
19 appropriate at this time for the subject property and  
20 the proposed zoning classification is inappropriate;

21 6. There are no existing general business uses  
22 east of J.R. Miller Boulevard; and,

23 7. Zoning additional property to B-4 General  
24 Business in this area would be premature and is not  
25 consistent with the current development patterns in

1 the vicinity because the adjacent B-4 General Business  
2 property zoned in 1990 west of Sutherland Road has yet  
3 to develop and remains vacant.

4 We'd like to enter this as Exhibit A.

5 (ITEM 7 STAFF REPORT IS ATTACHED AND MADE  
6 A PART OF THE RECORD AT THIS TIME AS EXHIBIT A.)

7 CHAIRMAN: Thank you, Ms. Watson.

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

10 CHAIRMAN: Mr. Jagoe will be disqualified  
11 on voting on this.

12 MR. ELLIOTT: State your name, please.

13 MR. KAMUF: Charles Kamuf.

14 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

15 CHAIRMAN: Mr. Kamuf, I will applaud you  
16 for jumping to the stand so quickly. You haven't even  
17 been asked yet and you're just right there.

18 MR. KAMUF: I want to get on with the  
19 program.

20 CHAIRMAN: I assume this will be very  
21 prompt and quick presentation.

22 MR. KAMUF: About ten minutes.

23 CHAIRMAN: Thank you.

24 MR. KAMUF: I represent Steve and Christy  
25 Aull. It's concerning a 2.5 acre tract of ground.

1       It's near the location of Salem Drive and Veach Road.  
2       The purpose of the rezoning is to get an agricultural  
3       zone changed to B-4. The proposed use of the property  
4       will be for a new retail sporting goods business and  
5       an outdoor recreation activity which includes cages  
6       and miniature golf. I have copies of this for some of  
7       you that are a little far away so you can look at this  
8       as we go through.

9                       I think when you look at the Staff Report  
10       there's only really one issue in this case. Certainly  
11       it's not going to be the logical expansion issue. It  
12       concerns the roadway. I think the Staff Report says  
13       something about overburden roadway.

14                      So based upon the Staff Report, we  
15       prepared and submitted a preliminary development plan  
16       which we'll show you in a few minutes with proposed  
17       improvements to Sutherland Road from Veach Road. From  
18       this area right here to the entrance of the subject  
19       property. Our improvements to the Sutherland Road  
20       have met the improvements and the approval of the  
21       county engineer and we have followed his instructions.  
22       Our proposed improvements deal with Article 514 of the  
23       Subdivision Design Standards and Improvements and they  
24       state as follow as far as the authority of the county  
25       engineer.

1                    "All improvements shall comply with the  
2                    best engineering standards and all constructions on  
3                    and under the streets that are proposed for dedication  
4                    shall be based on plans approved either the city or  
5                    the county engineer and construction thereon shall be  
6                    subject to the inspection and approval of the county  
7                    engineer."

8                    If you have any question concerning  
9                    Article 514, I have a copy, Mr. Chairman. I won't  
10                   give it out, but if you all have some question about  
11                   it I have a copy of that for you.

12                   We have worked closely with the county  
13                   engineer and at his suggestion we have prepared a  
14                   two-phase approach in the implementation and the  
15                   improvements to Sutherland Road.

16                   Phase 1 involves this: It involves the  
17                   widening of Sutherland Road from this point to the  
18                   entrance there with newly constructed shoulders and  
19                   drainage ditches. These improvements in the cost of  
20                   approximately 50 to \$60,000 will be paid for by Mr.  
21                   Aull.

22                   I might point out that the existing daily  
23                   traffic on Sutherland Road is approximately 436  
24                   vehicles according to the GRADD count and that is  
25                   relatively low as compared to these other two

1 statistics. The 1998 count on J.R. Miller Boulevard  
2 South at Salem was 14,000. So when we compare 436.  
3 Right up the road a 1992 count on Veach Road at  
4 Sutherland Road is over 1,000. So as you can see what  
5 we're getting ready to do in this little area here is  
6 insignificant compared to the 14,000 figure and the  
7 10,000 figure.

8 Plan 2: After we would do this at the  
9 suggestion of the county engineer, and I might say  
10 he's been our authority on this. We have met with  
11 him. We've got his approval and we've done these  
12 things with his instructions. At his suggestion, the  
13 county engineer, the construction plan for Phase 2  
14 would allow for the future construction of a 34 foot  
15 roadway with curb, gutters and sidewalks if and when  
16 future development and traffic demand warrants.

17 Now, let's start out - - I know that's an  
18 issue with you and we have tried to do everything  
19 possible to get the county engineer for his approval  
20 and his input and his consideration and we think we  
21 have. As we get along further, if you have questions  
22 about that we'll try to answer them.

23 Now, does the proposal meet the logical  
24 expansion test? All you've got to do is look directly  
25 across the street. This is what only a little plat

1       that you have in front of you is designated as the  
2       Lucky Strike Loop. The proposal now that we have once  
3       it has met the requirements of the county engineer,  
4       fully meets the requirement of the logical expansion  
5       of B-4 rezoning. The proposal does meet the criteria  
6       with the roadway improvements to Sutherland Road  
7       because Sutherland Road is now an improved roadway and  
8       has the approval of the county engineer.

9               I think that the definition of logical  
10       expansion is one that we've always used if it's  
11       directly across the road. We'll talk about  
12       intervening streets in just a minute, but certainly  
13       any reasonable person can look at that and tell that  
14       that's a logical expansion.

15              Now, two other points. Appropriate part  
16       and also whether there are physical, social or  
17       economic changes in the area.

18              The Staff Report in the Jones case, and  
19       that's the case that we call the Lucky Strike  
20       Subdivision, recognized at that time in 1990 that  
21       there were major changes in the area. They recognize  
22       that the zoning was inappropriate and by a vote of  
23       nine to nothing they approved the rezoning directly  
24       across the road. I have a copy of that.

25              Ladies and Gentleman, if you can see what

1 I've just passed out to you is the OMPC recommendation  
2 to Fiscal Court. It states what at the top? It was a  
3 nine to zero vote. If you look down in the Finding of  
4 Fact it says with what? "With the proposed extension  
5 of Salem Drive across this property we feel that the  
6 demand for commercial development is coming and is  
7 justified due to location and existing conditions  
8 surrounding the property." The next paragraph, "Other  
9 commercial properties have already been developed  
10 along these routes in just the past few months thus  
11 setting a possible trend extending eastward from  
12 Highway 431 to commercial development."

