

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT
DECEMBER 2, 2021

The Owensboro Metropolitan Board of Adjustment met in regular session at 5:30 p.m. on Thursday, December 2, 2021, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Judy Dixon, Chairman
- Brian Howard, Director
- Terra Knight, Attorney
- Bill Glenn
- Tori Thompson
- Lewis Jean
- Fred Reeves

* * * * *

CHAIRMAN: At this time I will call the Owensboro Metropolitan Board of Adjustment December 2, 2021 meeting to order. We're going to begin our meeting with a prayer and the pledge.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: First item on the agenda is to consider the minutes of the November 4, 2021 meeting. Members have been mailed or received an electronic copy and at this time I will entertain a motion to dispose of the minutes.

MS. THOMPSON: I'll make a motion to approve.

MR. GLENN: Second.

CHAIRMAN: Tori makes a motion and second by

1 Mr. Glenn. Any question on the motion?

2 (NO RESPONSE)

3 CHAIRMAN: All in favor raise your right
4 hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries.

7 Mr. Howard.

8 -----

9 CONDITIONAL USE PERMITS

10 ITEM 2

11 3100 & 3136 West Second Street, zoned B-4 General
12 Business (Postponed at November 4, 2021 OMBA meeting)
13 Consider a request for a Conditional Use Permit in
14 order to operate an addiction rehabilitation facility
15 from the subject properties
16 References: Zoning Ordinance Article 8, Section 8.2C1
17 Applicant: BTR28, LLC; OH Hotels, LLC; OH Assets, LLC

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

17 MR. PEDLEY: Trey Pedley

18 (TREY PEDLEY SWORN BY ATTORNEY.)

19 MR. PEDLEY: The subject properties are zoned
20 B-4 General Business and located at the intersection
21 of Carter Road and West Fourth Street, as well as
22 Carter Road and West Second Street. This site has
23 historically been utilized as a hotel/motel with
24 accessory uses.

25 At this time the applicant intends to

1 redevelop this site and utilize the existing structure
2 to operate an addiction and rehabilitation facility;
3 housing up to 300 clients with 40 staff members at the
4 maximum shift. The clients will stay at the facility
5 for a period of time ranging from 30 to 90 days.

6 The adjoining properties to the south, east
7 and west are all zoned B-4 General Business. The
8 adjoining properties to the north across West Second
9 Street are R-3MF Multi-Family Residential, A-U Urban
10 Agriculture and B-4 General Business consisting of a
11 series of multi-family apartments, a single-family
12 residence and an animal shelter. For this use the
13 ordinance requires 115 parking space.

14 Where the vehicular use area adjoins public
15 right-of-way, a 3-foot wide landscape easement with a
16 3-foot tall continuous element and 1-tree per
17 40-linear feet shall be required.

18 If approved Special Conditions include:

- 19 1. Obtain approval of a Minor Subdivision
20 Plat consolidating the two subject properties;
- 21 2. Obtain approval of a Final Development
22 Plan, which shall illustrate compliance with Zoning
23 Ordinance requirements including (but not limited to)
24 the required number of parking spaces; and,
- 25 3. Obtain all necessary building, electrical

1 and HVAC permits, inspections and certificates of
2 occupancy and compliance.

3 We'd like to enter the Staff Report into the
4 record as Exhibit A.

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

7 Would you step to the podium, please?

8 MS. KNIGHT: Please state your name for the
9 record?

10 MR. FOREST: Brian Forest.

11 (BRIAN FOREST SWORN BY ATTORNEY.)

12 CHAIRMAN: Do you have things to add to what
13 Mr. Pedley has said?

14 MR. FOREST: Yes, ma'am. I'm in the process
15 of revising this rendering to add additional parking.
16 That should be done in the next week or so. I thought
17 it would be done by this meeting, but it's still not
18 completed. That's just due to the amount of people
19 that will be in the facility. So we're in the process
20 of that.

21 I've also, the last time there was various
22 people that wanted me to bring represents of the
23 company here. That's what I've done here tonight. If
24 you'd like me to turn it over to Mr. Matt Brown, I can
25 do that or we can wait.

1 CHAIRMAN: I think that would be wise because
2 the last time we just didn't feel like we had enough
3 information to move forward or backward. I'll let you
4 come forward.

5 MR. FOREST: Sure. Mr. Matt Brown.

6 MS. KNIGHT: Sir, if you could state your name
7 for record, please.

8 MR. BROWN: Matt Brown.

9 (MATT BROWN SWORN BY ATTORNEY.)

10 CHAIRMAN: For the record I want to note that
11 you make your comments to us and if somebody has
12 questions of the speaker, they can direct their
13 questions to us and we'll get the information.

14 MR. BROWN: Okay. Great. Thank you.

15 My name is Matt Brown and I am senior vice
16 president of administration at Addiction Recovery
17 Care. Our organization has been in existence,
18 actually 11 years ago today the first facility opened
19 in Louisa, Kentucky, which is in far Eastern Kentucky.
20 Our organization started because our CEO and founder,
21 he was a prosecuting attorney in Lawrence County,
22 Kentucky and we was a barely functioning alcoholic and
23 he had a spiritual awakening. He got saved. He got
24 sober. And he felt called to start helping people
25 that were struggling with the same issue that he had.

1 He started out as a calling and it has grown
2 tremendously and he's helped thousands of people over
3 the last 11 years.

4 So we have now over 30 programs in 22 Kentucky
5 counties. We have 900 employees across our network
6 and right under 1,900 clients across the entire
7 network, across the 22 counties.

8 What really sets us apart as an organization
9 is we don't just focus on drug treatment or addiction
10 treatment. We really, what we say is we take people
11 from crisis to career. Our goal is to get someone out
12 of the state of addiction and into a flourishing life
13 so that they can pay taxes and be a contributing
14 member of society. So out of that 900 employees that
15 we have, 300 of our employees are graduates of the
16 program. So we offer a one-year opportunity for
17 somebody to stay with us in residential treatment. So
18 they can stay an entire year. Not everybody chooses
19 to stay the whole year, but they can stay the entire
20 year. It's called a four phase model of treatment
21 where they're learning not only how to stop using
22 drugs, but they're learning how to show up to a job
23 interview, how to fill out an application, how to get
24 back on their feet, and how to, like I said, be a
25 productive member of society.

1 One of the things I wanted to share as well
2 today is out of our -- so we have 1,900 clients.
3 Roughly 900 of them are in an outpatient setting where
4 they're going to treatment and then living in their
5 own home. The other 1,000 are living under one of
6 ours roofs across those 22 counties. Out of those
7 1,000 people that are in treatment today, 129 of them
8 are in a GED program. So we're working not only for
9 the addiction piece, but for education, life skills,
10 job skills, work force training. This project would
11 also result in a 150 jobs. 120 of those jobs would be
12 at the facility, and then another 20 to 40 would be
13 jobs that would be created that would be outreach
14 specialist, people that may live, may not work at the
15 facility, but work for us in some capacity near the
16 facility and in the region.

17 CHAIRMAN: Thank you. Do you have any idea
18 what you could roughly say your success rate is? Not
19 everybody that enters a facility is successful.

20 MR. BROWN: That's a very good question and
21 here's one of the things I can tell you. Here is the
22 thing that I know for sure that is not just some
23 flashy marketing number that I can spit out. If
24 someone stays with us for a year, we have an 81
25 percent success rate and success to us is defined in

1 recovery and employed.

2 We're also part of a study from the Health and
3 Human Services Division out of Washington D.C.
4 They're studying our program. The name of the study
5 is Building Evidence on Employment Strategies For Low
6 Income Families. What they have done is picked six
7 programs across the nation who are bringing people
8 from dependents to taxpayer, and we are in that study
9 because of the amount of people we're moving into
10 contributing tax paying members of society.

11 CHAIRMAN: Thank you. Stay close by because
12 if somebody has questions we'll toss them at you.

13 MR. BROWN: Thank you for the opportunity to
14 speak.

15 CHAIRMAN: You're welcome.

16 Is there anyone else wishing to speak on
17 behalf of the applicant?

18 (NO RESPONSE)

19 CHAIRMAN: Is there anyone wishing to address
20 this item, to ask questions or make comments?

21 Yes, sir.

22 MR. SHELTON: I was here at the last name. My
23 name is Ed Shelton.

24 (ED SHELTON SWORN BY ATTORNEY.)

25 MR. SHELTON: We own the IGA store across the

1 street from this facility, and they're really against
2 this place being there. I have a couple of questions
3 for them.

4 I'd like to know when these people enter these
5 places who pays their fee? There's got to be a fee
6 attached to this. Is this a government funded
7 program?

8 CHAIRMAN: Hold on.

9 Do you want to come to the podium and answer
10 that for him.

11 MR. BROWN: One of the things I want to say is
12 that we, one of the things we pride ourselves in our
13 22 counties is being a good neighbor and doing the
14 very best we can to engage in the community and be
15 very transparent. We do things where we create local
16 advisory counsels so that members of the community can
17 tell us what we're doing right and what we're doing
18 wrong. And we can tell the community the new things
19 that we're trying to do and have a very open line of
20 communication between us and the communities in which
21 we serve. We came from a small town. We were founded
22 in a small town and we've kept that small town feel
23 across the network.

24 In terms of funding, we are just like a
25 nursing home or a hospital or a physical

1 rehabilitation facility. So we take all forms of
2 insurance across the network.

3 CHAIRMAN: Mr. Shelton, do you have other
4 questions? Go back to the podium.

5 MR. SHELTON: So if they don't have insurance
6 who pays? I mean this has got to have a fee to it
7 somewhere? It has to come from somewhere for this
8 large operation. Also, you say you might have 300
9 people there. Are these all going to be local people
10 from Daviess County or Ohio County? Are they going to
11 be brought in from some other counties?

12 MR. BROWN: We have what we call grace beds.
13 So if someone reaches out to us and for some reason
14 they don't have insurance, we have a certain number of
15 those spots that we give out every month and comp that
16 care for the person. So the reality is that in 2019 in
17 the United States 70,000 lost their life to an alcohol
18 or a drug-related overdose death. 2020 that number
19 went from 70,000 to 97,000. Then we've just recently
20 began getting reports for April of 2020 to April of
21 2021 and that number has increased to over 100,000
22 individuals losing their life. So we have been very
23 on purpose about those grace beds because we could
24 literally be the difference providers that are doing
25 good work to be the difference of life or death for

1 someone. I don't remember the second question, but
2 the first.

3 CHAIRMAN: Repeat your second part of your
4 question, Mr. Shelton.

5 MR. SHELTON: Where are the people coming
6 from?

7 MR. BROWN: Great question. People will be
8 coming from here and around here. So like for myself,
9 for example, I was a physical therapist bachelor's and
10 master's degree from the University of Kentucky and
11 had an 18-year battle with addiction. I was also
12 living a double-life because of my addiction. I ended
13 up crashing my life in 2014. I live in Lawrence
14 County, which is once again far Eastern Kentucky, and
15 I went to treatment through ARC in 2014 and I went
16 about an hour away to one of our facilities because
17 that was what was best for me, is to get a little bit
18 away from my surrounding so that I could heal and get
19 better. I'm proud to say I live back in that same
20 hometown and I'm a contributing member of the society
21 today versus what I was 7 1/2 years ago. I would say
22 here and surrounding.

