

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 APRIL 19, 2001

3 * * * * *

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

9 MEMBERS PRESENT: Nick Cambron, Chairman
10 Gary Noffsinger
11 Dave Appleby
12 Jimmy Gilles
13 Scott Jagoe
14 Irvin Rogers
15 Sister Vivian Bowles
16 Judy Dixon
17 Belinda Douglas
18 Martin Hayden
19 Stewart Elliott,
20 Attorney

21 * * * * *

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

25 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.

1 The minutes are on file. Any questions or comments by
2 any board members?

3 (NO RESPONSE)

4 CHAIRMAN: Chair is ready for a motion.

5 MR. APPLEBY: Motion for approval.

6 MR. JAGOE: Second.

7 CHAIRMAN: Motion for approval by Mr.

8 Appleby. Second by Mr. Jagoe. All those in favor

9 raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Minutes are approved.

12 Number 2, Mr. Noffsinger, the GIS Update

13 to OMPC by Mr. Will Carpenter.

14 MR. NOFFSINGER: Yes. Mr. Will Carpenter,

15 is here tonight to give a brief presentation on the

16 geographic information system that's being coordinated

17 for this community. At this time I turn it over to

18 him. We may want to move out into the audience and

19 take the chairs and scoot them back so we can see the

20 screen.

21 MR. CARPENTER: I would like to provide an

22 update on the GIS project. First a little bit of

23 background.

24 The GIS consortium is a team effort

25 comprised of the OMPC, the city, the county, RWRA and

1 OMU. It was determined that while all can reek the
2 benefit from geographic information system, none could
3 afford to do it by themselves so each agency elected
4 to pull their resources into this project.

5 To date we've received 450 map sheets at
6 100 scale map sheets, each to 100 feet that are
7 centered on the urban service area. Essentially a
8 fourth of the county has been mapped at this level.

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

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

23 As you can see there's quite a bit of
24 information here available through the photograph. In
25 fact, if you zoom down too closely it breaks up into

1 these pixels. The pixels are six inches across. So
2 when we speak about the resolution north of the photo,
3 you're talking about if this is a six inch resolution
4 of the photograph. Like I said we have 450 of these
5 that are compiled together throughout the GIS. The
6 photography was taken in March of '99 so it's two
7 years old. Unfortunately the tornado destroyed or
8 damaged over 100 structures. So the photograph that
9 we see will have some structures that no longer exist
10 or some structures that have been modified as part of
11 the reconstruction.

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

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

22 Give you an idea about the system demands
23 that we're running on the computer. Each one of these
24 photographs is about 23 megabytes which is a pretty
25 large image file. The machine I'm running here is

1 about 400 megahertz Pentium III. So it's a fair bit
2 of overhead to move these around. There's a
3 compressed version of these that are compressed in
4 what's called a Mr. Syd format which is about tenth
5 the size and the performance is much faster, but you
6 sacrifice a little bit of resolution.

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

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

24 Let me turn on the fire hydrants here.
25 The fire hydrants are collected by OMU using field

1 surveying equipment called Global Positioning System
2 or GPS equipment which is an economical way of getting
3 detailed information into the system.

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

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

21 What I did was those are the structures
22 that are within 200 feet of that fire hydrant. That
23 could have easily have been an issue of any distance
24 say from a parcel. That you can determine what
25 parcels touch other parcels. For example,

1 notification for a zone change request. Then those
2 parcels - - since I keep talking about parcels, let's
3 turn the parcels on.

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

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

19 Another component of the GIS is the
20 information behind the GIS or behind the map. So if I
21 take - - select this feature. What I'm showing now is
22 the attribute table that is associated with that
23 individual hydrant that I just clicked on. Some of
24 the things that they are collecting the color of the
25 top. Here's blue top. The color of the top indicates

1 what the flow test rating was. Last time they
2 measured the flow of that hydrant and blue is the best
3 category. Manufacturer, break away flange. That's
4 the flange above the green so if a vehicle hits it so
5 you don't have to replace buried water main. Down at
6 the bottom those are technical specifications about
7 how the data was collected.

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

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

1 If we can do this for fire hydrants, then
2 we can do this for any other feature that we map. We
3 can do this, for example, every one of the parcels
4 will be tied to a zoning classification and to land
5 use classification. That gives a little bit of idea
6 of that.

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

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

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

25 MR. APPLEBY: Are these maps going to be

1 available to the public?

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

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

15 (NO RESPONSE)

16 CHAIRMAN: Thank you so much, Mr.
17 Carpenter.

18 -----

19 PUBLIC FACILITIES PLANS
20 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

21 ITEM 3

22 212, 218 West 8th Street (Map N-4)
23 Land Disposition
24 Consider comments regarding a proposal to close a
25 portion of a 10-foot wide alley.
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, this

1 application has been reviewed by the Planning Staff.
2 It's found to be in order. You are reviewing this
3 alley closing. Consistency or if it's not in
4 consistent with your adopted Comprehensive Plan.
5 Planning Staff has reviewed this proposal and we found
6 no inconsistencies with the plan and would recommend
7 you forward a recommendation of that effect to the
8 city commission.

9 CHAIRMAN: Thank you so much, Mr.
10 Noffsinger.

11 Any of the commissioners have any
12 questions or comments?

13 SISTER VIVIAN: Mr. Cambron, I have to
14 disqualify myself.

15 CHAIRMAN: So noted. Thank you.

16 Chair is open for a motion.

17 MR. APPLEBY: Motion for approval.

18 MR. GILLES: Second.

19 MR. CHAIRMAN: Move for approval by Mr.
20 Appleby and second by Mr. Gilles. All those in favor
21 raise your right hand.

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

24 CHAIRMAN: It's unanimous.

25

1 ITEM 4
2 7420 US 60 W (Map CO-16)
3 Building Demolition
4 Consider comments regarding the demolition of Stanley
5 School.
6 Referred by: Daviness County Fiscal Court

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 Sourt.

15 CHAIRMAN: Is anybody here from the public
16 want to make any comments or any board members?

17 (NO RESPONSE)

18 CHAIRMAN: If not the Chair will entertain
19 a motion.

20 MR. HAYDEN: Make a motion to approve.

21 MR. ROGERS: Second.

22 CHAIRMAN: Motion for approval by Mr.
23 Hayden. Second by Mr. Rogers. All those in favor
24 raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

26 CHAIRMAN: Item Number 39. We're moving
27 this up. It's closing - - there again it's land

1 disposition, but it's closing of an alley.

2 ITEM 39

3 601 East 23rd Street

Land Disposition

4 Consider comments regarding a proposal to close a
5 portion of a 15-foot wide alley.

6 Referred by: City of Owensboro

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

15 CHAIRMAN: Thank you so much, Mr.
16 Noffsinger.

17 Anybody here have any comments on that or
18 questions?

19 (NO RESPONSE)

20 CHAIRMAN: Chair is open for a motion.

21 MR. APPLEBY: Motion for approval.

22 MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: That's unanimous.

2 Item Number 5, Mr. Noffsinger.

3 PROPOSED HISTORIC PRESERVATION DISTRICTS

4 ITEM 5

5 JZ Moore Historic District (Map N-4)
6 115-119 (odd) East 12th Street, 109-115 (odd) East
7 14th Street, 107 West 14th Street, 1129-1331 Allen
8 Street, 1202-1229 Daviess Street, 1302-1330 (even)
9 Daviess Street, 115-116 East Parrish Avenue, 1200-1330
10 St. Ann Street

11 Consider comments regarding proposed designation of
12 historic preservation district and adoption of design
13 standards.

14 Referred by: Owensboro Historic Preservation Board

15

16 MR. NOFFSINGER: Mr. Chairman, this is

17 consideration where the Owensboro Metropolitan

18 Planning Commission is required to evaluate this

19 proposed designation in light of existing and future

20 plans for development and growth within the city and

21 to submit an evaluation in writing to the Owensboro

22 Board of Commissions which will be the city

23 commission. The Planning Staff, we have prepared a

24 document that gives you some background which you

25 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.

1 We do have representatives from the City of Owensboro
2 Community Development Department that was instrumental
3 in putting these together. It's now ready for your
4 comment and any public comment that there might be.

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

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

9 CHAIRMAN: I don't have any questions.
10 Any board members?

11 (NO RESPONSE)

12 CHAIRMAN: Chair is ready for a motion.

13 MS. DIXON: Move for approval.

14 CHAIRMAN: Move for approval by Ms. Dixon.

15 SISTER VIVIAN: Second.

16 MR. CHAIRMAN: Second by Sister Vivian.

17 All those in favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: That's unanimous.

20 Mr. Noffsinger, Item Number 6.

21 ITEM 6

22 Old Owensboro Historic Business District (Map N-4)
23 101 Block Daviess Street, 201 Block East Second Street
24 Consider comments regarding proposed designation of
25 historic preservation district and adoption of design
standards.

Referred by: Owensboro Historic Preservation Board

1 MR. NOFFSINGER: Mr. Chairman, this is a
2 similar situation where the Planning Commission is
3 reviewing the proposal against the existing future
4 plans for development of Owensboro. The Staff is
5 recommending approval of the establishment of the Old
6 Owensboro Historic Business District as a historic
7 preservation district and adoption of mandatory
8 compliance with the 1990 downtown design guidelines.
9 There have been public hearings evaluating this
10 proposal. I understand there was no, I believe no
11 public comment. If this commission makes a favorable
12 recommendation, it will go on to the Owensboro City
13 Commission for final action.

