

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JULY 12, 2001

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4 The Owensboro Metropolitan Planning
5 Commission met in regular session at 6:00 p.m. on
6 Thursday, July 12, 2001, at City Hall, Commission
7 Chambers, Owensboro, Kentucky, and the proceedings
8 were as follows:

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

20 * * * * *

21 CHAIRMAN: Welcome everyone to the
22 Owensboro Metropolitan Planning Commission. Our
23 invocation and pledge of allegiance will be given by
24 Ms. Judy Dixon.

25 (INVOCATION AND PLEDGE OF ALLEGIANCE)

CHAIRMAN: Our first item on the agenda is
to consider the minutes of the June 14th meeting.

Are there any questions or additions to
the minutes?

(NO RESPONSE)

1 CHAIRMAN: If not the Chair is ready for a
2 motion.

3 MS. DIXON: Move to approve.

4 MR. CAMBRON: Second.

5 CHAIRMAN: Motion by Ms. Dixon to approve.
6 Mr. Cambon seconded. All in favor raise your right
7 hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Mr. Noffsinger, the next item, please.

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12 PUBLIC HEARING

13 ITEM 2

14 Consider text amendments to the Sign Regulations
15 regarding billboards, affecting Article 9 of the
Zoning Ordinance for Daviess County and Whitesville.

16 MR. NOFFSINGER: Mr. Chairman, this item
17 has been advertised for public hearing at this time.
18 I believe there are several people in the audience
19 that may wish to address this item. Near the end of
20 that discussion, I think Mr. Adams is here to present
21 the staff's findings and recommendations.

22 MR. ELLIOTT: State your name, please.

23 MR. ADAMS: Gary Adams.

24 (MR. GARY ADAMS SWORN BY ATTORNEY.)

25 MR. ADAMS: What I'm going to do here, Mr.

1 Chairman, is read the front page of the Zoning Text
2 Amendment Staff Report just to give general
3 information to the public and the audience here.

4 BACKGROUND

5 On March 7, 2001, Daviess County Judge Executive
6 Reid Haire issued Executive Order No. 2-2001, in which
7 he declared "a moratorium on all permitting requests
8 made to the Owensboro Metropolitan Planning Commission
9 relating to billboard construction within Daviess
10 County." The Judge/Executive's purpose was to "allow
11 the Daviess County Fiscal Court the opportunity to
12 review any and all policies related to billboard
13 permitting in Daviess County."

14 The City of Owensboro adopted a prohibition on
15 new commercial billboards in 1989, and none have been
16 permitted within the city limits of Owensboro since
17 then.

18 The Judge/Executive established a billboard
19 review committee, which included representation from
20 the two main outdoor advertising companies operating
21 in the county (Lamar out of Evansville, IN, and Bill
22 Smith, Owensboro), the local PRIDE organization, OMPC
23 Commissioner Vivian Bowles and OPMPAC Associate
24 Director of Planning Gary Adams, Judge Haire, County
25 Commissioner Bruce Kunze, and Fiscal Court Clerk

1 Jennifer Warren. Also, representatives from Scenic
2 Kentucky attended one session at the invitation of
3 PRIDE and Judge Haire.

4 The Billboard Committee met several times. Judge
5 Haire chaired the meetings and explained that he
6 sought a compromise with all interested parties, and
7 was not currently seeking elimination of existing or
8 future billboard signs in Daviess County. However,
9 Judge Haire was particularly concerned that US 60 E,
10 from the new bridge leading into Owensboro, not become
11 littered with billboards.

12 Scenic Kentucky, which is affiliated with Scenic
13 America, argued for the elimination of outdoor
14 advertising altogether. In lieu of a ban on new
15 billboards, Scenic Kentucky promoted more restrictive
16 sign regulations, especially to avoid proliferation at
17 key entry points into the community. PRIDE attendees
18 were representing their own opinions and not the
19 organization's which had not taken a formal position,
20 but did encourage the general public to let Fiscal
21 Court know its concerns about billboards.

22 The outdoor advertisers were receptive to tighter
23 restrictions that are reasonable. There was
24 substantial support for banning new billboards in
25 agricultural zones, but some did not want to lose that

1 option. There was extensive discussion of the need to
2 adequately represent the state permitting rules for
3 billboards along "state-controlled" highways,
4 particular highways of statewide and national
5 importance. To this end, Kentucky Transportation
6 Cabinet's District Office in Madisonville reviewed an
7 early draft and responded with several helpful
8 recommendations to make the local rules consistent
9 with those of the state.

10 After several lengthy discussions, the committee
11 came to consensus on the proposed amendments. Judge
12 Haire submitted them to the OMPC for consideration on
13 June 11, 2001.

14 SUMMARY OF PROPOSED CHANGES

15 The proposed amendments reduce the maximum height
16 and area of new billboards, and increase the minimum
17 spacing between billboards and minimum setbacks from
18 residential uses and schools.

19 In Business and Industrial zones, the following is a
20 summary of the major changes that are proposed:

- 21 * Maximum sign area is reduced from 1250 SF to
22 380 SF along "US" highways and 300 SF along
other roadways.
- 23 * Maximum sign height is reduced from 100 feet to
24 40 feet along "US" highways and 32 feet along
other roadways.
- 25 * Minimum spacing between billboards is increased
from 100 feet to 500 feet and to 1,000 feet
when located on the same side of the street.

- 1 * Minimum distance of a billboard from
2 residential uses is increased from 50 feet to
3 400 feet; as a new provision, the 400 feet
4 setback distance will also apply to schools
5 with persons under 18 years of age.
6 * Particular "gateway highways" are designated,
7 and billboards must be setback 500 feet from
8 these highways.
9 * Each billboard is limited to no more than one
10 sign face per each side of the sign, for a
11 total of two.

12 In Agricultural zones, the same changes are proposed
13 as listed above except as noted below:

- 14 * Minimum spacing between billboards is increased
15 from 300 feet to 1,500 feet, and to 3,000 feet
16 when located on the same side of the street.
17 * Billboards shall not be visible (as defined)
18 from "gateway highways" or from any defined
19 "state-controlled highway" (particular major
20 highways).

21 MR. ADAMS: That's it for the Staff.

22 Thank you.

23 CHAIRMAN: Thank you, Gary.

24 Does anybody from the audience want to
25 make any comments?

26 Yes, sir, would you like to make a
27 comment?

28 MR. SMITH: Yes, sir.

29 MR. ELLIOTT: State your name, please.

30 MR. SMITH: I'm Scott Smith with Bill
31 Smith Outdoor Advertising.

32 (MR. SCOTT SMITH SWORN BY ATTORNEY.)

33 MR. SMITH: I was involved in this

1 committee making up these ordinances that you're
2 seeing proposed changes. I'm not in favor of this
3 ordinance. It's kind of like quite a few years ago
4 there was a metro proposal out there and there was a
5 lot of members that sat on that committee that were
6 against that proposal. I'm against this proposal due
7 to the fact that it restricts me as a business man to
8 perform my job and to meet the needs of other local
9 businesses within the community as far as reaching the
10 traveling public.

11 Do any of you all have any questions?

12 MR. CAMBRON: In general, what part of
13 this - - I mean surely you're not opposed to all of
14 it.

15 MR. SMITH: No, I'm not opposed to all of
16 it. I don't like such a severe restriction on the
17 size of the signs. For example, you're going from
18 1250 square feet to 380 square feet. I don't have a
19 problem with the height. We don't have any signs that
20 tall anyway. I'm concerned about the spacing aspects
21 to 1,000 feet down the same side of the road. Right
22 now we have driven out the various roads in this area
23 trying to look for potential locations and they aren't
24 there. If you have a location that meets the criteria
25 as far as zoning and you have a residential area that

1 may be 400 feet or closer to that, so we can't build
2 on that. Then if you look at another area that's more
3 commercial, then it may be less than 1,000 feet to an
4 existing signage structure at the time. If you go to
5 agricultural zoned property, you're looking at
6 potentially 3,000 feet if they're on the same side
7 between signs.

8 MR. CAMBRON: How does this effect your
9 growth in the near future?

10 MR. SMITH: It would restrict it greatly.
11 It would be like, for example, the Messenger-Inquirer
12 having ten pieces of paper and printing on the front
13 and back and then you saying, okay, you can only grow
14 one page a month and you have to keep those pages
15 whether you have them sold or not. Well, Sunday then
16 you sell what you have. If you don't have any extra
17 pages, then that's tough.

18 MR. CAMBRON: Are you about the only
19 person in town now that's doing billboards in
20 Owensboro?

21 MR. SMITH: No. There's another company
22 in Owensboro.

23 MR. CAMBRON: But from Owensboro.

24 MR. SMITH: Yes.

25 MR. GILLES: What's the average sign now?

1 What's the square footage?

2 MR. SMITH: There's two different sizes.
3 There's what's called a Volton which is 672 square
4 feet and there's what's called a Posture Panel. That
5 is approximately 300 square feet.

6 MR. CAMBRON: Right now you have 672 to
7 675 square feet signage. What happens to that, the
8 ones you have?

9 MR. SMITH: They're grandfathered in, but
10 it eliminates us from having the opportunity, for
11 example, on the new east/west corridor, you're talking
12 about the 54 corridor, that's going to have a lot of
13 traffic coming through Owensboro that's not planning
14 on staying in Owensboro. How is, for example, a
15 hotel, a restaurant going to attract that traveling
16 public to stop by their place of business? They can't
17 stop and get a paper. They're not going to be able to
18 do that. They're not going to be able to watch the TV
19 so see it. It's either going to be radio or signage
20 and if they're not familiar with the area, they
21 probably won't have the radio on unfortunately because
22 we want out of state, out of town people coming to our
23 community. Not passing through and not ever stopping.

24 MR. CAMBRON: So basically two parts of
25 this particular proposal that you're not agreeing with

1 is the size and spacing and that's it, right?

2 MR. SMITH: That would be my biggest
3 concern on sizing and the spacing, yes.

4 CHAIRMAN: Mr. Smith, what would you - -
5 obviously you were on the panel that came up with this
6 compromise.

7 MR. SMITH: Yes.

8 CHAIRMAN: Obviously you were not pleased
9 with the compromise that were struck. Obviously the
10 sign size, the 1250 down was what bothers you the most
11 I would say, that and the spaceage. What's your
12 greatest concern and what was your, what did you think
13 was the fair distance?

14 MR. SMITH: Right now we are currently
15 under what the state regulates. That's their regs for
16 federal aid primary highway. That's what they
17 institute as the guidelines. Okay. Right now in this
18 community there's a feeling that we need to do
19 something to be stricter to that than that
20 arrangement. I don't mind being a little stricter,
21 but I don't want to be so strict that I feel like I'm
22 losing my toes on compromise.

23 MR. CAMBRON: You're relating to
24 distances, right? Not so much the size there, but the
25 distance?

1 MR. SMITH: Both.

2 CHAIRMAN: We're back to my original
3 question. Size and distance, what did you think was
4 adequate?

5 MR. SMITH: On the adequate - - on
6 existing or on this?

7 CHAIRMAN: Obviously you don't like this.
8 The bigger one was better, but what did you think was
9 a fair compromise?

10 MR. SMITH: Well, the compromise they come
11 up is was 380 square feet which was 10 1/2 by 36 which
12 was smaller than a standard bulletin, but larger than
13 a posture page. I would have liked to have kept the
14 bulletin. For example, if you wanted to go with
15 bulletins on US highways or federal aid primary
16 highways and no bulletins on non-federal primary
17 highways.

18 CHAIRMAN: In other words, keep some of
19 the standard sizes that you produce?

20 MR. SMITH: Correct.

21 CHAIRMAN: Does anybody else on the
22 commission have any questions?

23 MR. HAYDEN: What would be the distance
24 you would recommend on the signs?

25 MR. SMITH: On the spacing?

1 MR. HAYDEN: Spacing, yes.

2 MR. SMITH: I don't have a problem with
3 500 feet, but I do have a problem with 1,000 feet.
4 What I'm saying, in other words, for example, as the
5 way this is written if you have a sign and you have
6 the opportunity to build a sign on another location
7 that's less than 1,000 feet down the road on the same
8 side, it will not pass. That's 1,000 feet instead of
9 500 feet. Diagonally it's 500 feet. In a straight
10 line you're saying 1,000 feet.

11 CHAIRMAN: Are there any more questions,
12 any questions from anybody in the audience?

13 (NO RESPONSE)

14 CHAIRMAN: Does the commission have any
15 more questions?

16 MR. APPLEBY: I have one for Mr. Adams.

17 MR. SMITH: Thank you.

18 CHAIRMAN: Thank you. We have a question
19 on the floor.

20 MR. APPLEBY: I want to be clear on the
21 gateway highway designations, Gary. As I understand
22 it, will be no signage within 500 feet of gateway
23 highway or designated gateway highway; is that right?

24 MR. ADAMS: Yes, sir.

25 MR. APPLEBY: But the size and height

1 limitations also effects - - you're effectively trying
2 to eliminate billboards on gateway/highways? You've
3 got a 40 foot height requirement regardless.

4 MR. ADAMS: The 500 feet was
5 accommodation. As concern you might have billboards
6 on intersecting roadways that are really intended to
7 be viewed from those intersecting highways. Not
8 having some kind of specification on whether or not
9 they could be seen or not seen on the gateway highway,
10 it was to say they have to be at least 500 feet from
11 gateway highway. Presumption is it wouldn't be seen,
12 but that still doesn't accommodate some state rules on
13 certain roads where even if you can see it from 500
14 feet away, you may not be able to do it. That doesn't
15 apply to gateway highways and commercial areas which a
16 lot of say 60 east which is designated gateway highway
17 outside of Wrights Landing Road has a lot of
18 commercial industrial zoning. So a federal rule you
19 can have billboards close to it, but by gateway
20 highway designation say you have to be 500 feet away.
21 They may be addressing those adjoining roads. I know
22 it sounds very confusing. It gets very technical, but
23 the idea was to keep billboards even in commercial
24 industrial areas at least 500 feet from these
25 so-called gateway highways.

1 MR. APPLEBY: What all are designated as
2 gateway highway?

3 MR. ADAMS: US 60 East from Wrights
4 Landing Road to Hancock County. The new bridge
5 encroach down to Maceo. The Natcher Parkway, the
6 Audubon Parkway, and the U 60 bypass extension when
7 it's built.

8 MR. CAMBRON: Just as a comment here. Of
9 course, all the roads that go off have designated
10 here, you know, this is probably 90 percent of where a
11 billboard would be, should be for any person that does
12 advertising to want to advertise period.

13 MR. ADAMS: Well, there's quite a few
14 roads that have not been included as gateway highway
15 where there are billboards now could be more; 56, 81,
16 54.

17 MR. CAMBRON: Of course, you know, I guess
18 if somebody end up advertising they're looking for
19 massive traffic as much as possible to maximize your
20 dollar that you've invested in a billboard/your copy
21 you have up there. So it does, you know, puts a
22 strain on both him and the businesses that are wanting
23 to advertise because you look for good locations. Not
24 to take offense, but he may have a billboard at 25th
25 and Frederica but may be setting a block off

1 Frederica. I mean you'd much rather be on Frederica
2 than you would on 25th. So it does pose a problem for
3 the person that is wanting to advertise in the near
4 future because there again traffic patters will
5 change. Hopefully they'll change the way we decide
6 they're going to change.

7 MR. ADAMS: One thing I would note that it
8 is likely that the bypass extension will intersect
9 existing 60 inside of Wrights Land Road and there will
10 be numerous - - there are quite a few billboards
11 already in that vicinity, but there's four that are
12 going up, four large ones are going up right near the
13 Hawesway Truck Stop that will apply for prior to the
14 moratorium. They're not up yet. So there's going to
15 be quite a few opportunities to advertise people
16 coming in the new bridge in terms of motels and things
17 like that.

18 I'm here primarily to interpret what the
19 committee came up with.

20 CHAIRMAN: Thank you, Mr. Adams.

21 I think we have one other person in the
22 audience. Did you want to speak?

23 MR. ELLIOTT: State your name, please.

24 MS. WHITE: My name is Julie White.

25 (MS. JULIE WHITE SWORN BY ATTORNEY.)

1 MS. WHITE: I'm here this evening because
2 I think our community is a beautiful spot and I want
3 to carry on the torch of Lady Bird Johnson. That in
4 my view is to plant a bush or a shrub instead of
5 having advertising that not everyone necessarily wants
6 to read or see as they travel. I think that it's
7 important for us as we think about tourists to create
8 an attractive pathway into our community. I think
9 it's important not to underestimate the power of
10 people to find restaurants and lodging. Now with cell
11 phones and all the other means of communication I
12 certainly don't rely on that when I travel in order to
13 find a place to stay or eat. I think it's more
14 important for us to remember our heritage in this area
15 and the beauty of our natural surroundings and I would
16 like to keep a moratorium. I think we already have
17 plenty of billboards and I'd like to make them more
18 spectacular and more beautiful instead of adding more
19 to that. I just wanted you to know that there are
20 many people in the community that feel that we have
21 enough billboards already.