23 CHAIRMAN: Thank you.

24 Do you have any more questions, Mr. Shelton?

25 MR. SHELTON: No.

1 CHAIRMAN: Does anyone else have questions or
2 comments?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone on the board have
5 questions?

6 Mr. Glenn.

7 MR. GLENN: I notice, and I don't remember
8 this last time, but you are associated with ARC or
9 this is through ARC; is that correct?

10 MR. BROWN: Our name is Addiction Recovery
11 Care and our acronym is ARC, A-R-C, same group. We do
12 get confused at times because that acronym is with
13 Appalachian Regional Commission, but that is not who
14 we are. We're Addiction Recovery Care, ARC. This
15 would not be -- one point I would like to make, if
16 that's okay, is this would not be our first larger
17 facility. We have a 750 person campus in Washington
18 County, Kentucky, in Springfield. We have been open
19 since November 2nd of 2020 with no major issues there.
20 We've got a topnotch security team and clinical and
21 medical staff to make sure that we run this safely for
22 both our patients and the community.

23 MR. GLENN: There is supervision at this
24 facility; is that correct?

25 MR. BROWN: 24/7.

1 MR. GLENN: And there are rules to follow and
2 if a rule or regulation or something is broken, they
3 can be?

4 MR. BROWN: Dismissed and driven back to where
5 they were from; absolutely.

6 The other piece of this is that Travis Bayley
7 is here with me. He is our vice president of business
8 affairs and underneath his purview is safety and
9 security, and our director of safety and security is a
10 retired Kentucky State Police officer.

11 MR. GLENN: Thank you. That's all I have.

12 CHAIRMAN: Mr. Reeves.

13 MR. REEVES: I'm going to be upfront. I am
14 opposed to this and probably will vote no unless you
15 convince me otherwise. Okay?

16 We have a number of these kind of facilities
17 already in the community. What makes you think we
18 need an additional one?

19 MR. BROWN: Great question and thank you for
20 your transparency first of all.

21 The numbers of people that are dying of the
22 disease of addiction is just appalling to many of us
23 that work in the field. In that number that I
24 mentioned, the 2019, 2020 and 2021 the number has
25 increased. 2019, 70,000. 2020, 97,000. 2021 or

1 really a span of April 2020 to April of 2021 over
2 100,000. Kentucky's overdose death rate increased by
3 50 percent between 2019 and 2020. What I'm seeing
4 unfortunately is I am very, I believe it's going to
5 get worse for the next two or three years before it
6 gets better. There's a ripple affect happening
7 because COVID was very difficult on folks who were
8 either may not have had a problem but were heading
9 toward a problem. So we are expanding our network to
10 reach those Kentuckian who are already in addiction.

11 CHAIRMAN: Anything else, Mr. Reeves?

12 MR. REEVES: I don't think so.

13 MS. THOMPSON: I have a question.

14 CHAIRMAN: Yes, Tori.

15 MS THOMPSON: Does your facility have hours or
16 curfew, I guess?

17 MR. BROWN: Absolutely. Our clients who will
18 be in treatment, our facility doesn't allow people to
19 walk off. They are contained inside of the facility
20 and on the property and in very, very rigorous
21 treatment. They wake up at 6 a.m. and they have an
22 hourly schedule all day long until 7 or 8:00 at night,
23 especially for those clients that have been there for
24 the first roughly 90 days. Once you've been there a
25 little longer, if you stick it out for that long,

1 right, you are definitely stable and committed to your
2 recovery. So the longer you stay the more, the less
3 structured your schedule is. But what we find is that
4 people that stay 90, 120 days are so committed to
5 their recovery that we're proud to have them working
6 alongside us and interning. We have an internship
7 program where after six months mark roughly, people
8 can start on-the-job training and they start literally
9 learning how to be an employee.

10 MS. THOMPSON: Thank you.

11 MR. GLENN: I have another question.

12 So is it possible then that after a certain
13 amount of time that they would be in the workforce
14 here working at some job while they're still going to,
15 while they're still at this facility?

16 MR. BROWN: So when they get into phase four,
17 which is after the six months mark, they can start to
18 go out in the community and participate in on-the-job
19 training.

20 Like in our St. Catharine's facility at Crown
21 Recovery Facility in Springfield, there's a lot of
22 automotive manufacturers nearby and we're working on
23 partnerships where we're helping to get them healthy,
24 stable, committed employees. We have also have a
25 cleaning company, an industrial cleaning company who

1 is working to develop a partnership with us so that
2 they can teach our men and women how to do industrial
3 cleaning and then they can get a job with that
4 organization.

5 So we're all about crisis to career and
6 getting people back into the workforce or into the
7 workforce for the very first time. We have so many
8 people that have never even had a job that have come
9 through our program, gotten back on their feet and are
10 now managers and supervisors at other places of
11 businesses across the state.

12 CHAIRMAN: Thank you. Did you have a
13 question, Mr. Jean?

14 MR. JEAN: Yes. Mr. Brown, in the 33
15 facilities, do you have any instances of your clients
16 leaving or have any interaction with the
17 neighborhoods?

18 MR. BROWN: We have a very tight policy that
19 if somebody, if somebody in that first phase leaves,
20 what we do is we get them and we take them to wherever
21 they're going or if they want to leave we will
22 transport them to wherever they want to go because we
23 want to make sure they're not leaving our facility and
24 becoming a problem. We're really here to be a part of
25 the solution and not contribute to the problem.

1 CHAIRMAN: Thank you.

2 MR. BROWN: One more point to that. We have a
3 multi-layer approach. So when somebody wants to
4 leave, there are several different people inside the
5 facility that they have to talk to before they leave.
6 Now, they can circumvent that. Don't get me wrong.
7 We're not a lockdown facility, but for the most part
8 our clients go through that process because they're
9 there most of the time on their own will. Like for
10 example, maybe the will of their loved one. My wife
11 was the one who urged or forced me into treatment and
12 thank God she did.

13 CHAIRMAN: Thank you.

14 Anyone else have questions?

15 (NO RESPONSE)

16 CHAIRMAN: Anyone else in the audience have
17 questions?

18 Yes, sir.

19 MR. SHELTON: How many people did you say you
20 have in your facilities? How many clients do have in
21 your facilities right now?

22 MR. BROWN: 1,900.

23 MR. SHELTON: You have one that has got 700,
24 correct?

25 MR. BROWN: 750 available beds. 500 people in

1 those beds.

2 MR. SHELTON: But people staying there, I
3 thought the last time, the other time he said some of
4 them would be coming and going. Not all of them would
5 be staying there; is that correct?

6 CHAIRMAN: Go back up there so it can be read
7 into the record.

8 MR. BROWN: The people in the first six months
9 they don't leave. They are on the property and inside
10 the facility, but then once they reach the intern
11 phase, they have more privileges and can take
12 overnight passes at that point. But at that point if
13 you stay with us for six months, you are a very
14 healthy and stable individual on your way to a career,
15 a job, etcetera.

16 That Crown facility in Springfield is 750
17 maximum beds, but we only have 500 people in those 750
18 beds currently.

19 CHAIRMAN: Thank you.

20 Anything else?

21 (NO RESPONSE)

22 CHAIRMAN: Any other questions, Mr. Shelton?

23 (NO RESPONSE)

24 CHAIRMAN: Are we ready for a motion?

25 MR. JEAN: I would like a motion that we

1 approve this Conditional Use Permit based on the Staff
2 Report, a site visit and the testimony presented here
3 this evening with the two Zoning Ordinance
4 requirements, the three special conditions and the
5 four findings of fact.

6 Finding of Fact: 1) this property is zoned
7 B-4 General Business where the operation of the
8 rehabilitation facility is allowed by the Conditional
9 Use Permit. Reducing the number of accent points to
10 adjacent roadways will have a positive impact on
11 traffic. This use should not create a nuisance and
12 should have minimum impact on the neighborhood and
13 there is a need for these type of facilities in our
14 region to help those who are suffering from
15 addiction.

16 MR. GLENN: Second.

17 CHAIRMAN: Second by Mr. Glenn.

18 MR. REEVES: Can I make a comment?

19 CHAIRMAN: Sure.

20 MR. REEVES: I guess I'm going to disagree
21 with the motion because I'm convinced there are
22 already a sufficient number of facilities in this
23 region to take care of the people that live in this
24 region.

25 CHAIRMAN: You had a second?

1 MR. GLENN: I seconded.

2 CHAIRMAN: Any questions or comments on the
3 motion?

4 (NO RESPONSE)

5 CHAIRMAN: All in favor of the motion to
6 approve raise your right hand.

7 (BOARD MEMBERS BILL GLENN, TORI THOMPSON, JUDY
8 DIXON AND LEWIS JEAN RESPONDED AYE.)

9 CHAIRMAN: All opposed.

10 (BOARD MEMBER FRED REEVES RESPONDED NAY.)

11 CHAIRMAN: One against and four for.

12 ITEM 3

13 1606 Ohio Street & 38 Hanning Lane, zoned R-4DT
14 Inner-City Residential
15 Consider a request for a Conditional Use Permit in
16 order to construct a group housing and academic
17 facility at the subject properties.
References: Zoning Ordinances Article 8,
Section 8.2A7/6a
Applicant: Mike Ballard, Darrell & Merry Hale

18 MR. PEDLEY: The subject properties are two
19 vacant lots located at the intersection of Ohio Street
20 and Hanning Lane, on which the applicant intends to
21 construct a group home providing a residence to
22 homeless high school age men and women while they
23 continue their education.

24 The submitted floor plan illustrates 19 dorm
25 rooms on site.

1 All adjoining properties to the north, south
2 and west are zoned R-4DT Inner-City Residential. To
3 the east across Hanning Lane is the main parking lot
4 for English Park.

5 For this use the Zoning Ordinance requires
6 five parking spaces, plus one for every five beds.
7 The submitted site plan illustrates 10 parking spaces
8 on site. As such, the site can effectively host a
9 maximum of 27 beds.

10 Additionally, the Zoning Ordinance requires
11 Vehicular Use Area screening consisting of a 3-foot
12 tall continuous element and 1 tree per 40-linear feet
13 shall be installed where the vehicular use area
14 adjoins residentially zoned properties and public
15 right-of-way, excluding alleys.

16 There are a series of criteria required for
17 group homes. They have all been addressed within the
18 application with the exception of a completed fire
19 escape plan.

20 If approved Special Condition includes:

- 21 1. Obtain approval of a Minor Subdivision
22 Plat consolidating the two subject properties number;
- 23 2. Obtain approval of a Site Plan or Final
24 Development Plan, which shall include the exact
25 location of the second-story exterior fire escapes;

1 3. Prior to the issuance of a building
2 permit, the OMPC Planning Staff shall obtain an
3 updated and completed fire exit plan for the
4 structure, which shall illustrate the exact location
5 of the electric main and all fires extinguishers
6 within the building. The updated plan will be kept in
7 the Conditional Use Permits file and shall be
8 displayed within the common areas on both floors of
9 the structure; and,

10 4. Obtain all necessary building, electrical
11 and mechanical permits, inspections and certificates
12 of occupancy and compliance.

13 We would like to enter the Staff Report into
14 the record as Exhibit B.

15 CHAIRMAN: Thank you.

16 Is the applicant here? Mr. Wilkey.

17 MR. WILKEY: Good evening.

18 MS. KNIGHT: Mr. Wilkey, you're sworn as an
19 attorney. Thank you.

20 MR. WILKEY: Just like to thank the Staff for
21 their hard work on this project. We'll be happy to
22 answer any questions.

