The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, September 13, 2001, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

CHAIRMAN: Call to order the Planning Commission meeting, our September 13th meeting to order. Let's stand and give thanks and prayer.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business tonight is to consider the minutes of the August 9th meeting. Are there any questions, corrections?

MR. NOFFSINGER: No.

MR. CAMBRON: Make a motion for approval.

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CHAIRMAN: Motion for approval by Mr. Cambron.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, Mr. Noffsinger.

PUBLIC HEARING

ITEM 2

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

MR. NOFFSINGER: Mr. Chairman, there were originally amendments proposed to Article 9 of the Zoning Ordinance back in July 12th of 2001. These amendments were prepared and sent to us by the Daviess County Fiscal Court. In August – excuse me – at the July meeting of this commission this commission took action to postpone consideration and to reconsider at the August meeting of this commission. Prior to the August meeting of this commission, the proposed amendments were withdrawn. The amendments you have before you tonight have been revised over what was
previously considered by this commission. They have been advertised for public hearing at this time and they are ready for your consideration.

CHAIRMAN: Is there anybody from the audience that has any questions regarding the proposal?

MR. CLARK: Yes. My name is Carter Clark. I'm the general manager with Lamar Advertising in Evansville.

MR. ELLIOTT: Let me swear you in, please.

(MR. CLARK SWORN BY ATTORNEY.)

MR. CLARK: I got the revisions and we are totally fine with 99 percent of them. There is one thing that probably needs to be added in that there were some grandfathering clause that was added. Provision at the end under 9-6(c) Nonconforming Billboard Signs. What this would allow the way it was written is to basically allow most billboards or all billboards in theory to stay that are currently there. Because what this would do would be exactly what happened in the past two years where you had an outside interest billboard company come in because of loose regulations and build locations. This would just keep the door open for those signs to remain in place in perpetuity other than land issues.
like condemnation, etcetera. The only way -- there's always somebody going to be able to build a billboard at some rate. It will encourage what we call in the business lease jumping. I don't think that the intent, the way it was written was the way it turned out. I think if you add provision that basically says that subject to the following provisions and add that the original billboard by the original company or its successors. I think that will prohibit any future.

We're of the opinion we always lose billboards. I know the intent of this ordinance is to limit the amount that will go up, and I'm fine with all of that, but if you don't put that in there I don't think that you'll ever limit or diminish the amount that are there currently because somebody is always going to build that sign back.

CHAIRMAN: Mr. Adams, I think you have been our representative in the billboard amendments and compromise. Could you address that question or concern?

MR. ADAMS: Gary Adams.

(MR. GARY ADAMS SWORN BY ATTORNEY.)

MR. ADAMS: Mr. Chairman, this provision was requested by the judge and some of the proposed period of revision from the previous proposal. The
concept is essentially to try to make the ordinance similar to band that the City of Owensboro adopted back in 1989. In that ordinance the city made provision that any existing billboards could continue in place and be repaired or replaced in their same location.

There was an interest expressed obviously by the judge that there be a provision like that in this proposal. Whether or not -- I mean it obviously means any billboards that are out there already could continue. There was some concern that there's some older billboards that are maybe less attractive on wooden poles, totem pole, things like that, that could be replaced in the same location by a new billboard that would meet the limitations of this proposal which is it could be the same size of sign but it could not be any taller than the proposal allows for new signs under the concept of the grandfather concept. There's been a billboard there. It was legal when it was erected and that's what we mean by nonconforming sign. It was legal. So the judge requested to make the provision of similar to the City of Owensboro.

CHAIRMAN: Thank you, Mr. Adams.

If we have come up with a compromise with all the input we had, the Planning Staff has worked on
it, the judge, the billboard companies and we've made
99 percent of your concerns that you're with it, I
think that's about as good as this group is going to
be able to get. That's pretty close.

MR. CLARK: Yes. The only problem is this
was thrown in as a compromise without input from
everybody that sat on the committee. I think that if
you don't look at this you're just opening the door
for problems. I truly understand what Mr. Adams was
saying and he's right. The intent of it was is to
so-called spruce up some of the older looking
billboards which is fine. That should be what it's
for, but if you keep in perpetuity that location being
open forever, then that's where you're doing an
injustice to going through this whole practice. I'm
on the billboard side warning you of this. Probably
people shaking their head why. Because I'm in the
interest of protecting the community as well. I've
been in a lot of cities throughout the United States.
I assure you that this is a loophole.

CHAIRMAN: Thank you.

Yes, sir.

MR. SMITH: Duke Smith.

(MR. DUKE SMITH SWORN BY ATTORNEY.)

MR. SMITH: We talked with Carter on the

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way into the meeting. He being with a huge company
told us about some of the problems with this loophole.
We feel that this is a problem as far as the lease
jumping. The intent of that paragraph is to allow us
to rebuild some of our less sightly locations that
have wooden poles. As Carter suggested we can add
just one line to that. That that be by the company
owning the billboard.

In other words, if your lease expires at
the end of your lease and the property owners don't
want you there any more, then they can't go out and
shop it for another sign company to use that spot.
The sign location would be lost forever. That would
be a simple amendment. One line and we can move on
with this. We never are happy when our businesses are
cut back. This is a severe cut to what we've been
able to do in the past. We would still like to see
some things that aren't in there. We're at this point
ready to move forward and support this.

CHAIRMAN: Thank you, Mr. Smith.

Mr. Adams, would you come back. In my
mind we've got both of the billboard companies asking
for a little bit more tweaking of the regulations.
I'm sure you understand the sentence that they're
requesting. What is your opinion?
MR. ADAMS: My opinion is what would be the difference in whether or not there might be a competitive situation to replace a nonconforming billboard by another company, a bigger company, and that's been put up legitimately. I mean I don't see the distinction other than to protect the interest of two companies that are now operating in Daviess County.

Before this provision was made, the limitation that had been in the sign ordinance for many years was if a sign got in a condition that it was over 50 percent deteriorated, you know, if you had to expend more than 50 percent of its accessed value to repair it or replace it, then it would have to comply with whatever regulations are in place at that time. So that would mean the way it was written previously you could not replace that billboard if it did not meet the spacing standard, size, location, all of that.

It was a loosening of the proposal to say if there's a billboard there already it can be replaced. It doesn't get into saying who can replace it. It would seem to me in a free market system that if somebody is willing to pay a higher price for a lease on that property, why should we care who the
company is who erects it to the specifications of the regulation.

CHAIRMAN: Thank you, Mr. Adams.

Does anybody from the commission have any questions?

(NO RESPONSE)

CHAIRMAN: Suggestions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Mr. Chairman, I make a motion we approve the billboard amendments as we have them in front of us right now.

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

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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PUBLIC FACILITIES PLANS
REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

ITEM 3

9, 25 Carter Road
Building Placement

Ohio Valley Reporting
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Consider comments regarding placement of a building at the Botanical Gardens site to be used for storage, meeting and office space.

Referred by: City of Owensboro, Western Kentucky Botanical Gardens

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this plan. We find that it is consistent and not in conflict with the Comprehensive Plan and recommend you forward a letter to the City of Owensboro to that affect.

CHAIRMAN: Is there anybody here representing the City of Owensboro?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions concerning this?

(NO RESPONSE)

CHAIRMAN: If there is none, Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

CHAIRMAN: Second by Dr. Bothwell. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ITEM 4

7772 KY 815
Building Construction
Consider comments regarding the construction of an accessory structure at the West Daviess County Landfill.
Referred by: Daviess County Fiscal Court

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this plan. We find no conflicts with the Comprehensive Plan. Would recommend you forward a letter to that affect.

CHAIRMAN: Is there anybody here representing the Daviess County Fiscal Court?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions about this proposal?

(NO RESPONSE)

MR. CAMBRON: Is Chair ready for a motion?

CHAIRMAN: Chair is ready for a motion.

MR. CAMBRON: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Cambron.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

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Next item, please.

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CELLULAR TELECOMMUNICATIONS FACILITIES
PER KRS 100.987

ITEM 5

1230 KY 279 South
Consider approval of a wireless telecommunications tower.
Applicant: Crown Communication, Inc., GTE Wireless of the Midwest, Inc., d/b/a Verizon Wireless, Crown Castle GT Company, LLC, Mary Barnes Knight

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. The Planning Staff will have some questions regarding the completeness of the application. The applicant is represented tonight by legal counsel and it's ready for your consideration

CHAIRMAN: Why don't we just go right to the counsel representing the tower company.

MR. KING: Good evening, Ladies and Gentlemen. My name is Christopher King.

(MR. KING SWORN BY ATTORNEY.)