13 Then on the next to the last page that you  
14 have in front of you or the last page. This is the  
15 recommendation of your board to Fiscal Court and this  
16 was the Staff Report. Look at the Staff  
17 Recommendation if you will on the last page. "Staff  
18 Recommends approval because of major physical changes  
19 in the area not anticipated by the adopted land use  
20 plan that have altered the basic character of the  
21 area." Now, you can look at the findings, but I'll go  
22 over those.

23 If we can, secondly not only do we have  
24 the findings that were in the Jones case and those  
25 were, what? The abandoning of L&N Railroad connecting

1       in this particular area here that we have. The  
2       abandoning of the L & N Railroad and the construction  
3       of J.R. Miller Boulevard. We have a construction of  
4       Salem Drive connecting J.R. Miller Boulevard and Veach  
5       Road. Now in addition we have the Jones rezoning, the  
6       Lucky Strike rezoning which was nine to zero.

7               In addition, we now have a new traffic  
8       count on Sutherland Road. Fifteen years ago I think  
9       the count was something like 176 vehicles. In the  
10      last ten years it's up to 436 vehicles. This is  
11      another change that was not considered in the Jones  
12      rezoning.

13             In addition our roadway improvements. We  
14      are addressing not only the traffic demands for our  
15      property, the 2.5 acre tract, but we are assisting the  
16      county in the development of the whole area by Mr.  
17      Aull agreeing to construct the area from Salem Drive  
18      to the entrance of his property and paying for it out  
19      of his own pocket of approximately 50 to \$60,000.

20             The next issue: The issue is to whether  
21      the property is appropriately zoned. It's our  
22      contention that - and Mr. Jagoe, you're a developer.  
23      Some of the rest of you develop property - is that  
24      nobody is going to develop this property residential  
25      that you see in that area and have to fill three to



1 four feet of fill before they can develop it into a  
2 housing area.

3 The logical expansion area I think is  
4 pretty clear because if you can throw a rock across  
5 the street, the expansion as far as the intervening  
6 streets, and this is quoted right out of the  
7 ordinance. It's out of the land use map. "In Central  
8 Residential, Urban Residential, Future Urban, and  
9 Professional/Services plan area, the expansion of a  
10 general business zones across an intervening street" -  
11 across Sutherland - "should be at least 1.5 acres in  
12 size," - we're 2.5 acres - "but should not occur if it  
13 would significantly increase the extent of one in the  
14 vicinity. The proposed rezoning exceeds the minimum  
15 while not significantly increasing the extent of B-4  
16 zoning."

17 Concerning paragraph 6 of the Staff  
18 Report. That there are non-existing business uses  
19 east of J.R. Miller Boulevard.

20 We think that this recommendation of the  
21 Staff is irrelevant. It's an economic use. It's not  
22 a zoning issue. The reason there's no business  
23 development in this area that we see as far as the  
24 Lucky Strike Subdivision is because these lots are  
25 selling for \$100,000 apiece. That's way outside of

1 the range of what Mr. Aull paid for his property.

2 In any event, there are existing business  
3 uses east of J.R. Miller Boulevard and it is not an  
4 issue tonight.

5 As far as paragraph 7 of the Staff Report  
6 where it is stated that "Zoning additional property to  
7 B-4 Business in this area would be premature and is  
8 not consistent with the current development patterns  
9 in the vicinity because the B-4 General Business in  
10 1990 west of Sutherland Road has yet to develop and  
11 remains vacant."

12 As to whether to develop it is premature  
13 or irrelevant to this board, the board should not be  
14 involved in the timing of the development. This is a  
15 zoning board. The market place determines the timing  
16 of a development. We think that that is an irrelevant  
17 issue that was raised by the staff.

18 Two other points. The proposed use is a  
19 low impact use and is better situated off of a major  
20 thoroughfare.

21 A couple of examples. What I have done is  
22 I've taken the roadway that you see coming off of  
23 Highway 81 that goes to Golfland. I've tried to find  
24 something that would be similar where you could look  
25 at it and say, hey, this is something similar. What

1       have they done down there? That roadway is  
2       approximately 18 foot in most places. Sometimes it's  
3       20, but it goes off of Highway 81 to a golf course -  
4       excuse me - Golfland. Not only does it go to  
5       Golfland, it goes to the Big Independent Tobacco  
6       Warehouse. It goes to Agri-Flo Products in the back  
7       and it also goes to Hartz Construction.

8                       Here are some photographs. They're all  
9       about the same. There are three of them here. It  
10      shows you what the area looks like. What we propose  
11      in our area is similar. We're going to pay for the  
12      construction of it. That is an 18 or 20 foot strip  
13      going to Golfland and it has shoulders on the side  
14      with the drainage ditch.

15                   MR. CAMBRON: What's the size of that road  
16      out there now?

17                   CHAIRMAN: Seventeen.

18                   MR. KAMUF: The next project that I'll  
19      talk about is the Daniels Lane project. Some of you  
20      are familiar with the Vince Hayden project off of  
21      Daniels Lane. The road was widen from Highway 60 up  
22      to the railroad track. Mr. Hayden then put in a  
23      little industrial development. I might say it's  
24      probably the only one in Daviess County that has  
25      sewers underneath of it with no place to drain them,

1 but anyway it has what we call an area that is very  
2 similar to the one that we have. It is a 20-foot  
3 strip, but in addition to where ours goes, ours really  
4 goes no place because it goes to the entrance of this  
5 property. Basically the only people that use that  
6 road are people that take a short-cut. Instead of  
7 going around Towne Square that comes from out of  
8 Browns Valley area, they cut through and go to this  
9 particular area to get to town. Here is another - -  
10 this is the area of Vince Hayden's project off of  
11 Daniels Lane. I might say he has - - it's a 20-foot  
12 street going to an industrial property with shoulders  
13 and drainage ditches just like we intend to do, but in  
14 that situation the county paid for it. I have a  
15 letter that I'll show you where the county paid for it  
16 and in this situation we're willing to do the  
17 improvements ourself.

18 If there would be some question as to who  
19 paid for it, we have a letter from Judge Norris at  
20 that time where he said, I will improve the 20-foot  
21 street, I'll pay for it. If there's some question  
22 about the size of it, we have that information. I'm  
23 trying to short cut it.

