The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, September 13, 2018, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Larry Boswell, Chairman
Larry Moore, Vice Chairman
Brian Howard, Director
Terra Knight, Attorney
Lewis Jean, Secretary
Fred Reeves
Irvin Rogers
Beverly McEnroe
Manuel Ball
Angela Hardaway
John Kazlauskas

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CHAIRMAN: I'd like to welcome everyone to the September 13, 2018, Owensboro Metropolitan Planning Commission meeting. We always start our meeting with a prayer and the pledge. And Commissioner McEnroe will lead us in those tonight. Please join us.

(INVOCATION AND PLEDGE OF ALLEGIANCE)

CHAIRMAN: Thank you, Commissioner McEnroe.

Hopefully all of the commissioners have received the minutes to the last meeting, August 9th, and had a chance to review those. Are there any questions or changes to those minutes?

(NO RESPONSE.)
CHAIRMAN: There being none, the chair's ready for a motion. Mr. Jean?

MR. JEAN: Motion to approve.

CHAIRMAN: Motion to approve by Mr. Jean. Is there a second?

Second by Mr. Moore. Any questions or discussion about the motion or the second?

(NO RESPONSE.)

CHAIRMAN: There being none, all those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed?

(NO RESPONSE.)

CHAIRMAN: Motion carries.

MR. HOWARD: I will note that the zoning changes heard tonight will become final 21 days after the meeting unless an appeal is filed. If an appeal is filed, we will forward the record of this meeting along with all the applicable materials to the appropriate legislative body for their final action.

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ZONING CHANGES

ITEM 3

631, 633 Triplett Street, 0.317 acres
Consider zoning change:
From B-4 General Business to P-1 Professional/Service
Applicant: Wendell Foster Campus for Developmental
Disabilities

MS. KNIGHT: Please state your name for the record.

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: The planning staff recommends approval subject to the conditions and findings of fact that follow:

Conditions:

1. Access to Triplett Street shall be limited to the existing access points only. No new access to Triplett Street shall be permitted; and,

2. Approval of an amended final development plan.

Findings of Fact:

1. Staff recommends approval because there have been changes in the area not anticipated by the comprehensive plan;

2. The continued expansion of the Wendell Foster Campus has changed the character of the area from a business/industrial area to a professional/service area;

3. The proposed P-1 zoning classification is more appropriate than the current zoning classification given the intended use of the

Ohio Valley Reporting
(270) 683-7383
property; and,

4. The proposed P-1 zoning is a logical expansion of the existing P-1 zoning to the immediate south and east.

We would like to enter the Staff Report into the record as Exhibit A.

CHAIRMAN: Thank you, Melissa.

Is there anyone here representing the applicant?

(NO RESPONSE.)

CHAIRMAN: Doesn't appear to be. Are there any questions that the commissioners may have concerning this application?

(NO RESPONSE.)

CHAIRMAN: Is there anyone in the audience that may have a question or wish to speak on this application?

(NO RESPONSE.)

CHAIRMAN: There being none, the chair's ready for a motion. Mr. Kazlauskas?

MR. KAZLAUSKAS: I make a motion for approval based on Planning Staff recommendations and Conditions 1 and 2 and Findings of Fact 1 through 4.

CHAIRMAN: Motion has been made for approval based on Conditions 1 and 2 and Findings of Fact 1 through 4. Is there a second to that?

MS. McENROE: Second.
CHAIRMAN: Ms. McEnroe seconded. Any questions or discussions about the motion and the second?

(NO RESPONSE.)

CHAIRMAN: There being none, all those in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed, like sign.

(NO RESPONSE.)

CHAIRMAN: Motion carries.

ITEM 4

819 East Ninth Street, 0.876 acres
Consider zoning change:
From B-4 General Business to P-1 Professional/Service
Applicant: Wendell Foster Campus for Developmental Disabilities

MS. EVANS: The planning staff recommends approval subject to the conditions and findings of fact that follow:

Conditions:

1. No new access to East Ninth Street shall be permitted; and,

2. Approval of an amended final development plan.

Findings of Fact:

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;
2. The subject property is located in a Professional/Service Plan area where professional/service uses are appropriate in general locations;

3. The proposed use is nonresidential in nature; and,

4. The proposed P-1 zoning is a logical expansion of the existing P-1 zoning to the north, west, and south.

We'd like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Thank you, Melissa.

Is there anyone here representing the applicant?

(NO RESPONSE.)

CHAIRMAN: There being none, is there any commissioners that have questions concerning this application?

(NO RESPONSE.)

CHAIRMAN: Anyone in the audience would have questions concerning this application?

(NO RESPONSE.)

CHAIRMAN: Chair is ready for a motion.

Mr. Ball?

MR. BALL: Like to make a motion to approve based on Planning Staff recommendations, Conditions 1 and
2, and Findings of Fact 1 through 4.

