

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JUNE 14, 2001

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4 The Owensboro Metropolitan Planning  
5 Commission met in regular session at 6:00 p.m. on  
6 Thursday, June 14, 2001, at City Hall, Commission  
7 Chambers, Owensboro, Kentucky, and the proceedings  
8 were as follows:

- 9 MEMBERS PRESENT: Drew Kirkland, Chairman
- 10 Gary Noffsinger
- 11 Nick Cambron
- 12 Dave Appleby
- 13 Jimmy Gilles
- 14 Scott Jagoe
- 15 Irvin Rogers
- 16 Sister Vivian Bowles
- 17 Judy Dixon
- 18 Martin Hayden
- 19 Stewart Elliott,
- 20 Attorney

21 \* \* \* \* \*

22 CHAIRMAN: Good evening. I would like to  
23 welcome everybody to our June 14th Flag Day meeting of  
24 the Planning & Zoning Commission. I'd like to  
25 personally thank all of our veterans and those who  
have given so much for our country that are  
represented here and those that gave so much for us on  
this Flag Day.

Our invocation will be given by Mr. Scott  
Jagoe.

1 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

2 CHAIRMAN: Our first item is consider the  
3 minutes of the May 10, 2001, meeting. Are there any  
4 questions, corrections or additions to the minutes?

5 (NO RESPONSE)

6 CHAIRMAN: Chair is ready for a motion.

7 MS. DIXON: Move to accept.

8 CHAIRMAN: Motion to accept by Ms. Dixon.

9 MR. HAYDEN: Second.

10 CHAIRMAN: Got a second. All in favor  
11 raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Next item.

14 -----

15 PUBLIC FACILITIES PLANS  
16 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

17 ITEM 2

18 Proposed Segment of the South Trail Greenbelt Park  
19 Facilities Construction  
20 Consider comments regarding a proposal to construct a  
21 2.5 mile segment of South Owensboro Trail of the  
22 Greenbelt Park connecting with the West Owensboro  
23 Trail at Shifley Park.  
24 Referred by: City of Owensboro

25 MR. NOFFSINGER: Mr. Chairman, the  
Planning Staff has reviewed this application. We find  
no conflict with the Comprehensive Plan. We recommend  
you forward a letter to that affect to the City of

1 Owensboro.

2 CHAIRMAN: Any questions?

3 (NO RESPONSE)

4 CHAIRMAN: Chair is ready for a motion.

5 MS. DIXON: Move to approve.

6 MR. HAYDEN: Second.

7 CHAIRMAN: Move to approve by Ms. Dixon

8 and we've got a second. All in favor raise your right  
9 hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carried unanimously.

12 Next item, please.

13 ITEM 3

14 1102 Hall Street (Map N-7)  
Land Disposition

15 Consider comments regarding a proposal to close a  
16 portion of a 10-foot wide alley and to close a portion  
of an intersecting 15-foot wide alley.

Referred by: City of Owensboro

17

18 MR. NOFFSINGER: Mr. Chairman, the

19 Planning Staff has reviewed this application. We find  
20 it to be consistent with the Comprehensive Plan. We  
21 would recommend you forward a letter to that affect to  
22 the City of Owensboro.

23 CHAIRMAN: Any questions?

24 (NO RESPONSE)

25 CHAIRMAN: Chair is ready for a motion.

1 MR. HAYDEN: Move to accept.

2 MR. GILLES: Second

3 CHAIRMAN: Motion by Mr. Hayden. Second  
4 by Mr. Gilles. All in favor raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 ITEM 4

9 2700 Block Old Newbolt Road  
Land Acquisition

10 Consider comments regarding a proposal to accept an  
11 abandoned section of Old Newbolt Road into the county  
road maintenance system.

12 Referred by: Daviess County Fiscal Court

13 MR. NOFFSINGER: Mr. Chairman, this is an  
14 existing road that's been there for a number of years.  
15 The New Bolt Road is taken into the state maintenance  
16 system. I believe this was a section that was left  
17 off and not taken in by the county of Daviess;  
18 however, there is a request at this time to bring this  
19 roadway into the main system. We've reviewed the  
20 application and find no conflicts with the  
21 Comprehensive Plan and recommend that you forward a  
22 letter to that affect to the Daviess County Fiscal  
23 Court.

24 CHAIRMAN: Are there any questions by any  
25 member?

1 (NO RESPONSE)

2 CHAIRMAN: Chair is ready for a motion.

3 MS. DIXON: Move for approval.

4 CHAIRMAN: Ms. Dixon motion for approval.

5 MR. APPLEBY: Second.

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item, please.

11 ZONING CHANGES - CITY

12 ITEM 5

13 481 Raintree Drive, 0.179 acres  
14 Consider zoning change: From R-3MF Multi-Family  
15 Residential to R-1C Single-Family Residential  
16 Applicant: James W. Warren

16 MR. ELLIOTT: State your name, please.

17 MS. WATSON: Becky Watson.

18 (MS. BECKY WATSON SWORN BY ATTORNEY.)

19 PLANNING STAFF RECOMMENDATIONS

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

22 Findings in support of this recommendation are as  
23 follows:

24 Findings of Fact:

25 1. The subject property is located within an

1 Urban Residential Plan Area, where urban low-density  
2 residential uses are appropriate in limited locations;

3 2. The subject property is contiguous to R-1C  
4 zones;

5 3. The dwelling unit located on the subject  
6 property was constructed, and has always been used,  
7 for single-family residential activities;

8 4. The existing R-3MF Multi-Family zone is  
9 inappropriate and the proposed R-1C Single-Family  
10 Residential zoning classification is appropriate; and

11 5. Sanitary sewers are available to the site.

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

14 CHAIRMAN: Thank you.

15 Is there anybody here representing the  
16 applicant:

17 APPLICANT: Yes.

18 CHAIRMAN: Do you want to make a  
19 statement?

20 APPLICANT: No.

21 CHAIRMAN: Does any of the commission  
22 members have any questions of the applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Chair is ready for a motion.

25 MR. HAYDEN: I move we accept Staff's

1 Recommendation and Fact Finding 1 through 5.

2 CHAIRMAN: We've got a motion for approval  
3 by Mr. Hayden.

4 MS. DIXON: Second.

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

7 (ALL BOARD PRESENT MEMBERS RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 ITEM 6

11 2430, 2440, 2442 St. Ann Street, Portion 2415, 2417  
12 Frederica Street, 0.471 acres

13 Consider zoning change: From R-1C Single-Family  
14 Residential to B-4 General Business

15 Applicant: Patricia Powell Clark, Trustee of the  
16 Patricia B. Powell Revocable Trust

17 PROPOSED ZONE & LAND USE PLAN

18 The applicant is seeking a B-4 General Business  
19 zone. The subject property is located in an Urban  
20 Residential Plan Area, where general business uses are  
21 appropriate only in very-limited locations.

22 SPECIFIC LAND USE CRITERIA

23 (a) Building and lot patterns; outdoor storage  
24 yards; Building and lot patterns should conform with  
25 the criteria for "Nonresidential Development" (D7),  
and outdoor storage yards, with "Buffers for Outdoor  
Storage Yards" (D1).

1           (b) Logical zoning expansions of proportional  
2 scope; Existing General Business zones may be expanded  
3 onto contiguous land that generally abuts the same  
4 street(s). The expansion of a General Business zone  
5 should not significantly increase the extent of the  
6 zone in the vicinity of the expansion and should not  
7 overburden the capacity of roadways and other  
8 necessary urban services that are available in the  
9 affected area.