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

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

19 CHAIRMAN: Thank you, Mr. Noffsinger.

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

22 (NO RESPONSE)

23 CHAIRMAN: Chair will entertain a motion.

24 MS. DIXON: Move for approval.

25 CHAIRMAN: Move for approval by Ms. Dixon.

1 MR. APPLEBY: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: That's unanimous.

6 Item Number 7.

7 -----

8 ZONING CHANGES - CITY

9 ITEM 7

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

13 MR. ELLIOTT: State your name, please.

14 MS. WATSON: Becky Watson.

15 (MS. BECKY WATSON SWORN BY ATTORNEY.)

16 PLANNING STAFF RECOMMENDATIONS

17 Staff recommends approval because the proposal is
18 in compliance with the adopted Comprehensive Plan.
19 This recommendation is made subject to findings of
20 fact that follow:

21 Findings of Fact:

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

1 2. A portion of the subject property is located
2 in a Business Plan Area, where urban low-density
3 residential uses are appropriate in very-limited
4 locations;

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

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

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

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

17 CHAIRMAN: Thank you, Ms. Watson.

18 Is there anyone here that represents the
19 applicant tonight?

20 Do you have any comments?

21 APPLICANT: No.

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

24 (NO RESPONSE)

25 CHAIRMAN: Chair will entertain a motion.

1 MR. HAYDEN: Make a motion for approval of
2 Facting Finding 1 through 5 with Staff Recommendation.

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

5 MR. JAGOE: Second.

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: That's unanimous.

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

13 Mr. Appleby, you're up.

14 ITEM 8

15 2023 West Second Street, 0.35 acres (Map N-3)
16 Consider zoning change: From I-1 Light Industrial to
17 I-2 Heavy Industrial.
18 Applicant: Earl Mack Cambron, Nina Margaet Cambron

19 PROPOSED ZONE & LAND USE PLAN

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

24 SPECIFIC LAND USE CRITERIA

25 (a) Building and lot patterns; outdoor storage
areas - Building and lot patterns should conform with

1 the criteria for "Nonresidential Development" (D7),
2 and outdoor storage yards, with "Buffers for Outdoor
3 Storage Yards" (D1). Furthermore any building or
4 outdoor storage, loading or working areas (except for
5 accessory parking area) should be located at least
6 three hundred (300) feet from any urban residential
7 area and one hundred (100) feet from any other areas
8 except those containing light industrial or
9 agricultural/forestry uses.

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

23 APPLICANT'S FINDINGS

24 1. THE ZONING PROPOSAL IS IN ACCORD WITH THE
25 COMPREHENSIVE PLAN
Subject property is located in a

1 business/industrial land use area where heavy
2 industrial uses are allowed in very limited locations.

3 Presently, the Applicant stores vehicles on said
4 property awaiting work at Owensboro Body Shop. The
5 applicant desires to change that use to include the
6 storage of vehicles in general.

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

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

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

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

25 D7 - MIXED BUSINESS/INDUSTRIAL AREAS.

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

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

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

22 D1 - BUFFERS. The subject lot is currently
23 being used for the storage of vehicles and has
24 perimeter buffering in place as required by the
25 ordinance. Installing of additional buffering will

1 not be required.

2 The mixed use of the proposed rezoning is
3 consistent with the uses and zones in the
4 neighborhood. There are numerous mixed uses in the
5 immediate area. There are existing heavy industrial
6 uses in the area and existing I-2 zoning. In the next
7 block at the intersection of Second Street and River
8 Road there is a storage facility which is zoned I-2.
9 On the opposite side of Second Street from the subject
10 property at the railroad track there is an industrial
11 storage area that is zoned I-2. Since the
12 business/industrial areas contain a mixture of
13 business and light and heavy industrial uses, the
14 zoning to I-2 should be allowed to continue as mixed
15 use areas. This is consistent with D7 MIXED
16 BUSINESS/INDUSTRIAL AREAS as set out above.

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

21 These changes are as follows:

22 (a) Next door to the subject property at 2107
23 West Second Street, an existing house was recently
24 demolished to put in a commercial refueling station.
25 This refueling station is open 24-hours a day for city

1 vehicles, including garbage trucks; semi-trucks;
2 buses, off-road vehicles and city police cars. These
3 cars and trucks are refueled all during the night and
4 as early as 4:00 in the morning.

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

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

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

1 has existed with such uses for many years and is
2 typically recognized as a business/industrial
3 corridor."

4 (e) On or about February 4, 1999, the City of
5 Owensboro made major improvements to improve
6 transportation routes through the northwest quadrant
7 of the City of Owensboro by improving River Road from
8 West Second Street northward to the Field Packing
9 Company property. Pursuant to the requirements of KRS
10 100.324 the city requested and received approval from
11 OMPC for these right-of-way acquisitions. This is a
12 major change where land was acquired from the
13 adjoining property which is located west of the
14 subject property to improve transportation in the
15 area. This change encourages the increase of truck
16 traffic along the front of the subject property and to
17 the west of the subject property at the intersection
18 of River Road and West Second Street.

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

25 (g) The entire block on which the subject

1 property is located, where the property fronts on West
2 Second Street has changed from a residential use to
3 business/industrial uses.

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

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

20 PLANNING STAFF REVIEW

21 The subject property is located at 2023 West
22 Second Street between Fieldon Avenue and River Road.
23 Land use criteria applicable to this proposal are
24 reviewed below.

25 GENERAL LAND USE CRITERIA

Environment

1 No important environmental criteria apply to the
2 subject property.

3 Urban Services

4 All urban services are available to the site.

5 Development Patterns

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

14 Property to the north across the alley is zoned
15 R-4DT Inner-City Residential. These lots contain
16 single-family residential structures that fronts on
17 West First Street. The property to the immediate west
18 of the subject property is zoned B-4 General Business
19 and is in use as a gasoline service station. The
20 property directly to the east of the subject property
21 is zoned I-1 Light Industrial and is occupied by an
22 automobile and truck service and repair shop.
23 Properties across West Second Street to the south are
24 zoned B-4 General Business and include an automobile
25 body shop, a contractors' office building, and a

1 church.

2 SPECIFIC LAND USE CRITERIA

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

19 The proposed use for the subject property is for
20 storage of towed vehicles on the lot. This use as an
21 automobile impound yard or a yard for the storage of
22 abandoned, dismantled, partially dismantled or
23 obsolete or wrecked automobiles is not a principally
24 permitted use in an I-2 Heavy Industrial zone. The
25 use requires application for a Conditional Use Permit

1 and approval by the Owensboro Metropolitan Board of
2 Adjustment. The Zoning Ordinance additionally
3 requires a 300' setback from the residentially zoned
4 property to the north of the subject property and a
5 100' setback from the B-4 General Business zoned
6 property to the west. The subject property measures
7 100 feet in width and 153.82 feet in depth. The
8 application of the required setbacks would prohibit
9 the use of any portion of this property for an impound
10 lot. Therefore, if the zoning requests were approved,
11 variances for the total setback requirements in this
12 zone would have to be sought and approved along with a
13 conditional use permit in order to use the subject
14 property as proposed.

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

1 recognizing the likelihood that the intrusion of heavy
2 industrial uses into residential and other areas has
3 the potential of creating a nuisance to those
4 surrounding properties. The Zoning Ordinance
5 establishes the setbacks to enforce that protection.
6 The increased setback requirements for Heavy
7 Industrial uses acts as a buffer for surrounding
8 properties and is critical in locating a heavy
9 industrial use adjacent to a residential or business
10 use.

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

1 Comprehensive Plan anticipated these mixed uses in a
2 Business/Industrial plan area and has designated this
3 area in the land use portion of the plan as a
4 Business/Industrial plan area. The continuation of
5 mixed business and light industrial uses in this area
6 was planned for and does not constitute a change that
7 was not anticipated by the Comprehensive Plan. The
8 change from the fertilizer plant to mini-warehouses is
9 actually a decrease in heavy industrial activity in
10 the general vicinity and would add evidence that light
11 industrial uses are more appropriate in this area.
12 Although the mini-warehouses are located on I-2 Heavy
13 Industrial zoned property, this use is a permitted use
14 in I-1 Light Industrial zones and is compatible with
15 the mixed use area. The improvement to River Road has
16 not changed the uses in the area to heavy industrial
17 uses. The character of the neighborhood remains a
18 mixed use area located in a Business/Industrial Plan
19 Area as identified in the current Comprehensive Plan.

20 The applicant's findings also include an argument
21 that the Zoning Ordinance has been incorrectly
22 interpreted. This argument is not relevant to a
23 request for a zoning change. The Zoning Ordinance
24 provides a method of appeal through an administrative
25 review heard by the Owensboro Metropolitan Board of

1 Adjustment. The OMBA has the power to hear and decide
2 cases where it is alleged by an applicant that there
3 is an error in any order, requirement, decision, grant
4 or refusal made by the Zoning Administrator in the
5 enforcement of the Zoning Ordinance. The adopted
6 ordinance requires an I-2 Heavy Industrial zone and a
7 conditional use permit for the proposed use. The
8 argument by the applicant that the interpretation of
9 the ordinance is incorrect is not germane to this
10 zoning change, because the OMPC does not hear such
11 administrative appeals.

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

1 properly identified by the Comprehensive Plan.

2 PLANNING STAFF RECOMMENDATIONS

3 Staff recommends denial because the proposal is
4 not in compliance with the adopted Comprehensive Plan.
5 Findings in support of this recommendation include:

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

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

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

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

22 5. There have not been major changes of an
23 economic, physical or social nature within the area
24 that were not anticipated in the adopted Comprehensive
25 Plan that have substantially altered the basic

1 character of the area.

2 CHAIRMAN: Thank you, Becky.

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

5 MR. ELLIOTT: State your name, please.

6 MR. KAMUF: Charles Kamuf.

7 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

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

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

23 Also here is another exhibit. We also see
24 to the west of the subject property is a refueling
25 service station. I'll get into that in just a second,

1 but basically I don't think you can get any property
2 in Owensboro that would be more industrial as to a use
3 at the present time than the subject property.