24 We're asking you to approve this rezoning.  
25 We think we have the roadway situation straightened

1 out. The logical expansion should not be an issue.  
2 As far as the property being inappropriately zoned, I  
3 don't think anybody would say that this property out  
4 here is going to be in a residential area.

5 The third and last issue that we're  
6 talking about is what has been done in other parts of  
7 the county. We're asking to be treated the same way  
8 as some of the other individuals as far as the  
9 requirements such as on Daniels Lane and such as  
10 Golfland off of Highway 81. We're here to answer  
11 questions. Did I make it in time, Drew?

12 CHAIRMAN: A new watch might be  
13 appropriate.

14 MR. KAMUF: In all seriousness, we're here  
15 to try to answer any questions that you have. Don  
16 Bryant is here. He has met time and time with the  
17 county engineer to go over these problems to work them  
18 out. We have done what he has given us instructions  
19 to do.

20 CHAIRMAN: Let me open with one question  
21 and I know others may have questions. In the early  
22 part of your presentation, you alluded to the fact  
23 obviously the road is 17 feet. We're going to improve  
24 it to 19 feet, but you also made comment or reference  
25 to the 34 foot.

1 MR. KAMUF: Correct

2 CHAIRMAN: You made reference to that and  
3 maybe it was in-between passing or looking or viewing  
4 or something, maybe I didn't get the rest of your  
5 comment or maybe the rest of your comment didn't fit  
6 into what I was hoping it to fit into.

7 MR. KAMUF: It's a two-phase program. In  
8 other words, right now with our program we're going to  
9 widen the road to 24 with shoulders and drainage  
10 ditches on the side. Mr. Aull will pay that  
11 immediately.

12 At the suggestion of the county engineer,  
13 the construction phase for Phase 2 will be allowed for  
14 future construction of a 34-foot roadway with curb and  
15 gutter and sidewalks if and when future development  
16 and traffic demand warrants it. In other words,  
17 there's no reason to do anything like that right now  
18 when we're going to have a batting cage and miniature  
19 golf out there and Steve and Christy are going to move  
20 a small part of their sports warehouse there. It's  
21 not a need now.

22 CHAIRMAN: I'm sorry. I misunderstood.  
23 You're going from 17 to 24 or 17 to 19?

24 MR. KAMUF: No, I'm sorry. We're going  
25 from 17 to 20. Then that's Phase 1 at the present

1       time. We're willing to do that. We're willing to pay  
2       for the construction of this. Whenever time demands  
3       it or if there's other construction in the area, at  
4       that time we'll be responsible for a 34-foot roadway  
5       with curb and gutter.

6                   CHAIRMAN: You're saying that Mr. Aull  
7       will be responsible for a 34-foot road if it is  
8       determined by the county engineer?

9                   MR. KAMUF: That's correct.

10                  CHAIRMAN: At that time and meaning I  
11       think there's approximately 1100-foot from the  
12       intersection there back to his property?

13                  MR. KAMUF: I think it is.

14                  MR. BRYANT: It's about 850-feet.

15                  CHAIRMAN: The 1100 would probably  
16       encompass this whole property frontage.

17                  MR. BRYANT: We've got tapers on the south  
18       end.

19                  MR. KAMUF: He'll have to answer the  
20       footage.

21                  CHAIRMAN: I understand. You've got an  
22       original commitment to go ahead and make these  
23       improvements which the county engineer signed off on  
24       and you are committed for the future to go to the  
25       34-foot improvement at Mr. Aull's expense to your area

1 in the future when the time warrants that?

2 MR. KAMUF: Correct.

3 MR. ELLIOTT: You're still under oath.

4 MR. BRYANT: The intent was to allow for  
5 future development should it happen. Right now this  
6 may be all that ever happens in this area. It is  
7 20-foot improved roadway. It'd be more than  
8 sufficient to take care of it.

9 Mr. Aull has additional acres here that he  
10 may decide to develop in the future. There are other  
11 properties in the area that may be developed.  
12 Basically this has been designed in such a way, just a  
13 preliminary design. We've still got a final  
14 development plan to be submitted. It's designed in  
15 such a way that this improvement can be widened and  
16 curb and gutter installed with drainage and so forth  
17 accordingly. So this is just a first phase of an  
18 ultimate design that would be a 34-foot curb and  
19 gutter with sidewalks if needed in a future date.

20 Now, as far as who pays for it, Mr. Aull  
21 if he decides to do additional development in the  
22 future, then he would be asked to implement that  
23 improvement. If some of the other property owners in  
24 that area decide to develop their land and it's  
25 brought before the board and approved, then the county



1       engineer is trying to set this up in a manner that we  
2       can phase this in in multiple phases as needed, if  
3       needed, and that whoever is doing the development will  
4       pick up the additional cost in the future.

5                     Mr. Aull has agreed if that should happen  
6       that he will go ahead and fund the improvements across  
7       his property and continue to do his part whether it be  
8       development to his property or someone else in the  
9       area. That's been addressed by a note on the plan and  
10      the wording of that has been pretty much established  
11      by I think both the staff and the county engineer.

12                    CHAIRMAN: Thank you, Mr. Bryant. That's  
13      what I wanted to clear up about the improvements,  
14      Phase 1, 2 and 3 and see exactly where Mr. Aull stood  
15      with the potential. If this does develop, then, you  
16      know, what we don't want to be faced with in the  
17      future if there is another developer that goes on  
18      beyond him and then the road warrants it, that the  
19      last guy is left holding the bag.

20                    MR. BRYANT: If you can see this, this is  
21      a typical section. What's being proposed initially is  
22      a 20-foot rural section. This is basically the same  
23      thing that was done about six years ago on Daniels  
24      Lane. Now, the county paid for that.

25                    MR. CAMBRON: I've got a question. What's

1 wrong with that road now? I mean it's a good road.  
2 They've just reworked it here a couple of years ago.

3 MR. APPLEBY: Sixteen foot.

4 MR. CAMBRON: I know, but it's still a  
5 good road. Wait a minute. I want to ask Mr. Appleby  
6 a question here.

7 Is it typical for a developer, and you've  
8 been involved in a lot of development over the years,  
9 to go that far to have to develop a piece of property  
10 that isn't really his? Is that typical?