22 CHAIRMAN: Thank you. One more comment.

23 MR. ELLIOTT: State your name please.

24 MS. BELCHER: Elizabeth Belcher.

25 (MS. ELIZABETH BELCHER SWORN BY ATTORNEY.)

1 MS. BELCHER: I would like to second what
2 this lady just said. I'm a member of the Ben Hawes
3 community and with possibility of us having the new
4 park come from that area that the addition to the Ben
5 Hawes work. I was wondering when Mr. Adams read this
6 list of gateways why 60 West was not included in that
7 because my understanding is the entrance to the park
8 may be out 60 West.

9 CHAIRMAN: Ms. Belcher, to answer that
10 question Mr. Adams is here to interpret only what the
11 committee had decided. His role of answering
12 questions why they did not put that in the mix, you
13 know, he does not know that. He's just interrupting
14 what they came out with.

15 MS. BELCHER: Is it too late to add that?

16 CHAIRMAN: At this meeting right now it
17 would be because we're getting ready to vote very
18 shortly on the proposal.

19 MS. BELCHER: I'd like this lady, like I
20 said, I would encourage you all to a moratorium and to
21 try to beautify our highways with the park being
22 expanded like it is, the tourism that will be coming
23 through that area, people are looking for nature and
24 for beauty and not looking for billboards. Thank you.

25 CHAIRMAN: Thank you for your comment.

1 Yes, sir. Would you like to make a
2 comment?

3 MR. ELLIOTT: State your name, please.

4 MR. HAIRE: Paul Haire.

5 (MR. PAUL HAIRE SWORN BY ATTORNEY.)

6 MR. HAIRE: I come here representing
7 PRIDE. PRIDE will not prevent, will not provide an
8 opinion one way or the other about this ordinance.
9 The process we will provide an opinion in that we feel
10 that fiscal court did try to represent a broad base of
11 the community and try to make a compromise on the
12 proposal and feel that the fiscal court made all
13 efforts possible to solicit all opinion before coming
14 up with a compromise on the ordinance.

15 CHAIRMAN: Thank you.

16 The Chair is now ready for a motion unless
17 anybody has any more questions.

18 Yes, sir. Would you like to make a
19 comment?

20 MR. MORSE: Yes, I would.

21 MR. ELLIOTT: State your name, please.

22 MR. MORSE: My name is Paul Morsee.

23 (MR. PAUL MORSE SWORN BY ATTORNEY.)

24 MR. MORSE: I'm here representing
25 myself. Not a representative of any organization. I

1 was on the committee and I did work with the Smiths on
2 it. If I'm not mistaken, I believe that the Smiths
3 had signed off on the new and were in agreement on the
4 new spacing and size of the billboard. I know they
5 did not sign off on the gateway community idea, but I
6 understand, at least it was my understanding, he did
7 sign off on - -

8 CHAIRMAN: Mr. Morsee, your comments will
9 be to the Chair and not to any individual.

10 MR. MORSE: Okay. That they did sign off
11 on all other aspects of the new proposal.

12 In any event, I believe that communities
13 that look good are nicer for people to live in. They
14 attract tourist. They are more likely to attract
15 better jobs and that billboards are a form of visual
16 pollution. I haven't given a lot of thought to
17 billboards until I got into this and I drove the
18 entire bypass. I drove all the entrances to the city.
19 Started looking at billboard and I found out that the
20 areas without billboards are really much more
21 attractive. In fact, the City of Owensboro ban new
22 billboards for than a decade ago. There's not been a
23 new billboard built in the City of Owensboro for some
24 11 years. Several Kentucky counties and several
25 entire states have banned new billboards altogether.

1 Billboards have been talking about our gateway
2 highways and the importance of having good looking
3 highways. Billboards have been banned on the Gene
4 Synder Freeway. That's the outer loop around
5 Louisville. It's a real nice road to drive. I drove
6 it. Not a billboard on the whole loop.

7 By contrast the proposed regulations for
8 Daviess County are really quite minimal. They are in
9 fact a large concession to - - probably, I would say
10 less than one-tenth of the population of Daviess
11 County. We have over 90,000 people. Perhaps 90
12 people have some stake in this. The billboard
13 companies understandably have a stake in it. Some
14 advertisers have a stake and some people who lease
15 their land for billboards have a stake. I understand
16 that. They are a tiny minority compared to the entire
17 community. So I trust that you will act in interest
18 of the overwhelming majority which stands to benefit
19 from fewer billboards. Not more.

20 CHAIRMAN: Thank you. I think - -

21 MR. ROGERS: May I ask Mr. Morse a
22 question?

23 CHAIRMAN: Yes, sir.

24 MR. ROGERS: You were on the committee.
25 Could you tell me why they limited it to, this is

1 going to shorten the billboards, be less of them now.
2 Why one sign per face of a billboard?

3 MR. MORSE: I don't think I would be the
4 best person to speak on that, the thought behind
5 that. My understanding was just to have them be less
6 - - not as large and more attractive. As long as we
7 have some that they would be smaller.

8 MR. ROGERS: We've got their size that
9 they're leaning to. Just one sign per sign face.

10 MR. MORSE: Perhaps the professional staff
11 could speak to that better than I could. In fact,
12 Sister Vivian was on that committee too. She might be
13 able to answer that question better than I.

14 SISTER VIVIAN: My understanding was
15 because we were decreasing the size and we were
16 limiting no pig-back, none of that, and it all came in
17 to play at the same time.

18 Gary, do you remember anything different?

19 MR. ADAMS: No.

20 SISTER VIVIAN: We had looked at what
21 other cities did, what the state permitted and all of
22 those considerations.

23 MR. CAMBRON: Mr. Chairman, can I ask Mr.
24 Smith another question, please?

25 CHAIRMAN: Yes, you can.

1 MR. CAMBRON: Mr. Smith, I have a quick
2 question for you. Are there standard sizes? There
3 again, I'm not very educated at that, but are there
4 standard sizes of billboards need to be to order the
5 material?

6 MR. SMITH: Correct.

7 MR. CAMBRON: The only reason I'm asking
8 that it goes from - - both sides 380. Is there a size
9 in-between 380 and 672?

10 MR. SMITH: No.

11 MR. CAMBRON: I guess if they did bring it
12 up between say 500, then it all would have to be
13 special or make the material more expensive. I guess
14 you could get it, correct?

15 MR. SMITH: Yes. It would be real
16 difficult. In fact, I don't know if you can actually
17 get posters for your signs.

18 MR. CAMBRON: So you either live with 380,
19 672 or 1250?

20 MR. SMITH: Yes. Right now, for example,
21 on some communities there 20 by 80, 20 by 60, as far
22 as different size signs. There aren't any of those in
23 this community as we speak.

24 MR. CAMBRON: If you broke your signage
25 down, how many are 672 and how many are 380 or 1250?

1 I don't know if the city had any 1250.

2 MR. SMITH: The majority of ours are what
3 we call post-panels, 12 by 25. We have some of the
4 672's. Those are called bulletins.

5 MR. CAMBRON: So the majority is 380,
6 right?

7 MR. SMITH: The majority of them - -
8 currently we don't have 380. We either have 672 or
9 the 300 square feet.

10 CHAIRMAN: All right. I think the Chair
11 is now ready for a motion.

12 MR. CAMBRON: Mr. Chairman, there's some
13 questions that need to be ironed out. There is some
14 concern that this gentleman has that I feel like
15 haven't been addressed properly. My motion would be
16 to postpone it and see if we can work out a few more
17 items on it. I mean it's not a big rush on it right
18 now. We have a moratorium. That's my thought. See
19 if we couldn't work out or even make the compromises
20 right here tonight.

21 CHAIRMAN: Mr. Noffsinger, would you like
22 to say something?

23 MR. NOFFSINGER: Mr. Chairman, for the
24 record, the moratorium was lifted some time ago. New
25 billboards are currently being permitted; however,

1 they must meet the requirements of these proposed
2 regulations.

3 MR. CAMBRON: Even though they aren't
4 adopted yet?

5 MR. NOFFSINGER: Yes, sir. That comes
6 from the judge/executive.

7 MR. CAMBRON: Sure.

8 CHAIRMAN: Mr. Cambron, your motion may
9 not help. They may injure more than it would help.
10 You might want to consider that.

11 MR. CAMBRON: Consider. Postponement,
12 that's my only thought.

13 CHAIRMAN: Is that a motion?

14 MR. CAMBRON: Yes.

15 CHAIRMAN: We have a motion on the floor
16 for postponement by Mr. Cambron. Is there a second?

17 (NO RESPONSE)

18 CHAIRMAN: Motion dies for lack of
19 second.

20 Chair will entertain another motion.

21 MS. DIXON: Move to approve the billboard
22 amendments based upon the information presented.

23 CHAIRMAN: Ms. Dixon has a motion on the
24 floor to approve the billboard proposal as it is
25 proposed by the Staff and the committee. Is there a

1 second?

2 MR. ROGERS: Second.

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

5 (COMMITTEE MEMBERS IRVIN ROGERS, SISTER
6 VIVIAN, DREW KIRKLAND AND JUDY DIXON RESPONDED AYE.)

7 CHAIRMAN: We have four. All opposed.

8 (COMMITTEE MEMBERS DAVE APPLEBY, JIMMY
9 GILLES, NICK CAMBRON AND MARTIN HAYDEN RESPONDED NAY.)

10 CHAIRMAN: Four. It did not pass. Then
11 motion fails.

12 MR. ELLIOTT: Well, no. You have a tie
13 vote. I think it's referred to the next meeting.

14 CHAIRMAN: So it's postponed. It ended up
15 four/four. We will move on to the next item.

16 -----

17 PUBLIC FACILITIES PLANS
18 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

19 MR. NOFFSINGER: Mr. Chairman, we do have
20 a new item under New Business Public Facilities Plan
21 that I would like to move up and consider at this
22 point in time.

23 CHAIRMAN: Consider it done.

24

25

1 ITEM 29

2 3827, 3907 South Griffith Avenue
3 Land Acquisition and Building Construction
4 Consider comments regarding the acquisition of
5 property for the construction of a fire station and
6 city park.
7 Referred by: The City of Owensboro

8 MR. NOFFSINGER: Mr. Chairman, I believe
9 the city manager is here tonight to discuss this item
10 with you. It is for land acquisition and turn it over
11 to you.

12 CHAIRMAN: Mr. Noffsinger, since we've had
13 Mr. Adams introduced and sworn in, I would like to
14 announce to the public that the commission is very
15 proud that we have two members of our staff, Mr. Adams
16 and Mr. Noffsinger have both passed the American
17 Institute of Certified Planners test on their first
18 try. We are very pleased to have this and this is a
19 very distinguished organization that they get into by
20 testing. So, Mr. Adams, Mr. Noffsinger,
21 congratulations. We're very proud of you. Thank you.

22 Is Mr. Payne in the audience?

23 MR. PAYNE: Yes, sir.

24 CHAIRMAN: Would you step forward, please?

25 MR. ELLIOTT: State your name for the,
26 please.

27 MR. PAYNE: Ron Payne, City Manager.

1 (MR. RON PAYNE SWORN BY ATTORNEY.)

2 MR. PAYNE: We've got a chart here.

3 The city currently has a fire station
4 located on Scherm Road. Our facility's maintenance
5 people tell us that we need to make some \$183,000
6 repair to that fire station. It contains asbestos and
7 there's a lot of other things that we need to do to
8 it. It's in a bad location. There's some
9 encroachment problems with it and we don't want to
10 make or commit those kind of funds to an old fire
11 station.

12 Texas Gas has agreed to donate to the City
13 of Owensboro property that's located here on South
14 Griffith Avenue. It's about 1.7 acres in here. We
15 are going to propose to the city commission that we
16 construct a fire station on that piece of property and
17 also dedicate the remaining portion of this property
18 as a neighborhood park. This is basically what we
19 want to do. This moves this fire station about
20 seven-tenths of a mile south from where it's presently
21 located. It will also give us improved response time
22 through Tammarack Road into an area that has been of
23 concern in regards to those response times. That's
24 the Apollo area, the Twin Lakes area.

25 With that I'll answer any questions the

1 commission may have.

2 CHAIRMAN: Does anybody from the audience
3 want to address this issue?

4 Yes, ma'am.

5 MR. ELLIOTT: State your name, please.

6 MS. FULKERSON: My name is Mary Fulkerson.

7 (MS. FULKERSON SWORN BY ATTORNEY.)

8 MS. FULKERSON: Mr. Chairman, I have a
9 question as far as the placement of this fire station.
10 Will this be in place of the proposed fire station on
11 Todd Bridge Road?

12 CHAIRMAN: Mr. Payne.

13 MR. PAYNE: These are really two different
14 issues. What we're trying to do here is address the
15 need to basically replace the fire station we've got
16 on Scherm Road because of the tremendous amount of
17 repairs we have to make to it. Ultimately the need
18 for that additional station, Fire Station Number 6
19 will be governed by the development that occurs out in
20 that area of town. So there is still the possibility
21 that the city would construct a fire station out in
22 that area. Now, we're leaving the option open to do
23 it in the park, but we may not want to put it there.
24 Again, the location of that fire station is going to
25 be driven by where the development takes place as I

1 said in that part of the city.

2 MS. FULKERSON: Thank you, Mr. Chairman.

3 CHAIRMAN: Thank you. Do we have any
4 other questions from anybody in the audience?

5 (NO RESPONSE)

6 CHAIRMAN: Does anybody on the commission
7 have a question of Mr. Payne?

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

9 CHAIRMAN: Mr. Noffsinger.

10 MR. NOFFSINGER: If I might state for the
11 record. The Planning Staff in reviewing this
12 acquisition for consistency with the Comprehensive
13 Plan has taken a look at Section 600 of the
14 Comprehensive Plan that deals with public
15 protection. In that section we are showing the
16 location of the existing fire stations within the City
17 of Owensboro and their service radius. According to
18 the locations of our fire stations now we have quite a
19 bit of overlap in service areas. This Fire Station
20 Number 5 as we show it, right now the Scherm Road
21 station if that station is moved to the south as
22 proposed at this time would reduce overlap and
23 coverage within that area. So in speaking to the
24 Comprehensive Plan, I think we can forward a
25 recommendation to the city commission that although

1 this proposed acquisition is not in complete
2 compliance with the plan, that it is insignificant
3 compliance with the plan in that it reduces the
4 overlap and moves this station to the south and
5 slightly west as we show in anticipated need in the
6 current plan.

7 CHAIRMAN: Thank you, Mr. Noffsinger.

8 Does anybody on the commission have any
9 questions of Mr. Payne?

10 (NO RESPONSE)

11 CHAIRMAN: If not the Chair is ready for a
12 motion.

13 MR. APPLEBY: Move to make a favorable
14 recommendation.

15 SISTER VIVIAN: Second.

16 CHAIRMAN: Motion by Mr. Appleby. Sister
17 Vivian seconds Mr. Appleby's motion. All in favor
18 raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22 ITEM 3

23 4900, 5000 Blocks Annabelle Lane
24 Land Disposition
25 Consider comments regarding a proposal to close
Annabelle Lane.
Referred by: Daviess County Fiscal Court

1 MR. NOFFSINGER: Mr. Chairman, the
2 Planning Staff has reviewed this application. We find
3 it to be consistent or not in conflict with the
4 Comprehensive Plan; however, we do recommend that you
5 forward this recommendation with the condition that
6 prior to closing that there are two lots that
7 currently front on Annabelle Lane that I understand
8 are not developed. Those lots should be consolidated
9 with adjoining property that has frontage on public
10 right-of-way.

11 CHAIRMAN: Thank you, Mr. Noffsinger.

12 Any questions from anybody in the
13 audience?

14 (NO RESPONSE)

15 CHAIRMAN: Any questions from the
16 commission?

17 (NO RESPONSE)

18 MR. CAMBRON: Chair ready for a motion.

19 CHAIRMAN: Chair is ready for a motion.

20 MR. CAMBRON: Motion for approval.

21 CHAIRMAN: Motion by approval of Mr.
22 Cambron.

23 MS. DIXON: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 ITEM 4

4 314 Ford Avenue

Facility Change in Use

5 Consider comments regarding the change in use of an
6 existing residential structure to a day care center
for students' children.

Referred by: Owensboro Board of Education

7

8 MR. NOFFSINGER: Mr. Chairman, the

9 Planning Staff reviewed this application. We find no

10 conflicts with the Comprehensive Plan.