10           (c) Expansions across intervening streets; In  
11 Central Residential, Urban Residential, Future Urban,  
12 and Professional/Service Plan Areas, the expansion of  
13 an existing General Business zone across an  
14 intervening street should be at least one-and-one half  
15 (1.5) acres in size, but should not occur if this  
16 would significantly increase the extent of the zone in  
17 the vicinity.

18 APPLICANT'S FINDINGS

19           The rezoning of the subject property from R-1C  
20 Single-Family Residential to B-4 General Business is  
21 in compliance with the Comprehensive Plan.

22           The subject property is located just off  
23 Frederica Street on the north side of 25th Street. It  
24 extends from 25th Street northerly from St. Ann Street  
25 to an alley located to the rear of Frederica Street



1 property. Said property is composed of four (4) lots.  
2 All lots front on St. Ann Street. The larger vacant  
3 lot runs from St. Ann Street to the alley mentioned  
4 above. Two of the remaining lots have existing  
5 residential housing.

6 The land use map indicates that the subject  
7 property is located in an Urban Residential Plan Area  
8 where general business uses are appropriate in  
9 very-limited locations.

10 Section 11 GENERAL BUSINESS USES indicates that  
11 the rezoning of the subject property from R-1C  
12 Single-Family Residential to B-4 General Business is  
13 appropriate in the Urban Residential Plan Area since  
14 the rezoning proposal to B-4 is a logical zoning  
15 expansion of proportional scope. Section 11B reads,  
16 "existing General Business zones may be expanded onto  
17 contiguous land that generally abuts the same  
18 street(s). The expansion of a General Business zone  
19 should not significantly increase the extent of the  
20 zone in the vicinity of the expansion and should not  
21 overburden the capacity of roadways and other  
22 necessary urban services that are available in the  
23 affected area."

24 The expansion of the General Business zone from  
25 R-1C to B-4 is a logical expansion of B-4 in the area.

1 The subject property is basically surrounded by B-4  
2 zoning. There is B-4 zoning to the south where there  
3 is located a Winn Dixie store covering approximately  
4 one-half city block. There is B-4 zoning to the west  
5 where there is located a Papa John Pizza shop and  
6 Independence Bank. There is partial B-4 zoning to the  
7 north where there is located a parking lot and  
8 commercial building. There is also residential zoning  
9 (R-1C) to the north. There is residential R-1C to the  
10 east.

11 The expansion of the General Business zone of  
12 less than one acre would not significantly increase  
13 the extent of B-4 zoning in the vicinity of said  
14 expansion. 25th Street at the intersection of  
15 Frederica Street has just been widened by the City of  
16 Owensboro and the Kentucky Department of  
17 Transportation to accommodate additional traffic: 1)  
18 accessing Frederica Street from 25th Street; 2)  
19 accessing 25th Street from Frederica Street, and 3)  
20 accessing 25th Street from Washington Avenue.

21 The existing zoning classification given to the  
22 property is R-1C is inappropriate and the proposed  
23 zoning classification of B-4 is appropriate for the  
24 reasons stated above. The vacant lot which composes  
25 one of the four (4) lots in this rezoning proposal has

1 not use as residential property since the residence  
2 was demolished. Certainly, the owner or purchaser of  
3 the vacant lot would not construct a residence with a  
4 Winn Dixie store to the south and a pizza shop and  
5 bank to the west. In addition, the current setback  
6 requirements of 35 feet from the property line would  
7 prohibit the construction of a new residence on the  
8 vacant lot.

9 There have been major changes of an economic,  
10 physical or social nature within the area involved  
11 which were not anticipated in the adopted  
12 Comprehensive Plan and those changes have  
13 substantially altered the basic character of the area  
14 involved.

15 These changes include the widening of 25th Street  
16 at the intersection of 25th Street and Frederica  
17 Street. The widening of this intersection included  
18 the taking for highway purposes a part of the lot at  
19 25th Street and Frederica Street known as Papa John  
20 Pizza. The widening of access points onto Frederica  
21 Street in both a northerly and southerly direction.  
22 The widening of access points off of Frederica Street  
23 onto 25th Street as well as enlarging access to  
24 Washington Avenue from 25th Street and Frederica  
25 Street.

## 1 PLANNING STAFF REVIEW

2 The subject property is located in the 2400 block  
3 of St. Ann Street on the northwest corner of the  
4 intersection of St. Ann Street and West 25th Street.  
5 Land use criteria applicable to this proposal are  
6 reviewed below.

## 7 GENERAL LAND USE CRITERIA

## 8 Environment

9 No important environmental criteria apply to the  
10 subject property.

## 11 Urban Services

12 All urban services, including sanitary sewers,  
13 are available to the site.

## 14 Development Patterns

15 The subject property includes two lots that are  
16 in use as sound single-family residential homes. A  
17 vacant lot, included in the area proposed to be zoned  
18 to B-4, separates these residences from West 25th  
19 Street. To the west of the subject property is B-4  
20 General Business zoning and uses, including a  
21 gift/jewelry store and a parking lot. These General  
22 Business zones and uses front on a public alley that  
23 runs parallel to Frederica Street and they have  
24 Frederica Street addresses. To the north and east are  
25 standard single-family residential structures within

1 R-1C Single-Family Residential zones. To the south  
2 across W 25th Street is B-4 General Business zoning in  
3 use as a Winn Dixie grocery store. The grocery store  
4 fronts Frederica Street with landscaping and screening  
5 parallel to W 25th Street across from the residential  
6 properties. A single-family residence lies directly  
7 to the east of the grocery store.

8 SPECIFIC LAND USE CRITERIA

9 Limited expansions of existing nonresidential  
10 uses and areas should be accommodated where they  
11 reasonably satisfy a set of "logical expansion  
12 criteria". The subject property is immediately  
13 adjacent to B-4 General Business zoning to the west  
14 and is contiguous to B-4 zoning to the south across W  
15 25th Street. As mentioned previously, the B-4 zoning  
16 across W 25th Street to the south is a Winn Dixie  
17 grocery store. The front of the store faces Frederica  
18 Street and the store and vehicular use areas are  
19 buffered from the residential zoning across W 25th  
20 Street with landscaping and evergreen screening. The  
21 lots that are zoned B-4 General Business to the rear  
22 of the subject property have frontage and access from  
23 a public alley that runs parallel to Frederica Street.

24 The applicant of a 60 foot building setback line  
25 from the center of W 25th Street does limit the

1 building area on the vacant lot located at 2442 St.  
2 Ann Street. However, a variance could be sought based  
3 on the lot being a lot of record that predates the  
4 Zoning Ordinance and the pattern of lot development in  
5 the vicinity. The applicant argues that no new  
6 residential structure would be constructed due to the  
7 proximity of the Winn Dixie store. The store's  
8 business activity is well screened from the  
9 residential neighborhood by landscaping and by the  
10 store's orientation to Frederica Street.

11 Intersection & Driveway Spacing Standards

12 W 25th Street is classified as a minor arterial  
13 from Frederica Street to Breckenridge Street. The  
14 spacing standard for access points along W 25th Street  
15 is 500 feet. The frontage of the subject property  
16 along W 25th Street is approximately 184 feet. This  
17 would require that access to the property be  
18 prohibited on W 25th Street and limited to St. Ann  
19 Street, a residential street, or to the 10' alley  
20 adjacent to 2442 St. Ann Street. Construction of a  
21 business access point on St. Ann Street would  
22 certainly be a significant increase in the general  
23 business activities in the immediate vicinity.