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

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

23 For demonstration of what I just told you
24 here is an exhibit which shows a wrecked automobile
25 being pulled into the subject property for repairs.

1 Any type of car or vehicle could be moved
2 into that lot for storage as long as was to be
3 repaired at the Owensboro Body Shop.

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

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

20 As you get further down the road you run
21 into the I-2 area. The I-2 exist along northerly and
22 southerly along the railroad track. That's been zoned
23 for several years. I think since the late '80s.

24 Also there are many changes up and down
25 Highway 60 to the south and I'll show you those in

1 just a few minutes.

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

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

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

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

24 This next photo shows the property which
25 is directly east of the subject property and recently

1 it has been zoned I-1.

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

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

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

24 Under KRS 100.213 there have been major
25 changes of an economic, social and physical nature in

1 the area which were not anticipated in the
2 Comprehensive Plan and these changes are, and you have
3 photos to indicate this. Next door to the west of the
4 subject property, in this sick area, a house was
5 recently torn down and this is where the refueling
6 station is. It's open 24-hours a day as I indicated
7 earlier. All night the lights show and certainly it
8 will not be any more controversial; I'm talking as far
9 as the lights itself, than what we have existing
10 because there will not be any changes.

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

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

25 By a unanimous vote, and that zoning

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

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

1 property and the land was taken for condemnation from
2 the adjoining property.

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

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

20 In the alternate, the applicant states
21 that it's the applicant's position that the work of
22 the ordinance does not address the situation at hand.
23 The type of situation at hand is different from what
24 was proposed by the intent of the ordinance. The
25 applicant intends to eliminate the need to operate two

1 separate storage yards. Applicant desires to use the
2 subject property for an existing storage lot which is
3 associated with Owensboro Body Shop Repair business
4 and Jack's Wrecker Service where vehicles are hauled
5 off the lot because of illegal violations. It is the
6 applicant's position that the ordinance does not apply
7 to the existing lot, but only applies to a situation
8 where a new use is created in a new location. We are
9 saying this is not a new use, but a change in use and
10 therefore it's not covered by the ordinance.

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

22 MR. APPLEBY: Thank you, Mr. Kamuf.

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

25 (NO RESPONSE)

1 MR. APPLEBY: I've got one. If this
2 property you've stated that the appearance and the use
3 of the property essentially is not going to change but
4 for technicality you wouldn't have to be here for a
5 rezoning; is that correct?

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

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

10 MR. KAMUF: Yes, he is.

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

13 MR. ELLIOTT: State your name, please.

14 MR. WESTERFIELD: My name is Paul
15 Westerfield.

16 (MR. PAUL WESTERFIELD SWORN BY ATTORNEY.)

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

1 for you all to see these.

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

5 MR. APPLEBY: We'll pass those around.

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

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

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

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

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

25 MR. APPLEBY: No. This is Westside Auto.

1 Yes, Mr. Mischel.

2 MR. ELLIOTT: State your name, please.

3 MR. MISCHEL: Jim Mischel.

4 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

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

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

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

20 The biggest thing with that is that you're
21 normally 300 feet away from the residential zone and
22 100 feet from a commercial industrial, commercial
23 zone. For that reason is because a lot of times these
24 cars are towed in the dead of night at 2:00 in the
25 morning. It gives a buffer to these areas. Typically

1 these vehicles should not be towed to a lot unless it
2 is I-2. The only exception would be if that vehicle
3 is going to be towed to a lot that is going to repair
4 it. If they're going to repair it, they have like 30
5 days to make those repairs. If you know that it's
6 going to be repaired by that shop if it's wrecked or
7 whatever, it can go straight to that lot; otherwise,
8 it should go to a lot that's zoned I-2. I think that
9 30 days was put in. Lots of times these businesses
10 are busy repairing cars and they can't get to it that
11 day or the next day. Thirty days they usually rotate
12 them and working them in.

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

21 Now, in answer to Mr. Westerfield's
22 position, in other words, we have a petition that I'll
23 introduce here today that showing every adjoining lot
24 owner with the exception of two that have signed this
25 petition saying they have no objection to this.

1 Let me show you where Mr. Westerfield's
2 lot is.

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

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

1 have a petition here tonight by any individual that
2 adjoins this property that objects to it.

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

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

8 MR. APPLEBY: Thank you, Mr. Kamuf.

9 Would anybody else like to address the
10 commission?

11 (NO RESPONSE)

12 CHAIRMAN: Any commissioners have any
13 questions?

14 (NO RESPONSE)

15 MR. APPLEBY: Chair would entertain a
16 motion.

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

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

22 MR. KAMUF: Sister, we have a conditional
23 use that we have filed. There are two variances that
24 we have to file. One of them is 100 foot setback line
25 to the west and the other one is a 300 foot setback

1 line to the north. We have filed those and they'll be
2 heard at the next Board of Adjustment meeting.

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

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

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

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

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

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

23 SISTER VIVIAN: Yes. That's what I'm
24 saying. If we approve this tonight, then he's going
25 to go - - okay.

1 MR. KAMUF: If you approve it tonight,
2 then it'll still be subject to a conditional use and
3 it'll be subject to two variances and both of those
4 have been filed before the board.

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

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

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

12 MR. KAMUF: That's correct.

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

25 Now, in terms of if this zoning change is

1 approved, before the property can be used for the
2 intended use, you would have to have a conditional use
3 permit approved by the Board of Adjustment as well as
4 two variance request approved by the Board of
5 Adjustment. The first variance request would be
6 consider, you will be considering whether or not to
7 allow this use to take place 100 feet or within 100
8 feet of a commercial business. The second variance
9 that would be necessary is for this use to be allowed
10 to operate within 300 feet of a residential use or
11 residential zone. My question to Mr. Kamuf is, and I
12 don't know the scale of your map. Mr. Westerfield
13 stood up tonight and spoke that he's concerned about
14 this particular use. Is his property located within
15 300 feet of the subject property?

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

18 In any event I'm telling you that all of
19 those properties, Gary, to the north of that property,
20 you look on that petition and they have no objection.
21 In other words, Mr. Westerfield's property is a row of
22 houses that screen him from the rezoning proposal.
23 When he sees it to the rear or he sees the property it
24 will be no change in the use because you still have
25 that big sign in front and next door to it at the

1 present time there is that refueling station and it's
2 there from 4:00 in the morning and all day. I can't
3 answer that. In other words, if that is a question,
4 we'll have to take it up before the Board of
5 Adjustment when we bring on the conditional use and
6 the variance. It is from this point that you'll see
7 on that lot to this point over here. That direction,
8 it'll be that far from the subject property.

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

18 MR. ELLIOTT: Not the rezoning.

19 MR. KAMUF: I'm willing to tell this board
20 and if anything like that would take place - - you
21 remember the rezoning proposal that took place out in
22 front of Thoroughbred East where you called Mr.
23 Thompson down here one night and he was trying to get
24 the property rezoned to an intense commercial activity
25 and you said you weren't going to approve it or you

1 put some restrictions on it. We're here to tell you
2 that that's the purpose of the rezoning. We do not
3 intend to use it for any other purpose other than to
4 bring outside the I-1 area that would bring it into
5 the I-2 other than bringing towed automobiles that
6 have been violated under the city ordinance or
7 automobiles that have been towed from the city as a
8 result of some type of accident. We're telling you
9 that here under oath.

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

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

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

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

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

24 MR. JAGOE: But it would still be zoned
25 I-2.

1 MR. ELLIOTT: right.

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

9 MR. MISCHEL: That's not the reason. That
10 300 foot distance, spacing distance to residential,
11 100 foot commercial, that's been in the ordinance
12 prior to this accident into the wrecker ordinance.
13 What I'm saying is I think those distances were put in
14 to act as a buffer between this heavy industrial use
15 and these residential commercial areas.

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

24 MR. KAMUF: I'd like to say this in answer
25 to Mr. Mischel. I agree with him. There's a lot

1 more risk to a spill as a result of a damaged vehicle
2 than you're going to have from an automobile that's
3 pulled off the streets of Owensboro as a result of an
4 illegal ordinance violation.

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

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

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

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

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

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

1 MR. KAMUF: That's my understanding.

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

5 MR. APPLEBY: Deal with those issues
6 later.

7 MR. ELLIOTT: Yes.

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

10 MR. APPLEBY: Anybody else have any
11 questions?

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

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

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

20 MR. KAMUF: I talked with Mr. Noffsinger
21 about this item and certainly we're willing to
22 postpone the conditional use hearing on the
23 conditional use of the variance until such time as the
24 legislative body has had time to rezone the subject
25 property on a permanent basis.

1 MR. APPLEBY: Is that necessary?

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

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

9 MR. APPLEBY: Does anyone else have
10 anything?

11 (NO RESPONSES)

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

14 MR. KAMUF: Yes, sir.

15 MR. JAGOE: Under the current zoning?

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

21 MR. APPLEBY: Thank you, Mr. Kamuf.

22 MR. KAMUF: Thank you.

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

25 MR. HAYDEN: I'll make a motion to approve

1 it with the applicant's findings of facts.

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

4 MR. ROGERS: Second.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 MR. APPLEBY: It's unanimous.

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

11 ITEM 9

12 212 West Eighth Street, 0.153 acres (Map N-4)
13 Consider zoning change: From R-4DT Inner-City
14 Residential to B-2 Central Business.
15 Applicant: Brescia University, Inc.