11 CHAIRMAN: Is there anybody here

12 representing the applicant?

13 (NO RESPONSE)

14 CHAIRMAN: Any questions from anybody in

15 the audience?

16 (NO RESPONSE)

17 CHAIRMAN: Any questions from the

18 commission?

19 (NO RESPONSE)

20 CHAIRMAN: Chair is ready for a motion.

21 MR. APPLEBY: Motion for approval.

22 CHAIRMAN: Motion for approval by Mr.

23 Appleby.

24 MR. HAYDEN: Second.

25 CHAIRMAN: Second by Mr. Hayden. All in

1 favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, Mr. Noffsinger.

5 ITEM 5

6 2101 Grimes Avenue

Building Construction

7 Consider comments regarding the construction of
8 aggregate storage bins for the RWRA system maintenance
9 complex.

Referred by: Regional Water Resource Agency

10 MR. NOFFSINGER: Mr. Chairman, the
11 Planning Staff has reviewed this request. We find no
12 conflict with the Comprehensive Plan.

13 CHAIRMAN: Is anybody here representing
14 the applicant? Do you want to make a statement?

15 MR. BECKETT: No. I'm Dean Beckett with
16 Regional Water Resource Agency. I'm here to answer
17 any questions.

18 CHAIRMAN: Let's see if we have any
19 questions.

20 Is there anybody that has any questions
21 from the audience?

22 (NO RESPONSE)

23 CHAIRMAN: Anybody from the commission?

24 (NO RESPONSE)

25 CHAIRMAN: Chair is ready for a motion.

1 MR. CAMBRON: Motion for approval.

2 CHAIRMAN: Motion for approval by Mr.

3 Cambron.

4 MS. DIXON: Second.

5 CHAIRMAN: Second by Ms. Dixon. All in

6 favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 ITEM 6

11 2060 Lewis Lane

Building Construction

12 Consider comments regarding the construction of an
addition to Sutton Elementary School.

13 Referred by: Owensboro Board of Education

14 MR. NOFFSINGER: Mr. Chairman, the

15 Planning Staff has reviewed this application. Find no

16 conflicts with the Comprehensive Plan.

17 CHAIRMAN: Anybody from the audience have

18 any questions?

19 (NO RESPONSE)

20 CHAIRMAN: Anybody from the commission

21 (NO RESPONSE)

22 CHAIRMAN: Chair is ready for a motion.

23 MS. DIXON: Move for approval.

24 CHAIRMAN: Motion for approval by Ms.

25 Dixon.

1 MR. HAYDEN: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 ITEM 7

8 2800 Block Old Newbolt Road
9 Land Disposition
10 Consider comments regarding a proposal to close a
11 portion of Old Newbolt Road.
12 Referred by: Daviess County Fiscal Court

13 MR. NOFFSINGER: Mr. Chairman, the
14 Planning Staff reviewed this application. We find no
15 conflict with the Comprehensive Plan.

16 CHAIRMAN: Anybody from the audience have
17 any questions?

18 (NO RESPONSE)

19 CHAIRMAN: Anybody on the commission?

20 (NO RESPONSE)

21 CHAIRMAN: Chair is ready for a motion.

22 MS. DIXON: Motion for approval.

23 MR. HAYDEN: Second.

24 CHAIRMAN: Motion for approval by Ms.
25 Dixon. Second by Mr. Hayden. All in favor raise your
26 right hand.

27 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 Next item, please.

3 -----

4 ZONING CHANGES - CITY

5 ITEM 8

6 Portion 104 West Ninth Street, 0.84+ acres (POSTPONED)
7 Consider zoning change: From B-4 General Business to
8 I-1 Light Industrial
9 Applicant: Bryant-Busch, LLC

9 MR. ELLIOTT: State your name, please.

10 MS. WATSON: Becky Watson.

11 (MS. BECKY WATSON SWORN BY ATTORNEY.)

12 PLANNING STAFF RECOMMENDATIONS

13 Staff recommends approval because the proposal is
14 in compliance with the adopted Comprehensive Plan.
15 This recommendation is made subject to the conditions
16 and findings of fact that follow:

17 Conditions:

- 18 1. Submission of a final development plan to be
19 considered by the OMPC.

20 Findings of Fact:

- 21 1. The subject property is located in a Business
22 Plan Area, where light industrial uses are appropriate
23 in limited locations;

- 24 2. A portion of the subject property is
25 currently zoned I-1 Light Industrial and contiguous

1 properties are zoned I-1 Light Industrial; and

2 3. The applicant's proposal is a logical
3 expansion of the I-1 Light Industrial zone because it
4 would not significantly increase the extent of
5 industrial uses that are located in the vicinity or
6 overburden the capacity of the roadways or other
7 necessary urban services in the affected area.

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

10 (ITEM 8 - STAFF REPORT IS ATTACHED AND
11 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT A.)

12 CHAIRMAN: Is there anybody here
13 representing the applicant?

14 (NO RESPONSE)

15 CHAIRMAN: Does anybody in the audience
16 have any questions?

17 (NO RESPONSE)

18 CHAIRMAN: Does anybody on the commission
19 have any questions?

20 (NO RESPONSE)

21 MR. CAMBRON: I would like to make motion
22 for approval based upon Condition 1 and the Findings
23 of Fact 1, 2 and 3, Mr. Chairman.

24 CHAIRMAN: Mr. Cambron has made a motion
25 for approval.

1 MS. DIXON: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 ITEM 8A

8 104 West Ninth Street, 2.147 acres
9 Consider approval of final development plan.
10 Applicant: Bryant-Bush, LLC

11 MR. NOFFSINGER: Mr. Chairman, this
12 development plan is in order and ready for your
13 consideration.

14 CHAIRMAN: Anybody from the audience have
15 any questions?

16 (NO RESPONSE)

17 CHAIRMAN: From the commission?

18 (NO RESPONSE)

19 CHAIRMAN: Chair is ready for a motion.

20 MR. ROGERS: Motion for approval.

21 MR. HAYDEN: Second.

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

1 Next item, please.

2 ITEM 9

3 2600 West 10th Street, 0.42 acres
4 Consider zoning change: From B-4 General Business to
5 I-1 Light Industrial
6 Applicant: Judson R. Drewry

7 PLANNING STAFF RECOMMENDATIONS

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

10 This recommendation is made subject to the conditions
11 and findings of fact that follow:

12 Conditions:

13 1. Screening of all adjoining residential zones
14 along the south boundary with a 6-foot high planting,
15 hedge, fence or wall and 1 tree per 40 feet of linear
16 boundary.

17 2. Screening of all outdoor storage areas with a
18 6-foot high solid wall or fence and 1 tree per 40 feet
19 of linear boundary.

20 3. All vehicular use areas shall be paved and
21 landscaped with a 3-foot high continuous planting,
22 hedge, fence or wall where vehicular use areas adjoin
23 street right-of-way.

24 4. Access points shall be in conformance with
25 the adopted street access standards, restricted to no
more than 40 percent of the street frontage.

1 Findings of Fact:

2 1. The subject property is located within a
3 Professional/Service Plan Area, where light industrial
4 uses are appropriate in very-limited locations;

5 2. The subject property is contiguous to
6 existing light industrial zones and uses;

7 3. Previous uses on the property have been light
8 industrial activities; and,

9 4. The applicant's proposal is a logical zoning
10 expansion because it would not significantly increase
11 the extent of light industrial uses within the area,
12 and would not overburden the capacity of roadways and
13 other necessary urban services that are available in
14 the affected area.

15 MS. WATSON: We would like the Staff
16 Report entered as Exhibit B.

17 (ITEM 9 - STAFF REPORT IS ATTACHED AND
18 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT B.)

19 CHAIRMAN: Anybody here representing the
20 applicant?

21 APPLICANT: Yes.

22 CHAIRMAN: Does anybody have any questions
23 of the applicant from the audience?

24 (NO RESPONSE)

25 CHAIRMAN: Does anybody have any questions

1 of the applicant from the commission?

2 (NO RESPONSE)

3 CHAIRMAN: Chair is ready for a motion.

4 MR. HAYDEN: Make motion for approval with
5 Conditions 1 through 4 and Findings of Fact 1 through
6 4.

7 CHAIRMAN: Thank you very much.

8 MS. DIXON: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 -----

15 ZONING CHANGES - COUNTY

16 ITEM 10

17 3133 Commonwealth Court, 0.22+ acres
18 Consider zoning change: From I-1 Light Industrial to
19 B-4 General Business
Applicant: Ward Pedley

20 PLANNING STAFF RECOMMENDATIONS

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

23 Findings in support of this recommendation include:

- 24 1. The subject property is located within a
25 Business Plan Area, where general business uses are

1 appropriate in limited locations;

2 2. The area consists of a variety of general
3 business and industrial uses;

4 3. The subject property is contiguous to
5 existing B-4 General Business zones; and,

6 4. The applicant's proposal is a logical zoning
7 expansion because it would not significantly increase
8 the extent of the B-4 General Business zone within the
9 area, and would not overburden the capacity of
10 roadways and other necessary urban services that are
11 available in the affected area.

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

14 (ITEM 10- STAFF REPORT IS ATTACHED AND
15 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT C.)

16 CHAIRMAN: Is there anybody here
17 representing the applicant?

18 (NO RESPONSE)

19 CHAIRMAN: Anybody from the audience
20 have any questions or the commission?

21 (NO RESPONSE)

22 MR. CAMBRON: Make a motion for approval
23 based upon the Staff's Recommendations and Findings of
24 Fact 1 through 4.

25 CHAIRMAN: Motion for approval by Mr.

1 Cambron.

2 MR. HAYDEN: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 MR. NOFFSINGER: Mr. Chairman, Items

9 Number 11, 12 and 12A are related and we'll start with
10 Item Number 11.

11 ITEM 11

12 5140, 5200-5300 Blocks Frederica Street, 84.853 acres
13 Consider zoning change: From A-R Rural Agriculture to
14 B-3 Highway Business Center
15 Applicant: Dial Properties, Cecil Rodney and Mary
16 Katherine Burns, Renus F. Ernst Heirs

17 PLANNING STAFF RECOMMENDATIONS

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

23 Conditions:

24 1. Submission of a final development plan
25 limiting access points to the three project entrance
26 driveways that are proposed, prohibiting access points
27 on the out-parcels to Frederica Street or to the

1 entrance project driveways, and dedicating right-of-
2 way for the proposed Goetz Drive extension.

3 2. The proper signatures for allowances of
4 access from Towne Square Mall or Back Square Drive to
5 the subject property shall be obtained prior to
6 issuance of any permits for initiation of any work.

7 3. Surety for retention basins and improvements
8 to Frederica Street shall be submitted prior to final
9 plat approval or issuance of initial building permit,
10 whichever comes first. Improvements will include the
11 widening of Frederica Street to a five-lane cross
12 section with southbound right turn deceleration lanes
13 into all three project driveways, a left turn lane
14 approximately 150 feet in length at the northbound
15 approach along Frederica Street, and a right turn lane
16 approximately 200 feet in length at the southbound
17 approach along Frederica Street to the southern
18 project driveway. Improvements will also include a
19 left turn lane approximately 200 feet in length at the
20 northbound approach along Frederica Street and a right
21 turn lane approximately 250 feet in length at the
22 southbound approach along Frederica Street to the
23 project driveway opposite the Goody's driveway, and
24 turn lanes approximately 200 feet in length into the
25 northern project driveway at the northbound and

1 southbound approaches along Frederica Street.

2 4. Approval of water and sanitary sewer
3 extensions by appropriate agencies. Surety for water
4 and sewer improvements shall be submitted prior to
5 final plat approval or issuance of initial building
6 permit, whichever comes first.

7 Findings of Fact:

8 1. A portion of the subject property is located
9 in a Business Plan Area, where highway business uses
10 are appropriate in general locations;

11 2. A portion of the subject property is located
12 in a Rural Preference Plan Area, where highway
13 business uses are not recommended;

14 3. The applicant's request will be initiated as
15 an integral unit according to a formal development
16 plan;

17 4. The applicant's proposal is
18 "arterial-street-oriented" and greater than 15 acres
19 in size;

20 5. Contiguous land uses are similar in nature to
21 those permitted in a Highway Business Center zone and
22 constitute a logical expansion of existing uses in the
23 immediate vicinity; and,

24 6. Proposed improvements to Frederica Street and
25 connection to Towne Square Mall will allow maintenance

1 of an acceptable level of service without
2 overburdening the capacity of the roadways in the
3 affected area; and,

4 7. Oral or written commitments in excess of
5 325,000 square feet have been obtained supporting the
6 viability of the proposed Highway Business Center.

7 MS. WATSON: We'd like the Staff Report
8 entered as Exhibit E.

9 (ITEM 11 - STAFF REPORT IS ATTACHED AND
10 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT D.)

11 CHAIRMAN: Is there anybody here
12 representing the applicant?

13 MR. ELLIOTT: State your name, please.

14 MR. KAMUF: Charles Kamuf.

15 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

16 MR. KAMUF: Ladies and Gentlemen, I
17 represent the landowner and also the applicant. I
18 didn't know whether you want to hear all three items
19 at the same time?

20 CHAIRMAN: You want to see how many
21 questions we have before we get into your
22 presentation? If we have a lot of questions, then we
23 may just go ahead and let you do them all. If we
24 don't have many questions or concern, we may be able
25 to sort of make it very brief.

1 MR. KAMUF: I intend to do that.

2 CHAIRMAN: Do you understand that?

3 MR. KAMUF: I understand that. Since
4 we've got a favorable Staff Report, I don't think I'll
5 say very much. We also have an annexation, the forms
6 have been filled out for annexation on both I think,
7 what is it, on the industrial property and also on
8 B-3. We have the individuals from Dial Properties
9 that are here. Richard Cooper is here to explain
10 anything that you have concerning the tenants. We
11 also have Johnson, Depp & Quisenberry here and
12 engineers to answer any questions. I'll leave it at
13 that.

14 CHAIRMAN: Thank you, Mr. Kamuf. Let's
15 see what any specific questions we might have and then
16 you can address those.

17 Is there anybody from the audience that
18 would have any questions of this proposal?

19 MS. FULKERSON: Yes.

20 CHAIRMAN: Yes, ma'am.

21 MS. FULKERSON: I've already been sworn
22 in.

23 MR. ELLIOTT: Okay. State your name
24 again.

25 MS. FULKERSON: My name is Mary Fulkerson.

1 Mr. Chairman, I and my family are one of
2 the adjoining farm owners to this property. We have
3 land that adjoins it on the west. The lady that just
4 stood up here and presented Exhibit D did not bring up
5 one fact. This land is in a flood plain. I have two
6 questions regarding that. What is the maximum height
7 that the land will be built up where the buildings
8 will be? Will it be taller than the highway?

9 CHAIRMAN: What's your second question?

10 MS. FULKERSON: All right, sir. If the
11 back-water is not allowed to spread over these 84
12 acres, then it will deeper where it will spread out on
13 the adjoining land. As I've mentioned I and my family
14 is one of the landowners that adjoins this. Who will
15 be responsible for the extra back-water? That's my
16 second question.

17 CHAIRMAN: Thank you. What I'm going to
18 do is bundle up your questions at one time and they
19 have several experts that can address these questions
20 rather than - - then somebody else may come.

21 MS. FULKERSON: Considering the flood
22 water because that is, of course, the utmost
23 importance in my mind anyway.

24 CHAIRMAN: Yes, ma'am.

25 MS. FULKERSON: How deep are the retention

1 basins going to be? I believe you're going to say
2 that they're two foot. At two foot how will it hold
3 all of the head water, all of the water running off
4 the parking lots, and most importantly all the back
5 water.

6 CHAIRMAN: Those are your - -

7 MS. FULKERSON: Those are the three
8 questions that I have.

9 CHAIRMAN: You said two and now you've got
10 three. That's fine. No problem.

11 MS. FULKERSON: I didn't know if you were
12 going to - - I was going to put the two on the back
13 water together. Those are the ones I have concerning
14 the flooding. I do have other questions however.

15 CHAIRMAN: Let's go through the technical
16 aspect. I will not answer those question, but I am
17 sure Mr. Kamuf has somebody in his group that will be
18 able to answer the technical questions. Obviously,
19 flooding which would be a concern for adjoining
20 property owners and I think those are very good
21 questions. Let me ask you if would you sit down for a
22 moment and let them address these questions.

23 MS. FULKERSON: I would be happy to, yes.

24 CHAIRMAN: Thank you. Mr. Kamuf.

25 MR. ELLIOTT: State your name, please.

1 MR. ALENDER: Tom Alender.

2 (MR. TOM ALENDER SWORN BY ATTORNEY.)

