

1 OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

2 OCTOBER 4, 2007

3 The Owensboro Metropolitan Board of Adjustment
4 met in regular session at 5:30 p.m. on Thursday,
5 October 4, 2007, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: C.A. Pantle, Chairman
9 Gary Noffsinger, Director
10 Sean Dysinger
11 Ruth Ann Mason
12 Judy Dixon
13 Madison Silvert, Attorney

14 * * * * *

15 CHAIRMAN: Call the meeting to order. Welcome
16 each one of you and ask if you so desire to join us we
17 start our meetings with a prayer and the pledge of
18 allegiance. We invite you if you so desire to join us
19 at this time. Gary will have our prayer.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: Again, I want to welcome all of you
22 this evening. If you have any comments on any of the
23 items or wanting to speak on any, please come to one
24 of the podiums and be sworn in by the attorney so we
25 can have a record for everything on file.

If you keep talking about the same thing over
and over that we've heard once, we'll call you off on

1 that. Hope you will cooperate with us.

2 With that the first item is to consider the
3 minutes of the last meeting in September. They're on
4 record in the office. We've had no problems with them
5 I don't think. Hearing none I'll entertain a motion
6 to dispose of the item.

7 MS. DIXON: Move to approve.

8 MS. MASON: Second.

9 CHAIRMAN: A motion has been made and a
10 second. All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries.

13 Next item, please, sir.

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15 CONDITIONAL USE PERMITS

16 ITEM 2

17 3271 Alvey Park Drive East, zoned B-3
18 Consider request to amend a Conditional Use Permit to
19 add 3,200 square feet to an existing 4,800 square foot
20 special needs daycare in operation Monday through
21 Friday from 6 a.m. to 6 p.m. for a maximum of 140
22 children.

23 Reference: Zoning Ordinance, Article 8, Section 8.2B3
24 Applicant: Imagination Station Child Development
25 Center, LLC, 54 Property Management

MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(MR. BRIAN HOWARD SWORN BY ATTORNEY.)

ZONING HISTORY

1 The subject property is currently zoned B-3
2 Highway Business Center. A conditional use permit for
3 the existing daycare on the subject property was
4 approved in May 2000. At that time, approval was
5 granted for a maximum of 60 children. Based on the
6 proposed amendment, the applicant proposes to increase
7 the size of the operation by 3,200 square feet to
8 allow a maximum of 140 children. Under a B-3 zoning
9 classification, a final development plan is required
10 and based on the proposed changes to the site, must be
11 updated.

12 LAND USES IN SURROUNDING AREA

13 The property to the north, west and south is
14 zoned I-1 Light Industrial. The property to the east
15 is zoned B-3 Highway Business. Land uses in the
16 vicinity include office space, retail sales,
17 industrial storage and indoor recreational.

18 ZONING ORDINANCE REQUIREMENTS

19 1. Parking requirements - 2 spaces plus one
20 per ten children under care.

21 2. Approval of an amended final development
22 plan.

23 MR. HOWARD: We would like to enter the Staff
24 Report into the record.

25 CHAIRMAN: Thank you.

1 Is there any objections filed in the office?

2 MR. NOFFSINGER: No, sir.

3 CHAIRMAN: Is there anyone wishing to speak in
4 opposition of this item?

5 (NO RESPONSE)

6 CHAIRMAN: Does the applicant have anything he
7 would you like to add at this time?

8 APPLICANT REP: No.

9 CHAIRMAN: Any questions from the board or
10 comments?

11 (NO RESPONSE)

12 CHAIRMAN: Staff have anything else to add on?

13 MR. NOFFSINGER: No, sir.

14 CHAIRMAN: Entertain a motion to dispose of
15 the item.

16 MS. DIXON: Move to grant the conditional use
17 permit based upon findings of fact that it's an
18 expansion of the existing business, if fulfills the
19 need in the community and is consistent with past
20 actions by this board and with the provision that it's
21 subject to the zoning ordinance requirements as listed
22 in the application.

23 CHAIRMAN: Is there a second to the motion?

24 MS. MASON: Second.

25 CHAIRMAN: A motion has been made and a

1 second. Any other comments or questions from the
2 board?

3 (NO RESPONSE)

4 CHAIRMAN: Staff have anything else to add?

5 MR. NOFFSINGER: No, sir.

6 CHAIRMAN: The applicant understand all?

7 APPLICANT REP: Yes, sir.

8 CHAIRMAN: Hearing none all in favor raise
9 your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries.

12 Next item, please.

13 ITEM 3

14 4801 Sutherland Road, zoned A-R
15 Consider request for a Conditional Use Permit to
16 operate an indoor baseball recreational facility with
17 four accessory baseball/softball infields without
18 lighting for seasonal recreational use.
Reference: Zoning Ordinance, Article 8,
Section 8.2B11/13
Applicant: Sports Warehouse, Inc., Stephen &
Christine Aull

19 ZONING HISTORY

20 The subject property is currently zoned A-R
21 Rural Agriculture. A conditional use permit for a
22 golf driving range for the subject property was
23 approved in May 2002. However, with this application,
24 the applicant proposes to construct an indoor baseball
25 recreational facility and accessory outdoor

1 baseball/softball infields which will replace the golf
2 driving range. The application indicates that the
3 facility will include a maximum of four instructors,
4 20 participants and 12 spectators. The applicant
5 proposes to install 26 paved parking spaces which will
6 exceed the required parking based on these figures.

7 LAND USES IN SURROUNDING AREA

8 The properties to the north, east and south
9 are all zoned agricultural. The property to the west
10 is zoned B-4 General Business. Land uses in the
11 vicinity include agricultural, residential, a church
12 and the Sports Warehouse.

13 ZONING ORDINANCE REQUIREMENTS

14 1. Parking requirements - 1 per employee, 1
15 per two participants, 1 per three spectators

16 MR. HOWARD: We would like to enter the Staff
17 Report into the record.

18 CHAIRMAN: Any objections filed in the office?

19 MR. NOFFSINGER: No, sir.

20 CHAIRMAN: Is there anyone wishing to speak in
21 opposition of this item?

22 (NO RESPONSE)

23 CHAIRMAN: Does the applicant have anything he
24 would like to add at this time?

25 APPLICANT REP: No.

1 CHAIRMAN: Hearing none does the Staff have
2 any other comments?

3 MR. NOFFSINGER: No, sir.

4 CHAIRMAN: Board have any other comments?

5 (NO RESPONSE)

6 CHAIRMAN: Hearing none entertain a motion to
7 dispose of the item.

8 MR. DYSINGER: Mr. Chairman, given the
9 findings that it's consistent with the current
10 athletic nature of the current usage and it's
11 compatible with the nature of the surrounding area
12 move to approve the conditional use permit.

13 CHAIRMAN: Is there a second?

14 MS. DIXON: Second.

15 CHAIRMAN: A motion has been made and a
16 second. Any other comments or questions from the
17 board?

18 (NO RESPONSE)

19 CHAIRMAN: Staff have anything else to add at
20 this time?

21 MR. NOFFSINGER: No, sir.

22 CHAIRMAN: Hearing none all in favor of the
23 motion raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries.

1 Next item, please, sir.

2 ITEM 4

3 4300 Veach Road, zoned A-R
4 Consider request to approve a Conditional Use Permit
5 to construct a church campus for River City Church to
6 include a maximum of a 18,000 square foot church
7 building, a picnic shelter, a recreational area, and
8 required parking.