11 MR. APPLEBY: Off-site improvements vary  
12 from case to case.

13 MR. CAMBRON: That's a great distance.

14 MR. APPLEBY: It depends on how much  
15 traffic you generate to start with.

16 MR. CAMBRON: The thing about it is that  
17 400 and whatever Mr. Kamuf said there about the  
18 traffic, when the water is over that road, which there  
19 are several times a year it's over the road there,  
20 that traffic goes from 450 or whatever it is a day  
21 down to zero. I have a hard time believing that we  
22 would even need to improvement that road any more than  
23 what it is.

24 CHAIRMAN: I think that's something that  
25 they've worked out with the county engineer that we're

1 not going to get in-between.

2 MR. CAMBRON: The thing about it is is  
3 that, you know, I have a hard time seeing a guy spend  
4 \$60,000 when nothing is going to come of that, but  
5 that's my own opinion. That's fine. Go ahead.

6 MR. APPLEBY: But he'll generate a certain  
7 amount of traffic with his own business.

8 MR. CAMBRON: And I understand that. I do  
9 understand that.

10 MR. BRYANT: He's going to be providing I  
11 believe 60 some odd parking spaces. He's required to  
12 have 53. With GRADD and trying to make some  
13 projections, really with the low traffic count in such  
14 a small business basically you have insignificant  
15 traffic to start with and your impact is  
16 insignificant.

17 MR. CAMBRON: A good part of that he won't  
18 be open some of the time, right?

19 MR. BRYANT: Basically the flooding issue  
20 I think for Mr. Aull it's more of an inconvenience.  
21 Occasionally we're going to have high water.

22 MR. CAMBRON: I don't think that high  
23 water will effect his business. What I'm saying is  
24 that miniature golf it's not open 365 days a year,  
25 would they?

1 MR. BRYANT: No.

2 MR. CAMBRON: You see what I'm driving at  
3 there?

4 MR. BRYANT: The hint was presiding the  
5 parking area to actually allow flooding occasionally  
6 in anticipating that.

7 What we recommend here is the dark area  
8 basically is this typical section superimposed over a  
9 34-foot curb and gutter section. This would be an  
10 ultimate design should it ever be needed. Quite  
11 expensive, but to be built in phases. Like I say,  
12 he's going to spend a good bit of money out there just  
13 to get this improvement to the property if nothing  
14 else develops. You've probably got more roadway  
15 capacity than you need.

16 MR. CAMBRON: You say it's 850 feet that  
17 he's going to have to - -

18 MR. BRYANT: About 650 feet.

19 MR. CAMBRON: To his property?

20 MR. BRYANT: To the north corner of his  
21 property. It's about another 200 feet to the entrance  
22 and then you have taper back to the existing roadway  
23 that ends at the south corner of the two acre track,  
24 two and a half acre. So total improvement length is  
25 probably 900 and so feet, but the taper is about four

1 width.

2 This design though now the intent is is  
3 design it, add a grade. In fact, we've already got a  
4 preliminary grade established. We're going to turn  
5 the detail plans with the final development plan. The  
6 grade will be set such that you can go in and salvage  
7 all the pavement that's there and put in the curb and  
8 gutter and the additional widening without tearing out  
9 any of the asphalt.

10 MR. CAMBRON: Let me ask another question,  
11 Mr. Chairman, if you don't mind. What is putting in  
12 curb and guttering? How is that going to enhance  
13 drainage there? I mean there's two fine ditches  
14 there. I'm just asking.

15 MR. BRYANT: In that area we're going to  
16 have to have actually surface drainage behind the curb  
17 and we'll have to have this curb outlet. We can't  
18 have storm sewer. Not enough depth to get the water  
19 out.

20 MR. CAMBRON: Right. That's what I'm  
21 driving at.

22 MR. BRYANT: Yes.

23 MR. CAMBRON: I don't see how it's going  
24 to help.

25 MR. BRYANT: I agree.

1 MR. NOFFSINGER: Mr. Bryant, what is the  
2 current right-of-way on Sutherland Road, the width?

3 MR. BRYANT: It actually varies. We've  
4 got across the subject property we're dedicated  
5 30-feet half right-of-way.

6 MR. NOFFSINGER: What about off-site?

7 MR. BRYANT: Off-site will have to be  
8 dealt with. This is the preliminary development plan.  
9 That was discussed also with the county engineer and  
10 it was his feeling that that should be dealt with  
11 after we get passed the zoning and it will be a  
12 situation we'll have to deal with as part of the final  
13 development plan. He thought that would be the  
14 appropriate time.

15 MR. NOFFSINGER: So your proposing roadway  
16 improvements to a runway where you do not have  
17 adequate right-of-way to propose those improvements  
18 and that landowner has not signed off on this  
19 development plan; therefore, this commission will be  
20 in a position where they could not approve the  
21 development plan where you do not have adequate  
22 right-of-way nor do you have provisions for gaining  
23 that right-of-way. How are you going to make the  
24 improvements if you don't have right-of-way?

25 MR. BRYANT: The improvement will be built

1       within the limits of the existing roadway. There is a  
2       prescriptive right-of-way on that and all county  
3       roads.

4                   MR. CAMBRON: Are they 20 foot?

5                   MR. BRYANT: Yes. We can build the  
6       initial improvement. In the long-term if this area  
7       continues to develop, the same thing could happen with  
8       Mr. Jones about ten years ago. If you look at his  
9       development plan, he's showing a 30-foot half  
10      right-of-way on his plan. If there is a problem, it  
11      has been discussed and it can be shifted off of the  
12      center of the existing roadway. Now, what we're  
13      proposing now is to keep it centered and we would like  
14      to do that. Now, if this property continues to  
15      develop, you'll have additional right-of-ways that are  
16      dedicated. It depends on whether or not the  
17      particular site is going to be next if it gets  
18      developed at all. Like I say we did talk about the  
19      right-of-way. We were told that that is an issue that  
20      needs to be dealt with with the final design and that  
21      this needs to be dealt with contingent upon that. If  
22      that needed to be, that that would be done at a future  
23      date. This is how we were advised by the county  
24      engineer.

25                   CHAIRMAN: Any more questions, Mr.

1 Noffsinger?

2 MR. NOFFSINGER: Mr. Chairman, the issue  
3 here is not the roadway. We've stated that from day  
4 one. It's not the roadway. It's a land use issue.  
5 It deals with the caring capacity of the land. Here's  
6 a particular piece of property that's located in an  
7 urban residential plan area that is not bounded by any  
8 commercial, existing commercial uses. We've addressed  
9 the issue of logical expansions and you can't show  
10 anywhere within this area east of J.R. Miller  
11 Boulevard where you have land that is developed for  
12 commercial activities. We're simply jumping across a  
13 vast amount of area in the community that has the  
14 proper infrastructure to it currently and we're  
15 jumping across over to another roadway within the  
16 middle of a corn field.