CHAIRMAN: Mr. King, why don't we go right to the questions that the Planning Staff has of you and then we can get right into the questions they have and I'm sure you're prepared to answer them.

MR. KING: Yes, sir.

MR. NOFFSINGER: Mr. King, in reviewing Ohio Valley Reporting
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the uniform application that you submitted to the Public Service Commission, you failed to include a co-location report on the existing tower that's located approximately three-tenths of a mile from the proposed site. Now, this existing tower is clearly within your identified search ring. As part of what we're charged with as a Planning Commission is to determine whether or not your proposal is consistent with the community's Comprehensive Plan. As a part of that, we promote co-location of towers, antennas on towers and also in doing that to limit the number of towers that would be necessary to serve our community.

Part of the PSC requirement and from our Comprehensive Plan is that you do a co-location report for all existing towers within the area. You failed to consider this existing tower. What we need to know is why did that occur. This commission is in a position where we have to formulate a recommendation tonight to go to the Public Service Commission. We have 60 days upon which to act upon your proposal from the date it's submitted.

So tonight we have to make a recommendation because if we wait until our next Planning Commission meeting it will be too late to make that recommendation unless you waive the 60 day
time limit and we could consider it another date. Our concern is failure to acknowledge the existing tower.

MR. KING: Let me address the two separate issues on that. First, we are aware of the requirements for co-location and facts support that very much. You, of course, members of the commission, have probably seen Crown Communications here before. In fact, we have 13 towers in Daviess County. Of those 13 towers, there are 30 co-locations. We take that very seriously.

It is correct that the tower that is located approximately three-tenths of a mile east, northeast of the location we're talking about tonight was not included in the original PSC application. I assure you there was no malintent in that. It was merely an oversight. Once this was brought to our attention by your staff, I believe it was last Thursday afternoon or early Friday morning, we put our gears into motion to find out just exactly, number one, why it wasn't included; number two, to consider it to see if we could use it for a co-location opportunity. It takes some time to do that.

I think it was yesterday I finally got a fax copy of the co-location report to be included with this application to the staff. It will be submitted
as an amendment to the application that was submitted
to the PSC just as soon as we can get the paperwork
done. That being said we have conducted a
colocation analysis on that.

For several reasons this tower will not
suit our needs. The first of which is that it's much
too short. The tower that we're requesting tonight is
280 feet tall. This particular tower is estimated to
be 55 to 60 feet. Secondary consideration is that
it's located extremely close to the overpass and 279
where it intersects Audubon Parkway on the northeast
corner. It's also very close to the roadway, a lot of
them are. If we were to try to augment this tower, it
would require a much larger footprint that's there now
and probably would not fit within that space.

Finally we have contact with the owner of
the tower through our research which I believe is
owned by Adelphia Communications. Asked them if they
would be interested in extending that tower or
replacing that tower with the tower that will suit our
needs. They have said they have no interest in that.
I do have a copy of a letter that was received from
Adelphia just today stating their reluctance to make
modifications which I'll be happy to submit to the
Planning Commission now with your permission.

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CHAIRMAN: Yes. Would you circulate the letter. Do you have copies, Mr. King?

MR. KING: Yes, sir, I do.

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

(NO RESPONSE)

CHAIRMAN: Does anybody from the audience have any questions or concerns?

MR. ELLIOTT: State your name, please.

MR. KUEGEL: Bruce Kuegel.

(MR. BRUCE KUEGEL SWORN BY ATTORNEY.)

MR. KUEGEL: Mr. Chairman, Ladies and Gentlemen of the Board, my name is Bruce Kuegel. I'm an attorney here in Owensboro, Kentucky. I am here representing an adjacent farm owner, the Wilsons. I have some handouts that I will be distributing as well as some photographs that I will be asking you all to at least consider.

What we propose is that the tower not be located at the current location. I will try to quickly cover those reasons. I think its best to start with an aerial photo showing the approximate location of the tower.

As those are being passed out, I'll just describe the picture that's coming around. This is

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off the Internet. It is a picture that shows, again, the approximate location of the tower. The Wilson property is the property that is, it will be north, almost directly north of that tower location. I'll also point out that the tower location rather than being surrounded by a lot of the property owner or the lease, the person who Crown Castle is leasing from it sits right up in the corner. In affect you have the Audubon Parkway on one side. You have my people's property directly north of that. There's just a short distance away and it abuts actually against another piece of property that we own.

One of the things that I would point out to the commission, and I realize that most of you have your copies of your ordinances, but rather than leafing through I have prepared copies of four different sections that I believe are very applicable to this particular situation.

Number one, beginning with the General Provisions. I'm going to just hurriedly go through this. One of the objectives of the Zoning Ordinance for Daviess County is an impertinent part to promote the public health, safety and general welfare of Daviess County. Also under Objectives under 1.3 says, "Consideration is given to property abutting public
rights-of-way." Also the aesthetic appeal, value to the surrounding neighborhoods, visual pollution as well as other dangers.

Now, from the aerial picture you will see that the Audubon Parkway it's just a stone throw from a tower that is -- while the tower is 280 foot tall, there's an extension I believe that's 380 feet or it's over 300 feet. If there was a disaster, tornado that hit and that tower did fall, I think one of the concerns that this commission needs to consider is that that would block the access of the Audubon Parkway if it fell southerly. Also as abutting and adjacent landowner, the Wilson's property also you would have a 350 foot radius if the tower fell in that way which would directly impact most of their property with the exception of the person that Crown Castle is leasing the property from, just a section of that little strip.

One of the other points that I have touched upon is aesthetic value. I'm going to pass, this is a picture that I took personally. It's a view from the Sorgho Fire Station located on Kentucky 56. That is a northern view from that fire station which affects Woodland Acres. Also there's a subdivision right over there on the right side and I believe that
will be the subdivision that's most apparent in that aerial photograph that I first passed out. With that being said, you can see what the view that everyone shares driving up and down Kentucky 56. Also, I would point out that the Audubon Parkway as you come into Daviess County, this is our current view. That's right as you drop over the hill, right after you pass the first Crown Castle tower that's on the left-hand side which is really not that much -- it's not in the view that this tower is going to, that this tower is going to be in.

CHAIRMAN: Excuse me. Let me interject something here to this. This commission is charged with does the tower meet the Comprehensive Plan and then the tower company has to show that this is within their search area. Within that search span they have to locate where that tower will be. Then it goes from us to the Public Service Commission who approves or disapproves the tower. We're just passing on whether it's within the Comprehensive Plan. We technically do not approve or disapprove the tower.

MR. KUEGEL: Yes, sir.

CHAIRMAN: Consequently the case that you're making really, you know, these are facts that we really can't consider in the aspect of this case.
You know, is it within that search range and does it meet the Comprehensive Plan. I understand the aesthetics and I understand those other things, but in this particular situation these are not items that we can consider.

MR. KUEGEL: Mr. Chairman, I would ask you to also consider the fact that while I understand that it's the Comprehensive Plan that we are concerned with tonight, also I'm quoting from the General Provisions of our Zoning Ordinance. I will just ask this commission to give the consideration of what is set forth in our Zoning Ordinances and to allow me to proceed and I will quickly wrap this up if you will allow me to.

CHAIRMAN: I'll give you whatever time you deem necessary, but I was just trying to -- some of the facts and some of the things that we have to consider are items that in this particular incident I just wanted you to know what we have to consider. You know, when it's within the search ring and the Public Service Commission deems it within that, then this board, you know, we cannot -- we can make a recommendation, but we do not, we don't say yes or no to the tower. I want to make sure that your clients knew that, that that's where we are.

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MR. KUEGEL: Of course, with that, Mr. Chairman, I believe I would be correct in saying that a lot of times the Public Service Commission does not rubber stamp everything that comes out of this committee, but it does give a lot of weight to what this committee, the considerations and the testimony that has been given before this committee. I would appreciate -- again, I'll try to wrap this up rather quickly because I don't want the meeting to drag on any longer than is necessary. Just one page.

I have some other items here that I will pass out for the board to consider. I think to move quickly through this, there are also some issues that are covered under 1.4 which is Page 1 of the General Provisions. That basically says that the Zoning Ordinance will in no way impair or interfere with any private restrictions placed upon property by covenant deed or recorded plat.

Mr. Chairman, we have a problem if this is approved by the board. The Wilsons will be forced into a lawsuit to defend a property right that they have had first part since 1966. Also it goes back -- these are all of record. It goes back to I believe 1929 whenever there was a passway established. Now they find themselves in a position of having both
sides of that. Again, this is all of record. I have other Quit Claim Deeds for the board.