CHAIRMAN: Thank you, Mr. Ball.

Motion has been made for approval based on Conditions 1 and 2 and Findings of Fact 1 through 4. Is there a second to that? Mr. Rogers?

MR. ROGERS: I second.

CHAIRMAN: Any discussion about the motion or the second?

(NO RESPONSE.)

CHAIRMAN: There being none, the chair is ready for a motion.

MR. HOWARD: A vote.

CHAIRMAN: Oh, we already made the motion. Ready for the vote. I'm sorry. I'm sorry. The chair is ready for the vote. All those in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed, like sign.

(NO RESPONSE.)

CHAIRMAN: My brain was somewhere else for some reason.

ITEM 5

1600 Highway 603, 16.82 acres
Consider zoning change:
From A-U Urban Agriculture to B-4 General Business
Applicant: Angus Hills Farms, LLC
MS. EVANS: The Planning Staff recommends approval subject to the conditions and findings of fact that follow:

**Conditions:**

1. Access shall be limited to the proposed Pleasant Valley Road extension;
2. No access shall be permitted to Highway 603;
3. Future development on the site shall require traffic analysis of the proposed use; and,
4. Approval of a final development plan or site plan.

**Findings of Fact:**

1. Staff recommends approval because the proposal is in compliance with the Community's adopted Comprehensive Plan;
2. The subject property is located in a Business Plan Area where general business uses are appropriate in limited locations;
3. The proposed use as an assisted living facility is conditionally permitted in a B-4 zone.
4. The proposed use of general business conforms to the criteria for nonresidential development;
5. The proposal is a logical expansion of B-4 zoning to the north, south, and east; and,
6. With access limited to the proposed extension of Pleasant Valley Road, the proposed expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

We'd like to enter the Staff Report into the record as Exhibit C.

CHAIRMAN: Thank you, Melissa.

Is there anyone here representing the applicant? Yes. Would you like to speak? on its behalf?

MS. KNIGHT: State your name for the record, please.

MR. DWYER: Nick Dwyer.

(NICK DWYER SWORN BY THE ATTORNEY.)

MR. DWYER: I'm Nick Dwyer with Dover Development. We're the developer of the project. Representing Angus Hill Farms. What we're proposing is rezoning to General Business in order to construct an assisted living and memory care facility. Just here to answer any questions you guys have about the development, so...

CHAIRMAN: Thank you.

Do any of the commissioners have any questions concerning this application?

(NO RESPONSE.)

CHAIRMAN: Anyone in the audience would have any
questions or comment about this application?
(NO RESPONSE.)

CHAIRMAN: There being none, the chair's ready for a motion. Mr. Rogers?

MR. ROGERS: I make a motion for approval based on Planning Staff recommendation with the Conditions 1 through 4 and Findings of Facts 1 through 6.

CHAIRMAN: Motion has been made for approval based on Conditions 1 through 4 and Findings of Fact 1 through 6. Is there a second to that?

Ms. Hardaway?

MS. HARDAWAY: Second.

CHAIRMAN: Second by Ms. Hardaway. Any discussion about the motion or the second?
(NO RESPONSE.)

CHAIRMAN: There being none, all those in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed, like sign.
(NO RESPONSE.)

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ITEM 5A

Portion of 1600 Highway 603, zoned A-U Urban Agriculture to B-4 General Business
Consider request for a Conditional Use Permit in order to construct and operate an assisted living facility
MS. KNIGHT: Please state your name for the record.

MR. PEDLEY: Trey Pedley.

(TREY PEDLEY SWORN BY ATTORNEY.)

MR. PEDLEY: The subject property is 16.82-acre parcel that is currently vacant. The applicant proposes to utilize a 7-acre portion of the property to construct and operate an assisted living facility. The proposed facility is stated to be approximately 94,200 square feet in size and house 72 units with 15 staff members on site at the maximum shift.

The properties to the west consist of a mix of zones, including a vacant property zoned A-U Urban Agriculture, industrial use in an I-1 Light Industrial zoning classification. The property to the north is a vacant property zoned B-4 General Business. Also to the north, across Highway 603, is a property last known to be utilized as a residence, but was recently rezoned to B-4. To the south, across the Wendell Ford Expressway, is the Gateway Commons development, which is zoned B-4 in this vicinity.

The zoning ordinance requirements for an assisted living facility include the need for one parking
space for every four beds plus one space for each employee on maximum shift. Based on the number of anticipated units and staff members, this lot will be required to maintain 33 parking spaces. The conceptual plan shows 84 parking spaces on site with a single access point from the proposed street stemming from Highway 603.

The zoning ordinance also requires a 3-foot wide landscape easement with a 3-foot tall continuous element and one tree every 40 linear feet where the vehicular use area adjoins public right-of-way. Additionally, if the vehicular use area is greater than 30,000 square feet, interior landscaping and interior trees shall be required in accordance with Article 17 of the zoning ordinance.