23 It is, as Trey said, a proposed as a resident
24 facility for homeless high school students who have
25 been rendered homeless by family circumstances beyond

1 their control. They just need someplace where they
2 can live safely and focus on their studies and move on
3 with their life.

4 Happy to answer any questions the board has.

5 CHAIRMAN: Thank you.

6 Is there anyone in the audience that has
7 questions of Mr. Wilkey?

8 Yes, sir. You want to come to the podium,
9 please.

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

12 MR. STRANEY: John Straney.

13 (JOHN STRANEY SWORN BY ATTORNEY.)

14 MR. STRANEY: I live at 1628 Ohio Street.
15 You'll see the lot to your left, that is my lot also,
16 the one that is split long-way down the middle. That
17 is an alley that runs around behind my house. If
18 we're going to have a dorm, for lack of a better word,
19 built on that corner, we have traffic that is already
20 more than a nuisance that comes behind my property,
21 behind my house within a stones toss from my back
22 porch. I've lived at that property for 30 years. We
23 have had a problem with traffic since then.

24 Another thing with the homelessness, I'm sure
25 we all know of the homeless encampment that we had

1 down there. I know I sound like a bad guy here, but
2 the homeless issue was really rough on me and other
3 residents down there because of ruffraff and stuff
4 coming onto our property. I mean the extra traffic
5 will be coming through basically my backyard. It's a
6 big concern of mine.

7 CHAIRMAN: Mr. Wilkey, you want to address
8 these issues?

9 MR. WILKEY: I'm not sure I understand what
10 you're saying. Are you talking about people using the
11 alleyway between your lot and the lot we are going to
12 own? Is that what you're talking about?

13 CHAIRMAN: He's talking about traffic.

14 MR. STRANEY: Yes. All the traffic coming
15 from --

16 MR. WILKEY: Or just all that traffic in that
17 area?

18 MR. STRANEY: No. The added traffic from the
19 residents and visitors of residents that are going to
20 be coming to your place.

21 MR. WILKEY: We have to have so many parking
22 spaces provided. For the most part our client
23 population we think will be juniors and seniors in
24 high school that will be riding bicycles or have a
25 friend take them. We have to have so many spaces

1 allotted.

2 If you look back at the pictures, you can see
3 we are right across the park and there's, what, 300
4 parking spaces there where English Park is. It's a
5 busy place. It's like tossing, the added traffic we
6 have is like tossing a pebble in the ocean. No one is
7 going to notice it. We don't expect any -- we will
8 have 24 hour/7 day a week supervision. If there are
9 any complaints from the neighbors we'll be happy to
10 remedy them. That's the only response I want to make
11 to that.

12 MR. STRANEY: Like I said, I have lived at
13 this residence for 30 years. I have complained about
14 traffic through this alley for 30 years, which has
15 fell on death ears. Whenever it was repaved, I asked
16 if there was any chance we could get speed bumps put
17 in. I was told, no, because it's a public street
18 alleyway so speed bumps cannot be put in. So after it
19 was repaved, I liked it with all the potholes in it
20 because it kept people slowed down. After it was
21 repaved, it become more like a racetrack and we're
22 running qualifying laps through there. I understand
23 that it's not going to add that much traffic to the
24 area, but it will increase traffic that runs through
25 my backyard.

1 That's, like I said, it's been a concern of
2 mine before and it's a huge concern of mine now. I
3 mean there's no answers to it, unless you were to shut
4 the alley off and the residence that have access to
5 it, but get rid of the thoroughfare going all the way
6 around. That would be something to consider.

7 CHAIRMAN: Thank you.

8 It's my understanding, Mr. Wilkey, that most
9 of your clients, the clients that are going to be
10 involved in this dormitory don't have cars?

11 MR. WILKEY: No. They can't afford to buy
12 lunch. They're not going to be -- I really sympathize
13 with what he's saying. I'd be happy to, if traffic
14 through there is a problem, you know, we'll be happy
15 to work with him any way we can to resolve it. If
16 it's a matter of safety for him, we have primarily
17 pedestrian residents, it's going to be a matter of
18 safety for us. We would hope as good neighbors to
19 work with him to say, hey, how can we solve this
20 problem? Thank you.

21 CHAIRMAN: Yes, sir, Mr. Shelton.

22 MR. SHELTON: I just signed an agreement this
23 week to close an alley. What's the purpose of that
24 alley? You know, if every landowner that adjoins that
25 alley signs an agreement, you can close that alley,

1 unless it's -- the garbage doesn't run through an
2 alley anymore I don't think. It may be a remedy.

3 CHAIRMAN: Anyone else have questions or
4 concerns, anybody on the board.

5 Tori.

6 MS. THOMPSON: I just have a question on I
7 guess the kids in the group home, do they have a
8 curfew as well? If there is foot traffic, is it
9 limited to they're going to be in school, all morning
10 or afternoon, when they get back, or are they allowed
11 to be out all evening?

12 MR. WILKEY: Yes, that's part of our
13 arrangement with each resident, is that they have an
14 agreement with us; that they perform their conduct to
15 our rules and regulations. They'll be expected to
16 attend classes. They'll be expected to make good
17 grades. They'll be expected to maintain the premises.
18 If they cannot keep up with that code of conduct, they
19 will be asked to leave.

20 MS. THOMPSON: Is there a curfew in your rules
21 right now? Like do they have to be in by 6 p.m.?

22 MR. WILKEY: You know, I can't say that there
23 is because I'm not sure that we finalized. We
24 submitted I think to Trey's office our regulations. I
25 can't tell you off the top of my head that has a

1 particular curfew. I would doubt that we would have a
2 facility that would not have hours of operations as
3 you shall be in by "X," you know, 9:00, 10:00 on a
4 school night, later during the week, and be a good
5 citizen. I would expect that is in there, but I can't
6 tell you for sure that it is.

7 CHAIRMAN: Mr. Howard.

8 MR. HOWARD: Just real quick. Looking at the
9 rules, which you all did receive a copy of it, it
10 doesn't include a time for curfew, but as this is a
11 conditional use permit, the purpose is for this board
12 to determine if this use is properly integrated into
13 the neighborhood. If one is not stated, you could
14 certainly require one as part of your findings and
15 conditions to determine that, yes, this will work in
16 the neighborhood if "X" conditions are met.

17 MR. GLENN: These students or these teenagers,
18 the ones that are in this home, they live and are
19 schooled at that site or do they go away to a
20 different school?

21 MR. WILKEY: They will attend a public, a high
22 school. They will attend a high school in the area.
23 Could be Owensboro High School, Daviess County, but it
24 will be a local high school.

25 MR. GLENN: Okay. That's all.

1 MR. WILKEY: The plan here is that these would
2 just be residents of Daviess County.

3 CHAIRMAN: Mr. Reeves.

4 MR. REEVES: I've been around, and I guess I'm
5 the negative guy tonight.

6 In this community, we've had a tendency to
7 always try to do the most and best and right thing we
8 possibly can for people. What is happening in some
9 cases is other counties and communities has taken
10 advantage of that. For example, I can see somebody,
11 for instance, a senior or junior in Hopkinsville, they
12 get in trouble, they go to court, the judge says, here
13 is what I'm going to suggest you to do. They have a
14 program in Owensboro that will be perfect for you so
15 I'm going to highly suggest, highly suggest that you
16 enroll in this program in Owensboro. So we bring some
17 problems from some other place to us.

18 Also, who is going to pay the fees for these
19 students' education?

20 MR. WILKEY: We are privately funded nonprofit
21 corporation. We're not recipient to any government
22 grants and therefore we are not subject to being
23 forced to take anyone we don't want to take, and
24 that's been how we have proceeded since we started
25 this, Fred. It's because we did not want to be told

1 we had to take a particular person and we were not
2 necessarily trying to correct bad habits or reform
3 people. Okay? We want -- there are kids here who
4 don't have a place, who are good kids who through no
5 fault of their own are sleeping on friends and
6 neighbors couches who are essentially homeless. We
7 would like to have structured environment where they
8 can get an education and they can get on their own
9 feet and make a meaningful life for themselves, and
10 all they need is a little help. That's our purpose.

11 Now, funding this is going to be a problem so
12 I'd like to ask all of you if you would before you
13 leave tonight leave a check and I'll come by and pick
14 it up and we'll use this as a fund raising session.

15 MR. REEVES: Will you take the state funds
16 that accompany those students?

17 MR. WILKEY: No. We do not plan to take --

18 MR. REEVES: You do not plan to. Would you
19 possibly take the state funds that accompany those
20 students?

21 MR. WILKEY: If you're asking me today to tell
22 you how the board has answered that question every
23 time it's been asked, no, we do not plan. We're not
24 going to take funds.

25 Now, someone makes an arrangement that we

1 think is consistent with our principals, perhaps we
2 would, but as of right now that's not what we want to
3 do. It's a facility for local children in this
4 community.

5 MR. REEVES: Okay.

6 CHAIRMAN: Anybody else have questions?

7 (NO RESPONSE)

8 CHAIRMAN: Anyone else in the audience have
9 questions or comments?

10 Yes, you may go back.

11 MR. STRANEY: I realize that me saying this is
12 not going to sound popular really and may sound out of
13 line. I do not feel like building a dorm for high
14 school students is going to improve my neighborhood
15 one iota and I really, really discourage it. I just
16 appreciate you your guys' time. Thank you.

17 CHAIRMAN: Anybody else have questions?

18 (NO RESPONSE)

19 CHAIRMAN: I'm ready for a motion.

20 Mr. Glenn.

21 MR. GLENN: Let me try this. I will make a
22 motion to approve this Conditional Use Permit based on
23 the information that I've heard here tonight, the
24 report from the Staff that's here. I do not think
25 that it will -- I think that it will work well in the

1 area. I don't think it's going to be detrimental. I
2 understand what you're saying, but at the same time I
3 still believe that this will work in this area.

4 Do I need it add something else to that?

5 Of course, they must meet all the Zoning
6 Ordinance requirements, the following criteria 1
7 through 10 and the Special Conditions 1 through 4.

8 MS. THOMPSON: Can I add to his?

9 MS. KNIGHT: You can ask him if he will amend
10 his motion.

11 MS. THOMPSON: Can you amend it to add a
12 curfew, I guess?

13 MR. GLENN: I will amend it, yes.

14 MS. THOMPSON: Do we have to specify a time?
15 Do we have to give a time or they need to enforce one?

16 MR. HOWARD: I think that's your option. If
17 you say they have to enforce a curfew, their curfew
18 could be 3 a.m., you know, but if your curfew is 6
19 p.m., that might not be reasonable either. It's up to
20 you all. I don't know that it would be bad and legal
21 counsel can chime in. If you wanted to say that all
22 students had to be in by 9:00 or 10:00 or something
23 like that on a weeknight, I think that is certainly
24 something that you all can establish. In order for
25 you to be able to determine that this works in the

1 neighborhood, you can establish any conditions that
2 you feel are necessary.

3 MS. KNIGHT: Or you can require that they
4 establish one that meets -- because some of these
5 students might have part-time jobs or something and
6 they may not get home in time.