24 The subject property meets some of the criteria  
25 for logical expansion in that the Comprehensive Plan

1 allows for expansions of existing General Business  
2 zones onto contiguous land that generally abuts the  
3 same street(s). There exists adjacent B-4 General  
4 Business zoning and use that has frontage along W 25th  
5 Street. However, the expansion of the General  
6 Business zone should not significantly increase the  
7 extent of the zone in the vicinity of the expansion  
8 and should not overburden services that are available  
9 in the affected area. The subject property includes  
10 two standard residential structures that are zoned  
11 appropriately for the current use as single-family  
12 residences. Increasing the B-4 General Business zone  
13 to include these two single-family homes would  
14 significantly increase the extent of the General  
15 Business zone in the vicinity of the established  
16 developed residential area. Due consideration should  
17 be given to the concerns of neighboring residents with  
18 respect to the established lot patterns in their  
19 neighborhoods. This entire 2400 block of St. Ann  
20 Street has been developed with single-family housing,  
21 with the exception of the vacant lot located at 2442  
22 St. Ann Street, where a single-family home was  
23 demolished. The abutting and contiguous general  
24 business uses are screened from the residences by  
25 landscaping and/or by orientation of the uses on the

1 General Business lots.

2 PLANNING STAFF RECOMMENDATIONS

3 Staff recommends denial because the proposal is  
4 not in compliance with the adopted Comprehensive Plan.  
5 Findings in support of this recommendation are as  
6 follows:

7 Findings of Fact:

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

11 2. The subject property is appropriately zoned  
12 R-1C and two of the lots included within the rezoning  
13 request are occupied by standard single-family housing  
14 that is consistent with the current zoning and with  
15 the development of the established residential  
16 neighborhood;

17 3. The expansion of the B-4 General Business  
18 zone into the established developed residential  
19 neighborhood will significantly increase the extent of  
20 B-4 General Business zone in the vicinity; and,

21 4. Due consideration should be given to the  
22 concerns of neighborhoring residents with respect to  
23 the established lot patterns in their neighborhoods.

24 MS. WATSON: We'd like to introduce this  
25 as Exhibit B.



1 CHAIRMAN: Thank you, Ms. Watson.

2 Is there anybody here representing the  
3 applicant?

4 MR. ELLIOTT: State your name, please.

5 MR. KAMUF: Charles Kamuf.

6 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

7 MR. KAMUF: Sister Vivian, Ms. Dixon,  
8 other Members of the Board, I represent Pat and Sy  
9 Clark and they're the owners of Lloyd's & Pat's  
10 Jewelry. They've been located at 2417 Frederica  
11 Street for the past 26 years.

12 I have some exhibits to introduce and I've  
13 talked to the court reporter and, Mr. Appleby, when  
14 they get down there she'll come and pick them up and  
15 mark them.

16 Exhibit Number 1 shows the subject. This  
17 is the property that's owned by Lloyd's & Pat's. This  
18 is Sy Clark, that's where they run the jewelry store.  
19 The next exhibit shows - - one of the lots that's  
20 indicated by the staff report is a vacant lot. Here  
21 is what was on the lot. That's the rear of the  
22 property, the house that's on the vacant lot. That  
23 was there at the time Pat bought the property. This  
24 shows the front. I believe the lot is a 46 foot lot  
25 and it runs from St. Ann Street to St. Ann Street.

1 Those are the, that's what the house looked like  
2 before it was torn down. The reason it was torn down  
3 is damage by the tornado.

4 Here is what the property looks like  
5 today. This is looking from Frederica Street going  
6 east. This is from the east looking towards  
7 Frederica. Then on the other two, there are two lots  
8 and I'll show you in just a second. This is a  
9 one-story single-family house that's on the lot that  
10 is next to the vacant lot and it is a rental house as  
11 many of the houses are there in the neighborhood.

12 Here is another, this is the other house  
13 which is located directly - I think one of them is  
14 2440 and the other is 2432. I'll introduce these.

15 The next chart that I'll show you is a  
16 display of the zoning in that particular area and I  
17 have a plat for each one of you.

18 This is a map. It's a zoning map of the  
19 area. You have a little plat of this property. It  
20 shows the adjoining property. If you look at your  
21 little area, and this is the property that I've just  
22 described for you, the vacant lot. It's in sort of a  
23 red area different than the pink. Directly to the  
24 south of the property is the Winn Dixie store.  
25 Directly to the north of the subject property is a

1 State Farm Insurance office, and the little cut out  
2 that you see there in the middle is Pat & Lloyd's.

3 Here's some photos that I might show you.  
4 Independence Bank is directly to the west.

5 I might show you this is Independence Bank  
6 and that's directly to the west that you see there.  
7 It's located on Frederica.

8 The next property which is directly on  
9 25th and Frederica is a Papa John's. As you can see  
10 this is where the garbage is located, to the rear.  
11 The picture that I showed you of Pat & Lloyd's, the  
12 garbage locator is directly in front of their  
13 property. It says on there "Cardboard Only".

14 The next one that I will show you is the  
15 vacant lot. This is the vacant lot directly north of  
16 Pat & Lloyd's and that's the picture of the building  
17 that I first showed you.

18 This is the State Farm Insurance Agent  
19 office. That's directly to the north also. I might  
20 say that property was zoned sometime prior to 1975.

21 The next exhibit is the Beltone. This is  
22 to the north of the property. That property was zoned  
23 prior to 1975.

24 Directly across, and what I think the  
25 Staff Report said, that it's properly screened. You

1 see the Winn Dixie store. If you built a house on the  
2 property, on this vacant lot, that's what you would  
3 see directly across the street. It backs up right to  
4 the Winn Dixie store. Here is what the store likes  
5 like to the front, of course.

6                   Directly as you get down, further down to  
7 25th Street and J.R. Miller Boulevard you have the  
8 Franey's store on the corner and the other side is a  
9 non-existing use, but it is zoned B-4. Directly  
10 across from that you have Colonial Bakery. Then  
11 across from that is a car lot. So the intersection of  
12 J.R. Miller Boulevard and 25th is very active. Here's  
13 the Franey's store. As you get there in the  
14 neighborhood, what's taking place on 25th Street. The  
15 next block I notice and took a picture where it says  
16 "Howe's Contractors". I don't know. It's my  
17 understanding from some of the neighbors that that's  
18 where he lives and he advertises out front.

19                   Directly further down on 25th Street near  
20 the corner there is a beauty shop called Cut & Curl.  
21 Then nearly directly across from this lot is a  
22 chiropractor's office which is known as Dr. John  
23 O'Connor's Chiropractor. I'll introduce these  
24 exhibits and mark them, please.

25                   As you can see the property is nearly

1 surrounded by a B-4 zoning classification as shown on  
2 the little plat that you have in front of you and  
3 these are the existing zonings that are in the area.

4 What the property is being used for at the  
5 present time? The two houses that I showed you that  
6 front on St. Ann Street, one of them Pat lived there  
7 for a period of time. They're rental houses at the  
8 present time. Of course, the vacant lot is not being  
9 used.

10 A little history about the property. In  
11 1975 Pat bought the house that fronts on 2440 St. Ann  
12 Street an also where the store is located.

13 In 1975 she got that property zoned. So  
14 as you look at the property now, you can see that  
15 since 1975, and I showed you prior to that time the  
16 Beltone building and also the State Farm building, the  
17 integrity of that block has been broken we know since  
18 prior to 1975 with commercial activity.

19 In 1976 she bought the house at 2430 St.  
20 Ann Street. This is also a rental house.

21 In 1983 Pat bought the State Farm  
22 building, and you've seen a picture of that. That  
23 property was zoned prior to 1975.

24 In 1996 she bought the corner of 25th and  
25 St. Ann Street and that's the older house that I first

1 showed you on the corner and then I showed you the  
2 other two pictures which show that the property is now  
3 vacant. As you can see, Pat has been buying up the  
4 neighborhood property for the past 25 years.

5 In 1955 when she bought the property, as I  
6 explained, some of the property was already zoned.  
7 Then in 1975 she had the property zoned where her  
8 building is.

9 What triggered our request for the  
10 rezoning? In the year 2000, the tornado damaged the  
11 house on the corner. I showed you a picture of that,  
12 and we had to tear the house down. It had been a  
13 rental house for years and I think when Pat gets to  
14 testify she will tell you that a lady lived in that  
15 house for 65 years. It was very difficult for her to  
16 tear the house down. It was damaged to the extent  
17 that she did not want to repair it.

18 There are several other rental houses in  
19 the area.

20 Let's see if there's rental property in  
21 the immediate area. The property that you see in red,  
22 that is the property to be rezoned on the corner and  
23 these next two houses are also, they're rental  
24 property. So we have one rental property. Next  
25 rental property is where Pat used to live. Next to

1 that property is a fellow by the name of Michael  
2 Patrick Pollock. It's very important in this case  
3 because we looked around to see what affect would that  
4 have on our nearest neighbor if we filed this  
5 rezoning. Mr. Pollock is for this rezoning. He says  
6 that he thinks that the value of his property will go  
7 up in the event that it's rezoned. So the closest  
8 person to object to this rezoning we have no problem  
9 with, but it's also a rental house. As you get to the  
10 rear of that, you have Larry Depp. I think the Staff  
11 Report says that they found everything to be  
12 single-family. Here is a duplex that is owned by  
13 Larry Depp. It's located at 2426 St. Ann Street.  
14 Directly to the rear there is a four-flex and on the  
15 front of it it's the Homer Miller - it's a big  
16 two-story building. To the rear there it's the Homer  
17 Miller apartments and it is owned by the Joan Rivers  
18 Ford Estate. I called. It's owned I think by Richard  
19 Ford and his brother Mick Ford. I called Mick Ford  
20 and I said, do you have any objection? He said, no,  
21 sir.

22 I see Dave Haycraft here. David owned a  
23 piece of property to the right. According to the  
24 application that I filed, I think it's a rental house  
25 at least according to the records at the PVA office is

1 not owner occupied. Then directly across the street  
2 we have a Thomas E. Means and Patricia Colburn at 2423  
3 and that is also a rental house.

4 What we have done previously. Let me back  
5 up just a second.

6 What can we do with the property? There  
7 are setback lines and we have a surveyor here, Mr.  
8 Simmons, whose done the survey work and he'll tell you  
9 that the setback lines are so restringunt on this  
10 property that you cannot build anything on the  
11 property unless it's consolidated. You can't even put  
12 a mobile home on it. I think what he tells me, and  
13 he's here to give his testimony. You can put a  
14 building on it that would be eight foot wide.

15 The question then is: What can we do with  
16 a 43 foot lot? That's the one in red that I'm showing  
17 you. What we would like to do is, of course, is  
18 consolidate it and get it zoned to B-4 zoning so we  
19 can do something with it. In other words, it's a  
20 difficult position that you all are in. The Staff has  
21 recommended denial, but the other side of the coin is  
22 what can he use the property for? Certainly you can't  
23 deny somebody the right to use a lot for nothing and  
24 pay taxes on it.

25 What have we done previously? Prior to



1 coming with this rezoning application I met with the  
2 Planning Staff and we proposed a rental unit on this  
3 property. Mr. Sy Clark will be here to tell you about  
4 that. He would like to build some type of rental  
5 unit, several story apartment. I go to the Planning  
6 Staff and they say, we don't like your idea. I said,  
7 okay, I'll try something more in line with what they  
8 want to do. So I met with the Planning Staff. I  
9 didn't get any commitment, but I didn't get any strong  
10 opposition it didn't seem to be as to my rezoning  
11 proposal. As a matter of fact, when I talked to one  
12 of them they said, hey, the zoning could go either  
13 way. They have decided not to, but it was close of a  
14 call.

15                   What we intend to do with the property.  
16 Since the property was damaged by tornado, at the  
17 present time - I showed you the picture of Pat &  
18 Lloyd's Jewelry shop. They would like to expand their  
19 shop. We do not have a development plan. There are  
20 several reasons we don't have a development plan.  
21 When we found out Mr. Pollock had no objection, that  
22 was really a key because whatever we do his property  
23 would back up to it. I mean our property would back  
24 up to his Then Pat thought a long time and the  
25 property on 25th if she fronts the property on 25th it

1 would be the only way; in other words, we would have  
2 to have another tenant. So she doesn't have another  
3 tenant. There was an article in the paper discussing  
4 that there was going to be a shopping center, Walgreen  
5 and things of this nature. They have inquired. That  
6 is not what's going to be built there. In other  
7 words, we are agreeable to the rezoning being done to  
8 the development plan at a future date. In other  
9 words, we can't buy one right now because we don't  
10 have the second tenant. I think we find that rezoning  
11 are frequently done up here without a development  
12 plan. I have one coming up at Towne Square next  
13 month. Certainly that is an easy development plan  
14 because you know where everything goes. When you have  
15 an older section of town, it's more difficult to get  
16 the development plan.

17                   Applicant's finding for the rezoning.  
18 It's our position that we're in accord with the  
19 Comprehensive Plan. If this is not a logical  
20 expansion of a rezoning proposal, I've never seen one.  
21 Now, you can sit up here all day and say, well, it  
22 doesn't go over on St. Ann. The minute that property  
23 was rezoned prior to 1975, it met the requirements for  
24 logical expansion. Then in 1975 there was another  
25 rezoning. This is where Pat & Lloyd's are at the

1 present time. So we're saying, one, that does meet  
2 the standard for logical expansion.

3 I showed you the photographs of the  
4 subject property. There are many of them. Nobody I  
5 don't believe would build a four or 500 - - I don't  
6 know what shopping centers cost as far as building  
7 where you've got Pat & Lloyd's just a little two unit  
8 shopping center, but nobody is going to build one  
9 directly across from an area - - excuse me. They'll  
10 build it across on 25th Street, but nobody is going to  
11 build a house across from them.

12 What we're talking about is directly - -  
13 if you look directly to the west, that's where the  
14 Papa John's Pizza shop is. I don't think anybody  
15 wants to build a house with a dumpster in the front.  
16 This is the reason it's so important that we work out  
17 with whatever we do with Mr. Pollock. He's very  
18 agreeable. He's very happy about our proposal. If we  
19 have to jockey anything to the rear, we can jockey it  
20 over to the west side of the street.

21 It's our opinion that it meets the  
22 expansion of a general business zone. It's more than  
23 one acre and certainly in line with the logical  
24 expansion. We say that the original zoning  
25 classification given to the property is inappropriate.

1 When you have a lot that you can't do anything with,  
2 certainly you're going to have consolidate. Certainly  
3 nobody would build a house fronting and looking over  
4 directly at Winn Dixie.

5           There have been major changes of social  
6 and physical nature in the area. One of these is the  
7 intersection of 25th and Frederica. We think that is  
8 a substantial change and I think what that does, that  
9 tells you what's taking place. You see J.R. Miller  
10 and 25th Street? It's changed. 25th Street has  
11 changed. You can put your head in the sand and say  
12 it's not. We saw a chiropractor's office. Right up  
13 there there was a Cut & Curl. Further up the road  
14 there was a contractor's sign. As you get up there,  
15 this street is already changing. Why would they spend  
16 - - there are four traffic lanes at that intersection.  
17 No, five. One coming on to this area. So why would  
18 the Department of Highways spend that much money at an  
19 intersection? Because of the traffic that's coming  
20 off of 25th Street. A lot of it is generated from  
21 J.R. Miller Boulevard.

22           To suggest a couple to Planning Staff. I  
23 didn't have that much trouble with the Planning Staff  
24 Report. First of all, they say that the property is  
25 located in an Urban Residential Plan area where

1 business uses are appropriate in limited locations.

2 We fit that.

3 The subject property is zoned two of the  
4 lots by a standard of a single-family housing. We  
5 showed you that, what, there are rental units in the  
6 area. Are there or are there not? Counting this  
7 vacant lot which was a rental unit, I show you that.  
8 You've got five on that side of the block, and I don't  
9 know what the Campbell property, I don't know whether  
10 that's a rental unit or not. I can't say. Over there  
11 the first six are rental units. On the other side of  
12 the street, the Haycraft property and the Means.

13 In my conclusion, I would like to say that  
14 we are certainly an area where there's a logical  
15 expansion. That's what this map shows.

16 Second of all, is the property zoned  
17 inappropriately? Certainly if you can't use the  
18 property for anything I would think that it would be  
19 inappropriately zoned unless it's consolidated with  
20 the two lots to the rear - excuse me - two lots to the  
21 north and that's what our plan is.

22 Thirdly, I think there have been major  
23 social and physical economic changes in the area that  
24 would justify this change.

25 Pat is here and she would like to tell you

1 just a little history about the property and we have a  
2 couple of witnesses that we would like to put on.

3 CHAIRMAN: Mr. Kamuf, we've been going on  
4 here for a little bit over 20 minutes on your  
5 presentation. I assume we have other members of the  
6 neighborhood that might be here and I think it be only  
7 fair what I would like to do is give them a chance for  
8 any questions, ideas they would have. Your witnesses  
9 might figure into the questions as opposed to them  
10 being redundant on making the testimony and then  
11 coming back for answering questions that might have  
12 been given in testimony. With your permission I would  
13 like to give the neighbors - -

14 MR. KAMUF: I wouldn't have any problem if  
15 you let Pat talk for three minutes. She just wants to  
16 give you a background. I think once she - -

17 CHAIRMAN: My three minutes or yours?

18 MR. KAMUF: Mine.

19 CHAIRMAN: Let's go. We'll be happy to  
20 hear from her for three minutes.

21 MS. CLARK: My name is Pat Powell Clark  
22 and I do own Lloyd & Pat's Jewelry and have so for 26  
23 1/2 years.

24 MR. ELLIOTT: Wait a minute. I need to  
25 swear you in.

1 (MS. PAT CLARK SWORN BY ATTORNEY.)

2 MS. CLARK: In 1975 when I tried to buy  
3 the store building where my store is now, it was  
4 advertised as being commercial property. The day we  
5 closed the loan we found out that it wasn't, but you  
6 shouldn't have no problem. Well, it took me three  
7 months to get the work done, but at that time Mr. John  
8 Kazlauskas was very, very, very upset. He did not  
9 want it zoned.

10 Here is what we didn't want changed. It  
11 was a bookie joint and it had antiques downstairs. It  
12 had weeds knee high all the way around the building.  
13 Upstairs there was at least 10 to 15 telephone  
14 jacks. There was a great big circle where a big round  
15 table had been where gentlemen played cards and smoked  
16 cigarettes. Did this type of thing. Later on many,  
17 many, many police officers told me, we've raided this  
18 place a dozen times or more. I'm glad to see  
19 something else being done with it.

20 Anyway, I did make it into a nice looking  
21 building. I've had a good business there and still do  
22 with a good reputation, but have always wanted to  
23 expand my business. I never had an opportunity too  
24 much except to buy other properties as they became  
25 available. So this is what I did of expanding my

1 business.

2 CHAIRMAN: Thank you. Does that completed  
3 your testimony?

4 MS. CLARK: Yes. I would like to talk  
5 about Mr. Pollock. He has no objection whatsoever to  
6 this being rezoned and it would affect the line  
7 between my property and his and he said, ma'am, do  
8 what you want to. He said, in fact, I would like to  
9 see you do it. It wouldn't hurt at all.

10 CHAIRMAN: Thank you.

11 MS. CLARK: You're welcome.

12 CHAIRMAN: I think it would be appropriate  
13 if we hear - - I assume we have somebody representing  
14 the neighborhood. If they would step forward, please,  
15 and we will try, we sort of condensed Mr. Kamuf the  
16 best we possibly could and we ask that you all show  
17 the same courtesy because he has other witnesses that  
18 we're going to try to use instead of his witnesses to  
19 answer concerned questions that you all might have an  
20 hopefully you all will have one person to funnel the  
21 questions and it be more effective for all of us.  
22 Thank you.

23 MR. ELLIOTT: State your name, please.

24 MR. KAZLAUSKAS: John Kazlauskas.

25 (MR. KAZLAUSKAS SWORN BY ATTORNEY.)



1                   MR. KAZLAUSKAS: I'm John Kazlauskas and  
2 I've lived at 2421 St. Ann Street for the past 26  
3 years now.

4                   Mr. Kirkland, I would ask that I be  
5 allowed to speak to the matter and then my next-door  
6 neighbor, which will be two, be allowed to speak.

7                   CHAIRMAN: That's fine.

8                   MR. KAZLAUSKAS: Then later later on if  
9 there's other people wish to speak open the floor for  
10 them.

11                   We would like to present a petition to the  
12 board at this time that has over 50 signatures of  
13 property owners of people that live in Buena Vista  
14 Subdivision area. If I could submit that. I have an  
15 original and then I'll have copies for the board  
16 members.

17                   CHAIRMAN: Mr. Kazlauskas, if you'll start  
18 it down there with Mr. Appleby. It'll save you some  
19 time and he'll do the leg work for you and then you  
20 can continue your testimony.

21                   MR. KAZLAUSKAS: Those are signatures of  
22 50 home owners in the Buena Vista area that oppose  
23 this rezoning change.

24                   I would like to bring your attention just  
25 for a couple of minutes to something that happened in

1 Kansas City about 60 years ago. The Kansas City  
2 Police Department went out to take a survey, survey  
3 crime that was occurring in Kansas City. This survey  
4 turned into what is called the Broken Window Theory.  
5 Some of you might be familiar with it, might have  
6 heard of it. Basically what the Kansas City Police  
7 Department found out was that although people were  
8 concerned with crime in the neighborhood, there were  
9 issues that they were much more concerned about.  
10 Things like broken glass, potholes in the road,  
11 sidewalks in disrepair, traffic problems, noise  
12 problems, and these turned into be what we considered  
13 to be quality of life issues. Quality of life issues  
14 are very important to the people who live in the Buena  
15 Vista Subdivision. We believe that if the zoning  
16 change were to occur there would be increased traffic  
17 problems.

18 Now, the width of the 2400 block of St.  
19 Ann Street is 28 feet and it's dedicated as a  
20 residential street. Of course, this was dedicated  
21 over 70 years ago. At that time 25th Street was the  
22 city boundary and there were corn fields out there,  
23 but it was a residential street then and it still is.  
24 Of course, the city has grown. Owensboro has grown to  
25 the south. That street has not grown. It's still 28

1 feet wide. It can be considered almost a secondary  
2 artery right now because of the number of cars that go  
3 down through there.

4 What happens is because Winn Dixie and  
5 Weber's Meat Market, and by the way because people buy  
6 a lot of meat, a lot of cars, that it's easier to come  
7 down between 400 block of St. Ann Street than it is to  
8 come through Frederica Street. So St. Ann Street has  
9 become a short cut or a cut through for people coming  
10 from the northeast part of Owensboro over to Winn  
11 Dixie and Weber's Meat Market.

12 Also Papa John's Pizza. Before Papa  
13 John's was in that establishment there used to be a  
14 Shell Service Station there. The Shell Service  
15 Station, of course, sold gas and there was traffic in  
16 and out, but nothing like the traffic that has come to  
17 be because of the pizza place.

18 What happens is the delivery employees  
19 constantly use St. Ann Street to go to the northeast  
20 part of Owensboro rather than go out and use Frederica  
21 Street. At the beginning of about 5 p.m. until about  
22 7 p.m. daily, we could rename the street Papa John's  
23 Race Way because everybody wants pizza for supper and  
24 those cars are going back and forth for about two  
25 hours there. So we believe that with zoning change,

1 more traffic, more problems with people that reside in  
2 that area.

3 I have a study here. It's by the Green  
4 River Area Development District. This is the '99  
5 Owensboro Traffic Accident Report. I don't know if  
6 the 2000 is out yet. If it is, I haven't seen it.

7 If you'll at that report, you'll find that  
8 at the intersection of 25th and Frederica in 1998  
9 there were 14 auto collisions. In 1999 there were 15  
10 auto collisions. This was the fifth highest collision  
11 location in the city. So a lot of traffic was going  
12 by there. With more business you're going to have  
13 more traffic.

14 At 24th and Frederica in 1998 there were  
15 only three automobile accidents. In 1999 that had  
16 risen to ten. So we've got a lot more traffic coming  
17 through there. Even with the new traffic flow design  
18 as Mr. Kamuf alluded to, the traffic on 25th Street  
19 still gets backed up. That has not solved the problem  
20 completely.

21 Another quality of life issue that affects  
22 the people in this neighborhood is noise pollution.  
23 Of course, now 25th Street is considered a secondary  
24 artery and there's a lot of traffic come through  
25 there.

1                   About five years ago, I know everybody in  
2                   Owensboro has its problems. About five years ago,  
3                   young people found that they could put base speakers  
4                   in the back of their cars and make a lot of noise.  
5                   What we found out in the city was those base vibes,  
6                   the reverberation is not sound. It is not sound. It  
7                   is exactly vibration that carries through the street,  
8                   the wires, the telephone poles and into your homes.  
9                   Now, the people in this area suffer from these things  
10                  because of 25th and Frederica because they come all  
11                  the way over to Frederica day in and night. I know  
12                  it's a problem for everybody. In fact, the city  
13                  enacted an ordinance to try to combat it and it has  
14                  not worked as expected. Increase traffic, increase  
15                  noise for the people that continue to live in that  
16                  area.

17                  New construction. If this area is zoned  
18                  B-4, there's going to be new construction there. With  
19                  new construction comes heating and cooling units.  
20                  Now, Winn Dixie had moved in and they try to be a good  
21                  neighbor, but right now if you can stand anywhere on  
22                  the 2400 block of St. Ann Street and hear the air  
23                  conditioning unit run. They're massive. They're  
24                  large on the top of Winn Dixie building.

25                  Commercial business moving into that if

1 that was zoned B-4 you're going to have problems with  
2 vans and delivery trucks. It'll be 24 hours a day.  
3 This can happen. This is already happening on 24th  
4 Street down the road. There's problems there off and  
5 on.

6 So those are quality of life issues.  
7 Let's talk about sewers and storm water.

8 If you stand on the corner of 25th and  
9 Frederica Street and you're looking four points of a  
10 compass, all you see is concrete and black top.  
11 You're going to see some small grassy area, but  
12 they're for landscaping between the sidewalk and the  
13 parking lot.

14 Sewer services. St. Ann Street is a  
15 combination sewer. Very old sewer. The construction  
16 of a home on the 2400 block of St. Ann Street is  
17 constructed so that rain gutter downspout, basement  
18 drains, bathroom, kitchen drains, they all drain  
19 directly into that old sewer unless you've gone in  
20 there and taken that four inch drain tile out, but  
21 that sewer still gets a lot of water.

22 Now, when the Executive Inn was being  
23 built, that's the first time we experienced the  
24 problem of these sewers actually backing up into the  
25 basement of a home in that area. We contacted Mr.

1 Russell Shively. Some of you might remember was a  
2 city commissioner and he was director of streets of  
3 sewers for a number of years and probably had more  
4 knowledge of the sewers in Owensboro. He told us what  
5 we had to do. There was some homeowners on the 2400  
6 block of St. Ann Street that actually took a backhoe  
7 and went down to the basement and plugged it off to  
8 stop the sewer water coming up in the basement. So  
9 the homes that haven't done that basically they're  
10 still flooded. Those sewers are at maximum capacity.  
11 You start putting more blacktop down there, that sewer  
12 is not going to handle it. You're going to have  
13 problems. When it rains now, when it rains now, the  
14 intersection of 25th and St. Ann, 24th and St. Ann  
15 they flood. There are times that there's been over  
16 two feet of water on St. Ann Street.

17 We would like to - - just a couple of  
18 things. We would like for the board to clear  
19 something for us. According to the property and  
20 notification of the area that has been provided by the  
21 Planning & Zoning Staff, the property located at 2428  
22 St. Ann Street is presently zoned R-1. That's the  
23 property that Mr. Pollock owns right now. Apparently  
24 over the past few years, that property has been  
25 subdivided. The back part of that property has been

1 purchased by Ms. Clark and has been concreted over and  
2 that it's now being used as a commercial parking lot.  
3 After checking with the Staff, there's no record of  
4 public notice of a zoning change for that property and  
5 we would like to ask the board to inquire as to what  
6 had happened. The back of the residential section has  
7 been turned into a concrete parking lot without  
8 anybody's knowledge.

9 Now, as far as Mr. Pollock, and I don't  
10 see him here tonight. I know that Michael has been in  
11 Louisville for some weeks working for UPS and having  
12 back problems problems. We haven't been able to talk  
13 to him, but his father has been at the house across  
14 the street working on it. Unfortunately he's not  
15 here. I'll tell you what Mr. Pollock told me last  
16 week. That he has power of attorney for Michael and  
17 that he is not going to sell that property. Now,  
18 that's what the man told me. Somebody is not getting  
19 a straight story here. I'm not going to say that they  
20 haven't been in contact with Michael, but I do know  
21 that Michael has been in Louisville.

22 As far as the zoning of Lloyd & Pat's shop  
23 in 1975, Mr. Harold Mullins and myself did come to the  
24 city commission meeting when Lloyd & Pat were in the  
25 process of getting the jewelry shop going. The city



1 commission went ahead and zoned that; although, we  
2 said was property zoning at the time, and assured us  
3 that Lloyd & Pat did right here in front of the  
4 elevator. That what is happening, what they are  
5 proposing right now would never happen. Of course,  
6 time has changed, people change.

7 About 30 years ago I was pretty naive. If  
8 you go to the newspaper, I have a copy here.  
9 Messenger-Inquirer, Thursday, June 7th, article  
10 written by Keith Lawrence. What Mr. Lawrence writes  
11 is "Walgreen, Rite-Aid and Independence Bank, they've  
12 all talked buying Clark said Wednesday." This is  
13 their quote, "But for one reason or another none of  
14 them did. I want to get it all zoned commercially for  
15 the next time something comes along." You go further  
16 down in the article and it says, "Clark said having  
17 all the property zoned commercial should make it more  
18 attractive for development."

19 Well, can I say for certain, but I'm not  
20 naive enough to believe that there's not some business  
21 person somewhere waiting in the wing that has talked  
22 with Mrs. Clark and told her that if she can get this  
23 property zoned they would be interested in buying it  
24 from her.

25 My question to you is: Does Frederica

1 Street need more property zoned commercial? Starting  
2 at the 500 block of Frederica Street there are seven  
3 businesses establishments sitting empty. Three of  
4 those vacant buildings are located at 24th and  
5 Frederica sitting there empty. Business properties on  
6 Frederica are not being utilized now and the  
7 petitioner was asking that you approve more zoning  
8 away from Frederica and taking that residential  
9 property on St. Ann Street.

10 Value of homes. The value of homes  
11 located in the 2400 block of St. Ann Street will most  
12 certainly decrease if this zoning request is approved.  
13 No doubt in my mind. Mrs. Clark knew when she  
14 purchased the property located on St. Ann Street that  
15 it was zoned residential. No one person should be  
16 able to profit at the expense of other property owners  
17 located in the Buena Vista Subdivision. It's not  
18 correct, or right, or fair. There has not been a  
19 significant social or economical change in the last 25  
20 years that would warrant a zoning change. We still  
21 have people in those homes. Yes, the state came in  
22 and widened the road, but we still have people living  
23 in that neighborhood.

24 What is the cost to the city? Cities like  
25 Owensboro can't afford to lose older established

1 neighborhoods like the Buena Vista area. Cities can  
2 handle new subdivisions, but if you don't protect the  
3 older neighborhoods - -

4 I respectfully request that for the  
5 property owner in that area that you deny the request  
6 for the rezoning and stop the encroachment on an  
7 established neighborhood. Thank you for your time and  
8 patience. My next-door neighbor has a couple of  
9 things to say.

10 CHAIRMAN: Thank you for your  
11 presentation, Mr. Kazlauskas.

12 Do we have another person for the Buena  
13 Vista area? Yes, ma'am, please step forward.

14 MS. McDONOUGH: I'm Greta McDonough.

15 (MS. GRETA McDONOUGH IS SWORN BY  
16 ATTORNEY.)

17 MS. McDONOUGH: I'm Greta McDonough. I  
18 live at 2419 St. Ann. I've lived there for just three  
19 years. I'm an Owensboro native. I grew up in the  
20 Buena Vista area. I looked a long, long time before I  
21 purchased my first home. I was just compelled by this  
22 particular neighborhood because it is an older  
23 neighborhood. I was struck by its trees and  
24 sidewalks.

25 After we moved in I have to tell you I was

1 further struck by how it reminded me of how the Buena  
2 Vista area used to be when I was a kid growing up  
3 because the neighborhood people still sit on the  
4 porches.

5 St. Ann is a street where people still  
6 hang out on their porches. There is a large apartment  
7 building that's very much in keeping with the  
8 Victorian era of developing housing in the 1930's  
9 which is when this neighborhood was being developed.

10 On our particular street there are three  
11 families I believe with small children, total of eight  
12 children under the age of ten. There is an apartment  
13 directly across the street from me. Again, when I  
14 think of it I think of it as just rental property, you  
15 know, a lot of moving in and out. There is a 90 year  
16 old woman who lives there, Ms. Johnson. She's lived  
17 there for 17 years. She lives there and she does not  
18 drive and she has vision problems. She moved there so  
19 she could be closer to church, Buena Vista Baptist  
20 Church and have access to shopping. There's also a  
21 married couple that lives across that street for at  
22 least ten years if not longer. I wish I had known  
23 somewhat about taking pictures. I've been working  
24 awful hard in my yard. The pictures that you have  
25 seen are somewhat indicative of the development that

1 has taken place, sort of a hodge-podge of what's taken  
2 place so far, but that's not represented of what the  
3 rest of the street looks like, old neighborhood.

4           If you all notice on the petition that Mr.  
5 Kazlauskas has given to you, that many people signed  
6 on streets not directly affected by this particular  
7 zoning change. 22nd Street, from the east quad of  
8 22nd Street, 23rd Street. I have surveyed those  
9 neighborhoods. I will tell you that every house that  
10 I went to where there was someone home signed the  
11 petition with very little explanation with the  
12 exception of one individual who wanted to get  
13 information and wanted to read it and I was not able  
14 to reach her today. There is one individual possibly  
15 that's far away from this particular zoning, Ms.  
16 Hardesty, who walks to Winn Dixie every day, sometimes  
17 twice because she does not drive. She raised 12  
18 children on East 22nd Street. She is a widow and she  
19 relies on having easy access to shopping that she can  
20 get to on her own.

21           In addition to being a homeowner I'm also  
22 therapist and a social worker. I will tell you  
23 sometimes that where we live can be just as important  
24 as how we live. If you were to look at a textbook, as  
25 I know you are very familiar since this is your thing,

1 Buena Vista looks like a neighborhood done right. It  
2 is very diverse. There are young couples with small  
3 children who live there. There are elderly senior  
4 citizens who take care of each other and frankly  
5 sometimes take care of us. There are young  
6 professionals and professional people, teachers and  
7 civil service, and college professors, and therapists,  
8 and small business owners as well who live in this  
9 neighborhood.

10 I don't know if you all are familiar with  
11 Buena Vista. I would suppose that part of your  
12 responsibility would be to drive around and look. We  
13 have a special challenge here in Owensboro because we  
14 are relatively small. I spend a lot of time in  
15 Louisville, Kentucky, which in a recent national  
16 magazine has been quoted as one of the best livable  
17 cities for unknown cities in the country. One of  
18 things you know about Louisville is they have very  
19 distinct neighborhoods. They have Old Louisville,  
20 Crescentville, Clifton area, and the Highlands, but  
21 Louisville has a lot of buffer zones for those  
22 neighbors. You can have two or three or four blocks  
23 of encroaching businesses and some multi-family  
24 dwellings and not completely undermined the integrity  
25 of the neighborhood. We don't have that luxury in

1 Owensboro. One block, one half a block will make a  
2 great difference.

3 Mr. Kamuf has said more ultimately that  
4 sometimes even landscaping at its best does not shield  
5 neighborhoods from businesses. Certainly the three  
6 lots on St. Ann were to go commercial and business  
7 were to be developed, that would be what I would look  
8 at as I sit on my porch in the morning. It would be  
9 what Ms. Johnson and Ms. Hardesty would have to walk  
10 past on their way to the grocery. This is a street  
11 where people teach their children how to  
12 rollerblade. You see families pulling their children  
13 in wagons late at night I think wear them out before  
14 bedtime. It's a very livable neighborhood. This kind  
15 of development and this kind of rezoning can really  
16 impact that drastically. I appreciate all of your  
17 consideration you when you give make this decision.  
18 Thank you.

19 CHAIRMAN: I think at this time, Mr.  
20 Kazlauskas, is that your initial presentation?

21 MR. KAZLAUSKAS: I'm not aware of anyone  
22 wishing to speak. There might be somewhere here.

23 CHAIRMAN: If we could, I think you all  
24 have brought up enough questions and I think at this  
25 point in time I'm going to ask Mr. Kamuf instead of

1 bringing his presentation, I think his other people  
2 could possibly answer questions that you all have and  
3 we could probably go in that direction and that way we  
4 keep the meeting moving and informable to al parties.

5 Mr. Kamuf, is that agreeable with you?

6 MR. KAMUF: That's fine.

7 CHAIRMAN: Thank you.

8 MRS. CLARK: I would like to answer a few  
9 of his questions and statements.

10 I myself have talked to Mr. and Mrs.  
11 Pollock, the parents of Michael Pollock. Michael is  
12 very much in agreement with this. His parents did not  
13 object to me at all. I talked to Michael again today  
14 and he said, go for it, it's fine with me. That's  
15 number one.

16 I was a neighbor on this street for 25  
17 years when I lived at 2430 St. Ann, almost across the  
18 street from Mr. Kazlauskas. I was so busy running  
19 back and forth going to work that I did not see a lot  
20 of these people at all, but it doesn't seem to me like  
21 he wants any kind of change in any of it. Since he  
22 was so strongly against it before and it was actually  
23 a dump with weeds and trees and shrubs sky high as  
24 well as a bookie joint and a front for an antique  
25 shop. I have done nothing but improve the



1 neighborhood since I've lived there including my  
2 house, it was my house, and my rental house. I  
3 started that behind my store. I have a very good  
4 business and I have been a very good neighbor and I  
5 have done just a darn good job of improving the  
6 neighborhood and not done anything to make it worse.  
7 Couldn't have been worse than it was.