If approved, special conditions include:
1. Approval of a final development plan; and,
2. Obtain all necessary building, electrical, and HVAC permits, inspections, and certificates of occupancy and compliance shall be obtained.

We would like to enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Thank you, Trey.

Is there anyone here representing the applicant? Would you like to speak on it's behalf?

(NO AUDIBLE RESPONSE.)

CHAIRMAN: Thank you.
Any of the commissioners have any questions concerning this application?

Yes, Mr. Reeves?

MR. REEVES: If the applicant wouldn't mind to step forward. I think I understand correctly; in order to construct this property, you must have received approval from the state that there is a need for these additional units in the community?

APPLICANT REP: Yeah. So we applied for a Certificate of Need with the Kentucky Department of Health and Family Services. And that is set to be approved on September 20th.

CHAIRMAN: Do any other commissioners have any questions concerning this application?

(NO RESPONSE.)

CHAIRMAN: Is there anyone in the audience who would wish to speak about this application or have questions?

(NO RESPONSE.)

CHAIRMAN: There being none, the chair is ready for a motion. Mr. Jean?

MR. JEAN: I make a motion we approve this application based on the Staff Report with Conditions 1 and 2 and Findings of Fact 1, it would be of benefit to the community because there is a need for this type of
housing; 2, it is a very compatible use for this area; and, 3, it would not be an adverse influence on future uses and development.

CHAIRMAN: Motion has been made by Mr. Jean for approval based on the Zoning Ordinance Requirements 1 and 2, Special Conditions 1 and 2. And I'm not sure I got down all the other ones. It was certainly needed by the community, shown to be needed by the community.

Did that catch all of them, Mr. Jean?

(NO AUDIBLE ANSWER.)

CHAIRMAN: Okay. The additional Findings of Facts: It will benefit the community because there is a need for this type of facility, it is a very compatible use for this area, and it will not be an adverse influence on future use and development. Those will be the additional Findings of Facts. Is there a second to that motion?

A second by Mr. Reeves. Any discussion about the motion or the second?

(NO RESPONSE.)

CHAIRMAN: There being none, all those in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed, like sign.

(NO RESPONSE.)
CHAIRMAN: Motion carries.

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FINAL DEVELOPMENT PLANS

ITEM 6

1535 Frederica Street, 207 Phillips Court, 0.820 acres
(Postponed from August 9, 2018)
Consider approval of a final development plan
Applicant: WBW Properties, LLC

MR. HOWARD: This plan has been reviewed by the Planning Staff and Engineering Staff and found to be in order. It's found to be consistent with the underlying zoning of the property and the conditions that were placed upon the property when it was rezoned a few months ago, and it is ready for your consideration.

CHAIRMAN: Thank you, Mr. Howard.

Is there anyone here representing the applicant? Yes, would you like to say anything on its behalf?

MR. MEYER: My name's J. D. Meyer. I'm here on behalf of WBW Properties. We have no other comments unless there are questions from the commissioners.

MS. KNIGHT: Let the record reflect you're sworn as an attorney.

MR. MEYER: Thank you. Sorry.

CHAIRMAN: Thank you, Mr. Meyer.

Any commissioners have any questions concerning
this application?

(NO RESPONSE.)

CHAIRMAN: Is there anyone in the audience that would have any questions concerning this application?

MS. KNIGHT: Please state your name for the record.

MS. McCULLEY: Mary McCulley.

(MARY McCULLEY SWORN BY ATTORNEY.)

CHAIRMAN: Ms. McCulley, before you would say anything, I want to make sure everybody's aware that if you're speaking, be specific to the particular item on the agenda associated to the final development plan. Any information associated to the original rezoning is settled business at this point.

MS. McCULLEY: Right. I understand that.

CHAIRMAN: Okay. Thank you.

MS. McCULLEY: One of my concerns is that -- I believe, in the city commission meeting, there was a requirement in addition to the four regular -- you know, it can pass with the four conditions that -- findings of fact. They required that you send out a notice to the adjacent property owners in the same manner as you have to when you're doing a petition for rezoning, which is certified mail. And we did not receive anything. So I just came today, but we had no notice as required. The
city commission said that it was specifically noticed to be the same as required by the requirements for petition for rezoning, so...

CHAIRMAN: Mr. Howard, are you able to address that question for her?

MR. HOWARD: Your letter is here. It was returned because it was not accepted.

MS. McCULLEY: And when was that? What's the date on that?

MR. HOWARD: Looks like first notice was June, I'm going to say 29th. It's, hard to read. Second notice was July 5th, and the third was -- does that look like 16th?

MS. KNIGHT: September.

MR. HOWARD: You're welcome to look at it.

MS. McCULLEY: That's okay. September 13th. So that was during the lawsuit, and that was -- you know, that's not now. I didn't receive one about this meeting. That would be irrelevant because it was about a meeting back in July, July 9th.