17 Mr. Kamuf got into the cost of the land  
18 and the unit price of the land. Well, there's a  
19 reason this land was cheaper. The infrastructure is  
20 not there. You're dealing with a roadway that is  
21 below the flood plan. You're dealing with an  
22 unimproved roadway that's nothing more than a minor  
23 collector serving a rural farm to market area. The  
24 traffic has increased on Sutherland Road simply  
25 because people are using Sutherland Road to bypass



1       some of the congestion on Frederica Street. This  
2       community is spending a number of dollars to extend  
3       J.R. Miller Boulevard to alleviate some of the  
4       congestion on Frederica Street. That will further  
5       reduce the amount of traffic on Sutherland Road and  
6       that traffic would be utilizing extended J.R. Miller  
7       Boulevard to go out past the cinema and get back onto  
8       Highway 431. So it's not necessarily an issue of  
9       roadway. It's an issue of logical expansion and how  
10      we develop our land within the urban areas. This is  
11      prime agricultural land. We realize we're going to  
12      lose prime agricultural land in the community, but  
13      it's an issue of logical expansion and how far do we  
14      jump to develop properties where the infrastructure  
15      doesn't exist. I agree it's an enormous burden for  
16      this developer, the applicant to pay for the  
17      improvements to this roadway, but there's a reason for  
18      that and that's because this piece of property is 800  
19      feet south of where it should be. At an intersection  
20      where you have, currently have the infrastructure in  
21      place.

22                   CHAIRMAN: Thank you.

23                   Yes, ma'am, do we have a comment from the  
24      audience?

25                   MS. COLEMAN: Yes, we do. We have a

1 question.

2 MR. ELLIOTT: State your name.

3 MS. COLEMAN: Sherrie Coleman.

4 (MS. SHERRIE COLEMAN SWORN BY ATTORNEY.)

5 MS. COLEMAN: I have a question about your  
6 little green map there. I was thinking that all of  
7 Mr. Jones' property wasn't rezoned because I know that  
8 at least part of it is still being farmed.

9 MR. APPLEBY: Not necessarily. You can  
10 still farm it even after it's been rezoned.

11 MS. COLEMAN: I was wondering about that.  
12 I was going to talk Mr. Aull, but we never did get  
13 together or I wouldn't be up here asking that.

14 MR. KAMUF: I'd like to point, Mr.  
15 Chairman, that was an - - in answer to your question  
16 that was an 18.8 acre tract of ground in 1990 that was  
17 rezoned and it included all of this area in there.

18 MS. COLEMAN: I had wondered about that  
19 since, of course, I live right next-door there.

20 CHAIRMAN: Did you have any questions you  
21 wanted to ask Mr. Aull directly or has your question  
22 been satisfied?

23 MS. COLEMAN: No. That was the only one  
24 that I can think of. You all brought up the problem  
25 with the water coming up to there and the road being

1 narrow which it is right now. That's pretty much it.

2 MR. CAMBRON: Where do you live at, ma'am?

3 Where do you live at exactly?

4 MS. COLEMAN: Right there in that little  
5 green area that he's pointing to.

6 MR. CAMBRON: I've never seen the water  
7 get up to that level.

8 MS. COLEMAN: Well, it's been - - yes,  
9 it's been up there twice in my life over the road up  
10 past me. One was in '97 and one was I think it was  
11 like '64.

12 MR. CAMBRON: Yes, it's been awhile.

13 MS. COLEMAN: But it gets up to where his  
14 little sports warehouse is going to be a lot more  
15 often than that. Much more often, on the road anyway.

16 CHAIRMAN: Thank you very much.

17 Are there any more comments from the  
18 audience? Does the commission have any questions?

19 MS. WATSON: We just make a point of  
20 clarification that the Jones rezoning occurred under  
21 the 1979 Comprehensive Plan and a new Comprehensive  
22 Plan was adopted in '91. So the changes that were  
23 based, that that zoning was based on were incorporated  
24 in the new Comprehensive Plan.

25 CHAIRMAN: Thank you very much.

1                   MR. KAMUF: May I just answer that in one  
2 conclusion. When Gary says that the roadway is not a  
3 problem, that should answer your question. When  
4 anybody sitting on this board as far as any reason, as  
5 far as looking at this map, that's why we brought that  
6 map, if that's not a logical expansion, then I have  
7 never ever seen one.

8                   MR. NOFFSINGER: Excuse me. Charlie, I  
9 said it's not the foremost issue. I didn't say it  
10 wasn't a problem because obviously the roadway is a  
11 problem. That's not the most important issue.

12                  MR. KAMUF: Well, let me answer that. In  
13 other words, we are trying in doing everything that we  
14 can in answer to Mr. Cambron's question as far as  
15 doing what we can to improve the situation out there.  
16 Not only as to that property, but as far as the  
17 community. We're willing to spend \$60,000 which is  
18 more than most people have spent to get a situation  
19 corrected.

20                  CHAIRMAN: Do we have any other?

21                  MS. COLEMAN: I did think of one more. Is  
22 he going to build up the ground underneath the  
23 building?

24                  CHAIRMAN: Mr. Bryant, I think that will  
25 probably be your question.

1                   MR. BRYANT:  If you look on the  
2                   development plan.

3                   MS. COLEMAN:  If I could see it from here,  
4                   I would.

5                   MR. BRYANT:  Can she come over?

6                   CHAIRMAN:  That's fine.

7                   MR. BRYANT:  All development in this area  
8                   in the last few years have been finished floor  
9                   elevations have been elevated to an elevation of 395.  
10                  Base flood is 392.  Champion Ford facility that was  
11                  just put in a few months ago was elevated to that same  
12                  elevation.  The site will then be graded and that will  
13                  be a part of the final development plan, but the  
14                  actual site will be somewhat less than 395.  Some of  
15                  the parking like I said will probably be designed that  
16                  will be anticipated that we'll have some local  
17                  flooding occasionally.  That much parking you can have  
18                  half this parking facility flooded and still wouldn't  
19                  interfere with his operation.  The building will be  
20                  elevated.

