The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, April 19, 2001, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Nick Cambron, Chairman
Gary Noffsinger
Dave Appleby
Jimmy Gilles
Scott Jagoe
Irvin Rogers
Sister Vivian Bowles
Judy Dixon
Belinda Douglas
Martin Hayden
Stewart Elliott, Attorney

CHAIRMAN: Welcome everybody tonight to the April 19, 2001, Owensboro Metropolitan Planning Commission. Glad to have a good crowd here tonight.

First item on the agenda is to consider the minutes of the - - let's do the prayer first. How about that, Mr. Gilles.

- - (PRAYER) - -

CHAIRMAN: First item on business tonight is to consider the minutes of March 8, 2001, meeting.

Ohio Valley Reporting
(270) 683-7383
The minutes are on file. Any questions or comments by any board members?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

MR. JAGOE: Second.

CHAIRMAN: Motion for approval by Mr. Appleby. Second by Mr. Jagoe. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Minutes are approved.

Number 2, Mr. Noffsinger, the GIS Update to OMPC by Mr. Will Carpenter.

MR. NOFFSINGER: Yes. Mr. Will Carpenter, is here tonight to give a brief presentation on the geographic information system that's being coordinated for this community. At this time I turn it over to him. We may want to move out into the audience and take the chairs and scoot them back so we can see the screen.

MR. CARPENTER: I would like to provide an update on the GIS project. First a little bit of background.

The GIS consortium is a team effort comprised of the OMPC, the city, the county, RWRA and

Ohio Valley Reporting
(270) 683-7383
OMU. It was determined that while all can reek the
benefit from geographic information system, none could
afford to do it by themselves so each agency elected
to pull their resources into this project.

To date we've received 450 map sheets at
100 scale map sheets, each to 100 feet that are
centered on the urban service area. Essentially a
fourth of the county has been mapped at this level.

What you see on the screen here is one of
the map products. This is called an ortho-photograph.
It is an aerial photo that's been adjusted so it has
the same property as a conventional line map. In
other words, it has a uniform scale. You're able to
make accurate measurements off of it and it has taken
out the various distortions that are inherent in the
topography. You can here where we are. Here's the
high school on Frederica.

The software environment I'm running here
is a desk top GIS environment call ARC view. This is
the same environment that most people will be using
that make use of the GIS system. It's the least
expensive application that we have.

As you can see there's quite a bit of
information here available through the photograph. In
fact, if you zoom down too closely it breaks up into
these pixels. The pixels are six inches across. So when we speak about the resolution north of the photo, you're talking about if this is a six inch resolution of the photograph. Like I said we have 450 of these that are compiled together throughout the GIS. The photography was taken in March of '99 so it's two years old. Unfortunately the tornado destroyed or damaged over 100 structures. So the photograph that we see will have some structures that no longer exist or some structures that have been modified as part of the reconstruction.

One of the factors to consider in the GIS project is how frequently we would like to replace the photograph. Currently playing on a five year revisit. Essentially every five years we take a new set of photography.

In addition to the photograph itself, we have other components that have come from the maps, from the aerial photography mapping, from the aerial photography one of which are buildings. I'm turning it on here.

Give you an idea about the system demands that we're running on the computer. Each one of these photographs is about 23 megabytes which is a pretty large image file. The machine I'm running here is
about 400 megahertz Pentium III. So it's a fair bit of overhead to move these around. There's a compressed version of these that are compressed in what's called a Mr. Syd format which is about tenth the size and the performance is much faster, but you sacrifice a little bit of resolution.

Another word about these photos. They're in tiff format which can be read by most photo shop or photo editing type packages that come with say the Microsoft office software. They can be included, blown up and included in the Microsoft Word or other word processing and report generation documents.

I've turned on the buildings here to give you an idea. Essentially every structure larger than ten foot square has been mapped. You may wonder or why if I can see in the photograph why would I want to spend the money to have it mapped by a line. The answer is: In order to reek the benefit of GIS, the powerful benefit of GIS is to automate the analysis that you want to do. So instead of having a human interpret the photograph to give you your answer, you'd like the computer to be able to do as much of that as possible.

Let me turn on the fire hydrants here.

The fire hydrants are collected by OMU using field

Ohio Valley Reporting
(270) 683-7383
surveying equipment called Global Positioning System
or GPS equipment which is an economical way of getting
detailed information into the system.

One of the analyses that can be done
fairly readily is what's called spatial quarry or
essentially find all the objects that are within a
certain distance of another object. So if I select
that fire hydrant and come here and say select by
theme, fire hydrants within a distance of 200 feet.

I should say all this that I'm doing here
can be encapsulated into a single button. You see all
the buttons across the top. One of the powerful and
major or characteristics of the GIS is that a lot of
power can be encapsulated into a single button that's
been essentially transparent to the user. So you
don't have to go through all of these windows that I'm
going through. The bottom line is in order to reek
benefit out of GIS not everyone has to be an expert in
GIS. Just like you don't have to be an expert in
computer science in order to operate a word processor.

What I did was those are the structures
that are within 200 feet of that fire hydrant. That
could have easily have been an issue of any distance
say from a parcel. That you can determine what
parcels touch other parcels. For example,
notification for a zone change request. Then those parcels -- since I keep talking about parcels, let's turn the parcels on.

The parcels then can be linked to a data base that has all the ownership information and the mailing information. The parcels are coming from the PVA's office as part of the county's contribution to the system. They're producing the parcels starting with their index map. I'll pop these numbers up.

They have a number of map sheets that they use to cover the county and they're irregularly shaped maps. One of the things that they do to process that information to be consistent with the GIS is to make a seamless data coverage. So you no longer have to worry about working on the edge of maps. Murphy's log, whatever you're interested in looking at will be at four corners. So we don't have that problem any longer.

Another component of the GIS is the information behind the GIS or behind the map. So if I take -- select this feature. What I'm showing now is the attribute table that is associated with that individual hydrant that I just clicked on. Some of the things that they are collecting the color of the top. Here's blue top. The color of the top indicates
what the flow test rating was. Last time they
measured the flow of that hydrant and blue is the best
category. Manufacturer, break away flange. That's
the flange above the green so if a vehicle hits it so
you don't have to replace buried water main. Down at
the bottom those are technical specifications about
how the data was collected.

What this means though is that we can do
things like we can map information very quickly. What
the original map showed was just where the fire
hydrants were, for example. If I go to unique symbol
and I'm using the color at the top. Say I want the
blue tops blue, I want the green tops green, I want
the orange tops orange. In just that fast, I'm able
to change the representation of the map. Now I have
an indication of where I have strengths and weaknesses
in my fire protection area. Where blue being the best
and then orange is a lesser category and green is a
lesser category.

So you're able to use the GIS to create a
representation of information to really where we were
not able to before. Yes, we knew what the category of
each of those hydrants were, but we didn't know easily
where they were in relation to one another. So that's
another application.

Ohio Valley Reporting
(270) 683-7383
If we can do this for fire hydrants, then we can do this for any other feature that we map. We can do this, for example, every one of the parcels will be tied to a zoning classification and to land use classification. That gives a little bit of idea of that.

In addition to the fire hydrants, OMU has also valves and lids and inlets. The lids and inlets they're doing as a part of the cooperative effort with the rest of the team. The lids and inlets are even relevant to the city or RWRA, depending on which system they're a part of. Lids are the manhole covers.

This mapping that they're doing will be part of the foundation of building the first digital representation of the drainage systems so that we have a more complete understanding of the drainage situation and the more powerful representation where we will be able to do engineering modeling and be able to quantify much better what improvements, what the effect of the drainage improvements will be.

So that's in a nutshell a glimpse as to where we are and where we're going. Are there any questions?

MR. APPLEBY: Are these maps going to be

Ohio Valley Reporting
(270) 683-7383
available to the public?

MR. CARPENTER: The maps will be available to the public. The protocol for distribution hasn't been established yet. At this point everything that's been delivered is still -- let me back up. None of the data that has been delivered has received final acceptance. It's still an interim product, but yes, we will make this information available. I know that PVA is interested in having a public data terminal to assist in getting and answering questions in their office and reducing the time their staff is required to take.

CHAIRMAN: Thank you so much. Are there any more questions by any board members?

(NO RESPONSE)

CHAIRMAN: Thank you so much, Mr. Carpenter.

-----------------------------------------

PUBLIC FACILITIES PLANS
REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

ITEM 3

212, 218 West 8th Street (Map N-4)
Land Disposition
Consider comments regarding a proposal to close a portion of a 10-foot wide alley.
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, this

Ohio Valley Reporting
(270) 683-7383
application has been reviewed by the Planning Staff.
It's found to be in order. You are reviewing this
alley closing. Consistency or if it's not in
consistent with your adopted Comprehensive Plan.
Planning Staff has reviewed this proposal and we found
no inconsistencies with the plan and would recommend
you forward a recommendation of that effect to the
city commission.

CHAIRMAN: Thank you so much, Mr. Noffsinger.
Any of the commissioners have any
questions or comments?
SISTER VIVIAN: Mr. Cambron, I have to
disqualify myself.
CHAIRMAN: So noted. Thank you.
Chair is open for a motion.
MR. APPLEBY: Motion for approval.
MR. GILLES: Second.
MR. CHAIRMAN: Move for approval by Mr.
Appleby and second by Mr. Gilles. All those in favor
raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE
WITH SISTER VIVIAN DISQUALIFYING HERSELF.)
CHAIRMAN: It's unanimous.

Ohio Valley Reporting
(270) 683-7383
1 ITEM 4
2 7420 US 60 W (Map CO-16)
3 Building Demolition
4 Consider comments regarding the demolition of Stanley School.
5 Referred by: Daviess County Fiscal Court
6
7 MR. NOFFSINGER: Mr. Chairman, this
8 application has been reviewed by the Planning Staff.
9 It is an application referred to us by the Daviess
10 County Fiscal Court to demolish the Stanley School.
11 Planning Staff has reviewed and find no conflict with
12 the Comprehensive Plan. We recommend that this
13 commission send a favorable letter to the Daviess
14 County Fiscal Court.
15
16 CHAIRMAN: Is anybody here from the public
17 want to make any comments or any board members?
18 (NO RESPONSE)
19
20 CHAIRMAN: If not the Chair will entertain
21 a motion.
22
23 MR. HAYDEN: Make a motion to approve.
24
25 MR. ROGERS: Second.
26
27 CHAIRMAN: Motion for approval by Mr.
28 Hayden. Second by Mr. Rogers. All those in favor
29 raise your right hand.
30 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
31
32 CHAIRMAN: Item Number 39. We're moving
33 this up. It's closing -- there again it's land
disposition, but it's closing of an alley.

ITEM 39

601 East 23rd Street
Land Disposition
Consider comments regarding a proposal to close a portion of a 15-foot wide alley.
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, this is an application to close an alley. It is in conjunction with Item Number 14 on the agenda. It is located and adjoins the property owned by the Blessed Mother Parish. The Planning Staff has reviewed this alley closing. We find no conflict with the adopted Comprehensive Plan and recommend you send a letter to that effect to the city commission.

CHAIRMAN: Thank you so much, Mr. Noffsinger.

Anybody here have any comments on that or questions?

(NO RESPONSE)

CHAIRMAN: Chair is open for a motion.

MR. APPLEBY: Motion for approval.

MR. HAYDEN: Second.

CHAIRMAN: Motion for approval by Mr. Appleby. Second by Mr. Hayden. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
Chairman: That’s unanimous.

Item Number 5, Mr. Noffsinger.

PROPOSED HISTORIC PRESERVATION DISTRICTS

Item 5

JZ Moore Historic District (Map N-4)
115-119 (odd) East 12th Street, 109-115 (odd) East 14th Street, 107 West 14th Street, 1129-1331 Allen Street, 1202-1229 Daviess Street, 1302-1330 (even) Daviess Street, 115-116 East Parrish Avenue, 1200-1330 St. Ann Street
Consider comments regarding proposed designation of historic preservation district and adoption of design standards.
Referred by: Owensboro Historic Preservation Board

Mr. Noffsinger: Mr. Chairman, this is consideration where the Owensboro Metropolitan Planning Commission is required to evaluate this proposed designation in light of existing and future plans for development and growth within the city and to submit an evaluation in writing to the Owensboro Board of Commissions which will be the city commission. The Planning Staff, we have prepared a document that gives you some background which you received in advance. Talks about the proposal and the valuation and it comes with the Staff recommendation. That recommendation will be Planning Staff recommends approval the establishment of the local JZ Moore Historic District as a historic preservation district and adoption of its associated design and guidelines.
We do have representatives from the City of Owensboro Community Development Department that was instrumental in putting these together. It's now ready for your comment and any public comment that there might be.

CHAIRMAN: Is there somebody here from the city. Do you have any comments you want to make?

CITY REP: Not unless you have any questions for me.

CHAIRMAN: I don't have any questions.

Any board members?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Move for approval by Ms. Dixon.

SISTER VIVIAN: Second.

MR. CHAIRMAN: Second by Sister Vivian.

All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That's unanimous.

Mr. Noffsinger, Item Number 6.

ITEM 6

Old Owensboro Historic Business District (Map N-4)
101 Block Daviess Street, 201 Block East Second Street
Consider comments regarding proposed designation of historic preservation district and adoption of design standards.
Referred by: Owensboro Historic Preservation Board
MR. NOFFSINGER: Mr. Chairman, this is a similar situation where the Planning Commission is reviewing the proposal against the existing future plans for development of Owensboro. The Staff is recommending approval of the establishment of the Old Owensboro Historic Business District as a historic preservation district and adoption of mandatory compliance with the 1990 downtown design guidelines. There have been public hearings evaluating this proposal. I understand there was no, I believe no public comment. If this commission makes a favorable recommendation, it will go on to the Owensboro City Commission for final action.

CHAIRMAN: Just for the sake of making this note, this is from Daviess Street to East Second Street and J.R. Miller. Is that how it's bound?

MR. NOFFSINGER: Yes. Essentially it's the River Park Center.

CHAIRMAN: Thank you, Mr. Noffsinger.

Anybody here that wants to comment on that? Any questions?

(NO RESPONSE)

CHAIRMAN: Chair will entertain a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Move for approval by Ms. Dixon.
MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That's unanimous.

Item Number 7.

-----------------------------------------

ZONING CHANGES - CITY

ITEM 7

Portion 920 West Second Street, 0.72+ acres (Map N-3)
Consider zoning change: From B-4 General Business to R-4DT Inner-City Residential.
Applicant: James P. Edge, Lark Electric Co., Inc.

MR. ELLIOTT: State your name, please.

MS. WATSON: Becky Watson.

(MS. BECKY WATSON SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the adopted Comprehensive Plan.

This recommendation is made subject to findings of fact that follow:

Findings of Fact:

1. The majority of the subject property is located within a Central Residential Plan Area, where urban low-density residential uses are appropriate in general locations;

Ohio Valley Reporting
(270) 683-7383
2. A portion of the subject property is located in a Business Plan Area, where urban low-density residential uses are appropriate in very-limited locations;

3. The subject property adjoins R-4DT Inner-City Residential zoning and uses and is a logical expansion of the R-4DT zone and use in the existing area;

4. Existing sanitary sewer and other urban services are available to the subject property; and

5. The proposed rezoning conforms to the criteria for residential development by proposing housing densities that are consistent with the character of the street and urban services available in the affected area.

MS. WATSON: I'd like to enter the Staff Report as Exhibit A.

CHAIRMAN: Thank you, Ms. Watson. Is there anyone here that represents the applicant tonight?

Do you have any comments?

APPLICANT: No.

CHAIRMAN: Anybody here that wants to ask of the applicant?

(NO RESPONSE)

CHAIRMAN: Chair will entertain a motion.
MR. HAYDEN: Make a motion for approval of Factual Finding 1 through 5 with Staff Recommendation.

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

MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That's unanimous.

Item Number 8 I'm going to have to disqualify myself and relinquish the Chair to Mr. Appleby at this time.

Mr. Appleby, you're up.

ITEM 8

2023 West Second Street, 0.35 acres (Map N-3)
Consider zoning change: From I-1 Light Industrial to I-2 Heavy Industrial.
Applicant: Earl Mack Cambron, Nina Margaet Cambron

PROPOSED ZONE & LAND USE PLAN

The applicant is seeking an I-2 Heavy Industrial zone. The subject property is located in a Business/Industrial Plan Area, where heavy industrial uses are permitted in very-limited locations.

SPECIFIC LAND USE CRITERIA

(a) Building and lot patterns; outdoor storage areas - Building and lot patterns should conform with
the criteria for "Nonresidential Development" (D7), and outdoor storage yards, with "Buffers for Outdoor Storage Yards" (D1). Furthermore any building or outdoor storage, loading or working areas (except for accessory parking area) should be located at least three hundred (300) feet from any urban residential area and one hundred (100) feet from any other areas except those containing light industrial or agricultural/forestry uses.

(b) Logical expansions outside of Industrial Parks - Existing areas of heavy industrial use that are located outside of planned Industrial Parks may be expanded onto contiguous land that generally abuts the same street(s). Such an expansion should not significantly increase the extent of industrial uses in the vicinity and outside of Industrial Parks. Such expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area. Also, such an expansion should be of adequate size and shape to provide the separation from incompatible uses cited in criteria (a) above.