9 Reference: Zoning Ordinance, Article 8, Section 8.2B4
10 Applicant: River City Church, Inc.

11 ZONING HISTORY

12 The subject property is currently zoned A-R

13 Rural Agriculture and no rezonings or building
14 activity has taken place on the subject property.

15 LAND USES IN SURROUNDING AREA

16 The property to the north is zoned R-1C
17 Single-Family Residential. The property to the east
18 is zoned R-1A Single-Family Residential and A-U Urban
19 Agriculture. The property to the south and west is
20 zoned B-4 General Business. Land uses in the vicinity
21 include the Fiddlesticks Subdivision, the proposed
22 Lighthouse Recovery Center, and commercial uses. The
23 Wendell Ford Expressway is located immediately south
24 of the subject property.

25 The proposed church facility with accessory
26 structures that have been removed will require one
27 parking space per five seats in the main auditorium.
28 The site plan submitted with the conditional use
29 permit includes 134 parking spaces. As proposed, all

1 vehicular use areas are proposed to be gravel which is
2 allowable in an agricultural zone. However, due to
3 the traffic that may be generated by the church and
4 the proximity to existing residential land uses in the
5 vicinity, the Board may wish to require paving.

6 Also, the subject property has a curb cut to
7 J.R. Miller Boulevard; however, based on access
8 management criteria, access to J.R. Miller Boulevard
9 is limited only to street intersections that connect
10 the existing neighborhoods. Since there is no
11 connection being provided at this time, no access to
12 J.R. Miller Boulevard shall be permitted and the
13 existing curb cut shall be closed.

14 ZONING ORDINANCE REQUIREMENTS

15 1. Parking requirement - 1 space per 5 seats
16 in the main auditorium.

17 2. No access shall be permitted to J.R.
18 Miller Boulevard.

19 3. Appropriate vehicular use area screening
20 shall be installed.

21 SPECIAL CONDITIONS

22 1. Paving all vehicular uses areas.

23 2. No access shall be permitted to J.R.
24 Miller Boulevard and the existing access point shall
25 be physically closed with curb and gutter.

1 MR. HOWARD: We would like to enter the Staff
2 Report into the record.

3 CHAIRMAN: Is there comments filed in the
4 office?

5 MR. NOFFSINGER: No, sir.

6 CHAIRMAN: Anyone wishing to speak in
7 opposition of this item?

8 (NO RESPONSE)

9 CHAIRMAN: The applicant have anything you
10 want to add at this time?

11 MR. KAMUF: Yes, Mr. Chairman.

12 MR. SILVERT: State your name, please.

13 MR. KAMUF: Charles Kamuf.

14 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

15 MR. KAMUF: I represent River City Church.
16 Some of the parishioners are here tonight.

17 Presently River City Church is located at
18 Second and Allen Street. In June of this year, the
19 church purchased about 11.7 acres near the belt line
20 and J.R. Miller Boulevard.

21 Many of you probably know this property
22 because it's the property that is directly north of
23 the Wendell Ford Expressway. It's between J.R. Miller
24 Boulevard and Veach Road. It's that area, a lot of
25 you probably saw it years ago when it was a hole and

1 it's been filled. The church purchased that property
2 in June of this year.

3 They've been looking at this property
4 approximately two years. They want to expand their
5 church. They have about 400 parishioners. Many of
6 these members are here.

7 Here is what we're asking for. In the
8 conditional use permit that we applied for, we asked
9 to construct a church campus. This will be all
10 private. There will be a maximum of 18,000 square
11 foot church building, a picnic shelter, a recreation
12 area.

13 As Brian or whoever read the amendment, there
14 was a 4 - 40 x 60 modular buildings and we at the
15 request of Thompson Homes have taken that off of the
16 plat. So the new plat that we have does not include
17 those.

18 I might say that the church was surprised that
19 the Staff would object to the conditional use permit.
20 We'll give those reasons in a minute.

21 Previously the church tried to get this
22 property zoned B-4. The Staff objected to the
23 development of the property unless the church did two
24 things. One, build a connector street from J.R.
25 Miller Boulevard to Veach Road at their own expense or

1 develop property with one entrance from Veach Road
2 with no entrance from J.R. Miller Boulevard.

3 You understand, there was construction of a
4 street across from J.R. Miller Boulevard to the Veach
5 Road. This would be over an area that would be
6 filled. It would be just about nearly impossible to
7 build the street over that area.

8 Another reason that they objected at that time
9 the church is they did not want traffic through this
10 private area. This will be a private kind of a plan
11 unit development in that everything will be within the
12 bypass, Veach Road, Fiddlesticks Subdivision and J.R.
13 Miller Boulevard.

14 We get to the access manual and the decision
15 of the Owensboro Metropolitan Transportation Committee
16 concerning the access manual.

17 We did meet prior to this meeting with some of
18 the members of the Transportation Committee, and
19 that's the Owensboro Metropolitan Transportation
20 Committee, but we did not have sufficient time to meet
21 with the board because they meet at uncertain times.
22 I was never able to get the exact time when everybody
23 could be there.

24 It's our contention that -- this is only
25 relative to the connector street.

1 It's our contention that the connector street
2 is not necessary because Salem Drive runs from J.R.
3 Miller to Veach Road. Fiddlestick Subdivision now
4 goes from Veach Road to the J.R. Miller Boulevard. So
5 we're saying basically we didn't feel that that was
6 necessary.

7 Another reason it was considered that this
8 property would be zoned commercial and there would be
9 commercial development.

10 Now the church proposes a private campus and
11 they don't want a large amount of traffic to be coming
12 through.

13 The church felt it was better at this time to
14 ask for a conditional use and then go to the
15 Transportation Committee to see if they could remove
16 the requirements of the connector street or entrance,
17 the denial of the entrance to J.R. Miller Boulevard.

18 After the application was filed, I think this
19 is what Brian has said, the Staff wants two things
20 which we object to. I think those are the only
21 things. They want to eliminate the existing ingress
22 and egress from J.R. Miller Boulevard to the subject
23 property and they want us to pave the parking lot.

24 What we're asking for, we're asking you to
25 approve the conditional use permit without removing

1 the gate and curb cut you see on this photo that I'll
2 show you in just a second, until we have had a chance
3 to exhaust all the remedies with the Transportation
4 Committee.

5 I'll pass this around. This is a -- I took
6 the photo about 6:30 or 6:45 in the morning. It's a
7 little dark.

8 This shows the gate, which is locked. This is
9 the entrance that you would have to this 11 acre tract
10 from J.R. Miller Boulevard.

11 As I'll explain in just a few minutes, we have
12 no objection to leaving the gate there and leaving the
13 curb cut there until we exhaust all the remedies that
14 we have with the Transportation Committee or any other
15 agency that we will meet with.

16 I might say this: As you see, that gate is
17 locked. That gate has been there for probably 10, 15
18 years. I can't tell you. We own the property across
19 the street and I see it every time I go down to the
20 subdivision.

21 To prove that we're acting in good faith, we
22 will leave the gate locked. We'll put up a bond to be
23 sure that in the event that we would lose before the
24 Transportation Committee or that we would lose this
25 matter before any other agency that we have to appear

1 before. In other words, we'll put up a bond that will
2 be sufficient for the board to remove the gate and/or
3 take the curb cut away.