16 PLANNING STAFF RECOMMENDATIONS

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

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

21 Findings of Fact:

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

25 2. The proposed zoning change to B-2 Central
Business will meet a community need, allowing Brescia

1 University to provide additional housing for its
2 students;

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

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

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

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

15 CHAIRMAN: So noted, Sister.

16 Anybody here representing the applicant at
17 this time?

18 MR. KAMUF: Charles Kamuf representing
19 Brescia College.

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

23 CHAIRMAN: Thank you so much.

24 Is there anybody here that have any
25 questions of the applicant?

1 (NO RESPONSE)

2 CHAIRMAN: Anybody here that has any
3 questions that the board needs to address?

4 (NO RESPONSE)

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

8 MS. DIXON: Second.

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

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

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

16 -----

17 ZONING CHANGES - COUNTY

18 ITEM 10

19 10221 Indian Hill Road, 4.33 acres (Map CO-82)
20 Consider zoning change: From EX-1 Coal Mining to A-R
21 Rural Agriculture.
Applicant: John Johnson, Edith Johnson

22 PLANNING STAFF RECOMMENDATIONS

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

1 Findings of Fact:

2 1. The subject property is located in a Rural
3 Maintenance Plan Area, where rural large-lot
4 residential uses are appropriate in limited locations;

5 2. The subject property is adjacent to A-R Rural
6 Agriculture zoning;

7 3. Coal mining activities on the subject
8 property have been completed and the property has been
9 reclaimed;

10 4. The proposed lot for rural residential use
11 fronts upon a public street;

12 5. The proposed residential lot meets the
13 criteria for rural large-lot residential use; and,

14 6. The subject property is not conducive for
15 farming activities because of its steep slope.

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

18 CHAIRMAN: Thank you, Ms. Watson.

19 Is there anybody here representing the
20 applicant?

21 (NO RESPONSE)

22 CHAIRMAN: Anybody here that's opposed to
23 the application?

24 (NO RESPONSE)

25 CHAIRMAN: The Chair will entertain a

1 motion.

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

4 CHAIRMAN: Motion for approval by Mr.
5 Hayden.

6 SISTER VIVIAN: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: It's unanimous.

11 ITEM 11

12 1009 Pleasant Valley Road, 0.525 acres (Map N-46)
13 Consider zoning change: From B-4 General Business to
14 I-1 Light Industrial.
15 Applicant: Tong Properties, LLC, c/o J.D. Tong,
16 Patricia Barrient, James M. Barrient

17 PLANNING STAFF RECOMMENDATIONS

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

20 This recommendation is made subject to the conditions
21 and findings of fact that follow:

22 Condition:

23 1. Installation of a landscape buffer with a
24 6-foot high continuous element and one tree for every
25 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.

1 2. If previous lot consolidation is not
2 recorded, lots shall be consolidated and plat recorded
3 prior to any expansion of the use on the subject
4 property.

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

7 4. All vehicular use areas shall be paved.

8 Findings of Fact:

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

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

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

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

22 5. The expansion of I-1 Light Industrial Zone
23 onto the subject property would not significantly
24 increase the light industrial use in the area, and
25 would not overburden the capacity of the existing

1 roadway or other urban services, because the proposal
2 is to continue the existing use that is currently
3 located on this property.

4 CHAIRMAN: Thank you, Ms. Watson.

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

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

10 MR. DUNN: Douglas Dunn.

11 (MR. DOUGLAS DUNN SWORN BY ATTORNEY.)

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

14 MR. DUNN: Yes, sir.

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

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

19 (NO RESPONSE)

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

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

25 MR. ELLIOTT: State your name, please.

1 MR. GRAY: Amy Gray.

2 (MRS. AMY GRAY SWORN BY ATTORNEY.)

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

19 The other thing that I understand is that
20 he's wanting to probably expand that business, the
21 building itself. There is an empty lot there. I can
22 only assume that he does own that lot now. It's going
23 to back up to one of the neighbors right here, be
24 right next to her and then also back up to the other
25 one.

1 What exactly does very limited use for
2 industrial 1 mean? What kind of heavy equipment can
3 he and will be bring in there? The other thing that I
4 have that I'm very upset about is the school bus. I
5 have two small children. Mine are under two. My
6 neighbors have children that are riding the school
7 bus. The school bus used to pick these children up
8 right in front of their home, drop them off in front
9 of their home.

10 CHAIRMAN: On George Madison?

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

20 In the early fall, late fall and early
21 spring these children are going to have to walk down
22 in the dark. Her daughter is going to be five. In
23 the rain, in the dark she's going to have to walk her
24 down to the bus or take her down and sit in the car.
25 That's another concern I have.

1 What does light-heavy industrial use mean?

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

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

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

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

23 Mr. Noffsinger, can you help us out there?

24 MR. NOFFSINGER: The I-1 Light Industrial
25 zone is an industrial classification that allows for

1 industrial activities such as automobile body shops,
2 contractor shops, shops of special trade. It allows
3 for light manufacturing.

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

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

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

21 It's now zoned B-4 general business. That
22 particular zoning classification allows for convenient
23 stores, retail sale of merchandise, general offices
24 and things of that nature. So I hope I've helped you
25 understand what the B-4 zone is an the I-1. I think

1 you need to hear from the applicant as to their future
2 plans.

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

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

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

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

13 CHAIRMAN: Now, right?

14 MR. DUNN: Yes.

15 CHAIRMAN: And what's your intentions?

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

18 CHAIRMAN: What's the use of it now?

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

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

24 MR. DUNN: Well, you can leave the
25 property on either street. I don't know that - - we

1 certainly wouldn't have to use George Madison, but
2 it's a city street.

3 CHAIRMAN: Sure. You understand her
4 concern?

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

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

10 What was your other question, Mrs. Gray?

11 MR. DUNN: The backhoe.

12 CHAIRMAN: Oh, yes, about a backhoe.

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

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

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

24 CHAIRMAN: Yes.

25 MRS. GRAY: So if that's going to be then,

1 not only will his workers be in and out down the
2 street but now we're going to have customers driving
3 up and down the street. This is a residential
4 neighborhood. This is not a business. I mean I
5 understand that it is zoned business now. What was
6 there before, you never saw a sole down there. You
7 never had this problem. People were not running up
8 and down our street except for when the train blocked
9 the tracks, when the train had the road blocked.

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

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

24 CHAIRMAN: Let me ask Mr. Dunn something.

25 Mr. Dunn, this property which dead ends

1 into George Madison, you have an entrance in the lot
2 at 1001; is that correct, sir?

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

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

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

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

10 Mr. Noffsinger.

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

24 CHAIRMAN: How many people would we have
25 down here if we close that road?

1 MRS. GRAY: That's a good point.

2 CHAIRMAN: Any other questions right now
3 of him?

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

6 MR. ELLIOTT: State your name, please.

7 MRS. HILL: Florence Hill.

8 (MRS. FLORENCE HILL SWORN BY ATTORNEY.)

9 MRS. HILL: I've lived in this house for
10 15 years. As far as I know, it's never been used for
11 anything but like offices. It was built for an office
12 and it's always been used for. My property adjoins
13 the property in question here.

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

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

22 She said our street is private. The way I
23 understand it if anything ever has to be done to that
24 street, the residents on that street have to pay for
25 it. I don't think it's county maintained or anything.

1 They've never plowed it or anything. I think that I
2 was told by one of the neighbors that lived there
3 before I did that it was a private street and if
4 anything ever happened to it we would have to repair
5 it.

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

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

15 CHAIRMAN: Mr. Noffsinger.

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

23 As part of this proposal, he would be
24 required to pave any of the vehicular use areas on the
25 property and then install a 6-foot height continuous

1 element, whether it be a fence or shrub row as
2 screening along your property boundary. Not on your
3 property. On his property, but along that boundary
4 line to provide you somewhat of a buffer from the
5 activities occurrence here. Since he would be
6 adjoining a residential zone, his building would have
7 to sit back off of that property line a minimum of
8 10-feet from your property. Now, I don't know how far
9 your homes sits off that property line, but his would
10 have to be 10-feet from the property line at a
11 minimum.

12 MRS. HILL: Would he be allowed to pave?
13 If he paves that lot, would it still have to be
14 10-feet from the property line? He cannot pave any
15 closer?

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

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

23 MR. NOFFSINGER: Yes, sir.

24 CHAIRMAN: Does that answer your
25 questions, Mrs. Hill?

1 MRS. HILL: Pretty much, yes.

2 CHAIRMAN: Thank you so much, ma'am.

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

5 MR. ELLIOTT: State your name, please.

6 MRS. ARNOLD: Carla Arnold.

7 (MRS. CARLA ARNOLD SWORN BY ATTORNEY.)

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

9 My children were the ones that she was talking about
10 earlier. It's already disrupted my life because my
11 children cannot catch the bus in front of the house.
12 My little boy has to walk down the street and he's
13 only nine years old. My little girl starts in the
14 fall and she's only five. The bus picks up my
15 children at the front door and I can let them out. I
16 feel safe that they're on the bus and they're dropped
17 off in front of the house. Now they've got to go down
18 the street. It's already disrupted our lives.

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

1 cutting through endangers my child's life. That's
2 just a statement.

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

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

9 CHAIRMAN: I understand.

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

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

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

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

23 MRS. GRAY: Amy Gray.

24 1009 is the building right next to the
25 railroad tracks; is that right?

1 CHAIRMAN: Yes.

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

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

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

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

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

24 MR. APPLEBY: You understand, bus drivers
25 turn around on private property now. At some point

1 that property could develop. If they wanted to a B-4
2 use in there right now, they wouldn't have to be
3 before this board. All they'd have to do is I imagine
4 just get a site plan. Don't even have to come before
5 the board. They could go in and put a convenient
6 store in there and not ever come before this board at
7 all. That very well could eliminate the bus's ability
8 to turn around there regardless. Something is going
9 to happen with the property be it this or be it a
10 commercial application.

11 CHAIRMAN: Let me ask a real quick
12 question here.

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

15 MR. DUNN: Yes, showroom.

16 CHAIRMAN: Your intentions are to do what?
17 Turn it into a kitchen and bath showroom?

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

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

22 MRS. ARNOLD: Right now when I come to
23 work there's like 50 trucks out there. I mean there's
24 a bunch of big trucks that they use on the
25 construction site.

1 CHAIRMAN: Let me make sure I understand.
2 As it is now, Mr. Appleby, you can show all the
3 kitchens and bath you want, but if you want to make
4 them and sell them, install - -

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

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

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

18 CHAIRMAN: We would not be the one.
19 Somebody would have to petition it.

20 Go ahead, Mrs. Douglas.

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

24 MR. DUNN: We moved into the building
25 about 30 days ago and it has been since that time.

1 MS. DOUGLAS: Are customers coming now?

2 MR. DUNN: Yes.

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

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

8 MR. ELLIOTT: State your name, please?

9 MS. NAPPIER: Maxine Nappier.

10 (MS. MAXINE NAPPIER SWORN BY ATTORNEY.)

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

21 CHAIRMAN: I understand.

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

24 CHAIRMAN: You do understand that in the
25 conditions that he would have to put up a 6-foot fence

1 around the back; in other words, you would not see
2 that?

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

5 CHAIRMAN: Or shrubbery.

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

11 CHAIRMAN: Thank you so much, ma'am.

12 MR. ELLIOTT: State your name, please.

13 MR. GRAY: Rodney Gray.

14 (MR. RODNEY GRAY SWORN BY ATTORNEY.)

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

17 CHAIRMAN: I'll ask him.

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

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

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

24 MR. MISCHEL: Jim Mischel.

25 I might try to clarify something. Maybe I

1 was the cause of some of this. I don't know. I'll
2 try to clarify.

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

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

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

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

24 MR. JAGOE: You're saying if it's
25 contracting with the shop included, correct?

1 MR. MISCHEL: If his main business is to
2 go out here and build houses, room additions, things
3 of that nature and sell the cabinets as a minor type,
4 you know, just accessory to that use, then he needs to
5 be I-1 Light Industrial.

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

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

12 CHAIRMAN: Did that answer your question,
13 sir?

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

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

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

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

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

24 MR. MISCHEL: You could propose an 8-foot
25 fence. Right now the ordinance require a 6-foot solid

1 element with a tree per 40-foot.

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

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

7 Any commission members have any questions?

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

16 MR. DUNN: Our address is Pleasant Valley
17 Road.

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

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

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

1 and use Pleasant Valley?

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

3 CHAIRMAN: At least you hope not, right?

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

11 CHAIRMAN: Are you making - -

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

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

16 MS. DOUGLAS: Second.

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

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

21 CHAIRMAN: All those opposed raise your
22 right hand.

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

25 CHAIRMAN: So on we go.

1 Chair is ready for a motion.

2 MS. DOUGLAS: I have another question.

3 CHAIRMAN: Yes, ma'am, go ahead.

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

9 MR. DUNN: From the time we moved in about
10 30 days ago, when we started that first day is going
11 to continue for as long as we have the business.

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

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

18 MR. APPLEBY: No.

19 MS. DOUGLAS: That is clear.

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

22 (NO RESPONSE)

23 CHAIRMAN: One of the comments I would
24 like to make here, that if we do make a motion for
25 approval that we make the installation of landscape

1 buffer an 8-foot high continuous element of one tree
2 for every 40 linear feet along the property perimeter
3 adjacent to the R-1A Single-Family Residential zone and
4 that is not prior to expansion. That's prior to
5 getting your zoning changed.

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

8 CHAIRMAN: I'm making that proposal.

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

13 CHAIRMAN: Who was that?

14 MR. NOFFSINGER: This gentleman right here
15 wanted - -

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

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

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

22 MR. GRAY: Rodney Gray.

23 CHAIRMAN: Mr. Gray, go ahead.

24 MR. GRAY: She doesn't want the 6-foot.
25 She wants the 8-foot.

1 CHAIRMAN: Who is she?

2 MR. GRAY: Ms. Nappier.

3 CHAIRMAN: She wants the 8-foot?

4 MR. GRAY: Yes.

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

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

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

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

14 CHAIRMAN: What I'm proposing would be an
15 8-foot fence with one tree every 40 linear feet along
16 the property perimeter.

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

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

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

1 your bedroom?

2 CHAIRMAN: I take that in consideration.

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

8 CHAIRMAN: Thank you so much, ma'am.

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

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

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

24 MR. ELLIOTT: State your name.

25 MR. LAMBERT: Jim Lambert.

1 (MR. JIM LAMBERT SWORN BY ATTORNEY.)

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

7 CHAIRMAN: Thank you so much.

8 Mrs. Gray, is that it?

9 MS. GRAY: Eight foot fence. Not chain
10 link. Got to be wood.

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

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

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

17 CHAIRMAN: We'll see.

18 Sister Vivian.

19 SISTER VIVIAN: I was just going to say
20 I'm opposed to postponing this because I think you can
21 come to terms with it, but I would strongly recommend
22 that you and the property owners sit down and discuss
23 what is best for them and for you. I think as mature
24 adults that you can decide this to everyone's benefit.
25 They may decide they want shrubbery, if it's shrubbery

1 that's going to keep out the noise but look like a
2 residential neighborhood rather than the chain link
3 fence or whatever, but I think you need some time to
4 think about it but I would say come to terms with
5 that. If Mr. Lambert will look into the safety issue
6 for the children because that is a concern for us.
7 The way it's already zoned almost everything that
8 you're opposed to could already be done.

9 CHAIRMAN: That's right.

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

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

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

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

19 MR. JAGOE: The adjoining property is on
20 here.

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

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

25 MR. APPLEBY: I would make a motion for

1 approval based on - -

2 CHAIRMAN: Excuse me just one second, Mr.
3 Appleby.

4 Go ahead, Ms. Hill.

5 MS. HILL: I was wondering why he objects
6 to the fence, building the fence?

7 CHAIRMAN: He hasn't.

8 MS. HILL: I though he said he was opposed
9 to the fence.

10 CHAIRMAN: He said 8-foot high.

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

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

18 Mr. Appleby, I'm sorry.

19 MR. APPLEBY: I make a motion for approval
20 based on Planning Staff's Recommendations Conditions 1
21 through 4 and Findings of Fact 1 through 5.

22 MR. NOFFSINGER: Mr. Appleby, in that
23 motion I think Mr. Cambron had condition 1 where it
24 says adjacent to R-1A Single-Family Residential zone
25 and scratch prior to any expansion of use on the

1 subject property. They're to do that now and not
2 prior to any expansion. Then the question of whether
3 or not it's a 6-foot or an 8-foot high fence.

4 MR. JAGOE: Is that Mr. Cambron's motion
5 or Mr. Appleby's motion.

6 CHAIRMAN: That was just a suggestion.

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

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

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

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

24 CHAIRMAN: The Condition 1 through 4 and
25 Findings of Fact 1 through 5; is that correct?

1 MR. APPLEBY: Right.

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

5 MR. ROGERS: Second.

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

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

10 CHAIRMAN: All those opposed.

11 (MS. DOUGLAS RESPONDED NAY.)

12 CHAIRMAN: We have one opposed. So noted.

13 Thank you so much.

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

16 MR. APPLEBY: Yes.

17 MR. CHAIRMAN: So noted.

18 -----

19 DEVELOPMENT PLANS

20 ITEM 12

21 3515, 3525 Frederica Street, 1.416 acres (Map N-24)
22 Consider approval of final development plan.
23 Applicant: Massie-Clarke Development Company

24 MR. NOFFSINGER: Mr. Chairman, this
25 application has been reviewed by the Planning Staff.
The application is found to be in order; however, this

1 is not a zoning change. It's a development plan and
2 if this rezoning is or if this development plan is
3 recommended for approval, it should be recommended
4 subject to approval of a landscape variance or a
5 roadway buffer variance. That application has been
6 filed and will be considered by the Board of
7 Adjustment in May. With that it's ready for your
8 consideration.

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

11 The Chair is ready for a motion.

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

14 CHAIRMAN: Motion for approval by Mr.
15 Rogers.

16 SISTER VIVIAN: Second.

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

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

22 CHAIRMAN: That's unanimous.

23 ITEM 13

24 4617 Sutherland Road, 2.30 acres (Map N-62)
25 Consider approval of final development plan.
Applicant: Steve Aull, Sports Warehouse

1 MR. NOFFSINGER: Mr. Chairman, this
2 application has been reviewed by the Planning Staff
3 and Engineering Staff. It's found to be in order and
4 ready for your consideration.

5 CHAIRMAN: Thank you, Mr. Noffsinger.

6 Anybody have any comments or questions of
7 the applicant?

8 (NO RESPONSE)

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

11 MR. APPLEBY: Motion for approval.

12 MR. HAYDEN: Second.

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

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: It's unanimous.

18 ITEM 14

19 601 East 23rd Street, 3.774 acres (Map N-8)
20 Consider approval of final development plan.
21 Applicant: Blessed Mother Parish of Owensboro

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

1 Planning Staff to give you a brief overview of what
2 those concerns are. With that it's ready for your
3 consideration.

4 CHAIRMAN: Wait just a second, Mr.
5 Mischel.

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

8 MR. BRYANT: Yes.

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

10 MR. MISCHEL: Jim Mischel.

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

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

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

1 - - that's a substantial improvement to that property.
2 The Board of Adjustment approved a conditional use
3 permit with a condition that the backing of the
4 vehicles be eliminated. As you can see the picture
5 there, it was eliminated and they put in a sidewalk
6 and shrubs and everything else there.

