The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, June 14, 2001, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

CHAIRMAN:  Good evening. I would like to welcome everybody to our June 14th Flag Day meeting of the Planning & Zoning Commission. I'd like to personally thank all of our veterans and those who have given so much for our country that are represented here and those that gave so much for us on this Flag Day.

Our invocation will be given by Mr. Scott Jagoe.
(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first item is consider the minutes of the May 10, 2001, meeting. Are there any questions, corrections or additions to the minutes?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to accept.

CHAIRMAN: Motion to accept by Ms. Dixon.

MR. HAYDEN: Second.

CHAIRMAN: Got a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Next item.

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

PUBLIC FACILITIES PLANS
REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

ITEM 2

Proposed Segment of the South Trail Greenbelt Park Facilities Construction
Consider comments regarding a proposal to construct a 2.5 mile segment of South Owensboro Trail of the Greenbelt Park connecting with the West Owensboro Trail at Shifley Park.
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has reviewed this application. We find no conflict with the Comprehensive Plan. We recommend you forward a letter to that affect to the City of
CHAIRMAN: Any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

MR. HAYDEN: Second.

CHAIRMAN: Move to approve by Ms. Dixon and we've got a second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carried unanimously.

Next item, please.

ITEM 3

1102 Hall Street (Map N-7)
Land Disposition
Consider comments regarding a proposal to close a portion of a 10-foot wide alley and to close a portion of an intersecting 15-foot wide alley. Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, the Planning Staff has reviewed this application. We find it to be consistent with the Comprehensive Plan. We would recommend you forward a letter to that affect to the City of Owensboro.

CHAIRMAN: Any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.
MR. HAYDEN: Move to accept.

MR. GILLES: Second

CHAIRMAN: Motion by Mr. Hayden. Second by Mr. Gilles. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

2700 Block Old Newbolt Road
Land Acquisition
Consider comments regarding a proposal to accept an abandoned section of Old Newbolt Road into the county road maintenance system.
Referred by: Daviess County Fiscal Court

MR. NOFFSINGER: Mr. Chairman, this is an existing road that's been there for a number of years. The New Bolt Road is taken into the state maintenance system. I believe this was a section that was left off and not taken in by the county of Daviess; however, there is a request at this time to bring this roadway into the main system. We've reviewed the application and find no conflicts with the Comprehensive Plan and recommend that you forward a letter to that affect to the Daviess County Fiscal Court.

CHAIRMAN: Are there any questions by any member?
CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Ms. Dixon motion for approval.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ZONING CHANGES - CITY

ITEM 5

481 Raintree Drive, 0.179 acres
Consider zoning change: From R-3MF Multi-Family Residential to R-1C Single-Family Residential
Applicant: James W. Warren

MR. ELLIOTT: State your name, please.

MS. WATSON: Becky Watson.

(MS. BECKY WATSON SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

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

Findings in support of this recommendation are as follows:

Findings of Fact:

1. The subject property is located within an
Urban Residential Plan Area, where urban low-density residential uses are appropriate in limited locations;

2. The subject property is contiguous to R-1C zones;

3. The dwelling unit located on the subject property was constructed, and has always been used, for single-family residential activities;

4. The existing R-3MF Multi-Family zone is inappropriate and the proposed R-1C Single-Family Residential zoning classification is appropriate; and

5. Sanitary sewers are available to the site.

MS. WATSON: We would like to enter the Staff Report as Exhibit A.

CHAIRMAN: Thank you.

Is there anybody here representing the applicant:

APPLICANT: Yes.

CHAIRMAN: Do you want to make a statement?

APPLICANT: No.

CHAIRMAN: Does any of the commission members have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. HAYDEN: I move we accept Staff's
Recommendation and Fact Finding 1 through 5.

CHAIRMAN: We've got a motion for approval by Mr. Hayden.

MS. DIXON: Second.

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

(ALL BOARD PRESENT MEMBERS RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 6

2430, 2440, 2442 St. Ann Street, Portion 2415, 2417 Frederica Street, 0.471 acres
Consider zoning change: From R-1C Single-Family Residential to B-4 General Business
Applicant: Patricia Powell Clark, Trustee of the Patricia B. Powell Revocable Trust

PROPOSED ZONE & LAND USE PLAN

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

SPECIFIC LAND USE CRITERIA

(a) Building and lot patterns; outdoor storage yards; Building and lot patterns should conform with the criteria for "Nonresidential Development" (D7), and outdoor storage yards, with "Buffers for Outdoor Storage Yards" (D1).
(b) Logical zoning expansions of proportional scope; Existing General Business zones may be expanded onto contiguous land that generally abuts the same street(s). The expansion of a General Business zone should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

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

APPLICANT'S FINDINGS

The rezoning of the subject property from R-1C Single-Family Residential to B-4 General Business is in compliance with the Comprehensive Plan.

The subject property is located just off Frederica Street on the north side of 25th Street. It extends from 25th Street northerly from St. Ann Street to an alley located to the rear of Frederica Street.
property. Said property is composed of four (4) lots. All lots front on St. Ann Street. The larger vacant lot runs from St. Ann Street to the alley mentioned above. Two of the remaining lots have existing residential housing.

The land use map indicates that the subject property is located in an Urban Residential Plan Area where general business uses are appropriate in very-limited locations.

Section 11 GENERAL BUSINESS USES indicates that the rezoning of the subject property from R-1C Single-Family Residential to B-4 General Business is appropriate in the Urban Residential Plan Area since the rezoning proposal to B-4 is a logical zoning expansion of proportional scope. Section 11B reads, "existing General Business zones may be expanded onto contiguous land that generally abuts the same street(s). The expansion of a General Business zone should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area."

The expansion of the General Business zone from R-1C to B-4 is a logical expansion of B-4 in the area.
The subject property is basically surrounded by B-4 zoning. There is B-4 zoning to the south where there is located a Winn Dixie store covering approximately one-half city block. There is B-4 zoning to the west where there is located a Papa John Pizza shop and Independence Bank. There is partial B-4 zoning to the north where there is located a parking lot and commercial building. There is also residential zoning (R-1C) to the north. There is residential R-1C to the east.

The expansion of the General Business zone of less than one acre would not significantly increase the extent of B-4 zoning in the vicinity of said expansion. 25th Street at the intersection of Frederica Street has just been widened by the City of Owensboro and the Kentucky Department of Transportation to accommodate additional traffic: 1) accessing Frederica Street from 25th Street; 2) accessing 25th Street from Frederica Street, and 3) accessing 25th Street from Washington Avenue.

The existing zoning classification given to the property is R-1C is inappropriate and the proposed zoning classification of B-4 is appropriate for the reasons stated above. The vacant lot which composes one of the four (4) lots in this rezoning proposal has
not use as residential property since the residence was demolished. Certainly, the owner or purchaser of the vacant lot would not construct a residence with a Winn Dixie store to the south and a pizza shop and bank to the west. In addition, the current setback requirements of 35 feet from the property line would prohibit the construction of a new residence on the vacant lot.

There have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and those changes have substantially altered the basic character of the area involved.

These changes include the widening of 25th Street at the intersection of 25th Street and Frederica Street. The widening of this intersection included the taking for highway purposes a part of the lot at 25th Street and Frederica Street known as Papa John Pizza. The widening of access points onto Frederica Street in both a northerly and southerly direction. The widening of access points off of Frederica Street onto 25th Street as well as enlarging access to Washington Avenue from 25th Street and Frederica Street.
PLANNING STAFF REVIEW

The subject property is located in the 2400 block of St. Ann Street on the northwest corner of the intersection of St. Ann Street and West 25th Street. Land use criteria applicable to this proposal are reviewed below.

GENERAL LAND USE CRITERIA

Environment

No important environmental criteria apply to the subject property.

Urban Services

All urban services, including sanitary sewers, are available to the site.

Development Patterns

The subject property includes two lots that are in use as sound single-family residential homes. A vacant lot, included in the area proposed to be zoned to B-4, separates these residences from West 25th Street. To the west of the subject property is B-4 General Business zoning and uses, including a gift/jewelry store and a parking lot. These General Business zones and uses front on a public alley that runs parallel to Frederica Street and they have Frederica Street addresses. To the north and east are standard single-family residential structures within
R-1C Single-Family Residential zones. To the south across W 25th Street is B-4 General Business zoning in use as a Winn Dixie grocery store. The grocery store fronts Frederica Street with landscaping and screening parallel to W 25th Street across from the residential properties. A single-family residence lies directly to the east of the grocery store.

SPECIFIC LAND USE CRITERIA

Limited expansions of existing nonresidential uses and areas should be accommodated where they reasonably satisfy a set of "logical expansion criteria". The subject property is immediately adjacent to B-4 General Business zoning to the west and is contiguous to B-4 zoning to the south across W 25th Street. As mentioned previously, the B-4 zoning across W 25th Street to the south is a Winn Dixie grocery store. The front of the store faces Frederica Street and the store and vehicular use areas are buffered from the residential zoning across W 25th Street with landscaping and evergreen screening. The lots that are zoned B-4 General Business to the rear of the subject property have frontage and access from a public alley that runs parallel to Frederica Street.

The applicant of a 60 foot building setback line from the center of W 25th Street does limit the
building area on the vacant lot located at 2442 St. Ann Street. However, a variance could be sought based on the lot being a lot of record that predates the Zoning Ordinance and the pattern of lot development in the vicinity. The applicant argues that no new residential structure would be constructed due to the proximity of the Winn Dixie store. The store's business activity is well screened from the residential neighborhood by landscaping and by the store's orientation to Frederica Street.

Intersection & Driveway Spacing Standards

W 25th Street is classified as a minor arterial from Frederica Street to Breckenridge Street. The spacing standard for access points along W 25th Street is 500 feet. The frontage of the subject property along W 25th Street is approximately 184 feet. This would require that access to the property be prohibited on W 25th Street and limited to St. Ann Street, a residential street, or to the 10' alley adjacent to 2442 St. Ann Street. Construction of a business access point on St. Ann Street would certainly be a significant increase in the general business activities in the immediate vicinity.

The subject property meets some of the criteria for logical expansion in that the Comprehensive Plan
allows for expansions of existing General Business
zones onto contiguous land that generally abuts the
same street(s). There exists adjacent B-4 General
Business zoning and use that has frontage along W 25th
Street. However, the expansion of the General
Business zone should not significantly increase the
extent of the zone in the vicinity of the expansion
and should not overburden services that are available
in the affected area. The subject property includes
two standard residential structures that are zoned
appropriately for the current use as single-family
residences. Increasing the B-4 General Business zone
to include these two single-family homes would
significantly increase the extent of the General
Business zone in the vicinity of the established
developed residential area. Due consideration should
be given to the concerns of neighboring residents with
respect to the established lot patterns in their
neighborhoods. This entire 2400 block of St. Ann
Street has been developed with single-family housing,
with the exception of the vacant lot located at 2442
St. Ann Street, where a single-family home was
demolished. The abutting and contiguous general
business uses are screened from the residences by
landscaping and/or by orientation of the uses on the
General Business lots.