APPLICANT'S FINDINGS

1. THE ZONING PROPOSAL IS IN ACCORD WITH THE COMPREHENSIVE PLAN

Subject property is located in a

Ohio Valley Reporting
(270) 683-7383
business/industrial land use area where heavy industrial uses are allowed in very limited locations. Presently, the Applicant stores vehicles on said property awaiting work at Owensboro Body Shop. The applicant desires to change that use to include the storage of vehicles in general.

The zoning proposal will not expand the existing use area but will change the use itself. The total number of vehicles to be stored on the subject property will not increase. The subject property will be used for the same purpose. Under existing zoning, vehicles can be stored on the subject property regardless of the condition of the vehicle, provided the vehicles are to be repaired at the Owensboro Body Shop. If the rezoning is approved, the applicant intends to store vehicles on the lot of said property which have been towed to the lot because of legal violations or because the vehicles were damaged in an accident. The vehicles will remain on the lot no longer than 45 days.

The rezoning proposal is substantially in accord with the Land Use Plan, Item 13 "Heavy Industrial Uses" where heavy industrial uses are allowed within the business/industrial plan area in very limited locations.

Ohio Valley Reporting
(270) 683-7383
(a) Building and lot patterns; outdoor
storage areas: Building and lot patterns should
conform with the criteria for "Nonresidential
Development" (D7) and outdoor storage yards, with
"Buffers for Outdoor Storage Yards" (D1).
Furthermore, any building or outdoor storage, loading
or working areas (except for accessory parking areas)
should be located at least three hundred (300) feet
from any urban residential area and one hundred (100)
feet from any other area except those containing light
industrial or agricultural/forestry uses.

(b) Logical expansions outside of
Industrial Parks: Existing areas of Heavy
Industrial use that are located outside of planned
Industrial Parks may be expanded onto contiguous land
that generally abuts the same street(s). Such an
expansion should not significantly increase the extent
of industrial uses in the vicinity and outside of
Industrial Parks. Such expansion should not
overburden the capacity or roadways and other
necessary urban services that are available in the
affected area. Also, such an expansion should be of
adequate size and shape to provide the separation from
incompatible uses cited in criteria (a) above.

D7 - MIXED BUSINESS/INDUSTRIAL AREAS.
"Business/Industrial Areas have been delineated on the land use plan map, in which existing areas that contain a mixture of business and light industrial uses are allowed to continue as mixed-use areas." We are not proposing an expansion in the land use area but we are proposing a change use because of specific language in the zoning ordinance. Therefore, this section does not apply.

D7 above further states that "potential conflicts with neighboring areas can be best avoided by respecting the pattern of lots along existing block fronts."

D7 also states "therefore, where the specific criteria cited by this plan would allow non-residential land uses to be located or expanded in a built up neighborhood, due consideration should be given to the concern of neighboring residents with respect to the established lot patterns in their neighborhoods." The proposed rezoning will have absolutely no adverse effect on the neighboring residents in the general area.

D1 - BUFFERS. The subject lot is currently being used for the storage of vehicles and has perimeter buffering in place as required by the ordinance. Installing of additional buffering will
The mixed use of the proposed rezoning is consistent with the uses and zones in the neighborhood. There are numerous mixed uses in the immediate area. There are existing heavy industrial uses in the area and existing I-2 zoning. In the next block at the intersection of Second Street and River Road there is a storage facility which is zoned I-2. On the opposite side of Second Street from the subject property at the railroad track there is an industrial storage area that is zoned I-2. Since the business/industrial areas contain a mixture of business and light and heavy industrial uses, the zoning to I-2 should be allowed to continue as mixed use areas. This is consistent with D7 MIXED BUSINESS/INDUSTRIAL AREAS as set out above.

2. THERE HAVE BEEN MAJOR CHANGES OF AN ECONOMIC, PHYSICAL OR SOCIAL NATURE WITHIN THE AREA INVOLVED WHICH WERE NOT ANTICIPATED IN THE ADOPTED COMPREHENSIVE PLAN AND THOSE CHANGES HAVE SUBSTANTIALLY ALTERED THE BASIC CHARACTER OF THE AREA INVOLVED.

These changes are as follows:

(a) Next door to the subject property at 2107 West Second Street, an existing house was recently demolished to put in a commercial refueling station. This refueling station is open 24-hours a day for city
vehicles, including garbage trucks; semi-trucks; buses, off-road vehicles and city police cars. These cars and trucks are refueled all during the night and as early as 4:00 in the morning.

(b) On May 14, 1998, the lot next door to the subject property at 2017 West Second was rezoned to I-1 Industrial and the existing house on said lot was torn down. This property is presently being used as a truck/auto repair shop. In the proposed finding for this property, the OMPC recommended rezoning for several reasons and one of which was that "the adopted Comprehensive Plan allows existing areas that contain a mixture of business and light industrial uses to continue as mixed use areas."

(c) The use of the property located in the next block of the northwest side of the intersection of Second Street and River Road was recently changed from a fertilizer plant to mini/warehouses (self-storage units).

(d) On March 10, 1994, the OMPC rezoned property at 1804 West Second Street to I-1 and OMPC in its finding of fact stated: "The existing land uses along West Second Street from the Elizabeth Munday Center westward to Ewing Road are substantially commercial and/or industrial types. Said Second Street segment

Ohio Valley Reporting
(270) 683-7383
has existed with such uses for many years and is
typically recognized as a business/industrial
corridor."

(e) On or about February 4, 1999, the City of
Owensboro made major improvements to improve
transportation routes through the northwest quadrant
of the City of Owensboro by improving River Road from
West Second Street northward to the Field Packing
Company property. Pursuant to the requirements of KRS
100.324 the city requested and received approval from
OMPC for these right-of-way acquisitions. This is a
major change where land was acquired from the
adjoining property which is located west of the
subject property to improve transportation in the
area. This change encourages the increase of truck
traffic along the front of the subject property and to
the west of the subject property at the intersection
of River Road and West Second Street.

(f) On January 12, 1995, the OMPC rezoned
property directly across the street at 2006 West
Second Street to I-1 Light Industrial stating that the
adopted Comprehensive Plan allows existing areas that
contain a mixture of business and light industrial
uses to continue as mixed use areas.

(g) The entire block on which the subject
property is located, where the property fronts on West
Second Street has changed from a residential use to
business/industrial uses.

3. IT IS THE APPLICANT'S POSITION THAT THE
WORDING OF THE ORDINANCE DOES NOT ADDRESS THE
SITUATION AT HAND.

The type of situation at hand is different from
what was proposed by the intent of the ordinance. The
applicant intends to eliminate the need to operate two
separate lots for storage. Applicant desires to use
the subject property for an existing storage lot which
is associated with the Owensboro Body Shop repair
business and Jack's Wrecker Service where vehicles are
hauled to the lot because of legal violations or
because the vehicles were damaged in an accident. It
is the applicant's position that the ordinance does
not apply to the exiting lot, but only applies to a
situation where a new use is created in a new
location.

PLANNING STAFF REVIEW

The subject property is located at 2023 West
Second Street between Fieldon Avenue and River Road.

Land use criteria applicable to this proposal are
reviewed below.

GENERAL LAND USE CRITERIA

Environment

Ohio Valley Reporting
(270) 683-7383
No important environmental criteria apply to the subject property.

Urban Services

All urban services are available to the site.

Development Patterns

The subject property is currently in use as an automobile transmission repair shop. A commercial garage is located on the property. Vehicles awaiting repair are stored on the paved parking area in front of the building. The perimeter of the lot is fenced with chain link fencing with plastic slats and solid fencing. The fencing abuts the back of the building where overhead doors open onto a 15' alley.

Property to the north across the alley is zoned R-4DT Inner-City Residential. These lots contain single-family residential structures that fronts on West First Street. The property to the immediate west of the subject property is zoned B-4 General Business and is in use as a gasoline service station. The property directly to the east of the subject property is zoned I-1 Light Industrial and is occupied by an automobile and truck service and repair shop.

Properties across West Second Street to the south are zoned B-4 General Business and include an automobile body shop, a contractors' office building, and a
SPECIFIC LAND USE CRITERIA

The general vicinity of the subject property is a mixed use neighborhood. The criteria for nonresidential development (D7) allows for these mixed uses of business and light industrial to continue in Business/Industrial Plan areas. The criteria specifically state business and light industrial uses are allowed to continue. The subject property is currently zoned I-1 Light Industrial, which is appropriate for the mixed use area in which it is located. An I-2 Heavy Industrial zoning classification and use would not be appropriate in a mixed use area, due to the nature of permitted uses in Heavy Industrial zones and the increased setbacks required for outdoor storage, loading or working areas from zones other than light industrial or agricultural/forestry uses.

The proposed use for the subject property is for storage of towed vehicles on the lot. This use as an automobile impound yard or a yard for the storage of abandoned, dismantled, partially dismantled or obsolete or wrecked automobiles is not a principally permitted use in an I-2 Heavy Industrial zone. The use requires application for a Conditional Use Permit.
and approval by the Owensboro Metropolitan Board of Adjustment. The Zoning Ordinance additionally requires a 300' setback from the residentially zoned property to the north of the subject property and a 100' setback from the B-4 General Business zoned property to the west. The subject property measures 100 feet in width and 153.82 feet in depth. The application of the required setbacks would prohibit the use of any portion of this property for an impound lot. Therefore, if the zoning requests were approved, variances for the total setback requirements in this zone would have to be sought and approved along with a conditional use permit in order to use the subject property as proposed.

The Comprehensive Plan also sets out increased setback buffers for heavy industrial uses under the criteria for Building and Lot Patterns; outdoor storage areas. The Plan states in addition to the criteria outlined in (D1) "Buffers for Outdoor Storage Yards", that heavy industrial uses should locate any building or outdoor storage, loading or work area at least 300' from any urban residential area and 100' from any other area except those containing light industrial or agricultural/forestry uses. The Comprehensive Plan protects surrounding properties by

Ohio Valley Reporting
(270) 683-7383
recognizing the likelihood that the intrusion of heavy
industrial uses into residential and other areas has
the potential of creating a nuisance to those
surrounding properties. The Zoning Ordinance
establishes the setbacks to enforce that protection.
The increased setback requirements for Heavy
Industrial uses acts as a buffer for surrounding
properties and is critical in locating a heavy
industrial use adjacent to a residential or business
use.

The applicant's findings include an argument that
there have been major changes of an economic, physical
or social nature within the area involved that were
not anticipated in the adopted Comprehensive Plan and
that those changes have substantially altered the
basic character of the area involved. The changes
listed include the construction of an all-night
fueling station in a B-4 General Business zone, three
zoning changes to I-1 Light Industrial, the
construction of mini-warehouses across River Road in
an I-2 Heavy Industrial zone, and the improvements to
River Road. The construction of the service station
and the light industrial zone changes occurred in a
Business/Industrial area where mixed uses of business
and light industrial are allowed to continue. The

Ohio Valley Reporting
(270) 683-7383
Comprehensive Plan anticipated these mixed uses in a
Business/Industrial plan area and has designated this
area in the land use portion of the plan as a
Business/Industrial plan area. The continuation of
mixed business and light industrial uses in this area
was planned for and does not constitute a change that
was not anticipated by the Comprehensive Plan. The
change from the fertilizer plant to mini-warehouses is
actually a decrease in heavy industrial activity in
the general vicinity and would add evidence that light
industrial uses are more appropriate in this area.
Although the mini-warehouses are located on I-2 Heavy
Industrial zoned property, this use is a permitted use
in I-1 Light Industrial zones and is compatible with
the mixed use area. The improvement to River Road has
not changed the uses in the area to heavy industrial
uses. The character of the neighborhood remains a
mixed use area located in a Business/Industrial Plan
Area as identified in the current Comprehensive Plan.

The applicant's findings also include an argument
that the Zoning Ordinance has been incorrectly
interpreted. This argument is not relevant to a
request for a zoning change. The Zoning Ordinance
provides a method of appeal through an administrative
review heard by the Owensboro Metropolitan Board of
Adjustment. The OMBA has the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant or refusal made by the Zoning Administrator in the enforcement of the Zoning Ordinance. The adopted ordinance requires an I-2 Heavy Industrial zone and a conditional use permit for the proposed use. The argument by the applicant that the interpretation of the ordinance is incorrect is not germane to this zoning change, because the OMPC does not hear such administrative appeals.

The current zoning of I-1 Light Industrial is an appropriate zone for the subject property in this vicinity and the proposed I-2 Heavy Industrial zone is not appropriate. The subject property cannot meet the setback requirements for the proposed heavy industrial use, as required by the Comprehensive Plan and the Zoning Ordinance. The proposed use as an impound lot would require the approval of a conditional use permit by the OMBA. Variances that completely eliminate the required setbacks would have to be granted before the property could be used for an impound lot. There have not been major changes of a physical, economic or social nature that have changed the character of the neighborhood. It continues as a mixed used area.
properly identified by the Comprehensive Plan.

PLANNING STAFF RECOMMENDATIONS

Staff recommends denial because the proposal is not in compliance with the adopted Comprehensive Plan.

Findings in support of this recommendation include:

1. The subject property is located in a Business/Industrial Plan Area, where heavy industrial uses are appropriate only in very-limited locations;

2. The current zoning of I-1 Light Industrial is appropriate in a mixed use area and the proposed zoning is inappropriate;

3. The required 300' setback from the residential property to the north and the 100' setback to the west cannot be met on the subject property due to the pattern and development of surrounding uses;

4. Every one of the past changes in zones or uses cited in the applicant's finding were consistent with the criteria for mixed business/industrial plan area under the Comprehensive Plan, and do not constitute any basis for rezoning the subject property to I-2 Heavy Industrial; and,

5. There have not been major changes of an economic, physical or social nature within the area that were not anticipated in the adopted Comprehensive Plan that have substantially altered the basic Ohio Valley Reporting
(270) 683-7383
CHAIRMAN: Thank you, Becky.

Would anybody like to address the commission on behalf of the applicant?

MR. ELLIOTT: State your name, please.

MR. KAMUF: Charles Kamuf.

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)

MR. KAMUF: Ms. Dixon, Ms. Douglas, Sister, Gentlemen, I represent the Cambrons concerning the rezoning of the .35 acre tract of ground. It's on West Second Street across from Owensboro Body Shop and the rezoning is from light industrial to I-2 Heavy Industrial.

The property is presently screened, fenced and enclosed. There will be no changes of any kind on the property as it exists at the present time. As you can see by the two exhibits that I have here, the property is presently being zoned industrial. Along the front of the property you can see a huge sign. Basically the property is being used as an industrial use at the present time. There is fencing to the east and fencing to the west.

Also here is another exhibit. We also see to the west of the subject property is a refueling service station. I'll get into that in just a second,
but basically I don't think you can get any property
in Owensboro that would be more industrial as to a use
at the present time than the subject property.

Presently the applicant stores vehicles on
said property awaiting body repair work. The
applicant desires to change that use to include the
storage of vehicles which have been towed to the lot
because of illegal violations. The zoning proposal
will not expand in any way the existing use, but will
change the use itself. The total numbers of vehicles
that will be stored on the lot will not increase.
They will be there approximately 45 days. Some of
these vehicles will be removed sooner.

The subject property will be used for the
same purpose. Under existing zoning, vehicles can be
stored on the subject property regardless of the
condition of the vehicle provided the vehicles are to
be repaired at the Owensboro Body Shop. If the
rezoning is approved, the applicant intends to store
vehicles on the lot of the said property that are
towed because of illegal violations or because they
have been involved in an accident.

For demonstration of what I just told you
here is an exhibit which shows a wrecked automobile
being pulled into the subject property for repairs.
Any type of car or vehicle could be moved into that lot for storage as long as was to be repaired at the Owensboro Body Shop.

Here is another exhibit which is a 2001 Cadillac automobile. If that car was picked up on the streets of Owensboro to be towed to that lot, it could not be placed there because of the technicality of the zoning ordinance.

The property that we see is certainly mixed use. Here is a plat of the subject area. As we go down Main Street here is the area along old Lee School as you can see going in a westerly direction along Highway 60. This property is zoned I-1. As you get into the next block before you get to Crabtree Avenue you have I-1. On the other side of the street, this is where Owensboro Body Shop exists. This area here is zoned I-1. As you get directly south of that property, that is where Lanham Contracting Company has a storage facility and a contracting company.

As you get further down the road you run into the I-2 area. The I-2 exist along northerly and southerly along the railroad track. That's been zoned for several years. I think since the late '80s. Also there are many changes up and down Highway 60 to the south and I'll show you those in
just a few minutes.

On the other side of the street we have an I-1 area which is adjacent to the subject property. Then we have a subject property. Then we have the service station and the refueling station. Directly next to that property is I-2.

Here is a photo of the property that is directly west. Here is a photo of the property that adjoins the property to the west. It is a refueling station. It is open 24-hours a day. The city brings their trucks, garbage trucks, all their vehicles down there to be refilled at any time day or night. I think they open at 4:00 in the morning.

Here is a picture of the property directly across the street. Lanham Electric owns that property which is due south. Then you see the night club to the west of that.

This is the property that I have designated on the map along the railroad track directly west. It is a storage facility. Prior to that time it was used as a fertilize plant. It is at the intersection of the road that goes back to the industrial property on Fields Drive.

This next photo shows the property which is directly east of the subject property and recently
it has been zoned I-1.

I'd like to point out again for the board there is I-2 in the immediate area. There is I-2 directly west of the property, and there's I-2 south of the subject property. The rezoning proposal is in accord with the Comprehensive Plan. The rezoning proposal is substantially in accord with the land use plan where heavy industrial uses are allowed within the business industrial area in limited locations.