3 MR. ALENDER: Here is a copy of the
4 proposed development plan. Between the two properties
5 this is the existing Burns property and this is the
6 Ernst property.

7 MR. NOFFSINGER: Excuse me. Mr. Alender,
8 would you please grab the microphone and speak into
9 it.

10 MR. ALENDER: This is the Fulkerson
11 property. This is the existing Burns properties and
12 this is the existing Ernst property.

13 On these two properties there's
14 approximately 97.6 acres of ground now that's
15 completely in the flood plain. The flood elevation
16 according to the latest FEMA map is 392.4. This is
17 the back water which is affected. When you have the
18 back water affect over this 97 acres, there's existing
19 now there's 600 - - right now there's an existing
20 606,500 cubic yards of flood storage area. The
21 technical number is equivalent to 376 acres treatable
22 ground. If you have 376 acres you'd have one foot of
23 water on it.

24 We are proposing to fill the eastern
25 portion of the property from here east out to

1 Frederica Street and in the process taking the dirt
2 out of this backward L-shape property to fill here and
3 to replace the flood volume that we're filling in over
4 here. Lot 12 and Lot 11 and leaving the dirt in the
5 proposed 120 foot right-of-way of the drive. In these
6 two areas we are proposing to take out 610,300 cubic
7 yards of material which is 378.3 acre. Less than one
8 percent difference, but it's more than exist out there
9 now. We have worked with the city engineer and Marwan
10 required us to at least replace any fill volume. We
11 had to replace the storage for back water flooding. I
12 think that will answer one question.

13 The other question on the depth of the
14 retention areas. The existing ground now down in here
15 is down in 387 elevation, and 390 up here, an about
16 388 over here. These are proposed to be dry retention
17 basins with these heavy blue lines as being a 6 foot
18 wide concrete slab that's going to drain the water
19 from here to a location here. These going to drain
20 this direction. Then they're going to go from here to
21 here into a two pump station which will kick on when
22 it starts raining. There's enough volume in these
23 areas to contain a five inch rain or greater than a
24 five inch rainfall without the pumps kicking on. So
25 when the water comes off this shopping center, it will

1 stay in here for a long period of time before it
2 releases through a spillway that we have here. When
3 the pumps kick on the pumps will be discharging at a
4 minimal rate. Actually be 8 cubic feet per second.
5 The water that's coming off the property now is around
6 190 cub feet per second. So it will be delayed back
7 in here.

8 One of the questions that she asked is at
9 the bottom of these basins is 382 at the pump stations
10 and they'll go up to 384. The emergency spillway down
11 here is set at 384 and 3 inches. So the height of the
12 water in these retention basins will be a little over
13 two foot before it starts going out. At the maximum
14 elevation it will be three foot high. So that will be
15 at the low spots, be here and here.

16 In regards to the adjoining property
17 owners, there's an existing ditch here that goes
18 between Ms. Fulkerson and Mr. Ernst that goes down
19 here and then drains east into the highway ditch on
20 Frederica Street. There's an existing ditch here, an
21 existing ditch here and basically all goes to the
22 southeast corner of the property.

23 We're proposing to send from the out lot
24 west into the retention pond, out this spillway and
25 out this ditch where it will exit the same spot that

1 it did. No additional water will go on the Mitchell
2 property. No additional water will go on the
3 Fulkerson property. The Goetz property is higher than
4 our property. We're going to be taking the water that
5 would normally come into here. There will be no
6 water, on head water condition from our property
7 backing up on the Goetz property or any additional
8 property. Back water problems this will be under
9 water.

10 MR. CAMBRON: The proposed blue line that
11 runs on the south part of the property there where Mr.
12 Mitchell's property is, is that going to be open ditch
13 or is it a closed pipe ditch?

14 MR. ALENDER: That is going to have the
15 same six foot wide concrete basin, concrete slab on
16 the bottom. The south bank as it is with sloping down
17 towards our property put 6 foot wide ditch on it and
18 it will be open. There will be a slight slope of flat
19 area draining this direction similar to the existing
20 ground that's out there now.

21 MR. CAMBRON: Are those ditches going to
22 be mobile?

23 MR. ALENDER: Yes. The proposed grade on
24 these ditches, the concrete portion is .14 which is
25 1.4 feet and thousand which is similar to what's out

1 there now. These ditches are on the same grade or
2 proposed basins are on .3 percent which would be three
3 feet per thousand. If you didn't have a level out
4 there, you would know that it was flat or wouldn't be
5 much slope to it. Basically that's what the ground is
6 out there now.

7 MR. CAMBRON: You may not be able to
8 answer this question, but who is responsible for those
9 ditches and the retention basins?

10 MR. ALENDER: When development is
11 completed and these basins are built, bond releases,
12 then these are going to be dedicated to the city
13 that's in the annexation agreement. The city will
14 maintain all the public ditches here. They will
15 maintain the retention areas, the paved ditches. The
16 developer will be required to maintain the internal
17 drainage on the shopping center.

18 CHAIRMAN: Thank you.

19 MS. FULKERSON: Mr. Chairman, may I yield
20 the floor to Mr. Mitchell.

21 CHAIRMAN: Mr. Mitchell, come forward and
22 be sworn in.

23 MR. MITCHELL: I'm Frank Mitchell.

24 (MR. FRANK MITCHELL SWORN BY ATTORNEY.)

25 MR. MITCHELL: I'm Frank Mitchell and I've

1 got 47 1/2 acres here right south of the Ernst
2 property. I understood you to say that this ditch is
3 six foot wide?

4 MR. ALENDER: That's what it's going to
5 be, yes, sir.

6 MR. MITCHELL: Well, this ditch right now,
7 anywhere on that ditch I go back almost 5000 feet.
8 Anywhere across this ditch I can step across it like
9 I'm stepping right here. This water, this water in
10 this area drains south. It drain to the south side
11 and to the east. On my farm here which Mr.
12 Fulkerson's land I've got, what, about 18 acres back
13 in here. This tract of land we cleaned it up probably
14 9, 10 years and put it on grade. 5000 feet from here
15 to 431 I've got 14 inch - - so when we have 3 inch
16 rain this ground is under water. It goes off it goes
17 off slow. The ditch on the south side of me we
18 cleaned out which Mr. Kamuf can attest. We ended up
19 in a lawsuit over that. What I'm trying to say is
20 when we get a three inch rain that farm of mine is
21 under water. It will go off reasonable quick. We get
22 five inches rain of water, it has to go but it doesn't
23 go off that quick because water is backing up. Built
24 this ditch on 431. Goetz ditch on the back back here
25 fiscal court and the landowners just cleaned this

1 ditch out in the last 60 days, but still yet they
2 didn't make this ditch any deeper. They just cleaned
3 out the debris. The more you put under water - - back
4 in '97 when we had that 14 inches of rain for a 24
5 hour period, my farm probably had six foot of water in
6 it and Mr. Schell lived there.

7 How deep was the water in your house?

8 I've got four grain bins sitting right
9 here behind his house. The water was probably six to
10 eight foot deep. I don't use these bins because when
11 the water starts up I don't have anything big enough
12 to clean those bins out quick enough before the water
13 gets in them. This is a major thing here.

14 You are going to have some flashfloods and
15 you're going to have - - we've had 6 to 8 inches of
16 rain in a 24 hour period. This is a major thing.
17 You're going to raise this two feet. When these lakes
18 fill up the water is going to overflow. We've been
19 through this before. When you put a crop out there
20 and see water come up over like this which fortunately
21 we don't have many floods in the summertime, but we
22 have them in the spring, fall and winter.

23 My main concern, which I don't know
24 whether it's going to come before this meeting or not,
25 but between Mr. Schell's house and the right-of-way

1 here of this ditch I've got a 30 foot easement. When
2 I come in here with four-wheel drive tractor, disc and
3 a rotor, I'm stretched out 70 feet. I have to swing
4 out on 431 across the road to shoulder on the east
5 side in order to hit this 13 foot. Believe me when
6 you have traffic coming in four directions, there
7 ain't no second chances. You either hit it or you
8 miss it and I have missed it. People out there to
9 stop traffic to where we could get things lined up.

10 With JR Miller coming across here, right
11 across the road from me, the only way that I'm going
12 to get farm machinery in my farm is get police escort
13 out there to stop traffic. I went out this afternoon
14 and was looking. Didn't go out to measure, but it's
15 approximately 40 feet from my line to the edge of
16 where JR Miller is going to be. This is going to be -
17 - you know, I don't know what I'm going to do.

18 Last fall when we were hauling grain off
19 this farm coming out of Owensboro with a Tandem truck
20 and you swing in the other lane to hit this brick, I
21 had a car pass me on the right side. I mean just an
22 instant a big truck would have killed somebody.
23 People, everybody is in a hurry. They don't have time
24 to wait. I'm sure probably JR they'll put a stoplight
25 in there, but when they do how am I going to get in

1 there? I'm just one person versus the City of
2 Owensboro, but I have some major problems. What they
3 ought to do is come on out and build a Target on my
4 farm and solve this problem.

5 CHAIRMAN: Thank you, Mr. Mitchell.

6 Mr. Alender.

7 MR. ALENDER: This is a very narrow ditch
8 right now. We are proposing to make the bottom 6 foot
9 wide plus the fact the area from my finger here up to
10 where the slope, we're are going to flatten that out
11 which will also take water. This ditch is going to be
12 in the range of six foot deep at that particular
13 place.

14 MR. MITCHELL: When you make that ditch
15 six foot wide on the bottom, how wide is it going to
16 have to be on top?

17 MR. ALENDER: On your property line we're
18 going to leave your property and that bank the same
19 and put the ditch at the bottom wide enough in our
20 direction and then this area here is going to have
21 dirt taken out of it also. It's going to be only .3
22 percent up slope which is basically flat.

23 MR. MITCHELL: Well, - -

24 CHAIRMAN: Wait a minute, Mr. Mitchell.

25 May I get you to step to the other podium because we

1 cannot record your comments.

2 MR. MITCHELL: Like I just said a few
3 minutes ago, anywhere on that ditch for 5000 feet I
4 can step across. That ditch right, Bob, right behind
5 your house where my grain bins are and I can step
6 across them. I mean I can take a bushhog and mow both
7 sides.

8 CHAIRMAN: Mr. Mitchell, I think I see
9 where you're heading with it. You're extremely
10 concerned about getting your equipment in.

11 MR. MITCHELL: No. What I'm concerned,
12 what we're talking about right now is this ditch that
13 at the deepest point would be right on 431. The
14 deepest point of that ditch might be three and a half,
15 four feet.

16 MR. SCHELL: It ain't very deep.

17 CHAIRMAN: Wait just a minute. For this
18 other gentleman to make any comments, we'll have to
19 have him sworn in and he'll have to have his time. I
20 don't mind doing that, but that's what we have to do
21 to do it correctly.

22 MR. MITCHELL: I understand that. Back up
23 40, 50 feet and that ditch, well, back at the other
24 end of the Ernst property be on the west end, that
25 ditch probably, I know it's not two foot deep. 18

1 inches. Like I say I can step across it. It's that
2 wide. If you're going to make it six foot wide at the
3 bottom, unless you go straight up in cement, how are
4 you going to hold the walls of that ditch? What I'm
5 asking is: How wide is the top of that ditch going to
6 be?

7 MR. ALENDER: It may be easier to draw a
8 sketch.

9 MR. CAMBRON: The ditch, will it have a
10 berm on each side or will it be flat, the depth? Do
11 you understand what I'm saying?

12 MR. ALENDER: We're going to slope from
13 Mr. Mitchell's side down on three to one slope so we
14 can put some grass on it. We'll go six feet wide this
15 grade and put a very gentle slope of .3 percent this
16 way with no berm on it which it may be two foot wide
17 at the bottom now. We're going to have a 6 foot wide
18 all on our property plus basically this entire strip
19 is going to be ditch. From south of where the
20 proposed power line is, from here to here, is going to
21 be ditch. It's go going to be approximately 50 feet
22 wide, but only six feet on the south end is going to
23 be paved. This will have water flow in it also. It
24 will be sloped this direction. What we are proposing
25 doing is we're going to have to relocate the ditch,

1 existing ditch out on Frederica Street. We're going
2 to match this existing ditch that's right across from
3 the Schell property on highway right-of-way and take
4 it constant flow from here all the way back to the
5 back which will lower the ditch in this general area.
6 We're going to greatly increase the volume of our
7 ditch compared to what the ditch is out there now.
8 With these retention ponds here head-water that's
9 coming from the Goetz property and our property will
10 be a lot slower than it was getting to this ditch now.
11 Now, if we have something like we did in '97 where we
12 had flashfloods and back water problems, it's going to
13 be the same as it was.

14 MR. MITCHELL: Right now where does Rodney
15 Burns, where does his water go right now?

16 MR. ALENDER: Mr. Burns has a ditch, has a
17 field ditch here and there's a field ditch on - -

18 MR. MITCHELL: It goes towards 431?

19 MR. ALENDER: 431. Then there is an
20 existing ditch here from where Goetz property comes it
21 comes down here into your ditch and goes this way
22 towards 431.

23 MR. MITCHELL: That little ditch you're
24 talking about is about that wide.

25 MR. ALENDER: Well, we are making it

1 better.

2 CHAIRMAN: Sir, you may step to the
3 podium, but you cannot make any comments until you do.

4 MR. MITCHELL: You know, I don't want to
5 take up any excessive time, but you put your feet in
6 my shoes and your family - - Jimmy Gilles knows what's
7 going on, and you work all your life. I bought this
8 farm in 1966 and it was a frog pond when I bought it.
9 You could not drive a tractor from one end to the
10 other without getting hung up. We finally got it
11 cleaned up and put on grade to where the water will
12 drain off on a normal rain. Like I say it will drain.
13 We've got it on a grade. We run drains. That farm
14 can make, consistently it will make 55 to 60 bushel of
15 soy bean. It will make 175 to 200 bushel of corn if
16 everything is right. You take a six inch rain on it
17 or waste high and you done got your yield down 50
18 percent. What I'm saying is is farm land out there
19 now. When you put it under asphalt you make the
20 ditches bigger, but a five gallon will only hold five
21 gallons of water.

22 CHAIRMAN: Mr. Mitchell, let me make a
23 comment here. This proposal of their drainage flood
24 plain is something they have proposed and have had to
25 have it approved by the city engineer. So it's not

1 something that they're saying I think it will work,
2 live with it. It's something that they've proposed,
3 the city engineer has and the county engineer has
4 approved it and made recommendation, changes and
5 others so that your situation is no worse and based on
6 your testimony seems like your actual situation should
7 basically improve.

8 Is that correct?

9 MR. ALENDER: It should improve under head
10 water conditions. These are going to be dry when
11 there's no rain. It's a hole in the ground. When it
12 rains the water is going to stop in here and build up
13 several hours before it ever goes out this spillway.
14 So the water that you were getting when the Goetz
15 property, the Burns property, Ernst property, that may
16 hit your ditch and go over the bank of the ditch is
17 not going to be getting there at the same speed.

18 MR. MITCHELL: How big are these holding
19 basins going to be?

20 MR. ALENDER: They're a total of 30 some
21 odd acres.

22 MR. MITCHELL: Are they going to have a
23 concrete bottom in them?

24 MR. ALENDER: Yes. That's what these dark
25 lines are, are 6 foot wide paved bottom and with flat,

1 basically flat bottoms.

2 MR. MITCHELL: In other words, that retain
3 basin is going to slope toward that 6 foot wide
4 concrete?

5 MR. ALENDER: No, sir. That retaining
6 basin from here north is going to slope to here.
7 There's a pump station going to be here.

8 MR. MITCHELL: What size pump will that
9 be?

10 MR. ALENDER: That is a 40 horse-power
11 pump.

12 MR. MITCHELL: Is that, what, four inch,
13 six inch?

14 MR. ALENDER: It's going to be in a ten
15 inch line. It's going to discharge out here into a
16 concrete spillway.

17 MR. MITCHELL: Into a concrete what?

18 MR. ALENDER: Spillway. This dark line
19 here is a concrete spillway that's going to turn and
20 come and come into this.

21 MR. MITCHELL: Okay. Now, that will be
22 under the new JR Miller Road, right?

23 MR. ALENDER: It will be discharging just
24 north of the JR Miller Road. We have talked with city
25 engineer.s They are going to put in - - with this

1 road put in they will put a box culvert there for
2 emergency spillway in case the pumps don't work and
3 get back water so the water can go out.

4 MR. MITCHELL: Now, this is another thing
5 to take into consideration regardless how smart your
6 engineers are. What if that pump doesn't work?

7 CHAIRMAN: Didn't you just answer that
8 question?

9 MR. ALENDER: Well, what we have is a
10 spillway that overflows. If the pumps don't work, the
11 way the pumps are set up is when the water comes in
12 the pumps kick on. Water starts going out this
13 emergency spillway, the pumps kick off. So this
14 spillway is designed to handle the water that comes
15 through here in a six and a half inch rain fall.