PLANNING STAFF RECOMMENDATIONS

Staff recommends denial because the proposal is not in compliance with the adopted Comprehensive Plan. Findings in support of this recommendation are as follows:

Findings of Fact:

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

2. The subject property is appropriately zoned R-1C and two of the lots included within the rezoning request are occupied by standard single-family housing that is consistent with the current zoning and with the development of the established residential neighborhood;

3. The expansion of the B-4 General Business zone into the established developed residential neighborhood will significantly increase the extent of B-4 General Business zone in the vicinity; and,

4. Due consideration should be given to the concerns of neighborhoring residents with respect to the established lot patterns in their neighborhoods.

MS. WATSON: We'd like to introduce this as Exhibit B.
CHAIRMAN: Thank you, Ms. Watson.

Is there anybody here representing the applicant?

MR. ELLIOTT: State your name, please.

MR. KAMUF: Charles Kamuf.

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)

MR. KAMUF: Sister Vivian, Ms. Dixon, other Members of the Board, I represent Pat and Sy Clark and they're the owners of Lloyd's & Pat's Jewelry. They've been located at 2417 Frederica Street for the past 26 years.

I have some exhibits to introduce and I've talked to the court reporter and, Mr. Appleby, when they get down there she'll come and pick them up and mark them.

Exhibit Number 1 shows the subject. This is the property that's owned by Lloyd's & Pat's. This is Sy Clark, that's where they run the jewelry store.

The next exhibit shows -- one of the lots that's indicated by the staff report is a vacant lot. Here is what was on the lot. That's the rear of the property, the house that's on the vacant lot. That was there at the time Pat bought the property. This shows the front. I believe the lot is a 46 foot lot and it runs from St. Ann Street to St. Ann Street.
Those are the, that's what the house looked like before it was torn down. The reason it was torn down is damage by the tornado.

Here is what the property looks like today. This is looking from Frederica Street going east. This is from the east looking towards Frederica. Then on the other two, there are two lots and I'll show you in just a second. This is a one-story single-family house that's on the lot that is next to the vacant lot and it is a rental house as many of the houses are there in the neighborhood.

Here is another, this is the other house which is located directly - I think one of them is 2440 and the other is 2432. I'll introduce these.

The next chart that I'll show you is a display of the zoning in that particular area and I have a plat for each one of you.

This is a map. It's a zoning map of the area. You have a little plat of this property. It shows the adjoining property. If you look at your little area, and this is the property that I've just described for you, the vacant lot. It's in sort of a red area different than the pink. Directly to the south of the property is the Winn Dixie store.

Directly to the north of the subject property is a
State Farm Insurance office, and the little cut out that you see there in the middle is Pat & Lloyd's. Here's some photos that I might show you.

Independence Bank is directly to the west. I might show you this is Independence Bank and that's directly to the west that you see there. It's located on Frederica.

The next property which is directly on 25th and Frederica is a Papa John's. As you can see this is where the garbage is located, to the rear. The picture that I showed you of Pat & Lloyd's, the garbage locator is directly in front of their property. It says on there "Cardboard Only".

The next one that I will show you is the vacant lot. This is the vacant lot directly north of Pat & Lloyd's and that's the picture of the building that I first showed you.

This is the State Farm Insurance Agent office. That's directly to the north also. I might say that property was zoned sometime prior to 1975.

The next exhibit is the Beltone. This is to the north of the property. That property was zoned prior to 1975. Directly across, and what I think the Staff Report said, that it's properly screened. You
see the Winn Dixie store. If you built a house on the property, on this vacant lot, that's what you would see directly across the street. It backs up right to the Winn Dixie store. Here is what the store likes like to the front, of course.

Directly as you get down, further down to 25th Street and J.R. Miller Boulevard you have the Franey's store on the corner and the other side is a non-existing use, but it is zoned B-4. Directly across from that you have Colonial Bakery. Then across from that is a car lot. So the intersection of J.R. Miller Boulevard and 25th is very active. Here's the Franey's store. As you get there in the neighborhood, what's taking place on 25th Street. The next block I notice and took a picture where it says "Howe's Contractors". I don't know. It's my understanding from some of the neighbors that that's where he lives and he advertises out front.

Directly further down on 25th Street near the corner there is a beauty shop called Cut & Curl. Then nearly directly across from this lot is a chiropractor's office which is known as Dr. John O'Connor's Chiropractor. I'll introduce these exhibits and mark them, please.

As you can see the property is nearly
surrounded by a B-4 zoning classification as shown on
the little plat that you have in front of you and
these are the existing zonings that are in the area.

What the property is being used for at the
present time? The two houses that I showed you that
front on St. Ann Street, one of them Pat lived there
for a period of time. They're rental houses at the
present time. Of course, the vacant lot is not being
used.

A little history about the property. In
1975 Pat bought the house that fronts on 2440 St. Ann
Street an also where the store is located.

In 1975 she got that property zoned. So
as you look at the property now, you can see that
since 1975, and I showed you prior to that time the
Beltone building and also the State Farm building, the
integrity of that block has been broken we know since
prior to 1975 with commercial activity.

In 1976 she bought the house at 2430 St.
Ann Street. This is also a rental house.

In 1983 Pat bought the State Farm
building, and you've seen a picture of that. That
property was zoned prior to 1975.

In 1996 she bought the corner of 25th and
St. Ann Street and that's the older house that I first
showed you on the corner and then I showed you the other two pictures which show that the property is now vacant. As you can see, Pat has been buying up the neighborhood property for the past 25 years.

In 1955 when she bought the property, as I explained, some of the property was already zoned. Then in 1975 she had the property zoned where her building is.

What triggered our request for the rezoning? In the year 2000, the tornado damaged the house on the corner. I showed you a picture of that, and we had to tear the house down. It had been a rental house for years and I think when Pat gets to testify she will tell you that a lady lived in that house for 65 years. It was very difficult for her to tear the house down. It was damaged to the extent that she did not want to repair it.

There are several other rental houses in the area.

Let's see if there's rental property in the immediate area. The property that you see in red, that is the property to be rezoned on the corner and these next two houses are also, they're rental property. So we have one rental property. Next rental property is where Pat used to live. Next to
that property is a fellow by the name of Michael Patrick Pollock. It's very important in this case because we looked around to see what affect would that have on our nearest neighbor if we filed this rezoning. Mr. Pollock is for this rezoning. He says that he thinks that the value of his property will go up in the event that it's rezoned. So the closest person to object to this rezoning we have no problem with, but it's also a rental house. As you get to the rear of that, you have Larry Depp. I think the Staff Report says that they found everything to be single-family. Here is a duplex that is owned by Larry Depp. It's located at 2426 St. Ann Street. Directly to the rear there is a four-flex and on the front of it it's the Homer Miller - it's a big two-story building. To the rear there it's the Homer Miller apartments and it is owned by the Joan Rivers Ford Estate. I called. It's owned I think by Richard Ford and his brother Mick Ford. I called Mick Ford and I said, do you have any objection? He said, no, sir. I see Dave Haycraft here. David owned a piece of property to the right. According to the application that I filed, I think it's a rental house at least according to the records at the PVA office is
not owner occupied. Then directly across the street we have a Thomas E. Means and Patricia Colburn at 2423 and that is also a rental house.

What we have done previously. Let me back up just a second.

What can we do with the property? There are setback lines and we have a surveyor here, Mr. Simmons, whose done the survey work and he'll tell you that the setback lines are so restringent on this property that you cannot build anything on the property unless it's consolidated. You can't even put a mobile home on it. I think what he tells me, and he's here to give his testimony. You can put a building on it that would be eight foot wide.

The question then is: What can we do with a 43 foot lot? That's the one in red that I'm showing you. What we would like to do is, of course, is consolidate it and get it zoned to B-4 zoning so we can do something with it. In other words, it's a difficult position that you all are in. The Staff has recommended denial, but the other side of the coin is what can he use the property for? Certainly you can't deny somebody the right to use a lot for nothing and pay taxes on it.

What have we done previously? Prior to
coming with this rezoning application I met with the Planning Staff and we proposed a rental unit on this property. Mr. Sy Clark will be here to tell you about that. He would like to build some type of rental unit, several story apartment. I go to the Planning Staff and they say, we don't like your idea. I said, okay, I'll try something more in line with what they want to do. So I met with the Planning Staff. I didn't get any commitment, but I didn't get any strong opposition it didn't seem to be as to my rezoning proposal. As a matter of fact, when I talked to one of them they said, hey, the zoning could go either way. They have decided not to, but it was close of a call.

What we intend to do with the property.
Since the property was damaged by tornado, at the present time - I showed you the picture of Pat & Lloyd's Jewelry shop. They would like to expand their shop. We do not have a development plan. There are several reasons we don't have a development plan.
When we found out Mr. Pollock had no objection, that was really a key because whatever we do his property would back up to it. I mean our property would back up to his. Then Pat thought a long time and the property on 25th if she fronts the property on 25th it
would be the only way; in other words, we would have
to have another tenant. So she doesn't have another
tenant. There was an article in the paper discussing
that there was going to be a shopping center, Walgreen
and things of this nature. They have inquired. That
is not what's going to be built there. In other
words, we are agreeable to the rezoning being done to
the development plan at a future date. In other
words, we can't buy one right now because we don't
have the second tenant. I think we find that rezoning
are frequently done up here without a development
plan. I have one coming up at Towne Square next
month. Certainly that is an easy development plan
because you know where everything goes. When you have
an older section of town, it's more difficult to get
the development plan.

Applicant's finding for the rezoning.

It's our position that we're in accord with the
Comprehensive Plan. If this is not a logical
expansion of a rezoning proposal, I've never seen one.
Now, you can sit up here all day and say, well, it
doesn't go over on St. Ann. The minute that property
was rezoned prior to 1975, it met the requirements for
logical expansion. Then in 1975 there was another
rezoning. This is where Pat & Lloyd's are at the
present time. So we're saying, one, that does meet
the standard for logical expansion.

I showed you the photographs of the
subject property. There are many of them. Nobody I
don't believe would build a four or 500 -- I don't
know what shopping centers cost as far as building
where you've got Pat & Lloyd's just a little two unit
shopping center, but nobody is going to build one
directly across from an area -- excuse me. They'll
build it across on 25th Street, but nobody is going to
build a house across from them.

What we're talking about is directly --
if you look directly to the west, that's where the
Papa John's Pizza shop is. I don't think anybody
wants to build a house with a dumpster in the front.
This is the reason it's so important that we work out
with whatever we do with Mr. Pollock. He's very
agreeable. He's very happy about our proposal. If we
have to jockey anything to the rear, we can jockey it
over to the west side of the street.

It's our opinion that it meets the
expansion of a general business zone. It's more than
one acre and certainly in line with the logical
expansion. We say that the original zoning
classification given to the property is inappropriate.
When you have a lot that you can't do anything with, certainly you're going to have consolidate. Certainly nobody would build a house fronting and looking over directly at Winn Dixie.