21                  MS. COLEMAN:  I was just curious.

22                  CHAIRMAN:  No further questions from the  
23                  audience.  Does the commission have any questions?

24                  MR. BRYANT:  I might mention on the  
25                  right-of-way on Daniels Lane, we're talking about the

1 same width improvement that we're talking here. It's  
2 identical. There's no right-of-way on Daniels Lane  
3 except that part of our project that was approved at  
4 that time. There was never any questions asked about  
5 improvements of curb and gutter or anything past what  
6 the county proposed to do nor were there any issues of  
7 right-of-way or any other entities having signed off  
8 on.

9 CHAIRMAN: Thank you, Mr. Bryant.

10 Any questions from the commission?

11 (NO RESPONSE)

12 CHAIRMAN: Chair is ready for a motion.

13 MR. HAYDEN: I make a motion we approve  
14 with the improvements on the road as set forth.

15 MR. CAMBRON: I want to second that.

16 MR. HAYDEN: Based upon the applicant's  
17 findings.

18 CHAIRMAN: We have a motion for approval  
19 by Mr. Hayden. Mr. Cambron.

20 MR. CAMBRON: I want to second that  
21 motion, but I don't know how to word this where it  
22 doesn't come out wrong. I'm not in favor of this  
23 gentleman having to spend all that money to get all  
24 the way to his property.

25 MR. APPLEBY: The motion is made with the

1 stipulation.

2 MR. CAMBRON: I understand, but I just  
3 want to make that comment. That that's my second. Is  
4 that I do approve of his motion, but I don't care that  
5 this gentleman has to spend \$60,000 for his property.

6 CHAIRMAN: I think that can be made only  
7 as a comment.

8 MR. CAMBRON: As a comment let it be.

9 CHAIRMAN: Because this, and I'm sure Mr.  
10 Aull had this explained to him, this has nothing to do  
11 with our board. Mr. Kamuf and Mr. Bryant and Mr. Aull  
12 negotiated this with the county engineer to get the  
13 county engineer to come on board for future expansion  
14 of this road which may have to go to 34-foot to make  
15 sure that everybody understands who pays and I'm sure  
16 Mr. Aull will carry his part of the freight when that  
17 comes down, but that is the reason of this, Nick. Our  
18 board has nothing to do with that.

19 MR. CAMBRON: I understand. Spend 60,000.

20 CHAIRMAN: But that's nothing to do with  
21 our board. That's between Mr. Aull and the county  
22 engineer.

23 MR. CAMBRON: My motion is to approve  
24 then, but with the comment I made.

25 CHAIRMAN: Yours is the second.

1 MR. CAMBRON: Second, yes.

2 CHAIRMAN: There's been a motion and  
3 second by Mr. Cambron. All in favor of the motion  
4 raise your right hand.

5 (MR. APPLEBY, MR. ARMSTRONG, SISTER  
6 VIVIAN, MR. KIRKLAND, NICK CAMBRON, AND MARTIN HAYDEN  
7 RESPONDED AYE.)

8 CHAIRMAN: All opposed.

9 (MS. DIXON RESPONDED NAY.)

10 CHAIRMAN: We have one opposition. We  
11 have seven for and we have - -

12 MR. ELLIOTT: Six for. We had a  
13 disqualification.

14 CHAIRMAN: We had a disqualification,  
15 right.

16 Next item, please.

17 Related Item:

18 ITEM 7A

19 4617 Sutherland Road, 2.30 acres (Map N-62)  
20 Consider approval of preliminary development plan.  
21 Applicant: Steve Aull (Sports Warehouse), Forrest  
22 Allen Delacey & Shirley Delacey

23 MR. NOFFSINGER: Mr. Chairman, this  
24 application has been reviewed by the Planning Staff.  
25 It's been okayed by the county engineer. It appears  
to be in line with the zoning change that was just



1 recommended for approval by this commission. It is  
2 ready for your consideration.

3 MR. CAMBRON: Motion for approval.

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

6 CHAIRMAN: Mr. Jagoe will disqualify  
7 himself again in this one.

8 CHAIRMAN: We have a motion for approval  
9 by Mr. Cambron.

10 MR. ARMSTRONG: Second.

11 CHAIRMAN: We have a second by Mr.  
12 Armstrong. All in favor raise your right hand.

13 (ALL BOARD MEMBERS PRESENT WITH THE  
14 EXCEPTION OF MR. JAGOE RESPONDED AYE.)

15 CHAIRMAN: Seven for and we had Mr. Jagoe  
16 disqualified himself.

17 Next item, please.

18 -----

19 DEVELOPMENT PLAN

20 ITEM 8

21 3000 Frederica Street, Phase I, 59.927 acres  
(Map N-25)  
22 Consider approval of final development plan.  
Applicant: Kentucky Wesleyan College  
23

24 MR. NOFFSINGER: Mr. Chairman, this  
25 application has been reviewed by the Planning Staff.

1       It's found to be in order. It is for the construction  
2       of a community center at Kentucky Wesleyan College.  
3       They are proposing in addition to this improvement  
4       sidewalks along a portion of Sherm Road and  
5       improvements to their existing parking lots with the  
6       installation of landscaping. It's ready for your  
7       consideration.

8                   CHAIRMAN: Is there anybody here  
9       representing Kentucky Wesleyan College?

10                  APPLICANT: Yes.

11                  CHAIRMAN: Let's see if we have any  
12       questions from the audience. Is there any questions  
13       of the applicant?

14                  (NO RESPONSE)

15                  CHAIRMAN: Any questions by any of the  
16       commissioners of the applicant?

17                  (NO RESPONSE)

18                  CHAIRMAN: Unless you all have any  
19       comments we're going to go ahead and entertain a  
20       motion.

21                  MS. DIXON: Move to approve.

22                  CHAIRMAN: Motion for approval by Ms.  
23       Dixon.

24                  MR. HAYDEN: Second.

25                  CHAIRMAN: Second by Mr. Hayden. All in

1 favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 ITEM 9

6 Doe Ridge, Section 3, 15.963 acres

(Map N-81) (POSTPONED)

7 Consider approval of major subdivision preliminary  
plat.

8 Applicant: Robert J. Wimsatt

9 MR. NOFFSINGER: Mr. Chairman, this

10 application has been reviewed by the Planning Staff.

11 It's found to be in order and ready for your

12 consideration.