16 MR. MITCHELL: Like I say I don't want to
17 hold up this meeting. I don't want to - - but you'll
18 see the day, mark my word, that your pump will be
19 under .

20 MR. ALENDER: Yes, sir, it will.

21 MR. MITCHELL: They will be. I promise
22 you this building that they're fixing to set up out
23 there, they'll have - (inaudible) - we've seen it it.
24 I mean, you know you've got to live there and
25 experience it before you can believe it. I know

1 you're going to do what you got to do, but it's going
2 to affect a lot of people. Most of you in this room,
3 you got to be a farmer to know how a farmer lives.
4 You've worked all your life to get a piece of ground.
5 Whether it drains right. Will it produce right.
6 Something like this if you all don't do what you say
7 you're going to do, you're going to mess up what I've
8 worked for for 40 years.

9 MR. ALENDER: That's why we have bonds for
10 it and the city will not accept it until it's built
11 this way and then we've done what we're suppose to do
12 and it will be between you and the city.

13 MR. MITCHELL: Just like what you just
14 said, you know. You might put the bottom of the ditch
15 6 foot wide and it's only a foot wide right now. The
16 top of it is going to have to be, and I'm not an
17 engineer, but the top will probably have to be 20 feet
18 wide.

19 MR. ALENDER: It's going to be a lot wider
20 than that and it's going to be on our property.

21 MR. MITCHELL: It will be on your
22 property, but when that ditch overflows it will be on
23 my property.

24 MR. ALENDER: But the chance of it
25 overflowing with a wider ditch are a lot less than it

1 would be with the existing ditch that's down there
2 now.

3 MR. MITCHELL: Well, the ditch on 431
4 overflows right in front of his house.

5 CHAIRMAN: Sir, would you like to step to
6 the podium and be sworn in and say something. You've
7 sort of been a background participant.

8 MR. ELLIOTT: State your name, please.

9 MR. SCHELL: My name is Robert Schell. I
10 live on the property line too down there in the
11 corner.

12 (MR. ROBERT SCHELL SWORN BY ATTORNEY.)

13 MR. SCHELL: Like Mr. Mitchell is talking
14 about there. That ditch is not very deep. 431 ditch
15 out there, Frederica Street ditch I don't know where
16 you're figuring on putting all the water down it. You
17 talking about making it 6 foot wide in the bottom.
18 All that water comes right there at one time it's
19 going to wash 431 away unless you have some way to
20 stop it because that bridge by my house now water
21 comes out of that field in the ditch I have to keep
22 getting fill put in by the bridge there so we can get
23 in and out. It sinks down about foot or two a year.
24 All that water is going to be - - you talking about
25 heading right out - - one way out there. Only way to

1 go.

2 MR. ALENDER: The way the retention basins
3 are designed, they hold the water back. That water
4 that discharges out of this retention pond is going to
5 be a lot less than the water that comes out here now,
6 much less what the new development is going to be.
7 You have all of this area for this water to come into
8 and back up before it comes out of this.

9 MR. SCHELL: How big of a line you going
10 to have running over there to pump down there? I mean
11 how much water is coming out of there at one time?

12 MR. ALENDER: The design right now for the
13 two pumps total is for 4,000 gallons per minute. It
14 may sound like a lot, but that retention basin holds 2
15 million gallon. So in a three inch rainfall, it's
16 going to take over a full day to pump that basin out.

17 MR. SCHELL: How high a fill are you
18 figuring on putting in where you're going to build a
19 shopping center thing? How much high up?

20 MR. ALENDER: 386 down here at your
21 property to about 390 up here. The buildings are
22 going up 394 and half and the property line is going
23 to be anywhere from 392 to 393 1/2.

24 MR. SCHELL: Around three foot then.

25 MR. ALENDER: It averages around four

1 foot.

2 MR. SCHELL: That's putting it up there
3 pretty high.

4 MR. ALENDER: But they are taking the same
5 amount of volume of dirt out of this that we're
6 putting over here.

7 MR. SCHELL: Are they figuring on getting
8 all this dirt back on the back property?

9 MR. ALENDER: Yes, sir.

10 MR. SCHELL: That's going to make enough
11 ditch there, retention basin to catch water.

12 MR. ALENDER: Yes, sir. We're going to
13 strip the dirt on the south side of proposed Goetz
14 Lane all the way back here. It's around 50 foot wide,
15 next to Mr. Mitchell's property. We're going to put a
16 new power line in here. We're going to take all this
17 dirt out here. There's about three feet back in here
18 that we're going to take out and you're getting into
19 the six foot range up here. So whatever dirt comes
20 out of here is going over here.

21 MR. SCHELL: You figure on, in other
22 words, leaving the ditch alone on the south side going
23 to work over to the north side of the ditch.

24 MR. ALENDER: All the new ditches will be
25 on our development. We're not going to affect

1 anything south of here. We're going to make sure that
2 all the water goes to the same spot, but at a slower
3 rate than it is now. That's the beauty of having the
4 dry basin there. When it does rain, the water is
5 going to collect in that basin and the pump is going
6 to pump it out at a slow rate. If you have a huge
7 rain and the back water coming up, this isn't going to
8 flood, but this will.

9 MR. SCHELL: How many feet is JR Miller
10 Boulevard extension from the ditch now or where they
11 figuring on putting it through there? How many feet
12 will it be?

13 MR. ALENDER: This is going to be
14 approximately 100 feet. From the south property line
15 to the south right-of-way is going to be 80 feet.

16 MR. SCHELL: In other words, it's going to
17 be about 80 foot from the ditch. Now, you figuring to
18 making about a 6 foot bottom ditch up there?

19 MR. ALENDER: Yes. We're going to make a
20 six foot bottom ditch. That's this heavy line. Then
21 another 50 feet of it we're going to take the dirt out
22 of it.

23 MR. SCHELL: So you're not going to have
24 much room left in-between there then, right?

25 MR. ALENDER: We'll have room that it will

1 slope up to the roadway, yes.

2 MR. SCHELL: But you're not going to have
3 much room between the road and the ditch.

4 MR. ALENDER: Well, we have 120 foot
5 right-of-way there and the road itself is only 40 foot
6 wide. So we have 60 foot from the center of the
7 right-of-way and we have 20 foot of road nobody has to
8 lose. It's 40 foot strip from the edge of the
9 pavement to the right-of-way. There's also going to
10 be a walkway here, 10 foot wide walkway that the
11 Greenbelt way. There's no problem with the water and
12 the ditch being near the roadway. We've got plenty of
13 space between there.

14 MR. SCHELL: That's where you figuring on
15 the Greenbelt going through then.

16 MR. ALENDER: On the right-of-way, yes,
17 sir.

18 MR. SCHELL: Another question I would like
19 to ask you. They figuring on widening Frederica
20 Street. Which way are they going there? East or
21 west?

22 MR. ALENDER: West.

23 MR. SCHELL: Going west with all of it?

24 MR. ALENDER: Yes, sir.

25 MR. SCHELL: They've got all kind of

1 right-of-way on the east side. How come they don't go
2 that way?

3 MR. ALENDER: We are needing right turn
4 lanes and acceleration lanes.

5 MR. SCHELL: You haven't got a whole lot
6 of right-of-way on the west side.

7 MR. ALENDER: We are dedicating additional
8 right-of-way.

9 MR. SCHELL: You're going to get right on
10 top of my front porch if you keep coming over. You
11 only got so much. If you get any more than that, I
12 won't have anything left.

13 MR. ALENDER: The intent from the proposed
14 land extension is to taper it back to where your
15 property line, where the edge of the pavement is now.
16 We will not be widening on your property. We can't.
17 We don't have permission.

18 MR. SCHELL: You're not going to go any
19 further than right there at that ditch then?

20 MR. ALENDER: What the proposed plans are
21 for Goetz Drive is to put in - -

22 MR. SCHELL: I understand. I'm talking
23 about Frederica Street now. How far are they going to
24 Frederica Street? They're talking about making four
25 lane road all the way to Frederica on 431 or

1 Frederica, whatever you want to call it.

2 MR. ALENDER: I'm not up to - -

3 MR. SCHELL: You're talking about putting
4 Frederica Street - -

5 MR. ELLIOTT: They're talking at the same
6 time.

7 CHAIRMAN: Let's address the questions
8 here. He's adequately answered about every footage,
9 square footage, square inch that we can possibly
10 cover. If you've got a couple of more specific
11 things, we definitely want to cover them, but we can't
12 talk at the same time because she can't get them for
13 the record. Some of our people may have trouble
14 recording this.

15 MR. SCHELL: What I want to know is if
16 they're making Frederica Street out from this shopping
17 center on that development they're talking about now,
18 are they going to stop there or are they going
19 straight on out with Frederica Street like they plan
20 an going west side?

21 CHAIRMAN: We'll let this be the final
22 question.

23 MR. ALENDER: The proposal right now is to
24 stop the widening of Frederica Street just south of
25 where Goetz Lane is going to come in and taper back

1 where our south property line is which is the north
2 property line of your property and Mr. Mitchell's
3 property. There's no widening south of our property.

4 CHAIRMAN: Thank you.

5 Does anybody from the commission have any
6 questions by chance that were not covered in this very
7 extensive presentation?

8 MS. FULKERSON: Excuse me. I still have
9 the floor.

10 CHAIRMAN: Would you like to ask another
11 question, ma'am?

12 MS. FULKERSON: Yes, sir. I believe that
13 I have two sections. One areas that was concerning
14 the flood and I haven't had all of answered - - I
15 haven't had every question answered. I had three
16 questions and I've only had one of them answered.
17 Then I do have another part. I known everybody is
18 getting tired to listening to all of this.

19 CHAIRMAN: I would suggest probably in
20 your best interest that you make your questions very
21 concise because the technology, you realize this is
22 not a group of engineers that he's making this
23 presentation to. So consequently we have to be able
24 to grasp, understand and move on.

25 MS. FULKERSON: I understand that.

1 CHAIRMAN: Thank you. Another couple of
2 minutes.

3 MS. FULKERSON: Addressing what you just
4 said, I have been to Mr. Noffsinger. I have been to
5 the city engineer. I've been to the city manager. I
6 have talked to the city attorney and everybody keeps
7 saying wait until this meeting. I took off from work
8 to be here tonight, sir. I hope that you all will
9 listen to my problems.

10 CHAIRMAN: Ma'am, we have been listening
11 for quite some time.

12 MS. FULKERSON: Does my 20 minutes start
13 now?

14 MR. APPLEBY: Do you have a question?

15 MS. FULKERSON: Yes, I do.

16 CHAIRMAN: If you have a question, please
17 be concise.

18 MS. FULKERSON: Maximum height of the land
19 where the buildings will be built up over the highway.
20 He said between three and five foot.

21 MR. ALENDER: No, ma'am.

22 CHAIRMAN: Next question, please.

23 MS. FULKERSON: If - - now you've got me
24 shook.

25 If the extra back water is raised, who

1 will be responsible, and I think you answered that.
2 The city and the county.

3 CHAIRMAN: No, ma'am, I did not answer any
4 questions.

5 MS. FULKERSON: Oh, okay. Then that's
6 still a question that I have. That's the part that I
7 have on the flood.

8 We now have a verbal agreement with the
9 Ernsts family to use an access to our crop land. On
10 the map there's a public utility easement of 15 foot.
11 Will something be put to stop the public from coming
12 onto our land on these six foot spillways; and if so,
13 can this be removed so that we can have access to our
14 crop land? Question.

15 The next question is: What will prevent
16 four-wheelers from coming across our land from this
17 what we are now calling the six foot basin, concrete
18 basin, and using that as a short cut to the new
19 footfall field? I have been told that you all are the
20 people that I need to ask this question of.

21 CHAIRMAN: Would you answer the questions
22 that you may answer and then we will conclude this.

23 MR. ALENDER: The first question that I
24 can answer she wanted to know the height of this would
25 be built above the highway. The highway is

1 approximately 391 here and 392 here. The buildings
2 are going to be two and a half feet higher than this
3 end and two and a half feet higher at this end.
4 Existing ground out here is going to be raised an
5 average of four feet.

6 Back water. As I mentioned earlier we are
7 replacing - - whatever they're going to put in here is
8 going to be taken out of this same property. So
9 basically - - whatever is put in here is going to be
10 taken off of our property. So we are only moving the
11 volume from our property to the other spot. It will
12 have exact - - one percent of the same volume that we
13 had prior to development of the property.

14 Public right-of-way I can't answer.

15 Four-wheelers I can't answer.

16 CHAIRMAN: Thank you. Does that satisfy
17 your concerns?

18 MS. FULKERSON: To what Mr. Alender say
19 may I make a comment?

20 CHAIRMAN: Of course.

21 MS. FULKERSON: Thank you, sir.

22 I lived through the '97 flood. What Mr.
23 Schell said with heart and conviction, I lived through
24 it too.

25 Jimmy, you know what it was like.

1 The first thing that my husband told me is
2 that if water ever crosses 431 it will be in our
3 house. I know water will stand three foot tall on
4 431. I saw it. If this is going to be two and a half
5 foot above the road, I want everybody to be aware no
6 matter what anybody says if we have another '97 flood
7 it's going to be the height Mr. Alender just talked
8 about. It is very possible to get into these
9 buildings. I want Home Depo to know because I believe
10 some people from the Dial Corporation are here
11 tonight. I want them to know it has been within the
12 last four years three foot high on Frederica Street.
13 That was a comment I wanted to make.

14 CHAIRMAN: Thank you. I think all of us
15 that lived here in Owensboro are very aware of that.

16 MS. FULKERSON: Apparently you're not
17 taking it as seriously as I would hope this commission
18 would. Flooding in Daviess County is vital
19 importance. All of us, the people that lived in the
20 area. Like I say Exhibit D doesn't even say anything
21 about that this is in a flood plain. Before this is
22 rezoned, you know, everybody here ought be aware that
23 land that is now in crop land will hold water back
24 much faster than land that is now covered by asphalt.
25 Of course, it slides off. You know, water moves

1 faster when it's on asphalt. So it is a difference
2 whether we're talking about 87 acres, 84 acres in crop
3 land with ditches and contours versus the retention
4 basins which will hold however many Mr. Alender just
5 said.

6 CHAIRMAN: Thank you.

7 MS. FULKERSON: Thank you.

8 What about my questions? Who will be
9 responsible if this doesn't work?

10 CHAIRMAN: Who will be responsible?

11 MS. FULKERSON: Yes.

12 CHAIRMAN: I believe Mr. Alender covered
13 that. You know, there is a bond posted. He is
14 required by the city engineer, to meet the city
15 engineer plans for drainage of that area.

16 MS. FULKERSON: Thank you, sir.

17 CHAIRMAN: He covered that in his
18 presentation earlier.

19 MS. FULKERSON: So the city engineer - -
20 I'm sorry. Johnson, Depp & Quisenberry would be
21 responsible if this plan fails and there is extra back
22 water or is it the Dial Corporation?

23 MR. APPLEBY: City engineer always has
24 approved JD&Q Design. If they build it to conform
25 with this plan, their bond will be released and the

1 city will maintain to take that over. If you have a
2 problem that you felt was a result of this drainage
3 plan, you take it up with the city beyond that point.

4 MS. FULKERSON: Thank you, sir.
5 Appreciate it, Mr. Appleby. That means if I have a
6 problem, it is the city - -

7 MR. APPLEBY: I don't know what they'll do
8 about it, but you take it up with the city.

9 MS. FULKERSON: Thank you, sir.
10 I have asked Mr. Fowler and this was the
11 time and place to get an answer. I do appreciate Mr.
12 Appleby - - is Mr. Fowler here?

13 CHAIRMAN: I don't think he joined us
14 tonight.

15 MS. FULKERSON: Okay. So this is on
16 record that it is the city's responsibility - -

17 MR. APPLEBY: No, ma'am. I said you would
18 take it up this the city. The city has approved this
19 plan.

20 MS. FULKERSON: Yes, I know. Excuse me
21 one moment.

22 Thank you, Mr. Chairman.

23 CHAIRMAN: Thank you.

24 With no further questions unless you all
25 would like to - -

1 (NO RESPONSE)

2 CHAIRMAN: The Chair is now ready for a
3 motion.

4 MR. APPLEBY: Mr. Chairman, I make a
5 motion for approval based upon Planning Staff
6 Recommendations, Conditions 1 through 4 and Findings
7 of Fact 1 through 7.

8 MR. CAMBRON: Second.

9 CHAIRMAN: Mr. Appleby has made a proposal
10 for approval. Mr. Cambron has made a second. All in
11 favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT WITH THE
13 EXCEPTION OF MR. JIMMY GILLES RESPONDED AYE.)