There have been major changes of social and physical nature in the area. One of these is the intersection of 25th and Frederica. We thank that is a substantial change and I think what that does, that tells you what's taking place. You see J.R. Miller and 25th Street? It's changed. 25th Street has changed. You can put your head in the sand and say it's not. We saw a chiropractor's office. Right up there there was a Cut & Curl. Further up the road there was a contractor's sign. As you get up there, this street is already changing. Why would they spend -- there are four traffic lanes at that intersection. No, five. One coming on to this area. So why would the Department of Highways spend that much money at an intersection? Because of the traffic that's coming off of 25th Street. A lot of it is generated from J.R. Miller Boulevard.

To suggest a couple to Planning Staff. I didn't have that much trouble with the Planning Staff Report. First of all, they say that the property is located in an Urban Residential Plan area where
business uses are appropriate in limited locations.

We fit that.

The subject property is zoned two of the
lots by a standard of a single-family housing. We
showed you that, what, there are rental units in the
area. Are there or are there not? Counting this
vacant lot which was a rental unit, I show you that.
You've got five on that side of the block, and I don't
know what the Campbell property, I don't know whether
that's a rental unit or not. I can't say. Over there
the first six are rental units. On the other side of
the street, the Haycraft property and the Means.

In my conclusion, I would like to say that
we are certainly an area where there's a logical
expansion. That's what this map shows.

Second of all, is the property zoned
inappropriately? Certainly if you can't use the
property for anything I would think that it would be
inappropriately zoned unless it's consolidated with
the two lots to the rear - excuse me - two lots to the
north and that's what our plan is.

Thirdly, I think there have been major
social and physical economic changes in the area that
would justify this change.

Pat is here and she would like to tell you
just a little history about the property and we have a
couple of witnesses that we would like to put on.

CHAIRMAN: Mr. Kamuf, we've been going on
here for a little bit over 20 minutes on your
presentation. I assume we have other members of the
neighborhood that might be here and I think it be only
fair what I would like to do is give them a chance for
any questions, ideas they would have. Your witnesses
might figure into the questions as opposed to them
being redundant on making the testimony and then
coming back for answering questions that might have
been given in testimony. With your permission I would
like to give the neighbors --

MR. KAMUF: I wouldn't have any problem if
you let Pat talk for three minutes. She just wants to
give you a background. I think once she --

CHAIRMAN: My three minutes or yours?

MR. KAMUF: Mine.

CHAIRMAN: Let's go. We'll be happy to
hear from her for three minutes.

MS. CLARK: My name is Pat Powell Clark
and I do own Lloyd & Pat's Jewelry and have so for 26
1/2 years.

MR. ELLIOTT: Wait a minute. I need to
swear you in.
(MS. PAT CLARK SWORN BY ATTORNEY.)

MS. CLARK: In 1975 when I tried to buy the store building where my store is now, it was advertised as being commercial property. The day we closed the loan we found out that it wasn't, but you shouldn't have no problem. Well, it took me three months to get the work done, but at that time Mr. John Kazlauskas was very, very, very upset. He did not want it zoned.

Here is what we didn't want changed. It was a bookie joint and it had antiques downstairs. It had weeds knee high all the way around the building. Upstairs there was at least 10 to 15 telephone jacks. There was a great big circle where a big round table had been where gentlemen played cards and smoked cigarettes. Did this type of thing. Later on many, many, many police officers told me, we've raided this place a dozen times or more. I'm glad to see something else being done with it.

Anyway, I did make it into a nice looking building. I've had a good business there and still do with a good reputation, but have always wanted to expand my business. I never had an opportunity too much except to buy other properties as they became available. So this is what I did of expanding my
business.

CHAIRMAN: Thank you. Does that completed your testimony?

MS. CLARK: Yes. I would like to talk about Mr. Pollock. He has no objection whatsoever to this being rezoned and it would affect the line between my property and his and he said, ma'am, do what you want to. He said, in fact, I would like to see you do it. It wouldn't hurt at all.

CHAIRMAN: Thank you.

MS. CLARK: You're welcome.

CHAIRMAN: I think it would be appropriate if we hear -- I assume we have somebody representing the neighborhood. If they would step forward, please, and we will try, we sort of condensed Mr. Kamuf the best we possibly could and we ask that you all show the same courtesy because he has other witnesses that we're going to try to use instead of his witnesses to answer concerned questions that you all might have and hopefully you all will have one person to funnel the questions and it be more effective for all of us.

Thank you.

MR. ELLIOTT: State your name, please.

MR. KAZLAUSKAS: John Kazlauskas.

(MR. KAZLAUSKAS SWORN BY ATTORNEY.)
MR. KAZLAUSKAS: I'm John Kazlauskas and I've lived at 2421 St. Ann Street for the past 26 years now.

Mr. Kirkland, I would ask that I be allowed to speak to the matter and then my next-door neighbor, which will be two, be allowed to speak.

CHAIRMAN: That's fine.

MR. KAZLAUSKAS: Then later later on if there's other people wish to speak open the floor for them.

We would like to present a petition to the board at this time that has over 50 signatures of property owners of people that live in Buena Vista Subdivision area. If I could submit that. I have an original and then I'll have copies for the board members.

CHAIRMAN: Mr. Kazlauskas, if you'll start it down there with Mr. Appleby. It'll save you some time and he'll do the leg work for you and then you can continue your testimony.

MR. KAZLAUSKAS: Those are signatures of 50 home owners in the Buena Vista area that oppose this rezoning change.

I would like to bring your attention just for a couple of minutes to something that happened in
Kansas City about 60 years ago. The Kansas City Police Department went out to take a survey, survey crime that was occurring in Kansas City. This survey turned into what is called the Broken Window Theory. Some of you might be familiar with it, might have heard of it. Basically what the Kansas City Police Department found out was that although people were concerned with crime in the neighborhood, there were issues that they were much more concerned about. Things like broken glass, potholes in the road, sidewalks in disrepair, traffic problems, noise problems, and these turned into be what we considered to be quality of life issues. Quality of life issues are very important to the people who live in the Buena Vista Subdivision. We believe that if the zoning change were to occur there would be increased traffic problems.

Now, the width of the 2400 block of St. Ann Street is 28 feet and it's dedicated as a residential street. Of course, this was dedicated over 70 years ago. At that time 25th Street was the city boundary and there were corn fields out there, but it was a residential street then and it still is. Of course, the city has grown. Owensboro has grown to the south. That street has not grown. It's still 28
feet wide. It can be considered almost a secondary
ttery right now because of the number of cars that go
down through there.

What happens is because Winn Dixie and
Weber's Meat Market, and by the way because people buy
a lot of meat, a lot of cars, that it's easier to come
down between 400 block of St. Ann Street than it is to
come through Frederica Street. So St. Ann Street has
become a short cut or a cut through for people coming
from the northeast part of Owensboro over to Winn

Also Papa John's Pizza. Before Papa
John's was in that establishment there used to be a
Shell Service Station there. The Shell Service
Station, of course, sold gas and there was traffic in
and out, but nothing like the traffic that has come to
be because of the pizza place.

What happens is the delivery employees
constantly use St. Ann Street to go to the northeast
part of Owensboro rather than go out and use Frederica
Street. At the beginning of about 5 p.m. until about
7 p.m. daily, we could rename the street Papa John's
Race Way because everybody wants pizza for supper and
those cars are going back and forth for about two
hours there. So we believe that with zoning change,
more traffic, more problems with people that reside in that area.

I have a study here. It's by the Green River Area Development District. This is the '99 Owensboro Traffic Accident Report. I don't know if the 2000 is out yet. If it is, I haven't seen it.

If you'll at that report, you'll find that at the intersection of 25th and Frederica in 1998 there were 14 auto collisions. In 1999 there were 15 auto collisions. This was the fifth highest collision location in the city. So a lot of traffic was going by there. With more business you're going to have more traffic.

At 24th and Frederica in 1998 there were only three automobile accidents. In 1999 that had risen to ten. So we've got a lot more traffic coming through there. Even with the new traffic flow design as Mr. Kamuf alluded to, the traffic on 25th Street still gets backed up. That has not solved the problem completely.

Another quality of life issue that affects the people in this neighborhood is noise pollution. Of course, now 25th Street is considered a secondary artery and there's a lot of traffic come through there.
About five years ago, I know everybody in Owensboro has its problems. About five years ago, young people found that they could put base speakers in the back of their cars and make a lot of noise. What we found out in the city was those base vibes, the reverberation is not sound. It is not sound. It is exactly vibration that carries through the street, the wires, the telephone poles and into your homes. Now, the people in this area suffer from these things because of 25th and Frederica because they come all the way over to Frederica day in and night. I know it's a problem for everybody. In fact, the city enacted an ordinance to try to combat it and it has not worked as expected. Increase traffic, increase noise for the people that continue to live in that area.

New construction. If this area is zoned B-4, there's going to be new construction there. With new construction comes heating and cooling units. Now, Winn Dixie had moved in and they try to be a good neighbor, but right now if you can stand anywhere on the 2400 block of St. Ann Street and hear the air conditioning unit run. They're massive. They're large on the top of Winn Dixie building.

Commercial business moving into that if
that was zoned B-4 you're going to have problems with
delivery trucks. It'll be 24 hours a day. This can happen. This is already happening on 24th
Street down the road. There's problems there off and
on.

So those are quality of life issues.
Let's talk about sewers and storm water.

If you stand on the corner of 25th and
Frederica Street and you're looking four points of a
compass, all you see is concrete and black top.
You're going to see some small grassy area, but
they're for landscaping between the sidewalk and the
parking lot.

Sewer services. St. Ann Street is a
combination sewer. Very old sewer. The construction
of a home on the 2400 block of St. Ann Street is
constructed so that rain gutter downspout, basement
drains, bathroom, kitchen drains, they all drain
directly into that old sewer unless you've gone in
there and taken that four inch drain tile out, but
that sewer still gets a lot of water.

Now, when the Executive Inn was being
built, that's the first time we experienced the
problem of these sewers actually backing up into the
basement of a home in that area. We contacted Mr.
Russell Shively. Some of you might remember was a city commissioner and he was director of streets of sewers for a number of years and probably had more knowledge of the sewers in Owensboro. He told us what we had to do. There was some homeowners on the 2400 block of St. Ann Street that actually took a backhoe and went down to the basement and plugged it off to stop the sewer water coming up in the basement. So the homes that haven't done that basically they're still flooded. Those sewers are at maximum capacity. You start putting more blacktop down there, that sewer is not going to handle it. You're going to have problems. When it rains now, when it rains now, the intersection of 25th and St. Ann, 24th and St. Ann they flood. There are times that there's been over two feet of water on St. Ann Street.