13 CHAIRMAN: The applicant is here, Mr.

14 Wimsatt, who has been previously sworn in. Does

15 anybody from the audience have any comments or

16 questions?

17 Yes, sir. Please step to the podium and

18 be sworn in.

19 MR. ELLIOTT: State your name, please.

20 MR. KETTERMAN: Robert Kettermann.

21 (MR. ROBERT KETTERMAN SWORN BY ATTORNEY.)

22 MR. KETTERMAN: I have only one question

23 back here on Buck Court. It abuts up to the back of

24 our lot. I was just wondering what degree of soil is

25 going to be taken off the back part of those lots to

1       adjoin ours? This is a 10-foot fall from there down  
2       to the Buck Court.

3                   MR. WIMSATT: Mr. Chairman, I don't know  
4       the exact answer to Mr. Ketterman's question. I do  
5       know that some of that top of the hill where there's a  
6       cul-de-sac proposed to go, some of that will actually  
7       be knocked down. So there actually be less drainage  
8       coming off that hill down toward his property than  
9       what there currently is. What the actual elevation is  
10      at the curb, you know, what the actual elevation on  
11      the foundations of the homes I can't answer that.

12                  CHAIRMAN: I assume this will have to be  
13      submitted and approved by the county engineer.

14                  MR. WIMSATT: It already has. The city  
15      engineer, Mr. Chairman. They've reviewed all the  
16      plans and all the drainage calculations. Everything  
17      has been submitted for approval.

18                  CHAIRMAN: Thank you.

19                  Mr. Ketterman, is that satisfactory?

20                  MR. KETTERMAN: The reason I brought it up  
21      is the part where we live, is one of the reasons for  
22      the drainage problem is a lot of the ground above us  
23      was broke down to our area, raised it up about four  
24      feet. It's tapered down to our lot is why the  
25      drainage problem is over there. I just didn't want

1 the same thing to happen over here as far as the  
2 drainage goes. The more land you take off the more  
3 drainage you've got going one way or the other. I  
4 notice it's a 10-foot fall from our property line down  
5 to the Buck Court according to the map.

6 MR. WIMSATT: The only thing I know to say  
7 again, Mr. Chairman, the city engineer and  
8 professional engineers have worked together in  
9 submitting this plan for approval. Everything has  
10 been submitted in court, the standard procedures.

11 CHAIRMAN: I see Mr. Bryant is here. Did  
12 he work on this project for you?

13 MR. WIMSATT: He did.

14 CHAIRMAN: Mr. Bryant, would you like to  
15 step to the mike for us.

16 MR. BRYANT: Yes, sir.

17 CHAIRMAN: Would you address Mr.  
18 Kettermann's question.

19 MR. BRYANT: Well, we're in a situation  
20 similar to where we were a month ago. I'm not really  
21 sure what the question is. Issues like this as far as  
22 detailed drainage and so forth is very difficult to  
23 resolve in a form such as this. We need to meet  
24 on-site to look at it and we'll work out whatever  
25 questions that need to be addressed. If they need to

1       be corrected, we'll do that. I don't really know what  
2       to tell you here other than I do know that when this  
3       next section is implemented that some of the water now  
4       that naturally falls back to this property is going to  
5       be regraded to go to this new street and will be  
6       diverted to the south to a potential basin. So  
7       actually total storm water run off to these existing  
8       lots is going to be reduced once this next section is  
9       put in. Now, the exact impact on any particular lot,  
10      I can't tell you that. The plans we submit do not  
11      have a detailed grading plan for each individual lot.  
12      That is handled as part of the building permit. So we  
13      don't have total control over the final grade of each  
14      individual building site, but the overall grading is  
15      such that it should enhance these lots and not have  
16      negative impact.

17                   CHAIRMAN: Thank you.

18                   MR. KETTERMAN: One more. On the  
19      retention basin, what's the depth that going to be on  
20      that?

21                   MR. BRYANT: It's on the plan. I really  
22      couldn't tell you right off.

23                   MR. WIMSATT: That particular retention  
24      basin is actually wet retention basin so it'll be  
25      deeper than a lot of retention basins which are dry,

1 but that's part of the drainage calculations that had  
2 to be reviewed and approved by the city engineer, and  
3 they have been approved.

4 CHAIRMAN: Thank you.

5 If there are no more questions from the -  
6 - yes, ma'am.

7 MR. ELLIOTT: State your name, please.

8 MS. PAYNE: Marsha Payne.

9 (MS. MARSHA PAYNE SWORN BY ATTORNEY.)

10 MS. PAYNE: I just have a question. It's  
11 probably going to sound like I'm reasking the same  
12 thing.

13 I understand you don't know exactly about  
14 the drainage, but what about - - I mean I'm looking to  
15 the future. You get this development done. What are  
16 homeowners suppose to do if it destroys our property,  
17 for lack of a better word? I mean I understand you're  
18 not going to know where the drainage is going to go,  
19 where the water is going to fall until you get it  
20 done. I guess my question is or it's just tossing it  
21 up in the air and hope it's going to fall.

22 MR. APPLEBY: They've got a grade plan  
23 that shows how the water is going to go. They can't  
24 tell exactly how it's going to go on each lot because  
25 that's established once they put the building pad in

1 and then they'll do drain away from the building and  
2 into the general drainage. They know where the water  
3 is going to go I hope.

4 MR. BRYANT: We do.

5 MR. APPLEBY: They've got an overall  
6 grading plan of this whole development. That's shown  
7 on this plan and it routes on that water to the  
8 retention basin. If there were a problem that came  
9 back over and your property was destroyed, this would  
10 be an issue you would take up with the city engineer  
11 who approved this plan.

12 MS. PAYNE: I guess because one small  
13 problem - - well, it's not small to us that we're  
14 having right now with that one corner. I don't want  
15 it to escalate and get worse as more work is done out  
16 there. It's a nice little subdivision.

17 MR. BRYANT: I think everything is going  
18 to be fine once we get through the construction phase  
19 and get everything grassed in and so forth. This is  
20 just something we have to go through.