7 MR. GLENN: So if we are to add that there be
8 a requirement for a curfew --

9 MS. THOMPSON: Unless they have a job-related
10 arrangement?

11 MR. HOWARD: One thing that you might, this
12 would be a bit unique, but you all could potentially
13 put a requirement in that would say a year from now
14 that you want to maybe have them report back as far as
15 how things are going and what the curfew is and that
16 type of a thing potentially or establish or put a
17 caveat in there that a curfew is at 10:00 unless they
18 have a job or whatever. You have all kinds of
19 options.

20 MR. GLENN: If we add it in there that once
21 this house is built, that within 90 days they would
22 have to come back and report or give us what type of
23 curfew they have?

24 MR. HOWARD: You can even make that as a
25 requirement that within 90 days that they provide that

1 information to the Staff, you know, and we could
2 review it, if you all would like and we can provide
3 that information to you.

4 MR. GLENN: It would have to be to our liking?

5 MR. HOWARD: And if it's not, the mechanism on
6 a Conditional Use Permit would be that you could then
7 potentially bring it back to review it at some point
8 if you wanted to. If everything was satisfactory,
9 then I think that would work as well.

10 MR. GLENN: Then I would just add to my
11 proposal that once this facility is built, that within
12 90 days they should report back to this board.

13 MS. KNIGHT: Through Staff.

14 MR. GLENN: Through Staff, yes. Through the
15 Staff with the curfew requirements for the operation
16 of this facility.

17 MR. REEVES: Question on that. If they've
18 only got to report back and they said the curfew is 3
19 a.m. through the week and 5 a.m. Saturday and Sunday,
20 that's all they've got to do according to what you
21 just said. Not that we set any criteria on it.

22 MR. GLENN: That's what I wanted to know.

23 MR. REEVES: I think we want to set a curfew.
24 This board would want to set the time, and if that's
25 not acceptable to them then they can appeal to us and

1 have a conversation with us.

2 MR. GLENN: Let me make that motion and
3 withdraw what I said about the curfew and how they
4 could come back in 90 days. Say for this proposal for
5 me to back it, I would add that they need to have a
6 curfew of 9 p.m. on school nights and midnight on
7 non-school nights and if that is not adequate for
8 them, they can come back to the Staff and plead. Will
9 that work?

10 MR. HOWARD: Yes. At that point, I think if
11 you establish a time, if that's not, if it doesn't
12 work for them, they could ask to come back before this
13 board and amend that condition essentially of their
14 Conditional Use Permit.

15 MR. GLENN: Okay.

16 MS. KNIGHT: So we have motion to approve.

17 CHAIRMAN: We have motion to approve with a
18 curfew established 9 on weekday and midnight on
19 weekend.

20 MR. GLENN: Non-school day.

21 CHAIRMAN: If that doesn't work for them, they
22 can come back to us to amend.

23 MR. HOWARD: As Mr. Glenn just said, on
24 non-school days. Like during the summer, I guess if
25 they're there, they wouldn't necessarily have to be

1 there at 9:00 potentially. It would be midnight.

2 MS. KNIGHT: Also to clarify the motion
3 included meeting the Zoning Ordinance requirements and
4 criteria for the Conditional Use Permit for a
5 residential group home, as well as the special
6 conditions; is that correct?

7 MR. GLENN: That is correct.

8 CHAIRMAN: We have a motion. Do I have a
9 second?

10 MS. THOMPSON: Second.

11 CHAIRMAN: Second by Tori. All in favor of
12 the motion raise your right hand.

13 (BOARD MEMBERS BILL GLENN, TORI THOMPSON, JUDY
14 DIXON AND LEWIS JEAN RESPONDED AYE.)

15 CHAIRMAN: All opposed.

16 (BOARD MEMBER FRED REEVES RESPONDED NAY.)

17 CHAIRMAN: Motion carries.

18 RELATED ITEM

19 ITEM 3A

20 1606 Ohio Street & 36 Hanning Lane, zoned R-4DT
Inner-City Residential
21 Consider a request for a Variance in order to reduce
22 the street yard building setback along Ohio Street
from 25-feet to 20-feet from the property line, to
23 reduce the street yard building setback along Hanning
Lane from 25-feet to 10-feet from the property line,
and to reduce the rear yard building setback from
24 20-feet to 10-feet from the interior property line to
the south.

25 Reference: Zoning Ordinance Article 8,
Sections 8.5.11(c) & 8.5.11(e)

1 Applicant: Mike Ballard; Darrell & Merry Hale

2 MR. PEDLEY: The subject properties is
3 combined to form a quarter acre of vacant land on
4 which the applicant intends to construct a group home.

5 In order to accommodate the required parking
6 and construct the building as desired, the applicant
7 has requested a variance to reduce building setbacks
8 along both road frontages, as well as along the rear
9 where the subject properties adjoin the residential
10 property to the south.

11 As further detail of the Staff Report, the
12 OMPC Staff found that the requested variances to
13 reduce the street yard building setback will not
14 adversely affect the public safety and will not cause
15 a public nuisance because the desired location will
16 not violate sight triangle along the intersection of
17 Ohio Street and Hanning Lane or at Ohio Street and the
18 adjoining alley.

19 Also granting these variances will not alter
20 the essential character of the general vicinity, it
21 will not allow an unreasonable circumvention of the
22 zoning regulations because there are other residential
23 structures in the general vicinity that are located
24 within the building setback along both roadways.

25 Additionally, the requested variance to reduce

1 the rear yard building setback will not cause a public
2 nuisance, will not alter the essential character of
3 the general vicinity, it will not allow an
4 unreasonable circumvention of the zoning regulation
5 because if the building were oriented towards Hanning
6 Lane instead of Ohio Street, the building could be
7 located as close as 5-feet to the property line
8 without the need for a variance.

9 Additionally, granting this variance will not
10 adversely affect the public safety because the
11 structure will easily maintain the 10-foot separation
12 distance between residential homes as required by the
13 Kentucky Residential Building Code.

14 Staff recommends approval with the conditions:

- 15 1. Obtain approval of a minor subdivision
16 plat consolidating the two subject properties;
- 17 2. Obtain approval of a site plan or final
18 development plan; and,
- 19 3. Obtain all necessary building, electrical
20 and HVAC permits, inspections and certificates of
21 occupancy and compliance.

22 We would like to the enter the Staff Report
23 into the record as Exhibit C.

24 CHAIRMAN: Is there anyone that has a question
25 or a comment about this item?

1 (NO RESPONSE)

2 CHAIRMAN: Anyone on the board have a question
3 or a comment about this item?

4 (NO RESPONSE)

5 CHAIRMAN: Any questions?

6 (NO RESPONSE)

7 CHAIRMAN: I'm ready for a motion.

8 Mr. Glenn.

9 MR. GLENN: I would make a motion to approve
10 this variance based on the information presented here
11 tonight, the Staff Report; also the Findings of Fact 1
12 through 4, and that they also meet the three special
13 conditions.

14 CHAIRMAN: We have a motion. Do I have a
15 second?

16 MR. REEVES: Second.

17 CHAIRMAN: Second by Mr. Reeves. Any question
18 on the motion?

19 (NO RESPONSE)

20 CHAIRMAN: All in favor of the motion raise
21 your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously. Next
24 item.

25 ITEM 4

1 6729, 7066, 7522 & 8530 Curdsville Delaware Road &
2 11120 Smock Road, zoned A-R Rural Agriculture
3 Consider a request for a Conditional Use Permit for
4 the extraction of natural gas serving as a
5 conditionally permitted utility facility with
6 operations located at the subject properties.
7 References: Zoning Ordinance Article 8, Section 8.2K4
8 Applicant: O'Bryan Grain Renewable Energy, LLC;
9 O'Bryan Land, LLC

10 MR. PEDLEY: The five subject properties are
11 five existing swine farms located throughout Daviess
12 County, all west of the community of Curdsville. All
13 five properties are zone A-U Rural Agricultural and
14 all surrounding properties.

15 The applicant is proposing to install
16 approximately 6.5 miles of buried pipelines throughout
17 area farmlands with equipment operations at the five
18 subject properties in order to capture methane that is
19 produced at the existing swine farms, and then recycle
20 it into the natural gas system.

21 Such a use Zoning Ordinance would not require
22 any parking spaces nor landscaping elements; however,
23 the board can require additional parking or
24 landscaping if deemed necessary.

25 If this application is approved, Special
Conditions should include:

1. Obtain approval of a Minor Subdivision
Plat illustrating the location of the buried pipelines
and labeled as a gas pipeline easement or as a natural

1 gas easement; and,

2 2. Obtain all necessary building, electrical
3 and HVAC permits, inspections and certificates of
4 occupancy and compliance, including any that may be
5 required by the State of Kentucky, the Energy and
6 Environmental Cabinet, and any other entity in which
7 permits, inspections and certificates may be required.

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

10 CHAIRMAN: Thank you.

11 Is there anyone here representing the
12 applicant?

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

15 MR. CAVANAUGH: Steve Cavanaugh.

16 (STEVE CAVANAUGH SWORN BY ATTORNEY.)

17 MR. CAVANAUGH: Just checking. Is now the
18 perfect time to make my presentation?

19 MR. HOWARD: Whenever you would like.

20 MR. CAVANAUGH: I have a couple of people with
21 me that will make remarks.

22 Again, Steve Cavanaugh. The primary purpose
23 of this is to really have an opportunity to explain
24 the project. I know that the board has had a chance
25 to receive the prepared materials. Also want to give

1 a little bit of background on renewable natural gas
2 and I want to give some very specific examples that
3 show pictures, photographs of a very similar project
4 to help the Board understand the use and engagement in
5 the community.

6 Before I do that I actually want to introduce
7 Tyler Henn. He is with Clean Energy. He's going to
8 make a couple of remarks. He is the project owner.
9 Couple of remarks.

10 MS. KNIGHT: If you could state your full name
11 for the record, please.

12 MR. HENN: Tyler Henn.

13 (TYLER HENN SWORN BY ATTORNEY.)

14 MR. HENN: Thank you for giving us this
15 opportunity. My name is Tyler Henn representing Clean
16 Energy in this project. Clean Energy, we're the
17 largest natural gas transportation field provider in
18 the U.S. We were founded by T. Boone Pickens, our
19 current CEO, and Andrew Littlefair, 25 years ago. We
20 own and operate about 500 fueling stations across the
21 U.S. We fuel long haul fleets, trans-agencies, and
22 any fleet that can really benefit from the economic
23 and environmental benefits of natural gas.

24 We have long list of the customers including
25 UPS, Amazon, Republic Services, waste management,

1 Advance Disposal. We work with major trans-agency, LA
2 Metro, New York Metro, and trans-agencies across the
3 U.S. We work with a lot of airports across the U.S.
4 as well.

5 We partner with farms and landfills to capture
6 the gas that gets produced from the decomposition of
7 waste. Steve will get more technical on that; how
8 we're going to be capturing the gas to get reduced to
9 this and we deliver that gas to our customers.

10 So this fuel is unique because it's considered
11 kind of negative carbon fuel. Not only is it pulling
12 carbon out -- your pulling carbon out of the air and
13 turning back the clock. That's what's really unique
14 about the dairy and swine farms in capturing that gas.

15 I would like to again thank the residents, the
16 Commission and O'Bryan Grain Farms for not only
17 cleaning the air in the community but also helping
18 cleanup our transportation industry.