This is a mixed industrial zone as you can see. We have B-4 in this area. We have I-1 in this area. We have I-2 in this area. We have I-2 to the north and we have I-1 to the south. In other words, the mix use that we have, we are not proposing the expansion in the land use area, but we are proposing a change in the use. The only change in the use will include storage vehicles which are towed from the city as a result of illegal ordinance violations.

The proposed rezoning will have absolutely no affect on the neighboring residents in the area. If it was not for this hearing tonight, no one or no neighbor would know that there's any change in the area.

Under KRS 100.213 there have been major changes of an economic, social and physical nature in
the area which were not anticipated in the
Comprehensive Plan and these changes are, and you have
photos to indicate this. Next door to the west of the
subject property, in this sick area, a house was
recently torn down and this is where the refueling
station is. It's open 24-hours a day as I indicated
earlier. All night the lights show and certainly it
will not be any more controversial; I'm talking as far
as the lights itself, than what we have existing
because there will not be any changes.

By unanimous vote on May 14, 1998, the
property over here known as the Pendley it was zoned
from a B-4 zone to an I-1 Industrial zone. The OMPC
said at that time that the adopted Comprehensive Plan
shows existing areas that contain a mixture of
business and industrial uses to continue as mixed use
area.

The use of the property in the next block
on the north side of the intersection or Second Street
to River Road was recently changed from a fertilizer
plant to storage buildings. For many years that was
known as a fertilizer plant. I think it was
associated with Owensboro Grain and now they have
storage buildings on the property.

By a unanimous vote, and that zoning

Ohio Valley Reporting
(270) 683-7383
change it took place, the other one was on '98. This zoning change that took place on March 10, '94 is at West Second. It is along in this particular area that you see, and I thought it was unusual what the Staff and the report of this board was at that time. It said, "The existing land uses along West Second Street from the Elizabeth Munday Center westward to Ewing Road are substantially commercial and/or industrial uses. Said Second Street segment has existed with such uses for many years and is typically recognized as a business/industrial corridor."

On February 4, 1999, the City of Owensboro expanded and renovated the street that we call River Road from the Fields Packing Company all the way over to Highway 60 and you have a photo of that. It shows the -- here it is. Here is a photo showing the realignment of that street and that street adjoins the subject property in this particular area right here. This is B-4. It adjoins the B-4 area and here is the subject property. This was done and here is a copy of what was in the report from the city where they changed it saying that they were changing the alignment of the area along River Road so that transportation would be available for the workers at Fields Packing Company. That is on the adjoining
property and the land was taken for condemnation from
the adjoining property.

The entire block of the subject property,
where the subject property is located has changed from
a residential use to a business/industrial use over
the last several years. Quite clearly the subject
property is a mixed industrial area. Since 1992 there
have been at least four that I have given you, four
substantial changes by a unanimous decision of this
board and you'll find in the findings that were read
by the staff and also in my finding of fact these
changes.

All of these changes were by unanimous
position of the board. The finding of fact in other
cases clearly demonstrate that this is a mixed
industrial area. There have been major changes in the
street lay outs as you all are reading at the present
time from the report from the city engineer concerning
the roadway from Fields Packing Company.

In the alternate, the applicant states
that it's the applicant's position that the work of
the ordinance does not address the situation at hand.
The type of situation at hand is different from what
was proposed by the intent of the ordinance. The
applicant intends to eliminate the need to operate two
separate storage yards. Applicant desires to use the
subject property for an existing storage lot which is
associated with Owensboro Body Shop Repair business
and Jack's Wrecker Service where vehicles are hauled
off the lot because of illegal violations. It is the
applicant's position that the ordinance does not apply
to the existing lot, but only applies to a situation
where a new use is created in a new location. We are
saying this is not a new use, but a change in use and
therefore it's not covered by the ordinance.

There was mention in the staff report by
Becky that we would have to get a conditional use and
also a variance to the north and a variance to the
south before the Board of Adjustment. We have filed
also both of those for a conditional use. We have
filed for two variances. One to the north on 100
feet. Yes, 100 feet to the north and the 300 feet to
the residential -- no. It's 300 feet to the north
and 100 feet to the south. We have several witnesses
if you'd like to hear from them. If you have any
questions, we'll be glad to answer those.

MR. APPLEBY: Thank you, Mr. Kamuf.

Anybody on the board have any questions
for Mr. Kamuf?

(NO RESPONSE)

Ohio Valley Reporting
(270) 683-7383
MR. APPLEBY: I've got one. If this property you've stated that the appearance and the use of the property essentially is not going to change but for technicality you wouldn't have to be here for a rezoning; is that correct?

MR. KAMUF: Yes, sir, that's correct.

MR. APPLEBY: Is the applicant stating for the record or willing to state for the record that he will not change the use of this property?

MR. KAMUF: Yes, he is.

MR. APPLEBY: Anybody from the audience like to address the board?

MR. ELLIOTT: State your name, please.

MR. WESTERFIELD: My name is Paul Westerfield.

(MR. PAUL WESTERFIELD SWORN BY ATTORNEY.)

MR. WESTERFIELD: We own some property there just north of that for better than 20 years. This is not the first time that they've tried to do this. I've talked to people there in the neighborhood and they've called me and most of the people are against having this here, this junk yard, because I own some property close to the west side too, a truck lot. I've got some pictures of what their yard turns into once it becomes a lot like that. I would like
for you all to see these.

This particular picture here is suppose to be an alley, the one behind my property there on Lancaster Avenue. You can see it is all blocked off.

MR. APPLEBY: We'll pass those around.

MR. WESTERFIELD: This is all taken from the street there on Lancaster Avenue.

Whenever they did that they went ahead and put this shop there at that time. We don't want a bunch of cars stored there all the time. You can see it doesn't get regulated.

MR. APPLEBY: I don't know. I'm not sure, but I think that's probably -- what he's just stated, if I understand him correctly, is that that's not their intent to have a junk yard. Right now he can stored wrecked cars on that lot. Indefinitely; is that right?

MR. KAMUF: That's correct. In other words, these automobiles that will be pulled in will be there for a 45 day period mostly. If an automobile was pulled in to have it repaired, it could stay there pretty well indefinitely until it was repaired.

SISTER VIVIAN: Are these the present lot or are these --

MR. APPLEBY: No. This is Westside Auto.
Yes, Mr. Mischel.

MR. ELLIOTT: State your name, please.

MR. MISCHEL: Jim Mischel.

(MR. JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: The Staff was wanting to give a list history on this.

Back a few years ago there was a problem on I think Ninth Street where a wrecker service towed a vehicle to a lot and it leaked some diesel fuel and it was not properly 300 feet from the residential house or 100 feet from a business zone. I think this lady had to go to the hospital.

That spurred some more questions. A few years ago the city and the wrecker companies got together and there was an ordinance that was passed that set out these guidelines to be adhere to. Basically that all vehicles be towed to a lot that's zoned I-2 heavy industrial with a conditional use permit.

The biggest thing with that is that you're normally 300 feet away from the residential zone and 100 feet from a commercial industrial, commercial zone. For that reason is because a lot of times these cars are towed in the dead of night at 2:00 in the morning. It gives a buffer to these areas. Typically
these vehicles should not be towed to a lot unless it is I-2. The only exception would be if that vehicle is going to be towed to a lot that is going to repair it. If they're going to repair it, they have like 30 days to make those repairs. If you know that it's going to be repaired by that shop if it's wrecked or whatever, it can go straight to that lot; otherwise, it should go to a lot that's zoned I-2. I think that 30 days was put in. Lots of times these businesses are busy repairing cars and they can't get to it that day or the next day. Thirty days they usually rotate them and working them in.

MR. KAMUF: Mr. Chairman, this exhibit that I show here, there is a fence around the north. No. There's a fence around the east. There is a fence around the west. There is a partial fence around the front along 60 and the building goes pretty well to the alley. So there is no expansion that can be made on this lot. You understand? The entire use of this lot is being used at the present time.

Now, in answer to Mr. Westerfield's position, in other words, we have a petition that I'll introduce here today that showing every adjoining lot owner with the exception of two that have signed this petition saying they have no objection to this.
Let me show you where Mr. Westerfield's
lot is.

Paul, I think I'm telling it right here.

Mr. Westerfield has a lot. There's an
alley that comes back through here. That's where his
lot is. His lot does not adjoin the subject property.
We have a letter from every one of these residential
property owners with the exception of two. The reason
that we don't have one is that she's out of town and
this lot on the corner here, the individuals there
transferred the property yesterday or the day before
and there hasn't been a deed so we don't know who the
owner of the property is. All of these individuals
along here, along this area, we have a statement from
the Pendleys which is the lot directly to the east.
We have Lanham which is the property in this
particular area that you see here, I-1. We have Mr.
Kingsley on River Road. We have Frank Simpson. We
have James Gaddis which is on First Street. We have
Mr. Simpson on First Street. We have Mr. Amos on
First Street. Excuse me. His property is on First
Street. He lives on Eighth Street. We have Mr.
Schrecker down here at the corner that runs Schrecker,
I think it's a car lot. Then we also have another Mr.
Brown who adjoins the property. I don't think you'll
have a petition here tonight by any individual that
adjoins this property that objects to it.

Mr. Westerfield is back here in the back
and he objected previously I think when somebody else
represented the Cambrons at that time.

Here is a list. I would like to file it
in the record.

MR. APPLEBY: Thank you, Mr. Kamuf.
Would anybody else like to address the
commission?

(NO RESPONSE)

CHAIRMAN: Any commissioners have any
questions?

(NO RESPONSE)

MR. APPLEBY: Chair would entertain a
motion.

SISTER VIVIAN: I had a question. I
understand that for this to go through there would
have to be variances.

MR. APPLEBY: Well, it has to go before
the Board of Adjustment before --

MR. KAMUF: Sister, we have a conditional
use that we have filed. There are two variances that
we have to file. One of them is 100 foot setback line
to the west and the other one is a 300 foot setback
line to the north. We have filed those and they'll be
heard at the next Board of Adjustment meeting.

SISTER VIVIAN: But did I understand you
then to say that you could not on this piece of
property honor what Mr. Mischel said he thought was
necessary for safety? That was my question.

MR. KAMUF: I didn't understand exactly
what he wanted?

SISTER VIVIAN: Is that not what you said
because when you gave the history you said because of
the gasoline leakage or whatever.

MR. MISCHEL: That's what brought this
subject forth a few years ago and spurred this if you
want to call it -- typically Mr. Kamuf thought you'd
have to have a conditional use permit. Under that
you're required to be 300 feet away from residential
zone and 100 feet from commercial zone, which at the
present time would not meet those.

SISTER VIVIAN: You're asking for an
exception to that?

MR. APPLEBY: That would be from the Board
of Adjustment.

SISTER VIVIAN: Yes. That's what I'm
saying. If we approve this tonight, then he's going
to go -- okay.
MR. KAMUF: If you approve it tonight, then it'll still be subject to a conditional use and it'll be subject to two variances and both of those have been filed before the board.

MR. JAGOE: Well, the conditional use would only be for the storage.

MR. KAMUF: That's correct. Variance would be for 100 foot to the south, to the west and the 300 foot to the north.

MR. JAGOE: Because there are a lot of other uses under an I-1.

MR. KAMUF: That's correct.

MR. NOFFSINGER: Mr. Chairman, I'd just like to state that the proposed use as defined by the zoning ordinance is clearly a heavy industrial use. Now, the existing property is zoned I-1 which is light industrial. It is now used for industrial activities, light industrial activities. We recognize that. The issue tonight is whether or not to rezone this property from light industrial to heavy industrial. The applicant has given us no examples of any heavy industrial uses within the area. Examples have been cited tonight by the applicant's representative have all been light industrial in nature.

Now, in terms of if this zoning change is
approved, before the property can be used for the intended use, you would have to have a conditional use permit approved by the Board of Adjustment as well as two variance request approved by the Board of Adjustment. The first variance request would be consider, you will be considering whether or not to allow this use to take place 100 feet or within 100 feet of a commercial business. The second variance that would be necessary is for this use to be allowed to operate within 300 feet of a residential use or residential zone. My question to Mr. Kamuf is, and I don't know the scale of your map. Mr. Westerfield stood up tonight and spoke that he's concerned about this particular use. Is his property located within 300 feet of the subject property?

MR. KAMUF: I can't answer that. Here is the surveyor. He can answer that.

In any event I'm telling you that all of those properties, Gary, to the north of that property, you look on that petition and they have no objection. In other words, Mr. Westerfield's property is a row of houses that screen him from the rezoning proposal. When he sees it to the rear or he sees the property it will be no change in the use because you still have that big sign in front and next door to it at the
present time there is that refueling station and it's there from 4:00 in the morning and all day. I can't answer that. In other words, if that is a question, we'll have to take it up before the Board of Adjustment when we bring on the conditional use and the variance. It is from this point that you'll see on that lot to this point over here. That direction, it'll be that far from the subject property.

MR. APPLEBY: I personally don't see the difference in operating an impound lot and being able to haul wrecked cars in there. To me it seems to be a discrepancy in the way the ordinance is written. That doesn't seem to be a heavy industrial use. I think the concern of the board is how to prohibit future heavy industrial uses taking place on that property which you're saying the applicant is willing to stipulate. I don't know if we can tie that --

MR. ELLIOTT: Not the rezoning.

MR. KAMUF: I'm willing to tell this board and if anything like that would take place -- you remember the rezoning proposal that took place out in front of Thoroughbred East where you called Mr. Thompson down here one night and he was trying to get the property rezoned to an intense commercial activity and you said you weren't going to approve it or you
put some restrictions on it. We're here to tell you that that's the purpose of the rezoning. We do not intend to use it for any other purpose other than to bring outside the I-1 area that would bring it into the I-2 other than bringing towed automobiles that have been violated under the city ordinance or automobiles that have been towed from the city as a result of some type of accident. We're telling you that here under oath.

MR. ELLIOTT: Mr. Chairman, I think probably one of the questions is what is going to happen to the property if the Board of Adjustment chooses not to grant his conditional use permit or the variances? We have an I-2 zoning.

Can you answer that, if the Board of Adjustment were to deny you?

MR. KAMUF: I would assume that your alls affirmation of this would be subject to us getting the conditional use and also the two variances, Stewart.

MR. ELLIOTT: If they were to deny that though, what would be the use of the property?

MR. KAMUF: What we're using it for at the present time.

MR. JAGOE: But it would still be zoned I-2.
MR. ELLIOTT: right.

MR. HAYDEN: Did I understand Mr. Mischel to say that one of the reasons that 300 foot setback was because they had a fuel spill and made somebody sick or sent to the hospital? I mean if that's one of the reasons, it's more apt to have a fuel spill in a refueling place than they would at this vehicle storing place.

MR. MISCHEL: That's not the reason. That 300 foot distance, spacing distance to residential, 100 foot commercial, that's been in the ordinance prior to this accident into the wrecker ordinance. What I'm saying is I think those distances were put in to act as a buffer between this heavy industrial use and these residential commercial areas.

I guess at fueling station you could spill it, but it's probably greater thing with a wrecked vehicle. In that case it was a semi. I think the gas tank had been topped or something. When it got there I guess it just started leaking. I guess you could have more potential for leakage or whatever, but no. To answer your question those spacing standards were in there before this a few years ago.

MR. KAMUF: I'd like to say this in answer to Mr. Mischel. I agree with him. There's a lot
more risk to a spill as a result of a damaged vehicle
than you're going to have from an automobile that's
pulled off the streets of Owensboro as a result of an
illegal ordinance violation.

MR. APPLEBY: Mr. Hayden, I believe, you
know, we talked about what happens to the property if
they don't get their conditional use.

If I understand it correctly, you can
still use the property for the existing use even if
it's zoned, if we rezone the property. If he doesn't
get his conditional use permit, if he doesn't get his
variances, he can continue to use it under the current
application; is that right?

MR. ELLIOTT: I-1 user or I-2.

MR. APPLEBY: Could use it as an I-1 use,
but if in the future he sold property or attempted to
change the use they would have to meet those I-2 --
to heavy industrial use they would have to meet those
I-2 criteria; is that right?

MR. ELLIOTT: They would have to come
before the Board of Adjustment.

MR. APPLEBY: So if they don't get their
variances and their conditional use, he would be
limited to doing what he's doing right now in I-1 use
of the property.
MR. KAMUF: That's my understanding.

MR. ELLIOTT: But I don't think that this should be rezoned subject to a conditional use permit or variances. This should be rezoned and then —

MR. APPLEBY: Deal with those issues later.

MR. ELLIOTT: Yes.

MR. KAMUF: We understand that we have to go before that board.

MR. APPLEBY: Anybody else have any questions?

MR. JAGOE: Could you state that again? You don't think that it should —

MR. APPLEBY: The zoning shouldn't be subject to those variances and permits.

MR. ELLIOTT: They can't really consider a conditional use permit or a variance request until it has been rezoned. We can't make a condition upon that approval.

MR. KAMUF: I talked with Mr. Noffsinger about this item and certainly we're willing to postpone the conditional use hearing on the conditional use of the variance until such time as the legislative body has had time to rezone the subject property on a permanent basis.
MR. APPLEBY: Is that necessary?

MR. ELLIOTT: It's not technically rezoned until the legislative body accepts our recommendation. We just make a recommendation so it's not a final zoning until --

MR. KAMUF: And I told Gary that we would postpone that matter until such time as we heard from the legislative body and the city.

MR. APPLEBY: Does anyone else have anything?

(NO RESPONSES)

MR. JAGOE: Is the application for the conditional use already filed?

MR. KAMUF: Yes, sir.

MR. JAGOE: Under the current zoning?

MR. KAMUF: No. It's filed under this application. I filed the application for this rezoning and then I also filed the conditional use in doing this, assuming that it's going to be zoned I-2 hopefully.

MR. APPLEBY: Thank you, Mr. Kamuf.

MR. KAMUF: Thank you.

MR. APPLEBY: Now the Chair will entertain a motion.

MR. HAYDEN: I'll make a motion to approve
it with the applicant's findings of facts.

MR. APPLEBY: We have a motion for approval. Is there a second.

MR. ROGERS: Second.

MR. APPLEBY: All those in favor signify by raising your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. APPLEBY: It's unanimous.

I'll give the gavel back to the vice chair.

ITEM 9

212 West Eighth Street, 0.153 acres (Map N-4)
Consider zoning change: From R-4DT Inner-City Residential to B-2 Central Business.
Applicant: Brescia University, Inc.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the adopted Comprehensive Plan.

This recommendation is made subject to the findings of fact that follow:

Findings of Fact:

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

2. The proposed zoning change to B-2 Central Business will meet a community need, allowing Brescia
University to provide additional housing for its students;

3. The development of the subject property as a dormitory will serve the needs of Brescia University, which is already established in the B-2 central Business Zoning district; and,

4. The subject property is contiguous to B-2 Central Business zoning and uses and the rezoning request is a logical expansion of the existing B-2 Central Business boundary.

We would like to enter the Staff Report into the record.

SISTER VIVIAN: Mr. Cambron, I need to disqualify myself.

CHAIRMAN: So noted, Sister.

Anybody here representing the applicant at this time?

MR. KAMUF: Charles Kamuf representing Brescia College.

We have individuals here, partners and associates and also engineer if you all have any questions.

CHAIRMAN: Thank you so much.

Is there anybody here that have any questions of the applicant?
CHAIRMAN: Anybody here that has any questions that the board needs to address?

MR. ROGERS: Mr. Chairman, motion for approval based on the findings Staff's Recommendations, Findings of Facts 1 through 4.

MS. DIXON: Second.

CHAIRMAN: We have a motion by Mr. Rogers and a second by Ms. Dixon. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE WITH SISTER VIVIAN DISQUALIFYING HERSELF.)

CHAIRMAN: It's unanimous with Sister Vivian disqualifying herself.

-----------------------------------------

ZONING CHANGES - COUNTY

ITEM 10

10221 Indian Hill Road, 4.33 acres (Map CO-82) Consider zoning change: From EX-1 Coal Mining to A-R Rural Agriculture.
Applicant: John Johnson, Edith Johnson

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the adopted Comprehensive Plan, subject to the findings of fact that follow:

Ohio Valley Reporting
(270) 683-7383
Findings of Fact:

1. The subject property is located in a Rural Maintenance Plan Area, where rural large-lot residential uses are appropriate in limited locations;
2. The subject property is adjacent to A-R Rural Agriculture zoning;
3. Coal mining activities on the subject property have been completed and the property has been reclaimed;
4. The proposed lot for rural residential use fronts upon a public street;
5. The proposed residential lot meets the criteria for rural large-lot residential use; and,
6. The subject property is not conducive for farming activities because of its steep slope.

MS. WATSON: We would like to enter the Staff Report into the record.

CHAIRMAN: Thank you, Ms. Watson.

Is there anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody here that’s opposed to the application?

(NO RESPONSE)

CHAIRMAN: The Chair will entertain a
motion.

MR. HAYDEN: I make a motion to approve on
Staff's Findings of Fact 1 through 6.

CHAIRMAN: Motion for approval by Mr. Hayden.

SISTER VIVIAN: Second.

CHAIRMAN: Second by Sister Vivian. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: It's unanimous.

ITEM 11

1009 Pleasant Valley Road, 0.525 acres (Map N-46)
Consider zoning change: From B-4 General Business to I-1 Light Industrial.
Applicant: Tong Properties, LLC, c/o J.D. Tong, Patricia Barrient, James M. Barrient

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the adopted Comprehensive Plan.
This recommendation is made subject to the conditions and findings of fact that follow:
Condition:
1. Installation of a landscape buffer with a 6-foot high continuous element and one tree for every 40 linear feet along the property perimeter adjacent to the R-1A Single-Family residential zone prior to any expansion of the use on the subject property.
2. If previous lot consolidation is not recorded, lots shall be consolidated and plat recorded prior to any expansion of the use on the subject property.

3. Any outdoor storage areas must be screened with continuous 6-foot high solid wall or fence.

4. All vehicular use areas shall be paved.

Findings of Fact:

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

2. The current and historical use of the subject property is industrial and the current zoning of B-4 General Business is not appropriate;

3. The property will continue to be used as a contractor's office and shop, for which the proposed zoning of I-1 Light Industrial is more appropriate;

4. The subject property is contiguous to I-1 Light Industrial zoning and light and heavy industrial uses and the rezoning request would be a logical expansion of existing light industrial uses; and,

5. The expansion of I-1 Light Industrial Zone onto the subject property would not significantly increase the light industrial use in the area, and would not overburden the capacity of the existing
roadway or other urban services, because the proposal is to continue the existing use that is currently located on this property.

CHAIRMAN: Thank you, Ms. Watson.

Is there anybody here representing the applicant tonight? Would you like to step up to the podium? Do you have anything you would like to say?

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

MR. DUNN: Douglas Dunn.

(MR. DOUGLAS DUNN SWORN BY ATTORNEY.)

CHAIRMAN: You're here to represent the applicant tonight, Mr. Dunn?

MR. DUNN: Yes, sir.

CHAIRMAN: We'll see if anybody has any questions.

Does any board members have any questions of Mr. Dunn?

(NO RESPONSE)

CHAIRMAN: Thank you, Mr. Dunn. If you just have a seat, we'll see if there's anybody in the audience that wants to ask any questions.

Is there anybody here that would like to ask the applicant?

MR. ELLIOTT: State your name, please.
MR. GRAY: Amy Gray.

(MRS. AMY GRAY SWORN BY ATTORNEY.)

MRS. GRAY: I live on George Madison Drive. I live exactly three houses from Mr. Tong's proposed or from his business. I have several neighbors here with me tonight. We are opposed to this being zoned the I-1 Industrial. I myself don't fully understand exactly what I-1 Industrial means. When she was reading her proposal, one question or one opposition I already have right off the bat is wants to put, if I understand this correctly, a 6-foot fence surrounding the area. Right now the business kind of is -- when you drive down Pleasant Valley you really don't pay too much attention to it. It kind of sits there and just kind of blends in with the surrounding scenery. If he puts a 6-foot fence around it, we just feel that it's going to draw attention to it. It's also going to hurt our resale value of our property.

The other thing that I understand is that he's wanting to probably expand that business, the building itself. There is an empty lot there. I can only assume that he does own that lot now. It's going to back up to one of the neighbors right here, be right next to her and then also back up to the other one.
What exactly does very limited use for industrial mean? What kind of heavy equipment can he and will be bring in there? The other thing that I have that I'm very upset about is the school bus. I have two small children. Mine are under two. My neighbors have children that are riding the school bus. The school bus used to pick these children up right in front of their home, drop them off in front of their home.

CHAIRMAN: On George Madison?

MRS. GRAY: On George Madison Drive. Now the bus cannot do that because they cannot turn around any more. They used to go down and turn around in that lot. I don't know what was there prior to him. They used to turn around there, come back and drop the kids off. That's how she could get around. She can't do that any more. As I understand from the neighbors, the children now have to walk to the end down to East Eighth Street to catch the bus.

In the early fall, late fall and early spring these children are going to have to walk down in the dark. Her daughter is going to be five. In the rain, in the dark she's going to have to walk her down to the bus or take her down and sit in the car. That's another concern I have.
What does light-heavy industrial use mean?

Right now he's got a backhoe sitting down there.

The other thing that I'm very concerned with is this is a private street that deads right into his business. His trucks are using that street as a roadway. He can't deny it. We've been home and we've seen it going up and down the road. Pleasant Valley is right there. He has his own entrance off of Pleasant Valley. He's using George Madison as a roadway. This is residential neighborhood. There's small children that live there. There's older children that live there and they ride their bikes in the neighborhood. The neighborhood is suppose to be a safe neighborhood. The children should be allowed to ride their bikes.

Like I say I want to know what exactly can he bring in as this industrial, what equipment can be stored there? That's all I have. That's my specific questions and concerns that I have.

CHAIRMAN: Let me see if I can get you some of these answers for you real quick while you're there.

Mr. Noffsinger, can you help us out there?

MR. NOFFSINGER: The I-1 Light Industrial zone is an industrial classification that allows for
industrial activities such as automobile body shops, contractor shops, shops of special trade. It allows for light manufacturing.

I-2 heavy industrial zone is use that allows for more intense heavy industrial uses such as uses, manufacturing uses that would put off some type of obnoxious odor. It's a heavier use.

This is an I-1 Light Industrial use. It's my understanding that this property has been used as a contractor's shop for some time. We would need to hear from the applicant as to what his intended use and future plans are.

This 6-foot high screening element that we're speaking of is not proposed by the applicant. That 6-foot high screening element is something that the Planning Staff attached to this application as a condition to give somewhat of a protection to the adjoining residential uses from the industrial activity or the activities that are currently taking place on the property.

It's now zoned B-4 general business. That particular zoning classification allows for convenient stores, retail sale of merchandise, general offices and things of that nature. So I hope I've helped you understand what the B-4 zone is an the I-1. I think
you need to hear from the applicant as to their future plans.

CHAIRMAN: Let me get the applicant up there now and you can address the questions to me and I'll go to the applicant about them.

Mr. Dunn, can you step up to the mike.

One of the questions that she had was basically what is your intent of the property. Can you expand on that?

MR. DUNN: Right now we're using the building for kitchen and bath showroom. Then we also have two contractors offices in the same building.

CHAIRMAN: Now, right?

MR. DUNN: Yes.

CHAIRMAN: And what's your intentions?

MR. DUNN: I should have said now and then. That's the intention in the future.

CHAIRMAN: What's the use of it now?

MR. DUNN: It's kitchen and bath display room, retail sales.

CHAIRMAN: Are you accessing that property now off George Madison or are you coming off Pleasant Valley?

MR. DUNN: Well, you can leave the property on either street. I don't know that -- we
certainly wouldn't have to use George Madison, but it's a city street.

CHAIRMAN: Sure. You understand her concern?

MR. DUNN: Yes. Personally I've never gone down George Madison, but I don't know about the other guys.

CHAIRMAN: I understand. Probably don't have control over everybody.

What was your other question, Mrs. Gray?

MR. DUNN: The backhoe.

CHAIRMAN: Oh, yes, about a backhoe.

MR. DUNN: There's a backhoe sitting on the lot. It doesn't belong to us. I think in the last few months there was maybe a sewer system put into a new subdivision and whoever did that has been back in the last week to fill up potholes and then the sink spots and it's their backhoe.

CHAIRMAN: Mrs. Gray, does that answer your question?

MRS. GRAY: The other concern I have he's mentioned that this is going to be then a kitchen and bath showroom?

CHAIRMAN: Yes.

MRS. GRAY: So if that's going to be then,
not only will his workers be in and out down the street but now we're going to have customers driving up and down the street. This is a residential neighborhood. This is not a business. I mean I understand that it is zoned business now. What was there before, you never saw a sole down there. You never had this problem. People were not running up and down our street except for when the train blocked the tracks, when the train had the road blocked.

CHAIRMAN: That's not to say that there could have been a business there and it zoned that would have created a lot of traffic and a lot of controversy. Do you understand that?

MRS. DUNN: Other than now we are going to have people driving up and down our street when our children are in their neighborhood trying to play. They have no option now. That's why we chose to live in the county so we would not have to worry about our children playing in Pleasant Valley Road. We chose to live on this street because it's a private street. I understand it does dead end in his business, but now our children and their children, you know, they're not going to be safe to ride their bikes on the street.

CHAIRMAN: Let me ask Mr. Dunn something.

Mr. Dunn, this property which dead ends
into George Madison, you have an entrance in the lot at 1001; is that correct, sir?

MR. DUNN: Yes, sir. George Madison comes in front of 1001 to 1009.

CHAIRMAN: Right. Have you ever thought about shutting that entrance down?

MR. DUNN: Wouldn't bother us at all.

CHAIRMAN: Wouldn't bother you. I need to ask Mr. Noffsinger something there.

Mr. Noffsinger.

MR. NOFFSINGER: That could be done, but my question and it's also my understanding that some of the residents that live on George Madison may utilize this access point as well to get out on Pleasant Valley Road. The Planning Staff would have been trying to limit access to this property just off of Pleasant Valley Road, but in doing so we eliminate the public's access that they've been using across what appears to be a right-of-way in front of this property from using that as well. So we have difficulties restricting the business from using it without restricting the residents from George Madison from using it and closing it entirely.

CHAIRMAN: How many people would we have down here if we close that road?
MRS. GRAY: That's a good point.

CHAIRMAN: Any other questions right now of him?

MRS. GRAY: I have no further questions at this moment.

MR. ELLIOTT: State your name, please.

MRS. HILL: Florence Hill.

(MRS. FLORENCE HILL SWORN BY ATTORNEY.)

MRS. HILL: I've lived in this house for 15 years. As far as I know, it's never been used for anything but like offices. It was built for an office and it's always been used for. My property adjoins the property in question here.

CHAIRMAN: I'm sorry. You're right next door to it, right?

MRS. HILL: Yes. My house is closer to the property line and if they park vehicles there it's right by my bedroom windows and there's not much space in-between. Every morning when I guess it's his people come to work the lot is just full of cars. We just oppose it for those reasons.

She said our street is private. The way I understand it if anything ever has to be done to that street, the residents on that street have to pay for it. I don't think it's county maintained or anything.
They've never plowed it or anything. I think that I was told by one of the neighbors that lived there before I did that it was a private street and if anything ever happened to it we would have to repair it.

CHAIRMAN: I don't know about that. I don't know where it's at. Do you have any questions of the applicants? I know you have some complaints. Do you have any questions that I might want to address him?

MRS. HILL: I really don't understand what's going to be going on over there. If it's industrial, would he be allowed to build right up to the line everywhere?

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Mrs. Hill, right now it is zoned B-4 General Business. That particular zone typically generates more traffic than light industrial use. So although he's asking for a zone that allows more intense uses, being uses that usually aren't as compatible with residential uses, that zone typically generates less traffic.

As part of this proposal, he would be required to pave any of the vehicular use areas on the property and then install a 6-foot height continuous
element, whether it be a fence or shrub row as
screening along your property boundary. Not on your
property. On his property, but along that boundary
line to provide you somewhat of a buffer from the
activities occurrence here. Since he would be
adjoining a residential zone, his building would have
to sit back off of that property line a minimum of
10-feet from your property. Now, I don't know how far
your homes sits off that property line, but his would
have to be 10-feet from the property line at a
minimum.

MRS. HILL: Would be he allowed to pave?
If he paves that lot, would it still have to be
10-feet from the property line? He cannot pave any
closer?

MR. NOFFSINGER: He's required to maintain
a 10-foot wide buffer strip from your property line up
on to his property. So within that 10-foot setback,
that would have to be maintained a a 10-foot wide
buffer zone that could not be paved.

MR. APPLEBY: Is there also a 20-foot rear
yard setback requirement?

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: Does that answer your
questions, Mrs. Hill?
MRS. HILL: Pretty much, yes.

CHAIRMAN: Thank you so much, ma'am.

Somebody else want to speak or have any questions of the applicant?

MR. ELLIOTT: State your name, please.

MRS. ARNOLD: Carla Arnold.

(MRS. CARLA ARNOLD SWORN BY ATTORNEY.)

MRS. ARNOLD: I live next to Mrs. Hill.

My children were the ones that she was talking about earlier. It's already disrupted my life because my children cannot catch the bus in front of the house.

My little boy has to walk down the street and he's only nine years old. My little girl starts in the fall and she's only five. The bus picks up my children at the front door and I can let them out. I feel safe that they're on the bus and they're dropped off in front of the house. Now they've got to go down the street. It's already disrupted our lives.

Plus if, you know, talking about people cut through our street. I wouldn't have any problem with cutting that entrance off because I don't mind driving down to East Eighth Street to get out of my neighborhood if my child will be safe riding on the street. There's no sidewalks so he has to ride his bike in the street. All that extra traffic of people
cutting through endangers my child's life. That's just a statement.

CHAIRMAN: We don't want to jeopardize any children whatsoever, but in the same sense if they close the street it's a pretty good job here. It requires more than you would anticipate.

MRS. ARNOLD: I understand that. I'm just saying if it's going to keep my child safe.

CHAIRMAN: I understand.

MRS. ARNOLD: Because there's no sidewalks. He has no place to play.

CHAIRMAN: Before this gentleman was there, it was zoned B-4. Was there not much traffic in there at all?

MRS. ARNOLD: No. It was some kind of UPS drop off point or something. See, the bus would come and they could turn around in that parking lot. There was maybe two cars in that parking lot and there wasn't any problem.