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

9 MR. MISCHEL: No, I don't.

10 The next one, Number 10, was 1130 East
11 15th Street. It's Jerry's Auto Body Shop there. It's
12 located at that address. The Planning Commission
13 rezoned that property in September 1999 to industrial
14 with the condition that backing into the public
15 right-of-way along Hall Street be eliminated. As you
16 can see in that picture it has been eliminated. The
17 public right-of-way be put back in grass and drive put
18 in and required landscaping be put in.

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

25 Again, there's a picture showing that this

1 has been done. They've eliminated that and put in the
2 grass and the landscaping.

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

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

22 Number 6, - -

23 CHAIRMAN: Mr. Mischel, can you go on and
24 cut straight to the chase. I think it's redundant
25 there. We understand. I appreciate it, but if you

1 could for the sake of time.

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

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

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

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

22 MR. MISCHEL: The addition at the Earth
23 Grain, they put an addition on. We had to eliminate
24 the parking. There's 10 to 12 employees parking and
25 they were backing out on 25th Street. They eliminate

1 - - if you've been by there, they've taken all the
2 pavement up. They're going to put grass and shrubs
3 and screen that area.

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

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

16 MR. NOFFSINGER: Excuse me. With Earth
17 Grain, Mr. Mischel said they had approximately 30,000
18 square feet of building area. They were adding about
19 1,000 square feet.

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

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

1 MR. MISCHEL: Yes. I just want to kind of
2 show you. After giving you the background of what we
3 consider minor improvements versus major substantial
4 improvements.

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

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

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

1 street.

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

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

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

17 CHAIRMAN: As being consistent. Anything
18 else?

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

21 MR. NOFFSINGER: Mr. Mischel, as an
22 alternate proposal to totally removing that parking,
23 we had discussed amongst the staff that perhaps there
24 could be, that parking could be removed from public
25 right-of-way and there could be parallel parking

1 installed along the property line or 3-feet back from
2 the property line with a drive between the property
3 line and the school, in front of the school where you
4 could have a drop off point plus parallel parking,
5 plus that would open up the street for parking as
6 well. So you would have no net loss for parking
7 spaces. You'd have the same amount of parking, but
8 you would have - - define parking spots on private
9 property as well as the street plus a drop off lane
10 that could be utilized for the school facility.

11 MR. MISCHEL: Yes. Our proposal if you
12 look at that pink area, there's something like that
13 except for I'm not sure they have room for angle
14 parking, but in that pink area they would have room to
15 put a drive, parallel park and then go out that
16 area. Plus they would gain because on a street they
17 could have - - it would almost be a double role of
18 parallel parking. One on their property and one on
19 the street. So they would gain there, but you
20 wouldn't have that traffic backing out. In the past,
21 my information has been consistent with that of the
22 Board of Adjustment. I think staff has too. I think
23 it's fair they're doing a lot of - - not only these
24 people, but a lot of others that have eliminated that
25 and they've had concerns of this being fairly done.

1 There's a couple of others too. I think St. Marks
2 Churuch, they're in the process of putting in
3 landscaping stuff. Sorgho Baptist Church, they've
4 agreed to do that. I think it has been done fairly
5 and done consistently in the past.

6 CHAIRMAN: Thank you, Mr. Mischel.

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

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

12 MR. ELLIOTT: State your name, please.

13 MR. BRYANT: Don Bryant.

14 (MR. DON BRYANT SWORN BY ATTORNEY.)

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

20 The overall site consist of about four
21 acres, 3.8 acres. What you can't tell by just looking
22 at the site plan or if you drive down the street and
23 really what I think is probably a major contrast with
24 some of the other situations as cited just a few
25 minutes ago by Mr. Mischel, this site actually

1 consists of 23 separate parcels that were bought over
2 the years at different times by the church. There's
3 several right of ways. In addition to that, street
4 right-of-ways and alleys that were closed. We have an
5 alley closing in this area that's about 150 feet in
6 length. The rest of this alley was previously closed.
7 Once this alley closing is completed, all of these
8 different parcels are going to be consolidated into
9 one parcel. So now the only common link is that we
10 have one owner and 20 some odd parcels. We're only
11 dealing with a part of this overall site. So now
12 these adjoining property owners or adjoining
13 properties are under one single title.

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

20 We're looking at a situation here and
21 certainly this is not something that will be designed
22 or proposed today, but we're looking at nonconforming
23 site with multiple buildings on it. As in the past
24 when we've nonconforming situations and we propose to
25 improve on that, we always have to compromise and come

1 up with something that's better than what we had
2 before, but normally we're not in the position where
3 we can bring everything that's not a practical matter
4 and bring it all into compliance.

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

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

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

14 This will be connected to the existing
15 church with a breezeway. We're proposing to remove 19
16 of the 47 spaces already. We're not asking that all
17 of these spaces be left. What we're asking is look at
18 the affected area. You know, out of four acres we're
19 probably looking at less than, you know, something on
20 the order of one-fourth of the proposed site. We're
21 giving up 40 percent of the nonconforming parking. So
22 we're giving up a lot here in order to get this done.
23 Far more than, you know, I think a reasonable
24 compromise. In fact, there's some here that probably
25 would say that they wouldn't even really want to give

1 up this park. This is what is being proposed. We're
2 giving you 40 percent.

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

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

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

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

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

21 The second photo is the same site. Again,
22 looking at it in a different angle. It also shows the
23 existing entrance which is proposed for reconstruction
24 which will be the main access through the breezeway
25 into the parking area to the north.

1 CHAIRMAN: In this first photo here and
2 I'm looking at end of this parking space here. How
3 many spaces are you all proposing to do away with
4 here from you're at?

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

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

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

14 CHAIRMAN: Right in here?

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

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

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

23 This is another shot looking at - - this
24 is standing in front of the school but looking back up
25 toward the church and it shows the parking spots being

1 utilized. Again, this was taken today.

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

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

16 CHAIRMAN: Anything else, Mr. Bryant?

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

20 CHAIRMAN: Thank you so much.

21 MR. ELLIOTT: State your name, please.

22 FATHER FREDDY: Father Freddy.

23 (FATHER FREDDY SWORN BY ATTORNEY.)

24 FATHER FREDDY: One thing I would like to
25 mention or bring before the commission is we're

1 talking about two different identities. One being the
2 church, Blessed Mother Church, and another being St.
3 Angela Merici School. We're talking about apples and
4 oranges. Apples being the church and the parish hall.
5 The oranges being the school.

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

17 CHAIRMAN: Thank you, Father Freddy. Is
18 there anyone else here that would like to speak?

19 How about we take one at a time and
20 hopefully every time you come up you bring something
21 new. We'll try to go through this a little quick.

22 MR. ELLIOTT: State your name, please.

23 MS. CONKRIGHT: Tracy Conkright.

24 (TRACY CONKRIGHT SWORN BY ATTORNEY.)

25 MS. CONKRIGHT: I am principal at St.

1 Angela Merici. I just on a personal level want to
2 give you a little overview of our school and what it's
3 like in this parking area during our arrival time and
4 our dismissal time.

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

18 The parking area in question, it is used
19 for faculty and staff parking. The average parking in
20 that area is 12 faculty members park there every day.
21 This area is also used for visitors and any deliveries
22 that are made into the building. If the parking in
23 front of the school building is taken away, parents do
24 not have easy access to the main entrance and we would
25 also have to relocate the 12 faculty members that park

1 there.

2 We have 265 students who are transported
3 to and from our school by car every day. During the
4 morning hours 125 of these approximately are dropped
5 off at the 23rd Street entrance. At dismissal time we
6 have, I couldn't count them all today, but it was
7 between 50 and 70 cars out front and they do take up a
8 whole line. We have our parking and then they take up
9 the whole entire side next to our street as well as
10 across the street when we dismiss.

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

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

1 CHAIRMAN: Thank you so much, ma'am.

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

4 (NO RESPONSE)

5 CHAIRMAN: Continue on, ma'am.

6 MR. JAGOE: I have one question.

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

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

11 MS. CONKRIGHT: In the back parking lot.

12 MR. JAGOE: You can show us here.

13 MS. THOMAS: I'm Sandra Thomas.

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

16 MS. CONKRIGHT: We have two buses during
17 dismissal and they both pick up in the back parking
18 lot. In the morning hours we have two buses that drop
19 off in the back parking lot, but one does drop off on
20 23rd Street.

21 MR. ELLIOTT: State your name for the
22 record.

23 MS. THOMAS: I'm Sandra Thomas. I'm a
24 parent of a child at St. Angela Merici and I attend
25 Blessed Mother Church.

1 (MS. SANDRA THOMAS SWORN BY ATTORNEY.)

2 MS. THOMAS: I'd first like to address Mr.
3 Michel on the storage building. I obtained the permit
4 for the storage building for the church, represented
5 the church on getting it. When we did I wanted to
6 make it perfectly clear that the parking they've
7 marked in pink was already existing. When I went and
8 presented that we wanted to build a storage building
9 there because we were going to tear down our existing
10 storage building for this future building, he reviewed
11 it and said, fine, you're not backing out into the
12 street. What you got you don't a parking concern. We
13 don't have to worry about it. I said, great. I
14 greatly appreciated his work on that. That parking
15 was already existing. Okay. We had brought a plat
16 and showed all the parking for the facility at that
17 time when that was addressed.

18 CHAIRMAN: Thank you.

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

25 CHAIRMAN: They come off of 22nd Street?

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

4 MS. CONKRIGHT: Go out 23rd Street.

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

7 MR. JAGOE: What has to be separated?

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

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

22 MS. THOMAS: Yes, and you're not allowed
23 to use it or else we can't use the county buses.
24 That's the big concern.

25 CHAIRMAN: Anything else?

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

6 CHAIRMAN: Thank you so much, Ms. Thomas.

7 We have somebody else that wants to speak
8 on maybe a new issue or bring something else up.

9 MR. ELLIOTT: State your name, please.

10 MR. CASTLEN: Charlie Castlen.

11 (CHARLIE CASTLEN SWORN BY ATTORNEY.)

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

25 The second point is, and this goes to Mr.

1 Kamuf's point, if you accept that point is that at
2 least with the school there's absolutely nothing
3 changes. We're having a new facility built for the
4 church, but for the school there's absolutely nothing
5 changing. That's the only point which I'd like to
6 make.

7 CHAIRMAN: Thank you so much.

8 MR. ELLIOTT: State your name, please.

9 MR. THOMPSON: Al Thompson.

10 (AL THOMPSON SWORN BY ATTORNEY.)

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

21 The second point was most of these
22 examples Mr. Mischel mentions seem to be all
23 commercial property. Earth Grains, Dizzy Daves, The
24 Money Tree, Jerry's Auto Body, and places where
25 there's a lot of traffic and customers backing in and

1 out where as the school situation it's mostly teachers
2 and staff are in there once and they leave in the
3 afternoon. So it seems there may not be as much
4 traffic. Thank you.

5 CHAIRMAN: Point well taken. Thank you so
6 much.

7 Any board member have any questions?

8 (NO RESPONSE)

9 MR. ELLIOTT: State your name, please.

10 MS. GREENWALT: Joyce Greenwalt.

11 (MS. JOYCE GREENWALT SWORN BY ATTORNEY.)

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

18 We're talking about a one block area
19 between J.R. Miller Boulevard and Veach Road. We've
20 got over 250 parents or 250 children that are being
21 picked up and dropped off in this area in the morning
22 and in the afternoon. If that parking is taken out,
23 we're going to be forced to parallel park on both
24 sides of the street and I can envision some double
25 parking. I can also envision children running back

1 and forth, vehicles being blocked. I just feel like
2 it would be a dangerous situation and I'm afraid that
3 there would be a greater likelihood of an accident
4 that would involve a child's life.

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

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

25 I would only ask that you can maybe

1 consider redoing angle parking as an alternative, but
2 don't remove our parking. I know that you'll consider
3 the safety of our children.

4 CHAIRMAN: We shall. Thank you so much.

5 Any questions or comments by any board
6 members?

7 Mr. Mischel.

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

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

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

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

1 has never done that. There has been a lot of the
2 churches and a lot of businesses, a lot of people has
3 been up here asking for that and it's never been
4 given. To be consistent I guess for the future, you
5 know, what will that bring in the future. Really this
6 board has never done that for that or landscaping for
7 that reason.

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

10 MS. HELMS: My name is Vicki Helms.

11 (MS. VICKI HELMS SWORN BY ATTORNEY.)

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

22 CHAIRMAN: Thank you so much.

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

1 reason?

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

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

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

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

23 Second while I understand that we need to
24 be consistent, the majority of these other instances;
25 for example we've got West Second Street, West Second

1 Street, East Parrish Avenue, Millers Mill Road,
2 Triplett Street, another on Triplett Street. There
3 are two or three of these that may be comparable, but
4 the majority of those streets are high traffic
5 streets, high rate of speed. I would think there
6 would be a whole lot more traffic involved than in
7 this particular instance. This is local traffic and
8 school traffic. Be whole lot more difficult to back
9 into Triplett Street than it would be to back into
10 23rd Street is my observation.

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

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

18 I think we have a situation here where
19 we're looking more at convenience than we are safety
20 for our children. This parking area, the site that's
21 being developed we're putting up a 15,000 square foot
22 building on a piece of property that's substantially
23 developed now. That area could be used for parking.
24 It sounds like is necessary for the operation of the
25 school. We have a vacant piece of property that

1 fronts 22nd Street that's shown to be a grass area.
2 I'm not sure what that area is used for now, but if
3 parking is a concern that area could be made into a
4 parking area. It could be made into a parking area
5 for the staff and we could take this area that's along
6 23rd Street and put in a drive lane that could be used
7 as a bus drop off point for the children. That would
8 put the buses in front of the school. They could drop
9 the children off and they would clearly be separated
10 from the parking area for the staff and the children.
11 That would also open up addition parking along 23rd
12 Street. I don't think we're looking at that aspect of
13 it. I think we're trying to keep the convenience of
14 parking in front of the school and we're looking at
15 that more than we are the safety of the children.
16 That's all I have to say.

17 MR. GILLES: Mr. Bryant, could you tell me
18 what the distance is there on the parking right now
19 from the street or from the curb to the school? It
20 might be on here and I'm not recognizing it. The
21 distance of existing parking right now that's against
22 23rd Street.

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

25 MR. GILLES: The curb to the building

1 there, the curb to the sidewalk.

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

9 MR. GILLES: Is that enough room?

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

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

16 MR. GILLES: Yes.

17 CHAIRMAN: Mr. Castlen.

18 MR. CASTLEN: I'm trying to go to the
19 issue of consistency. I don't know the details, but I
20 know it just occurred to me that my daughter goes to
21 Owensboro Catholic Middle School and I know that
22 church, Immaculate Church is the Catholic church
23 that's over there. I know they've built a parish hall
24 since I've been back to Owensboro within the last ten
25 years anyway. I know they still have the same parking

1 they've had all along. I'm curious as to how that
2 decision was reached. I'd like to think that we could
3 have the same consideration.

4 MS. CONKRIGHT: They still back out.

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

16 MS. THOMAS: Sandra Thomas again.

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

20 The church or the Diocese who owns the
21 property only has about 25 feet of actual property
22 that's theirs from the school to the building.
23 Twenty-five feet that you're going to get out and
24 you're going to put a bus in and you're going to load
25 kids or load them in from the property line to the

1 school. We don't own all that parking space. Again,
2 we only own - - there's 12-foot of that parking spot
3 that's owned by the city that since it's there we get
4 to use, but there's only 25-feet approximately when I
5 last scaled it and Rebecca could maybe verify this or
6 we could get a scale on that, that is actual available
7 for development legally in the front of the property.
8 This other grassed area to address that issues, the
9 church puts on a fund raiser each year, a picnic, and
10 we cook and the cooks cook in the grassed area instead
11 of the parking lot. We have to keep the grassed area
12 in order to earn \$20,000 in profits or fund raisers
13 from that picnic each year and if we do away with the
14 grassed area the cooks will not cook.

15 CHAIRMAN: They'll quit?

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

18 SISTER VIVIAN: Where is your playground,
19 Sandra?

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

25 CHAIRMAN: Kiss the cooks good-bye, right?

1 MS. THOMAS: Kiss the cooks good-bye.

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

5 FATHER FREDDY: Father Freddy.

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

12 MR. HAYDEN: No separate of the two then?

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

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

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

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

23 CHAIRMAN: Mr. Mischel, one more time.

24 MR. MISCHEL: The reason we're looking at
25 this whole property is because of the lot

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

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

17 CHAIRMAN: Thank you so much.

18 Any other questions by any board members?

19 (NO RESPONSE)

20 CHAIRMAN: The Chair is ready for a motion
21 then.

22 MR. ROGERS: Mr. Chairman, I make a motion
23 to approve the development plan turned in by the
24 applicant as is with keeping the 28 parking lots in
25 front of the school.

1 CHAIRMAN: Motion has been suggested that

2 - -

3 MR. HAYDEN: Second.

4 CHAIRMAN: Second by Mr. Hayden. All

5 those in favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries.

8 -----

9 MAJOR SUBDIVISIONS

10 ITEM 15

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

13 Consider approval of revised major subdivision
14 preliminary plat.

15 Applicant: JMJ Construction

16 MR. NOFFSINGER: Mr. Chairman, this

17 application has been reviewed by the Planning Staff

18 and the Engineering Staff. It's found to be in order

19 and ready for your consideration.

20 CHAIRMAN: Chair is open for a motion.

21 MS. DIXON: Move for approval.

22 CHAIRMAN: Move for approval by Ms. Dixon.

23 MR. GILLES: Second.

24 CHAIRMAN: Second by Mr. Gilles. All

25 those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

1 ITEM 16

2 Brookhill Heritage, Unit 12, 0.742+ acre (Map N-56)
3 Consider approval of major subdivision final plat.
4 Surety (Certificate of Deposit) posted: \$4,386.80
5 Applicant: Yewell's Heritage Developers, Inc.
6 MR. NOFFSINGER: Mr. Chairman, this
7 application has been reviewed by the Planning Staff
8 and the Engineering Staff. Found to be in order and
9 ready for your consideration.

10 MR. GILLES: Motion for approval.

11 MS. DIXON: Second.

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

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Unanimous.

17 ITEM 17

18 Fieldcrest Crossing, Unit 5, Lots 31-44 & 82-87 3.813
19 acres (Map N-14)
20 Consider approval of major subdivision final plat.
21 Surety (Irrevocable Letter of Credit) posted:
22 \$73,903.40
23 Applicant: Thompson Homes, Inc.

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

27 MS. DIXON: Move for approval.

28 MR. HAYDEN: Second.

29 CHAIRMAN: Move for approval by Ms. Dixon.

1 Second by Mr. Hayden. All those in favor raise your
2 right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: It's unanimous.

5 ITEM 18

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

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

12 MS. DIXON: Move for approval.

13 CHAIRMAN: Move for approval by Ms. Dixon.

14 SISTER VIVIAN: Second.

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

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: It's unanimous.

19 ITEM 19

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

23 MR. NOFFSINGER: Mr. Chairman, this
24 application is found to be in order and ready for your
25 consideration.

1 CHAIRMAN: Chair will entertain a motion.

2 MR. HAYDEN: Motion for approval.

3 CHAIRMAN: Motion for approval by Mr.

4 Hayden.

5 MR. ROGERS: Second.

6 MR. CHAIRMAN: Second by Mr. Rogers. All

7 those in favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: It's unanimous.