19 I'll turn it back to Steve. Thank you guys.

20 MR. CAVANAUGH: Thank you, Tyler.

21 Thanks to the Staff because it's been helpful
22 to understand the process here to go through and
23 deliver the project and have an opportunity to
24 explain. And I'm appreciative of the community as
25 well. We've had some phenomenal community engagement

1 talking about the project, listening to concerns and
2 answering questions and so forth.

3 Again, to get into the presentation, I'll make
4 this as quick as I can, but also I think it's
5 important that the community understand what it is
6 that we're trying to do really capturing the methane
7 that's going in the atmosphere and actually have a
8 beneficial use of that methane.

9 Very quickly. I know you have a slide deck in
10 front of you. Hopefully the audience will see the
11 slides I've got there.

12 Just a real quick overview of the project
13 itself. This is showing the layout. If you look at
14 it, what we have are at the end of the line, I know
15 it's a little hard to see those that are in the
16 audience, but hopefully on your screen you can see it
17 will clearly.

18 Where we're constructing either new digesters
19 on each of the five farms that are there. Those farms
20 are Main Sow Farm, moving from left to right -- right
21 to left on the screen. Main Sow Farm to Hardy Sow,
22 Iron Maiden, Lone Oak and then Doby. Then you'll see
23 that there's actually a connection to Texas Gas.

24 Atmos Energy is a partner in this project.
25 They will be receiving the renewal natural gas after

1 we capture it and clean that gas.

2 From each of the farms, the blue line that
3 you'll see, especially you can see it clearly coming
4 from Iron Maiden Farm, that's actually gas gathering.
5 Once we receive it from the farms, we actually
6 transport it back to Main Sow where that gas is
7 actually further cleaned and then injected into Atmos
8 Energy's line.

9 The orange line on the map is Atmos Energy
10 line. They will be receiving and operating that line
11 in the future.

12 So a little bit of the broader review. I
13 think it's important to give now a background on what
14 is bioenergy, what is RNG, Renewable Natural Gas.

15 Very quickly, I'm not going to read each of
16 the bullet points, but it's a conversion of biomass
17 into renewable fuels. There's many feed stocks that
18 are out there, animal manures. There's also material
19 from crops, municipal waste water, treatment facility
20 and so forth.

21 As that waste is broken down, there's organic
22 material that actually will admit methane gas. It's
23 the capturing of that gas.

24 Very quickly in graphic form. To see, again,
25 some of those sources that were on that previous slide;

1 livestock waste, crops, food waste, that will go into
2 anaerobic digester. This is a digester in the absence
3 of oxygen. This particular series of bacteria
4 actually breakdown that waste without having it
5 exposed to the atmosphere. So we're capturing all of
6 the gas in essence that would be emitted from the
7 process.

8 Then there's a biogas and a digestate. As we
9 are further processing that waste, we're densifying
10 that waste substance there. That then generates the
11 product of the heat, electricity and then biomethane
12 which we'll be talking about in this project.

13 Moving along. I wanted to help folks get an
14 understanding because I realize that in many families
15 this may be the first time you've seen a digester.
16 What is that? How does it relate? Some of you may
17 have never stepped onto a hog farm or how does a hog
18 farm operate and what's the process.

19 So in looking at this graphic here, you can
20 see from the barns, and those fans that actually pigs
21 don't sweat. So they have no way to keep themselves
22 cool. In many cases, a lot -- situations from hog
23 farms actually comes from barns because you have to
24 actually ventilate the barns themselves because the
25 animal has to stay cool. That's what those big fans

1 on the end of the barns are. If you've never seen
2 them, that helps you understand why in an agricultural
3 situation there is odor associated not just with the
4 lagoons, but also with the barns themselves.

5 That waste is trapped under the floor. So the
6 animals are actually in the barns. They defecate in
7 the floor. It's captured into a pit. Then that pit
8 is actually flushed in what we see the waistline there
9 that come into the digester.

10 As it stands now, in most cases at O'Bryan
11 Grain Farm's facility, those are open air anaerobic
12 lagoons that were designed to, NSPS standards, as an
13 anaerobic permitted facility. Then through anaerobic
14 bacteria actually breaks down that waste.

15 What this project does is actually captures
16 that waste and redirects it to a new engineer
17 digester. That engineer digester has a cover over
18 that. That's HDPE or high density polyethylene. So
19 all of the gas when we have working and creating the
20 methane is captured under that cover so that serves as
21 our storage vessel for the fall gas. I wanted you to
22 see that.

23 The secondary piece of that is after treatment
24 we actually will be going to the existing lagoons that
25 are there. Those lagoons over time will actually

1 transfer from an anaerobic waste treatment lagoon, or
2 pond in some cases that they're called, to actually
3 over time they get healthier and healthier because we
4 have less organic loading going to those facilities to
5 a bacteria change from simply anaerobic bacteria to
6 anaerobic bacteria, facultative bacteria in a middle
7 region and then actually aerobe bacteria in the
8 surface. So over time the ponds are actually cleaner
9 and there's actually even less midst of odor down the
10 road as well. So this is a very positive thing. In
11 many cases this is why these type of projects are
12 being sought out and approved for many reasons. Not
13 only in gas collection, but also improvements in the
14 community.

15 So individually on each farm, I will move very
16 quickly through these to get to questions and other
17 comments that are there.

18 This is Main Sow. What's proposed at Main Sow
19 is actually to cover the southern portion of the
20 lagoon. So this will be construct a new separation
21 between the north and south lagoon. So that lower
22 section will be covered. All of the waste would be
23 diverted from the barns into that southern portion of
24 the lagoon and actually would change to an anaerobic
25 digester itself. So we're covering a portion of that

1 lagoon.

2 At the bottom of the screen you'll see a gas
3 upgrade site. Main Sow is where all of this bio gas
4 is actually gathering. Falls back to where we clean
5 the gas to Atmos Energy to gas standard and then we're
6 able to inject it into the pipeline.

7 So I'll move quickly now to Hardy Sow Farm.
8 Hardy Sow Farm there's a new anaerobic digester that's
9 planned to be constructed. This will be an anaerobic
10 digester that is dug and then lined and then covered.
11 So it's a new engineered system that is baffled.
12 There's mixing that goes into these basins as well,
13 into these digesters which helps to enhance gas
14 production and microbial light.

15 Moving on to Iron Maiden. Also a new
16 anaerobic digester that's located. You see the
17 proximity there.

18 Doby Farm, this has actually two lagoons. So
19 the actual easternmost lagoon on the screen looking
20 there would be covered and also equipped with mixing
21 and baffling. Then we use the lagoon to the left or
22 the westernmost lagoon for finish.

23 On each of these as you see, the existing
24 lagoon we have a secondary, it's termed now a
25 secondary treatment pond or treatment vessel that's

1 there that actually captures that process waste after
2 we get enter the digester.

3 The last one is Lone Oak Farm. Again, a new
4 engineer digester that will be constructed in a
5 similar fashion. Each of these, 100 percent of the
6 manure from the barn is directed to the actual
7 digester themselves.

8 So very quickly I want to do an example and be
9 able to show some photographs what are actual, what
10 they will look like to the community out in the field.

11 This is a project in North Carolina, Optima KV
12 which was one of the first inject natural gas into the
13 natural gas pipeline. Very similar layout. Five
14 individual digester systems that are there. The fifth
15 is actually off the screen here, but for the graphic
16 to show that.

17 This is actually showing an aerial shot. To
18 the left of the barns you'll actually see what an
19 anaerobic digester very similar to what is being
20 proposed on the O'Bryan Farms looks like. It's
21 actually ballast. That keep that cover from flopping
22 as it is filling with gas. So the structural that we
23 are able to maintain and control the gas and the gas
24 collection and storage. Then also in a way that we
25 can control from a rainwater standpoint. We pump and

1 control that rainwater that falls on that cover.

2 To the right you'll see an existing anaerobic
3 lagoon. Very much, this is in the early stages of the
4 project, it has that pinkish color that's reflected.
5 If you've been on a hog farm where it's an in aerobic
6 bacteria state, the anaerobic digestion or anaerobic
7 treatment state and the color is pinkish. Over time
8 what we've seen is this digester that has transferred
9 into the lagoon has now got more of a pond-like
10 characteristic. We've actually seen ducks in this
11 actual facility here, the improvements that happen
12 there in the field.

13 Again, a close up of the actual cover itself
14 showing the ballast.

15 There is an example of a mixing pumps. In
16 some cases based on topography, the barns actually
17 will go into an influent pump station which pumps the
18 waste into the digester. In all case there's a series
19 of mixing pumps that look very similar to these that
20 actually mix that waste into the digester itself.

21 At the farm the gas is lightly conditioned.
22 What that means is we're taking the water out of the
23 gas to be able to transport it back to Main Sow Farm
24 where we can actually treat it and inject it. So
25 that's what the conditioning skids there would do, and

1 that's really for water and for some particulates
2 related to moisture.

3 How it looks in the field. Again, another
4 view. You can see abdications directly to the swine
5 farm that's there.

6 Then this is similar to what would be
7 installed at Main Sow Farm. At the south end of that
8 existing lagoon, and this is what is called a GUS or
9 Gas Upgrading System. The technology is really quite
10 remarkable in that it basically is extracting methane
11 from the gas stream and then allowing nitrogen oxygen
12 and other components to pass through. The technology
13 that we've selected is able to actually do that at
14 about a 99 percent pure methane. I'll show a
15 screen-shot of that in just a moment.

16 Another shot there, a little bit about the
17 technology. I'm glad to answer questions about that
18 when we get to it. The sense of scale for the unit
19 that's there.

20 Gas quality. We have to meet Atmos Energy's
21 gas quality spec. They have pipe specifications for
22 nitrogen, oxygen, BTU value because this is for public
23 service, for public use, the gas, in the area. This
24 is the gas testing and basically assuring that we're
25 meeting that gas quality for Atmos Energy for gas.

1 Just a little bit about instrumentation. Some
2 of the questions have been about how it would operate,
3 how we understand control. So this is showing methane
4 at 99.35 percent. This is actual screen-shot of the
5 operating facility. Then the gas, typical gas flow
6 with nitrogen at 46.4 percent.

7 I know that was quick. I'm trying to give as
8 much of an overview for you to see graphics. We
9 believe this is very much something that will enhance
10 existing operations at the farms from an air quality
11 standpoint, a production of methane that's going in
12 the atmosphere, and certainly capturing this gas that
13 is being wasted for beneficial reuse.

14 With that I will accept questions or comments
15 as appropriate.

16 CHAIRMAN: Thank you, Mr. Cavanaugh.

17 Is there anyone in the audience that has
18 questions of Mr. Cavanaugh?

19 Come to the podium.

20 MS. KNIGHT: Sir, if you state your name for
21 the record, please.

22 MR. MURPHY: Rick Murphy.

23 (RICK MURPHY SWORN BY ATTORNEY.)

24 MR. MURPHY: I have a question for you, Steve.
25 At the end of the day when all is said and done and

1 this process is operating, basically we'll still have
2 lagoons and we'll still have --

3 CHAIRMAN: Sir, direction your questions to us
4 and we'll get them from Mr. Cavanaugh. So your
5 question needs to come to us.