CHAIRMAN: And the parking lot is at 1001 or is it 1009 that you're referring to? Nine is closest to the railroad tracks. Does that help you?

MRS. GRAY: Amy Gray.

1009 is the building right next to the railroad tracks; is that right?
CHAIRMAN: Yes.

MRS. GRAY: The bus would come, it would come down George Madison to that building at 1009. That's a blacktop parking lot. It would turn around and come back. It would back up in it and turn around and come back down the street where she would be like then facing East Eighth Street where her little boy could get off.

CHAIRMAN: Let me ask a stupid question, but why does the bus not just go on out on Pleasant Valley Road?

MRS. GRAY: That's a sharp turn. It's too sharp of a turn.

CHAIRMAN: Too sharp of a turn to make a left or a right either way?

MRS. GRAY: Either way. She would be in the ditch. She can't turn off of Pleasant Valley turning left into the lot any more because there's too many cars. That lot looks like a car lot down there. Truck and car lot. Before you would never know anything was down there. Frequently we'd push the stroller down there and what is down here? You never knew what was down there.

MR. APPLEBY: You understand, bus drivers turn around on private property now. At some point
that property could develop. If they wanted to a B-4
use in there right now, they wouldn't have to be
before this board. All they'd have to do is I imagine
just get a site plan. Don't even have to come before
the board. They could go in and put a convenient
store in there and not ever come before this board at
all. That very well could eliminate the bus's ability
to turn around there regardless. Something is going
to happen with the property be it this or be it a
commercial application.

CHAIRMAN: Let me ask a real quick
question here.

Mr. Dunn, are you all utilizing this now
as a kitchen and bath facility; is that correct?

MR. DUNN: Yes, showroom.

CHAIRMAN: Your intentions are to do what?

Turn it into a kitchen and bath showroom?

MR. DUNN: That's what it's going to be a,
retail kitchen and bath showroom.

MR. APPLEBY: Contractor use you have to
have an I-1 zone.

MRS. ARNOLD: Right now when I come to
work there's like 50 trucks out there. I mean there's
a bunch of big trucks that they use on the
construction site.
CHAIRMAN: Let me make sure I understand.

As it is now, Mr. Appleby, you can show all the
kitchens and bath you want, but if you want to make
them and sell them, install --

MR. APPLEBY: I don't recognize the
manufacturing operation, but if they're going to have
a contractor, the ordinance requires a contractor
office to be in an I-1 zone.

MRS. GRAY: If you're going to have a
showroom, you're going to have customers. You're
going to have customers that are not going to go down
to Pleasant Valley, stop at the tracks and go, oh, I
can turn in here. They're going to cut down George
Madison. They're going to be on our street and our
children are going to be in jeopardy. We recommend if
you could at all close the street.

MR. APPLEBY: That's not up to us to do.

CHAIRMAN: We would not be the one.

Somebody would have to petition it.

Go ahead, Mrs. Douglas.

MS. DOUGLAS: Mr. Dunn, I'm a little bit
confused here. It's a kitchen and bath showroom now.
Yes or no?

MR. DUNN: We moved into the building
about 30 days ago and it has been since that time.
MS. DOUGLAS: Are customers coming now?

MR. DUNN: Yes.

MS. DOUGLAS: If this is changed, it's still going to be kitchen and bath showroom and customers still be coming?

MR. DUNN: Yes. It'll be the same thing, yes, ma'am.

MR. ELLIOTT: State your name, please?

MS. NAPPIER: Maxine Nappier.

(MS. MAXINE NAPPIER SWORN BY ATTORNEY.)

MS. NAPPIER: I'm concerned of the building. My property joins his. I feel that if he has all of those big trucks and everything, they're right in my back door. I know it wouldn't be any of you all like this scenery in your back door. I think that it will have a disadvantage to our property if we ever want to sell let alone have the jail right across the highway. Then to have this in the backyard. If I were going to buy a house, I certainly wouldn't come to this kind of neighborhood.

CHAIRMAN: I understand.

MS. NAPPIER: We do have a good neighborhood now. We don't like to see it.

CHAIRMAN: You do understand that in the conditions that he would have to put up a 6-foot fence
around the back; in other words, you would not see
that?

MS. NAPPIER: Yes, I know that, but 6-foot
is not very high.

CHAIRMAN: Or shrubbery.

MS. NAPPIER: Well, 6-foot is not very
high and there's a lot of trucks and things over there
now that you have to see. So this is my problem about
it. I mean as far as his big business, I don't care.
I just don't want it up in my backyard.

CHAIRMAN: Thank you so much, ma'am.

MR. ELLIOTT: State your name, please.

MR. GRAY: Rodney Gray.

(MR. RODNEY GRAY SWORN BY ATTORNEY.)

MR. GRAY: Are you all going to extend
that building?

CHAIRMAN: I'll ask him.

Are you going to extend that building, Mr. Dunn?

MR. DUNN: At some future date we probably
will extend the building, yes.

CHAIRMAN: Mr. Mischel, you want to
address that real quick.

MR. MISCHEL: Jim Mischel.

I might try to clarify something. Maybe I
was the cause of some of this. I don't know. I'll try to clarify.

It seems like right now they're wanting to use it as a cabinet shop, retail sales. If that's the case, they don't need industrial zoning. They can operate in a B-4 zone building. It was my understanding that it was mainly to be a contractor's shop, accessories, maybe cabinets or whatever, but if he's saying his major use is retail for cabinets, he shouldn't be going I-1. He should stay in the B-4.

CHAIRMAN: I didn't think so. That's why I was trying --

MR. APPLEBY: He said he was going to have two contractors there also if I understood that.

MR. MISCHEL: What I hear it's mainly going to be retail. The way we kind of classify that is we ask the applicant person, do you remain business contractor and as a retail accessory and then that way he need I-1 Light Industrial. If his main business is retail sale cabinets, he should stay B-4 and really shouldn't have the contractor type. Now, if he's going to install those cabinets, that would be fine to have the equipment to install the cabinets.

MR. JAGOE: You're saying if it's contracting with the shop included, correct?
MR. MISCHEL: If his main business is to go out here and build houses, room additions, things of that nature and sell the cabinets as a minor type, you know, just accessory to that use, then he needs to be I-1 Light Industrial.

MR. DUNN: That is the main. The building is mainly a showroom, but the business itself is mainly a construction business.

MR. MISCHEL: If he derives most of his income structure, I would say he needs light industrial.

CHAIRMAN: Did that answer your question, sir?

MR. GRAY: Not really. How big is the building going to be when he's finished?

MR. DUNN: I couldn't tell you that.

MR. GRAY: And can we get an 8-foot fence instead of a 6-foot fence and not shrubs and it's facing our property?

MR. JAGOE: That would be up to the applicant.

CHAIRMAN: And this board. We can propose conditions. Wouldn't be a problem there.

MR. MISCHEL: You could propose an 8-foot fence. Right now the ordinance require a 6-foot solid
element with a tree per 40-foot.

CHAIRMAN: At this point in time we don't know. Yes, he does say he's possibly going to extend the building. He doesn't know what size yet.

Thank you, Mr. Dunn, if you want to have a seat right now and see if there's anybody else.

Any commission members have any questions?

SISTER VIVIAN: I don't have any questions. I would just like to recommend to the applicant if this passes that they encourage their construction equipment and as many customers as possible to use the other road and not go through the George Madison Drive. I think you could do that when you give directions, especially with your employees you can do that.

MR. DUNN: Our address is Pleasant Valley Road.

CHAIRMAN: Step back up to the podium there just for a second.

MR. DUNN: Our address is Pleasant Valley Road so there would be no reason for anybody to come down George Madison looking for our business.

MR. ROGERS: Mr. Dunn, I think what Sister is talking about is could you encourage your employees and construction coming in to this area to go ahead
and use Pleasant Valley?

MR. DUNN: We'll never use it again.

CHAIRMAN: At least you hope not, right?

MS. DIXON: Mr. Chairman, how would everybody feel or would you be agreeable or the residents or Mr. Dunn to postponing this until the residents and Mr. Dunn have had some sort of meeting of the minds and we've all had a chance to go out and look at things and view the evidence that's been shown tonight?

CHAIRMAN: Are you making --

MS. DIXON: I will put that in the form of a motion.

CHAIRMAN: We have a motion for postponement by Ms. Dixon.

MS. DOUGLAS: Second.

CHAIRMAN: Second by Ms. Douglas. All those in favor raise your right hand.

(MR. CAMBRON, MS. DIXON AND MS. DOUGLAS RESPONDED AYE.)

CHAIRMAN: All those opposed raise your right hand.

(MR. APPLEBY, MR. GILLES, MR. JAGOE, MR. ROGERS, SISTER VIVIAN AND MR. HAYDEN RESPONDED NAY.)

CHAIRMAN: So on we go.
Chair is ready for a motion.

MS. DOUGLAS: I have another question.

CHAIRMAN: Yes, ma'am, go ahead.

MS. DOUGLAS: I'm still trying to get this clear in my mind. What will be the difference than what it's used for now to what it's going to be used for? Will there be any difference at all in what's going on now and what will be going on?

MR. DUNN: From the time we moved in about 30 days ago, when we started that first day is going to continue for as long as we have the business.

MR. APPLEBY: But he's going to add contractor, it's going to be a contractor office in addition to a sales room. That's why he's got to have the zone.

MS. DOUGLAS: So a contractor's office definitely cannot be in the way it's zoned now?

MR. APPLEBY: No.

MS. DOUGLAS: That is clear.

CHAIRMAN: Any other board members have any questions or comments?

(NO RESPONSE)

CHAIRMAN: One of the comments I would like to make here, that if we do make a motion for approval that we make the installation of landscape
buffer an 8-foot high continuous element of one tree
for every 40 linear feet along the property perimeter
adjacent to the R-1A Single-Family Residential zone and
that is not prior to expansion. That's prior to
getting your zoning changed.

MR. DUNN: Can I say that the neighbor on
the other side didn't want a 6-foot.

CHAIRMAN: I'm making that proposal.

MR. JAGOE: Somebody made that comment,
that they didn't want a fence or they didn't want the
buffer. Somebody else asked for the buffer is what I
heard?

CHAIRMAN: Who was that?

MR. NOFFSINGER: This gentleman right here
wanted --

MS. NAPPIER: I'd like the fence because
he's right behind me.

MR. GRAY: She don't want the 6-foot.

CHAIRMAN: Hold on just a minute. You'll
need to come back to the podium, please. State your
name, please.

MR. GRAY: Rodney Gray.

CHAIRMAN: Mr. Gray, go ahead.

MR. GRAY: She doesn't want the 6-foot.

She wants the 8-foot.

Ohio Valley Reporting
(270) 683-7383
CHAIRMAN: Who is she?

MR. GRAY: Ms. Nappier.

CHAIRMAN: She wants the 8-foot?

MR. GRAY: Yes.

CHAIRMAN: I thought that somebody had made the comment they didn't want a fence at all.

Ms. Hill, could you step back up to the podium so I can I ask you a question while Mr. Gray confers with his wife.

You did not want a fence at all; is that correct?

MS. HILL: I don't object to the fence if it's going to be shrubbery.

CHAIRMAN: What I'm proposing would be an 8-foot fence with one tree every 40 linear feet along the property perimeter.

MS. HILL: What kind of fence will it be? Is it going to be like a privacy fence or something that you can't see through?

MR. NOFFSINGER: It would have to be a solid type stockade fence or it could be a chain link fence with screening slats.

MS. HILL: I'm going to repeat what someone said. Who of you would want this in your backyard or right next door to you within ten feet of
your bedroom?

CHAIRMAN: I take that in consideration.

MS. HILL: It's been really quiet. It's not been used for anything that I know of other than offices and there's never been a bit of noise or anything over there. There may be two vehicles over there at any given time. I object to it.

CHAIRMAN: Thank you so much, ma'am.

MS. GRAY: Amy Gray. One quick question and one quick comment.

Is there any way that we could request, okay, I'll go with the fence, but request an 8-foot fence to be not chain link with that plastic stuff through it. That's like having a junk yard in there. I'm sorry, but that's what it's like. It's already a car lot down there and all the noise of the early morning. The other comment or question I have is: How do we -- you said this isn't part of your board. How do we propose then? How do you find out, how do you go about getting the street closed?

CHAIRMAN: If that is a county street you would need to petition Daviess County Fiscal Court, ma'am. Is that a county street?

MR. ELLIOTT: State your name.

MR. LAMBERT: Jim Lambert.
MR. LAMBERT: I don't know the answer. I can only say if it is a private street it would have a white street sign. I believe it is a public street, but the color of the sign should indicate and I'll know the answer tomorrow and I will call you, Amy.

CHAIRMAN: Thank you so much.

Mrs. Gray, is that it?


CHAIRMAN: We need to get him to see if that's fine with him.

Mr. Dunn, I need to ask you a real quick question here. Eight foot fence, solid wood?

MR. DUNN: Wouldn't be real crazy about it unless that's the only way we could get the job done.

CHAIRMAN: We'll see.

Sister Vivian.

SISTER VIVIAN: I was just going to say I'm opposed to postponing this because I think you can come to terms with it, but I would strongly recommend that you and the property owners sit down and discuss what is best for them and for you. I think as mature adults that you can decide this to everyone's benefit. They may decide they want shrubbery, if it's shrubbery.
that's going to keep out the noise but look like a residential neighborhood rather than the chain link fence or whatever, but I think you need some time to think about it but I would say come to terms with that. If Mr. Lambert will look into the safety issue for the children because that is a concern for us. The way it's already zoned almost everything that you're opposed to could already be done.

CHAIRMAN: That's right.

MR. DUNN: I would like to have the peoples names and addresses so I can contact them.

CHAIRMAN: You all can meet outside there when we're done to determine if we're going to provide you with the zoning change or not. Okay?

MR. JAGOE: They're all on the application.

CHAIRMAN: Not all of them, but some of them are.

MR. JAGOE: The adjoining property is on here.

CHAIRMAN: Thank you so much, Mr. Dunn. I think you can sit down now.

The Chair is open for a motion or any more comments or questions.

MR. APPLEBY: I would make a motion for
Chairman: Excuse me just one second, Mr. Appleby.

Go ahead, Ms. Hill.

Ms. Hill: I was wondering why he objects to the fence, building the fence?

Chairman: He hasn't.

Ms. Hill: I though he said he was opposed to the fence.

Chairman: He said 8-foot high.

Ms. Hill: Well, my house and most of the other houses around there sit kind of high. They don't have basements, but they're on high foundations and a six foot fence would not protect anything there.

Chairman: Let's see what the motion is going to be here and then we'll ask the applicant, make sure he accepts it. Okay?

Mr. Appleby, I'm sorry.

Mr. Appleby: I make a motion for approval based on Planning Staff's Recommendations Conditions 1 through 4 and Findings of Fact 1 through 5.

Mr. Noffsinger: Mr. Appleby, in that motion I think Mr. Cambron had condition 1 where it says adjacent to R-1A Single-Family Residential zone and scratch prior to any expansion of use on the
subject property. They're to do that now and not prior to any expansion. Then the question of whether or not it's a 6-foot or an 8-foot high fence.

MR. JAGO: Is that Mr. Cambron's motion or Mr. Appleby's motion.

CHAIRMAN: That was just a suggestion.

MR. NOFFSINGER: Mr. Appleby's motion, but it was his suggestion earlier.

MR. APPLEBY: I have no problem with the deletion of prior to any expansion of the use on the subject property, but I feel like the 6-foot or 8-foot fence issue needs to be worked out between the property owners because I think some want it and some don't. He's going to have to do at least a 6-foot. We know that. I would encourage him to meet with these residents and see what they want.

CHAIRMAN: Would you state that one more time for the record what you had there at the last.

MR. APPLEBY: On Condition 1, the condition will read installation of landscape buffer with a 6-foot high continuous element of one tree for every 40 linear feet along the property perimeter adjacent to the R-1A Single-Family Residential zoning.

CHAIRMAN: The Condition 1 through 4 and Findings of Fact 1 through 5; is that correct?
MR. APPLEBY: Right.

CHAIRMAN: We have a motion for approval by Mr. Appleby less one change on Item 1 of the conditions. Do we have a second?

MR. ROGERS: Second.

CHAIRMAN: We have a second by Mr. Rogers. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE WITH THE EXCEPTION OF MS. DOUGLAS.)

CHAIRMAN: All those opposed.

(MS. DOUGLAS RESPONDED NAY.)

CHAIRMAN: We have one opposed. So noted.

Thank you so much.

Mr. Appleby, at this point in time you need to disqualify yourself; is that right?

MR. APPLEBY: Yes.

MR. CHAIRMAN: So noted.

DEVELOPMENT PLANS

ITEM 12

3515, 3525 Frederica Street, 1.416 acres (Map N-24) Consider approval of final development plan.

Applicant: Massie-Clarke Development Company

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

The application is found to be in order; however, this
is not a zoning change. It's a development plan and if this rezoning is or if this development plan is recommended for approval, it should be recommended subject to approval of a landscape variance or a roadway buffer variance. That application has been filed and will be considered by the Board of Adjustment in May. With that it's ready for your consideration.

CHAIRMAN: I presume there's nobody here to represent the applicants.

The Chair is ready for a motion.

MR. ROGERS: Motion for approval subject to the variance.

CHAIRMAN: Motion for approval by Mr. Rogers.

SISTER VIVIAN: Second.