MR. HOWARD: Well, the original notice went out as required. And this item has been postponed at every meeting. We don't send out additional notice on postponement. No action has been taken at this point, and that's why it's still active on this agenda.
MS. McCULLEY: Okay. Well, I would -- I would debate that, but I would have to ask an attorney about that.

So I wonder, did any of you guys go visit the site? Do you know about this location?

(COMMISSIONERS RAISE HANDS.)

MS. McCULLEY: You did? You did? You did?

COMMISSIONER: Yeah.

MS. McCULLEY: And do you think the site development plan is in accordance with the master plan, comprehensive plan?

CHAIRMAN: That's something we're going to have to decide with the vote tonight.

MS. McCULLEY: Right. Okay. Well, I mean, but you're aware of what the master -- contents of that talks about the site development -- right? -- and the requirements and everything? So one of my concerns is that -- and I'm assuming that -- I can't quite see how they've laid it out, but the house that they purchased, which is a 112-year-old house, is about three feet from the property line of the nextdoor neighbor. And according to your own ordinances, it has to be at least ten feet in perimeter boundaries. And specific ordinances about the development. And yet you're moving forward without, you know, without the proper survey to know that that in fact
is a violation of your own ordinances. So I don't understand how that could happen.

THE CHAIRMAN: Mr. Howard, are you able to address that question?

MR. HOWARD: Sure. I'll be honest, it's not uncommon that a property is rezoned. It's an existing structure on the property. There's never been a requirement that they go through and take off a portion of a building or anything like that. It's an existing structure on an existing lot, which they are proposing to repurpose. And that's been consistent with the way development has been done.

MS. McCULLEY: But it violates your own ordinances. I mean, regardless, they have to apply for a variance -- isn't that correct? -- if they want -- if they didn't fit the ordinance of homes? You know, they're right next -- three feet from the house next to them. There has to be a 10-foot boundary on Professional 1. So how is that possible?

MR. HOWARD: It would violate the current zoning ordinance requirement for a Single Family Residence as well, as it's set in place, so --

MS. McCULLEY: It's development, site development, not existing residence.

MR. REEVES: Mr. Howard, was this prior to the
zoning ordinance?

MR. HOWARD: It certainly would predate the zoning.

MS. McCULLEY: You have to ask for a variance, my understanding, if you want to do something that violates the zoning ordinances. Especially now that it's going to be developed, I believe you have to -- don't you have to file for a variance? Like -- I don't understand that.

MR. HOWARD: If it were proposing to build a new structure on a site or a new something in the back or whatever, then, yeah, a variance would be required. But again, this is an existing structure on an existing lot.

MS. McCULLEY: And then what about the buffer landscaping requirements?

MR. HOWARD: They would be required to meet the landscaping requirements, which, between P-1 and a Residential zone, any vehicular use area would be required to be screened and that type of thing.

MS. McCULLEY: Right. But you've only got three feet, so how is that possible to create a buffer? I mean, I can't quite see how -- I don't see a big landscape on there, on the site plan. It's hard for me to see that.

MR. HOWARD: Let me verify real quick, but there's not a 10-foot buffer requirement, I don't believe,
between a P-1 and a Single Family Residential zone.

MS. McCULLEY: I think there's a three -- just
doublecheck on the landscaping and the buffer requirements
because I do believe that they would not be able to do
that with this site development, going forward.

Another thing, I just wonder, on this site
development, what exactly is it going to be? You know,
what's it going to look like? Is it going to match the
existing architecture of that historic neighborhood or,
you know, and so forth? I can't really see -- I just see
an overhead, but I don't see any design.

CHAIRMAN: I think the applicant may be able to
answer that question as far as what the architecture is
going to look like.

MS. McCULLEY: Okay. And then what about the
entrance and exit onto Phillips Court; is it staying where
it is? Again, I can't -- I can't see that.

CHAIRMAN: Again, I think the applicant would
have to address that question.

MS. McCULLEY: Okay. And then I guess I just
have one more question, for John Kazlauskas. Have you
ever testified or argued to the board about commercial
zoning in your neighborhood?

MR. KAZLAUSKAS: Yes.

MS. McCULLEY: Do you not feel that this site
development is similar to what you argued about in 2001?

MR. KAZLAUSKAS: I'm not going to make a comment at this time.

CHAIRMAN: I don't think that that -- I don't think that's a fair statement or question in this particular situation.

MS. McCULLEY: I mean, it's development, so, you know -- I really wish -- I request that you guys further look into this development and the architecture and all of that before you vote.

MR. KAZLAUSKAS: I reserve my comments until I hear all the evidence. I'm not going to make a statement until I hear everything that's been said tonight.

MS. McCULLEY: Okay. That's fair.

MR. KAZLAUSKAS: Thank you.

MS. McCULLEY: Thank you.

CHAIRMAN: Thank you.

Is there anyone else that would like to speak concerning this application?

MR. ADAMS: Can we speak after this part?

MS. KNIGHT: Answer some of her questions, and perhaps ask it.

CHAIRMAN: Exactly.

MS. KNIGHT: Please state your name for the record.
MR. WEAVER: David Weaver.

( DAVID WEAVER SWORN BY ATTORNEY.)

MR. WEAVER: In regards to the landscape buffer, let me start there. There is -- on the development plan, we're showing a slight expansion on our existing parking lot, existing Bryant Engineering parking lot to the east. And that vehicle use area expansion will be buffered from the adjoining residence to the east by the existing house in the middle. There's an ADA ramp in the back that's required. It will act as a buffer. The plan states that. And along the front, there is a 3-foot, a traditional 3-foot tall, 3-foot wide continuous element with deciduous trees four feet on center. So I believe that meets the requirement of the ordinance.

CHAIRMAN: And what was the other question that you had asked?

MS. McCULLEY: Well, I didn't hear the answer about the site buffer on the east side of the property. I mean, there's only three feet on there. He said something about an ADA ramp in the back being a buffer. I don't understand how an ADA ramp in the back of the house, that goes to the alley, doesn't have anything to do with the house -- it's to the east. You can see how tight that is on the property if you're looking at the drawing.

CHAIRMAN: Did you answer that question about
the buffer?

MR. WEAVER: Yes. The buffer is for the -- the buffer is intended for the ordinance to buffer the vehicle use area from the residential. So, Brian, you can correct me if I misstate anything; but traditionally you put the buffer along the edge of the parking lot. And that ADA ramp in the back and the house alone, part of the parking lot will prevent the adjoining property owner to the east from seeing the parking lot. So, effectively, that acts as a buffer. And we are putting -- in the back, there is a tree proposed to serve as part of that buffer.

MS. MCCULLEY: It still doesn't -- he's not satisfying requirements. There is no way you can -- you do have to have a buffer between a Professional-1 and a Residential. Literally, he keeps saying, oh, there's going to be trees in front of the parking lot. That's not the question. The question is, on the east side of this house, there's no way to create a buffer between the P-1 zoning and that house that follows the plan, the comprehensive plan; and your own ordinance is in violation. And he's definitely dodging that question, in my opinion.

MR. HOWARD: So Article 17 of the zoning ordinance deals with buffering. It says that a perimeter buffer is required when any -- let's see -- when any
residential area adjoins a business or industrial zone.
And that standard does apply to the downtown district.

When you look at Article 15 of the zoning ordinance, it deals with business zones. And the business zones as spelled out under 15.22, types of business areas are neighborhood business center, which is a B-1 zone; central business district, which is a B-2 zone; a highway business center, which is a B-3 zone; a general business area, which is B-4; and a business industrial area, which is a B-5. Those are not -- a P-1 zone is not included under the business zoning classifications per Article -- per Section 15.22 of the zoning ordinance.

MS. McCULLEY: What about Section 8.12 or -- can you look that up? I didn't bring my zoning information.

MR. HOWARD: 8.12, Single family detached residential zones?

MS. McCULLEY: It was 8.12, 8.10, 8.12. Let me see if I've got a copy of it here. I didn't bring that with me. I think that -- I don't have the zoning laws in front of me, but I think you know what I'm talking about when I -- I think it's 8.12 or 8-12. It was updated, I know, in May of 2008, I think.

MR. HOWARD: I'm not sure.

MS. McCULLEY: Okay.

MR. WEAVER: Brian, we've done hundreds of
development plans and site plans in our office. And I would feel like we have done the buffering of this plan consistent with similar projects that we've done in the past. I would contend that it complies with the zoning ordinance.

MR. HOWARD: Well, Article 17 does not require that a perimeter buffer is a 10-foot-wide, 6-foot-tall fence between a residential and professional zone. The only thing that is required is vehicular use area buffering and screening.

MR. WEAVER: And I feel as though we have complied with that. Would you -- would you agree with that statement?

MR. HOWARD: We believe it's ready.

MR. WEAVER: Okay. Do you want me to speak to the house itself now, move on to the next question? I think the next question had to do with the house, it looks like, when we remodeled it into an office, as far as the exterior, in keeping with the historical character of the neighborhood.

The existing house, for those of you that maybe haven't seen it, is vinyl. It's a wood vinyl, and it's been weathered by the sun. It's kind of dulled. And clearly that vinyl siding on that house could not possibly be the original siding. We anticipate removing that
siding and putting a newer model siding on it. We haven't
selected a color or exactly what the siding would look
like; but, you know, we're not going to stucco it or brick
it. You know, more than likely it will be vinyl. And
we're not going to alter the building dimensions, the
footprint. The building footprint will stay the same.
The roof will stay the same. So, you know, I guess that's
pretty much it.

CHAIRMAN: Is it going to be significantly
different from an architectural standpoint than the rest
of the neighborhood?

MR. WEAVER: No. No. I would contend that it
won't be.

MS. McCULLEY: I want you to look at this
picture of the development plan up there. You see the
blue square? You see the area where they're talking
about? You can see it. That is now basically completely
paved over all the way to the side of that house. That is
now existing green space.

And directly across the street is my house.

This is Don Adams. He is going to be looking right into
that parking lot. I mean, it's not a parking lot now, and
that's what they want to do with it.

And I just -- I have an issue with making more
cement in this development plan. If they want to access
it, they don't have to pave all the way down Phillips Court to the side of the house. That's not a good plan, you know. And it violates the master plan, you know, the historic feeling and all these master plan sites that you guys voted on. I don't see how you can think that creating a giant parking lot in a historic area is any -- it doesn't -- it doesn't work. I don't get it.

CHAIRMAN: I don't know if you can address that question or not --

MS. McCULLEY: Well, I'm just -- that's what it is.

CHAIRMAN: The parking lot or?

MR. WEAVER: I'm not sure there was a question in that. I think she was just merely making a statement.

CHAIRMAN: Making a statement. Okay.

Yes, Mr. Reeves?

MR. REEVES: Correct me if I'm wrong, Mr. Howard; but it's not within our purview of this board to dictate architectural style, nor to tell somebody specifically how they lay out their development plan as long as that development plan meets the requirements of the ordinance. Is that correct?

MR. HOWARD: There are no design guidelines for what a structure would look like outside the downtown
overlay district, so you're correct there. As far as the
design and layout, you know, it has to meet the zoning
ordinance requirements. The city engineer's office has
to, or whatever jurisdiction it's in, would have to review
it to make sure that it meets drainage requirements and
that type of thing.

MR. REEVES: And it has met --
MR. HOWARD: Yes. City engineer's office signed
off on the plan.

CHAIRMAN: Thank you, Mr. Reeves. That was one
of my questions, too. It looks like this has been
reviewed by a number of people who have signed off on the
building location, the offsets, the design, all of this,
so...

MS. McCULLEY: Do you realize that WBW and
Bryant Engineering is basically the primary engineering
firm for the City of Owensboro? So do you think that this
is -- of course it's getting approved quickly. I don't
believe that anybody's really taken the time to review
this. And that's my question: Will you take the time?

MR. REEVES: I've got an issue here. And I
understand your passion and your concern. But I think
when we question people's integrity here, that's a little
bit out of bounds. Okay?

MS. McCULLEY: Okay.
MR. REEVES: You've questioned Mr. Kazlauskas' integrity. You've questioned Bryant Engineering's integrity. We just have to see that it meets the requirements of the ordinance, and we depend upon the Staff to tell us their opinion. We can't dictate architectural style or where they put their concrete as long as it meets the requirements. So I just -- it upsets me when good people are denigrated that do not deserve that denigration.

MS. McCULLEY: I understand that. But I also look at this and I read your own comprehensive plan; and it says on Page 42 in your development, you know, your plan development -- and this is the development you're talking about -- that historic preservation had gained greater support, that local development policies want special recognition for the incentive to retain historical places and -- so I look at your plan and I understand that people signed off on it, but clearly it is -- it's sitting three feet from the residence, and there's no way to put a buffer. I disagree -- I don't have my -- in front of me; but I do not think that this does meet your comprehensive plan, and I'm just asking you to take the time to look at it rather than just signing off on it. Would you not review, you know, your own plans? That's what I'm asking you, the Planning Commission, to look at your own
comprehensive plan and what they're proposing to do.

CHAIRMAN: So noted.

Anyone else would like to speak concerning this application?

MS. KNIGHT: Please state your name for the record.

MR. ADAMS: Don Adams.

(DON ADAMS SWORN BY ATTORNEY.)

MR. ADAMS: She did have a question about that site to the west, about putting all the concrete in. You're extending that parking lot. Instead of having more green space in there, you're doing away with it to make a bigger parking lot.

And also, I have a question. Was there a traffic study done on Phillips Court?

CHAIRMAN: So the question is, was there a traffic study done?

MR. ADAMS: Well, there was two questions, because she asked a question -- he said it wasn't a question -- and I'm asking a question about was there a traffic study done on Phillips Court.

CHAIRMAN: Okay. Would you be able to address that, please?

MR. WEAVER: I guess I'll speak to the parking first. We are doing a slight parking lot expansion to the
east of our existing parking lot. I believe that's in the neighborhood of plus or minus ten feet. All we're doing is we're making our parking lot wider along the east side to accommodate two rows of parking and to meet the zoning ordinance requirement on the number of parking spaces.

If you're looking at the plan, it's a concrete patch pattern that shows up on the area where pavement is going to be widened. It's less than a parking stall width and that's been proposed since the beginning. We knew we'd have to do that. Of course, we're not -- you know, the existing screening would come down and new screening be put in. We are proposing to screen the vehicle use area as required by the ordinance. And the vehicle use area will be screened on the eastern side and along the Phillips Court side.

And to speak to the traffic impact study, there was no traffic impact study required. There's typically not a traffic impact study required on such a small development.

CHAIRMAN: Thank you.

That answer your question?

MR. ADAMS: No, it doesn't. He said a small development. On a very narrow small street with no exit to anywhere. The only way to get off that is Frederica. And there's no traffic light controlling that or anything.
You're adding traffic to that little narrow street.

CHAIRMAN: But I think I understood him to say -- and correct me if I'm incorrect -- that it wasn't required, so you wouldn't have had to make the effort to try to do a traffic study simply because it wasn't required.

MR. WEAVER: That's correct. Traffic impact studies are typically fairly expensive, and in this case it would not have been warranted.

CHAIRMAN: Because of the?

MR. WEAVER: Because of the relatively small size.

CHAIRMAN: Small traffic in that area.

MR. WEAVER: You're not generating enough increase in traffic to warrant a traffic impact study.

CHAIRMAN: Thank you.

I'm sure that didn't answer your question.

MR. ADAMS: Well, I've got another question about traffic. Has anyone talked to the Mary Kendall Home about their -- they have a private exit off of Phillips Court going to Daviess, I believe it is. Has anyone talked to them about using that or people using that?

CHAIRMAN: Someone would have to answer that. I have no idea.

MR. WEAVER: We certainly have not talked to the
Mary Kendall Home about -- our staff doesn't utilize their private drive. They've clearly got that marked as a private drive.

CHAIRMAN: And would that be because they are significantly further down the street than what you would need to --

MR. WEAVER: Yeah. And I know that the Mary Kendall Home likes to -- I'm sure they wouldn't allow it. They like to keep their site closed.

CHAIRMAN: Thank you.

Yes, Mr. Ball?

MR. BALL: I've got a question for Staff. It keeps coming up about expanding the parking lot. They've expanded the parking lot to meet the minimum parking requirement. Am I correct, in Article 13.77, this board doesn't have the authority to eliminate the required parking, even if we wanted to, to keep the buffering area?

MR. HOWARD: Right. In order for this plan to be approved, it would have to meet the minimum zoning ordinance requirements, which parking would be one of those minimums.

MR. BALL: Which it meets currently?

MR. HOWARD: It does.

MR. BALL: Thank you.

CHAIRMAN: Thank you, Mr. Ball. So it does meet
the minimum parking requirements.

MR. ADAMS: Well, I guess it does when you combine the two properties and change everything around.

Thank you.

CHAIRMAN: You're welcome. Thank you for your comments.

Is there anyone else who would like to speak concerning this application?

(NO RESPONSE.)

CHAIRMAN: There being none, the chair is ready for a motion.

Mr. Ball?

Pardon?

MS. KNIGHT: I think there's more comments from the audience.

MS. McCULLEY: I think Stella would like to talk.

CHAIRMAN: Oh, yes, please, please.

MS. KNIGHT: Ask you to state your name for the record, please.

MS. SCHULTZ: Stella Schultz.

(STELLA SCHULTZ SWORN BY ATTORNEY.)

MS. SCHULTZ: I live at 200 Phillips Court, and I wonder if any of you have ever tried to turn left off of Phillips Court. It's impossible. And more traffic, and
if Mary Kendall closes their road off, it's going to be very complicated to exit. And adding a business with more traffic, would be nigh impossible to cope with turning left off of Phillips Court.

And I guess, as a homeowner that moved here to this beautiful city with this beautiful historic street, I am talking from the heart and I am just saying, will you guys to judge how you would feel if this was happening to your home? And I'm just asking you to reconsider what your mind is probably made up tonight to do.

CHAIRMAN: Well, the important part of that was completed whenever the original rezoning was approved. This is essentially the final development plan. And what we're tasked to do is to look to see if this meets all of the requirements from planning and zoning and the design criteria. And that's what we've got to look at tonight to make that decision. It really isn't a decision on whether it even gets built or not. It's just a decision to look at this final development plan and try to determine is it correct, does it meet all the ordinances, codes. And if it does, then we have to -- this is why we have our discussions about what's going on with it.

MS. SCHULTZ: Thank you.

CHAIRMAN: Thank you.

Anyone else would like to speak concerning this
MR. KAZLAUSKAS: Mr. Chairman?

CHAIRMAN: Yes.

MR. KAZLAUSKAS: If no one else is going to speak, I want a clarification for the record.

CHAIRMAN: A clarification?

MR. KAZLAUSKAS: Yes.

CHAIRMAN: Yeah. Okay.

MR. KAZLAUSKAS: The question that was asked to me previously about was I involved in a decision made by this body some years ago. I apologize because I don't have the date. But that piece of business was a zoning change for the 2400 block of 24th Street of St. Ann. And the Zoning Commission approved that, and the City Commission overturned that at a later date. And it was not -- the zoning was reversed by the City Commission. That was not a final development plan. And I want that into the record where, in the future, if someone comes back and wants to know about that, that's what that's about. Thank you.

CHAIRMAN: Thank you, Mr. Kazlauskas. I think that's a clarification that's certainly due because this isn't the format to bring that type of a question up, I don't think.

Is there anyone else that would like to speak
concerning this application?

MS. McCULLEY: I just want to clarify I wasn't attacking John Kazlauskas. When I read what he --

MR. KAZLAUSKAS: (Inaudible.)

MS. McCULLEY: I know. What you had said was that no one should be able to profit at the expense of other property owners located in Buena Vista; it's not correct, it's not right, it's not fair. We still have people in those homes --

CHAIRMAN: I don't think we're interested in hearing what he said.

MS. McCULLEY: What I was trying to say is that I believe that --

CHAIRMAN: Ma'am, we're not interested in what he said. That has no bearing on what we're doing.

MS. McCULLEY: I'm sorry. What I was trying to ask or say was, his feelings about site development -- right? -- and the development, including this parking lot, it does to me reflect that at some point, I believe, that he was in disagreement about developing older homes in the area. So my feeling is that -- that was 2001. I get that that was a while ago. But hopefully he's thinking about that -- or is he thinking about that? -- as he looks at this development and realizes the site development and how it is taking away green space and adding concrete to this
historic area. I know that at one point he felt that way, so that was what I was trying to ask. I'm sorry if it came off differently.

CHAIRMAN: Thank you.

Anyone else would like to speak concerning this application?

Mr. Ball?

MR. BALL: I don't know if this is relevant or not, but I've got a quick question. In driving the area, first of all you have the Mary Kendall Home in the rear of Phillips Court. It looks like you also have 201 Phillips Court, which, in driving through there, is an office building for the Mary Kendall Home. Is that correct? Can anyone answer that? It appeared to be an office building which --

MS. McCULLEY: It's a conditional use permit, so the home is just -- yes, it's an office operating on a conditional use permit.

MR. BALL: But it functions as an office for the office staff of the Mary Kendall Home?

MS. McCULLEY: Correct. And they have their own entrance and parking on that street next to it. Yes, that's correct.

MR. BALL: Thank you.

CHAIRMAN: Any further questions from the
audience or comment concerning this application?

(NO RESPONSE.)

CHAIRMAN: There being none, the chair is ready for a motion. Mr. Ball?

MR. BALL: I'd like to make a motion to approve this final development plan.

CHAIRMAN: Motion has been made to approve the final development plan. Is there a second?

Second by Mr. Reeves. Any discussion about the motion or the second?

(NO RESPONSE.)

CHAIRMAN: There being none, all those in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed, like sign.

(NO RESPONSE.)

CHAIRMAN: Motion carries.

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CHAIRMAN: Okay. All the commissioners hopefully have received the financial statement information. I hope you got a chance to go through those. Are there any questions or comments concerning the financial statement?

(NO RESPONSE.)

CHAIRMAN: There being none, the chair is ready
for a motion. Mr. Moore?

MR. MOORE: Move to approve.

CHAIRMAN: Motion has been made for approval.

We have a second from Ms. McEnroe. Any discussion or comment about the motion or the second?

(NO RESPONSE.)

CHAIRMAN: There being none, all those in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed, like sign.

(NO RESPONSE.)

CHAIRMAN: Motion carries.

The chair has no comments tonight.

Comments by the Planning Commissioners. Do any commissioners have any comments?

(NO RESPONSE.)

CHAIRMAN: There being none, comments by the director?

MR. HOWARD: No, thank you.

CHAIRMAN: We have one final motion that needs to come forward. Mr. Ball?

MR. BALL: Motion to adjourn.

CHAIRMAN: Motion has been made by Mr. Ball to adjourn. Second by Mr. Jean. Any discussion or comment about the motion or the second?
(NO RESPONSE.)

CHAIRMAN: There being none, all those in favor, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Opposed, like sign.

(NO RESPONSE.)

CHAIRMAN: Motion carries.

(The meeting adjourned at 6:17 p.m.)
I, Rhonda Simpson, Notary Public in and for the State of Kentucky at large, do hereby certify that the foregoing Owensboro Metropolitan Board of Adjustment meeting was held at the time and place as stated in the caption to the proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately transcribed into the foregoing 42 typewritten pages; and that no signature was requested to the transcript.

Dated this 30th day of September 2018.

RHONDA SIMPSON, NOTARY PUBLIC
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COMMISSION EXPIRES:
AUGUST 17, 2019
COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

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