We would like to -- just a couple of things. We would like for the board to clear something for us. According to the property and notification of the area that has been provided by the Planning & Zoning Staff, the property located at 2428 St. Ann Street is presently zoned R-1. That's the property that Mr. Pollock owns right now. Apparently over the past few years, that property has been subdivided. The back part of that property has been
purchased by Ms. Clark and has been concreted over and
that it's now being used as a commercial parking lot.
After checking with the Staff, there's no record of
public notice of a zoning change for that property and
we would like to ask the board to inquire as to what
had happened. The back of the residential section has
been turned into a concrete parking lot without
anybody's knowledge.

Now, as far as Mr. Pollock, and I don't
see him here tonight. I know that Michael has been in
Louisville for some weeks working for UPS and having
back problems problems. We haven't been able to talk
to him, but his father has been at the house across
the street working on it. Unfortunately he's not
here. I'll tell you what Mr. Pollock told me last
week. That he has power of attorney for Michael and
that he is not going to sell that property. Now,
that's what the man told me. Somebody is not getting
a straight story here. I'm not going to say that they
haven't been in contact with Michael, but I do know
that Michael has been in Louisville.

As far as the zoning of Lloyd & Pat's shop
in 1975, Mr. Harold Mullins and myself did come to the
city commission meeting when Lloyd & Pat were in the
process of getting the jewelry shop going. The city
commission went ahead and zoned that; although, we
said was property zoning at the time, and assured us
that Lloyd & Pat did right here in front of the
elevator. That what is happening, what they are
proposing right now would never happen. Of course,
time has changed, people change.

About 30 years ago I was pretty naive. If
you go to the newspaper, I have a copy here.
Messenger-Inquirer, Thursday, June 7th, article
written by Keith Lawrence. What Mr. Lawrence writes
is "Walgreen, Rite-Aid and Independence Bank, they've
all talked buying Clark said Wednesday." This is
their quote, "But for one reason or another none of
them did. I want to get it all zoned commercially for
the next time something comes along." You go further
down in the article and it says, "Clark said having
all the property zoned commercial should make it more
attractive for development."

Well, can I say for certain, but I'm not
naive enough to believe that there's not some business
person somewhere waiting in the wing that has talked
with Mrs. Clark and told her that if she can get this
property zoned they would be interested in buying it
from her.

My question to you is: Does Frederica
Street need more property zoned commercial? Starting at the 500 block of Frederica Street there are seven businesses establishments sitting empty. Three of those vacant buildings are located at 24th and Frederica sitting there empty. Business properties on Frederica are not being utilized now and the petitioner was asking that you approve more zoning away from Frederica and taking that residential property on St. Ann Street.

Value of homes. The value of homes located in the 2400 block of St. Ann Street will most certainly decrease if this zoning request is approved. No doubt in my mind. Mrs. Clark knew when she purchased the property located on St. Ann Street that it was zoned residential. No one person should be able to profit at the expense of other property owners located in the Buena Vista Subdivision. It's not correct, or right, or fair. There has not been a significant social or economical change in the last 25 years that would warrant a zoning change. We still have people in those homes. Yes, the state came in and widened the road, but we still have people living in that neighborhood.

What is the cost to the city? Cities like Owensboro can't afford to lose older established
neighborhoods like the Buena Vista area. Cities can handle new subdivisions, but if you don't protect the older neighborhoods --

I respectfully request that for the property owner in that area that you deny the request for the rezoning and stop the encroachment on an established neighborhood. Thank you for your time and patience. My next-door neighbor has a couple of things to say.

CHAIRMAN: Thank you for your presentation, Mr. Kazlauskas.

Do we have another person for the Buena Vista area? Yes, ma'am, please step forward.

MS. MCDONOUGH: I'm Greta McDonough.

(MS. GRETA MCDONOUGH IS SWORN BY ATTORNEY.)

MS. MCDONOUGH: I'm Greta McDonough. I live at 2419 St. Ann. I've lived there for just three years. I'm an Owensboro native. I grew up in the Buena Vista area. I looked a long, long time before I purchased my first home. I was just compelled by this particular neighborhood because it is an older neighborhood. I was struck by its trees and sidewalks.

After we moved in I have to tell you I was
further struck by how it reminded me of how the Buena Vista area used to be when I was a kid growing up because the neighborhood people still sit on the porches.

St. Ann is a street where people still hang out on their porches. There is a large apartment building that's very much in keeping with the Victorian era of developing housing in the 1930's which is when this neighborhood was being developed.

On our particular street there are three families I believe with small children, total of eight children under the age of ten. There is an apartment directly across the street from me. Again, when I think of it I think of it as just rental property, you know, a lot of moving in and out. There is a 90 year old woman who lives there, Ms. Johnson. She's lived there for 17 years. She lives there and she does not drive and she has vision problems. She moved there so she could be closer to church, Buena Vista Baptist Church and have access to shopping. There's also a married couple that lives across that street for at least ten years if not longer. I wish I had known somewhat about taking pictures. I've been working awful hard in my yard. The pictures that you have seen are somewhat indicative of the development that
has taken place, sort of a hodge-podge of what's taken
place so far, but that's not represented of what the
rest of the street looks like, old neighborhood.

If you all notice on the petition that Mr.
Kazlauskas has given to you, that many people signed
on streets not directly affected by this particular
zoning change. 22nd Street, from the east quad of
22nd Street, 23rd Street. I have surveyed those
neighborhoods. I will tell you that every house that
I went to where there was someone home signed the
petition with very little explanation with the
exception of one individual who wanted to get
information and wanted to read it and I was not able
to reach her today. There is one individual possibly
that's far away from this particular zoning, Ms.
Hardesty, who walks to Winn Dixie every day, sometimes
twice because she does not drive. She raised 12
children on East 22nd Street. She is a widow and she
relies on having easy access to shopping that she can
get to on her own.

In addition to being a homeowner I'm also
therapist and a social worker. I will tell you
sometimes that where we live can be just as important
as how we live. If you were to look at a textbook, as
I know you are very familiar since this is your thing,
Buena Vista looks like a neighborhood done right. It is very diverse. There are young couples with small children who live there. There are elderly senior citizens who take care of each other and frankly sometimes take care of us. There are young professionals and professional people, teachers and civil service, and college professors, and therapists, and small business owners as well who live in this neighborhood.

I don't know if you all are familiar with Buena Vista. I would suppose that part of your responsibility would be to drive around and look. We have a special challenge here in Owensboro because we are relatively small. I spend a lot of time in Louisville, Kentucky, which in a recent national magazine has been quoted as one of the best livable cities for unknown cities in the country. One of things you know about Louisville is they have very distinct neighborhoods. They have Old Louisville, Crescentville, Clifton area, and the Highlands, but Louisville has a lot of buffer zones for those neighbors. You can have two or three or four blocks of encroaching businesses and some multi-family dwellings and not completely undermined the integrity of the neighborhood. We don't have that luxury in
Owensboro. One block, one half a block will make a great difference.

Mr. Kamuf has said more ultimately that sometimes even landscaping at its best does not shield neighborhoods from businesses. Certainly the three lots on St. Ann were to go commercial and business were to be developed, that would be what I would look at as I sit on my porch in the morning. It would be what Ms. Johnson and Ms. Hardesty would have to walk past on their way to the grocery. This is a street where people teach their children how to rollerblade. You see families pulling their children in wagons late at night I think wear them out before bedtime. It's a very livable neighborhood. This kind of development and this kind of rezoning can really impact that drastically. I appreciate all of your consideration you when you give make this decision.

Thank you.

CHAIRMAN: I think at this time, Mr. Kazlauskas, is that your initial presentation?

MR. KAZLAUSKAS: I'm not aware of anyone wishing to speak. There might be somewhere here.

CHAIRMAN: If we could, I think you all have brought up enough questions and I think at this point in time I'm going to ask Mr. Kamuf instead of
bringing his presentation, I think his other people
could possibly answer questions that you all have and
we could probably go in that direction and that way we
keep the meeting moving and informable to all parties.

Mr. Kamuf, is that agreeable with you?

MR. KAMUF: That's fine.

CHAIRMAN: Thank you.

MRS. CLARK: I would like to answer a few
of his questions and statements.

I myself have talked to Mr. and Mrs.
Pollock, the parents of Michael Pollock. Michael is
very much in agreement with this. His parents did not
object to me at all. I talked to Michael again today
and he said, go for it, it's fine with me. That's
number one.

I was a neighbor on this street for 25
years when I lived at 2430 St. Ann, almost across the
street from Mr. Kazlauskas. I was so busy running
back and forth going to work that I did not see a lot
of these people at all, but it doesn't seem to me like
he wants any kind of change in any of it. Since he
was so strongly against it before and it was actually
a dump with weeds and trees and shrubs sky high as
well as a bookie joint and a front for an antique
shop. I have done nothing but improve the
neighborhood since I've lived there including my house, it was my house, and my rental house. I started that behind my store. I have a very good business and I have been a very good neighbor and I have done just a darn good job of improving the neighborhood and not done anything to make it worse. Couldn't have been worse than it was.

Oh, one other thing. Mr. Keith Lawrence called me on the phone one day and he sort of led the conversation. He said, didn't you have a drug store or a bank or somebody trying to buy your property at one time? I said, yes, sir, I did, and I named them. He says, that's right. I said, for one reason or another that didn't happen. Not at all, but I said, my main purpose is to enlarge my business. I have a very good business and I want to have my business grow and remodel my building or tear it down and put a different one there and face it on 25th Street where I wouldn't have to look at Papa John's garbage bin out my front door. Mr. Keith Lawrence kept on talking to me and he said -- finally I said, what do you want to know all of these things for? He said, well, I might some day do a story on your business, a human interest story. I said, well, that's all I have to say to you really. Is I would like to expand my business and if
something better came along I would do that too. Like somebody on each end of my business. Maybe an office. Maybe a small store or something, but nothing that would increase any traffic. Nothing else would be increased on 25th Street or St. Ann Street. I have done nothing but improve the whole neighborhood. Mr. Keith Lawrence put this in his own words. He twisted everything around that I said and he printed it the very next day. I wanted to call him up and give him down the road, but I didn't because it made it sound exactly like the opposite of what I said and how I said it.

CHAIRMAN: Mrs. Clark, let me stop you for a minute because I think one of our members has a question.

SISTER VIVIAN: I just have a question about Mr. Pollock. I understood you to say that the Pollocks said that it was okay for you to get rezoning, but I didn't hear you say that you were buying their property.

MRS. CLARK: No, ma'am.

SISTER VIVIAN: I understood you to say that you asked if they were going to buy the property and they said, no, the property wasn't for sale. I hear two different stories about the Pollocks, but if
it's related --

MRS. CLARK: I have no intention of buying his property. This would be right next to his property so I felt I had to ask him.

CHAIRMAN: Does that answer your question?

MR. KAZLAUSKAS: That's correct, ma'am.

He's not going to sell the property.

SISTER VIVIAN: When you threw that in about buying and selling the property it kind of threw me for a minute.