CHAIRMAN: Second by Sister Vivian. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE WITH THE EXCEPTION OF MR. APPLEBY DISQUALIFYING HIMSELF.)

CHAIRMAN: That's unanimous.

ITEM 13

4617 Sutherland Road, 2.30 acres (Map N-62) Consider approval of final development plan. Applicant: Steve Aull, Sports Warehouse
MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order and ready for your consideration.

CHAIRMAN: Thank you, Mr. Noffsinger. Anybody have any comments or questions of the applicant?

(NO RESPONSE)

CHAIRMAN: If not so the Chair will entertain a motion.

MR. APPLEBY: Motion for approval.

MR. HAYDEN: Second.

CHAIRMAN: Motion for approval by Mr. Appleby. Second by Mr. Hayden. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: It's unanimous.

ITEM 14

601 East 23rd Street, 3.774 acres (Map N-8) Consider approval of final development plan.
Applicant: Blessed Mother Parish of Owensboro

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff and the Engineer Staff. It's found to be in order with the exception of a parking area that serves the subject property. Mr. Jim Mischel is here from the_

Ohio Valley Reporting
(270) 683-7383
Planning Staff to give you a brief overview of what those concerns are. With that it's ready for your consideration.

CHAIRMAN: Wait just a second, Mr. Mischel.

Is there anybody here to represent the applicant by the way?

MR. BRYANT: Yes.

CHAIRMAN: I'm going to let Jim go first.

MR. MISCHEL: Jim Mischel.

Basically Blessed Mother wants to put up a parish hall. Most of the items have been worked out. There's still an issue about parking. They have some parking now that exist. They back into the street. We would like to see that eliminated more or less.

I would like to go over this and kind of give you a brief history on this. If you look at Number 11, the first one. I'm just going to go over these real quick just to kind of give you a history of it.

At 620 Maple Avenue, a church exists there. It's First General Baptist Church. We issued a building permit in October of 1999. The existing building was 9,000 square feet and they put a new addition on it of 9,000 square feet. We more or less
that's a substantial improvement to that property.

The Board of Adjustment approved a conditional use permit with a condition that the backing of the vehicles be eliminated. As you can see the picture there, it was eliminated and they put in a sidewalk and shrubs and everything else there.

CHAIRMAN: You don't have a before picture in here?

MR. MISCHEL: No, I don't.

The next one, Number 10, was 1130 East 15th Street. It's Jerry's Auto Body Shop there. It's located at that address. The Planning Commission rezoned that property in September 1999 to industrial with the condition that backing into the public right-of-way along Hall Street be eliminated. As you can see in that picture it has been eliminated. The public right-of-way be put back in grass and drive put in and required landscaping be put in.

Number 9, the next one, Number 9, is 914 Triplett Street. It's the former Dizzy Dave building. The current owner is the Wendell Foster Center. The Planning Commission approved the development plan March 1999 with the condition that backing into a public right-of-way be eliminated.

Again, there's a picture showing that this
has been done. They've eliminated that and put in the
grass and the landscaping.

Number 8 shows address of 1415 Triplett
Street. It's the Money Tree. The Money Tree
encroaches the lot north of it and the proposed the
following improvements: Lot consolidation,
construction of a parking lot and remodeling existing
store. A building permit was issued in August 1999.
This constituted a substantial improvement. The Staff
approved it because the condition of backing in the
public right-of-way be eliminated. As you can see in
the picture the asphalt was removed, sidewalks
installed and landscaping was installed.

Number 7, we have another church located
at 4839 Millers Mill Road. It's the Macedonia Baptist
Church. The Board of Adjustment approved the
conditional use permit April of 1995 with a condition
that the backing on public right-of-way be eliminated.
As you can see in the picture that was eliminated.
Grass was put back in that area with shrubs and trees
installed.

Number 6, --

CHAIRMAN: Mr. Mischel, can you go on and
cut straight to the chase. I think it's redundant
there. We understand. I appreciate it, but if you
could for the sake of time.

MR. MISCHEL: I might go over one more.

We'll skip to Number 2. It's the Earth Grain property. It's located at 300 East 24th Street. A building permit issued in February 2001. The existing building slightly over 30,000 square feet. The new addition that was built was about 1400 square feet. That's what we constitute as a minor improvement. I have some others in here for a minor improvement. We approved the building plans with the condition that the backing in the public right-of-way be eliminated from new addition. This eliminated about 10 or 12 parking spaces. There's some other minor ones that was approved.

Usually if it's not substantial, we don't bring the whole property up. We take care of the affected area and that's what we did at Earth Grain.

Now I would like to move on to Blessed Mother and we make this quick.

MR. JAGOE: Affected area, where is it built?

MR. MISCHEL: The addition at the Earth Grain, they put an addition on. We had to eliminate the parking. There's 10 to 12 employees parking and they were backing out on 25th Street. They eliminate
-- if you've been by there, they've taken all the
pavement up. They're going to put grass and shrubs
and screen that area.

MR. JAGOE: That was a condition to get
the permit?

MR. MISCHEL: Yes. Now, if it had been a
major addition, a major building addition, then we
would require the whole site to be brought up.
Typically if there's a major addition, new structure,
we require that whole site to be brought up. If it's
minor addition, minor work, then we usually just take
the affected area. We don't make the whole site be
brought up to standards. That's where I think -- -- I
want to give you a background because I think this is
important here with what I want to go over now.

MR. NOFFSINGER: Excuse me. With Earth
Grain, Mr. Mischel said they had approximately 30,000
square feet of building area. They were adding about
1,000 square feet.

MR. MISCHEL: I would like to put one of
these into the record.

CHAIRMAN: Let me just ask you a real
quick question. We already have this in our packet.
Basically you're doing nothing but highlighting the
area; is that correct?

Ohio Valley Reporting
(270) 683-7383
MR. MISCHEL: Yes. I just want to kind of show you. After giving you the background of what we consider minor improvements versus major substantial improvements.

As you can see, I think this fits in with Blessed Mother. I think they fit both the minor category and the major. The reason I say minor is because on October 12th of 2000 a building permit was issued to Blessed Mother Church for the construction of a detached storage building. If you go to that layout and look at the orange spot there, that's where they constructed their detached storage building. This is for the storage of barbecue equipment. It's about 2000 square feet. Maybe 2400 square feet. The reason I bring that up, I'm trying to show that we are consistent over the years.

When we permitted this we did not make any stipulations to this parking on the rear in the green. That's where they back into the street. We considered this storage building to be minor. We just took the area that was affected.

If you see out there in the pink, that is a compliance. They drive in one way. They have angle parking. They go out the other way and they have required landscaping. They don't back into the
street.

So basically at that time they thought they got a big break, but really all we were doing was being consistent with what we've done in the past. We weren't trying -- we were trying to be helpful and I think we were. We issued the permit.

Now, today I think the situation has changed. They're proposing 15,000-foot plus parish hall. That's a substantial improvement to this property.

At this time we do think that that area that you see marked in green should be dealt with and it should be eliminated versus when we issued a permit back in October of 2000. I think that shows you how we deal with minor improvements and major improvements.

CHAIRMAN: As being consistent. Anything else?

MR. MISCHEL: That's all at this point in time.

MR. NOFFSINGER: Mr. Mischel, as an alternate proposal to totally removing that parking, we had discussed amongst the staff that perhaps there could be, that parking could be removed from public right-of-way and there could be parallel parking
installed along the property line or 3-feet back from
the property line with a drive between the property
line and the school, in front of the school where you
could have a drop off point plus parallel parking,
plus that would open up the street for parking as
well. So you would have no net loss for parking
spaces. You'd have the same amount of parking, but
you would have -- define parking spots on private
property as well as the street plus a drop off lane
that could be utilized for the school facility.

MR. MISCHEL: Yes. Our proposal if you
look at that pink area, there's something like that
except for I'm not sure they have room for angle
parking, but in that pink area they would have room to
put a drive, parallel park and then go out that
area. Plus they would gain because on a street they
could have -- it would almost be a double role of
parallel parking. One on their property and one on
the street. So they would gain there, but you
wouldn't have that traffic backing out. In the past,
my information has been consistent with that of the
Board of Adjustment. I think staff has too. I think
it's fair they're doing a lot of -- not only these
people, but a lot of others that have eliminated that
and they've had concerns of this being fairly done.
There's a couple of others too. I think St. Marks Church, they're in the process of putting in landscaping stuff. Sorgho Baptist Church, they've agreed to do that. I think it has been done fairly and done consistently in the past.

CHAIRMAN: Thank you, Mr. Mischel.

Mr. Mischel, why don't you take this and circulate this out there in the audience. There's several people here and they may want to see this.

Is there anybody here that represents the applicant that at this time would like to speak?

MR. ELLIOTT: State your name, please.

MR. BRYANT: Don Bryant.

(MR. DON BRYANT SWORN BY ATTORNEY.)

MR. BRYANT: This is a copy of actually one of three sheets. It's part of the development plan. This is demolition sheet that shows the area that's going to have facility parking and building removed.

The overall site consist of about four acres, 3.8 acres. What you can't tell by just looking at the site plan or if you drive down the street and really what I think is probably a major contrast with some of the other situations as cited just a few minutes ago by Mr. Mischel, this site actually
consists of 23 separate parcels that were bought over the years at different times by the church. There's several right of ways. In addition to that, street right-of-ways and alleys that were closed. We have an alley closing in this area that's about 150 feet in length. The rest of this alley was previously closed. Once this alley closing is completed, all of these different parcels are going to be consolidated into one parcel. So now the only common link is that we have one owner and 20 some odd parcels. We're only dealing with a part of this overall site. So now these adjoining property owners or adjoining properties are under one single title.

I'd like to pass this out. Just circulate these. This is a copy of the exhibit that was submitted for the alley closing. It shows all the different parcels on the site that are proposed to be consolidated into one single parcel once the alley is closed.

We're looking at a situation here and certainly this is not something that will be designed or proposed today, but we're looking at nonconforming site with multiple buildings on it. As in the past when we've nonconforming situations and we propose to improve on that, we always have to compromise and come
up with something that's better than what we had before, but normally we're not in the position where we can bring everything that's not a practical matter and bring it all into compliance.

I think we're looking at a total 47 parking spaces. These parking spaces are not part of the required parking which required internally --

CHAIRMAN: You're talking about parking spaces from the school all the way back to the house that's back there?

MR. BRYAN: Yes. Actually this is a single-family resident. It's going to be demolished. The parish hall extension is proposed here.

This will be connected to the existing church with a breezeway. We're proposing to remove 19 of the 47 spaces already. We're not asking that all of these spaces be left. What we're asking is look at the affected area. You know, out of four acres we're probably looking at less than, you know, something on the order of one-fourth of the proposed site. We're giving up 40 percent of the nonconforming parking. So we're giving up a lot here in order to get this done.

Far more than, you know, I think a reasonable compromise. In fact, there's some here that probably would say that they wouldn't even really want to give
up this park. This is what is being proposed. We're
giving you 40 percent.

This is nearly 500 feet of road frontage
along East 23rd Street and giving up 47 parking spaces
is a major issue.

CHAIRMAN: You mean 19 and 47, right, is
what you're --

MR. BRYANT: 19 out of 47. That's right
at 40 percent.

I have a series of photos here that show
all the improvement along 23rd Street. First one
showing in the foreground be the residence. This is
proposed for demolition where the construction will
take place. This shows all the parking spaces that
are proposed to be removed. Not only will it be
removed, that area will be restored and grass and
sidewalk installed in accordance with all the required
city improvement specs.

I would like to introduce all of these
into the record.

The second photo is the same site. Again,
looking at it in a different angle. It also shows the
existing entrance which is proposed for reconstruction
which will be the main access through the breezeway
into the parking area to the north.
CHAIRMAN: In this first photo here and I'm looking at end of this parking space here. How many spaces are you all proposing to do away with here from you're at?

MR. BRYANT: You're looking at the area that's highlighted here that is proposed to be removed. The background there I believe you're looking at the church, the existing church building which is this building here.

CHAIRMAN: I'm looking at the entrance right here.

MR. BRYANT: So most of what you're looking at in that photo is proposed for removal.

CHAIRMAN: Right in here?

MR. BRYANT: Yes. Actually down to about where that first vehicle is parked or pretty close.

These photographs were taken today. Just to show you how much these parking spots are used. That's in front of the school.

This is a shot looking directly at the entrance that's proposed to be reconstructed and the parking to be removed on either side of that.

This is another shot looking at -- this is standing in front of the school but looking back up toward the church and it shows the parking spots being
utilized. Again, this was taken today.

Another shot. This emphasizes how much
the parking is used. I think Father Freddy is going
to have a few comments in a minute and he can explain
a little more as to how important this parking is to
the school and the church.

I think the key here is what we're looking
at. We are looking at one site and the only common
link that it is a four acre site, but is that we have
shared parking of multiple principal buildings and
with the consolidation that requires a development
plan and if weren't for the shared parking we could
come in and consolidate the tracks with the school,
the church separately and they be adjoining tracks and
then in that case parking wouldn't have to be removed.

CHAIRMAN: Anything else, Mr. Bryant?

MR. BRYANT: No, unless you have
questions. Like I said I think Father Freddy has a
few comments.

CHAIRMAN: Thank you so much.

MR. ELLIOTT: State your name, please.

FATHER FREDDY: Father Freddy.

(FATHER FREDDY SWORN BY ATTORNEY.)

FATHER FREDDY: One thing I would like to
mention or bring before the commission is we're
talking about two different identities. One being the church, Blessed Mother Church, and another being St. Angela Merici School. We're talking about apples and oranges. Apples being the church and the parish hall. The oranges being the school.

Blessed Mother Parish has no -- we all belong, the churches of Owensboro belong to a catholic consolidated school system which we support that school financially, but there are other parishes that support that school also. So to penalize the school, to take away the school parking because we're adding addition onto the church seems to be like that we're weighing apples and oranges and still looking at the same thing. To allow the school to keep their parking and to allow the school keep their main entrance which comes off of 23rd Street.

CHAIRMAN: Thank you, Father Freddy. Is there anyone else here that would like to speak? How about we take one at a time and hopefully every time you come up you bring something new. We'll try to go through this a little quick.

MR. ELLIOTT: State your name, please.

MS. CONKRIGHT: Tracy Conkright.

(TRACY CONKRIGHT SWORN BY ATTORNEY.)

MS. CONKRIGHT: I am principal at St.

Ohio Valley Reporting
(270) 683-7383
Angela Merici. I just on a personal level want to
give you a little overview of our school and what it's
like in this parking area during our arrival time and
our dismissal time.

We currently have 321 students at our
school. What you saw in front we have 20 faculty
members and 12 staff members in our building every
day. We average around 20 visitors per day. These
are mostly parents that help throughout the building
so they usually have a lengthy stay. The entrance
that you have been seeing in the pictures is our main
entrance. It is the only entrance that is accessible
to our parents and the public. All visitors must
enter through this entrance and sign in. All the
other doors in our building remain locked for security
reasons. There's no other way to get in other than
through the entrance on 23rd.

The parking area in question, it is used
for faculty and staff parking. The average parking in
that area is 12 faculty members park there every day.
This area is also used for visitors and any deliveries
that are made into the building. If the parking in
front of the school building is taken away, parents do
not have easy access to the main entrance and we would
also have to relocate the 12 faculty members that park
We have 265 students who are transported to and from our school by car every day. During the morning hours 125 of these approximately are dropped off at the 23rd Street entrance. At dismissal time we have, I couldn't count them all today, but it was between 50 and 70 cars out front and they do take up a whole line. We have our parking and then they take up the whole entire side next to our street as well as across the street when we dismiss.

The parking area in front of the school building if it's available parents would park on the street and this would cause serious problems during our dismissal hours. As I said they already park there and if they parallel parked on the street we would have double rows of cars and this would cause more serious safety issues for our children during dismissal time.

In closing I just would like for you to consider leaving our parking in front of our school building. If any of you would like to come visit our school and view our dismissal time and how much the parking area is used, we would be more than welcome to have you. Our number one concern as is yours is our children's safety. Thank you.
CHAIRMAN: Thank you so much, ma'am.

Any board members have any questions of Father Freddy or Mr. Bryant while he was here?

(NO RESPONSE)

CHAIRMAN: Continue on, ma'am.

MR. JAGOE: I have one question.

CHAIRMAN: Ms. Conkright, could you step back up to the podium.

MR. JAGOE: Anybody may be able to answer it. Where is the bus drop off?

MS. CONKRIGHT: In the back parking lot.

MR. JAGOE: You can show us here.

MS. THOMAS: I'm Sandra Thomas.

CHAIRMAN: Why don't you step up to the podium and be sworn in.

MS. CONKRIGHT: We have two buses during dismissal and they both pick up in the back parking lot. In the morning hours we have two buses that drop off in the back parking lot, but one does drop off on 23rd Street.

MR. ELLIOTT: State your name for the record.

MS. THOMAS: I'm Sandra Thomas. I'm a parent of a child at St. Angela Merici and I attend Blessed Mother Church.
MS. THOMAS: I'd first like to address Mr. Michel on the storage building. I obtained the permit for the storage building for the church, represented the church on getting it. When we did I wanted to make it perfectly clear that the parking they've marked in pink was already existing. When I went and presented that we wanted to build a storage building there because we were going to tear down our existing storage building for this future building, he reviewed it and said, fine, you're not backing out into the street. What you got you don't a parking concern. We don't have to worry about it. I said, great. I greatly appreciated his work on that. That parking was already existing. Okay. We had brought a plat and showed all the parking for the facility at that time when that was addressed.

CHAIRMAN: Thank you.

MS. THOMAS: The second thing I wanted to address was the parking or the bus pick up has to be in the back parking lot because the buses have to be separated from the children by Daviess County Code. Daviess County School is to come in and pick up the bus riders it has to be a separate area from our --

CHAIRMAN: They come off of 22nd Street?
MS. THOMAS: They come off 22nd and they come into the back parking lot and pick up there and make the U-turn and go back into 22nd Street.

MS. CONKRIGHT: Go out 23rd Street.

MS. THOMAS: Go out 23rd, but it has to be separated.

MR. JAGOE: What has to be separated?

MS. THOMAS: The bus drop off and pick up from where the parents pick up. That's county, Daviess County bus rule. If you build in schools you learn that. You have to have a separate pick up for parent pick up from where the buses pick up. Totally opposite. They can't be combined at all. You cause a hardship because the parents can't park in the back parking lot where you see all those parking spaces to wait for the kids because it has to be separated. So you have to park on 23rd Street to pick up your children. You can't use the parking lot.

CHAIRMAN: What you're trying to express here is that there's not going to be any room if the parking spaces out front are gone?

MS. THOMAS: Yes, and you're not allowed to use it or else we can't use the county buses.

That's the big concern.

CHAIRMAN: Anything else?
MS. THOMAS: Again, as Father Freddy and everyone expressed, we were trying to work this as a compromise that the new facility, you know, we would delete that parking there and try to maintain this for the safety of the kids.

CHAIRMAN: Thank you so much, Ms. Thomas. We have somebody else that wants to speak on maybe a new issue or bring something else up.

MR. ELLIOTT: State your name, please.

MR. CASTLEN: Charlie Castlen.

(CHARLIE CASTLEN SWORN BY ATTORNEY.)

MR. CASTLEN: The only point that I'd like to make as I listen to others, particularly Mr. Kamuf give commentary, and the principal had asked me about this issue early on and I had -- one of the points that I hope that you all would consider that I asked her to mention and Father Freddy hit on is the school building is a separate entity from the church even though their common owners because the kids from St. Stephens go to the St. Angela Merici School as well. If you wanted to you could almost call that a partnership arrangement as opposed to owned by the church as opposed to what it was maybe 10, 15 years ago when it was Blessed Mother School.

The second point is, and this goes to Mr.
Kamuf's point, if you accept that point is that at least with the school there's absolutely nothing changes. We're having a new facility built for the church, but for the school there's absolutely nothing changing. That's the only point which I'd like to make.

CHAIRMAN: Thank you so much.

MR. ELLIOTT: State your name, please.

MR. THOMPSON: Al Thompson.

(AL THOMPSON SWORN BY ATTORNEY.)

MR. THOMPSON: I just wanted to touch on Charlie's point again. My understanding is a public school is here as a government entity subject to mandatory review but voluntary compliance. I just wanted to touch a couple of points at the parochial school system. There's about a $6 million budget. It educates about 15 percent of the children in the county so they're providing a public service. Just ask that you are aware and have the same consideration in considering whether to allow the difference.

The second point was most of these examples Mr. Mischel mentions seem to be all commercial property. Earth Grains, Dizzy Daves, The Money Tree, Jerry's Auto Body, and places where there's a lot of traffic and customers backing in and
out where as the school situation it's mostly teachers and staff are in there once and they leave in the afternoon. So it seems there may not be as much traffic. Thank you.

CHAIRMAN: Point well taken. Thank you so much.

Any board member have any questions?

(NO RESPONSE)

MR. ELLIOTT: State your name, please.

MS. GREENWALT: Joyce Greenwalt.

(MS. JOYCE GREENWALT SWORN BY ATTORNEY.)

MS. GREENWALT: I am a parent at St. Angela Merici School and I'm one of the 260 plus parents that come in front of the school on 23rd Steet and drop my children off there and pick them up in the afternoon. I just ask that you consider the safety issues of this situation.

We're talking about a one block area between J.R. Miller Boulevard and Veach Road. We've got over 250 parents or 250 children that are being picked up and dropped off in this area in the morning and in the afternoon. If that parking is taken out, we're going to be forced to parallel park on both sides of the street and I can envision some double parking. I can also envision children running back
and forth, vehicles being blocked. I just feel like it would be a dangerous situation and I'm afraid that there would be a greater likelihood of an accident that would involve a child's life.

I was told that there have been four accidents reported in the last four or five years there, but those were fender-benders and those can be fixed. I don't think a child's life can be.

I cited an article that appeared in the newspaper in February of 1997. A little seven year old boy was killed on 100 block of East 20th Street. He was a passenger in his family's van. They parallel parked at the curb across from their house. He ran around from behind the van and was struck by a car. That was a terrible incident. No charges were filed, but that's a parallel parking situation in a residential area. I don't know of any school system in Daviess County that allows parallel parking as the primary source of access to the school. I don't know of any situation like that. Even though parking we have now is not idea and possibly isn't in compliance with some of the later things that are being developed in the city, it is better than being parallel parked in front of the school.

I would only ask that you can maybe

Ohio Valley Reporting
(270) 683-7383
consider redoing angle parking as an alternative, but
don't remove our parking. I know that you'll consider
the safety of our children.

CHAIRMAN: We shall. Thank you so much.

Any questions or comments by any board
members?

Mr. Mischel.

MR. MISCHEL: First I would like to say
that I didn't mean to say that parking wasn't there.
I knew it was there and that's the reason we didn't
require anything because it was in compliance.

Mr. Thompson said, you know, most of the
types that I gave was businesses, but there again
some of these examples was First General Baptist
Church that eliminated their parking, Macedonia
Baptist Church, St. Mark's Church in Sorgho and
there's others.

We don't oppose to do away with all the
parking. We think that compromise you to have a
double row of parking there on their property and in
public right-of-way.

There again I just like to say the
history, the Planning Commission has never approved
one of these to back out on public right-of-way. The
Board of Adjustment has never done it and the staff

Ohio Valley Reporting
(270) 683-7383
has never done that. There has been a lot of the
churches and a lot of businesses, a lot of people has
been up here asking for that and it's never been
given. To be consistent I guess for the future, you
know, what will that bring in the future. Really this
board has never done that for that or landscaping for
that reason.

CHAIRMAN: One more comment. I want a new
person.

MS. HELMS: My name is Vicki Helms.
(MS. VICKI HELMS SWORN BY ATTORNEY.)

MS. HELMS: Consistency is really good for
the public, but this is a unique situation with the
school. I'd also like to say that I'm a parent of two
children at that school and I'm neither a member of
Blessed Mother Parish or St. Stephens Parish. So it
doesn't just involve the Catholic community. There
are other students in that school that have chosen to
go there. The main thing I'd like to point out is
that this is not broken so we don't need to fix it.
Thank you.

CHAIRMAN: Thank you so much.

MR. JAGOE: Mr. Mischel, the reason these
were done was for safety concern, the parking that was
on the street and then backing out, is that the
reason?

MR. MISCHEL: I'd say for two reasons. Safety concerns and then the ordinance itself does not allow you for that. Under Section 13. - I could get it if you'd like to hear it.

MR. JAGOE: On one hand we've got the applicant feels that this is the safest design that they could do for their children, but then the ordinance is saying you have to have --

MR. MISCHEL: Yes. Under Article 13.11 it says, "Access drives shall be designed so as to provide adequate vehicular maneuvering of point of property being served and in no case shall off-street parking area be permitted which encourage or require backing onto on maneuvering with any public right-of-way." That's under Article 13.11.

MR. APPLEBY: Two points I would like to make. If we were dealing, if these were under separate ownership this probably wouldn't be an issue at this time. That's the first thing. They have in the area where they're building their new building they're eliminating the parking.

Second while I understand that we need to be consistent, the majority of these other instances; for example we've got West Second Street, West Second
Street, East Parrish Avenue, Millers Mill Road,  
Triplett Street, another on Triplett Street. There  
are two or three of these that may be comparable, but  
the majority of those streets are high traffic  
streets, high rate of speed. I would think there  
would be a whole lot more traffic involved than in  
this particular instance. This is local traffic and  
school traffic. Be whole lot more difficult to back  
into Triplett Street than it would be to back into  
23rd Street is my observation.

CHAIRMAN: Mr. Noffsinger, you want to  
address this.

MR. NOFFSINGER: Yes. We've heard a lot  
of talk here tonight not on just this case but on  
other cases about the safety of our children. I can  
tell you Planning Staff is certainly concerned about  
the safety of the children.

I think we have a situation here where  
we're looking more at convenience than we are safety  
for our children. This parking area, the site that's  
being developed we're putting up a 15,000 square foot  
building on a piece of property that's substantially  
developed now. That area could be used for parking.  
It sounds like is necessary for the operation of the  
school. We have a vacant piece of property that
fronts 22nd Street that's shown to be a grass area. I'm not sure what that area is used for now, but if parking is a concern that area could be made into a parking area. It could be made into a parking area for the staff and we could take this area that's along 23rd Street and put in a drive lane that could be used as a bus drop off point for the children. That would put the buses in front of the school. They could drop the children off and they would clearly be separated from the parking area for the staff and the children. That would also open up addition parking along 23rd Street. I don't think we're looking at that aspect of it. I think we're trying to keep the convenience of parking in front of the school and we're looking at that more than we are the safety of the children. That's all I have to say.

MR. GILLES: Mr. Bryant, could you tell me what the distance is there on the parking right now from the street or from the curb to the school? It might be on here and I'm not recognizing it. The distance of existing parking right now that's against 23rd Street.

MR. BRYANT: We have a total of almost 500 feet of frontage.

MR. GILLES: The curb to the building
there, the curb to the sidewalk.

MR. BRYANT: All the parking spaces are situated to the rear of the curb. I think there's a space between the back of the curb and the back of the parking spaces looks like maybe three or four feet of parking space, probably 18-feet. Back of the curb to the front of the parking we're probably looking at 22 to 23, 24 feet, something like that.

MR. GILLES: Is that enough room?

MR. BRYANT: This is depth. -- spaces extend back on private property, about two-thirds is actually on the right-of-way and about a third, the front one-third is on private property.

CHAIRMAN: Mr. Gilles, did that answer your question?

MR. GILLES: Yes.

CHAIRMAN: Mr. Castlen.

MR. CASTLEN: I'm trying to go to the issue of consistency. I don't know the details, but I know it just occurred to me that my daughter goes to Owensboro Catholic Middle School and I know that church, Immaculate Church is the Catholic church that's over there. I know they've built a parish hall since I've been back to Owensboro within the last ten years anyway. I know they still have the same parking
they've had all along. I'm curious as to how that
decision was reached. I'd like to think that we could
have the same consideration.

MS. CONKRIGHT: They still back out.

SISTER VIVIAN: I have a question. Does
this make any difference, that parking in front of St.
Angela Merici School is already there, approved, being
used ever since the school has been there I guess, and
as people keep pointing out these may be owned by the
Diocese but they are two separate entities and the
church is the one putting up the proposed building.
So they are -- that's the change. They are giving up
their parking, but is the school which has been there
and operates as a consolidated separate entity going
to be penalized? Is this the question I'm hearing?

MS. THOMAS: Sandra Thomas again.

Rebecca with RBS might be able to answer
one of the most important questions that keeps coming
up about your parallel parking.

The church or the Diocese who owns the
property only has about 25 feet of actual property
that's theirs from the school to the building.
Twenty-five feet that you're going to get out and
you're going to put a bus in and you're going to load
kids or load them in from the property line to the
school. We don't own all that parking space. Again, we only own -- there's 12-foot of that parking spot that's owned by the city that since it's there we get to use, but there's only 25-feet approximately when I last scaled it and Rebecca could maybe verify this or we could get a scale on that, that is actual available for development legally in the front of the property. This other grassed area to address that issues, the church puts on a fund raiser each year, a picnic, and we cook and the cooks cook in the grassed area instead of the parking lot. We have to keep the grassed area in order to earn $20,000 in profits or fund raisers from that picnic each year and if we do away with the grassed area the cooks will not cook.

CHAIRMAN: They'll quit?

MS. THOMAS: They'll quit. They've already told us that.

SISTER VIVIAN: Where is your playground, Sandra?

MS. THOMAS: It's in front of the existing school between the gym parking lot that's in pink and the parking lot on the right. It's a little graveled area. So if we give up that, we've lost $20,000 too plus our only grassed area.

CHAIRMAN: Kiss the cooks good-bye, right?
MS. THOMAS: Kiss the cooks good-bye.

MR. HAYDEN: Let me ask a question on that. Does the Diocese own the school and the property? The church does not own it; is that right?

FATHER FREDDY: Father Freddy.

The Diocese owns everything. You know, everything from -- every piece of property that the Catholic church owns that if it's Owensboro, Henderson County, Union County it's all legally under the offices of the Roman Catholic Division, Diocese of Owensboro.

MR. HAYDEN: No separate of the two then?

FATHER FREDDY: Is the, for better or for worse, the CEO. Isn't that about the way you would say it, Sister?

SISTER VIVIAN: That's right. That includes Paducah and all Western Kentucky.

FATHER FREDDY: The whole Western Kentucky from all the churches. In fact, he's charge of my bank account.

SISTER VIVIAN: He personally can't run away with any of the money though.

CHAIRMAN: Mr. Mischel, one more time.

MR. MISCHEL: The reason we're looking at this whole property is because of the lot
consolidation. We have to look because they're combining all of this property. We don't have a choice. The reason that we're combining it if they left a property line there, they would have to come up with parking from both separate pieces and that would be impossible. The best situation is to combine this, but when they do you have to look at the whole property.

They also state that we're penalizing the school for what the church is doing. We're eliminating the church, but if you look on that site plan I gave you they've still got 10, 11 spaces in front of the church property there that they plan on keeping. Not only in front of the school, but they are proposing I think it's 10 or 11 spaces still shown there in front of the church there.

CHAIRMAN: Thank you so much.

Any other questions by any board members?

(NO RESPONSE)

CHAIRMAN: The Chair is ready for a motion then.

MR. ROGERS: Mr. Chairman, I make a motion to approve the development plan turned in by the applicant as is with keeping the 28 parking lots in front of the school.
CHAIRMAN: Motion has been suggested that

MR. HAYDEN: Second.

CHAIRMAN: Second by Mr. Hayden. All

those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

-----------------------------------------

MAJOR SUBDIVISIONS

ITEM 15

Brookhill Heritage, revised lots 170, 170A, 171, .0778
acres (Map N-56)

Consider approval of revised major subdivision
preliminary plat.

Applicant: JMJ Construction

MR. NOFFSINGER: Mr. Chairman, this

application has been reviewed by the Planning Staff
and the Engineering Staff. It's found to be in order

and ready for your consideration.

CHAIRMAN: Chair is open for a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Move for approval by Ms. Dixon.

MR. GILLES: Second.

CHAIRMAN: Second by Mr. Gilles. All

those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.
ITEM 16
Brookhill Heritage, Unit 12, 0.742+ acre (Map N-56)
Consider approval of major subdivision final plat.
Surety (Certificate of Deposit) posted: $4,386.80
Applicant: Yewell's Heritage Developers, Inc.

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff
and the Engineering Staff. Found to be in order and
ready for your consideration.

MR. GILLES: Motion for approval.

MS. DIXON: Second.

MR. CHAIRMAN: Motion for approval by Mr. Gilles and second by Ms. Dixon. All those in favor
raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Unanimous.

ITEM 17
Fieldcrest Crossing, Unit 5, Lots 31-44 & 82-87 3.813 acres (Map N-14)
Consider approval of major subdivision final plat.
Surety (Irrevocable Letter of Credit) posted: $73,903.40
Applicant: Thompson Homes, Inc.

MR. NOFFSINGER: Mr. Chairman, this application is in order and ready for your
consideration.

MS. DIXON: Move for approval.

MR. HAYDEN: Second.

CHAIRMAN: Move for approval by Ms. Dixon.
Second by Mr. Hayden. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: It's unanimous.

ITEM 18

Hunters Ridge, Unit #7, Lots 42-51, 12.625 acres (Map N-55)
Consider approval of major subdivision preliminary plat.
Applicant: Hunters Ridge Development, Inc.

MR. NOFFSINGER: Mr. Chairman, this applicant is in order and ready for your consideration.

MS. DIXON: Move for approval.

CHAIRMAN: Move for approval by Ms. Dixon.

SISTER VIVIAN: Second.

CHAIRMAN: Second by Sister Vivian. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: It's unanimous.

ITEM 19

Carl Westerfield, 14.63 acres (Map N-40) (POSTPONED)
Consider approval of major subdivision preliminary plat.
Applicant: Carl Westerfield

MR. NOFFSINGER: Mr. Chairman, this application is found to be in order and ready for your consideration.
CHAIRMAN: Chair will entertain a motion.

MR. HAYDEN: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. ROGERS: Second.

MR. CHAIRMAN: Second by Mr. Rogers. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: It's unanimous.

MINOR SUBDIVISIONS

ITEM 20

1939, 1987 Greenbriar Road, 6.23, 25.06 acres (Map N-48)

Consider approval of minor subdivision plat.
Applicant: Tony L. Crabtree, Chad L. Crabtree

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It's found to be in order. It does create a lot that was an agricultural tract. It reduces it down to a development tract less than 10 acres in size. The lot will slightly exceed the three to one depth to width ratio on one side; however, it is in order and we would recommend that it be approved.

CHAIRMAN: Thank you, Mr. Noffsinger.

MR. HAYDEN: Motion for approval.
CHAIRMAN: Motion by Mr. Hayden.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: That's unanimous.

ITEM 21

10575, 10655, 10719 KY 81, 1.606, 1.361, 9.505 acres (Map CO-31)
Consider approval of minor subdivision plat. Applicant: Jessie Allen Tucker, Jessie Allen Tucker, Jr.

MR. NOFFSINGER: Mr. Chairman, this application consist of two existing lots. One is a
development tract under ten acres in size. One is an agricultural tract. The plat will end up with three
lots in addition of one lot. The additional lot that's being created is very irregular shaped. It has
50 feet of frontage on Kentucky Highway 81. That 50 foot strip extends back approximately 363 feet back on
the property. It widens out to a lot that's about one acre in size. This plat does not meet the minimum
frontage requirements that require the building setback line. It does grossly exceeds the depth to
width ratios and the Planning Staff would recommend that it not be approved.

CHAIRMAN: Thank you, Mr. Noffsinger. Is
there anybody here that represent the applicant.

Yes, sir.

MR. TUCKER: Jessie Tucker, Jr.

(MR. JESSIE TUCKER, JR SWORN BY ATTORNEY.)

CHAIRMAN: Mr. Tucker, go ahead.

MR. TUCKER: Your proposal on that lot about the width versus the depth, I understand that, but on that particular lot that doesn't work out. I've got some pictures, although mine are not as big as everybody elses.

What happens there that's on a hill and there's a curve in that hill. The main roadway, the bed of the roadway is 10 to 12 foot below the actual lot. So you're going to try to cut a drive from Highway 81 back to that lot and it's not practical. For one thing you can't see. You're trying to pull out on a hill in a curve. I do have pictures here if anybody would like to see what I'm talking about.

The problem 81 running north and south on that hill. There's 10 to 12 foot of height from the road bed up to the lot. So to cut a drive down that 10 or 12 foot you still can't see to the south or to the north around that -- the hill not only has height, but it's in the middle of a turn. It's actually an S-turn. If anybody has ever been out

Ohio Valley Reporting
(270) 683-7383
Highway 81 where Glenwood Baptist Church is located, that's a pretty bad hill there.

CHAIRMAN: Shouldn't be any houses. It is a bad place.

MR. TUCKER: Yes. That's why I'm saying that what you've got proposed doesn't work out. That lot is accessible from a private drive. It used to be a county road. That's the way that I get to my piece of property. What we propose doing is just adding another drive off of that private drive back there to the existing piece of property or the one that's being proposed today.

CHAIRMAN: There is a drive there now?

MS. TUCKER: Yes. The drive that's located there now used to be a county road, but it hasn't been a county road forever. We actually take care of that, the residents that live in that area. It's a paved drive.

CHAIRMAN: That's not the one that goes right behind, is it, the one that goes right by Glenwood Baptist Church there?

MR. TUCKER: Yes.

CHAIRMAN: Thank you so much.

Does anybody have any questions?

MR. APPLEBY: I don't think we're asking
him to move the access, are we? All we're concerned
about is the dimensions of the lot?

MR. NOFFSINGER: That is correct.

MR. APPLEBY: We don't really care that you leave the drive as it is, what you're essentially
doing is putting 365 foot long pass way 50 feet longer
than the property which we don't approve any more. We
want those lots to be more uniform. Not to exceed a
three to one ratio. He's go the frontage, if I'm
looking at that right, to divide it off and still
maintains access wherever he wants to access; is that
right, Gary?

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: Are you wanting to have access
off of 81?

MR. TUCKER: No.

CHAIRMAN: Then what's the exact problem
there with the squaring of that lot up?

MR. TUCKER: Mainly because that's too
much acreage.

CHAIRMAN: Let me ask you another question
then. Why do we have this dog-leg? What does it even
matter if it comes out to 81? Why don't you just
square it back there in the back?

MR. APPLEBY: Doesn't have access on
public road that way, doesn't it?

CHAIRMAN: Yes, he does.

MR. TUCKER: See, that was the problem all along. That little strip of ground that's suppose to be access to a public road, that's just nonsense. In that area that doesn't work. That drive was a county road at one time. It's just no longer maintained by the county. It's maintained by the citizens that live there.

CHAIRMAN: That comes off of, what is that road back there?

MR. TUCKER: That's just a private drive.

CHAIRMAN: It comes off of 81?

MR. TUCKER: It comes off of 81 and it's paved all the way back. We pay for the pavement. We keep the road up.

CHAIRMAN: I make a comment here to Mr. Appleby. I'm lost here to the point where I don't understand why he still needs that access back to 81.

MR. APPLEBY: Can't have a land lock lot.

CHAIRMAN: Even though it has a private road there?

MR. APPLEBY: Ask Mr. Noffsinger.

MR. NOFFSINGER: He's required to have a
minimum frontage on public right-of-way. Where he's
going to access the properties off the private pass
way and we found through past experiences as we get
more and more people living on those pass ways, they
start to demand more and more to the public to take
over those roadways for maintenance. If he has access
out to 81, then he has the opportunity. In the future
should this pass way not work out, he can go in and
cut his own drive. That's not to say this is a safe
spot to do it. It's not to say it will be done, but
you have that opportunity to do it.

CHAIRMAN: But if he squares that lot up,
that will give him a lot more road frontage there to
make a safe passageway.

MR. NOFFSINGER: Yes.

CHAIRMAN: Any other questions?

MR. JAGOE: Do you own all the property
there? You're just dividing it?

MR. TUCKER: No. I own the 10575. That's
my piece of property there. My parents own the rest
of the property. This is all in the family. The
other, the access road that's paved there is five
families back there that take care of that road. I
mean we've paved it. We take care of it.

CHAIRMAN: Who is living on that lot now?
Anybody?

MR. TUCKER: No. It will be a new building site.

CHAIRMAN: A family member going to move in there?

MR. TUCKER: Yes.

MR. HAYDEN: How wide is that property, the right-of-way?

MR. TUCKER: How wide is that road?

MR. HAYDEN: Yes.

MR. TUCKER: Approximately 12 feet of paved drive there probably. It's used by all the farmers, grain trucks, four-wheel drives, large four-wheel drive tractors. Like I said it used to be a county road, but I've lived in that area for 35 years and the county has never serviced that road. Long before I moved out there, it was not serviced by the county. It actually used to go plumb through. It used to go from 81 and it came out on whatever that road that is that goes through to Utica. 415 or whatever. They discontinued that.

CHAIRMAN: Let me ask that question one more time. Apparently some family member is going to move in there eventually, right?

MR. TUCKER: Right. A new house will be
1. built there within a year, year and a half.
2. CHAIRMAN: I don't have any more questions.
3. MR. JAGOE: Didn't we look at some of these before that were flagged-shape, that if there was no other division of the property?
4. CHAIRMAN: I see. Yes, we have and yes, we did. As long as that property wasn't divided again. Is that what you're talking about?
5. MR. JAGOE: Can we stipulate that on a minor?
6. CHAIRMAN: We did that once before, did we not, Mr. Noffsinger?
7. MR. NOFFSINGER: You can stipulate it.
8. The concern I have there is, you know, there's adequate frontage on this property to meet the regulations and to create additional lots in the future. I would certainly hate to limit that property owner's right to subdivide within the existing regulations unnecessarily. I mean we're dealing with an issue of a very irregular shaped lot. This is irregular as they come. You have adequate frontage to build, creating that lot and meeting the regulations.
9. MR. TUCKER: I may speak again. If those pictures just show you road frontage, it's not a
practical place to build on 81 in that location. Not only do you have a problem getting out on the highway. I don't know how you would possible do that because you can't see either direction of oncoming cars and you're talking about cars running 60 miles an hour. You know, you're not pulling out in 35 mile an hour traffic. That is a hill. Where the house is being proposed to be built and the lot is on the back side of that hill. It's just not a practical place. You really need to see it to understand it. I'm not trying to push something over on the board. It's not that. It's not particular really.

CHAIRMAN: We understand that. Where our dilemma is is that we don't usually approve these flag lots. Here's the other issue. So we're approving a flag lot, but what's the big deal? You can't do anything with it. You can't make any access off of 81 with this flag lot; am I correct?

MR. TUCKER: Right. I mean -

CHAIRMAN: But am I correct?

MR. TUCKER: Well, - -

CHAIRMAN: Let me finish here. I'm trying to make a point here.

If we take that lot and we take it from the point that it's at the south corner of it,
southwest corner and bring that piece of property and
line it all the way back in 81 in a straight area
which would make it roughly, what, two and a half
acres at that point in time?

MR. TUCKER: Something like that.

CHAIRMAN: Would there be some way to gain
access at the lower point here, at the southern point
of that property line? Would there be some way to
have a driveway into that property if at some time
somebody gets crossways on this private road. You see
where we're going with this? People get crossways.
It may not be your family. It may be ten years from
now. We need to have this issue resolved now. So my
question to you is: Can there, if we take this lot
and straighten it across the back south corner, can
there be access off 81?

MR. TUCKER: When you do that you're going
to still create the problem. There's no place --

MR. CHAIRMAN: I understand that, but I'm
just saying would it be more logical to have access
off 81 say just -- what I'm getting at: If at some
time we need to have access off of 81, would it be
more practical to have the 160 feet further south --
if you had a choice would you rather be -- it would
make sense to me that I would want to be 160 foot

Ohio Valley Reporting
(270) 683-7383
below that hill.

MR. TUCKER: But you're still on the hill.

That's the problem.

CHAIRMAN: I understand, but you'd rather be below the hill there where you have a little more, you can see a little more. I've been out there. What I'm saying is would it make sense?

MR. TUCKER: You can take as much as you want to across there and until you get down to the straight of way you can't see south. You're in a curve. That's actually an S-curve over that hill.

CHAIRMAN: I understand that.

MR. TUCKER: I walked that piece of property yesterday. When I took that camera out there and made those pictures, then I realized that there was no good spot because I had already planned to do that when I built my house on the other lot. I had planned on cutting a road from 81 and it's not practical. I've lived back there in that area for 12, 15 years now.

CHAIRMAN: You may not be able to cut a road. I'm just going by memory because I've been out there several times. You may not be able to cut a road straight off of 81, but you may be able to angle off 81 and come up there.
MR. TUCKER: I see what you're saying, but you still can't see however you want to do it. It's not the problem getting off 81. If you want to cut a road in there, cut a road from north to south or south to north toward the east, it's not a problem getting up the drive. It's when you get ready to get out of the drive. That's going to cause the problem.

CHAIRMAN: And they have the same situation basically at the top of that hill there by the church, do they not?

MR. TUCKER: It's flat there.

CHAIRMAN: Yes, but still you're at the crown of that hill.

MR. TUCKER: You're at the crown, but it's a whole lot flatter on top of that hill than it is in that curve on the side of that hill.

MR. APPLEBY: The issue is still not where he gets access to the property. It's just can you meet the requirement if our ordinance requires, which he can by changing the lot.

CHAIRMAN: He can't at this point.

MR. APPLEBY: In light of that, I would have to make a motion to deny based on that plat.

CHAIRMAN: We have a motion for denial.

MS. DIXON: Second.
CHAIRMAN: We have a second by Ms. Dixon.

All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Thank you so much.

-----------------------------------------

SURETY RELEASES

ITEM 22

Dana Corporation, $13,561.00
Consider release of surety (Performance Bond) for landscaping.
Surety posted by: Rentenbach Constructors

ITEM 23

Kentucky Wesleyan College Parking Lot, $6,493.50
Consider release of surety (Performance Bond) for landscaping.
Surety posted by: Kentucky Wesleyan College

ITEM 24

Owensboro Mercy Health Systems, Inc., $37,809.00
Consider release of surety (Performance Bond) for landscaping.
Surety posted by: Hoar Construction, LLC

CHAIRMAN: Item Number 22, Surety Releases.

Mr. Noffsinger, 22, 23 and 24, do we need to read those each individually?

MR. NOFFSINGER: No. I think they're all in order and can be released in toto.

MS. DIXON: Move to approve in toto.

MR. JAGOE: Second.

CHAIRMAN: Motion for approval by Ms.

Ohio Valley Reporting
(270) 683-7383
Dixon for Items 22, 23 and 24 and a second by Mr. Jagoe. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

SURETY TRANSFERS

ITEM 25

Doe Ridge, Unit #1, Section 2, $2,971.00
Transfer of surety (Certified Check) for water mains and fire hydrants to the Daviess County Fiscal Court.
Surety posted by: Robert J. Wimsatt

ITEM 26

The Greens of Hearland, Phase I, $2,006.40
Transfer of surety (Certificate of Deposit) for sidewalks to the City of Owensboro
Surety posted by: Jagoe Homes & Construction Co, Inc.

ITEM 27

Heritage Park, Unit #1, $1,735.80
Transfer of surety (Certificate of Deposit) for streets and sidewalks to the City of Owensboro.
Surety posted by: Jagoe Homes & Construction Co, Inc.

ITEM 28

Lake Forest, Unit #9, $8,694.00
Transfer of surety (Certificate of Deposit) for sidewalks to the Daviess County Fiscal Court.
Surety posted by: JMP/Lake Forest, Inc.

ITEM 29

Lake Forest, Unit #9, $4,288.20
Transfer of surety (Certificate of Deposit) for streets to the Daviess County Fiscal Court.
Surety posted by: JMP/Lake Forest, Inc.

ITEM 30

Lake Forest, Unit #9, $850.00
Transfer of surety (Certificate of Deposit) for storm
sewers to the Daviess County Fiscal Court.
Surety posted by: JMP/Lake Forest, Inc.

ITEM 31

Lake Forest, Unit #10, $10,302.00
Transfer of surety (Certificate of Deposit) for sidewalks to the Daviess County Fiscal Court.
Surety posted by: JMP/Lake Forest, Inc.

ITEM 32

Lake Forest, Unit #10, $5,419.40
Transfer of surety (Certificate of Deposit) for streets to the Daviess County Fiscal Court.
Surety posted by: JMP/Lake Forest, Inc.

ITEM 33

Lake Forest, Unit #10, $3,896.00
Transfer of surety (Certificate of Deposit) for storm sewers to the Daviess County Fiscal Court.
Surety posted by: JMP/Lake Forest, Inc.

ITEM 34

The Parks of Heartland, Phase I, $2,064.00
Transfer of surety (Certificate of Deposit) for sidewalks to the City of Owensboro
Surety posted by: Jagoe Homes & Construction Co, Inc.

ITEM 35

The Parks of Heartland, Phase 2, $3,416.00
Transfer of surety (Certificate of Deposit) for streets to the City of Owensboro.
Surety posted by: Jagoe Development Corporation

ITEM 36

Robert Wimsatt, 8700 Block KY 2830, $10,100.00
Transfer of surety (Performance Bond) for water mains and fire hydrants to the Daviess County Fiscal Court
Surety posted by: Robert J. Wimsatt

ITEM 37

Woodcrest, Unit #2, $19,668.40
Transfer of surety (Performance Bond) for streets and storm sewers to the Daviess County Fiscal Court.
Surety posted by: Bruce A. Peters

MR. JAGOE: I need to disqualify myself on Items 26, 27, 34 and 35.

CHAIRMAN: Mr. Jagoe is disqualifying himself on those items and we can do the rest of them in toto.

MR. ELLIOTT: Go ahead and do those four.

CHAIRMAN: Mr. Noffsinger, Items Number 26, 27, 34 and 35.

MR. NOFFSINGER: All in order and can be released in toto.

MR. HAYDEN: Motion for approval.

CHAIRMAN: We have a motion by Mr. Hayden.

SISTER VIVIAN: Second.

CHAIRMAN: Second by Sister Vivian. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE WITH THE EXCEPTION THAT MR. JAGOE DISQUALIFIED HIMSELF)

CHAIRMAN: Motion carries.

Items Number 25, 28, 29, 30, 31, 32, 33, 36 and 37.

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: All those are in order. Chair is ready for a motion.
MR. JAGOE: Move to approve.

MS. DIXON: Second.

CHAIRMAN: All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Item 38 under New Business, should I read this, Mr. Noffsinger?

NEW BUSINESS

ITEM 38

Lois Arnold Estate, Property Division
Consider release of surety (Certified Check) $2,500 for fire hydrant.
Surety posted by: Lois Arnold Estate, c/o Paulette Boswell

MR. NOFFSINGER: This item is ready for release and for your consideration.

CHAIRMAN: Chair is open.

MR. JAGOE: Move to approve.

MS. DIXON: Second.

MR. CHAIRMAN: Motion for approval by Mr. Jagoe. Second by Ms. Dixon. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: One more item of business.

MS. DIXON: Move to adjourn.

MR. JAGOE: Second.

CHAIRMAN: All those in favor raise your
right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned. Thank you.

-----------------------------------------
STATE OF KENTUCKY)  
COUNTY OF DAVIESS)  

I, LYNNETTE KOLLER, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Planning & Zoning meeting was held at the time and place as stated in the caption to the foregoing proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately and correctly transcribed into the foregoing 154 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 1st day of May, 2001.

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

COMMISSION EXPIRES:
DECEMBER 19, 2002

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting  
(270) 683-7383