6 MR. MURPHY: I was wanting to ask at the end
7 of the day when this process is built we'll still have
8 lagoons and we'll still have -- the problem with the
9 removal system is, of course, methane. The reason why
10 that I'm kind of pro for this project is because of an
11 incident that happened last year. A neighbor in the
12 area at that particular time their air monitoring
13 equipment that was established on this property,
14 stepped outside his residence at that particular time
15 with the amount of hydrogen sulfide gas in the
16 atmosphere, he would have probably succumb to the gas,
17 passed out and probably died.

18 Now, this information was based on the
19 Kentucky Division of Air Quality from Mr. Mac Cann.
20 He is director of Air Quality of Owensboro.

21 This has been an ongoing problem for at least
22 six years. I moved in the area in 2009. At that
23 particular time we didn't have an industrial truck
24 wash in our area. I don't want to switch gears here,
25 but it was planted right in the middle of our

1 community. Then Mr. O'Bryan has expanded his herd,
2 swine.

3 There's several issues to this and several
4 problems. One of those being, of course, methane will
5 be somewhere in the neighborhood of 65 to 70 percent;
6 30 to 35 percent carbon dioxide. What we would like
7 to see, we do it very -- this would be a good start
8 for the removal of gases of these particular hog
9 lagoons and because I live a mile from the Lone Oak
10 operation and we can smell sometimes, especially when
11 the wind is out of the north, northwest, it very much
12 exceeds the MCL for hydrogen sulfide.

13 Also, on the end product, I would like Steve
14 to address the ammonia contents because this goes out
15 to the spray fields. They have what they call a
16 central pivot, and the central pivot is more or less
17 aerosols, the liquid. Ammonia gas has been known, in
18 research, to travel 300 miles strong enough to fall
19 into a body of water and form a fish kill. So we
20 don't want to magnify that particular gas anymore.

21 Secondly, we would like to see this as a
22 beginning. The end product of what we would like to
23 see is all of the gas holes connected to a gas removal
24 system and the sludge be transported to a treatment
25 plant. This will eliminate the lagoons. It will

1 eliminate the spray fields. Also, the operator of the
2 waste water treatment facility would produce a better
3 methane I would think and also it would produce a bio
4 solid which is highly in demand. Very high quality.
5 So this will be two excellent remedies for the farmer.

6 CHAIRMAN: Let's see if we can get
7 Mr. Cavanaugh to address where you are up to this
8 point.

9 MR. CAVANAUGH: Thank you, Rick.

10 I want to make sure that I'm addressing what I
11 should be addressing. So I'll pull maybe nitrogen and
12 ammonia as the key item. If it's okay, let's make
13 sure I'm giving you what you're looking for.

14 When you say address the question, can you let
15 me know, is the ammonia a question that I should
16 address? I just want to make sure I'm doing what I
17 need to do.

18 MS. KNIGHT: That's what I heard. Ammonia
19 content for the end product.

20 MR. CAVANAUGH: Okay. I very much appreciate
21 the opportunity to engage with the community. If you
22 have at your desk, this will be most efficient, the Q
23 and A document. So we had a summary document and
24 question 26 is actually I think very, very germane to
25 this specific question that we have.

1 So the question that Rick asked when we were
2 together, again, it had been fantastic to learn and
3 understand.

4 The question was, "Does the digester in the
5 second lagoon increase ammonia?" I wanted to kind of
6 read that because I think that's important of the
7 response to this because it is something that could be
8 a concern. I want to make sure that Rick here
9 understands.

10 The complete management system ammonia
11 emission should remain about the same. If you think
12 about that intuitively, we're not adding any
13 additional waste to this process whatsoever. The same
14 amount of input into the treatment system today are
15 the same amount of inputs into the treatment system in
16 the future. Perhaps even less. The concept is from
17 the nitrogen cycle it's very dynamic. So the
18 conversion of organic nitrogen from manure as well as
19 crop residues and stables from any farming operation
20 or planted areas. To other forms of nitrogen such as
21 ammonia, ammonium, nitrate, nitric, nitrogen gas
22 occurs all the time naturally.

23 In addition of the anaerobic digestion to the
24 farm, which is what we talked about the cover units
25 that is there, to the farm for manure management

1 system actually speeding up the process of converting
2 the organic nitrogen of the manure to ammonia and
3 ammonium as compared to the existing lagoons.

4 It's normal for the organic nitrogen to be
5 converted to ammonium and ammonia regardless and will
6 do so in lagoons and in the crop fields.

7 I do encourage you to read this because it was
8 a thoughtful question and I wanted to make sure that
9 it deserved a thoughtful answer.

10 What we're doing in essence is, yes, we're
11 still having a lagoon and we're still having a spray
12 because that is the ultimate disposal of the water and
13 also of the final phase of the nitrogen, the nutrients
14 that are there. The croplands takes up that nitrogen.
15 What happens in this process is actually a more robust
16 uptaking by these plants. More efficiency after we go
17 through the digestion process. Digester we now have
18 less organic loading. When I got a little tongue tied
19 and was talking about pink lagoons and the change in
20 color and improving that, because the health of them
21 is improving in the lagoons. So the spring water
22 that's we're spraying is actually healthier water
23 that's there and actually it is also more efficient
24 for plants to uptake that nitrogen faster.

25 I think I answered two questions. Will we

1 still have lagoon and spray? We will. It's going to
2 be more effective and efficient means. Then on
3 ammonia as nitrogen actually we're not increasing.
4 We're actually improving how plants will be uptaking
5 the nitrogen in the field. Hopefully that helps Rick.

6 CHAIRMAN: Thank you.

7 Do you have other questions?

8 MR. PIERCE: Rather than a question.

9 CHAIRMAN: You need to go over there.

10 MR. MURPHY: Can I go back to the mike,
11 please?

12 I want to give a briefly overlay of the
13 problem with the concentrated operations. Smithfield
14 Foods, of course, was bought out by the Chinese.
15 Since they own the biggest and largest processing
16 plant in the world, North Carolina, there's numerous
17 amount of problems. One being -- I'll just give you a
18 real brief scope of the situation of hog waste.

19 Hog waste, if you take railroad coal cars and
20 couple them end to end and fill them up with hog
21 waste, they will circle the Earth four and a
22 halftimes. The hypoxia down in the Gulf of Mexico has
23 been known to -- they come down to ammonia content of
24 the water and we don't want -- it's hard to say no to
25 this project because this is really needed project in

1 our area. I want him to get it.

2 Let's take it one step further. Right now
3 Mr. O'Bryan has what they call Kentucky No Discharge
4 Permit. There's another permit out there called KDP.
5 Then there's the Kentucky permit. Then we have the
6 MPDES permit that comes from and is issued by the
7 federal EPA.

8 If we can get this plant, one central plant
9 built and there are several designs available and pump
10 the sludge from these barns to a central plant process
11 it there and apply to MPDES permits, not only will he
12 be cleaning up the environment and the streams, of
13 course, we get into biochemical demand. We get into
14 suspended solids. The list is long. Our problem is
15 the gases in the air, heavy truck traffic, the small
16 flying insects, and you still at end of the day, as I
17 say, you're going to have lagoons and you're going to
18 have the spray field with aerosols. There are setback
19 limitations to these. Kentucky Department of
20 Agricultural handbook that has setback limitations to
21 where they built lagoons. How close you can build to
22 a residence and so forth. So far those setbacks more
23 or less have been neglected.

24 One of our reasons for that is the Owensboro
25 Planning Commission has totally almost exempted

1 agriculture coverage. There is some mention of
2 setbacks for buildings. There is a brief message in
3 there about the flood plains, but that's to the
4 extent. There needs to be something hard core set.
5 We need some capital regulations out there. Not just
6 for --

7 CHAIRMAN: Sir, that's not anything that we as
8 the board have privy to. We don't regulate
9 agricultural uses. What we're here tonight to do is
10 to determine whether we need a Conditional Use Permit
11 for what Mr. Cavanaugh is asking for, which you seem
12 to be thinking is a good idea.

13 MR. MURPHY: Yes, it is. I'm just giving you
14 the pros and cons. At the end of day it is beginning,
15 it is a good beginning, to capture this gas to get it
16 out of the atmosphere. We all know about greenhouse
17 gasses. It also would help our situation with our
18 community. We have several people with COPD, asthma,
19 and different lung conditions, and this would really
20 enhance our air quality in our area. This is what we
21 worry about.

22 CHAIRMAN: So it's a good thing, right?

23 MR. MURPHY: Yes. It's a public safety issue.

24 CHAIRMAN: Okay. Thank you.

25 MR. MURPHY: I'm just trying to give you the

1 pros and the cons and what is behind it biologically
2 speaking and chemically speaking also.

3 CHAIRMAN: Thank you.

4 You had your friend who wanted to add to that.

5 MR. PIERCE: I wanted to --

6 CHAIRMAN: You need to go over there.

7 MR. PIERCE: Okay. I have a handout that I
8 would like to give to you. You don't have to read it
9 now, but I would appreciate it if you did. I think it
10 will give you a better understanding of the situation
11 and some of the questions that arise.

12 MS. KNIGHT: Sir, if you could state your name
13 for the record, please.

14 MR. PIERCE: My name is Donald Pierce.

15 (DONALD PIERCE SWORN BY ATTORNEY.)

16 MR. PIERCE: There are two things I would like
17 to identify for you. The first is with reference to
18 the project at hand. We have a community that's been
19 suffering for a number of years because of hogs
20 operations in our area. Those operations will be,
21 those operation are causing harm to our community of
22 about 50 families that live in the Curdsville and
23 Mount St. Joseph area.

24 What I would like to identify is that the
25 community feels this is project is a good project, but

1 as was said is a step in the right direction. It's
2 not a resolution of the problem. It's a good
3 commercial project, but one must understand that hog
4 affluent consists of liquids and solids which together
5 generates gases. The gases in this project are
6 commercial item. They can be sold. The owner is
7 taking a step in engaging Cavanaugh and Atmos gas in
8 proposing a solution to the gas. However, it does not
9 address the solids and the liquids. The emissions
10 that we get in our community, which the energy and
11 environmental cabinet after four and a half years
12 finally put instrumentation into the field that will
13 read this omission of hydrogen sulfide. They have in
14 fact did a disservice to us because the EPA
15 established an H2S standard for ambient air in 2016.
16 In 2017 the state submitted a state implementation
17 plan which was approved by the EPA and the state did
18 not provide any of the regional air offices with
19 instrumentation that could read that standard. So
20 effectively until our community in November of 2019
21 requested the state to provide instrumentation, which
22 they finally did in September of the next year, 2020.
23 As Rick was saying they were finally able to identify
24 that H2S was being produced.

25 Now, this has nothing to do in a sense with

1 this project because there is a root cause for the
2 production of these gases that we've been
3 encountering. That root cause is that in the year
4 2010 Mr. O'Bryan who had lagoons which were sized for
5 further growth started installing or expanding the
6 number of barns he has. What you have is a situation
7 now which can't be substantiated by counting hogs so
8 that you know whether or not the permits that were
9 issued were exceeded. What you have now is we have to
10 measure or identify discharges in springs. We have
11 photographs from a camera placed over Smock Creek,
12 which is a discharge avenue for Lone Oak Farm, which
13 is one of his largest, that shows on November 6th and
14 7th there was a discharge of effluent from that
15 lagoon. You could see over a period of hours whether
16 the Smock Creek is at low level. Time frame forward,
17 three hours it's raised. Time frame forward another
18 three hours, it's raised again. Then it starts to
19 decrease in value. This happened on a Saturday and
20 Sunday.