4 It's our belief, and here is the problem that
5 we have. Whether we get the cart before the horse or
6 whatever. It's our belief that once the curb cut is
7 concreted in, as the Staff has required, once that
8 happens it will damage our case before the
9 Transportation Committee. In other words, once it's
10 concreted in, our chances of getting the
11 Transportation Committee or these other agencies to
12 agree with us, will be very difficult.

13 Here's a plat, and I think this is important.
14 If you turn that picture over on the other side,
15 there's a plat there. I'll give everybody a copy.

16 This is the big plat. That's just a small
17 plat of this larger plat which was recorded. It was
18 approved by Gary Noffsinger on 7/25/05.

19 If you look, there is an existing street cut
20 in J.R. Miller Boulevard. There is a note underneath
21 of it. "Access to J.R. Miller Boulevard shall be
22 limited to the access point shown hereon. No
23 additional access to J.R. Miller Boulevard shall be
24 permitted."

25 At that time there isn't any question that we

1 were entitled to a curb cut. We do not want to lose
2 that curb cut until after we have exhausted all of our
3 remedies.

4 There has been a curb cut there for years.
5 Directly across the road on Weikel Drive there is a
6 curb cut to J.R. Miller Boulevard. There is a curb
7 cut here. Our big issue here is do not require us to
8 remove that until such time as we have had a chance to
9 appear before the Transportation Committee.

10 I believe that when we appear before them that
11 even though there is much restriction in the access
12 manual that they will approve allowing us to go
13 through there since Fiddlesticks has already got a --
14 they've got a road through Fiddlesticks. It's a
15 little crooked. This is a plat of Fiddlesticks
16 Subdivision. There's a connecting road between Veach
17 Road and J.R. Miller Boulevard.

18 Also you've got the point of Salem Drive,
19 which is now completed.

20 Let's talk about the parking lot just for a
21 few minutes. I think Brian layed it out as to what is
22 required.

23 We are not required by any law to gravel that
24 parking lot. We have no problem at a later date to do
25 that. These people don't have a lot of money to make

1 these improvements of the property. I can assure you
2 that if the church doesn't do something with the
3 property, nothing will be done with it.

4 The property is zoned A-1 Agricultural. In an
5 A-1 zone, blacktop or paving parking is not required.
6 An A-1 zone is the same zone that you have in all the
7 farming area. We're not changing the zone; therefore
8 no blacktop shall be required.

9 Here is a plat of the layout. As you can see,
10 the plat as presented it shows access to J.R. Miller
11 Boulevard to be limited to the access points shown
12 here in -- no additional access points from J.R.
13 Miller Boulevard shall be permitted.

14 What reason can you -- this is a yellow line
15 from J.R. Miller Boulevard that goes all the way to
16 Veach Road. In other words, to put that street
17 through there I think would be very, very unreasonable
18 in that in their proposal it cuts right through the
19 center of their property. The whole idea of
20 developing in that particular area is to get it where
21 it would be a private campus.

22 So we're asking you not to eliminate the
23 access point that we have until we have further action
24 from these other agencies. I think if you give us a
25 chance that we can get that approved from the other

1 agencies.

2 What is the downside to this board, what is
3 the downside to have a church out there, to have a
4 private campus, what is the downside if we guarantee
5 you at a later date that if we lose we'll have a bond
6 up that we'll do just exactly what you want to do now.

7 It's very difficult to meet with this
8 Transportation Board. I called the members. I've
9 talked to a couple of them on there. They all say get
10 back and this type of thing.

11 Give us a chance to go before that board and
12 make our presentation. Approve this without the
13 elimination of the curb cut and that gate. The gate
14 will always be locked. You all will have a bond to
15 see that.

16 We also have a couple of other speakers that
17 would like to speak. We have the pastor of the church
18 and also Mr. Hughes.

19 MR. SILVERT: State your name, please.

20 MR. HUGHES: Wayne Hughes.

21 (MR. WAYNE HUGHES SWORN BY ATTORNEY.)

22 MR. HUGHES: I served as somewhat the point
23 man on our property negotiations and the meetings with
24 the board here or the Staff to determine what needed
25 to be done out there even before we built or even

1 before we bought the place to be sure that we were
2 going to be able to get in compliance with everything
3 out there.

4 As Mr. Kamuf has read to you, this has been a
5 two year ordeal. As Mr. Kamuf pointed out, there is a
6 notation on that plat that the previous owners had and
7 had on file that says, you know, this is your access
8 to J.R. Miller. It almost happened to us and it could
9 happen to anybody going to buy that piece of property
10 not knowing about all the restrictions because it said
11 on there that's our access. So we thought it was our
12 access.

13 Stopped down one day to find out what the J.R.
14 Miller street address was and they said there is none.
15 You don't have any access to J.R. Miller. You have to
16 deal with Veach Road.

17 That was an immediate deal breaker for us
18 because the value of the property was being able to
19 come in on J.R. Have two exits from that property.
20 So we backed off and sat on that for quite some time.

21 Then we got somewhat interested again and went
22 down and talked to Staff about that. I learned about
23 the fact that the road had to go all the way through.
24 That's over a million dollar road against on top of
25 gravel that's just not or not gravel but on top of

1 fill. That's going to be somewhat of an issue.

2 The Staff asked us to have that property
3 drilled to see if it would hold up a building because
4 of the type of fill that's in it. We complied. We
5 had it drilled. We determined, our engineers have
6 that we can build on that property with the foundation
7 that will float out there basically. You can't really
8 build a street with an extension in it, and certainly
9 not at a reasonable cost. The street would cost us
10 more than the whole building.

11 We started talking to your staff about how we
12 might deal with this. Could we possibly put a
13 cul-de-sac in? Frankly, we got some response to at
14 least think about that. Then I got a call back and
15 they said, you know, we don't have jurisdiction over
16 this piece of property or we have jurisdiction over
17 the property but not off of J.R. Miller. They finally
18 determined that the Transportation Committee was
19 totally in charge of that. Only they could make an
20 exception. That's where we would have to go.

21 We went on and discussed all the other aspects
22 of it. We made some preliminary contact with the
23 Transportation people out there.

24 All of that is really not even an issue here
25 tonight because the Staff has told me they don't have

1 permission to let me do anything but put a road across
2 there. We accept that. We want an opportunity to go
3 to this Transportation Committee and the other powers
4 that might be above them or wherever, we can work out
5 to get this thing settled instead of putting a
6 cul-de-sac in there and use that property from both
7 ends.

8 We have prepared the things that you have in
9 front of you tonight, the plat, and I thought we had
10 crossed every "T" and dotted every "I" and done
11 exactly we what needed to do to get this thing
12 approved. Frankly was a little bit shocked when it
13 came up last week and they said, you've got to close
14 this curb cut. There's nothing on that plan that says
15 we're going to use that curb cut. It shows on the
16 plan that there's a gate there. We're willing to let
17 the City of Owensboro put police locks on it or
18 whatever. We have no intention of trying to use that
19 until we can get approval from the proper authorities
20 to put a reasonable cul-de-sac or short street or
21 something in there.

22 As Mr. Kamuf pointed out, if we give that up
23 now, we're sunk. We're not going to be able to go out
24 there and convince them to put a new curb cut in.

25 We're really not asking that anything be done

1 about that street there. The Staff has already said,
2 we don't have authority. So we didn't even put it on
3 the plat that we were going to do anything about that.
4 Everything is set up on that plat to use Veach Road
5 completely.