MR. KAZLAUSKAS: And, of course, at this point Mr. Pollock assured us that he would be here tonight. He is not here. I'll stand up here under oath and tell you what he told me. That, number one, he was opposed to what was going on, and number two, he was not going to sell the property, and number three, that there was a fence on the back of his property that he was going to take down because it was encroaching on his property with the concrete that's between the parking lot. Unfortunately, he hasn't shown up here tonight. It would be very easy for the father and son to be here tonight to say what Mrs. Clark has alluded to, Mr. Kamuf and what I'm saying. If he's telling both of us what we want to hear, that's sad. That's exactly what's going on here
tonight.

MRS. CLARK: I don't think that's the way it is at all. I talked to Mr. Pollock today at 4:00 and he said, no, I'm not going to be down there because I'm in favor of it. Anything you want to do to improve down here would be great. I have no objection whatsoever.

CHAIRMAN: I think for both of you, you know, with Mr. Pollock not being here regardless of what he may have said to you or may have said to you, Mr. Kazlauskas, it really has no bearing because he's an adjacent property owner, but he's also absent. Consequently this is a point not worth discussing at this point in time because it cannot be resolved. So the board, we really just do not hold that for or against anybody.

MRS. CLARK: Now, might I add one other thing, sir?

CHAIRMAN: Yes, ma'am.

MRS. CLARK: I know everybody is getting a little tired. I bought the property where the vacant lot is knowing very well had I been her neighbor for 25 years that she had lived there a long time. She and her mother and two sons lived in this house for 65 years total. Her mother passed away and she continued
to live there with one son. She took in children to
babysit for a living. The house was in terrible state
of repair. It belonged to an estate. In fact, Mr.
Otterkurt at Owensboro National Bank handled the
estate. The people that owned it would not spend any
money to fix it up. You could almost see through the
walls. The front porch you had to be careful where
you stepped on the board because of some them had
fallen through. The walls you could almost see
through them. Then January 2000 a tornado came along
and demolished this house. I had assured these people
when they moved in, when I bought the property the
first thing she said with tears in her eyes, you're
not going to make us move, are you? This is the only
place we've known. For 65 years we've lived here.
She said, please, don't make us move. I said, Ruby,
that's not really my intention. I felt very, very
sorry for both of them even though I knew the house
was in bad, bad shape. I said, if I can I would fix
it up, but the house was in such bad shape. I can't
do a whole lot to it and make it a descent place for
you to live, but, no, ma'am, I'm not going to make you
move at all. I just cannot do that, but if anything
drastic happens, something major happens, the roof
falls in or whatever, I said, I cannot afford to fix
it. Couldn't even get anybody to insure it. That's how bad it was. Then the tornado came along and pretty well demolished it. Blew out many windows and just disrupted everything, and these people had to move then both of them crying, the son and the mother because they were having to leave. I told them I would help them relocate, but they did find a place on their own. Subsequently they did move. Then the city wrote me a letter and says, fix it or tear it down. So I chose to tear it down. There was nothing left to fix.

CHAIRMAN: Let's see if any other members of the board at this point in time have any questions of either the applicant or the neighborhood at this time so we can move because I think both groups have had adequate time for testimony.

Do any board members have any questions, ideas?

MS. DIXON: I don't have a question, but I have a comment. A lot has been said about how many rental, how many homeowners, and to my recollection the R in residential zoning stands for residential. Not renters. I have a real problem with that being an issue since I own a piece of rental property next door to me. I hope that Charlie is not going to come in
and try to rezone and use that against me. I have two pieces of rental property. One rent to my daughter, Charlie. I think that that in any of our minds should not be an issue because where I live is established neighborhood and there are a lot of rental units and I recognize that the goal is to increase homeownership, but people rent for a number of reasons and that needs to be respected. Thank you.

MR. KAMUF: I have another witness I would like to bring up concerning the value to the property. We have a real estate appraiser who is here.

CHAIRMAN: Mr. Kamuf, would you hold that thought. Mr. Noffsinger has come forward with a question.

MR. NOFFSINGER: I don't have a question, but I do have a letter that we received in the office June 13, 2001, that I've been asked to read into the record if I may.

CHAIRMAN: Please do.

MR. NOFFSINGER: This is from Patricia Colburn and Thomas Means. They do own the property at 2423 St. Ann Street. This is a rental unit. It says, "Dear Mr. Noffsinger, We own the house at 2423 St. Ann and are very alarmed by the possible zoning change to our neighborhood. Pat grew up in Owensboro and bought
this house because she knew it was in a stable residential neighborhood. It is a beautiful, quiet street that would be severely impacted by the intrusion of commercial development. There is no amount of shielding that would mitigate this change to our street. We strongly object to this proposal. Thank you for your time and consideration. Patricia Colburn and Thomas Means, 1340 Park Avenue, Alameda, California."

MRS. CLARK: May I add something here, sir?

CHAIRMAN: Yes, ma'am.

MS. CLARK: I'll make it short. When Mr. and Mrs. Neighbor were fixing up this house, it had just been sold recently, Mr. Kazlauskas assumed they were going to be their new neighbors so he introduced himself and he said, doing a nice job fixing it up. When are you moving in? Patricia Colburn's mother said, we are not moving in. My daughter in California owns the house. We are just fixing it up for rental property. He then said, rental? This is what Ms. Colburn's mother told me. Rental, he says, I guess that means we're going to have to move. She says, why would you say that? He says, you never know what you're going to get when you've got rental property.
You never know who's going to rent next to you.

CHAIRMAN: I think really conversations between people and everything, I think at this point in time I think really we need to stick with actual factual things, testimony about people that are here.

MS. CLARK: This seems like Mr. Kazlauskas just doesn't want anything done to the neighborhood at all.

CHAIRMAN: Well, Mr. Kazlauskas was very able to speak for himself. He is personally here and I think really it would be better if we sort of stick with what we're trying to do whether we zone or not rezone it because the whole board here, you know, we're charged to protect the neighborhood and support business. We've got to draw a fine line with the facts that are given us to make that decision.

MRS. CLARK: Strike that from the record.

MS. DIXON: I have another question of Gary.

Mr. Noffsinger, if there were to be developed on this particular piece of property, would ingress and egress have to be on St. Ann? Is that what I'm understanding because the accesses are limited on 25th?

MR. NOFFSINGER: Access should be limited
to the alley that is located to the west of the
subject property intersecting 25th Street with no
additional access to points on to 25th Street.
However, they would be allowed to have access on to
St. Ann Street.

CHAIRMAN: Let me ask Mr. Kazlauskas
several questions. Would you mind returning?

MR. KAZLAUSKAS: Sure.

CHAIRMAN: We've got a very fine line
situation here. We've got contiguous properties with
business that are already there that are in that area
that are adjoining properties. Those are the facts
that we're faced with here. We've got a very nice
Buena Vista neighborhood which when I was a little boy
I used to ride my bike over in that area so I'm very
familiar with what you have over there and it's a
wonderful family oriented child type neighborhood;
however, the rules and regulations that we're dealt
that we must deal with also say certain things that we
can and cannot do. This is an area that can go either
way. So my question after saying that, my question to
you, Mr. Kazlauskas: What would you propose to us
that would keep the Buena Vista neighborhood as you
see it and have a business section that is contiguous
with and in that area be compatible because, you know,
you've got Winn Dixie. You've got other things.

You've got Papa John's. You've got a bank, but yet we
want to protect the integrity of your neighborhood,
but yet we've got other things that we're faced with
also.

MR. KAZLAUSKAS: Mr. Kirkland, I
understand what you're saying and I thank you for
giving me the opportunity to be as a solomon that I
might. That's a decision that you and your panel are
going to have to make. I will say this: There has
been business on Frederica Street. Frederica Street
has been developed a long time now. It was always our
understanding for those of us that lived in that
neighborhood that as long as business stayed on that
alley and did not come to residential property that
faced St. Ann Street that we could coexist, you know.
I still think that can happen, but the minute that you
start taking this property that faces the 2400 block
of St. Ann Street and start making that B-4 in that
residential section, you're starting to chip away at a
residential section and keep on chipping away and
chipping away and you're going to take the whole
corner of that community out. Is that important to
the City of Owensboro? Those of us that live there
and have lived there for a length of time says, yes,
it's got to stop somewhere. It has got to stop somewhere. The property is residential. We suggest, I suggest that it stay residential. It can be developed. The back of it can be developed towards Frederica Street. The minute you start coming towards St. Ann Street, you're decaying is going to start and we certainly don't want to run people out of the neighborhood. The city can't live without people. Yes, I'm passionate. I've very passionate about where I live. The old house that I live in was in the Roberts family for years and years. I put a lot of sweat and blood and tears. I don't want to lose it. In fact, every time I suggest about going somewhere my wife has a fit. That starts a fight. So, yes, we continue to be there and try to support the people that are there. The front of the property on St. Ann Street that needs to stay residential.

CHAIRMAN: Thank you. Did you have a question, Mr. Appleby?

MR. APPLEBY: Yes, to Mr. Kamuf.

Charlie, have you all given consideration that you and your client discuss the possibility of limiting access on the St. Ann side on this property? Have access somewhere other than St. Ann Street?

MR. KAMUF: We have talked about that and
certainly when the development plan finally comes that
will be taken up at that time. In other words, the
access issue will be brought up at that time. We
thought about that. I might say this: Respectfully
to John Kazlauskas, you know, things change. From the
photographs and the evidence that I've shown you there
isn't any question that this area has changed. 25th
Street has changed. 25th Street has changed there at
Frederica. It has already been chipped away and this
is not to say that these are not fine people and that
they live -- when I was a kid I lived across from the
Sports Center on 12th Street. Things have changed
down there with the Sports Center. Everything changes
and in this area here certainly what are these people
going to do with this lot? This is not something that
she bought to tear down. The tornado tore it down.
Now, what are we going to do with it? In other words,
I think the question that you asked is what proposal
will work where we can coexist. In other words, what
we're going trying to do is expand something that is
there. It's been there since '75. When the decay
began to take place was in 1975. It began to take
place prior to that when you had the Beltone
commercial, when you had the State Farm building, that
time.
Mrs. Dixon, in all honesty I wasn't trying
to show that --

MS. DIXON: I've got you.

MR. KAMUF: -- something was irrelevant
about rental property. I think it shows one thing.
That in that particular areas renters are coming in
more and more and the area is not what it used to be.
It's certainly not what it used to be at the
intersection of St. Ann Street and 25th Street.
There's been a change. You don't like change. I'm
German and I hate change, but change is there and it's
been done and it's time for that property to be zoned.
If you look -- I went out to start taking pictures up
and down 25th Street. The first house on the right as
you get there is home occupation. As you get down
another part of it, there's a sign out front. These
just indicate that there is change. When you look at
this area and you start talking about home occupation;
in other words, in that particular area, in other
words, there are rents there. They're not home
occupied. Most of them are not. If you look at the
first one, the second one, the third one, the fourth
one, the fifth one, and then you look are there
multi-family units there. You've got a four-story
apartment. You've got a duplex that's right next to
Mr. Pollock, but these are changes that have taken place and under KRS 100.213 we think they justify a rezoning.