21 On November 17th that same thing occurred
22 overnight.

23 MR. REEVES: Madam Chairman, can I ask a
24 question real quick?

25 CHAIRMAN: Sure.

1 MR. REEVES: Were these cameras placed with
2 the owner's permission?

3 MR. PIERCE: I'm sorry?

4 MR. REEVES: Were these cameras placed with
5 the owner's permission?

6 MR. PIERCE: The cameras are not on his land.
7 They are downstream from it.

8 MR. REEVES: Okay.

9 MR. PIERCE: On land owned by a member of the
10 community. That is, if I'm not mistaken, trespass
11 because he is discharging effluent onto someone else's
12 property. It eventually ended up in the Green River.
13 That's where all of it is happening.

14 What I just pointing out is the fact that we
15 have a situation where this project is a good start.
16 We support it, but it doesn't answer the question.

17 CHAIRMAN: Sir, I'm going to interrupt you
18 because I don't think that this board can answer those
19 questions.

20 MS. KNIGHT: What is the question?

21 MR. PIERCE: I'm not asking the board to do
22 anything at this moment. I'm just trying to draw your
23 attention to this environment that we're living in.

24 My second point is identifying the root cause.
25 The root causing being that there are more volumes

1 than the bayou can be detained with. Now, we have
2 dealt with the Energy Environment Cabinet. We've
3 dealt with our local government, namely Daviess County
4 Fiscal Court, and there seems to be a conflict that
5 may be resolved as to authority or who has
6 responsibility. We think that it merges on the end or
7 merges on planning and zoning's authority. We don't
8 know.

9 Let me give you an example. The truck wash
10 that was built on Highway 258 in 2015 was
11 misrepresented in the permit application and we now
12 have a hog waste lagoon located 570 feet from a
13 private residence. I'm not sure where the authority
14 for allowing that to happen lies.

15 So what I've done is giving you a handout that
16 describes the situation of the environment we're
17 living in. I'm seeking some advice because there
18 seems to be a conflict. Both with reference to our
19 county government doing its job, protecting the
20 citizens and not showing favoritism to special
21 interest, and incompetency and perhaps corruptness on
22 the part of the Energy Environmental Cabinet.

23 I would like you, if you would be kind enough
24 to, to review the material. I have an appointment
25 with Mr. Trey Pedley tomorrow afternoon to give him

1 the same information I've given you and have an
2 initial discussion. But it seems like there's a
3 conflict with reference to planning and zoning in the
4 sense that who sets where somebody, who decides where
5 you can build a lagoon. I'm sure you would not like a
6 lagoon in your backyard and we don't necessarily like
7 it either. Yet, the county has allowed it. The state
8 has allowed it. The state has done so in
9 contradiction to their own regulations. They have
10 ignored it. Their regulations say you can't build a
11 hog lagoon or any animal waste lagoon any closer than
12 1500 feet from a residence, which isn't the owner's
13 residence, the owner of the lagoon's residence.

14 What I'm asking is, one, would you please read
15 what's in there? We would appreciate, you know, you
16 don't have to do that now obviously. There's a lot of
17 documentation there. I would like to get back with
18 representatives on your staff and discuss this issue
19 and maybe explore how can it be controlled because
20 it's not controlled now. People are suffering from
21 it.

22 This project is going to be helpful because it
23 will take care of the gas. It does not address the
24 issue of the continual discharge. This discharging
25 has been going on for years. The owner is in a

1 position where he has to do that or either reduce the
2 number of hogs he has, and nobody knows how many hogs
3 he has except him.

4 When we met with the counsel, the general
5 counsel in February of 2020 of the new administration,
6 Ms. Elizabeth Manner, we talked about this situation.
7 I asked her the question, are you going to count hogs
8 at these installations so that you know whether or not
9 they are exceeding the permitted number of hogs? She
10 came back to me and she said, we can't do that. I
11 said, why? She said, that's a -- what's the word she
12 used. That's a question that we can't address.

13 MR. MURPHY: She said it was a sensitive area.

14 MR. PIERCE: Oh, it was a sensitive issue.
15 That was the answer I got. That question is still out
16 there and it's never been answered in the last two
17 years.

18 To summarize, our community, the 15 families
19 that we're talking about that's been harmed are
20 supportive of this, it's a first step. It does not
21 address the issue of too much liquid, too much
22 effluent. It doesn't seem like our local or our state
23 governments are interested in doing that. We think
24 because a lagoon located 575 feet from a person's
25 residence could be a planning and zoning situation,

1 but on the other hand if you classify something as
2 agricultural in this state, you can do anything.

3 I would appreciate any advice you can give us
4 on how to address this because.

5 CHAIRMAN: How about we read the information
6 that you've given us and if we have any idea of which
7 way to tell you to turn we would.

8 MR. PIERCE: Oh, no, I'm not asking for an
9 answer now.

10 CHAIRMAN: I know that.

11 MR. PIERCE: What I'm asking you is we would
12 appreciate, our community would appreciate some help
13 in this matter.

14 I'll give you an example of a result. An army
15 retiree from ExxonMobil, I found that I wanted to live
16 in this area. I built a house at Mount St. Joseph.
17 The land and the home came to an appraised value of
18 \$300,000. I'm retired now. In 2015 that hog lagoon
19 was built next to a neighbor of our property, only 575
20 feet from his house. The local PVA here now values my
21 property at 110,000. Now, I'm in my mid 80s. Either
22 my wife or I are going to pass away not too long from
23 now and one of us is going to be left trying to sell
24 our house because it will a be a short time thereafter
25 we won't be able to maintain it by whichever of us

1 survives. That's not right.

2 We would appreciate your help because we need
3 to somehow get to protecting more than agriculture,
4 protecting the citizens of the state, the
5 Commonwealth. It doesn't appear like our local
6 government is doing that and neither does it appear
7 that the state is.

8 I guess I'll leave it at that. I'd appreciate
9 your consideration in that. I will be talking in more
10 detail with Mr. Pedley tomorrow. See if he has any
11 suggestions. The reason I spoke to Mr. Pedley is
12 because Mr. Cavanaugh suggested that and apparently he
13 had conversation with him previously about this
14 project. Thank you for your time.

15 CHAIRMAN: Thank you.

16 I think we've heard everything that is
17 pertinent to this application that we can.

18 Does anyone have any questions, people on the
19 Board?

20 Mr. Jean.

21 MR. JEAN: I have a question for Mr.
22 Cavanaugh, actually two questions.

23 During the construction will there be a lot of
24 people working, lot of vehicles?

25 MR. CAVANAUGH: From a definition of "a lot,"

1 I would say that probably four to five at the guess
2 upgrading site. There will be construction equipment,
3 cranes, trackhoes and excavation equipment where the
4 new digesters will be located. As far as what I would
5 consider to be transfer trucks or anything like that,
6 that's sporadic delivery of equipment, skids. So it's
7 not something that I would consider as a major
8 construction issue of hundreds of cars there a day.

9 MR. JEAN: During the construction will the
10 applicant provide off-road parking?

11 MR. CAVANAUGH: Yes.

12 Mr. JEAN: My other question is: Will this
13 project reduce the smell and reduce gases?

14 MR. CAVANAUGH: Absolutely.

15 MR. JEAN: Thank you.

16 MR. PIERCE: May I ask another question?

17 CHAIRMAN: Certainly.

18 MR. PIERCE: I understand what Steve is saying
19 with reference to reduction. However, correct me if
20 I'm wrong, the cleaning of the pond through natural or
21 the addition of cleaner affluent takes a long time
22 before the e-coli count in that is reduced. It
23 doesn't address the volume that's in there. If you
24 consider the fact that the man, that the owner is
25 discharging volume on a regular basis and has for the

1 last several years, and that's principally where the
2 smell is coming from because if you spray, you atomize
3 the spray, the gas escapes. If you dump it in a creek
4 and it bubbles down the creek, you've got a larger
5 area than the area on top of the pond, where unless
6 you have a real strong wind it's not going to travel
7 very far. When you spray or when you discharge and it
8 atomizes and you get a vapor blanket with those gases
9 in it, that smell or, like I said, contain hydrogen
10 sulfide, then that is not addressed by the capture of
11 the methane and its process because the source is not
12 the pond, not the lagoon. The source is the discharge
13 liquid. If the owner did not discharge, he has two
14 alternatives. Either reduce the number of hogs he has
15 or enlarge the lagoon. He's doing neither.
16 Therefore, the only alternative for him to preserve
17 the lagoon, and not have an overflow and if it starts
18 to overflow, it's going to cut a trench in the berm
19 and he'll lose the lagoon.

20 Now, when they had the hurricane in North
21 Carolina, they had lots of rain. The lagoons
22 overflowed and the berms were destroyed and you had
23 that effluent flow all over.

24 In this case what we have is an ongoing
25 situation where the method of control of the liquid,

1 not the gas, of the liquid is the discharge. And I'm
2 using that term to mean spray injection.

3 The second problem with this is --

4 MS. THOMPSON: Sire, can I step in for just a
5 second?

6 MR. PIERCE: Sure.

7 MS. THOMPSON: I'm going to address to this to
8 Mr. Cavanaugh. I have a background in site work in
9 utilities and construction. I've been in it ten
10 years.

11 I just want to know when the project, if
12 everything goes accordingly, when would it start and
13 if you have a plan for, I guess for getting rid of or
14 a temporary discharge plan? If he is discharging into
15 the creek, as being accused, is there a temporary
16 measure that you guys plan to do while installing your
17 system?

18 That might help you determine what your next
19 actions are. If he plans to start in three months and
20 they're going to address this issue, it might help.

21 MR. PIERCE: If I may, Steve, do I have your
22 permission?

23 MR. CAVANAUGH: Sure.

24 MR. PIERCE: There are other types of
25 digestive systems in operation. They handled the

1 solids and they produce clean water. Some of them are
2 -- I guess a general category I've heard is sequential
3 batch digestives. That is not what's being planned
4 now because this is a commercial operation in which
5 the owner puts in no money on his own. He's got no
6 skin in the game and he's going to collect lease fees
7 for the property and he's going to collect a fee on
8 the gas. In order for the other type of digester to
9 put in, it requires an investment, and I'm not sure
10 that the owner is willing to do that.

11 Have I addressed that question or is there
12 anything you needed to add?

13 MR. CAVANAUGH: No. You've answered the
14 question.

15 MR. REEVES: Can I make a comment?

16 CHAIRMAN: Yes, please.

17 MR. REEVES: One of the issues you need to
18 realize we have to deal with, when we're dealing with
19 issues in the city, it's a lot easier to deal with
20 issues in the city because you have a neighborhood,
21 everybody is close together. When you get out into
22 the country, one of the disadvantages of living in the
23 country is mostly really undesirable projects that are
24 undertaken are going to be in the country. This is a
25 project that if we're going to very hogs for food,

1 somebody has to deal with that waste. So therefore
2 sometimes we have projects that none of us really
3 like, but projects that are absolutely necessary. We
4 have to look at projects like that rather than we
5 really don't like it, but are they necessary.