Again, to wrap this up I will just merely ask the board to give consideration, number one, to the fact of the objectives of the Zoning Ordinance as set forth under 1.3. Also I would ask that this board give some serious consideration to the fact that the Wilsons own the property. They own both sides of the property. There was an error evidently according to the documents that I have received. There was an engineering error at one time. Crown Castle and myself, on behalf of my clients, have discussed this in-depth.

There's a little triangle piece of property that has an easement across it and the Wilsons own both sides of that by the deed. Again, if the board approves the site, I believe that you will find that the Wilsons will be placed in a position of either filing lawsuit or defending in a lawsuit in an action I believe that is really -- that's contrary not only to what's set forth under the general provisions of the Zoning Ordinance, but I think it's contrary to the equity. Therefore, I ask the board not to approve this site. We would ask that this thing, that the tower, there's other locations. We
I would ask that they explore other locations further away from my client.

CHAIRMAN: Thank you very much.

MR. ELLIOTT: Mr. Kuegel, I need to probably refer you to KRS 100.324 which really in affect takes jurisdiction with the Public Service Commission. The information has to be given to this board and a recommendation go to the Public Service Commission, but that's the only jurisdiction this board has with this. If you look at that provision, it directs how these matters are to be handled.

MR. KUEGEL: I have a copy of it right here. Thank you.

CHAIRMAN: Thank you, Mr. Elliott.

Mr. Noffsinger, we're not even going to vote yes or no. We're just going to make a recommendation to the Public Service Commission?

MR. NOFFSINGER: Well, what you're going to do is take a vote as to what recommendation we should send to the Public Service Commission. Do you find that the proposal is consistent with the plan? Do you find that it's not consistent with the plan? If you find that it is not consistent with the plan, what are those reasons.

Now, the Public Service Commission looks

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at two things. Number one, public convenience. Number two, are there alternate locations. The Planning Commission is charged with looking at other aspects of tower proposals including land use. However, this commission can sit here for hours and debate the land use issue, but if the Public Service Commission is not going to consider that type of evidence in their considerations, then I'm not sure what role we really play in this. I think that's a role that many Planning Commissions throughout the state are trying to figure out. What role do they actually play in siting of towers within the State of Kentucky relative to the Public Service Commission. Now, the Public Service Commission has been very cooperative in working with us and answering questions as well as the applicant of Crown Communication has been very cooperative. There have been a number of tower sites proposed before this Planning Commission. I think in terms of the Planning Staff's recommendation, it's simply that the current proposal is not consistent with the adopted Comprehensive Plan in that the application failed to include a detailed co-location report and analysis for the existing tower that's located clearly within the search ring. I'm not saying that you haven't looked
at it over the past week. I'm sure you have, but over
the past week have you had enough time to clearly give
due consideration to the presence of that existing
tower.

There are several options. Number one,
the existing tower perhaps could be modified. The
existing tower perhaps could be relocated somewhat or
instead of having two towers we only have one.
Perhaps the existing tower in its location could be
taken down if it's not being used. Then the end
result is one tower on this particular piece of
property.

This commission doesn't have time to study
that because as I understand it Crown Communication
wants a recommendation tonight so they can proceed
with the Public Service Commission. Now this letter
that we received from Adelphia gives me an indication
that Adelphia is not willing to make any improvements
to that tower. I certainly wouldn't blame Adelphia
because if they don't intend to use the tower they
wouldn't want to invest money in it. That's not to
say that Adelphia and Crown Communication and the land
owner of this particular site couldn't work together
to come up with some type of compromise that would be
in the best interest of the entire community.
I think certainly that doesn't address the neighbor's issue, but it addresses the issue, the community issue of trying to reduce the number of towers within our community and to also provide a necessary service that this community seems to want.

MR. CAMBRON: Mr. Chairman, can I ask a quick question? I need to ask Mr. Noffsinger first.

What questions can we ask? We've been through this before of the applicant to a certain point. I think we've been drilled on that before on what we can ask the applicant and what we can't; is that correct?

MR. NOFFSINGER: I think you can ask the applicant most any question you would like. However, if you're getting into specifics of the lease pertaining to what the lease payment would be, things of that nature, I don't think you could. You could ask some very broad questions and if Mr. King is willing to respond you'll get an answer.

MR. CAMBRON: My question is: Are we losing a lot of calls in that area? Is it GTE; is that correct?

MR. KING: The purpose for this site is to increase the in-building coverage in Sorgho. I think there's a new subdivision going across 56.
MR. CAMBRON: In-building?

MR. KING: In-building. Inside peoples houses and these kind of things. In addition to that is to improve the existing coverage that is along the Audubon Parkway east and west. There is a site about three miles east in towards Owensboro and it's just on the fringe right there at about 279. So what they need is to plug that gap and also provide the homes and the businesses that are in Sorgho and coming Sorgho with in-building coverage.

To answer your question, I'm not aware at this time --

MR. CAMBRON: I don't guess you're dropping coverage, you're not dropping calls. You just want to make sure that your calls can get through in-building, right?

MR. KING: That's correct.

CHAIRMAN: Mr. King, after hearing all of the comments that Mr. Noffsinger made, would you be able to give a response to tie all of this together to make this real easy for the commission?

MR. KING: Well, I hope so. I want to.

CHAIRMAN: I know his was sort of broad based. Make yours pretty concise so we can understand it real quick.
MR. KING: In response to Mr. Noffsinger's concerns. Again, I want to assure that there was no malintent. We also believe in co-location as I think we demonstrated.

It's my understanding that Adelphia will not consent to increasing that tower or augmenting. In addition, there's other site problems, but my understanding from just what I've heard tonight is that it's not so much that they want the tower put right where the Adelphia tower is. You don't want two towers real close. I think that's the main concern. That way it wouldn't fit within the Comprehensive Plan.

We have talked to our clients and they're prepared to work actively with Adelphia. If Adelphia will agree to remove that tower either with the assistance of Adelphia or on their own with Adelphia's permission. I would submit to bring it to a close. That that is the concern of the Planning Commission tonight. That I would ask for a recommendation of approval intention upon the removal of the second tower.

CHAIRMAN: Thank you, Mr. King. Very good job on summing it all up very quickly.

Does anybody else from the commission have
any questions?

(NO RESPONSE)

CHAIRMAN: I think at this point in time the Chair is ready for a recommendation.

Do we have somebody else? Yes, ma'am.

MR. ELLIOTT: State your name, please.

MS. SWARTZ: Barbara Swartz.

(MS. SWARTZ SWORN BY ATTORNEY.)

MS. SWARTZ: I'm a homeowner in Sorgho and have lived there for 18 years. There is new subdivisions coming up, but not once have we had phone trouble to go out. Not once has our phone lines gone out through any type of storms that we've had. Not saying that it will happen. My main concern, and if I understand correctly, that you can say no or you can say yes. I would like for you to say no because this tower would in view of my home site. I moved out to the county because of the county's view. If I have a tower, if I have the probing red light, I don't want that. I can move into the city. That's my main concern.

I received a letter from Crown Castle, five of us did that's within 500 feet of the tower, to let us know that a tower is being erected and that there's going to be a lighting arrester and an
aircraft warning strobe. We don't know what that entails. We see these towers up when we go every place, but we don't want one in our neighborhood. We don't want one in our backyard. They can move it. There's lots of farmland they can move it. So I would just like for you all to say no.

CHAIRMAN: Ms. Swartz, just to correct. This body does not actually say what you're asking to approve or disapprove the erection of the tower. The Public Service Commission does that.

MS. SWARTZ: But you take it to them.

CHAIRMAN: Well, we make the recommendation whether it fits within the Comprehensive Plan, but they make the ultimate decision of whether the tower goes up or the tower doesn't. I mean we could say it does not fit the Comprehensive Plan, but the Public Service Commission could go ahead and approve the tower anyway. Okay? This is not -- we're just saying does it or does it not meet the Comprehensive Plan.

MR. SWARTZ: I got all of these letters and I got the petition from the neighbors stating for me to come here to this meeting because this was going to something like that was going to determine something or another. I felt like it was kind of an
important meeting for us to be here. There's several people that's from our neighborhood that is here thinking that you would hear our voice. Whatever rules and regulations, whatever guidelines, you're out of my league. I guess I just want more done. I just want maybe you all to say, well, can they move it.

I am going to meet with Mr. Pike next week which is an attorney for Verizon on maybe doing a different location. I know they will work for us. I just really -- I came here thinking that we could say to you this is what we don't want and you could put a recommendation into the next person, but I was misunderstood on that I guess.