CHAIRMAN: Mr. Kamuf, in your closing do you have a solution? Do you have a frontage on the 10 foot alley? You have no development plan. I understand we've approved many pieces of property without it, but we've got a very unique situation with a neighborhood that is right there. I think you misused the word when you said decay of the neighborhood. I don't think you really meant to say that.

MR. KAMUF: The chipping away.

CHAIRMAN: The decay of the business started. I don't think that's what you meant. I think you meant a change. That was degrading type word.

MR. KAMUF: That's right.

CHAIRMAN: Do you have anything -- I think something is doable here if all parties work together because this has been a very unique type contest for both parties and have been very amicable toward each other and it's gone rather well. I can see there can be common ground here if something could be proposed to get the neighbors on board, to get a
total support situation because I think the Buena
Vista neighborhood is a unique neighborhood situation.

MR. KAMUF: With Mr. Pollock not objection, we --

CHAIRMAN: Mr. Pollock is not here.

MR. KAMUF: Well, by the fact that he's not here tells you which side he's on.

CHAIRMAN: It doesn't tell me anything because I can't read his mind. He's not here.

Without him being here we have no -- so he is --

MR. KAMUF: At least he hasn't filed any objection.

CHAIRMAN: We will give you that.

MR. KAMUF: I think that a rezoning proposal with a develop plan to be filed at the time for ingress and egress takes care of that, Mr. Chairman. That's why you've got a development plan at a later date. Once we get the one tenant that we need to put on that property, we'll be here in with a development plan.

CHAIRMAN: We both understand that once we grant a zoning change then you're covered by the zoning change with certain parameters that go with that zoning change.

MR. KAMUF: Right. Those ingress and
egress issues can be determined and they generally are at the time of the development.

CHAIRMAN: Correct.

MR. KAMUF: Certainly there's no problem. We think that those issues need to be directed.

CHAIRMAN: Thank you. Does anybody else on the board have any questions, suggests?

SISTER VIVIAN: I just had the same question that David asked because my dilemma is that on 25th I see it already commercial. So what faces 25th I can see where their proposal is in keeping with it, but then on St. Ann the neighborhood I can see where they don't want a business across from them either. So I was going to ask the possibility of the egress and all being from the, you all call it an alley but it's a pretty wide alley. I've traveled that street a lot, that 10th Street. If it came in from that direction and kept the frontage toward Frederica. It makes a big difference to me.

CHAIRMAN: Do you have a solution?

MR. APPLEBY: Fronted toward Frederica or toward 25th?

SISTER VIVIAN: I want them to come through the alley rather than to come on 24th. That
would be my biggest issue.

CHAIRMAN: Let me ask Mr. Noffsinger a question, Sister, if you would. In these dilemmas we've brought him in and put him sort of in the middle to solve all these solutions with meeting, a diagram, all of the above.

From the questions and comments from the board, think the board is very split on the situation that we could be facing. Do you see something where we could protect the integrity of the neighborhood, keep the Buena Vista neighborhood as those of us who have grown up around here, know it and can appreciate it and respect the things that all of these neighbors have done, and continue what unfortunately we're faced with with contiguous development that this does present us with.

MR. NOFFSINGER: I support the Planning Staff's recommendation. We're not dealing with a lot that's fronting only on 25th Street. We're dealing with a lot that's fronting on St. Ann Street as well. If we were dealing only with the lot fronting 25th Street, we would have a different situation. If we were dealing only with the rear portion of the lot that front 25th Street, we would have a different situation. We don't have that here. We have three
lots that are oriented towards St. Ann Street. I've heard a lot said that there can't be anything done with this lot that fronts 25th Street. Well, there can. There's a process and Mr. Kamuf is very aware of the variance process. You could seek in variance to construct a single-family residence on the property. Variances have been granted in situations like this. In terms of this, there are thing that you can do if this property is rezoned to limit the intrusion upon this residential neighborhood, but regardless of what you do you're still going to have that intrusion and that's limit access to a 10 foot alley that's located to the west of the property as well as require screening, continuous screening along St. Ann Street. That reduces the intrusion upon the neighborhood, but it doesn't make it go away.

MR. KAMUF: Mr. Chairman, I can answer to your question that Sister Vivian asked and Mr. Appleby. We will limit access to the alley and we'll do the screening. What Mr. Noffsinger just said, we'll agree to that.

MR. NOFFSINGER: Again, that's not my recommendation, Charlie. Those are suggestions to limit the intrusion.

MR. KAMUF: I understand that. That was
the question that Sister Vivian asked and that was the
question that Mr. Appleby asked. We will agree to do
that.

CHAIRMAN: Ms. Dixon.

MS. DIXON: As the Zoning Commission, we
can agree to that not knowing what the tenant is or
what the development plan looks like. You know,
there's just too many unknowns.

MR. APPLEBY: You can make a zoning
recommendation with conditions that like we do on
every zoning application.

MR. JAGOE: I think the difference is that
you don't have the development plan in front of you.

MR. APPLEBY: We can require one at a
later date.

MR. JAGOE: You can require one, but I
think what she's saying is I don't have a development
plan sitting in front of me to look at that the
neighbors can see also and that that's something that
is not intrusive at this point.

CHAIRMAN: Yes, ma'am.

MS. McDONOUGH: Just quickly. We're not
talking about no business. That block, 25th to 24th
and Frederica has been zoned business/commercial
forever. When I too was a child running my bike to
Green's to get a candy bar I was not allowed. That has always been business. That's not our concern. I bought my house knowing that was commercial. We're not opposed to commercial or business or new business coming in there. You can see in the pictures. This is not attractive business. Some of it is piecemeal and some of it is not particularly attractive. I would be proponent of taking away what is already commercial and putting something in there. I suggest a Star Bucks and a nice little book shop. That would be nice in addition to the neighborhood.

Here is what I'm saying though: The St. Ann property is not business. We're not talking about no business. We're not talking about great big business like a Walgreen's or a strip mall where there would be people coming in on St. Ann every day. In some ways it may be a non-issue. The properties are already zoned and with the option of variances for part of that property on 25th, there may be something that would be appropriate for the business. The people that own that property that's already commercial. We are not against that. We just don't want something encroaching. I think I can speak for my neighbors. We would not see that as a good compromise and assurance here tonight that would be no
egress from 24th Street. That would be -- we would need to see a business plan since our houses are right next door and across the street. So in some ways -- I know I've gotten all hiked about business, but then I thought it's already commercial. We're not talking about that. We're talking about not bringing commercial to one block east into a residential neighborhood. That's our concern. Does that make sense?

CHAIRMAN: Let me see if I can sum this up in my own mind. In other words, you all are not opposed to the general change of zoning to business?

MS. McDONOUGH: Yes. There is already business on Frederica Street. We are opposed to changing the lots that have been proposed to business because we're talking about taking residential lot in a residential neighborhood and making them accessible to business and to commercial.

What I'm saying is there is business and there is property zone business to be developed that faces Frederica already. All of that property, the bank. All of that is residential. We just don't want it coming any further than past the alley basically.

CHAIRMAN: Well, it's already on the other side of the alley.
MS. McDONOUGH: Right. I mean beyond what is already zoned commercial. Our concern is no more encroachment.

CHAIRMAN: If they make their frontage on the alley --

MS. McDONOUGH: I can't speak about that.

CHAIRMAN: I thought this was simpler than what it was.

Mr. Kamuf, I assume you want a closing or are you done?

MR. KAMUF: I'm pretty well closed. If there is some question as to whether you think these real estate values go down, we have a broker here that will testify concerning those items.

CHAIRMAN: I think what we've seen in the past I don't think so.

MR. KAMUF: Then I also have the surveyor here that will testify as to what the lot setbacks are. I mean you've got to go through these other steps. As the lot exist at the present time, you can't build anything. You cannot build a residential house on that property.

Do you disagree with that, Gary, as it exist at the present time without taking appropriate procedural steps?
Mr. Noffsinger: As it sits at this time, you can't build commercial building on the property either.

Mr. Kamuf: Without consolidation.

Mr. Noffsinger: Without taking appropriate steps of the zoning.

Mr. Kamuf: What would be the setbacks on that property at the present time?

Mr. Noffsinger: I believe, correct me if I'm wrong, Staff, 75 from center line street right-of-way.

Ms. Watson: Sixty.

Mr. Noffsinger: Sixty from center line.

Chairman: Thank you.

Mr. Noffsinger: Now, there are things we can do in terms of setback averaging that may come into play there. I'm not saying that it would. I cannot say it wouldn't, but that is a setback as required by the ordinance.

Chairman: Sister Vivian, did you have a - I saw you sitting on the edge of your chair. Do you've got something that you want to make a comment about?

Sister Vivian: No. I hear only when I see.
CHAIRMAN: You have not been recognized before. If you would like to make a very brief statement.

MR. ELLIOTT: State your name, please.

MRS. HAYCRAFT: My name is Mary Lou Haycraft.

(MRS. MARY LOU HAYCRAFT SWORN BY ATTORNEY.)

MRS. HAYCRAFT: I have a question for Pat, please.

CHAIRMAN: To keep this thing very civil, please direct your question to me and then I will get your answer.

MRS. HAYCRAFT: I would like to know when she purchased that vacant lot that is vacant now. It wasn't before.

MRS. CLARK: I think it was 1998.

MRS. HAYCRAFT: Well, the piece of property that you purchased then was in the shape, terrible shape. You probably couldn't have had it insured at that point in time, right?

MRS. CLARK: That's true.

MRS. HAYCRAFT: So you knew what you were purchasing at the time.

CHAIRMAN: Please direct your questions to
MRS. HAYCRAFT: It was going to have to be torn down or fixed up at some point in time. Now, I own the property catty-corner across the street, 2441, my husband and I. We got damage from the tornado also, but we had insurance and we had it repaired. When she purchased that piece of property she knew there wasn't anything to do with it. What could she do with it once the house fell down or had been torn down.

CHAIRMAN: Mrs. Haycraft, in her previous testimony I believe she stated that. She stated disrepair. That the property was in --

MRS. HAYCRAFT: Well, it was, but now she's worried about that she can't do anything with that one piece of property.

CHAIRMAN: Well, that issue doesn't come into play. We're not here to facilitate what she can or can't do with the property that she previously bought.

I think the Chair is in a situation, unless anybody has any other comments, questions from the Board.

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.
MR. APPLEBY: Mr. Chairman, I sympathize with the neighbors. I tend to agree with the applicant that this area has changed. I don't see this property as being residential on 25th Street any more. In light of that, I would make a motion for approval based on the applicant's findings with the conditions that the business be either oriented toward the alley or to 25th Street and with the conditions, further conditions that access be limited to the alleyway west and that there be screening on the St. Ann Street side.

CHAIRMAN: Before I ask for a second, Mr. Kamuf, would you step forward, please. Do you understand the proposal.

MR. KAMUF: It was an R condition and I understand.