10 -----

11 MINOR SUBDIVISIONS

12 ITEM 20

13 1939, 1987 Greenbriar Road, 6.23, 25.06 acres
(Map N-48)

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

15

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

24 CHAIRMAN: Thank you, Mr. Noffsinger.

25 MR. HAYDEN: Motion for approval.

1 CHAIRMAN: Motion by Mr. Hayden.

2 MR. APPLEBY: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: That's unanimous.

7 ITEM 21

8 10575, 10655, 10719 KY 81, 1.606, 1.361, 9.505 acres
(Map CO-31)

9 Consider approval of minor subdivision plat.
10 Applicant: Jessie Allen Tucker, Jessie Allen Tucker,
Jr.

11 MR. NOFFSINGER: Mr. Chairman, this
12 application consist of two existing lots. One is a
13 development tract under ten acres in size. One is an
14 agricultural tract. The plat will end up with three
15 lots in addition of one lot. The additional lot
16 that's being created is very irregular shaped. It has
17 50 feet of frontage on Kentucky Highway 81. That 50
18 foot strip extends back approximately 363 feet back on
19 the property. It widens out to a lot that's about one
20 acre in size. This plat does not meet the minimum
21 frontage requirements that require the building
22 setback line. It does grossly exceeds the depth to
23 width ratios and the Planning Staff would recommend
24 that it not be approved.

25 CHAIRMAN: Thank you, Mr. Noffsinger. Is

1 there anybody here that represent the applicant.

2 Yes, sir.

3 MR. TUCKER: Jessie Tucker, Jr.

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

5 CHAIRMAN: Mr. Tucker, go ahead.

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

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

19 The problem 81 running north and south on
20 that hill. There's 10 to 12 foot of height from the
21 road bed up to the lot. So to cut a drive down that
22 10 or 12 foot you still can't see to the south or to
23 the north around that - - the hill not only has
24 height, but it's in the middle of a turn. It's
25 actually an S-turn. If anybody has ever been out

1 Highway 81 where Glenwood Baptist Church is located,
2 that's a pretty bad hill there.

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

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

13 CHAIRMAN: There is a drive there now?

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

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

22 MR. TUCKER: Yes.

23 CHAIRMAN: Thank you so much.

24 Does anybody have any questions?

25 MR. APPLEBY: I don't think we're asking

1 him to move the access, are we? All we're concerned
2 about is the dimensions of the lot?

3 MR. NOFFSINGER: That is correct.

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

13 MR. NOFFSINGER: Yes, sir.

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

16 MR. TUCKER: No.

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

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

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

25 MR. APPLEBY: Doesn't have access on

1 public road that way, doesn't it?

2 CHAIRMAN: Yes, he does.

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

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

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

13 CHAIRMAN: It comes off of 81?

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

17 CHAIRMAN: I make a comment here to Mr.
18 Appleby.

19 I'm lost here to the point where I don't
20 understand why he still needs that access back to 81.

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

22 CHAIRMAN: Even though it has a private
23 road there?

24 MR. APPLEBY: Ask Mr. Noffsinger.

25 MR. NOFFSINGER: He's required to have a

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

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

15 MR. NOFFSINGER: Yes.

16 CHAIRMAN: Any other questions?

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

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

25 CHAIRMAN: Who is living on that lot now?

1 Anybody?

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

4 CHAIRMAN: A family member going to move
5 in there?

6 MR. TUCKER: Yes.

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

9 MR. TUCKER: How wide is that road?

10 MR. HAYDEN: Yes.

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

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

25 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
3 questions.

4 MR. JAGOE: Didn't we look at some of
5 these before that were flagged-shape, that if there
6 was no other division of the property?

7 CHAIRMAN: I see. Yes, we have and yes,
8 we did. As long as that property wasn't divided
9 again. Is that what you're talking about?

10 MR. JAGOE: Can we stipulate that on a
11 minor?

12 CHAIRMAN: We did that once before, did we
13 not, Mr. Noffsinger?

14 MR. NOFFSINGER: You can stipulate it.
15 The concern I have there is, you know, there's
16 adequate frontage on this property to meet the
17 regulations and to create additional lots in the
18 future. I would certainly hate to limit that property
19 owner's right to subdivide within the existing
20 regulations unnecessarily. I mean we're dealing with
21 an issue of a very irregular shaped lot. This is
22 irregular as they come. You have adequate frontage to
23 build, creating that lot and meeting the regulations.

24 MR. TUCKER: I may speak again. If those
25 pictures just show you road frontage, it's not a

1 practical place to build on 81 in that location. Not
2 only do you have a problem getting out on the highway.
3 I don't know how you would possible do that because
4 you can't see either direction of oncoming cars and
5 you're talking about cars running 60 miles an hour.
6 You know, you're not pulling out in 35 mile an hour
7 traffic. That is a hill. Where the house is being
8 proposed to be built and the lot is on the back side
9 of that hill. It's just not a practical place. You
10 really need to see it to understand it. I'm not
11 trying to push something over on the board. It's not
12 that. It's not particular really.

13 CHAIRMAN: We understand that. Where our
14 dilemma is is that we don't usually approve these flag
15 lots. Here's the other issue. So we're approving a
16 flag lot, but what's the big deal? You can't do
17 anything with it. You can't make any access off of
18 81 with this flag lot; am I correct?

19 MR. TUCKER: Right. I mean -

20 CHAIRMAN: But am I correct?

21 MR. TUCKER: Well, - -

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

24 If we take that lot and we take it from
25 the point that it's at the south corner of it,

1 southwest corner and bring that piece of property and
2 line it all the way back in 81 in a straight area
3 which would make it roughly, what, two and a half
4 acres at that point in time?

5 MR. TUCKER: Something like that.

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

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

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

1 below that hill.

2 MR. TUCKER: But you're still on the hill.
3 That's the problem.

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

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

12 CHAIRMAN: I understand that.

13 MR. TUCKER: I walked that piece of
14 property yesterday. When I took that camera out there
15 and made those pictures, then I realized that there
16 was no good spot because I had already planned to do
17 that when I built my house on the other lot. I had
18 planned on cutting a road from 81 and it's not
19 practical. I've lived back there in that area for 12,
20 15 years now.

21 CHAIRMAN: You may not be able to cut a
22 road. I'm just going by memory because I've been out
23 there several times. You may not be able to cut a
24 road straight off of 81, but you may be able to angle
25 off 81 and come up there.

1 MR. TUCKER: I see what you're saying, but
2 you still can't see however you want to do it. It's
3 not the problem getting off 81. If you want to cut a
4 road in there, cut a road from north to south or south
5 to north toward the east, it's not a problem getting
6 up the drive. It's when you get ready to get out of
7 the drive. That's going to cause the problem.

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

11 MR. TUCKER: It's flat there.

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

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

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

21 CHAIRMAN: He can't at this point.

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

24 CHAIRMAN: We have a motion for denial.

25 MS. DIXON: Second.

1 CHAIRMAN: We have a second by Ms. Dixon.

2 All those in favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Thank you so much.

5 -----

6 SURETY RELEASES

7 ITEM 22

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

12 ITEM 23

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

17 ITEM 24

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

22 CHAIRMAN: Item Number 22, Surety

23 Releases.

24 Mr. Noffsinger, 22, 23 and 24, do we need
25 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.

1 Dixon for Items 22, 23 and 24 and a second by Mr.
2 Jagoe. All those in favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 -----

5 SURETY TRANSFERS

6 ITEM 25

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

11 ITEM 26

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

16 ITEM 27

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

21 ITEM 28

22 Lake Forest, Unit #9, \$8,694.00
23 Transfer of surety (Certificate of Deposit) for
24 sidewalks to the Daviess County Fiscal Court.
25 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

1 sewers to the Daviess County Fiscal Court.
Surety posted by: JMP/Lake Forest, Inc.

2

3 ITEM 31

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

6 ITEM 32

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

9

10 ITEM 33

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

13 ITEM 34

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

17

18 ITEM 35

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

22

23 ITEM 36

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

26

27 ITEM 37

28 Woodcrest, Unit #2, \$19,668.40
29 Transfer of surety (Performance Bond) for streets and
storm sewers to the Daviess County Fiscal Court.

Ohio Valley Reporting
(270) 683-7383

1 Surety posted by: Bruce A. Peters

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

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

7 MR. ELLIOTT: Go ahead and do those four.

8 CHAIRMAN: Mr. Noffsinger, Items Number
9 26, 27, 34 and 35.

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

12 MR. HAYDEN: Motion for approval.

13 CHAIRMAN: We have a motion by Mr. Hayden.

14 SISTER VIVIAN: Second.

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

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

20 CHAIRMAN: Motion carries.

21 Items Number 25, 28, 29, 30, 31, 32, 33,
22 36 and 37.

23 MR. NOFFSINGER: Yes, sir.

24 CHAIRMAN: All those are in order. Chair
25 is ready for a motion.

1 MR. JAGOE: Move to approve.

2 MS. DIXON: Second.

3 CHAIRMAN: All those in favor raise your
4 right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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

8 NEW BUSINESS

9 ITEM 38

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

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

17 CHAIRMAN: Chair is open.

18 MR. JAGOE: Move to approve.

19 MS. DIXON: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: One more item of business.

25 MS. DIXON: Move to adjourn.

MR. JAGOE: Second.

CHAIRMAN: All those in favor raise your

1 right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Meeting is adjourned. Thank
4 you.

5 -----

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

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

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

18

19

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

22 COMMISSION EXPIRES:
DECEMBER 19, 2002

23

COUNTY OF RESIDENCE:
24 DAVIESS COUNTY, KENTUCKY

25