CHAIRMAN: Ms. Swartz, your voice has been heard and we have heard you. I think Mr. Elliott cited the Kentucky statute that covers this. We're not side-stepping an issue. This is something that does not fall under our total jurisdiction as according to the statute that Mr. Elliott stated. We're not side-stepping anything. I think your voice has been totally heard. I think you've said everything that you wanted to say. Thank you very much.

Mr. King, you want to wrap this up?

MR. KING: Yes, sir.
Mrs. Swartz made some good comments and I wanted to talk a little bit more about the meeting.

Mr. Pike did contact the senator from this area today and the senator asked for a little bit of clarification of what we're doing. I think it was maybe from your alls input. Certainly don't have a problem with that. What we wanted to relay tonight is that no matter what the commission's decision is tonight, we will have a meeting with representatives from the area next week to see if we can find a better site that would suit them as well as meet Crown's need. It's not been the first time that we've received an approval and then once meeting with some other folks that didn't like it we've moved it. We've done it before at least a handful of times I can think of within the last 16 months. With that I would ask for a recommendation with the condition that I outlined earlier.

CHAIRMAN: I'm sorry, I did not hear them.

MR. KING: A recommendation of approval with the condition I outlined earlier. That we would attempt to get that other tower removed.

CHAIRMAN: Thank you.

Does anybody else from the commission have any questions?
MR. JAGOE: I have a question. Does that proposal meet the Comprehensive Plan he just made?

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: I can't say that it would. At first I thought I heard that the tower, it would be conditioned upon the existing tower being removed, but then I heard this time or understood this time that you would attempt to do that.

MR. KING: With the tower being removed. Conditioned upon the other tower being removed. Let me clarify that.

MR. NOFFSINGER: Well, with that I think in terms of the Planning Staff's position on it that if that existing tower were removed, then we would find no conflict with the Comprehensive Plan. We know the towers are coming. The federal government tells us they're coming. You've got to let them in. You have to let them in the community. You cannot stop them from coming in.

We've been out to the site to look at it. There's a considerable amount of farmland in that area. We're only beginning in attempting to understand the cell tower issue. Crown Communication providers, they had engineers on staff that understand these search rings and can read them. When they
present them to us we have to assume that those search
rings are accurate. That they have to have a tower
within that search ring to provide coverage they're
required to provide. We don't have an engineer on
staff to do that. We've had good cooperation with
Crown Communication in terms of finding good
locations.

Now, this particular site appears to be
consistent with what we're seeing across the county
and across the state. That the towers are being
located in close proximity to our thoroughfares. In
many communities the towers are being located within
public right-of-way. So I don't think what they're
proposing to do is inconsistent with what they've done
and has been approved by the Public Service Commission
in other communities.

Mr. Jagoe, I think it could be considered
in agreement with the Comprehensive Plan with the
existing tower removed.

MR. JAGOE: Thank you.

MR. CAMBRON: A comment that I have is if
he's in fringe with that, why couldn't they not take
the Adelphia tower. If they could work something out
with them and maybe bring it up a little higher. If
all your concern about the Sorgho area in-house or
in-building coverage, looks to me like that should be able to take care of it right there. Is that a possibility? You said it was in the fringe area; is that correct?

MR. KING: Once again we've had site acquisitions, people out there. Have our engineers look at it. The tower that we're calling for 280 feet tall. It's not just the Sorgho area; although that's a part of it. It's also east and west along the Audubon Parkway. So 50 or 60 foot height it is now approximately is just not going to cut it from getting the frontage and the antenna height. That tower can't be augmented the way it is. The company is not wanting to replace it.

I think that we have a good solution to it. The concern is two separate towers. We'll take down the one that's not being used any more and put up one that we can put three or four more antennas on in the future so that if the next tower comes out they don't have to look for a new tower. There's one already there. Briefly that one won't work and replacing it is not an option according to the Zoning Ordinance.

CHAIRMAN: Mr. King, Mr. Cambron's question was in regards to removal and replacement in
that particular location with the tower meeting your specification.

MR. CAMBRON: That is correct.

CHAIRMAN: That was his exact question.

MR. CAMBRON: It says in this letter, and I read it, it said that they would not be interested. That may be the truth. They may not be interested, but maybe they'd be interested if you all go to them and say, hey, let us take the cost and do it from there.

MR. KING: I don't know that they would be interested. At this point it's not a viable option for us. I would like to on that point perhaps talk a little bit about the decisions that we talked about so much tonight, that the Planning Commission can or can't make. We've had a couple of quotations from KRS 100.987. Our reading position of it is that the Planning Commission can require through Section 6 KRS 100.987 can require applicants like us to attempt to make reasonable attempts. If we refuse to that, you can disapprove; however, it doesn't have the authority to require us or require the owner of the tower to make a substantial alteration or replace a tower.

I think that we in spirit and letter complied with what KRS required of us. We in good
faith tried to locate on that one. We looked at it and we also contacted staff to determine that the real issue was not a tower three-tenths of a mile away from the existing tower. The location was that there were two towers so close together. I think our solution tonight of conditioning the approval upon removal of the second tower meets the conditions of the Comprehensive Plan and begs for approval from the commission.

CHAIRMAN: Thank you, Mr. King.

I think at this time unless somebody from the staff or somebody from the audience has anything else they would like to say? Are there any other comments, questions at this point in time?

MR. KUEGEL: Could I make one other comment, please?

CHAIRMAN: Yes, sir.

MR. KUEGEL: I just want to make sure that whenever we're talking about the Comprehensive Plan that we're talking about the number of towers. This will not be two -- if this site, if Adelphia leaves the one tower which I assume is the small tower there at 271, there's another tower that Crown Castle has that is within view of this site. I don't know if the commission is aware of that or if that deals with the

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Comprehensive Plan or not. I have not explored that, Mr. Noffsinger.

CHAIRMAN: Yes, sir, Mr. Noffsinger.

MR. NOFFSINGER: Yes, Mr. Kuegel, we have looked at that and we are aware of that tower. That was the tower that was constructed I believe on Bartley Road, a recent construction. However, that tower is outside of the search ring for this tower so it cannot be considered for the co-location.

MR. KUEGEL: Thank you.

CHAIRMAN: Chair is now ready for a recommendation.

MR. APPLEBY: I think, Mr. Chairman, that if I'm understanding this correctly if they meet this condition, which is to remove the second tower, then from our perspective we would need to make a favorable recommendation to the Public Service Commission that they are in compliance, based within the compliance with the Comprehensive Plan so I would make that motion. However, these folks I think could take their concerns up with the Public Service Commission who ultimately makes the decision on whether that tower goes there or not. They can deal with the health issues too probably.

CHAIRMAN: Correct. That really
paraphrases Mr. King's own recommendation, asking for a favorable recommendation based on the contingency of the removal of the other tower; am I correct?

MR. KING: Yes, sir.

CHAIRMAN: Mr. Appleby, would you state that in the form of a recommendation, please.

MR. APPLEBY: I thought I did. I would make a motion that we would contingent upon the removal of the existing Adelphia tower we make a favorable recommendation to the Public Service Commission that the application is in compliance with the Comprehensive Plan.

MR. CAMBRON: Second.

CHAIRMAN: We have a second by Mr. Cambron and Mr. Appleby's recommendation. All in favor of the recommendation to give a favorable recommendation to the Public Service Commission, all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ZONING CHANGES - COUNTY

ITEM 6

2300-2600 Blocks Hayden Road, 15.171 acres
Consider zoning change: From A-U Urban Agriculture, R-1A Single-Family Residential to R-1A Single-Family Residential
Applicant: Hayden Park Developers, c/o Ron Jones

MR. ELLIOTT: State your name, please.

MS. WATSON: Becky Watson.

(MS. WATSON SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

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

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

2. The subject property is located in an area where there is a planned expansion of sanitary sewers;

3. The preliminary plan submitted in conjunction with this request provides for construction of a sanitary sewer collection system to be connected to a trunk sewer when RWRA's sewer expansion is completed to Reid Road at Yellow Creek Park;

4. A portion of the subject property is zoned R-1A Single-Family Residential and adjacent property is zoned R-1A Single-Family Residential; and

5. The applicant's proposal is a logical
extension of R-1A zoning and would not overburden existing roadways or other urban services.

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

CHAIRMAN: Is there anybody here representing the applicant?

MR. KAMUF: Charles Kamuf.

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)

MR. KAMUF: Mr. Chairman, we are here to answer any questions.

CHAIRMAN: Thank you, Mr. Kamuf. Let's see if we have any.

Is there anybody from the audience that has any questions or comments of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions?

(NO RESPONSE)

CHAIRMAN: If not, the Chair will be ready for a motion.

MS. DIXON: Move for approval because it is in compliance with the Comprehensive Plan and based upon Planning Staff Recommendations 1 through 5.

CHAIRMAN: We've got a motion for approval by Ms. Dixon.
DR. BOTHWELL: Second.

CHAIRMAN: Second by Dr. Bothwell. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Item:

ITEM 6A

Eagle Crest Estates, Section 2, 15.171 acres
Consider approval of combined final development plan/major subdivision preliminary plat.
Applicant: Hayden Park Developers, c/o Ron Jones

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff, by the City Engineering Department, as well as the County Engineer Department. It's found to be in order and ready for your consideration.

CHAIRMAN: Is there anybody here representing the applicant?

MR. KAMUF: We're here with the engineers if you have any questions.

CHAIRMAN: Thank you. Does anybody from the audience have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission?

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

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 6B

Eagle Crest Estates, Secton 1, Unit 1, 11.435 acres
Consider approval of major subdivision final plat
Surety (Certificate of Deposit) posted: $61,690
Applicant: Hayden Park Developers, c/o Ron Jones

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

CHAIRMAN: Is there anybody here representing the applicant?

MR. KAMUF: Yes, sir.

CHAIRMAN: Are there any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions by the Staff?

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CHAIRMAN: Anybody on the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. ROGERS: Motion for approval.

CHAIRMAN: Mr. Rogers has a motion for approval.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 7

6120 KY 54, 1.22 acres
Consider zoning change: From A-U Urban Agriculture to I-1 Light Industrial
Applicant: William S. Miles

PLANNING STAFF RECOMMENDATIONS

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

Conditions:

1. Installation of an average 10-foot wide buffer with a 6-foot high planting, hedge, fence, wall
or earth mound and one tree per 40 linear feet of boundary and also adjacent to residential property.

2. Any outdoor storage areas must be screened with a 6-foot high solid wall or fence and one tree per 40 linear feet of boundary.

3. Installation of 3-foot high continuous element with one tree per 40 feet of vehicular use area boundary, where adjacent to public right-of-way.

Findings of Fact:

1. The subject property is located in a Rural Community Plan Area, where light industrial uses are appropriate in limited locations;

2. The subject property adjoins I-1 Light Industrial zoning to the east; and

3. The applicant's proposal is a logical expansion of existing I-1 Light Industrial zoning and would not significantly increase the extent of I-1 Light Industrial zoning or uses in the vicinity or overburden the capacity of roadways or other urban services in the affected area.

CHAIRMAN: Thank you.

Is there anybody here representing the applicant?

MR. ELLIOTT: State your name, please.

MR. DEANE: Silas Deane.
MR. SILAS DEANE SWORN BY ATTORNEY.)

MR. SILAS: We're here to answer questions. The applicant, Mr. Miles, is here and the engineer is here.

CHAIRMAN: Thank you very much.

Is there anybody from the audience that has any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions of the applicant?

(NO RESPONSE)

MR. CAMBRON: Is Chair ready for a motion?

CHAIRMAN: Chair is ready for a motion.

MR. CAMBRON: Motion for approval based upon the Staff's Findings of Facts 1 through 3 and Conditions 1 through 3.

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

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.
ITEM 8

7055 KY 2830, 1.00 acres
Consider zoning change: From B-4 General Business to I-2 Heavy Industrial
Applicant: Maxine Trunnell

PLANNING STAFF RECOMMENDATIONS

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

Condition:

1. Vehicular use areas adjacent to the public right-of-way shall be landscaped with a 3-foot high continuous element and one tree per 40 linear feet of vehicular use area boundary.

Findings of Fact:

1. The property is located in a Rural Community Plan Area, where heavy industrial uses are appropriate in very-limited locations;
2. The subject property immediately adjoins I-2 Heavy Industrial zoning and uses;
3. The subject property has been in use as a truck terminal and scrap metal operation, which are heavy industrial uses; and
4. The applicant's proposal is a logical expansion of I-2 Heavy Industrial zoning and uses in Ohio Valley Reporting
   (270) 683-7383
the vicinity and would not significantly increase the extent of the I-2 Heavy Industrial zoning in the vicinity or overburden the capacity of roadways or other services.

MS. WATSON: Enter the Staff Report as Exhibit C.

CHAIRMAN: Is there somebody here representing the applicant?

MR. TRUNNEL: I'm Kaye Trunnell. Maxine Trunnell is my mother.

(MS. TRUNNELL SWORN BY ATTORNEY.)

MS. TRUNNELL: I'm here to answer questions. I have two pieces of property. One at 7055 and one at 7105. I have a neighbor here and my daughter is co-owner and she's here with me too.

CHAIRMAN: Thank you, Ms. Trunnell. Let's see if there's any questions that anybody has to ask of you.

Does anybody from the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Any questions from anybody on the commission?

(NO RESPONSE)

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

MR. CAMBRON: Motion for approval subject to Condition 1 and Findings of Fact 1 through 4.

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

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 9
Portion 7105 KY 2830, 0.62 acres
Consider zoning change: From B-4 General Business to I-2 Heavy Industrial
Applicant: Kaye Trunnell, Jill Trunnell, Double T. Investments

PLANNING STAFF RECOMMENDATIONS

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

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

Findings of Fact:

1. The property is located in a Rural Community Plan Area, where heavy industrial uses are appropriate in very-limited locations;

2. A portion of the subject property is
currently zoned I-2 Heavy Industrial, and is in heavy
industrial use as a truck terminal;

3. The subject property immediately adjoins I-2
Heavy Industrial zoning and uses; and

4. The applicant's proposal is a logical
expansion of I-2 Heavy Industrial zoning and uses in
the vicinity and would not significantly increase the
extent of the I-2 Heavy Industrial zoning in the
vicinity or overburden the capacity of roadways or
other services.

MS. WATSON: We would like to enter this
as Exhibit D.

CHAIRMAN: We obviously have someone here
representing the applicant.

Does anybody from the audience have any
questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a
recommendation.

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

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

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 10

4715 Sutherland Road (Portion of 4617 Sutherland Road), 1.093 acres (POSTPONED)

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

Applicant: Jim Hawkins, Stephen E. and Christine M. Aull

PLANNING STAFF RECOMMENDATIONS

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

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

Conditions:

1. Approval of a final development plan by the OMPC.

2. Surety posted or construction completed for initial roadway improvements widening Sutherland Road to a 20-foot pavement width prior to issuance of building permit.

Findings of Fact:

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

2. Property to the immediate north of the subject property is zoned B-4 General Business;

3. Improvements have been proposed to widen the existing road to maintain an acceptable level of service on Sutherland Road; and,

4. The applicant's proposal is a logical expansion of the B-4 General Business zoning to the north, because it will not significantly increase the extent of general business uses that are located in the vicinity or overburden the capacity of the roadways or other necessary urban services in the affected area, upon completion of the proposed roadway improvements.

MS. WATSON: We would enter the Staff's Report as Exhibit E.

CHAIRMAN: Do we have anybody here representing the applicant?

APPLICANT: Yes.

CHAIRMAN: Let's see if we have any questions. Do we have any questions from anybody in audience?

(NO RESPONSE)
CHAIRMAN: Do we have any questions from anybody from the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval because it is in compliance with the adopted Comprehensive Plan subject to Conditions 1 and 2 and based upon Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion is unanimous.

Next item, please.

ITEM 10A

4715 Sutherland Road, 1.093 acres
Consider approval of final development plan.
Applicant: Jim Hawkins

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

CHAIRMAN: We have somebody representing the applicant I assume.
Is there anybody has any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions of the applicant?

(NO RESPONSE)

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISION

ITEM 11

5100-5300 blocks Frederica Street, Southgate Centre, 97.639 acres

Consider approval of combined major subdivision preliminary plat/final development plan.

Applicant: Dial Properties, Co., Rodney Burns, Francis X. Ernst-Co-Conservator, Mary J. Sims-Co-Conservator

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff and by the Engineering Staff. It's found to be in
order. The plan is being revised to allow for a second option to access the Towne Square Mall property, via an extension Back Square Drive. That is not the preferred option to divide access to this center from Towne Square Mall. The preferred option would be to access the center via the front parking lot so the two centers connect; however, this is an option that's being considered just in case we can't get the access connections in front of the two developments. With that it's ready for your consideration.

CHAIRMAN: Is there anybody here representing the applicant?

MR. KAMUF: We're here, Mr. Chairman, to answer any questions you have.

CHAIRMAN: Thank you, Mr. Kamuf.

MR. KAMUF: I think Mr. Noffsinger layed it out exactly how it was the last time we had the rezoning and then go forward on the final plat.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

MR. CAMBRON: Chair ready for a motion?

CHAIRMAN: Chair is ready for a motion.

MR. CAMBRON: Motion for approval.

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CHAIRMAN: Motion for approval by Mr. Cambron.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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DEVELOPMENT PLAN

ITEM 12

1020 Halifax Drive, 1.15 acres
Consider approval of final development plan.
Applicant: Kennedy's Pharmacy, LLC, Robert L. Kennedy

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

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT: Yes.

CHAIRMAN: Are there any questions of the applicant from anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission
have any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Move for approval by Ms. Dixon.

DR. BOTHWELL: Second.

CHAIRMAN: Second by Dr. Bothwell. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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MAJOR SUBDIVISIONS

ITEM 13

Bertha Goetz Estates, Unit 3, Lot 4, 4.426+ acres
Consider approval of major subdivision final plat.
Surety (Irrevocable Letter of Credit) posted:
$19,082.60
Applicant: Bertha Goetz Estate, c/o Jim Goetz

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

CHAIRMAN: Is there somebody here representing the applicant?

APPLICANT: Yes.

CHAIRMAN: Are there any questions of the
applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody on the commission have any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. ROGERS: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Rogers.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 14

Doe Ridge, Section 3, Unit 3, 1.506 acres
Consider approval of major subdivision final plat.
Surety (Performance Bond) posted: $10,752.00
Applicant: Robert J. Wimsatt

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

CHAIRMAN: Somebody here representing the applicant?

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MR. WIMSATT: Yes.

CHAIRMAN: Anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission have any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Move for approval by Ms. Dixon.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 15

Turtle Creek, Unit 2, 10.418 acres
Consider approval of major subdivision final plat.
Surety (Performance Bond) posted: $73,720.35
Applicant: Robert J. Wimsatt

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

CHAIRMAN: The applicant is here.
Any questions from the audience?
(NO RESPONSE)
CHAIRMAN: Questions from the commission?
(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.
MR. APPLEBY: Motion for approval.
CHAIRMAN: Motion for approval by Mr. Appleby.
MR. GILLES: Second.
CHAIRMAN: Second by Mr. Gilles. All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.
Next item, please.

MINOR SUBDIVISIONS

ITEM 16
9590, 9610 Johnson Road, 5.09, 4.64 acres
Consider approval of minor subdivision plat.
Applicant: James R. & Mary H. Strehl, David A. & Mary J. Strehl, Joseph E. Strehl

MR. NOFFSINGER: Mr. Chairman, this plat comes before this commission because it exceeds the minimum depth to width ratio of three to one that has been applied to new lots being created. The property now consist of almost ten acres in size. The two lots
that are proposed do meet the minimum frontage
requirement at the building setback line; however,
they do slightly exceed the three to one depth to
width ratio. If you take a look at the property,
being a development tract that's under 10 acres in
size now and if you take a look at the average depth
to width ratio it's close to that three to one ratio;
however, it is a plat that the Planning Staff cannot
sign in-house. It must be considered by this
commission.

CHAIRMAN: Has everybody on the commission
had a chance to review this and looked at the lot?

(COMMISSION RESPONDS YES.)

CHAIRMAN: Is there somebody here
representing the applicant?

MR. STREHL: Yes, David Strehl.

(MR. DAVID STREHL SWORN BY ATTORNEY.)

MR. STREHL: I'm part owner of this piece
of property. We have asked Mr. Pence to draw up a
survey and recommendation to the Planning Staff on
division of these two tracts. We just found out a
couple of days ago that it was denied. We would like
an extension of your decision for 30 days to give us a
chance to either obtain counsel or put some kind of
organized argument together for to get this approved,
if you give us to the next meeting to do that.

CHAIRMAN: Mr. Noffsinger, would you address that, please.

MR. NOFFSINGER: Yes, sir, I will.

Mr. Strehl, the Planning Staff did not deny your request. When you contacted the surveyor to have the property surveyed, was there any discussion in terms of meeting, your proposal meeting the minimum regulations of the Zoning Ordinance and subdivision regulations? Because this plat was submitted back on August 30th which was about two weeks ago. Any plat that does not meet the minimum requirements has to come before this commission for approval. So it hasn't been denied and the reason it's before this commission is because it does not meet those minimum requirements.

MR. STREHL: We didn't understand that. We thought it had to come to the Planning Staff and that it could possibly be approved there. If it wasn't approve then we'd have a chance for appeal of it. Because of the time factor we just haven't had time to put an appeal together. This property was bought long before the three to one rule was in. There's a couple of tracts that has been sold off of it and we'd like to dispense of what's left in a
reasonable fashion. We'd just like the extension to put an argument together.

CHAIRMAN: Mr. Strehl, you don't meet the minimum requirements, but I think you might be better off to go ahead and let us, rather than ask for an extension, is go ahead and let us vote on it tonight because if you ask for an extension you just go longer. The voting on it tonight -- do you want to consult with Mr. Kamuf?

MR. STREHL: Well, we had talked with Mr. Kamuf briefly this week and just didn't have time for him to present this for us. We're probably going to have him present this for us.

CHAIRMAN: It's your call, your option. You're before us now.

MR. NOFFSINGER: Mr. Chairman, again if I may state for the record. The two proposed lots meet the minimum frontage requirement at the setback, at the required setback lot. If you take a look at the average depth to width ratio, they're pretty close to meeting this requirement and they only slightly exceed that three to one depth to width ratio. It is an existing lot of record. There's no way to divide this property other than basically what -- I mean this is the best way to divide that property if it's going to
be divided based upon the existing shape of the lot.

It's up to this commission to approve it or deny it.

MR. APPLEBY: Is Chair ready for a motion?

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

MR. CAMBRON: Second.

CHAIRMAN: We've got a motion for approval by Mr. Appleby. We've got a second by Mr. Cambron.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 17

9750, 9760 Johnson Road, 1.50, 4.96 acres
Consider approval of minor subdivision plat.
Applicant: James R & Mary H. Strehl, David A. & Mary J. Strehl, Joseph E. Strehl

CHAIRMAN: Mr. Chairman, Planning Staff has reviewed this application. It consist of a tract of land that's about six and a half acres in size.

They are proposing to create a tract that's 1.5 acres in size which meets all the minimum requirements of the regulations. However, in creating that new tract it does leave the remainder situation where they meet the minimum lot frontage at the required building setback line; however, it slightly exceeds the depth
to width ratio. It's a plat that Planning Staff could
not sign in-house so it had to come before this
commission for consideration.

CHAIRMAN: Has everybody on the commission
had a chance to review this plat?

(COMMISSION RESPONDS YES.)

MR. CAMBRON: Is Chair ready for a motion?
CHAIRMAN: Chair is ready for a motion.
MR. CAMBRON: Motion for approval.
MS. DIXON: Second.

CHAIRMAN: We've got a motion for approval
by Mr. Cambron. We've got a second by Ms. Dixon. All
in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 18
8858 KY 144, 1.85 acres
Consider approval of minor subdivision plat.
Applicant: Francis E & Janet Lantham, Jill Crisp

MR. NOFFSINGER: Mr. Chairman, the
Planning Commission has reviewed this application and
has found that the proposed lot that's being create,
which is 1.85 acres, does not meet the minimum
frontage requirement at the required building setback
line and exceeds the minimum three to one depth to
width ratio. The proposed lot is coming off of a tract that's approximately 110 acres in size. The remaining tract has approximately 1700 feet of road frontage. There's certainly ample road frontage and area on this property to meet the requirements of the ordinance since this lot is coming off of a larger farm. It creates what this commission considered back probably a couple of years ago, creates a what we call irregular-shaped lot or a flag lot. Given the fact that they do not meet the minimum frontage requirement at the building setback line and the depth to width ratio, staff would recommend you give it serious consideration.

CHAIRMAN: Is someone here representing the applicant?

APPLICANT: Yes.

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

MR. MATTINGLY: Jim Mattingly.

(MR. MATTINGLY SWORN BY ATTORNEY.)

MR. MATTINGLY: On the proposed property there, the reason -- he doesn't want to sell any more so we're not going to get any more. Even if we got more, the building site where we want to build at does not help it any. That's the main reason we're
sticking with the 50 foot road frontage. That's basically all I have to say about it.

CHAIRMAN: The way you have this drawn up this commission has made a stand somewhat against what we call flag lots which really desecrates the landscape and creates problems further down the road for what you do to the next piece of property that's sold off because you've got a little bitty leg going up here and going back to the property back here. So that's one of the issues that we face and obviously you're aware of that.

MR. MATTINGLY: Yes. If you add more to it, it's still going to be a leg property no matter what. It's going to be leg property no matter how you keep adding to it and then you'll be 150 feet by 400 feet and you're still going to be over.

CHAIRMAN: I'm not a surveyor so I'll not argue that point with you. We have qualified surveyors here, but we've got the depth to width ratio that we go by which is very simple to determine lot size, lot depth, lot frontage. So we're somewhat bound trying to fit things into those blocks for future development and future expansion of that property and, you know, protecting the landscape for all people in that area. That's the question that we
have.

Does anybody on the commission have any questions?

MR. CAMBRON: We're faced with another situation where we don't have 50 foot of road frontage.

CHAIRMAN: I believe, Mr. Cambron, we refer to that as a flag lot.

MR. CAMBRON: Yes.

CHAIRMAN: Mr. Pence, would you like to make a comment?

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

MR. PENCE: Jack Pence.

(MR. JACK PENCE SWORN BY ATTORNEY.)

MR. PENCE: Just a couple of comments. This is a family matter. It's a sister wanting to sell a small parcel of land to another sister. Of course, they do happen to both be my nieces, but that's not an issue.

This lot here, the original corner lot was created back in around 1960. So the corner lot was already taken off. They're just wanting to create one additional lot in behind this lot and they didn't want to use the a up lot of road frontage. It would be
land that would not be beneficial to the square lot in
the fact that it's a beautiful setting with some trees
there on the ridge. It's a beautiful home site. We
would like to bring that to your consideration. We
don't think this is an average flag lot because the
original lot was already there. Thank you.

CHAIRMAN: Mr. Pence, I will have to ask
you: What is a definition of an original flag lot?

MR. PENCE: To me original flag is where
you create both of them together and you come in the
back of your first lot to create the flag. In this
case here, there's been a lot there for approximately
40 years and there's a beautiful building site in
behind this lot. They just didn't want to use up,
have to buy an extra acre of ground to meet the three
to one requirement.

CHAIRMAN: Thank you. I was wondering
exactly what you meant by that sometime.

Once again the commission is faced with -

- 

MR. CAMBRON: It doesn't look to me, and
there again I'm not a surveyor, Mr. Pence, but it
doesn't look to me like it would take much more to
make the proper road frontage if you come off at an
angle from the back corner of that lot to accommodate
this. I don't understand all the dynamics in this.

MR. PENCE: Really it's a matter of dealing with the owner and they just didn't want to sell. You know, go with the minimum to try to get one lot, but they didn't want to have to give up a whole lot more road frontage.

CHAIRMAN: Mr. Noffsinger, obviously you've looked at this plat. Have you got a reasonable solution for all of these parties?

MR. NOFFSINGER: An additional 100 feet of frontage to this lot. That will give a total of 150 feet of frontage. Take the lot back 450 feet which is about close to what they have here. So an additional 100 feet of frontage would make a lot that meets the minimum requirements of the Zoning Ordinance.

MR. CAMBRON: It doesn't look like to me it should take more than a quarter to half an acre, would you, if you angle off that back corner?

MR. NOFFSINGER: You could certainly do something like that. Minimum would be 100 feet or you could go 50 at the road and then come back at the setback line and angle off from there. There are options to it, but it means additional frontage for this particular lot.

CHAIRMAN: Mr. Pence, it's easy for us to
take pencil and draw, but you're the professional.

Obviously what Mr. Noffsinger is proposing is more aesthetically and acceptable within the Comprehensive Plan which I'm sure you're very much aware of. You do an excellent job of squeezing every inch out of a piece of property of anybody we've got and I've seen your work. You understand what we're trying to do right now?

MR. PENCE: Yes, sir.

CHAIRMAN: We sort of at the beginning of January, you know, we sort of said that we're going to close the door on that and move in a direction and I'm sure you were aware of that direction we wanted to move.

MR. PENCE: Again, we just thought this was a little bit different. Not your typical situation due to topographic conditions. We did want to present this to you for your possible consideration.

MR. JAGOE: The property to the east, if the line was moved to the east, the eastern line, is there something there topographically that does not allow that?

MR. PENCE: Hill slopes off. It would not be of any benefit to the lot that they're going to or
the square area in the rather that they're going to be
building on. It would be of no uses to them.

MR. JAGOE: Your comment was that
topographically it couldn't be done.

MR. PENCE: Well, it slopes off, in other
words. It's not useable piece of land.

MR. JAGOE: It's not useable, but the line
can move?

MR. PENCE: Yes.

MR. APPLEBY: Jack, has any thought been
given to what -- you know, there's a good bit of
property here. What about the next lot that's going
to be cut off or if they want to take another lot off
the rear here? Has the thought been given to stub a
street back in there to give it frontage on another
lot should they want one?

MR. PENCE: No. The owner of the property
is definitely against any future development. He
would allow this one lot for family reasons to be sold
off.

MR. JAGOE: The next 50 feet there, what
would you guess the slope to be?

MR. PENCE: Probably in the range of six
to seven to one.

MR. APPLEBY: It would still give you the
frontage and you've still got the drive.

CHAIRMAN: Let me ask the applicant to step forward if you could.

Thank you, Mr. Pence.

MR. ELLIOTT: State your name, please.

MS. CRISP: Jill Crisp.

(MS. JILL CRISP SWORN BY ATTORNEY.)

CHAIRMAN: Where we're headed with this is aesthetically and to meet the setback and the ratio is we would like you not to increase so much. I don't even think we're increasing the property are we, Gary?

MR. NOFFSINGER: You would not have to increase the acreage, but you would need to increase the amount of frontage it has on the public roadway, at least the width. You need to increase the width of the lot.

MR. CRISP: The only reason why I was trying to do this, my sister she's just doing me a favor by selling me so much. Like her husband really didn't want to sell any. So she's just doing me a favor by selling off this irregular spot just so I can build a home.

CHAIRMAN: I appreciate that and we appreciate the effort your sister is trying to make on your behalf and we understand the family situation,
and trust me we have had many family situations up here. Do you think you all could go back in another huddle with Mr. Pence's help and possibly come up with a plan that would fit within the Comprehensive Plan because there's plenty of acreage there and in the long run for all parties concerned, if you stay within this depth to width ratio there's a whole lot more development property there that could be developed. I know you're saying your sister never wants to develop it, but her children sure might. It would be much, much better to square this lot up. That's what we're trying to do for the benefit of the whole county. I mean none of us personally have any interest in how wide the road is. Is that something that possibly you all could have another pow-wow or meeting? I'm sure Mr. Pence gave you that as a potential alternative. That there could be a counter proposal by the commission.

MS. CRISP: I guess that's all we can do is try something else.

CHAIRMAN: I'm just commenting that that would probably be a much favorable situation.

Mr. Noffsinger, as far as the time element, would it be better if we have a postponement to look at that or to go ahead and vote on it? You
know, other members may have a different feeling on
the flag lot situation. What I don't want to do is
put the property owner in any worse situation.

MR. NOFFSINGER: If you take a vote and
the commission votes to deny the request, then you
have to come in with a new submittal and new fee. If
you ask for a postponement and you present a plat that
is consistent with the minimum regulations, then the
Planning Staff would be able to sign that plat. It
would not have to come back before this commission for
reconsideration.

CHAIRMAN: And in the time element as far
as they could go ahead and get it signed and the time
would be less as far as delay?

MR. NOFFSINGER: That is correct. This
commission meets the second Thursday in October would
be the next meeting if you do not take action tonight.
If you come up with another alternative, then we can
have the plat signed.

MR. CAMBRON: At least it gives you
another option to look at at this point in time. Is
that viable with you?

MS. CRISP: Yes.

CHAIRMAN: We’re not saying how the vote
would come out. You could still cast your lot for
vote, but with what you have and based on the stand
that we've made on these type lots and with the
potential that you have to really square it up. I
mean we have granted some hardship cases where they
just can't do anything else unless they fly in by
helicopter, but in this situation it doesn't quite
warrant that. I'll leave it to you and Mr. Pence and
you can make your suggestion.

MR. MATTINELY: When you start adding more
road frontage, you know, you're naturally going to
drive the price up. You know, that's going to add
another acre to the property automatically if you go
another 100 foot. He's pretty dead set on not getting
rid of any more. The building site if you added more
to it is totally insignificant to it.

MR. CAMBRON: You may not have to add more
to it. There again, I don't know where you wawnt to
build on this site, but you may be able to pull it
back up. You see what I'm saying? You may there
again stay with 1.85 acres and have the correct road
frontage.

CHAIRMAN: You might with the advice of
Mr. Pence, you might end up actually with less acreage
and more frontage. Anyway, he could draw it up and he
knows the ratio that he would have to meet. You may
end up with less acreage.

MR. MATTINGLY: One thing thing before we
do get in this huddle, if you do get this say more
road frontage and they pass anything or is it all dead
set three to one? Is that in concrete? Like I say if
you come up with something close?

MR. JAGOE: I think the question he's
asking is to where he doesn't have to come back here.

CHAIRMAN: In other words, automatically.

Mr. Noffsinger will answer that.

MR. NOFFSINGER: In order for us to
approve the plat in-house, you must have a minimum of
100 feet of frontage at the building setback line.
The building setback line in this particular case
would be 25 feet from that front property line, from
the road right-of-way. So .25 feet back the lot has
to be at least 100 feet wide and it can extend back no
more than three to one ratio. For example, if you
were to get another 50 feet of frontage, that would
give you 100 feet of width of the road and then you
would go back 300 feet. That would be as far back as
you could go. As you increase the frontage, if you
have 125 feet of frontage, then you could go with a
lot that's 375 feet deep. Now, I'm not saying you
have to have a straight line there. You might have a
skewed line there if that helps your case. We can
certainly look at that, but it does have to meet the
minimum regulations before we can sign the plat
in-house as staff.

CHAIRMAN: What is the minimum frontage
that he could have, Mr. Noffsinger?

MR. NOFFSINGER: The minimum is 50 feet at
the road, 25 feet back onto the property. That lot
needs to be at least 100 feet wide and right now it's
only 50 feet.

CHAIRMAN: Yes. Mr. Pence is very much
aware of all of those criterias.

MR. CAMBRON: Is Chair ready for a
motion?

CHAIRMAN: Yes.

MR. CAMBRON: Motion for postponement for
30 days and let’s see if they can't work something out
with her sister and come back with something a little
more viable that we may not have to vote on if you can
make it correct with the staff.

CHAIRMAN: Motion by Mr. Cambron for a
postponement.

DR. BOTHWELL: Second.

CHAIRMAN: Second by Dr. Bothwell. All in
favor raise your right hand.

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(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 19

5565, 5579 Lane Road, 8.09, 1.65 acres
Consider approval of minor subdivision plat.
Applicant: Russell & Judith Ann Payne

MR. NOFFSINGER: Mr. Chairman, this plat comes to the Planning Commission because it exceeds the depth to width ratio of the remaining tract. We have a tract of land that's about 9.74 acres. The proposal to create a tract that's 1.65 acres. The new tract meets the minimum frontage requirements as well as the depth to width ratio requirements. The remaining tract meets the minimum frontage requirements; however, it slightly exceeds the average depth to width ratio. Given the fact it is an existing developed tract under 10 acres and looking at the way they propose to subdivide it, if this land is to be subdivided this is about the only practical way to do it. So with that it's ready for your consideration.

CHAIRMAN: Is anybody here representing the applicant?

MR. KAMUF: Charles Kamuf.

I represent the Paynes and they live out

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here on Lane Road. They're here along with the
in-laws. It's a family situation.

Mr. Payne has lived out there 16 years. I
think the family has owned this property for about 50
years. Like Gary said, in other words, it's a 9. some
odd acre tract. What they intend to do is to take a
tract, and I have a couple of photographs here.

If you see the house to the right, that's
where the in-laws live. There's a driveway that goes
to the back. This is what the house looks like that's
to the rear. It's a large brick home. What they
would like to do is build a smaller home. That home
will be built on the left side there. The idea that
we have here, the frontage if you see on there it's
125 foot. The bigger lot that you see to the rear
will be sold. It'll be about 8.09 acre tract. We
might point out that the transfer of the 1.65 acres is
to the daughter and son-in-law so they can live
next-door to the mother and father. The parents are
erly. They're here to testify. She just recently
got out of the hospital with a heart problem. The
parents need the daughter and the son-in-law there to
take care of them, but they don't want to live in the
big house that I showed you. This is a large home
that's to the rear. It's too large for them at the
present time. What they'd like to do is build a
smaller house to the right, that little area of the
rolling hill that I showed you.

There is no objection from the neighbors.
I think the photographs show pretty clearly that the
property is rolling. It lays good. It will continue
to have the agricultural affect. I have read that
provision that Gary has mentioned about the three to
one ratio. It states that the three to one ratio
should be followed; however, where the topography
makes it advisable, consideration may be given to an
irregular lot. The lot next-door, the frontage was
divided. It had 600 foot. It was divided into three
lots and each of the lots have 200 foot. So the lot
next-door even though I imagine it was prior to
January of this year, it did not meet the
requirements. It's not the typical flag lot that we
talk about. I can understand your concern about a 50
foot lot. Like Gary says, that we have tried to
develop it the best that we can under the
circumstances. It will allow for 125 feet and that's
probably the max. We have stated, if you look on the
survey that you have from Mr. Pence on the right side,
we have a covenant on there that this property will
never be cut up or subdivided any further than what it
is at the present time.

Family members are here to testify as to why this is taking place. It's not the ordinary situation. They want to sell it. They want to sell the big house. They want to build a little house so they can stay in the neighborhood next to their parents. I think it's about as close as you can get as far as cutting it up.

CHAIRMAN: Thank you, Mr. Kamuf.

Does anybody on the commission have any questions of Mr. Kamuf or any of the family members?

(NO RESPONSE)

MR. APPLEBY: Chair ready for a motion?

CHAIRMAN: Chair is ready for a motion, Mr. Appleby.

MR. APPLEBY: Motion for approval.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Thank you.

Next item, please.

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SURETY RELEASES

ITEM 20

A C Discount Laundry, $1,500.00
Consider release of surety (Performance Bond) for landscaping
Surety posted by: Denny & Patty Coppage

ITEM 21

Arbor Gate, Unit #1, $5,978.00
Consider release of surety (Certificate of Deposit) for 2" bit. conc. base.
Surety posted by: Wells & Wells Builders, Inc.

ITEM 22

Audubon Loans Garage Addition, $1,354.71
Consider release of surety (Certified Check) for landscaping.
Surety posted by: Audubon Loans

ITEM 23

Doe Ridge, Unit #1, Section 3, $19,103.00
Consider partial release of surety (Performance Bond) for streets, sidewalks and storm sewers.
Surety retained (Performance Bond): $26,710.80
Surety posted by: Robert J. Wimsatt

ITEM 24

Doe Ridge, Unit #2, Section 3, $23,755.25
Consider partial release of surety (Performance Bond) for public improvements.
Surety retained (Performance Bond): $22,056.30
Surety posted by: Robert J. Wimsatt

ITEM 25

Doe Ridge, Unit #1, Section 2, $7,944.75
Consider partial release of surety (Performance Bond) for streets, sidewalks, storm and sanitary sewers.
Surety retained (Performance Bond) $8,627.40
Surety posted by: Robert J. Wimsatt

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ITEM 26

H&I Development (Lot #7), $870.00
Consider release of surety (Certified Check) for landscaping.
Surety posted by: Hayden Construction Co.

ITEM 27

Hutch's Family Billiards, $585.00
Consider release of surety (Certified Check) for landscaping.
Surety posted by: Hutch's Family Billiards

ITEM 28

Wild Hare Saloon, $5,310.00
Consider release of surety (Certified Check) for landscaping.
Surety posted by: Lee Ray Killman

MR. NOFFSINGER: Surety Releases Items 20 through 28 are in order and may be considered in toto.

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

NEW BUSINESS

MR. NOFFSINGER: Under New Business I have

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one item to bring before the commission for
consideration.

The Planning Commission does not currently
offer dental insurance to their employees. There have
been at least six or seven employees that have
expressed desire to have dental coverage. I'm asking
the Planning Commission to authorize to the director
to make available a dental plan for Planning
Commission employees that would be at this time on
voluntary basis to the employee and paid for by the
employee at their own expense. There would be no
contribution to that plan by the Planning Commission.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Mr. Noffsinger.

MR. NOFFSINGER: That's all I have.

CHAIRMAN: Chair is ready for one final
motion.

MS. DIXON: Move to adjourn.
CHAIRMAN: Move to adjourn by Ms. Dixon.

DR. BOTHWELL: Second.

CHAIRMAN: Second by Dr. Bothwell. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned.

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

I, LYNNETTE KOLLER, Notary Public in and for
the State of Kentucky at Large, do hereby certify that
the foregoing Owensboro Metropolitan Planning & Zoning
meeting was held at the time and place as stated in
the caption to the foregoing proceedings; that each
person commenting on issues under discussion were duly
sworn before testifying; that the Board members
present were as stated in the caption; that said
proceedings were taken by me in stenotype and
electronically recorded and was thereafter, by me,
accurately and correctly transcribed into the
foregoing 86 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this
the 26th day of September, 2001.

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

COMMISSION EXPIRES:
DECEMBER 19, 2002

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

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