CHAIRMAN: And your client understands the conditions?

MR. KAMUF: Be sure she does.

She says she does.

CHAIRMAN: I didn't want to step forward with asking for a second without --

MR. KAMUF: Yes, sir.

MR. ELLIOTT: If I might. That may be very difficult to employ once you rezone the property.
I mean if they don't comply with the conditions, I don't know of any procedure you could unrezone it and that's the reason we usually have a development plan submitted and subject to the development plan.

MR. APPLEBY: Can we approve a zoning subject to the development plan?

MR. ELLIOTT: Yes, we can, but then we usually do it we have a development plan before us so we can see what the development plan provides. All I'm saying is with the conditions on it in my opinion that would be difficult to enforce those conditions at a later time.

MR. KAMUF: We're going to come forward with a development plan and I can assure you we'll agree to those conditions. They'll be written on the side of the development plan and we'll agree to them.

MR. NOFFSINGER: It's been a long policy of this Planning Commission and this situation that they have not moved forward unless they see a development plan. This would be a move away from that position.

MR. KAMUF: Gary, you've approved many of these rezoning without a development plan.

MR. NOFFSINGER: Yes, sir, but when the situation arises we have not for a long time approved
a zoning change subject to a development plan in conjunction with the development plan.

CHAIRMAN: Mr. Kamuf, we're in the process of a motion here.

MR. ELLIOTT: My only point was if someone else becomes the owner of this property zoned B-4, words are unfortunate against Walgreen or whoever may come in. How do we enforce this condition?

CHAIRMAN: Mr. Appleby.

MR. ELLIOTT: I'm just bringing it up as far as I see a problem in enforcing this.

CHAIRMAN: The Chair would like you to amend.

MR. APPLEBY: I mean the only way we could amend it would be subject to a development plan with those conditions which I would do if that's the answer.

MR. ELLIOTT: My point is it's very difficult to enforce. I'm not saying that you can't do it subject to the conditions, but as long as this board knows that there may be enforcement problem with that type of zoning.

CHAIRMAN: Mr. Elliott, you see where we're trying to head with this.

MR. ELLIOTT: I know where you're trying
CHAIRMAN: Can you frame a motion that Mr. Appleby can --

MR. APPLEBY: I think what he's saying is I can make the motion that way. It's just that we've got an enforcement problem possibly.

MR. JAGOE: You do have enforcement problem.

MR. APPLEBY: We have to take them at their word that they'll come back with a development plan. Well, we'll see the development plan. We'll know.

MS. DIXON: Then what are you going to do if it's not right.

MR. APPLEBY: We don't approve the development plan.

MR. HAYDEN: You can enforce it by approving the development plan. That's the way you can enforce it.

CHAIRMAN: If I understand what Mr. Elliott is saying. If there is a change in property owners, say Ms. Dixon goes down there and decided to expand her holdings, then the enforcement problem becomes greater. Is that not correct?

MR. ELLIOTT: That's right.
MR. HAYDEN:  But she can't do anything with that property without a development plan.  It has to be approved.

MR. ELLIOTT:  That's the second point.  If a development plan is submitted and it complies with all the legal requirements of the ordinance and statute, then you may not have a basis to deny it.

CHAIRMAN:  Because then they could go to court even if we denied it and we're back in court again.

Do you want to restate.

MR. APPLEBY:  I don't know any other way to make the motion that I made.

CHAIRMAN:  Could we legitimately the Board postpone this until we see a development plan?

MR. ELLIOTT:  Yes, the board can table it.

Either postpone it or table it if the applicant would agree.

CHAIRMAN:  Mr. Appleby, you're in the middle of a motion.  Unfortunately we had too many clarifications, but I think they were justified.  I don't mean to interrupt, but I didn't want to get a second without agreement from the applicant and get clarification from the attorney.

MR. APPLEBY:  The applicant has agreed to
the conditions proposed. I think we can enforce it.
I'll leave the motion as it stands.

CHAIRMAN: Okay. Mr. Appleby has a motion
on the floor. Do we have a second?

MR. HAYDEN: I'll second it.

CHAIRMAN: Mr. Hayden seconds the motion.

Is there any more discussions, suggestions?

MR. NOFFSINGER: I have a question on the
motion. Mr. Appleby, on the screening along St. Ann
Street, you included a height on this screening?

MR. APPLEBY: What's typical? Six foot
continuous element?

MR. NOFFSINGER: Three foot or six foot
continuous element.

MR. APPLEBY: I don't know what the
neighbors would prefer. I would say at least three
foot, preferably a six foot. I'd say make it a six
foot continuous element.

MR. NOFFSINGER: Thank you.

CHAIRMAN: We move to six foot element.

Does everybody on the Board understand the
motion now as it stands?

Time to call for a vote. All in favor of
Mr. Appleby's motion please raise your right hand.

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

CHAIRMAN: All opposed.

(MS. DIXON RESPONDED NAY.)

CHAIRMAN: One. Seven to one. The motion passes as is with it conditions.

Next item, please.

ITEM 7

307 East Fifth Street, 0.15 acres
Consider zoning change: From R-4DT Inner-City Residential to B-2 Central Business
Applicant: John S. Wright, Elaine R. Wright

PLANNING STAFF RECOMMENDATIONS

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

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

Condition:

There shall be no direct access to West Fifth Street. Access shall be provided via the public alley to the east of the subject property.

Findings of Fact:

1. The subject property is located in a Central Business Plan Area, where central business uses are appropriate in general locations;

2. The subject property adjoins B-2 Central Business zoning to the north, east and west; and
3. The proposed zoning of B-2 Central Business is a more appropriate zone in this Plan Area than the existing R-4DT Inner-City Residential zone.

MS. WATSON: We'd like to enter this as Exhibit C.

CHAIRMAN: Anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody on the commission have any questions?

(NO RESPONSE)

CHAIRMAN: The Chair is ready for a motion.

MR. ROGERS: Motion for approval, Mr. Chairman, based on the Planning Staff's Findings of Facts 1 through 3.

CHAIRMAN: Motion for approval by Mr. Rogers.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The motion carries unanimously.

Just for the record Ms. Dixon has had surgery within the last week and was feeling that it
was time that she needed to leave so she’s been
excused and we still have a quorum.

MR. APPLEBY: I have one question for
Stewart. On this zoning application, Staff made the
recommendation that limited access. Why is that
different than it was on our last motion?

MR. ELLIOTT: My point is that these type
of things would be enforcement problems if they don’t
comply with them. Not that it can’t be done. This
last particular situation we had some objections from
the neighbors and it comes into an enforcement
problem, a new owner takes over, develops it
commercial. It would be a problem. That’s my only
point. I think the board should know that when they
vote those conditions.

MS. WATSON: Plus this condition be
enforceable to the access standards. It would be
limited, the access would be limited by the
classifications. We’re just bringing that to your
attention.

MR. JAGOE: Would those standards also
apply to the last zoning?

MS. WATSON: Not the access on St. Ann
Street.

CHAIRMAN: We have voted and we have
passed and we're ready for the next.

ITEM 8

Portion 104 West Ninth Street, 0.84+ acres
Consider zoning change: From B-4 General business to
I-1 Light Industrial
Applicant: Bryant-Busch, LLC

MR. NOFFSINGER: Mr. Chairman, I have a letter from the applicant's representative asking that this item be postponed until the July 12, 2001, meeting in order to prepare an amended development plan.

CHAIRMAN: We need to take action?

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: The Chair actually needs to receive a motion.

MR. HAYDEN: I make a motion we postpone.

CHAIRMAN: Motion for postponement by Mr. Hayden.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion is postponed.

ITEM 9

115 East 12th Street, 0.141 acres
Consider zoning change: From I-1 Light Industrial to R-4DT Inner-City Residential
Applicant: Roger D. & Sarah M. Whittaker
PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in accordance with the adopted Comprehensive Plan. Findings in support of this recommendation are as follows:

Findings of Fact:

1. The subject property is located in a Central Residential Plan area where low density urban residential uses are appropriate in general locations;

2. The subject property adjoins R-4DT Inner-City Residential zones and uses; and,

3. The current zoning of I-1 Light Industrial is inappropriate and the proposed zoning of R-4DT Inner-City Residential is appropriate as there is a single-family dwelling located on the property and the subject property is a part of the JZ Moore Residential Historic District.

CHAIRMAN: Is there anybody representing the applicant?

APPLICANT: Yes.

CHAIRMAN: We'll see if we have any questions.

Does anybody from the board have a question of the applicant?

(NO RESPONSE)
CHAIRMAN: Does the applicant care to make a statement?

APPLICANT: No comment at this time.

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval based on the Planning Staff Recommendations and Findings of Fact 1 through 3.

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

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The motion carries unanimously. Next item, please.

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

DEVELOPMENT PLANS

ITEM 10

3000 Frederica Street, 59.927 acres
Consider approval of final development plan.
Applicant: Kentucky Wesleyan College

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It's found to be in order. It is a master plan for the Kentucky Wesleyan College to include a new science building as well as reconstruction of the president's
house. With that it's ready for your approval.

CHAIRMAN: Is anybody representing the applicant here?

Do you have a statement you'd like to make at this time?

APPLICANT: No.

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion by Mr. Appleby for approval.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 11

3624 Wathens Crossings, 1.263 acres
Consider approval of final development plan.
Applicant: Jagoe Homes, Inc., O'Bryan Heirs c/o William Wright

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

MR. JAGOE: Mr. Chairman, I to disqualify
myself.

CHAIRMAN: Mr. Jagoe has disqualified himself.

Is there anybody here representing the applicant?

MR. RINEY: Yes.

CHAIRMAN: Do we have any questions?

(NO RESPONSE)

CHAIRMAN: Do you have a statement you'd like to make, Mr. Riney?

MR. RINEY: No.

CHAIRMAN: Chair is ready for a motion.

MR. ROGERS: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Rogers.

SISTER VIVIAN: Second.

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

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

CHAIRMAN: Motion carries unanimously.

Next item, please.

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

MAJOR SUBDIVISIONS

ITEM 12
Brookhill Heritage, Unit #13, 5.580 acres
Consider approval of major subdivision final plat.
Surety (Certificate of Deposit) posted: $27,156.00
Applicant: JMJ Construction

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff.
Found to be in order. It is for the construction of 18 single-family homes.

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 13

Cinderella Drive, Lots 1-6, 1.635 acres
Consider approval of major subdivision final plat.
Surety (Performance Bond) posted: $31,778.50
Applicant: James Glenn Causey

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff.
It is in order. It's for six residential lots with an improvement to Cinderella Drive which includes curb
and gutter. With that it's ready for your consideration.

CHAIRMAN: Chair is ready for a motion.

MR. HAYDEN: Make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 14

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

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. Found to be in order. It has previously been approved by this commission; however, there is a revised drainage plan as well as a revision to the street grade for this development. With that it's ready for your consideration.

CHAIRMAN: Chair is ready for a motion.