6 That's the position we're in because we need
7 to building out there. We need to be getting permits
8 and going forward. We're busting at the seams. We've
9 absolutely got to do something. Here all of a sudden
10 we can't even go along with something -- the Staff has
11 recommended everything out there except the use of
12 gravel and this curb cut. So we're in compliance
13 everywhere but those two things. I'm sure we can come
14 to some agreement with the gravel and the blacktop
15 issue. We intend to blacktop it eventually. We just
16 don't want to have to do it immediately. We just
17 cannot accept the closing of that gate at this time.

18 We would ask you to please reconsider that and
19 let us move on with our building project until all of
20 this can be resolved. Thank you.

21 CHAIRMAN: Let me ask you one question. You
22 said in the future you plan on blacktopping it. How
23 long are you thinking?

24 MR. HUGHES: We haven't really discussed that.
25 I think we could come to some agreement on how long

1 that might be. I don't know, what, two, three years.
2 That would be very reasonable.

3 I know we've got other parking within the city
4 which actually pockets in the county where there's
5 gravel parking. Over there next to Shively Park and
6 so forth. That's very high traffic as well.

7 Again, that's what the Staff said. You can
8 use gravel. We prepared it for gravel. There's a
9 little cost savings for us there right now. We
10 thought we had crossed every "T" and dotted every "I."
11 Because we're not asking you all to let us put a
12 street in. We're just asking you to let us leave the
13 gates closed on J.R. Miller until we have exhausted
14 all efforts to get us a street in there.

15 CHAIRMAN: The reason I ask you is when you
16 were thinking about blacktopping. You brought it up.
17 That's the reason I was wondering.

18 MR. HUGHES: We plan on blacktop or concrete.
19 That's the reason.

20 CHAIRMAN: Thank you.

21 MR. HUGHES: We don't plan on leaving it
22 gravel forever.

23 One more thing, if I could. As you see, the
24 Staff, they said, this is what we're going to have to
25 do. Transportation Committee continues to say that.

1 We want to resolve that, but this absolutely ruins our
2 piece of property. It will ruin it. We've got a lot
3 of green area out here and in the front. We want to
4 have our parishioners out there playing soccer and
5 ball and all that sort of thing. We'd be glad to have
6 any of the local people in there, but we can't have 35
7 mile an hour traffic going through it. That's just
8 not part of the plan.

9 CHAIRMAN: Does the board have any questions
10 at this time?

11 MR. DYSINGER: Mr. Chairman, I do have one
12 quick question.

13 How many seats are you proposing in your main
14 auditorium?

15 MR. HUGHES: That hasn't all been resolved
16 yet, but I think it was around 650, 700, somewhere in
17 there. Whatever our parking accommodates there.

18 MR. DYSINGER: Thank you.

19 CHAIRMAN: Staff.

20 MR. NOFFSINGER: I have a question of Mr.
21 Hughes. It's a very direct question.

22 Will you build this church at this location if
23 you do not get access to J.R. Miller Boulevard?

24 MR. HUGHES: Yes, sir, we're prepared to start
25 work. That's why we're here.

1 MR. NOFFSINGER: If you do not get access to
2 J.R. Miller Boulevard, will you build this church at
3 this location?

4 MR. HUGHES: Yes, sir. We bought that piece
5 of land knowing that we very well could never get
6 access to J.R. Miller, affordable access to J.R.
7 Miller. That we were prepared to get by with Veach
8 Road. We just don't want to stop it here tonight, but
9 we intend to move forward with the permits and ground
10 breaking and so forth.

11 CHAIRMAN: Thank you.

12 MR. SILVERT: State your name.

13 MR. GIBSON: Brian Gibson.

14 (MR. BRIAN GIBSON SWORN BY ATTORNEY.)

15 MR. GIBSON: I appreciate your time tonight.
16 Just want to talk for a moment. I'm the founding
17 pastor of River City Church. Want to tell you a
18 little bit about our plans there and what we're trying
19 to accomplish now.

20 We began River City Church three years ago
21 with about between 10 and 20 people in a pizza shop
22 off of Emory Drive with the soul intention of being a
23 blessing and a help to the people of Owensboro.

24 I'm convinced that whenever you give yourself
25 to help the people in the community, that God will

1 help grow your church, and he's done that throughout
2 the last three years.

3 For the last three years we've grown to a
4 crowd of 400. Some people say we're one of the
5 fastest growing churches in the tri-state area.

6 We intend to keep doing what brought us to
7 this point, and that is being a blessing to the people
8 of Owensboro.

9 I would ask the board to consider allowing us
10 to begin building at this time and to leave that curb
11 cut before we go in front of the appropriate
12 authorities who can either grant us access or deny us
13 access, because I believe I have good reason on why
14 they might reconsider.

15 Number one, here's some things we're doing for
16 the city currently. Every Friday night we haul drunks
17 out of drinking establishments. Give them free sober
18 rides, get them home where they won't damage anyone on
19 any Owensboro street, hurt themselves or be other
20 residents here. We're doing all kinds of works. This
21 Saturday free diapers given away to anybody that needs
22 things like that. I just want to establish we want to
23 help the city. Not hurt it.

24 Another idea we have is for that J.R. Miller
25 entrance. In the future the Green Belt comes right

1 around beside the J.R. Miller entrance. There's not
2 sufficient parking right there for Owensboro citizens
3 to access the Green Belt and to use that really great
4 walking path we have there for the city. We would be
5 more than happy to allow the City of Owensboro to use
6 that property for that purpose. Also we would like to
7 be able to tie into it in the future, but as a gift to
8 the city just to be a blessing.

9 So I think there's sufficient reason for us to
10 be able to go before those proper authorities and let
11 them either give or deny us access.

12 Again, I say at that time when we exhaust
13 those different remedies we would be more than happy
14 to pay for that gate remove and the curb cut to be
15 concreted in appropriately.

16 I was a little bit shocked, I'd like say to
17 again, Thursday whenever we got the word that Planning
18 & Zoning wouldn't approve this building that we're
19 doing because of that J.R. Miller access. I thought
20 it had been communicated to us via the Staff that that
21 was not their final jurisdiction. I don't see and I
22 can't understand what's to be lost there. Really it
23 slows us down and it hurts us.

24 We're just trying to build bigger. We're
25 busting at the seams. We're trying to add more space

1 to go further. We work with tons of people with
2 addiction problems in this city. We want to be able
3 to go further to celebrate recovery programs, have
4 more appropriate space. I really don't see what's to
5 be lost in the building of that property now and for
6 the gate issue to be resolved in the future.

7 Like my friends here and associate said, we
8 will give you the keys. It would never be touched
9 until we got a aye or nay from the appropriate
10 authorities.

11 The reason while you think about the road
12 coming from J.R. Miller all the way to Veach and you
13 look at that problem there, it's just danger to our
14 children. We want to open it up and have public
15 ability for kids to come in and play on that green
16 space. The last thing we need from front to back is
17 speeding 16 years olds. I've got one little girl I
18 don't want her out there with that. I'm sure the
19 parishioners don't. As you see, our congregation is
20 fairly young. There are kids everywhere. That is the
21 point of real trouble and turmoil for us. I would
22 like for you to please reconsider that much.

23 All I'm asking here tonight is that you give
24 us the ability to begin with our project. Really our
25 hands are tied. The church is in a stalemate on how

1 much more help we can be to the City of Owensboro in
2 our current facility.

3 Really I would ask you gentlemen and ladies to
4 please reconsider. Let us go to that next step so we
5 can do what we're the best at. Again, I'll say
6 there's not anything in it for us but helping the
7 city. We're a non-profit organization and a church.
8 I would ask you to reconsider. Thank you for your
9 time.

10 CHAIRMAN: Any questions from the board of the
11 applicant?

12 MR. DYSINGER: How long do you suppose it
13 would take you to get the matter settled?

14 Mr. Kamuf, you may have to answer that. Can
15 you give us any idea how long you think you're going
16 to have to work on this?

17 MR. GIBSON: I would defer to Mr. Kamuf.

18 MR. KAMUF: Let me say this, Mr. Dysinger. We
19 started maybe a year ago. I started calling around.
20 I've done a lot of Planning & Zoning work, but I've
21 never represented anybody for that Transportation
22 Committee.

23 On this Technical Advisory Committee is Jim
24 Lambert, the city engineer, the county engineer, Keith
25 somebody. He's the secretary. Owensboro Transit,

1 OMU, RWRA, OPD, sheriff, chamber. I mean there's a
2 great deal of these people. I started calling. I
3 talked to Jim Lambert and maybe one other. I don't
4 know when they meet. I don't think they meet --
5 Gary, you --

6 MR. NOFFSINGER: I can answer those questions,
7 Mr. Chairman, because I do serve on that committee.

8 MR. KAMUF: I did call around and ask Mr.
9 Lambert when they met. He said, I don't know when
10 they meet. I just don't know those issues. It's an
11 uncertain time as to the exact time. Then I think
12 they were suppose to meet one time and they didn't
13 have a forum. They cancelled it. We just left that
14 alone until we can get this done.

15 Gary, you might have something. I don't know
16 much about that board. Whatever I'm telling you is
17 just what they told me.

18 CHAIRMAN: Staff.

19 MR. NOFFSINGER: Mr. Chairman, first of all
20 Mr. Kamuf has misstated the Planning Staff's position
21 on this conditional use permit. We are not objecting
22 to the church locating here or the conditional use
23 permit. In fact, we're not evening making a
24 recommendation as to whether it be approved or not
25 approved. Please note we are not objecting.

1 We have raised two issues. One of which is
2 the access to J.R. Miller Boulevard that we addressed
3 with Mr. Kamuf and Mr. Hughes many, many months ago in
4 our office.

5 The second item was the gravel parking. Three
6 weeks ago to my knowledge is the first time my staff
7 had an opportunity to review any type of site plan for
8 this property. We had three weeks to review.

9 On Monday my staff contacted Mr. Hughes. It
10 might have been Tuesday. I believe it was Monday.
11 And stated there are two issues that need to be
12 resolved, that we're going to recommend this board
13 listen to.

14 First of all is paving of parking areas. I do
15 not think that it's unreasonable for this church to
16 have to pave their parking lot just like any other
17 development in an urban type setting has to do. This
18 property is zoned A-R Rural Agricultural. It was
19 zoned that way because it was a borrow pit. It was a
20 lake. You couldn't do anything with it. Over the
21 past several years, the lake has been filled in and
22 now it has development potential. It was zoned A-R
23 because it was thought that it would never develop.

24 Well, here is an opportunity for the property
25 to develop. I certainly hope that it does, but it

1 shouldn't develop in a way or in a manner that is not
2 consistent with other development in the area. We've
3 had other developments across Veach Road. They're
4 paving their parking. We've got the Weikel Drive
5 development. They've paving their parking. We've got
6 the Sports Warehouse that's required to pave their
7 parking that's on the agenda tonight. Shouldn't be
8 any different. You have six months to pave that
9 parking once the gravel is placed. A year from now,
10 if you place the gravel, you would have six months to
11 pave that parking area.

12 That's where we stand on the paving. It's not
13 that we want you to do anything that no one else has
14 to do. It's just we want what you're doing to be
15 consistent with other development.

16 Then the access point versus the street turn
17 out. What Mr. Kamuf didn't state tonight and
18 highlight on what he's given the board members is that
19 this access point is identified as a street turn out.
20 It says, access shall be limited to this particular
21 point to J.R. Miller Boulevard, but it has to be a
22 street turn out. That street turn out has to connect
23 with other streets in the adjoining neighborhood. It
24 just so happens that the only street you can connect
25 to is Veach Road. We understand and it's a long way

1 to get over to Veach Road and it's going to cut right
2 through the middle of the property, but this was
3 shared with Mr. Hughes and Mr. Kamuf several months
4 ago prior to this application coming in.

5 This policy that has been adopted, not by this
6 board but by the transportation officials, is a policy
7 that is specific to J.R. Miller Boulevard, which was
8 designed not to promote development in the community,
9 but to move traffic and to alleviate traffic on
10 Frederica Street.

11 It just recently, for example, Weikel Drive
12 was extended. Mr. Kamuf certainly familiar with that
13 because that was the property that he owned and
14 extended a public street very similar to the type of
15 public street that should be extended through this
16 property, if this property is going to be developed
17 with access to J.R. Miller Boulevard.

18 Nothing saying that you have to access J.R.
19 Miller Boulevard, but if you do it is to be a street
20 that connects to adjoining street network.

21 Nowhere else has this been waived. There are
22 other properties that will be developed along J.R.
23 Miller Boulevard that if this is waived, then we will
24 be looking at potential waivers of those streets.

25 You say, there's no need to connect because we

1 have Salem Drive. Yes, Salem Drive is located in the
2 immediate area and that can handle a certain amount of
3 traffic over to Veach Road, but this particular piece
4 of property should not develop in isolation if it's
5 going to access a major thoroughfare in our community.
6 That's our position.

7 Now, in terms of the Transportation Advisory
8 Committee, I serve on that board along with various
9 other groups. We waited for Mr. Kamuf and Mr. Hughes
10 to come to that meeting for the past several months.
11 In fact, we waited for them just a few months ago
12 because they were contacted, told when the meeting
13 would be and we were expecting them. They didn't show
14 up.

15 Now, I'm not saying that I communicated that
16 to them, but we waited during that meeting for them
17 and they didn't show up.

18 The reason I asked the question of Mr. Hughes,
19 will you build this church without having access to
20 J.R. Miller Boulevard, and he said, yes, we will. The
21 danger we run, and I've worked with Mr. Kamuf for many
22 many years, is that if you approve this particular
23 application for this church tonight he will be before
24 the Transportation Advisory Committee telling them
25 that this board has already approved these plans and

1 you're ready to move forward. Now, that's the danger
2 you run.

3 If you're willing to construct the church
4 without access to J.R. Miller Boulevard, then we can
5 move forward with the conditional use permit approval
6 as recommended by the Staff in terms of the two
7 conditions.

8 In the future, if you're successful in
9 obtaining permission to have a street or an access
10 point to J.R. Miller Boulevard, then you can come back
11 before this board with your plans at that time.
12 Because once you alter your plans, you have to come
13 back before this board for a rehearing. Any changes
14 you make. I don't think there's danger in terms of
15 this board moving forward with a conditional use
16 permit that says, we approve this conditional use
17 permit on the basis of that existing entrance, street
18 turn out to be closed, and then dealing with the issue
19 of paving. I don't think you're in any more danger
20 than if we delay action tonight. Another option is to
21 delay action tonight and perhaps you can get with the
22 Transportation Committee and see where they want to
23 go.

24 By this board not addressing it tonight, this
25 board is not doing their job. Because their job is to

1 determine whether or not this use can be properly
2 integrated into the neighborhood.

3 You've already experienced that with an
4 adjoining landowner. It was shared tonight that the
5 adjoining landowner had requested that four modular
6 building be removed from the property. That's part of
7 integrating this use into the neighborhood. Just like
8 the issue of paving and just like the issue of street
9 access.

10 We're not objecting to the church locating
11 here. We hope you're very successful. We just have a
12 job to do in terms of recommending how to integrate
13 and how to properly integrate this use within the
14 neighborhood.

15 MR. KAMUF: May I say this, Mr. Chairman. I
16 respectfully disagree with what he has said. If we go
17 before the Transportation Committee, what he's
18 concerned about is that I might get a waiver and if I
19 get a waiver then he might hear it on other cases.
20 That's what this is all about. Why is he so strongly
21 against any waiver? We're not asking you all to give
22 a waiver. We're asking you to allow us to proceed
23 without concreting that J.R. Miller Boulevard
24 entrance. If I go before that committee, I didn't
25 know Gary was on it, but if I go before that committee

1 and I'm already concreted J.R. Miller Boulevard,
2 there's a lot less chance that they're going to listen
3 to me. I think I have damaged my case greatly.

4 The waiver is not one that we've asked from
5 you. The waiver that I will get will be a waiver from
6 that Transportation Committee.

7 All boards are reasonable. Why would you not
8 allow an entrance there without the street going all
9 the way through if things have changed? We met with
10 -- I did not. Mr. Hughes met with Tommy Thompson the
11 day before. You understand all I have to do is maybe
12 half the distance of a football field run a street
13 there and connect with this line right here. Here is
14 our property that you see at the rear. If I could get
15 Tommy Thompson to allow us right here, all we have to
16 do is run and make a connection there and we have
17 connected to a street. Therefore the requirements
18 that Gary is talking about, we have met.

19 MR. NOFFSINGER: Charlie, we'll recommend
20 that, but you have to come in with your conditional
21 use permit rehearing. You're no worse off. You're no
22 better off. We've got to consider what you have
23 presented tonight.

24 MR. KAMUF: What is the downside to this
25 board, what is the downside for us to put up a bond

1 and say, here is what we'll do. We guarantee it.
2 We'll throw the key away. We will not do that. What
3 is the downside compared to the problems they're going
4 to have to go ahead and get moving on this?

5 I might want to appeal. Let's say you're on
6 that board so certainly you'll vote against it, but
7 maybe I want to appeal whatever you all decide. I
8 can't get that done in a month or two months, Gary.

9 MR. NOFFSINGER: Charlie, what you're going to
10 do is put the church in a position of having to put
11 forth money for a bond. What we're saying is on this
12 site plan and for the approval here tonight that that
13 is to be physically closed. That's not to say you
14 have to go out tomorrow and physically close that
15 entrance, but it would be approved that way. You're
16 how many months away from actually opening the church?
17 Several months. You're not going to be out there next
18 month closing that entrance, but you could be before
19 the Transportation Advisory Committee next month.

20 MR. KAMUF: If people think -- and I'm not in
21 any way being disrespectful, but I know your position
22 on that access. I know you're dead set to making any
23 exception. I might want to take that to circuit court
24 and see whether the circuit court agrees with that.
25 Not any threat. I'm just saying these are things I

1 can't do, Gary. I can't do these things overnight.
2 These people have told me they would like to exhaust
3 whatever remedies we have.

4 What is the downside to this board? Tell me.
5 If you have a bond say on everything you want tonight
6 will be done, if I lose the case, what is the downside
7 of this board in representing. You said they're not
8 doing their job if they allow it. What is wrong with
9 that?

10 MR. DYSINGER: Mr. Chairman.

11 CHAIRMAN: Yes, sir.

12 MR. DYSINGER: Mr. Kamuf, I'm honestly
13 confused as to why you would recommend to your client
14 to extend money for something that I believe you
15 sincerely believe they will not have to do. I'm not
16 in construction, but I know that when we improve
17 something and put requirements on people, that doesn't
18 happen overnight. I know this stuff takes time. I'm
19 confused as to why you would recommend to your client
20 to tie money up into something. Just the construction
21 schedule is going to give you time to appeal. I don't
22 understand the strategy that you're pointing. It
23 seems overly complicated and outside of our purview in
24 any way. I'm a little confused by it.

25 MR. KAMUF: Let me just say this. For me to

1 get this done before the Transportation Committee, I
2 have never had a case before the Transportation
3 Committee. In the event that they would rule, let's
4 say many of them would feel like Gary. I might want
5 to take it up further. That might take a couple of
6 years, but we're going to build whether we get that.
7 You have to ask them that, but that's what they tell
8 me. They're going to build whether this entrance is
9 closed or not. I just don't want to hurt the case
10 because I can see a lot -- the Planning & Zoning Staff
11 is dead set, they are dead set against anything, any
12 exception as far as a curb cut on J.R. Miller
13 Boulevard where it doesn't extend to an existing
14 street. That might be the best thing, but I want to
15 have an opportunity to exhaust whatever remedies I
16 would have. I'm not being disrespectful. I'm just
17 telling you like I see it.

18 MR. DYSINGER: Thank you.

19 CHAIRMAN: Any other questions from the board
20 at this time?

21 MR. HUGHES: Can I --

22 CHAIRMAN: Just a minute.

23 Anybody have any questions of Charlie?

24 MR. DYSINGER: Not right now.

25 CHAIRMAN: Sir, come forward and state your

1 name.

2 MR. HUGHES: Wayne Hughes.

3 I'm a little confused about the Transportation
4 Committee meeting that we missed. I know nothing of
5 that. We have been out and talked with their staff
6 one time.

7 The fact is on two of these issues, your
8 people, Mr. Noffsinger, told me that they had no
9 jurisdiction over this. That I would have to deal
10 with Transportation Committee. I accepted that. I
11 have no problem with that. When we submitted a plan
12 to come in on Veach Road and move forward that way, it
13 says nothing about J.R. Miller. Nothing. We realize
14 that we would have to get something from the
15 Transportation Committee. Come back and start over
16 with you to get a cul-de-sac or anything in there if
17 they agree to it. We don't have an issue with that.
18 We'll be glad to do that, but we have not been to the
19 Transportation Committee more or less just because we
20 felt no urgency to get out there and we wanted to
21 check all this stuff out good before we moved that
22 way. Frankly, I don't know whether they'll approve it
23 or not. We may have to go several steps more.

24 Now, as far as putting the bond up, that's not
25 Mr. Kamuf's recommendation. That was our offer to do

1 that. We have no issue with that. We'd be glad to do
2 it. He's not leading us down a bad path. We want to
3 see J.R. Miller accessed one day, but we're going to
4 build either way.

5 We're just not willing to accept a piece of
6 paper today that says we can't go forward on that. We
7 can't keep trying our options on that.

8 Mr. Noffsinger, you said that we weren't
9 reading that statement about the access on J.R. Miller
10 right. That that was a street turn out or something.
11 I don't read that. That may be something that you can
12 tell by the symbols on the map or something. Where
13 did I miss that?

14 MR. NOFFSINGER: Mr. Hughes, on the plat that
15 Mr. Kamuf handed out where he highlighted the access
16 notes. What he did not highlight was where right at
17 that access point there's an arrow. It states it's an
18 existing street turn out. That's just not
19 highlighted.

20 MR. HUGHES: I'm afraid I missed that too.
21 Now, your people told me that. They pointed that out
22 to me. We've got to get an exception to change that.
23 We realize that's a mountain to climb. We had no idea
24 we had to climb that in a week. Over the last few
25 months we've been deciding what to do over the last

1 few months. We need time to get all the way through
2 that. We don't expect to run out there and everybody
3 hold their hands up and say, hallelujah, we're going
4 to get an exception. We know we've got an ordeal to
5 go through.

6 CHAIRMAN: You all have anything else to bring
7 at this time?

8 Charlie, anything else.

9 MR. KAMUF: That's the best I can do.

10 CHAIRMAN: Any board members have any
11 questions of Charlie or the applicant?

12 MR. DYSINGER: If I suggested that Mr. Kamuf
13 would ever lead anyone down a primrose path, that was
14 unintentionally.

15 MR. KAMUF: Even though I'm catholic I think
16 he's already forgiven me. That's the first time I've
17 ever heard River City Church giving confession.

18 CHAIRMAN: Any other questions from the board
19 or comments?

20 MR. DYSINGER: The only comment I would make
21 is that the decisions of this board can be appealed.
22 I'm of the opinion that even recommending a bond issue
23 that's open-ended, anything like that is too close to
24 a tacit approval that we just aren't empowered to give
25 personally. I say that with the hope that you do get

1 to work this out with the board that does have
2 authority of. It seems reasonable, but at the same
3 time anything that we do that would seem to tacitly
4 approve it just seems out of place to me.

5 MS. DIXON: Mr. Chairman, I'm ready at this
6 point to make a motion to grant the conditional use
7 permit with the provisions that paving all vehicular
8 use areas and that no access be permitted to J.R.
9 Miller Boulevard and the existing access point shall
10 be physically closed with curb and gutter.

11 I think that it's an appropriate use. It's an
12 opportunity for this property to develop and the
13 church is a good use to be acclimated into the
14 neighborhood. I see no problem with the way it
15 stands. If Mr. Kamuf goes before the Transportation
16 Board and they say otherwise, then we'll deal with it
17 then, but I think it should be as stated.

18 MR. DYSINGER: I second that.

19 MR. KAMUF: One comment, please.

20 CHAIRMAN: You may.

21 MR. KAMUF: I would respectfully to either
22 approve or deny as we requested. If you cannot
23 approve it without those conditions, it would be my
24 opinion that you just deny the conditional use.

25 CHAIRMAN: You heard the motion she made?

1 MS. MASON: Why are you asking us to do that?

2 I don't understand.

3 MR. KAMUF: Please, ma'am.

4 MS. MASON: Why are you asking us to do that?

5 MR. KAMUF: Either approve it as we presented
6 it without any conditions or deny it.

7 CHAIRMAN: Charlie, I think that's our
8 prerogative to attach any conditions we want to and
9 present it to you.

10 MR. KAMUF: One second please.

11 (MR. KAMUF CONFERS WITH MR. HUGHES AND MR.
12 GIBSON.)

13 MR. KAMUF: I think there's a motion and a
14 second. Go ahead.

15 CHAIRMAN: We have a motion and a second. Is
16 there any other comments or questions from the board?

17 (NO RESPONSE)

18 CHAIRMAN: Staff have anything other comments?

19 MR. NOFFSINGER: No, sir.

20 CHAIRMAN: Applicant have anything else to
21 add? You understand the motion as it is?

22 MR. KAMUF: We understand.

23 CHAIRMAN: Hearing none all in favor raise
24 your right hand.

25 You have a question?

1 MR. THOMPSON: Yes, I do.

2 CHAIRMAN: Come forward and state your name.

3 MR. SILVERT: State your name, please.

4 MR. THOMPSON: Nick Thompson.

5 (MR. NICK THOMPSON SWORN BY ATTORNEY.)

6 MR. THOMPSON: Just wanted to ask on behalf of
7 Thompson Homes respectfully request that the church
8 consider providing some type of screening along the
9 property line for purposes of transitioning from a
10 residential use property into an industrial use
11 property. If they would consider some type of privacy
12 fence or landscape hedge row.

13 CHAIRMAN: A motion has been made and a second
14 beforehand. I gave you all a chance of any other
15 discussion. We appreciate you bringing your item to
16 our agenda at this time. I think you need to work
17 that out between the church and their applicant at
18 this time because we didn't get it before the motion.

19 MR. THOMPSON: Thank you.

20 CHAIRMAN: Hearing no other comments all in
21 favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 Next item, please.

25 ITEM 5

1 710, 714 East Third Street, zoned R-4DT
2 Consider request to amend a Conditional Use Permit to
3 add a 40' x 22' building addition to an existing
4 daycare in order to provide care for a maximum of 49
5 children per shift, 24 hours per day, seven days a
6 week.
7 Reference: Zoning Ordinance, Article 8, Section 8.2B3
8 Applicant: Duane C. Ward, III and Bridgett Ward,
9 Owensboro Grain Company, LLC

6 ZONING HISTORY

7 The subject property is currently zoned R-4DT
8 Inner-City Residential. OMPC records show that two
9 conditional use permits have been approved for the
10 subject property. The first was approved in December
11 2004, and the most recent in August 2007. The
12 proposed amendment will add an addition to the
13 existing daycare and increase the number of children
14 under care from 30 to 49. The hours of operation will
15 not change.

16 Parking for the site is located on a
17 neighboring lot at 710 East Third Street. The parking
18 is tied to the daycare use by a final development plan
19 approved after the initial conditional use permit.
20 Based on the building addition and other site
21 improvements, the development plan must be amended and
22 approved.

23 LAND USES IN SURROUNDING AREA

24 The property to the east and west are zoned
25 R-4DT Inner-City Residential, the property to the

1 north is zoned I-1 Light Industrial and the property
2 to the south is zoned B-4 General Business. Land uses
3 in the vicinity include residences, Kentucky Mirror
4 and Plate Glass, and a car lot.

5 ZONING ORDINANCE REQUIREMENTS

6 1. Parking requirements - 2 spaces plus one
7 per ten children under care for a total of seven,
8 which is provided on 710 East Third Street.

9 2. Appropriate screening where adjoining
10 commercial property to the west and south.

11 3. Approval of an amended final development
12 plan.

13 MR. HOWARD: We would like to enter the Staff
14 Report into the record.

15 CHAIRMAN: Has there been any objections filed
16 in the office?

17 MR. NOFFSINGER: No, sir.

18 CHAIRMAN: Is anyone wishing to speak in
19 opposition of this item?

20 (NO RESPONSE)

21 CHAIRMAN: Is the applicant here?

22 MR. WARD: Yes.

23 CHAIRMAN: Do you have anything you would like
24 to add?

25 MR. WARD: No. He stated everything.

1 CHAIRMAN: Thank you.

2 Board member have any questions of the
3 applicant?

4 (NO RESPONSE)

5 CHAIRMAN: Staff have anything else to add?

6 MR. NOFFSINGER: No, sir.

7 CHAIRMAN: Hearing none entertain a motion to
8 dispose of the item.

9 MS. MASON: Mr. Chairman, I move for approval
10 and my findings of fact is it's compatible with the
11 area. It has been a child care facility, an existing
12 business, and that two conditional use permits have
13 been approved in the past for similar uses in this
14 area.

15 CHAIRMAN: Is there second?

16 MS. DIXON: Second.

17 CHAIRMAN: A motion has been made and a
18 second. Any other questions or comments from the
19 board?

20 (NO RESPONSE)

21 CHAIRMAN: Staff have anything else?

22 MR. NOFFSINGER: No, sir.

23 CHAIRMAN: Hearing none all in favor raise
24 your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries.

2 Next item, please.

3 Related Item:

4 ITEM 5A

5 710, 714 East Third Street, zoned R-4DT
6 Consider a Variance to reduce the required 10 foot
7 landscape buffer from 10 feet to 5 feet along a
8 portion of the west side and the south side of the
9 property where abutting commercial zoning.
10 Reference: Zoning Ordinance, Article 17, Section
11 17.311
12 Applicant: Duane C. Ward, III and Bridgett Ward,
13 Owensboro Grain Company, LLC

14 MR. HOWARD: As Mr. Noffsinger stated, this is
15 a related item to the previous conditional use permit.

16 Basically the requirement comes about because
17 they are having activities taking place on their site.
18 They're adding on to their existing building. They do
19 abut some commercial zoning.

20 Under the zoning ordinance requirements,
21 they'd be required to put in a ten foot landscape
22 buffer with a six foot tall fence and a tree every 40
23 linear feet.

24 Typically in this type of scenario it's the
25 commercial use that's required to put up the buffer
26 against the residential zoning, but since they're the
27 ones doing the activity on their site it is a
28 requirement of the ordinance that it be put in.

29 Their variance just requested that a ten foot

1 buffer be reduced down to a five foot buffer. They're
2 still proposing to put up a fence and the trees.

3 Based upon that information the Staff does not
4 have an objection to the proposal and recommend that
5 you consider for approval. If you do some conditions,
6 that you might wish to consider would be the
7 installation or maintenance of an existing fence and
8 the required trees and then the approval of amended
9 final development plan.

10 We would like to enter the Staff Report into
11 the record.

12 CHAIRMAN: There been any objections on this
13 one in the office?

14 MR. NOFFSINGER: No, sir, but I do have a
15 question of Mr. Howard on his recommendation on Item
16 1. The board members might have some questions
17 regarding that as to what you might have in mind.

18 MR. HOWARD: I'm sorry.

19 MR. NOFFSINGER: On the condition of the
20 approval, Item 1.

21 MR. HOWARD: The maintenance of the fence?

22 MR. NOFFSINGER: Right.

23 MR. HOWARD: There is an existing six foot
24 tall fence in the vicinity where one should be. They
25 may have to actually install a tree or two, but it

1 would just be a condition that they do maintain the
2 existing fence there and then put in whatever trees
3 might be required. They are aware that they will have
4 to amend the final development plan.

5 MR. DYSINGER: How tall is the existing fence
6 did you say?

7 MR. HOWARD: Fix foot, I believe.

8 MR. SILVERT: State your name, please.

9 MR. WARD: Duane Ward.

10 (MR. DUANE WARD SWORN BY ATTORNEY.)

11 MR. WARD: I just wanted to let you guys know
12 you were talking about the maintenance on the fence.
13 The fence that is in place now is probably about six
14 years old. When we do the addition, we were planning
15 on putting up a brand new six foot fence where the
16 existing one is standing. I just wanted to let you
17 guys know that.

18 CHAIRMAN: Appreciate that.

19 MR. NOFFSINGER: Does that take care of it?

20 MR. HOWARD: Yes.

21 CHAIRMAN: Board have any other questions or
22 comments?

23 (NO RESPONSE)

24 CHAIRMAN: Staff anything else?

25 MR. NOFFSINGER: No, sir.

1 CHAIRMAN: Hearing none entertain a motion to
2 dispose of the item.

3 MR. DYSINGER: Mr. Chairman, given the
4 findings that granting the variance will not adversely
5 affect the public health, safety or welfare; will not
6 alter the character of the general vicinity; will not
7 cause a hazard or nuisance to the public; will not
8 allow an unreasonable circumvention of the
9 requirements of the zoning regulations.

10 I move to approve the variance with the
11 following conditions:

12 1. Installation and maintenance of the
13 existing fence and the required trees.

14 2. Approval of an amended final development
15 plan.

16 CHAIRMAN: Is there a second?

17 MS. MASON: Second.

18 CHAIRMAN: A motion has been made and a
19 second. Any other comments or questions from the
20 board?

21 (NO RESPONSE)

22 CHAIRMAN: Staff have anything else?

23 MR. NOFFSINGER: No, sir.

24 CHAIRMAN: Hearing none all in favor raise
25 your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries.

3 Next item, please.

4 -----

5 VARIANCES

6 ITEM 6

7 3703 Haywood Court, zoned R-1C
8 Consider a Variance to allow a six foot fence in the
9 front yard of an existing residence to meet the
10 minimum height requirement for a swimming pool
11 enclosure.

12 Reference: Zoning Ordinance, Article 3, Section
13 3-7(g)(2)

14 Applicant: David and Holly Johnson

15

16 MR. HOWARD: This application for variance
17 comes before you in that the property is located at
18 the end of a cul-de-sac in a residential subdivision.

19 Several years ago they constructed a fence on
20 the side of their property, side yard of their
21 property which due to the alignment of the cul-de-sac
22 under the definition of the zoning ordinance would
23 still be considered the front yard.

24 Now they would like to put a pool in. For a
25 pool the minimum fence height is required to be four
feet for safety purposes. Based on the front yard
requirement, the maximum height they would be able to
build would be a three foot fence. So they're
requesting that the existing six foot fence be allowed

1 to remain and serve as the safety enclosure around the
2 swimming pool.

3 So I'd like to enter the Staff Report into the
4 record. I don't think Staff have any objection to it.

5 CHAIRMAN: Any other questions from the board?

6 (NO RESPONSE)

7 CHAIRMAN: Staff have anything else to add?

8 MR. NOFFSINGER: No, sir.

9 CHAIRMAN: Hearing none entertain a motion to
10 dispose of the item.

11 MS. MASON: Mr. Chairman, I move for approval
12 and my findings are it not adversely affect the public
13 health, safety or welfare; it will not alter the
14 essential character of the general vicinity; it will
15 not cause a hazard or nuisance to the public; and it
16 will not allow an unreasonable circumvention of the
17 requirements of the zoning regulations.

18 CHAIRMAN: Is there a second?

19 MR. DYSINGER: Second.

20 CHAIRMAN: Any other comments or discussions
21 from the office or the Staff?

22 (NO RESPONSE)

23 CHAIRMAN: All in favor raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries.

1 One final motion.
2 MS. DIXON: Move to adjourn.
3 MR. DYSINGER: Second.
4 CHAIRMAN: All in favor raise your right hand.
5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
6 CHAIRMAN: We are adjourned.

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

4 I, LYNNETTE KOLLER FUCHS, Notary Public in and
5 for the State of Kentucky at Large, do hereby certify
6 that the foregoing Owensboro Metropolitan Board of
7 Adjustment meeting was held at the time and place as
8 stated in the caption to the foregoing proceedings;
9 that each person commenting on issues under discussion
10 were duly sworn before testifying; that the Board
11 members present were as stated in the caption; that
12 said proceedings were taken by me in stenotype and
13 electronically recorded and was thereafter, by me,
14 accurately and correctly transcribed into the
15 foregoing 56 typewritten pages; and that no signature
16 was requested to the foregoing transcript.

17 WITNESS my hand and notary seal on this the
18 25th day of October, 2007.

19

20

LYNNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

21

22

COMMISSION EXPIRES: DECEMBER 19, 2010

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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