14 CHAIRMAN: All opposed.

15 (NO RESPONSE)

16 CHAIRMAN: We had seven votes and one
17 abstention. Seven for and one abstain. Mr. Gilles
18 abstained.

19 Next item, please.

20 ITEM 12

21 5150 Frederica Street, 12.786 acres
22 Consider zoning change: From A-R Rural Agriculture to
23 I-1 Light Industrial
24 Applicant: Dial Properties, Cecil Rodney and Mary
25 Katherine Burns

26 PLANNING STAFF RECOMMENDATIONS

27 Staff recommends approval because the proposal is

1 in compliance with the adopted Comprehensive Plan.
2 This recommendation is made subject to the conditions
3 and findings of fact that follow:

4 Conditions:

5 1. Submission of a final development plan
6 limiting access points to the three project entrance
7 driveways that are proposed, prohibiting access points
8 on the out parcels to Frederica Street or to the
9 project entrance driveways, and dedicating
10 right-of-way for the proposed Goetz Drive extension.

11 2. The proper signatures for allowance of access
12 from Towne Square Mall or Back Square Drive to the
13 subject property shall be obtained prior to issuance
14 of any permits for initiation of any work.

15 3. Surety for retention basins and improvements
16 to Frederica Street shall be submitted prior to final
17 plat approval or issuance of initial building permit,
18 whichever comes first. Improvements will include the
19 widening of Frederica Street to a five-lane cross
20 section with southbound right turn deceleration lanes
21 into all three project driveways, a left turn lane
22 approximately 150 feet in length at the northbound
23 approach along Frederica Street, and a right turn lane
24 approximately 200 feet in length at the southbound
25 approach along Frederica Street to the southern

1 project driveway. Improvements also will include a
2 left turn lane approximately 200 feet in length at the
3 northbound approach along Frederica Street and a right
4 turn lane approximately 250 feet in length at the
5 southbound approach along Frederica Street to the
6 project driveway opposite the Goody's driveway, and
7 turn lanes approximately 200 feet in length into the
8 northern project driveway at the northbound and
9 southbound approaches along Frederica Street.

10 4. Approval of water and sanitary sewer
11 extensions by the appropriate agencies. Surety for
12 water and sewer improvements shall be submitted prior
13 to final plat approval or issuance of initial building
14 permit, whichever comes first.

15 Findings of Fact:

16 1. The subject property is located within a
17 Business Plan area, where light industrial uses are
18 appropriate in limited locations;

19 2. The applicant's proposal is an integral light
20 industrial component of a larger planned highway
21 business center;

22 3. The light industrial component is
23 arterial-street-oriented and is a use desirable in
24 close proximity to highway business uses; and

25 4. The applicant's proposal is to be developed

1 in accordance with a formal development plan in
2 keeping with the design theme of the larger highway
3 business center; and,

4 5. Proposed improvements to Frederica Street and
5 connection to Towne Square Mall will allow maintenance
6 of an acceptable level of service without
7 overburdening the capacity of the roadways in the
8 affected area.

9 MS. WATSON: We'd like to enter the Staff
10 Report as Exhibit E.

11 (ITEM 12 - STAFF REPORT IS ATTACHED AND
12 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT E.)

13 CHAIRMAN: We have someone here
14 representing the applicant? Have any questions?

15 (NO RESPONSE)

16 CHAIRMAN: Chair is ready for a motion.

17 MR. CAMBRON: Motion for approval based
18 upon the Planning Staff's Findings of Fact and
19 Conditions 1 through 4 and Findings of Fact 1 through
20 5, Mr. Chairman.

21 CHAIRMAN: We have a motion for approval
22 by Mr. Cambron.

23 MR. APPLEBY: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item.

4 Related Item to two items above:

5 ITEM 12A

6 5140, 5150, 5200-5300 Block Frederica Street/5300,
7 5361 Goetz Drive (Extension) Southgate Centre,
8 97.639 acres

9 Consider approval of combined final development
10 plan/major subdivision preliminary plat.
11 Applicant: Dial Properties, Rodney Burns Property,
12 Renus Ernst Heirs Property

13 MR. NOFFSINGER: Mr. Chairman, this
14 application, this plan has been reviewed by the
15 Planning Staff. It's found to be in order. We do
16 have some comments related to access, sewer and
17 sanitary sewage disposal as well as water. I'll make
18 those in just a moment. It has been reviewed by the
19 city engineer for drainage. It has been approved.
20 It's been reviewed by all utility companies.

21 If the Planning Commission wishes to
22 approve this item tonight, they should do so with the
23 following condition, and that will be: Signatures of
24 the adjoining property owners to the north which would
25 be Towne Square Mall property. Some of those owners
also include Sears Department Store, JCPenney's,
Famous Barr. Those signatures must be obtained on
this final development plan before it's to be approved

1 so that this development will have access to the Towne
2 Square Mall Center to the north as well as the current
3 plans for sanitary sewage disposal and for water
4 supply to extend over to the Towne Square Mall
5 property. So at if this plan is approved we need
6 those conditions. It would not be approved or signed
7 until such time as those conditions are met.

8 CHAIRMAN: Thank you, Mr. Noffsinger.

9 MR. KAMUF: Mr. Chairman, may I just ask a
10 question?

11 CHAIRMAN: Mr. Kamuf.

12 MR. KAMUF: Gary, are you seeing either
13 the signatures or the Back Square easement?

14 MR. NOFFSINGER: No, sir. The zoning
15 changes are tied to either or. The approval of this
16 plan is tied to the plan you have before this
17 commission tonight, which does not include a plan for
18 the Back Square Drive extension. If you're unable to
19 obtain the signatures for the front access between the
20 two centers, then you would need to file a new plan
21 which shows extension of Back Square with the proper
22 signatures.

23 MR. KAMUF: I understand. Thank you.

24 MR. CAMBRON: Chair ready for a motion?

25 CHAIRMAN: Chair is ready for a motion,

1 Mr. Cambron.

2 MR. CAMBRON: Motion for approval based
3 upon the conditions that Mr. Noffsinger set forth.

4 CHAIRMAN: Motion by Mr. Cambron based on
5 the conditions of Mr. Noffsinger. Do we have a
6 second?

7 MR. APPLEBY: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion passes unanimously.

12 Next item, please.

13 ITEM 13

14 6028 KY 54, 0.23 acres
15 Csondier zoning change: From R-1A Single-Family
16 Residential to B-4 General Business
17 Applicant: Joseph and Linda Boarman

18 PLANNING STAFF RECOMMENDATIONS

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

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

23 Conditions:

24 1. No access points shall be allowed on KY 54;

25 and,

2. Landscaping and land use buffers shall be

1 provided in accordance with the Zoning Ordinance.

2 Findings of Fact:

3 1. The subject property is located in a Rural
4 Community Plan Area, where general business uses are
5 appropriate in limited locations;

6 2. The subject property is situated at the
7 intersection of a major street;

8 3. The subject property is contiguous to B-4
9 General Business zones and uses;

10 4. The applicant's proposal is a logical
11 expansion of existing B-4 General Business zoning to
12 the north across KY 54 because it would not
13 significantly increase the B-4 General Business zoning
14 in the vicinity and would not overburden the capacity
15 of roadways or other urban services available in the
16 affected area; and,

17 5. The current zoning is inappropriate and the
18 proposed zoning is more appropriate because the
19 subject property has historically been used for
20 business purposes.

21 MS. WATSON: We'd like to enter the Staff
22 Report as Exhibit F.

23 (ITEM 13 - STAFF REPORT IS ATTACHED AND
24 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT F.)

25 CHAIRMAN: Is there someone here

1 representing the applicant?

2 APPLICANT: Yes.

3 CHAIRMAN: Let's see if we have any
4 questions.

5 Does anybody have any questions of the
6 applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Does anybody on the commission
9 have any questions of the applicant?

10 (NO RESPONSE)

11 CHAIRMAN: Chair is ready for a motion.

12 MR. HAYDEN: I make a motion we approve
13 the Conditions 1 and 2 and Fact Finding 1 through 5.

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

16 MR. APPLEBY: Second.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22 ITEM 14

23 5400 Block KY 56, 5.985 acres
24 Consider zoning change: From A-R Rural Agriculture to
25 R-1A Single-Family Residential
Applicant: Michael W. O'Bryan d/b/a O'Bryan
Development, Inc., J.C. Ellis Estate

1 PLANNING STAFF RECOMMENDATIONS

2 Staff recommends approval because the proposal
3 is in compliance with the adopted Comprehensive Plan
4 and there have been major changes of an economic,
5 physical or social nature within the area involved
6 which were not anticipated in the adopted
7 Comprehensive Plan and those changes have
8 substantially altered the basic character of the area
9 involved. Finding of fact in support of this
10 recommendation follow:

11 1. The subject property is located within a
12 Rural Preference Plan Area, where urban low-density
13 residential uses are appropriate in very-limited
14 locations;

15 2. The adjacent property was rezoned in 1998 to
16 R-1A Single-Family Residential and the applicant's
17 proposal is a logical extension of that zone and
18 development;

19 3. The adopted Comprehensive Plan update now
20 recognizes the location of a new elementary school in
21 the vicinity of the subject property;

22 4. The adopted Comprehensive Plan update now
23 recognizes the extension of sanitary sewers in the
24 vicinity of the subject property;

25 5. The availability of the sanitary sewers to

1 the immediate vicinity has resulted in the creation of
2 an urban residential growth area within a Rural
3 Preference Plan area under the adopted Comprehensive
4 Plan update; and,

5 6. Roadway improvements proposed with Section 1
6 of this development will result in adequate roadway
7 capacity for the proposed development.

8 MS. WATSON: The Staff Report is entered
9 as Exhibit G.

10 (ITEM 14 - STAFF REPORT IS ATTACHED AND
11 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT G.)

12 CHAIRMAN: Is somebody here representing
13 the applicant?

14 (NO RESPONSE)

15 CHAIRMAN: Any questions from the
16 audience?

17 (NO RESPONSE)

18 CHAIRMAN: Questions from the commission?

19 (NO RESPONSE)

20 MR. CAMBRON: Motion for approval of
21 Findings of Fact 1 through 6.

22 CHAIRMAN: Motion for approval by Mr.
23 Cambron.

24 MR. GILLES: Second.

25 CHAIRMAN: Mr. Gilles has a second. All

1 in favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 Related Item:

6 ITEM 14A

7 Meadow Run at Whispering Meadows, 5.985 acres
8 Consider approval of combined final development
9 plan/major subdivision preliminary plat.
10 Applicant: Michael W. O'Bryan, d/b/a O'Bryan
11 Development, Inc., JC Ellis Estate & O'Bryan
12 Development, Inc.

11 MR. NOFFSINGER: Mr. Chairman, this plan
12 has been reviewed by the Planning and Engineer Staff.
13 It is in order. 'It's for 23 single-family lots.
14 With that it's ready for your consideration.

15 CHAIRMAN: Anybody here representing the
16 applicant?

17 (NO RESPONSE)

18 CHAIRMAN: Have any questions?

19 (NO RESPONSE)

20 CHAIRMAN: Chair is ready for a motion.

21 MR. HAYDEN: Make a motion for approval
22 with the recommendation of Staff.

23 CHAIRMAN: Got a motion for approval by
24 Mr. Hayden.

25 MR. APPLEBY: Second.

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, please.

6 ITEM 15

7 5700 Block St. Lawrence Road, 10000 Block St. Lawrence
8 Spur, 7.14 acres

9 Consider zoning change: From EX-1 Coal Mining to A-R
10 Rural Agriculture

11 Applicant: Thomas Gary and Michell Bickett

12 PLANNING STAFF RECOMMENDATIONS

13 Staff recommends approval because the proposal in

14 compliance with the adopted Comprehensive Plan,

15 subject to the findings of fact that follow:

16 Findings of Fact:

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

20 2. The subject property is adjacent to A-R Rural
21 Agriculture zoning;

22 3. There are no current coal mining activities
23 apparent on properties in the vicinity;

24 4. The proposed lot for rural residential use
25 fronts upon a public street; and,

 5. The proposed residential lot meets the
 criteria for rural large-lot residential use.

1 MS. WATSON: Staff Report is entered as
2 Exhibit H.

3 (ITEM 15 - STAFF REPORT IS ATTACHED AND
4 MADE A PART OF THE RECORD AT THIS TIME AS EXHIBIT H.)

5 CHAIRMAN: Is anybody here representing
6 the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Any questions from anybody on
9 the commission?

10 (NO RESPONSE)

11 CHAIRMAN: Chair is ready for a motion.

12 MR. ROGERS: Motion for approval based on
13 Staff's Recommendations and Finding of fact 1 through
14 5.

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

17 MS. DIXON: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 ITEM 16

24 4715 Sutherland Road (Portion of 4617 Sutherland
25 Road), 1.093 acres
Consider zoning change: From A-R Rural Agriculture to
B-4 General Business

1 Applicant: Jim Hawkins, Stepehn E. and Christine Aull

2 MR. NOFFSINGER: There is a request for
3 postponement by the applicant.

4 MR. CAMBRON: Make a motion for
5 postponement.

6 MR. HAYDEN: Second.

7 CHAIRMAN: Motion for postponement.

8 Second by Mr. Hayden. All in favor raise your right
9 hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 ITEM 17

14 3010 US 60 E (Future 3120 US 60E), 0.976 acres
15 Consider zoning change: From B-4 General Business to
16 R-1A Single-Family Residential
Applicant: Franklyn D. Westerfield

17 PROPOSED ZONE & LAND USE PLAN

18 The applicant is seeking an R-1A Single-Family
19 Residential zone. The subject property is located in
20 a Business Plan Area, where urban low-density
21 residential uses are appropriate in very-limited
22 locations.

23 SPECIFIC LAND USE CRITERIA

24 (A) Building and lot patterns should conform to
25 the criteria for "Urban Residential Development" (D6).

1 (B) Existing, expanded or new sanitary sewers
2 Urban low-density residential uses should occur only
3 where sanitary sewer systems exist or may be expanded
4 or where new sewer systems may be properly
5 established.

6 (C) Only logical expansion in Business Plan
7 Areas, completely new locations of urban low-density
8 residential use should not be established. However,
9 existing areas of this use may be expanded onto
10 contiguous land.

11 APPLICANT'S FINDINGS

12 The proposed Zoning Map Amendment is not in
13 compliance with the Comprehensive Plan. The existing
14 zoning classification given the property is
15 inappropriate. The subject property has been used as
16 a single-family residence for many years. An existing
17 R-1A zone is located south of the subject property
18 across East Sixth Street. It is the applicant's
19 contention that the proposed zoning classification is
20 appropriate.

21 PLANNING STAFF REVIEW

22 The subject property is located in the 3100 block
23 of US 60E. The subject property is located in an area
24 of intense commercial development. Land use criteria
25 applicable to this proposal are reviewed below.

1 GENERAL LAND USE CRITERIA

2 Environment

3 No important environmental criteria apply to the
4 subject property.

5 Urban Services

6 All urban services are available to the site,
7 including sanitary sewers. However, the subject
8 property is currently served by an on-site sewage
9 disposal system.

10 Development Patterns

11 The subject property is situated amid intense
12 general business uses. To the north across US 60 E is
13 located Kentucky Fried Chicken restaurant, Long John
14 Silver's restaurant, and a convenient/gas store.
15 Another convenient/gas store and an apartment complex
16 are located to the east of the subject property. To
17 the west of the subject property is a bank. Property
18 across E 6th Street is zoned R-1A and contains a
19 single-family residence. The current single-family
20 residential use on the subject property is oriented
21 facing US 60 E, with access from US 60 E and from E
22 6th Street via a gravel driveway.

23 The single-family residence located on the
24 property is non-comforming and may remain. The
25 existing zoning of B-4 General Business would not

1 permit a single-family residence to be constructed on
2 the property in accordance with the currently adopted
3 Zoning Ordinance. It is the intent of this Zoning
4 Ordinance to permit non-conformities to continue until
5 they are removed, but not to encourage their
6 survival. The Zoning Ordinance further states that
7 non-conformities shall not be enlarged or extended
8 beyond the scope and area of their operation at the
9 time of the adoption or amendment of the Zoning
10 Ordinance, nor be used as grounds for adding other
11 structures or uses prohibited elsewhere in the same
12 zone.

13 The applicant wishes to construct a
14 garage/storage building on the property as an
15 accessory structure to the single-family residential
16 use. The Zoning Ordinance does not allow enlargement
17 of a non-conforming use, so the applicant is
18 attempting to rezone the property to the R-1A
19 Single-Family Residential zone so a permit may be
20 obtained for construction of the garage/storage
21 building.

22 The structure the applicant is proposing would
23 measure 56 feet by 96 feet. There is some question as
24 to whether this is an accessory use to the residential
25 use. The size of the building may make it the

1 predominant building on the subject property since it
2 exceeds the size of the residential structure. The
3 Zoning Ordinance defines as accessory use or structure
4 as a use or structure subordinate to the principal use
5 of a building or to the principal use of land and
6 which is located on the same lot serving a purpose
7 customarily incidental to the principal building or
8 land use. The applicant should be advised that if the
9 zoning classification is changed to R-1A, the proposed
10 structure must be used as an accessory structure
11 incidental to the principal single-family residence.

12 Additionally, the applicant would be responsible
13 for buffers for incompatible land use as required by
14 the Zoning Ordinance. An average 10-foot wide
15 easement with a 6-foot high continuous element with
16 one tree every 40 linear feet is required when
17 residentially zoned property adjoins business-zoned
18 property.

19 Intersection & Driveway Spacing

20 US 60 E is classified as a principal arterial.
21 The subject property has approximately 116 feet of
22 frontage on US 60 E. Access points should be limited
23 to the existing access point that currently exists on
24 the property if the proposed zoning change occurs.

25 SPECIFIC LAND USE CRITERIA

1 The applicant's proposal to rezone the property
2 to R-1A Single-Family Residential does not meet the
3 criteria of the Comprehensive Plan. The criteria for
4 Residential Development are not applicable to this
5 request as the criteria speak to new urban residential
6 development or redevelopment occurring as a regular
7 subdivision or planned development. This proposal is
8 for an existing non-conforming structure on one lot
9 within an area that is an existing nonresidential
10 developed area. As the Zoning Ordinance intends to
11 allow nonconforming uses to continue, but not to
12 encourage their survival, a zoning change on the
13 subject property to a residential classification would
14 not be appropriate.

15 There is some R-1A zoning in the area situated
16 across E 6th Street. However, the development pattern
17 surrounding the subject property is nonresidential in
18 nature and E 6th Street is a logical boundary for the
19 B-4 General Business zoning. Extension of the R-1A
20 Single-Family zone across E 6th Street to accommodate
21 one lot situated between commercial uses would not
22 constitute a logical expansion of the R-1A zone. In
23 light of the situation of the subject property, the
24 Planning Staff considers the current B-4 zone to be
25 appropriate and the proposed R-1A zone to be

1 inappropriate.

2 PLANNING STAFF RECOMMENDATIONS

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

7 1. The subject property is located in a Business
8 Plan Area, where urban low-density residential uses
9 are appropriate only in very-limited locations;

10 2. The current B-4 General Business zoning
11 classification is appropriate for the subject property
12 as evidenced by the nonresidential development
13 patterns in the immediate vicinity;

14 3. The subject property contains a single-family
15 residential dwelling which is a non-conforming
16 structure in the B-4 General Business zone and may
17 remain without enlargement or expansion; and,

18 4. It is the intent of the currently adopted
19 Zoning Ordinance to permit non-conformities such as
20 this case to continue until they are removed, but not
21 to encourage their survival.

22 MS. WATSON: Enter this as Exhibit I.

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

25 CHAIRMAN: Is someone here representing

1 the applicant?

2 Please step forward.

3 MR. ELLIOTT: State your name, please.

4 MR. WESTERFIELD: My name is Franklin D.
5 Westerfield.

6 (MR. WESTERFIELD SWORN BY ATTORNEY.)

7 MR. WESTERFIELD: Mr. Chairman, I'm the
8 applicant as I said here. I wish I was in the flood
9 plain. I would have a better chance. Since I'm the
10 only one tonight to get annulled just about. All I
11 want to do I purchased a piece of property that has a
12 home on it. I want to live in the home which I am now
13 and I want to build myself a garage. The garage
14 that's there is an existing garage that was made for a
15 model T or model A. It won't even hold my riding lawn
16 mowers.

17 The garage will be built on the Sixth
18 Street side if I get permission. The Sixth Street
19 side has nothing to do with Kentucky Fried Chicken or
20 any of the rest of them. One side is a vacant field.
21 The other side is residential. It's multi-family.
22 It's apartment house. There's nothing exotic about
23 it. It's just - - the house has been there for - -
24 it's the oldest piece of property on that side of
25 Sixth Street. We want to live there and I want to

1 have a garage that I can play with my grandchildren
2 and stuff like that. That's I want. I don't want to
3 object to any of the Zoning Ordinances or future plans
4 for that area, but the home has been there. It's been
5 used as a residence for all of these years and I want
6 a garage. It won't change the entranceways. I won't
7 change anything there except build a garage. Hope it
8 doesn't get flooded out if I get it built. It's
9 commercial, but it's never been used as commercial
10 except for a doctor's office back years and years ago.
11 It's always been a residential home. It's the old
12 dinosaur in that area. I'd still like to live there
13 and have a garage to play with my grandchildren.
14 That's the only thing I can ask this board.
15 Appreciate you approving this application or this
16 rezoning. I guess it's crazy to try to rezone a piece
17 of commercial property to residential, but I don't
18 have any use for it as commercial. I was to live
19 there and have a garage and enjoy it. I appreciate
20 you board letting me.

21 CHAIRMAN: Mr. Westerfield, I have a
22 question. You say a garage. This structure will
23 measure 56 by 96.

24 MR. WESTERFIELD: Yes, sir. My name is
25 Westerfield and I'm a pack-rat. I collect everything

1 under the sun. I have seven other garages and I'm
2 planning on throwing away a bunch of stuff and that's
3 the smallest thing I feel like I can get by with.

4 CHAIRMAN: You're going to have a
5 consolidated sale.

6 MR. WESTERFIELD: Some of it I've packed
7 so long it's not worth selling. This is my last move
8 and my last garage. I have other pieces of property
9 here in town and they consistently - - my pattern is a
10 larger garage, but this is my last one.

11 CHAIRMAN: When you speak garage, speak of
12 the standard structure garage. Not a pole barn?

13 MR. WESTERFIELD: Well, it is a pole barn.
14 Yes, sir, it's a pole barn. It's a post-frame
15 building, but it's built as good as any home in that
16 neighborhood. My trusses and stuff will set on two
17 foot centers. I put a really shingle roof on it like
18 a house. The metal is commercial metal. The pictures
19 of the buildings are beautiful. There's a lot of them
20 built out here in town and lot of them built in that
21 neighborhood, but there's none of them built like mine
22 except the last one I built.

23 CHAIRMAN: Mr. Westerfield, let me ask Ms.
24 Watson a question or two.

25 MR. WESTERFIELD: Sure. I have some

1 similar pictures.

2 CHAIRMAN: I appreciate the way that
3 you're handling this.

4 Ms. Watson, I can sympathize with him
5 trying to build a garage. This is somewhat larger
6 than the garage I have at my house; although, I do
7 envy him. I must admit that because I'd like to put a
8 bunch more junk in mine. What can we do to allow Mr.
9 Westerfield to build a structure and stay within the
10 ordinance so that he can have some place to store his
11 toys?

12 MS. WATSON: You mean without rezoning the
13 property? I mean he would have to rezone to - -

14 CHAIRMAN: My question to you is: How can
15 we accommodate his request within either ordinance or
16 a rezoning?

17 MS. WATSON: The property would have to
18 be rezoned for him to be able to get a permit to build
19 an accessory structure to his residential use.

20 CHAIRMAN: Where can we keep him within
21 the ordinance with a rezoning? You know, I hate for a
22 man not to be able to build a garage on his own
23 property, even though it's a large garage.

24 MS. WATSON: I don't think there would be
25 a limit on the size of the garage if the property was

1 rezoned. That's probably a better question for Jim
2 Mishel who issued the the building permit.

3 CHAIRMAN: Mr. Mischel.

4 MR. ELLIOTT: State your name, please.

5 MR. MISCHEL: Jim Mischel.

6 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

7 MR. MISCHEL: I've talk to Mr. Westerfield
8 about this in the past. Basically what the building
9 department has done in the past with a structure such
10 as this, kind of a large accessory building, is on the
11 building permit he state this is to be used for
12 accessory residential use only. Not to be used for
13 business or anything of that nature. Then we just
14 have to wait and see. If he does what he proposes to
15 do. You know, if it is zoned residential.

16 CHAIRMAN: In other words, we can put
17 restricted covenants that he agrees to. Obviously
18 you're trying to prevent this from being a wholesale
19 operation out of his backyard.

20 MR. MISCHEL: Yes. I don't think you
21 would need to put any extra restrictions on there.
22 The ordinance - - if this property is zoned
23 residential, then under the ordinance he can only have
24 accessory storage. It wouldn't be, the ordinance he
25 couldn't use it for business or anything else. It

1 would have to be just his personal accessory
2 residential use. If he went any further than that,
3 then he would be in violation of the ordinance. I
4 guess that would be an enforcement problem.

5 CHAIRMAN: For you.

6 MR. MISCHEL: Yes.

7 CHAIRMAN: Do you have any problems with
8 the direction where we're heading to try to help Mr.
9 Westerfield build his structure and stay within the
10 ordinance?

11 MR. MISCHEL: I don't want to speak what
12 the recommendation is. I think we've gone - -

13 CHAIRMAN: I understand the ordinance.
14 The ordinance is pretty clear cut, but we're trying to
15 keep him within the ordinance, build the structure.

16 MR. MISCHEL: As far as my enforcement end
17 of it, I've seen few of these and sometimes people do
18 what they say they're going to do and sometimes they
19 don't and it becomes an enforcement problem. It's
20 just as simple as that. I don't want to say that he
21 will or will not. I don't know. I guess you can take
22 him for his word, I guess. I have no way of knowing.

23 CHAIRMAN: Let me ask Ms. Watson what her
24 opinion is on this situation if I may.

25 Ms. Watson, you see where I'm trying to

1 head with this. I know why you all came up with the
2 proposal for denial. I understand that. Do you see
3 where we're heading with this situation, that maybe we
4 can accommodate Mr. Westerfield and stay within the
5 ordinance and yet he knows he's going to have some
6 iron clad restrictions laid upon him?

7 MS. WATSON: Well, he would have to adhere
8 to the Zoning Ordinance. I mean the Planning
9 Commission would have the authority to recommend
10 approval for the rezoning if that's what you chose to
11 do. Our recommendation from a planning use standpoint
12 is that it's a business area and should remain a
13 business zone.

14 SISTER VIVIAN: I have a question. Would
15 it be any better since it's already zoned general
16 business that if he said this pole barn, this large
17 structure that he's building is business, that he's
18 going to sell things out of it?

19 MS. WATSON: He couldn't do that under the
20 ordinance and have a single-family residential
21 structure on the same property.

22 SISTER VIVIAN: Either way he goes he's
23 pinned in.

24 MR. CAMBRON: Can I ask Mr. Westerfield a
25 question?

1 CHAIRMAN: Go ahead, Mr. Cambron.

2 MR. CAMBRON: Mr. Westerfield, you stated
3 that there are garages of this size in that
4 neighborhood.

5 MR. WESTERFIELD: No, sir. I was talking
6 about the building, construction of the garage. There
7 are garages in that neighborhood, but nobody in their
8 right mind builds a garage this large except a
9 Westerfield. I can understand where everybody has a
10 big question mark. Is this guy crazy or is he just
11 trying to pull the wool over their eyes. I assure you
12 I'm the one that's crazy. So if there's no problem
13 with any of the zoning people, but I just want to a
14 big garage. I'm capable of doing it now. I just want
15 a big garage to play with my grandchildren. I have
16 purchased a 125 foot long train that's 26 foot long.

17 MR. CAMBRON: Is that going to run through
18 the neighborhood?

19 MR. WESTERFIELD: No, sir. That's why I
20 need the garage. The train itself is 26 foot long.
21 All I want is a garage. I thought about doing it
22 commercial and just call it a commercial building, but
23 I had no intentions of building commercial business or
24 even continue being in the commercial end of it. When
25 I retire in the next three years, if I live that long,

1 if I don't get killed over the train, I just want to
2 have a garage to play in. I don't want to deal with
3 the public. Trust me.

4 MR. HAYDEN: Why can't he build a garage
5 there with as it is today?

6 MR. WESTERFIELD: I discussed that.
7 Matter of fact, I discussed it with Mr. Noffsinger and
8 Mr. Mischel both. I could call it commercial building
9 because it's commercial and just not use it commercial
10 except for storage, but I can't live there. I have a
11 home there and I would like to live there and play in
12 the garage. I would have to move out if I build a
13 garage. I could do it under existing zone, but I just
14 couldn't live there too.

15 CHAIRMAN: Let me ask Mr. Noffsinger a
16 question.

17 Which would be better? If we change it to
18 residential, we may handcuff ourself 3, 4, 8, 10, 20
19 years down the road because somebody will eventually
20 probably want to bring that back to general business.
21 Would it be better to let him build this and keep the
22 zoning as it is?

23 MR. APPLEBY: The question is not whether
24 he's an honorable man and going to build a garage. I
25 don't have any doubt that's what he plans to do, but

1 you create problems that I see if you - - is the
2 zoning appropriate or is it not? As I see it, it's
3 appropriate right now. You've got commercial on
4 either side of it. You all of a sudden have
5 residential adjoining commercial which changes all the
6 setbacks if I'm not mistaken, doesn't it, Gary? So
7 you're presenting problems where the property owner
8 that's on either side of it; whereas they don't have
9 that now. Right now it's commercial and you can build
10 right up to the line adjoining commercial, but if you
11 change into residential in the middle then you're
12 hurting the people on either side of you too. It's
13 not question of letting the man build a garage. Is
14 this an appropriate zoning or not? I just can't see -
15 -

16 MR. CAMBRON: One thing that surprises me
17 is that, you know, some of the adjoining property
18 owners wouldn't be here to voice their opinion.

19 AUDIENCE: We are here.

20 MR. NOFFSINGER: I do have a question of
21 Mr. Westerfield.

22 Mr. Westerfield, the materials you're
23 going to store in this building, are those materials
24 to be used, are they going to be sold at another
25 location?

1 MR. WESTERFIELD: Not from that location.

2 MR. NOFFSINGER: So you're going to using
3 this garage to store materials that will be taken to
4 another location; say to the Consumer Mall to be sold?

5 MR. WESTERFIELD: Possibly. My personal
6 life with the Consumer Mall is one in the same. Is
7 has been since it was born. My main objection right
8 now or main concern is to be able to throw away this
9 pack-rat stuff that I've accumulated for years and
10 it's really no good. We have a bar, a jukebox, a Coke
11 machine, and a pool table, and stuff like that that my
12 grandkids want to use. I have ten grandchildren and
13 great-grandchildren. So it's a dual purpose garage.
14 It all relates I guess to me and my addiction to
15 having - -

16 CHAIRMAN: Mr. Westerfield, let us move
17 and hear what collectively your neighbors have to say
18 because we've got to give them fair time. I think
19 some other people want to address this issue. Let's
20 let them. Thank you for your presentation and the
21 manner in which you handled it.

22 Is there anybody else that would like to
23 address this issue?

24 MR. ELLIOTT: State your name, please.

25 MR. HESS: I'm John Hess at 717 Pleasant

1 Valley Road.

2 (MR. JOHN HESS SWORN BY ATTORNEY.)

3 MR. HESS: It's interesting if we look at
4 Highway 60 and we've already got some problems, but
5 it's interesting that a comment was just made that the
6 size of the garage. We were already kind of duke out
7 on Highway 60 with regards to the size of the jail. I
8 can't see a 50 by 100 foot building that's going to be
9 a garage. If it's going to be a pole building for
10 storage of thing, then it's going to become very
11 unsightly. Already on the property large tree,
12 rather extensive size tree has already been cut down
13 and is just laying on the property and a pile of brush
14 is as high as the apartment building next-door. This
15 is some of the stuff that Mr. Westerfield has already
16 started to do on his property. This is very unsightly
17 for not only the bank next-door or the apartment
18 community next-door, but also in our front yard
19 because that's what we look at. We look at the back
20 of his building in our front yard. My wife and I we
21 both would have been here tonight but Riley has got a
22 very bad cold and had to leave, but we're asking you
23 to really consider turning this down. We don't need
24 another pack-rat situation on Highway 60 and to become
25 further problems along the Sixth Street which is a

1 really residential street that dead ends into St. Pius
2 Tenth and dead ends at the other end into Wyndall's
3 and a shopping center. So we would appreciate it if
4 you'd keep it in that frame of that environment.
5 Thank you.

6 CHAIRMAN: Thank you.

7 MR. ELLIOTT: State your name, please.

8 MS. LIKENS: Mildred Likens.

9 (MS. LIKENS SWORN BY ATTORNEY.)