21 CHAIRMAN: Thank you, Mr. Bryant.

22 Are there any other questions of Mr.  
23 Wimsatt or does this commission have any questions?

24 (NO RESPONSE)

25 CHAIRMAN: Chair is ready for a motion.



1 MR. CAMBRON: Motion for approval.

2 CHAIRMAN: Motion for approval by Mr.

3 Cambron.

4 MR. JAGOE: Second.

5 CHAIRMAN: Second by Mr. Jagoe. All in

6 favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 ITEM 10

11 Doe Ridge, Section 3, Unit 1, 9.868 (Map N-81)

12 (POSTPONED)

13 Consider approval of major subdivision final plat.

14 Surety (Certified Check) posted: \$47,249.80

15 Applicant: Robert J. Wimsatt

16 CHAIRMAN: We know the applicant is here.

17 Does anybody have any questions from the audience?

18 (NO RESPONSE)

19 CHAIRMAN: Anything from the commission?

20 (NO RESPONSE)

21 MR. APPLEBY: Is Chair ready for a motion?

22 CHAIRMAN: Chair is ready for a motion.

23 MR. APPLEBY: Motion for approval.

24 CHAIRMAN: Motion for approval by Mr.

25 Appleby.

MR. JAGOE: Second.

CHAIRMAN: Mr. Jagoe is a second. All in

1 favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 ITEM 11

6 Remington Park, Lots 1-15, 4.943 acres (Map N-42)  
7 Consider approval of major subdivision final plat.  
8 Surety (Irrevocable Letter of Credit) posted: \$53,397  
9 Applicant: c/o Ron Jones, Hayden Park Development

10 CHAIRMAN: Is anybody here representing  
11 the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: Commission have any comments?

14 (NO RESPONSE)

15 CHAIRMAN: Chair is ready for a motion.

16 MS. DIXON: Motion for approval.

17 CHAIRMAN: Motion for approval by Ms.

18 Dixon.

19 MR. HAYDEN: Second.

20 CHAIRMAN: Mr. Hayden second. All in

21 favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25 -----

## 1 SURETY RELEASES

## 2 ITEM 12

3 Buskill Properties, \$1,703.00  
4 Consider release of surety (Certified Check) for  
landscaping.  
5 Surety posted by: Buskill Properties

## 6 ITEM 13

7 Commonwealth Auto, \$660.00  
8 Consider release of surety (Performance Bond) for  
landscaping.  
9 Surety posted by: Samuel L. Matthis

## 10 ITEM 14

11 Doe Ridge, unit #1, Section 2, \$17,120.00  
12 Consider partial release of surety (Certified Check)  
for streets, sidewalks, storm and sanitary sewers.  
Surety retained (Certified Check) \$19,543.15  
Surety posted by: Robert J. Wimsatt

## 13 ITEM 15

14 Doe Ridge, Unit #2, \$15,536.60  
15 Consider partial release of surety (Certificate of  
Deposit) for streets and sidewalks.  
Surety retained (Certificate of Deposit) \$16,535.80  
16 Surety posted by: Robert J. Wimsatt

## 17 ITEM 16

18 H&I Development, Unit #3, \$8,055.00  
19 Consider release of surety (Irrevocable Letter of  
Credit) for water mains and fire hydrants.  
20 Surety posted by: H&I Development

## 21 ITEM 17

22 H&I Development, Unit #3, \$32,371.65  
23 Consider partial release of surety (Irrevocable Letter  
of Credit) for streets and sanitary sewers.  
24 Surety retained (Irrevocable Letter of Credit)  
\$21,633.00  
Surety posted by: H&I Development

25

1       ITEM 18

2       Heritage Place, \$15,405.00  
3       Consider release of surety (Performance Bond) for  
4       landscaping.  
5       Surety posted by: Wells Helath Properties

6       ITEM 19

7       Robert J. Wimsatt, \$27,425.00  
8       Consider partial release of surety (Certificate of  
9       Deposit) for streets and storm sewers.  
10      Surety retained (Certificate of Deposit) \$40,332.00  
11      Surety posted by: Robert J. Wimsatt

12      ITEM 20

13      Yellow Ambulance, \$878.00  
14      Consider release of surety (Certified Check) for  
15      landscaping.  
16      Surety posted by: Louisville Transportation Company

17                   MR. NOFFSINGER: Mr. Chairman, under  
18      Surety Releases Items 12 through 20 are in order and  
19      may be released in toto.

20                   CHAIRMAN: Chair is ready for a motion.

21                   MS. DIXON: Move to approve 12 through 20  
22      in toto.

23                   CHAIRMAN: Ms. Dixon motion for approval.

24                   MR. JAGOE: Second.

25                   CHAIRMAN: Mr. Jagoe second. All in favor  
26      raise your right hand.

27                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

28                   CHAIRMAN: Motion carries unanimously.

29                   Next item, please.

30      -----

1 SURETY TRANSFERS

2 ITEM 21

3 Anna L. Castlen Property Division: \$2,500.00  
4 Transfer of surety (Certified Check) for fire hydrants  
5 to the Daviess County Fiscal Court.  
6 Surety posted by: Anna L. Castlen

7 ITEM 22

8 D&D Hardware, \$2,000.00  
9 Transfer of surety (Certified Check) for fire hydrants  
10 to the Daviess County Fiscal Court.  
11 Surety posted by: Wholesale Petroleum, Inc.

12 ITEM 23

13 Owensboro Mercy Health System, Inc., \$2,500.00  
14 Transfer of surety (Certified Check) for fire hydrants  
15 to the City of Owensboro.  
16 Surety posted by: Ernie Davis & Sons Mechanical, Inc.

17 MR. NOFFSINGER: Under Surety Transfers  
18 Items 21 through 23 are in order and may be  
19 transferred in toto.

20 CHAIRMAN: Chair is ready for a motion.

21 MR. CAMBRON: Motion for approval.

22 CHAIRMAN: Mr. Cambron motion for  
23 approval.

24 MR. APPLEBY: Second.

25 CHAIRMAN: Mr. Appleby second. All in  
26 favor raise your right hand.

27 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

28 CHAIRMAN: Motion carries unanimously.

29 The Chair is ready for one final motion.

1 MS. DIXON: Move to adjourn.

2 CHAIRMAN: Motion to adjourn by Ms. Dixon.

3 MR. CAMBRON: Second.

4 CHAIRMAN: Second by Mr. Cambron. All in  
5 favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Meeting is adjourned.

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16                   WITNESS my hand and notarial seal on this  
17       the 20th day of February, 2001.

22 COMMISSION EXPIRES:  
DECEMBER 19, 2002

23

24 COUNTY OF RESIDENCE:  
DAVIESS COUNTY, KENTUCKY