6 MR. CAVANAUGH: Thank you for your question
7 and also your profession.

8 From a perspective of the time, it's about 18
9 months of construction period. There are some very
10 long lead time equipment. Over a year on some
11 equipment that has been to be purchased. In three
12 cases, we're actually improving by increasing the
13 treatment volume. In three cases. So there are three
14 cases that we're building new analytic digesters on
15 the farm. That's additional treatment capacity that's
16 there.

17 Other the two cases in the case of Doby we're
18 recovering lagoon, and in the case of Main Sow we're
19 recovering the southern portion of the lagoon. We are
20 not adding treatment volume or capacity there, but we
21 are covering and it has a 90 day retention time. So
22 we don't have and we haven't investigated or observed
23 other than what has been described to us in the
24 community involvement of a direct discharge.
25 Representative Cavanaugh has not observed that

1 physically ourselves. I cannot comment. I absolutely
2 appreciate and do not dispute or doubt anything that's
3 being shared. We're not going to solve that problem.
4 We're talking about solving an in compliance farming
5 operation. Everything that we have reviewed on the
6 nutrient management plans and the actual specialist
7 for that in our conversations with the Division of
8 Water indicated that this is a farm, that's a viable
9 farm that doesn't present commercial risk to the
10 investment of what Clean Energy is putting forward.

11 I think what's being brought up, I will not
12 discount anything in any shape, form or fashion. I
13 have learned a lot from the community as we have sat
14 down and listened. I think that what may have gotten
15 missed in this is there are three instances where we
16 are significantly increasing treatment volume because
17 we're putting in new anaerobic digesters in. Those
18 existing lagoons, Iron Maiden and Lone Oak and Hardy,
19 those existing lagoons are going to be improved over
20 time as are the lagoons at the other two locations
21 too. It does take time. It's not an overnight
22 situation. It's going to take at least a year to a
23 year and a half as the organic loads are produced. I
24 do want to make sure that we do point that out.

25 MR. REEVES: Do you have the option of just

1 leaving manure on the ground?

2 MR. CAVANAUGH: Leaving the manure on the
3 ground?

4 MR. REEVES: Yes. The pig poops, you just
5 leave it where the pig poops.

6 MR. CAVANAUGH: No. Under a nutrient waste
7 management plan it's permitted that the waste must go
8 to the aerobic lagoon. So that's the permitted use
9 and that is through the Division of Water through the
10 permitting process.

11 MR. REEVES: Thank you very much.

12 CHAIRMAN: I think we've reached a point where
13 we need to --

14 MR. JEAN: I'm ready to make a motion.

15 CHAIRMAN: -- make a motion.

16 Trust me, we are sympathetic. I admire your
17 passion, but we need to move on to this project which
18 in your own admission is going to be helpful.

19 Mr. Jean.

20 MR. JEAN: I'd like to make a motion we
21 approve this Conditional Use Permit based on the Staff
22 Report, site visits, testimony presented here today,
23 with the two Zoning Ordinance requirements, and the
24 two special conditions, and the three findings of fact
25 are; these properties are zoned R-1 Agriculture where

1 the operation of the utility facility is allowed by a
2 Conditional Use Permit. This use will help to reduce
3 the odor and gases and have an incredible positive
4 impact on the environment due to the removing of
5 methane. This use and construction will not create a
6 nuisance and will have minimal impact on the
7 neighborhood due to compliance with permits and remote
8 location of the project.

9 CHAIRMAN: We have a motion. Do we have a
10 second?

11 MS. THOMPSON: Second.

12 CHAIRMAN: Second by Tori. Any question on
13 the motion?

14 (NO RESPONSE)

15 CHAIRMAN: All in favor of the motion raise
16 your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 Thank you.

20 -----

21 VARIANCES

22 ITEM 5

23 2024 Highway 81 zoned I-1 Light Industrial (Postponed
24 at the November 4, 2021 OMBA Meeting)
25 Consider a request for a Variance in order to
eliminate the required 10-foot wide landscaping
easement and one required tree per 40-linear feet
where the subject property adjoins lots less than 10

1 acres in size that contain an existing residence in an
2 agricultural zone along the north and west property
boundaries.
3 References: Zoning Ordinance Article 17,
Sections 17.3111(f) & 17.3113
4 Applicant: Mr. Fence; KAS Enterprises, Inc.

5 MR. PEDLEY: This item is a recommendation for
6 denial. Ordinarily when a recommendation for denial
7 we read the entirety of the Staff Report into the
8 record. This item was postponed from last month at
9 which time the entire Staff Report was read into the
10 record. So that will carry forward. Just to give you
11 a summary of what's going on now.

12 This is a property that was zoned I-1 Light
13 Industrial recently in order to put a shop of special
14 trade, specifically a fence company, onto the
15 property. It adjoins residentially used properties to
16 the north and the west I believe it is, in which case
17 the ordinance will require 10-foot wide landscape
18 buffer, a 10-foot tall element, and 1 tree every
19 40-linear feet.

20 The applicant has requested a variance to
21 eliminate the need for the trees and the 10-foot wide
22 easement, but keep the fence as required by the
23 ordinance.

24 Staff has made recommend for denial of the
25 situation because there are no other similar variances

1 in the general vicinity. It would be out of character
2 with the area, and the ordinance does allow some
3 flexibility for development such as an average
4 easement width or the grouping of trees. Because of
5 that we believe this is an unreasonable circumvention
6 of the requirements of the zoning regulations and have
7 recommended denial of this request.

8 We'd like to the enter the Staff Report in its
9 entirety into the record as Exhibit E.

10 CHAIRMAN: Thank you.

11 Is there someone here representing the
12 applicant?

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

15 MR. WEAVER: David Weaver.

16 (DAVID WEAVER SWORN BY ATTORNEY.)

17 MR. WEAVER: I'm David Weaver with Bryant
18 Engineering.

19 The owner is here tonight. I just wanted to
20 review just very quickly what was discussed at last
21 month's meeting just to kind of refresh your memory.
22 I know it's been a long meeting.

23 Last month's meeting basically what I had
24 presented to you guys, from an engineering aspect of
25 the project, the primary reason why the variance was

1 requested is to increase the ability for
2 tractor-trailers to maneuver on the site. If you
3 recall, we talked specifically on the western boundary
4 that the owner really needs every bit of space that he
5 can get to be able to maneuver tractor-trailers on
6 that site plan. That's what all the coloration is, is
7 the truck's path that will be required.

8 With that said, I'm sure you guys remember
9 what was said at last month's meeting. I'll let the
10 owner speak to the variance.

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

13 MR. KING: Sean King.

14 (SEAN KING SWORN BY ATTORNEY.)

15 MR. KING: Sorry about the delay in this
16 process. Seemed like every time I had a meeting, I
17 was out of town. I apologize to drag this out.

18 I'd love the opportunity to share with you
19 what this drawing doesn't show, is the existing
20 properties to the north and west of the proposed
21 property; that one there.

22 If you look at the light blue line that is on
23 the north end in that property line, it's about 7-feet
24 off of that garage. The elevation change from our lot
25 to their lot, I was just out there a few hours ago

1 before this meeting, it's approximately 7 to 8-feet
2 higher. It's a very abrupt transition from our lot to
3 their lot. On that lot line there is an aggressive
4 amount of trees, large trees. Some of them with a
5 diameter of 2 or 3-foot around. As I was there today
6 looking at that, if I were to plant new trees along
7 that line, I'm not going to do as good of a job as
8 those trees already are. The realty of it is if I put
9 a privacy fence on the property line, I'm going to
10 take those trees down. If I replace them with an
11 ordinance by trees to the back corner, it's probably
12 going to -- the result is we're trying to get some
13 sort of privacy or block for existing neighborhoods.

14 With that and the elevation change I would
15 propose a 5-foot setback on that side and I put a
16 fence at the 5-foot and leave all of those full growth
17 trees that are in that 5-foot currently so that we are
18 not changing what he's currently looking at now.

19 The other home to the west, you notice that
20 house is northwest. Again what you don't see here is
21 they're on the same elevation. They're a lot higher
22 than our property. Their backyard does drop down
23 complete level with our backyard or our lot. There's
24 also a lot of trees around her house to the northwest,
25 in the corner of our property as well. If I were to

1 put up a 6-foot tall fence there, she'll see right
2 over it because of how high she is anyway. I'm a
3 little concerned about the trees down the line. I
4 don't know, without asking that neighbor, if I put
5 trees right down the property line I'm going to be
6 adding leaves and things that are going to falling on
7 her property in the back. I don't know.

8 I really need the setback release so that we
9 can turn trucks. The corners are not as important so
10 if you really need me to put some trees in the corners
11 for green space we can. I would like to put a 6-foot
12 tall fence along that property line, and then a 6-foot
13 tall fence along the north line, 5-feet in and leave
14 the existing trees there. I think that will be a
15 win/win for everybody.

16 CHAIRMAN: Thank you.

17 Anybody have questions of the applicant?

18 (NO RESPONSE)

19 CHAIRMAN: No questions.

20 MR. WEAVER: David Weaver again.

21 Just to get the language straight. Because
22 our application requested the elimination of that
23 10-foot buffer on the north side. I think what Sean
24 is asking for is a reduction to a 5-foot buffer on the
25 north side, elimination of the buffer on the west

1 side, that 6-foot fence element would stay on the
2 north side and the west side. That would be a solid
3 fence that complies with the ordinance. I guess it's
4 your discretion on that required trees. He could
5 actually cluster those trees in the corners.
6 Basically it's just a reduction in the width of the
7 buffer. No buffer on the west side and the reduction
8 of 5-foot on the north side, just to try to clarify.

9 MR. KING: If I could add something, if it's
10 helpful. I don't really understand without any
11 questions what the concerns might be. If a taller
12 fence is something that would be more helpful, that's
13 something we could consider as well.

14 CHAIRMAN: Mr. Reeves.

15 MR. REEVES: The question is for Mr. Howard.
16 Have we gotten any calls from neighbors or
17 anyone about this project?

18 MR. HOWARD: No.

19 I'll just add last month Mr. King wasn't here.
20 We did discuss some alternatives, trying to figure out
21 a meet in the middle kind of thing. That seems like
22 what he's proposing tonight.

23 MS. THOMPSON: I'll make a motion.

24 CHAIRMAN: Tori.

25 MS. THOMPSON: I make a motion to approve

1 based on what he's proposing, 6-foot fence, 5-foot
2 off, if I understood that correctly on the north
3 property line. And the findings of fact say it will
4 adversely affect it; although I don't feel like --

5 MS. KNIGHT: With the change that's been --

6 MS. THOMPSON: Although the findings on the
7 Staff review show that they will, I think they will
8 not affect the public health, safety and welfare based
9 on what he has shared with us tonight.

10 CHAIRMAN: We have a motion. Do we have a
11 second?

12 MR. JEAN: Second.

13 CHAIRMAN: Second by Mr. Jean. Any question
14 on the motion?

15 (NO RESPONSE)

16 CHAIRMAN: All in favor of the motion raise
17 your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

20 We have one more motion.

21 MS. THOMPSON: Motion to adjourn.

22 MR. GLENN: Second.

23 CHAIRMAN: Motion by Tori. Second by Mr.
24 Glenn. All in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN: We are adjourned.

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

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

16 WITNESS my hand and notary seal on this the
17 2nd day of January, 2022.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E PARRISH AVE, SUITE 205-C
OWENSBORO, KY 42303

20

21

22

23 COMMISSION EXPIRES: DECEMBER 16, 2022

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25