10 MS. LIKENS: I have lived at 3300 East
11 Sixth Street for 29 years. I have taken great pride
12 in caring for and maintaining my property. We are a
13 neighborhood that has kept our spacious lawns and our
14 homes in excellent condition. I feel to rezone the
15 property in question would devalue our homes and it
16 would be a starting point for others to request zoning
17 change. We would no longer have the quiet peaceful
18 neighborhood where many people are free to walk early
19 in the morning and late in the evening. I
20 respectfully ask you not to allow this rezoning to
21 take place. Thank you much.

22 CHAIRMAN: Thank you.

23 Is there anybody else that has any
24 presentation? Yes, sir.

25 MR. ELLIOTT: State your name, please.

1 MR. HICKELBECK: Ken Hickelbeck

2 (phonetic).

3 (MR. HICKELBECK SWORN BY ATTORNEY.)

4 MR. HICKELBECK: I'm very concerned about
5 the future looks of this place we're discussing. I
6 like to invite you all to drive by there and look at
7 the present scene. It is trashy. To me it's an
8 eyesore. I strongly suspect, but I can't prove this
9 now because it hasn't happened yet, but I strongly
10 suspect that Mr. Westerfield wants to use this
11 "garage" as a storage place for his business across
12 the street, the Consumer Mall. That's just an
13 opinion. I can't prove it because it hasn't happened
14 yet, but that's what I strongly suspect the man has in
15 mind. If he doesn't, have him tell us now. It is
16 very unsightly. I suggest that you drive by and look
17 at it.

18 I have here a letter from Mr. Vincent B.
19 Hayden, Jr. who is owner of Hayden Construction
20 Company who lives on East Sixth Street. He has this to
21 say: "To City Zoning Board. Gentlemen, I live at
22 3246 East Sixth Street which is very near the property
23 that you are considering rezoning from commercial to
24 residential. I would like to know why you are
25 considering doing this. The homes that face this

1 property on East Sixth Street are expensive
2 properties. We fear that if this property is rezoned
3 the person who owns this piece of land will use it as
4 a storage area and that this will become an eyesore.
5 Already this property is in disrepair because trash is
6 strung all over and there are piles of dead branches
7 and limbs. We fear that this will become worse if you
8 rezone this property. Homeowners in this area are
9 worried and concerned that it will cause a devaluation
10 of their properties. We all take great pride in our
11 residences and would not want this to happen. Please
12 consider this matter before making your decision to
13 rezone. Thank you. Very truly yours, Vincent B.
14 Hayden, Jr."

15 CHAIRMAN: Thank you. Does anybody else
16 have any other comments?

17 MR. WESTERFIELD: First of all I'd like to
18 respond to the comments made, statements made other
19 people.

20 First of all, Mr. Hess. He has a
21 legitimate complaint. There is a tree that has been
22 topped and it was topped by the City of Owensboro,
23 OMU, and so were about ten other trees there.
24 Everything there has been cleaned up. They have a
25 problem with getting to the high tension line or the

1 transformers with servicing the apartment house
2 next-door. They have to come through my yard to
3 service that transformer. OMU came out there, looked
4 at it, and they have trimmed the trees down where now
5 they can go through Mr. Marksberry's property to
6 service Mr. Marksberry's transformer. Not be in my
7 yard and tear up my yard where I can't mow it. There
8 was one tree left over that OMU did not clean up.
9 They just topped it and it unsightly. It's pitifully,
10 but I have a telephone number in my pocket right now
11 of the people that are going to be there at 7:00 in
12 the morning to clean it up. I've a cell phone number
13 if anyone here wants to call just to verify that,
14 you're more than welcome to you. That was predone
15 before I came to this meeting.

16 The size of this building scares people.
17 Like I stated awhile ago, he's got to have a motive.
18 You can't be that crazy to want it that big. I do
19 have. I have that desire to have a garage. May not
20 have it there. It's up to you fellows, but I've got
21 pictures of garages here. So far this garage is going
22 to be around \$45,000 and I guarantee you with the
23 material in it it's as good as any home in that
24 neighborhood with the exception of Mr. Hess because
25 his was built 100 years ago. You can't get that

1 material now. That's not even in the same ballgame as
2 this material here. It's a nice old stately home and
3 I understand he looks out the front door he sees the
4 mess that's there right now it would upset him. I
5 assure him that I'm not going to house prisoners or
6 nothing. It's going to be for me and my
7 grandchildren. With the landscape and it will be neat
8 and clean. The only thing I can do is give my word.
9 That's the only thing I can say. I'd be glad to
10 address any questions they have specifically. I have
11 pictures here of similar buildings. Not exactly
12 because of the size of my building. Be glad to show
13 it to Mr. Hess or any of the other people here. I
14 won't degrade the neighborhood. You walk around the
15 neighborhood and find garages there are pathetic
16 compared to what this is going to be. Like I say the
17 roof on this will not be a pole barn roof. It'd be a
18 regular traditional roof with trusses set on two
19 foot. All engineering plans and stuff were turned
20 over to Mr. Mischel. Thirty pound shingles. Five-
21 eighths plywood. It's not a traditional pole barn
22 like you would for storing farming equipment. It's
23 got a six inch concrete floor in it. Nobody does that
24 any more except crazy old people like me. It will be
25 a good asset to the community and I'll keep it neat

1 and clean and that will be my only subjection is to be
2 there and get that place nice where I can live and
3 enjoy it.

4 CHAIRMAN: Mr. Westerfield, I appreciate
5 your presentation. What we're faced with is we're
6 limited by the ordinance that there is. Then the
7 other property owners, of course, we have to uphold
8 the ordinance in accordance with what we're dealt with
9 and we've got other property owners concerns to take
10 into hand too.

11 MR. WESTERFIELD: Yes, sir. I understand
12 that. I'm in a catch 22 situation. I'm the last,
13 that property is the last in there to be developed,
14 but where do you go from here if you can't build
15 commercial property or residential? I'll build a
16 commercial garage there, but I just won't use it for
17 commercial purpose. I'll use it for me and my job.
18 What I can I do with that property?

19 CHAIRMAN: It's a difficult situation
20 you're faced with.

21 MR. WESTERFIELD: I have conformed, the
22 property itself has conformed the whole neighbors and
23 I am on Sixth Street. I'm not with Kentucky Fried
24 Chicken. I do have neighbors to get along with and I
25 fully intend to.

1 CHAIRMAN: Let me ask if anybody on the
2 commission has any questions?

3 MR. ROGERS: Mr. Westerfield, how long
4 have you lived here in the house?

5 MR. WESTERFIELD: In that house?

6 MR. ROGERS: Yes.

7 MR. WESTERFIELD: A year ago in May, sir.

8 MR. ROGERS: Did you buy it at public
9 auction or real estate?

10 MR. WESTERFIELD: Private. It was private
11 sale.

12 MR. ROGERS: That was zoned B-4 when it
13 was sold. How can he buy a piece of property zoned
14 B-4 and move into it?

15 MR. NOFFSINGER: They're allowed to
16 continue the use of residential until such time that
17 use is abandoned and converted to commercial use. So
18 I would say the previous owners used the property for
19 residential use and they're simply continuing that and
20 allowed to until they change it to commercial use.
21 Then it could not go back to residential.

22 I want to make sure the neighbors
23 understand that the property is currently zoned B-4
24 General Business which means he could operate a
25 business at this location today. He's wanting to

1 rezone the property to R-1A Single-Family Residential.
2 By doing that he's allowed, if he's successful in the
3 zoning change, to build this structure. The zoning
4 ordinance, as long as he meets setbacks he can build a
5 garage twice this size in a residential zone. It may
6 not be compatible with that residential area, but our
7 Zoning Ordinance does not speak to the design of the
8 building or to whether or not they fit into the
9 neighborhood. It speaks to do you meet the proper
10 setbacks. Here's a situation where he's wanting to
11 build a garage. It sounds to me like not only storage
12 accessory to his residence, but he's also going to be
13 storing items there to be sold elsewhere, you know,
14 for money. If that's the case that activity would not
15 be allowed on residential zone. Then we would be in
16 the position of having to address a zoning problem, a
17 zoning violation problem. If he's storing items there
18 to be sold somewhere else at another premises, he
19 should be building this garage in an I-1 Light
20 Industrial zone. That's the zone where you're allowed
21 to have storage, where you do not have retail
22 activities on the premises. So it's a unique
23 situation. It's not an easy situation for this board
24 to address because they would like for this gentleman
25 to be able to build his garage, but then looking at

1 the plan area and the uses around it, at some point in
2 time it's highly likely this property will be
3 developed for commercial use. That would be in
4 keeping with the development along Highway 60 East.
5 However, commercial use would not necessarily be in
6 keeping with the uses on East Sixth Street. The
7 Zoning Ordinance does not allow you to expand non-
8 conforming uses beyond the way they consist today.
9 That's why he's having to consider the rezoning to
10 residential.

11 MR. APPLEBY: You do have some screening
12 requirements in commercial zone?

13 MR. NOFFSINGER: Yes, sir. Screening and
14 setbacks. If this property is rezoned to residential,
15 then the adjoining commercial properties would be
16 faced with additional screening requirements as well
17 as setback requirements.

18 MR. CAMBRON: I'm sorry, say that again.

19 MR. NOFFSINGER: If this property is
20 rezoned to R-1A Single-Family Residential, the
21 adjoining commercial properties would then be required
22 to meet screening requirements if they expand and
23 additional building setbacks. Right now they in
24 theory can build to the property line. If this is
25 rezoned to residential, they would have to stay ten

1 feet off the property line.

2 CHAIRMAN: I think if there are no more
3 questions.

4 MR. CAMBRON: Chair ready for a motion?

5 CHAIRMAN: Chair is ready for a motion.

6 MR. CAMBRON: I'm going to have to make a
7 motion for denial based upon the Staff Findings of
8 Fact 1 through 4.

9 MS. DIXON: Second.

10 CHAIRMAN: Motion by Mr. Cambron for
11 denial. Second by Ms. Dixon. All in favor raise your
12 right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item.

16 -----

17 MAJOR SUBDIVISIONS

18 ITEM 18

19 Brookhill Estates (Lots #107, 108, 110, 111, 113-119),
20 3.853 acres
21 Consider approval of revised major subdivision
22 preliminary plat.
23 Applicant: Brookhill Estates, Inc.

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

1 CHAIRMAN: Any questions?

2 (NO RESPONSE)

3 CHAIRMAN: Any questions of the
4 commission?

5 (NO RESPONSE)

6 CHAIRMAN: Chair is ready for a motion.

7 MS. DIXON: Move for approval.

8 CHAIRMAN: Motion for approval by Ms.
9 Dixon.

10 MR. HAYDEN: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, please.

16 ITEM 19

17 Eagle Crest Estates, 9.505 acres
18 Consider approval of major subdivision preliminary
19 plat.
20 Applicant: Ron Jones, William M. Kuegel, et al.

21 MR. NOFFSINGER: Mr. Chairman, this
22 application and plan has been reviewed by the Planning
23 Staff and the Engineering Staff. It's found to be in
24 order and it's set with the exception and has not been
25 approved by the Green River District Health
Department. They are proposing sewers to be

1 installed; however, these sewers will just be the
2 lines only. They will not be tied to RWRA system. In
3 the interim, they will have to guide septic tank and
4 the health department I believe they will approve
5 it. They're just not available for signature at this
6 time. So if approved condition it on the health
7 department.

8 CHAIRMAN: Chair is ready for a motion.

9 MR. ROGERS: Motion for approval.

10 CHAIRMAN: Motion for approval based on
11 the health department approval by Mr. Rogers. Do we
12 have a second?

13 MR. HAYDEN: Second.

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

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimously.

18 Next item, please.

19 ITEM 20

20 Mid-America Airpark, Unit-6, Lot 8; Phase II, 43.019
21 acres

22 Consider approval of major subdivision final plat.
23 Applicant: City of Owensboro, Daviess County,
24 Owensboro-Daviess County Industrial Foundation, Inc.

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

CHAIRMAN: Any questions?

1 (NO RESPONSE)

2 MR. APPLEBY: Motion for approval.

3 MR. CAMBRON: Second.

4 CHAIRMAN: Motion for approval by Mr.

5 Appleby. Second by Mr. Cambron. All in favor raise

6 your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item.

10 -----

11 SURETY RELEASES

12 ITEM 21

13 Al Braden Office Bulding, \$1,057
14 Consider release of surety (Certified Check) for
15 landscaping.
16 Surety posted by: Braden Office Building

17 ITEM 22

18 Duncan Auto Sales, Inc., \$499.50
19 Consider release of surety (Performance Bond) for
20 landscaping.
21 Surety posted by: Duncan Auto Sales, Inc.

22 ITEM 23

23 Thruston Country Cupboard #9, \$16,9897.50
24 Consider release of surety (Performance Bond) for
25 landscaping
26 Surety posted by: Wholesale Petroleum, Inc.

MR. NOFFSINGER: Mr. Chairman, the Surety

Releases, Items 21, 22, and 23 are in order and can be

released in toto.

CHAIRMAN: Chair is ready for a motion.

1 MS. DIXON: Move to approve.
 2 CHAIRMAN: Motion to approve by Ms. Dixon.
 3 MR. GILLES: Second.
 4 MR. CHAIRMAN: Second by Mr. Gilles. All
 5 in favor raise your right hand.
 6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
 7 CHAIRMAN: Motion carries unanimously.

8 -----

9 SURETY TRANSFERS

10 ITEM 24

11 Bridle Ridge, \$11,583
 12 Transfer of surety (Certificate of Deposit) for
 13 sidewalks to the City of Owensboro.
 14 Surety posted by: Paul J. Martin

15 ITEM 25

16 Doe Ridge, Unit #1, Section 3, \$1,436
 17 Transfer of surety (Certified Check) for water mains
 18 to the Daviess County Fiscal Court
 19 Surety posted by: Robert J. Wimsatt

20 ITEM 26

21 Locust Grove Estates, Unit #1, \$2,500
 22 Transfer of surety (Certificate of Deposit) for storm
 23 sewers to the Daviess County Fiscal Court
 24 Surety posted by: Eric Avery

25 ITEM 27

26 The Landings of Hearland, Phase I, \$4,184.60
 27 Transfer of surety (Certificate of Deposit) for
 28 streets to the City of Owensboro
 29 Surety posted by: Jagoe Development Corp.

30 MR. NOFFSINGER: Mr. Chairman, the Surety
 31 Transfers, Items 24, 25, 26 and 27 are in order and

1 may be transferred in toto.

2 MR. CAMBRON: So be.

3 CHAIRMAN: Is that a motion, Mr. Cambron?

4 MR. CAMBRON: That is a motion.

5 CHAIRMAN: Mr. Cambron has a motion for
6 approval.

7 MS. DIXON: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12

13 NEW BUSINESS

14 ITEM 28

15 Consider revision to OMPC filing fees to include an
16 application fee for cellular communication towers.

17 MR. NOFFSINGER: Mr. Chairman, we are
18 asking Planning Commission to consider amending their
19 filing fee chart to include an application be for cell
20 towers. We've reviewed a number of these in the past.
21 We have not been charging a filing fee. The Staff
22 puts in many hours in review of these plans. We have
23 a court reporter to pay for these meetings as well as
24 other costs incurred. We were recommending that the
25 Planning Commission propose a \$2,000 filing fee on

1 each application submitted. This filing fee is much
2 higher than other filing fees that we have. Many of
3 our development fees are highly subsidized by tax
4 payers. This is a filing fee that we feel that should
5 not be subsidized, but should pay its way and would
6 put the Planning Commission in a position should we
7 need to hire consultants in the future to represent
8 and review these applications there would be moneys
9 available to do that.

10 CHAIRMAN: Any questions from any of the
11 commission?

12 (NO RESPONSE)

13 CHAIRMAN: Chair is ready for a motion.

14 MR. CAMBRON: Motion for approval.

15 CHAIRMAN: Motion for approval by Mr.
16 Cambron.

17 MS. DIXON: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Ready for one final motion.

23 MS. DIXON: Move to adjourn.

24 MR. APPLEBY: Second.

25 CHAIRMAN: All in favor raise your right

1 hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Meeting is adjourned.

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

3 I, LYNNETTE KOLLER, Notary Public in and for
4 the State of Kentucky at Large, do hereby certify that
5 the foregoing Owensboro Metropolitan Planning & Zoning
6 meeting was held at the time and place as stated in
7 the caption to the foregoing proceedings; that each
8 person commenting on issues under discussion were duly
9 sworn before testifying; that the Board members
10 present were as stated in the caption; that said
11 proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 130 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 6th day of August, 2001.

18
19

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

22 COMMISSION EXPIRES:
DECEMBER 19, 2002

23 COUNTY OF RESIDENCE:
24 DAVIESS COUNTY, KENTUCKY

25