SISTER VIVIAN: Motion for approval.
CHAIRMAN: Motion for approval by Sister Vivian.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 15

Lake Forest, Unit #12, Lots 182-186, 219-221, 4.894 acres
Consider approval of major subdivision final plat. Surety (Certificate of Deposit) posted: $21,981.60
Applicant: Lake Forest Community, LLC

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. Found to be in order and it is for eight lots for single-family development and it's ready for your consideration.

CHAIRMAN: Chair is ready for a motion.

MR. JAGOE: Move to approve.

CHAIRMAN: Motion for approval by Mr. Jagoe.

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion approved unanimously.

Next item.

MINOR SUBDIVISIONS

ITEM 16

4318 Curdsville-Delaware Road, 2.181 acres
Consider approval of minor subdivision plat.
Applicant: Raw Prawn Properties, LLC c/o J.B. Oexmann

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It was not signed by the Planning Staff and it was forwarded to the Commission for their consideration. It does create a flag-shaped lot that does not meet the minimum frontage requirements at the building setback line and exceeds the depth to width ratio requirements. With that it's ready for your consideration.

CHAIRMAN: Do we have anybody representing the applicant?

MR. KNOTT: Yes.

CHAIRMAN: Would you step forward, please.

MR. ELLIOTT: State your name, please.

MR. KNOTT: Kenny Knott.

(MR. KENNY KNOTT SWORN BY ATTORNEY.)

CHAIRMAN: Mr. Knott, are you aware that the Planning Staff has some questions about the shape, the irregular shape of your lot?
MR. KNOTT: Yes, I am. There's really not a really good way of splitting it up. Our intentions is I was aiming to the buy the house from Dr. Oexmann. Our plans is to eventually by the entire farm with my brothers.

CHAIRMAN: You're aware obviously of Planning Staff's concerns with the shape of the lot. We've tried to put a moratorium on what we refer to as a flag lot. Yours meets that criteria, very small and very wide. Mr. Noffsinger may be aware that there is a possible solution to this situation. He discussed it with you. Are you aware of that? I'm sorry. He said the surveyor. He discussed it with the surveyor. Did the surveyor not relay this?

MR. KNOTT: He did mention that initially when we first did the survey this is the way we approached it. Then later on he expressed that maybe add a little more frontage to it. He thought maybe it would work better. We thought we would approach it this way. The way it's set up it just splits the farm up so much. Like I said I planned on to buy the entire farm anyway with my brothers eventually is the plan.

CHAIRMAN: If you plan on buying the rest of the farm and go ahead and square this lot up, the
property will be yours in the future anyway to the adjacent property. We're really making a very strong effort to try to clean up the landscape and do away with these flag type portions that come and immense problems down the road for us and property owners and everybody else. We're not trying to put a hardship on you.

MR. KNOTT: I understand that, but if it's just the way the farm is laid out it's kind of hard to do. I mean if I take, which I think you all usually require ten acres. If I took ten acres I guess it would turn easement on the rest of the farm. I just didn't see --

MR. NOFFSINGER: Sir, what the Planning Staff is proposing, we're not suggesting you take ten acres. We're suggesting that you reduce the road frontage in this curve on this proposed lot. Where now you have probably 160 feet of road frontage with this lot. Reduce that down to about 50 feet and then run a line at an angle up to one of your corner pins which would mean about 1 1/2 acres of additional property. What that does is you have 50 feet of the road, but immediately that lot starts to widen out and you would be able to meet the minimum frontage requirements at the required building setback line as
well as you would maintain the acceptable depth to width ratios that we have in our regulations. That would leave more frontage for the remainder of the property so that in the future whatever might take place in terms of developing there would be additional road frontage for that. Plus it gets rid of that dog-leg or irregular shape lot situation that's proposed now. That's what we're suggesting to you and it probably means, I'm just guessing, roughly about an acre and half, acre and three quarters additional land with this.

MR. KNOTT: You suggest we approach it that way then?

CHAIRMAN: Correct.

MR. GILLES: Mr. Knott, would that be a financially burdensome task?

MR. KNOTT: No.

MR. GILLES: In my opinion that would make a big consideration if this would be approved or disapproved. If it would be some kind of financial hardship.

MR. KNOTT: No, it wasn't. Like I said initially -- it's kind of hard the way the house sits on the property the way it is. It's just the reason why we did it this way. Like I said our intentions
was to buy it later.

MR. APPLEBY: Gary, maybe you can have him come forward and show him. Just give him a brief idea of what you're talking about. I think he pretty much understands it, but be sure he's clear on it.

MR. NOFFSINGER: Yes.

MR. KNOTT: See, the farm it lays from here. It goes to here and back here. Most of the farm lays back in here anyway.

MR. NOFFSINGER: What I'm speaking of is a line back this point and a line comes up to somewhere right here.

MR. KNOTT: Yes. That's what the surveyor said.

MR. NOFFSINGER: Then I can sign that plat in-house without having to consider by the Planning Commission. That leaves frontage out here. This frontage is unused and that would be retained with the farm.

SISTER VIVIAN: Dr. Oexmann would be open to you purchasing that additional piece?

MR. KNOTT: Yes.

MR. NOFFSINGER: Thank you.

MR. APPLEBY: He just withdraw this; is that right?
MR. NOFFSINGER: I don't want to cost the gentleman another filing fee.

MR. JAGOE: Revise it.

MR. NOFFSINGER: I would recommend it be revised to meet the subdivision regulations and authorize the director to sign this plat once that's done.

MR. APPLEBY: I make that motion. That the director be authorized to sign the plat once it's amended.

CHAIRMAN: Mr. Appleby has made a motion. Do we have a second?

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 17

6756 Curdsville-Delaware Road, 10.19 acres
Consider approval of agricultural division.
Applicant: Thomas D. Zoglmann, Martha E. Zoglmann

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It is considered to be an agricultural division in that the property is slightly over ten acres in size;
however, the entire farm does not have frontage on
public right-of-way and the access to this farm is
provided via easement and this is a plat that I can
not sign administratively and have to forward to this
commission for consideration. With that it's ready
for your consideration.

MR. APPLEBY: Motion for approval.

MR. HAYDEN: Second.

CHAIRMAN: Motion for approval and a
second. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 18

252, 270 Saint Anthony road, 10.000, 14.805 acres
Consider approval of minor subdivision plat
Applicant: William V. Pruden, Charleen D. Pruden

MR. NOFFSINGER: Mr. Chairman, this too is
a division considered for agricultural purposes. It
is to place an existing farm home on a separate lot as
well as there are two homes on that property now. The
one lot will not have frontage on public right-of-way;
however, access is provided via an easement and Staff
would recommend that you consider this exception due
to the fact there are two existing homes on the
property and this would be the only way to divide the
property so that the two homes could be each on a
separate lot. They are sound homes in sound
condition.

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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

SURETY RELEASES

ITEM 19

Mapco Express, $3,600
Consider release of surety (Performance Bond) for landscaping.
Surety posted by: Higginson Oil

ITEM 20

Mount Moriah, Unit #1, $7,100
Consider release of surety (Irrevocable Letter of Credit) for storm sewers and drainage.
Surety posted by: Mount Moriah Holdings

ITEM 21

Saint Martin's Parrish Hall, $3,577
Consider release of surety (Certified Check) for landscaping.
Surety posted by: Saint Martin's Church
MR. NOFFSINGER: Mr. Chairman, the Surety Release Number 19 through 21 are in order and may be considered for release in toto.

CHAIRMAN: Chair is ready for a motion.

SISTER VIVIAN: Motion for approval.

CHAIRMAN: Motion for approval by Sister Vivian.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next items, please.

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

SURETY TRANSFERS

ITEM 22

Hunters Ridge, unit #6, $6,400
Transfer of surety (Certificate of Deposit) for storm sewers to the City of Owensboro. Surety posted by: Hunters Ridge Development, Inc.

ITEM 23

Hunters Ridge, Unit #6, $11,321.40
Transfer of surety (Certificate of Deposit) for streets to the City of Owensboro. Surety posted by: Hunters Ridge Development, Inc.

MR. NOFFSINGER: Mr. Chairman, Surety Transfers Items 22 through 24 in are in order and may be transferred in toto.
CHAIRMAN: Chair is ready for a motion.

MR. HAYDEN: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Next item, please.

NEW BUSINESS

ITEM 25

Consider for adoption the amended budget for fiscal year 2001.

MR. NOFFSINGER: Mr. Chairman, each Commissioner has been mailed a copy of this amended budget. The reason for this amendment is back in January we amended our budget and took out community development and property maintenance departments in our budgeting; however, that was a mistake. We should have left those two departments in for accounting purposes. Therefore, we're bringing this budget back to you for consideration to show you the expenditures within those two departments and ask that you approve this budget.

CHAIRMAN: Are there any questions, ideas?
CHAIRMAN: On behalf of the Planning Commission, I'd like to thank Mr. Noffsinger and Mr. Adams for their extensive work on the budget and all the hard work they did during this change over and going to our two governmental bodies and putting together a very fine budget and working with both governmental agencies. We do appreciate that. You all have worked very hard. Thank you.

Now the Chair is ready for a motion.

MR. JAGOE: Move to approve.

MR. HAYDEN: I second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

ITEM 26

Consider for adoption in budget for fiscal year 2002.

MR. NOFFSINGER: Mr. Chairman, this will be the budget for the next fiscal year. It has been mailed out to each of the Planning Commissioners and certain obtain any questions that you may have.

CHAIRMAN: Any questions from anybody on the commission?

(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.

MR. JAGOE: Move to approve.

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

I believe the Chair is ready for one final motion.

MR. NOFFSINGER: Mr. Chairman, we have one additional item under Item 27.

ITEM 27

Consider for adoption fiscal year 2002 salary chart.

MR. NOFFSINGER: Each Planning Commissioner has been mailed a copy of this chart. This chart is consistent with the budget, 2002 fiscal year budget.

CHAIRMAN: Any questions on the salary chart?

(NO RESPONSE)

CHAIRMAN: If there are no questions, the Chair is ready for a motion.

MR. JAGOE: Move to approve.

CHAIRMAN: Motion for approval by Mr. Jagoe.
SISTER VIVIAN: Second

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Now the Chair is ready for one final motion.

MR. GILLES: Make a motion to adjourn.

CHAIRMAN: Motion to adjourn by Mr. Gilles.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned.

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

I, LYNETTE KOLLER, Notary Public in and for
the State of Kentucky at Large, do hereby certify that
the foregoing Owensboro Metropolitan Planning & Zoning
meeting was held at the time and place as stated in
the caption to the foregoing proceedings; that each
person commenting on issues under discussion were duly
sworn before testifying; that the Board members
present were as stated in the caption; that said
proceedings were taken by me in stenotype and
electronically recorded and was thereafter, by me,
accurately and correctly transcribed into the
foregoing 104 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this
the 9th day of July, 2001.

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

COMMISSION EXPIRES:
DECEMBER 19, 2002

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY