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OWENSBORO METROPOLITAN PLANNING COMMISSION

SEPTEMBER 13, 2001

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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

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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.

1 CHAIRMAN: Motion for approval by Mr.
2 Cambron.

3 MS. DIXON: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, Mr. Noffsinger.

9 -----

10 PUBLIC HEARING

11 ITEM 2

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

15 MR. NOFFSINGER: Mr. Chairman, there were
16 originally amendments proposed to Article 9 of the
17 Zoning Ordinance back in July 12th of 2001. These
18 amendments were prepared and sent to us by the Daviess
19 County Fiscal Court. In August - excuse me - at the
20 July meeting of this commission this commission took
21 action to postpone consideration and to reconsider at
22 the August meeting of this commission. Prior to the
23 August meeting of this commission, the proposed
24 amendments were withdrawn. The amendments you have
25 before you tonight have been revised over what was

1 previously considered by this commission. They have
2 been advertised for public hearing at this time and
3 they are ready for your consideration.

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

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

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

11 (MR. CLARK SWORN BY ATTORNEY.)

12 MR. CLARK: I got the revisions and we are
13 totally fine with 99 percent of them. There is one
14 thing that probably needs to be added in that there
15 were some grandfathering clause that was added.
16 Provision at the end under 9-6(c) Nonconforming
17 Billboard Signs. What this would allow the way it was
18 written is to basically allow most billboards or all
19 billboards in theory to stay that are currently there.

20 Because what this would do would be
21 exactly what happened in the past two years where you
22 had an outside interest billboard company come in
23 because of loose regulations and build locations.
24 This would just keep the door open for those signs to
25 remain in place in perpetuity other than land issues

1 like condemnation, etcetera. The only way - - there's
2 always somebody going to be able to build a billboard
3 at some rate. It will encourage what we call in the
4 business lease jumping. I don't think that the
5 intent, the way it was written was the way it turned
6 out. I think if you add provision that basically says
7 that subject to the following provisions and add that
8 the original billboard by the original company or its
9 successors. I think that will prohibit any future.

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

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

21 MR. ADAMS: Gary Adams.

22 (MR. GARY ADAMS SWORN BY ATTORNEY.)

23 MR. ADAMS: Mr. Chairman, this provision
24 was requested by the judge and some of the proposed
25 period of revision from the previous proposal. The

1 concept is essentially to try to make the ordinance
2 similar to band that the City of Owensboro adopted
3 back in 1989. In that ordinance the city made
4 provision that any existing billboards could continue
5 in place and be repaired or replaced in their same
6 location.

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

23 CHAIRMAN: Thank you, Mr. Adams.

24 If we have come up with a compromise with
25 all the input we had, the Planning Staff has worked on

1 it, the judge, the billboard companies and we've made
2 99 percent of your concerns that you're with it, I
3 think that's about as good as this group is going to
4 be able to get. That's pretty close.

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

21 CHAIRMAN: Thank you.

22 Yes, sir.

23 MR. SMITH: Duke Smith.

24 (MR. DUKE SMITH SWORN BY ATTORNEY.)

25 MR. SMITH: We talked with Carter on the

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

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

20 CHAIRMAN: Thank you, Mr. Smith.

21 Mr. Adams, would you come back. In my
22 mind we've got both of the billboard companies asking
23 for a little bit more tweaking of the regulations.
24 I'm sure you understand the sentence that they're
25 requesting. What is your opinion?

1 MR. ADAMS: My opinion is what would be
2 the difference in whether or not there might be a
3 competitive situation to replace a nonconforming
4 billboard by another company, a bigger company, and
5 that's been put up legitimately. I mean I don't see
6 the distinction other than to protect the interest of
7 two companies that are now operating in Daviess
8 County.

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

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

1 company is who erects it to the specifications of the
2 regulation.

3 CHAIRMAN: Thank you, Mr. Adams.

4 Does anybody from the commission have any
5 questions?

6 (NO RESPONSE)

7 CHAIRMAN: Suggestions?

8 (NO RESPONSE)

9 CHAIRMAN: Chair is ready for a motion.

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

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

15 MR. CAMBRON: Second.

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

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item, please.

21 -----

22 PUBLIC FACILITIES PLANS
23 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

24 ITEM 3

25 9, 25 Carter Road
Building Placement

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

3 Referred by: City of Owensboro, Western Kentucky
Botanical Gardens

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

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

11 (NO RESPONSE)

12 CHAIRMAN: Does anybody have any questions
13 concerning this?

14 (NO RESPONSE)

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

17 MS. DIXON: Move to approve.

18 CHAIRMAN: Motion for approval by Ms.
19 Dixon.

20 DR. BOTHWELL: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 Next item, please.

1 ITEM 4

2 7772 KY 815

Building Construction

3 Consider comments regarding the construction of an
4 accessory structure at the West Daviess County
Landfill.

Referred by: Daviess County Fiscal Court

5

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

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

12 (NO RESPONSE)

13 CHAIRMAN: Does anybody have any questions
14 about this proposal?

15 (NO RESPONSE)

16 MR. CAMBRON: Is Chair ready for a motion?

17 CHAIRMAN: Chair is ready for a motion.

18 MR. CAMBRON: Motion for approval.

19 CHAIRMAN: Motion for approval by Mr.

20 Cambron.

21 MR. GILLES: Second.

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

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

1 Next item, please.

2 -----

3 CELLULAR TELECOMMUNICATIONS FACILITIES
4 PER KRS 100.987

5 ITEM 5

6 1230 KY 279 South

7 Consider approval of a wireless telecommunications
8 tower.

9 Applicant: Crown Communication, Inc., GTE Wireless of
10 the Midwest, Inc., d/b/a Verizon Wireless, Crown
11 Castle GT Company, LLC, Mary Barnes Knight

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

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

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

22 (MR. KING SWORN BY ATTORNEY.)

23 CHAIRMAN: Mr. King, why don't we go right
24 to the questions that the Planning Staff has of you
25 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

1 the uniform application that you submitted to the
2 Public Service Commission, you failed to include a
3 co-location report on the existing tower that's
4 located approximately three-tenths of a mile from the
5 proposed site. Now, this existing tower is clearly
6 within your identified search ring. As part of what
7 we're charged with as a Planning Commission is to
8 determine whether or not your proposal is consistent
9 with the community's Comprehensive Plan. As a part of
10 that, we promote co-location of towers, antennas on
11 towers and also in doing that to limit the number of
12 towers that would be necessary to serve our community.

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

22 So tonight we have to make a
23 recommendation because if we wait until our next
24 Planning Commission meeting it will be too late to
25 make that recommendation unless you waive the 60 day

1 time limit and we could consider it another date. Our
2 concern is failure to acknowledge the existing tower.

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

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

23 I think it was yesterday I finally got a
24 fax copy of the co-location report to be included with
25 this application to the staff. It will be submitted

1 as an amendment to the application that was submitted
2 to the PSC just as soon as we can get the paperwork
3 done. That being said we have conducted a
4 co-location analysis on that.

5 For several reasons this tower will not
6 suit our needs. The first of which is that it's much
7 too short. The tower that we're requesting tonight is
8 280 feet tall. This particular tower is estimated to
9 be 55 to 60 feet. Secondary consideration is that
10 it's located extremely close to the overpass and 279
11 where it intersects Audubon Parkway on the northeast
12 corner. It's also very close to the roadway, a lot of
13 them are. If we were to try to augment this tower, it
14 would require a much larger footprint that's there now
15 and probably would not fit within that space.

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

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

3 MR. KING: Yes, sir, I do.

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

6 (NO RESPONSE)

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

9 MR. ELLIOTT: State your name, please.

10 MR. KUEGEL: Bruce Kuegel.

11 (MR. BRUCE KUEGEL SWORN BY ATTORNEY.)

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

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

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

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

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

19 Number one, beginning with the General
20 Provisions. I'm going to just hurriedly go through
21 this. One of the objectives of the Zoning Ordinance
22 for Daviess County is an impertinent part to promote
23 the public health, safety and general welfare of
24 Daviess County. Also under Objectives under 1.3 says,
25 "Consideration is given to property abutting public

1 rights-of-way." Also the aesthetic appeal, value to
2 the surrounding neighborhoods, visual pollution as
3 well as other dangers.

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

19 One of the other points that I have
20 touched upon is aesthetic value. I'm going to pass,
21 this is a picture that I took personally. It's a view
22 from the Sorgho Fire Station located on Kentucky 56.
23 That is a northern view from that fire station which
24 affects Woodland Acres. Also there's a subdivision
25 right over there on the right side and I believe that

1 will be the subdivision that's most apparent in that
2 aerial photograph that I first passed out. With that
3 being said, you can see what the view that everyone
4 shares driving up and down Kentucky 56. Also, I would
5 point out that the Audubon Parkway as you come into
6 Daviess County, this is our current view. That's
7 right as you drop over the hill, right after you pass
8 the first Crown Castle tower that's on the left-hand
9 side which is really not that much - - it's not in the
10 view that this tower is going to, that this tower is
11 going to be in.

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

22 MR. KUEGEL: Yes, sir.

23 CHAIRMAN: Consequently the case that
24 you're making really, you know, these are facts that
25 we really can't consider in the aspect of this case.

1 You know, is it within that search range and does it
2 meet the Comprehensive Plan. I understand the
3 aesthetics and I understand those other things, but in
4 this particular situation these are not items that we
5 can consider.

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

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

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

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

19 Mr. Chairman, we have a problem if this is
20 approved by the board. The Wilsons will be forced
21 into a lawsuit to defend a property right that they
22 have had first part since 1966. Also it goes back - -
23 these are all of record. It goes back to I believe
24 1929 whenever there was a passway established. Now
25 they find themselves in a position of having both

1 sides of that. Again, this is all of record. I have
2 other Quit Claim Deeds for the board.

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

14 There's a little triangle piece of
15 property that has an easement across it and the
16 Wilsons own both sides of that by the deed. Again, if
17 the board approves the site, I believe that you will
18 find that the Wilsons will be placed in a position of
19 either filing lawsuit or defending in a lawsuit in an
20 action I believe that is really - - that's contrary
21 not only to what's set forth under the general
22 provisions of the Zoning Ordinance, but I think it's
23 contrary to the equity. Therefore, I ask the board
24 not to approve this site. We would ask that this
25 thing, that the tower, there's other locations. We

1 would ask that they explore other locations further
2 away from my client.

3 CHAIRMAN: Thank you very much.

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

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

14 CHAIRMAN: Thank you, Mr. Elliott.

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

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

25 Now, the Public Service Commission looks

1 at two things. Number one, public convenience.
2 Number two, are there alternate locations. The
3 Planning Commission is charged with looking at other
4 aspects of tower proposals including land use.
5 However, this commission can sit here for hours and
6 debate the land use issue, but if the Public Service
7 Commission is not going to consider that type of
8 evidence in their considerations, then I'm not sure
9 what role we really play in this. I think that's a
10 role that many Planning Commissions throughout the
11 state are trying to figure out. What role do they
12 actually play in siting of towers within the State of
13 Kentucky relative to the Public Service Commission.

14 Now, the Public Service Commission has
15 been very cooperative in working with us and answering
16 questions as well as the applicant of Crown
17 Communication has been very cooperative. There have
18 been a number of tower sites proposed before this
19 Planning Commission. I think in terms of the Planning
20 Staff's recommendation, it's simply that the current
21 proposal is not consistent with the adopted
22 Comprehensive Plan in that the application failed to
23 include a detailed co-location report and analysis for
24 the existing tower that's located clearly within the
25 search ring. I'm not saying that you haven't looked

1 at it over the past week. I'm sure you have, but over
2 the past week have you had enough time to clearly give
3 due consideration to the presence of that existing
4 tower.

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

13 This commission doesn't have time to study
14 that because as I understand it Crown Communication
15 wants a recommendation tonight so they can proceed
16 with the Public Service Commission. Now this letter
17 that we received from Adelphia gives me an indication
18 that Adelphia is not willing to make any improvements
19 to that tower. I certainly wouldn't blame Adelphia
20 because if they don't intend to use the tower they
21 wouldn't want to invest money in it. That's not to
22 say that Adelphia and Crown Communication and the land
23 owner of this particular site couldn't work together
24 to come up with some type of compromise that would be
25 in the best interest of the entire community.

1 I think certainly that doesn't address the
2 neighbor's issue, but it addresses the issue, the
3 community issue of trying to reduce the number of
4 towers within our community and to also provide a
5 necessary service that this community seems to want.

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

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

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

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

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

1 MR. CAMBRON: In-building?

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

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

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

17 MR. KING: That's correct.

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

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

23 CHAIRMAN: I know his was sort of broad
24 based. Make yours pretty concise so we can understand
25 it real quick.

1 MR. KING: In response to Mr. Noffsinger's
2 concerns. Again, I want to assure that there was no
3 malintent. We also believe in co-location as I think
4 we demonstrated.

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

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

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

25 Does anybody else from the commission have

1 any questions?

2 (NO RESPONSE)

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

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

6 MR. ELLIOTT: State your name, please.

7 MS. SWARTZ: Barbara Swartz.

8 (MS. SWARTZ SWORN BY ATTORNEY.)

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

22 I received a letter from Crown Castle,
23 five of us did that's within 500 feet of the tower, to
24 let us know that a tower is being erected and that
25 there's going to be a lighting arrester and an

1 aircraft warning strobe. We don't know what that
2 entails. We see these towers up when we go every
3 place, but we don't want one in our neighborhood. We
4 don't want one in our backyard. They can move it.
5 There's lots of farmland they can move it. So I would
6 just like for you all to say no.

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

11 MS. SWARTZ: But you take it to them.

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

21 MR. SWARTZ: I got all of these letters
22 and I got the petition from the neighbors stating for
23 me to come here to this meeting because this was going
24 to something like that was going to determine
25 something or another. I felt like it was kind of an

1 important meeting for us to be here. There's several
2 people that's from our neighborhood that is here
3 thinking that you would hear our voice. Whatever
4 rules and regulations, whatever guidelines, you're out
5 of my league. I guess I just want more done. I just
6 want maybe you all to say, well, can they move it.

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

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

24 Mr. King, you want to wrap this up?

25 MR. KING: Yes, sir.

1 Mrs. Swartz made some good comments and I
2 wanted to talk a little bit more about the meeting.

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

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

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

23 CHAIRMAN: Thank you.

24 Does anybody else from the commission have
25 any questions?

1 MR. JAGOE: I have a question. Does that
2 proposal meet the Comprehensive Plan he just made?

3 CHAIRMAN: Mr. Noffsinger.

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

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

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

20 We've been out to the site to look at it.
21 There's a considerable amount of farmland in that
22 area. We're only beginning in attempting to
23 understand the cell tower issue. Crown Communication
24 providers, they had engineers on staff that understand
25 these search rings and can read them. When they

1 present them to us we have to assume that those search
2 rings are accurate. That they have to have a tower
3 within that search ring to provide coverage they're
4 required to provide. We don't have an engineer on
5 staff to do that. We've had good cooperation with
6 Crown Communication in terms of finding good
7 locations.

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

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

20 MR. JAGOE: Thank you.

21 MR. CAMBRON: A comment that I have is if
22 he's in fringe with that, why couldn't they not take
23 the Adelphia tower. If they could work something out
24 with them and maybe bring it up a little higher. If
25 all your concern about the Sorgho area in-house or

1 in-building coverage, looks to me like that should be
2 able to take care of it right there. Is that a
3 possibility? You said it was in the fringe area; is
4 that correct?

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

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

24 CHAIRMAN: Mr. King, Mr. Cambron's
25 question was in regards to removal and replacement in

1 that particular location with the tower meeting your
2 specification.

3 MR. CAMBRON: That is correct.

4 CHAIRMAN: That was his exact question.

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

11 MR. KING: I don't know that they would be
12 interested. At this point it's not a viable option
13 for us. I would like to on that point perhaps talk a
14 little bit about the decisions that we talked about so
15 much tonight, that the Planning Commission can or
16 can't make. We've had a couple of quotations from KRS
17 100.987. Our reading position of it is that the
18 Planning Commission can require through Section 6 KRS
19 100.987 can require applicants like us to attempt to
20 make reasonable attempts. If we refuse to that, you
21 can disapprove; however, it doesn't have the authority
22 to require us or require the owner of the tower to
23 make a substantial alteration or replace a tower.

24 I think that we in spirit and letter
25 complied with what KRS required of us. We in good

1 faith tried to locate on that one. We looked at it
2 and we also contacted staff to determine that the real
3 issue was not a tower three-tenths of a mile away from
4 the existing tower. The location was that there were
5 two towers so close together. I think our solution
6 tonight of conditioning the approval upon removal of
7 the second tower meets the conditions of the
8 Comprehensive Plan and begs for approval from the
9 commission.

10 CHAIRMAN: Thank you, Mr. King.

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

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

17 CHAIRMAN: Yes, sir.

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

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

3 CHAIRMAN: Yes, sir, Mr. Noffsinger.

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

10 MR. KUEGEL: Thank you.

11 CHAIRMAN: Chair is now ready for a
12 recommendation.

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

25 CHAIRMAN: Correct. That really

1 paraphrases Mr. King's own recommendation, asking for
2 a favorable recommendation based on the contingency of
3 the removal of the other tower; am I correct?

4 MR. KING: Yes, sir.

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

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

13 MR. CAMBRON: Second.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22

ZONING CHANGES - COUNTY

23
24 ITEM 6

25 2300-2600 Blocks Hayden Road, 15.171 acres

1 Consider zoning change: From A-U Urban Agriculture,
2 R-1A Single-Family Residential to R-1A Single-Family
3 Residential
4 Applicant: Hayden Park Developers, c/o Ron Jones

4 MR. ELLIOTT: State your name, please.

5 MS. WATSON: Becky Watson.

6 (MS. WATSON SWORN BY ATTORNEY.)

7 PLANNING STAFF RECOMMENDATIONS

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

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

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

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

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

25 5. The applicant's proposal is a logical

1 extension of R-1A zoning and would not overburden
2 existing roadways or other urban services.

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

5 CHAIRMAN: Is there anybody here
6 representing the applicant?

7 MR. KAMUF: Charles Kamuf.

8 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

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

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

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

15 (NO RESPONSE)

16 CHAIRMAN: Does anybody from the
17 commission have any questions?

18 (NO RESPONSE)

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

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

24 CHAIRMAN: We've got a motion for approval
25 by Ms. Dixon.

1 DR. BOTHWELL: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 Related Item:

8 ITEM 6A

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

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

18 CHAIRMAN: Is there anybody here
19 representing the applicant?

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

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

24 (NO RESPONSE)

25 CHAIRMAN: Anybody from the commission?

(NO RESPONSE)

1 CHAIRMAN: Chair is ready for a motion.

2 MR. APPLEBY: Motion for approval.

3 CHAIRMAN: Motion for approval by Mr.

4 Appleby.

5 MR. GILLES: Second.

6 CHAIRMAN: Second by Mr. Gilles. All in

7 favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item, please.

11 ITEM 6B

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

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

20 CHAIRMAN: Is there anybody here
21 representing the applicant?

22 MR. KAMUF: Yes, sir.

23 CHAIRMAN: Are there any questions of the
24 applicant?

25 (NO RESPONSE)

CHAIRMAN: Any questions by the Staff?

1 (NO RESPONSE)

2 CHAIRMAN: Anybody on the commission?

3 (NO RESPONSE)

4 CHAIRMAN: Chair is ready for a motion.

5 MR. ROGERS: Motion for approval.

6 CHAIRMAN: Mr. Rogers has a motion for
7 approval.

8 SISTER VIVIAN: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 ITEM 7

15 6120 KY 54, 1.22 acres
16 Consider zoning change: From A-U Urban Agriculture to
17 I-1 Light Industrial
Applicant: William S. Miles

18 PLANNING STAFF RECOMMENDATIONS

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

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

23 Conditions:

24 1. Installation of an average 10-foot wide
25 buffer with a 6-foot high planting, hedge, fence, wall

1 or earth mound and one tree per 40 linear feet of
2 boundary and also adjacent to residential property.

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

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

9 Findings of Fact:

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

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

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

21 CHAIRMAN: Thank you.

22 Is there anybody here representing the
23 applicant?

24 MR. ELLIOTT: State your name, please.

25 MR. DEANE: Silas Deane.

1 (MR. SILAS DEANE SWORN BY ATTORNEY.)

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

5 CHAIRMAN: Thank you very much.

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

8 (NO RESPONSE)

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

11 (NO RESPONSE)

12 MR. CAMBRON: Is Chair ready for a motion?

13 CHAIRMAN: Chair is ready for a motion.

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

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

19 MS. DIXON: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25

1 ITEM 8

2 7055 KY 2830, 1.00 acres

3 Consider zoning change: From B-4 General Business to

4 I-2 Heavy Industrial

5 Applicant: Maxine Trunnell

6 PLANNING STAFF RECOMMENDATIONS

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

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

11 Condition:

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

16 Findings of Fact:

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

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

22 3. The subject property has been in use as a
23 truck terminal and scrap metal operation, which are
24 heavy industrial uses; and

25 4. The applicant's proposal is a logical
expansion of I-2 Heavy Industrial zoning and uses in

1 the vicinity and would not significantly increase the
2 extent of the I-2 Heavy Industrial zoning in the
3 vicinity or overburden the capacity of roadways or
4 other services.

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

7 CHAIRMAN: Is there somebody here
8 representing the applicant?

9 MR. TRUNNELL: I'm Kaye Trunnell. Maxine
10 Trunnell is my mother.

11 (MS. TRUNNELL SWORN BY ATTORNEY.)

12 MS. TRUNNELL: I'm here to answer
13 questions. I have two pieces of property. One at
14 7055 and one at 7105. I have a neighbor here and my
15 daughter is co-owner and she's here with me too.

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

19 Does anybody from the audience have any
20 questions?

21 (NO RESPONSE)

22 CHAIRMAN: Any questions from anybody on
23 the commission?

24 (NO RESPONSE)

25 CHAIRMAN: If there are no questions, the

1 Chair is ready for a motion.

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

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

6 MS. DIXON: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please.

12 ITEM 9

Portion 7105 KY 2830, 0.62 acres

13 Consider zoning change: From B-4 General Business to
I-2 Heavy Industrial

14 Applicant; Kaye Trunnell, Jill Trunnell, Double T.
Investments

15

16 PLANNING STAFF RECOMMENDATIONS

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

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

21 Findings of Fact:

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

25 2. A portion of the subject property is

1 currently zoned I-2 Heavy Industrial, and is in heavy
2 industrial use as a truck terminal;

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

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

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

13 CHAIRMAN: We obviously have someone here
14 representing the applicant.

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

17 (NO RESPONSE)

18 CHAIRMAN: Anybody from the commission?

19 (NO RESPONSE)

20 CHAIRMAN: Chair is ready for a
21 recommendation.

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

25 CHAIRMAN: We have a motion for approval

1 by Mr. Rogers.

2 SISTER VIVIAN: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 ITEM 10

9 4715 Sutherland Road (Portion of 4617 Sutherland
10 Road), 1.093 acres (POSTPONED)
11 Consider zoning change: From A-R Rural Agriculture to
12 B-4 General Business
13 Applicant: Jim Hawkins, Stephen E. and Christine M.
14 Aull

15 PLANNING STAFF RECOMMENDATIONS

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

20 Conditions:

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

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

Findings of Fact:

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

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

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

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

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

19 CHAIRMAN: Do we have anybody here
20 representing the applicant?

21 APPLICANT: Yes.

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

25 (NO RESPONSE)

1 CHAIRMAN: Do we have any questions from
2 anybody from the commission?

3 (NO RESPONSE)

4 CHAIRMAN: Chair is ready for a motion.

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

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

11 MR. CAMBRON: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion is unanimous.

16 Next item, please.

17 ITEM 10A

18 4715 Sutherland Road, 1.093 acres
19 Consider approval of ifnal development plan.
20 Applicant: Jim Hawkins

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

25 CHAIRMAN: We have somebody representing
the applicant I assume.

1 Is there anybody has any questions of the
2 applicant?

3 (NO RESPONSE)

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

6 (NO RESPONSE)

7 MR. APPLEBY: Motion for approval.

8 CHAIRMAN: Motion for approval by Mr.
9 Appleby.

10 SISTER VIVIAN: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, please.

16 -----

17 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISION

18 ITEM 11

19 5100-5300 blocks Frederica Street, Southgate Centre,
20 97.639 acres

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

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

26 MR. NOFFSINGER: Mr. Chairman, this
27 application has been reviewed by the Planning Staff
28 and by the Engineering Staff. It's found to be in

1 order. The plan is being revised to allow for a
2 second option to access the Towne Square Mall
3 property, via an extension Back Square Drive. That is
4 not the preferred option to divide access to this
5 center from Towne Square Mall. The preferred option
6 would be to access the center via the front parking
7 lot so the two centers connect; however, this is an
8 option that's being considered just in case we can't
9 get the access connections in front of the two
10 developments. With that it's ready for your
11 consideration.

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

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

16 CHAIRMAN: Thank you, Mr. Kamuf.

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

20 CHAIRMAN: Does anybody have any questions
21 of the applicant?

22 (NO RESPONSE)

23 MR. CAMBRON: Chair ready for a motion?

24 CHAIRMAN: Chair is ready for a motion.

25 MR. CAMBRON: Motion for approval.

1 CHAIRMAN: Motion for approval by Mr.
2 Cambron.

3 MR. APPLEBY: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 -----

10 DEVELOPMENT PLAN

11 ITEM 12

12 1020 Halifax Drive, 1.15 acres
13 Consider approval of final development plan.
14 Applicant: Kennedy's Pharmacy, LLC, Robert L. Kennedy

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

20 CHAIRMAN: Is there anybody here
21 representing the applicant?

22 APPLICANT: Yes.

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

25 (NO RESPONSE)

CHAIRMAN: Anybody from the commission

1 have any questions?

2 (NO RESPONSE)

3 CHAIRMAN: Chair is ready for a motion.

4 MS. DIXON: Move for approval.

5 CHAIRMAN: Move for approval by Ms. Dixon.

6 DR. BOTHWELL: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please.

12 -----

13 MAJOR SUBDIVISIONS

14 ITEM 13

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

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

23 CHAIRMAN: Is there somebody here
24 representing the applicant?

25 APPLICANT: Yes.

CHAIRMAN: Are there any questions of the

1 applicant?

2 (NO RESPONSE)

3 CHAIRMAN: Does anybody on the commission
4 have any questions?

5 (NO RESPONSE)

6 CHAIRMAN: Chair is ready for a motion.

7 MR. ROGERS: Motion for approval.

8 CHAIRMAN: Motion for approval by Mr.
9 Rogers.

10 SISTER VIVIAN: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, please.

16 ITEM 14

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

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

25 CHAIRMAN: Somebody here representing the
applicant?

1 MR. WIMSATT: Yes.

2 CHAIRMAN: Anybody have any questions of
3 the applicant?

4 (NO RESPONSE)

5 CHAIRMAN: Anybody from the commission
6 have any questions?

7 (NO RESPONSE)

8 CHAIRMAN: Chair is ready for a motion.

9 MS. DIXON: Move for approval.

10 CHAIRMAN: Move for approval by Ms. Dixon.

11 MR. GILLES: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 ITEM 15

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

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

25 CHAIRMAN: The applicant is here.

1 Any questions from the audience?

2 (NO RESPONSE)

3 CHAIRMAN: Questions from the commission?

4 (NO RESPONSE)

5 CHAIRMAN: Chair is ready for a motion.

6 MR. APPLEBY: Motion for approval.

7 CHAIRMAN: Motion for approval by Mr.

8 Appleby.

9 MR. GILLES: Second.

10 CHAIRMAN: Second by Mr. Gilles. All in

11 favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 -----

16 MINOR SUBDIVISIONS

17 ITEM 16

18 9590, 9610 Johnson Road, 5.09, 4.64 acres

Consider approval of minor subdivision plat.

19 Applicant: James R. & Mary H. Strehl, David A. & Mary
20 J. Strehl, Joseph E. Strehl

21 MR. NOFFSINGER: Mr. Chairman, this plat

22 comes before this commission because it exceeds the

23 minimum depth to width ratio of three to one that has

24 been applied to new lots being created. The property

25 now consist of almost ten acres in size. The two lots

1 that are proposed do meet the minimum frontage
2 requirement at the building setback line; however,
3 they do slightly exceed the three to one depth to
4 width ratio. If you take a look at the property,
5 being a development tract that's under 10 acres in
6 size now and if you take a look at the average depth
7 to width ratio it's close to that three to one ratio;
8 however, it is a plat that the Planning Staff cannot
9 sign in-house. It must be considered by this
10 commission.

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

13 (COMMISSION RESPONDS YES.)

14 CHAIRMAN: Is there somebody here
15 representing the applicant?

16 MR. STREHL: Yes, David Strehl.

17 (MR. DAVID STREHL SWORN BY ATTORNEY.)

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

1 if you give us to the next meeting to do that.

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

4 MR. NOFFSINGER: Yes, sir, I will.

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

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

1 reasonable fashion. We'd just like the extension to
2 put an argument together.

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

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

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

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

1 be divided based upon the existing shape of the lot.

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

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

4 CHAIRMAN: Chair is ready for a motion.

5 MR. APPLEBY: Motion for approval.

6 MR. CAMBRON: Second.

7 CHAIRMAN: We've got a motion for approval

8 by Mr. Appleby. We've got a second by Mr. Cambron.

9 All in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 ITEM 17

14 9750, 9760 Johnson Road, 1.50, 4.96 acres

Consider approval of minor subdivision plat.

15 Applicant: James R & Mary H. Strehl, David A. & Mary
16 J. Strehl, Joseph E. Strehl

17 CHAIRMAN: Mr. Chairman, Planning Staff

18 has reviewed this application. It consist of a tract

19 of land that's about six and a half acres in size.

20 They are proposing to create a tract that's 1.5 acres

21 in size which meets all the minimum requirements of

22 the regulations. However, in creating that new tract

23 it does leave the remainder situation where they meet

24 the minimum lot frontage at the required building

25 setback line; however, it slightly exceeds the depth

1 to width ratio. It's a plat that Planning Staff could
2 not sign in-house so it had to come before this
3 commission for consideration.

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

6 (COMMISSION RESPONDS YES.)

7 MR. CAMBRON: Is Chair ready for a motion?

8 CHAIRMAN: Chair is ready for a motion.

9 MR. CAMBRON: Motion for approval.

10 MS. DIXON: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 ITEM 18

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

21 MR. NOFFSINGER: Mr. Chairman, the
22 Planning Commission has reviewed this application and
23 has found that the proposed lot that's being create,
24 which is 1.85 acres, does not meet the minimum
25 frontage requirement at the required building setback
line and exceeds the minimum three to one depth to

1 width ratio. The proposed lot is coming off of a
2 tract that's approximately 110 acres in size. The
3 remaining tract has approximately 1700 feet of road
4 frontage. There's certainly ample road frontage and
5 area on this property to meet the requirements of the
6 ordinance since this lot is coming off of a larger
7 farm. It creates what this commission considered back
8 probably a couple of years ago, creates a what we call
9 irregular-shaped lot or a flag lot. Given the fact
10 that they do not meet the minimum frontage requirement
11 at the building setback line and the depth to width
12 ratio, staff would recommend you give it serious
13 consideration.

14 CHAIRMAN: Is someone here representing
15 the applicant?

16 APPLICANT: Yes.

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

19 MR. MATTINGLY: Jim Mattingly.

20 (MR. MATTINGLY SWORN BY ATTORNEY.)

21 MR. MATTINGLY: On the proposed property
22 there, the reason - - he doesn't want to sell any more
23 so we're not going to get any more. Even if we got
24 more, the building site where we want to build at does
25 not help it any. That's the main reason we're

1 sticking with the 50 foot road frontage. That's
2 basically all I have to say about it.

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

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

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

1 have.

2 Does anybody on the commission have any
3 questions?

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

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

9 MR. CAMBRON: Yes.

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

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

14 MR. PENCE: Jack Pence.

15 (MR. JACK PENCE SWORN BY ATTORNEY.)

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

21 This lot here, the original corner lot was
22 created back in around 1960. So the corner lot was
23 already taken off. They're just wanting to create one
24 additional lot in behind this lot and they didn't want
25 to use the a up lot of road frontage. It would be

1 land that would not be beneficial to the square lot in
2 the fact that it's a beautiful setting with some trees
3 there on the ridge. It's a beautiful home site. We
4 would like to bring that to your consideration. We
5 don't think this is an average flag lot because the
6 original lot was already there. Thank you.

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

9 MR. PENCE: To me original flag is where
10 you create both of them together and you come in the
11 back of your first lot to create the flag. In this
12 case here, there's been a lot there for approximately
13 40 years and there's a beautiful building site in
14 behind this lot. They just didn't want to use up,
15 have to buy an extra acre of ground to meet the three
16 to one requirement.

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

19 Once again the commission is faced with -
20 -

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

1 this. I don't understand all the dynamics in this.

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

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

10 MR. NOFFSINGER: An additional 100 feet of
11 frontage to this lot. That will give a total of 150
12 feet of frontage. Take the lot back 450 feet which is
13 about close to what they have here. So an additional
14 100 feet of frontage would make a lot that meets the
15 minimum requirements of the Zoning Ordinance.

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

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

25 CHAIRMAN: Mr. Pence, it's easy for us to

1 take pencil and draw, but you're the professional.
2 Obviously what Mr. Noffsinger is proposing is more
3 aesthetically and acceptable within the Comprehensive
4 Plan which I'm sure you're very much aware of. You do
5 an excellent job of squeezing every inch out of a
6 piece of property of anybody we've got and I've seen
7 your work. You understand what we're trying to do
8 right now?

9 MR. PENCE: Yes, sir.

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

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

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

24 MR. PENCE: Hill slopes off. It would not
25 be of any benefit to the lot that they're going to or

1 the square area in the rather that they're going to be
2 building on. It would be of no uses to them.

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

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

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

9 MR. PENCE: Yes.

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

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

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

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

25 MR. APPLEBY: It would still give you the

1 frontage and you've still got the drive.

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

4 Thank you, Mr. Pence.

5 MR. ELLIOTT: State your name, please.

6 MS. CRISP: Jill Crisp.

7 (MS. JILL CRISP SWORN BY ATTORNEY.)

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

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

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

23 CHAIRMAN: I appreciate that and we
24 appreciate the effort your sister is trying to make on
25 your behalf and we understand the family situation,

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

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

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

23 Mr. Noffsinger, as far as the time
24 element, would it be better if we have a postponement
25 to look at that or to go ahead and vote on it? You

1 know, other members may have a different feeling on
2 the flag lot situation. What I don't want to do is
3 put the property owner in any worse situation.

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

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

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

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

23 MS. CRISP: Yes.

24 CHAIRMAN: We're not saying how the vote
25 would come out. You could still cast your lot for

1 vote, but with what you have and based on the stand
2 that we've made on these type lots and with the
3 potential that you have to really square it up. I
4 mean we have granted some hardship cases where they
5 just can't do anything else unless they fly in by
6 helicopter, but in this situation it doesn't quite
7 warrant that. I'll leave it to you and Mr. Pence and
8 you can make your suggestion.

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

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

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

1 end up with less acreage.

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

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

9 CHAIRMAN: In other words, automatically.
10 Mr. Noffsinger will answer that.

11 MR. NOFFSINGER: In order for us to
12 approve the plat in-house, you must have a minimum of
13 100 feet of frontage at the building setback line.
14 The building setback line in this particular case
15 would be 25 feet from that front property line, from
16 the road right-of-way. So .25 feet back the lot has
17 to be at least 100 feet wide and it can extend back no
18 more than three to one ratio. For example, if you
19 were to get another 50 feet of frontage, that would
20 give you 100 feet of width of the road and then you
21 would go back 300 feet. That would be as far back as
22 you could go. As you increase the frontage, if you
23 have 125 feet of frontage, then you could go with a
24 lot that's 375 feet deep. Now, I'm not saying you
25 have to have a straight line there. You might have a

1 skewed line there if that helps your case. We can
2 certainly look at that, but it does have to meet the
3 minimum regulations before we can sign the plat
4 in-house as staff.

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

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

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

13 MR. CAMBRON: Is Chair ready for a
14 motioni?

15 CHAIRMAN: Yes.

16 MR. CAMBRON: Motion for postponement for
17 30 days and let's see if they can't work something out
18 with her sister and come back with something a little
19 more viable that we may not have to vote on if you can
20 make it correct with the staff.

21 CHAIRMAN: Motion by Mr. Cambron for a
22 postponement.

23 DR. BOTHWELL: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item, please.

4 ITEM 19

5 5565, 5579 Lane Road, 8.09, 1.65 acres
6 Consider approval of minor subdivision plat.
7 Applicant: Russell & Judith Ann Payne

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

23 CHAIRMAN: Is anybody here representing
24 the applicant?

25 MR. KAMUF: Charles Kamuf.

I represent the Paynes and they live out

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

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

8 If you see the house to the right, that's
9 where the in-laws live. There's a driveway that goes
10 to the back. This is what the house looks like that's
11 to the rear. It's a large brick home. What they
12 would like to do is build a smaller home. That home
13 will be built on the left side there. The idea that
14 we have here, the frontage if you see on there it's
15 125 foot. The bigger lot that you see to the rear
16 will be sold. It'll be about 8.09 acre tract. We
17 might point out that the transfer of the 1.65 acres is
18 to the daughter and son-in-law so they can live
19 next-door to the mother and father. The parents are
20 elderly. They're here to testify. She just recently
21 got out of the hospital with a heart problem. The
22 parents need the daughter and the son-in-law there to
23 take care of them, but they don't want to live in the
24 big house that I showed you. This is a large home
25 that's to the rear. It's too large for them at the

1 present time. What they'd like to do is build a
2 smaller house to the right, that little area of the
3 rolling hill that I showed you.

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

1 is at the present time.

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

9 CHAIRMAN: Thank you, Mr. Kamuf.

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

12 (NO RESPONSE)

13 MR. APPLEBY: Chair ready for a motion?

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

16 MR. APPLEBY: Motion for approval.

17 MR. CAMBRON: Second.

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

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 Thank you.

24 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

1 ITEM 26

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

6 ITEM 27

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

11 ITEM 28

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

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

18 CHAIRMAN: Chair is ready for a motion.

19 MS. DIXON: Move to approve.

20 CHAIRMAN: Motion for approval by Ms.
21 Dixon.

22 MR. CAMBRON: Second.

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

NEW BUSINESS

MR. NOFFSINGER: Under New Business I have

1 one item to bring before the commission for
2 consideration.

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

13 MR. APPLEBY: Motion for approval.

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

16 MR. GILLES: Second.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Mr. Noffsinger.

22 MR. NOFFSINGER: That's all I have.

23 CHAIRMAN: Chair is ready for one final
24 motion.

25 MS. DIXON: Move to adjourn.

1 CHAIRMAN: Move to adjourn by Ms. Dixon.

2 DR. BOTHWELL: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Meeting is adjourned.

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

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

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

18

19

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

22 COMMISSION EXPIRES:
DECEMBER 19, 2002

23

24 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

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