8 Oh, one other thing. Mr. Keith Lawrence  
9 called me on the phone one day and he sort of led the  
10 conversation. He said, didn't you have a drug store  
11 or a bank or somebody trying to buy your property at  
12 one time? I said, yes, sir, I did, and I named them.  
13 He says, that's right. I said, for one reason or  
14 another that didn't happen. Not at all, but I said,  
15 my main purpose is to enlarge my business. I have a  
16 very good business and I want to have my business grow  
17 and remodel my building or tear it down and put a  
18 different one there and face it on 25th Street where I  
19 wouldn't have to look at Papa John's garbage bin out  
20 my front door. Mr. Keith Lawrence kept on talking to  
21 me and he said - - finally I said, what do you want to  
22 know all of these things for? He said, well, I might  
23 some day do a story on your business, a human interest  
24 story. I said, well, that's all I have to say to you  
25 really. Is I would like to expand my business and if

1 something better came along I would do that too. Like  
2 somebody on each end of my business. Maybe an office.  
3 Maybe a small store or something, but nothing that  
4 would increase any traffic. Nothing else would be  
5 increased on 25th Street or St. Ann Street. I have  
6 done nothing but improve the whole neighborhood. Mr.  
7 Keith Lawrence put this in his own words. He twisted  
8 everything around that I said and he printed it the  
9 very next day. I wanted to call him up and give him  
10 down the road, but I didn't because it made it sound  
11 exactly like the opposite of what I said and how I  
12 said it.

13 CHAIRMAN: Mrs. Clark, let me stop you for  
14 a minute because I think one of our members has a  
15 question.

16 SISTER VIVIAN: I just have a question  
17 about Mr. Pollock. I understood you to say that the  
18 Pollocks said that it was okay for you to get  
19 rezoning, but I didn't hear you say that you were  
20 buying their property.

21 MRS. CLARK: No, ma'am.

22 SISTER VIVIAN: I understood you to say  
23 that you asked if they were going to buy the property  
24 and they said, no, the property wasn't for sale. I  
25 hear two different stories about the Pollocks, but if

1 it's related - -

2 MRS. CLARK: I have no intention of buying  
3 his property. This would be right next to his  
4 property so I felt I had to ask him.

5 CHAIRMAN: Does that answer your question?

6 MR. KAZLAUSKAS: That's correct, ma'am.  
7 He's not going to sell the property.

8 SISTER VIVIAN: When you threw that in  
9 about buying and selling the property it kind of threw  
10 me for a minute.

11 MR. KAZLAUSKAS: And, of course, at this  
12 point Mr. Pollock assured us that he would be here  
13 tonight. He is not here. I'll stand up here under  
14 oath and tell you what he told me. That, number one,  
15 he was opposed to what was going on, and number two,  
16 he was not going to sell the property, and number  
17 three, that there was a fence on the back of his  
18 property that he was going to take down because it was  
19 encroaching on his property with the concrete that's  
20 between the parking lot. Unfortunately, he hasn't  
21 shown up here tonight. It would be very easy for the  
22 father and son to be here tonight to say what Mrs.  
23 Clark has alluded to, Mr. Kamuf and what I'm saying.  
24 If he's telling both of us what we want to hear,  
25 that's sad. That's exactly what's going on here

1       tonight.

2                   MRS. CLARK: I don't think that's the way  
3       it is at all. I talked to Mr. Pollock today at 4:00  
4       and he said, no, I'm not going to be down there  
5       because I'm in favor of it. Anything you want to do  
6       to improve down here would be great. I have no  
7       objection whatsoever.

8                   CHAIRMAN: I think for both of you, you  
9       know, with Mr. Pollock not being here regardless of  
10      what he may have said to you or may have said to you,  
11      Mr. Kazlauskas, it really has no bearing because he's  
12      an adjacent property owner, but he's also absent.  
13      Consequently this is a point not worth discussing at  
14      this point in time because it cannot be resolved. So  
15      the board, we really just do not hold that for or  
16      against anybody.

17                  MRS. CLARK: Now, might I add one other  
18      thing, sir?

19                  CHAIRMAN: Yes, ma'am.

20                  MRS. CLARK: I know everybody is getting a  
21      little tired. I bought the property where the vacant  
22      lot is knowing very well had I been her neighbor for  
23      25 years that she had lived there a long time. She  
24      and her mother and two sons lived in this house for 65  
25      years total. Her mother passed away and she continued

1 to live there with one son. She took in children to  
2 babysit for a living. The house was in terrible state  
3 of repair. It belonged to an estate. In fact, Mr.  
4 Otterkurt at Ownesboro National Bank handled the  
5 estate. The people that owned it would not spend any  
6 money to fix it up. You could almost see through the  
7 walls. The front porch you had to be careful where  
8 you stepped on the board because of some them had  
9 fallen through. The walls you could almost see  
10 through them. Then January 2000 a tornado came along  
11 and demolished this house. I had assured these people  
12 when they moved in, when I bought the property the  
13 first thing she said with tears in her eyes, you're  
14 not going to make us move, are you? This is the only  
15 place we've known. For 65 years we've lived here.  
16 She said, please, don't make us move. I said, Ruby,  
17 that's not really my intention. I felt very, very  
18 sorry for both of them even though I knew the house  
19 was in bad, bad shape. I said, if I can I would fix  
20 it up, but the house was in such bad shape. I can't  
21 do a whole lot to it and make it a descent place for  
22 you to live, but, no, ma'am, I'm not going to make you  
23 move at all. I just cannot do that, but if anything  
24 drastic happens, something major happens, the roof  
25 falls in or whatever, I said, I cannot afford to fix

1 it. Couldn't even get anybody to insure it. That's  
2 how bad it was. Then the tornado came along and  
3 pretty well demolished it. Blew out many windows and  
4 just disrupted everything, and these people had to  
5 move then both of them crying, the son and the mother  
6 because they were having to leave. I told them I  
7 would help them relocate, but they did find a place on  
8 their own. Subsequently they did move. Then the city  
9 wrote me a letter and says, fix it or tear it down.  
10 So I chose to tear it down. There was nothing left to  
11 fix.

12 CHAIRMAN: Let's see if any other members  
13 of the board at this point in time have any questions  
14 of either the applicant or the neighborhood at this  
15 time so we can move because I think both groups have  
16 had adequate time for testimony.

17 Do any board members have any questions,  
18 ideas?

19 MS. DIXON: I don't have a question, but I  
20 have a comment. A lot has been said about how many  
21 rental, how many homeowners, and to my recollection  
22 the R in residential zoning stands for residential.  
23 Not renters. I have a real problem with that being an  
24 issue since I own a piece of rental property next door  
25 to me. I hope that Charlie is not going to come in

1 and try to rezone and use that against me. I have two  
2 pieces of rental property. One rent to my daughter,  
3 Charlie. I think that that in any of our minds should  
4 not be an issue because where I live is established  
5 neighborhood and there are a lot of rental units and I  
6 recognize that the goal is to increase homeownership,  
7 but people rent for a number of reasons and that needs  
8 to be respected. Thank you.

9 MR. KAMUF: I have another witness I would  
10 like to bring up concerning the value to the property.  
11 We have a real estate appraiser who is here.

12 CHAIRMAN: Mr. Kamuf, would you hold that  
13 thought. Mr. Noffsinger has come forward with a  
14 question.

15 MR. NOFFSINGER: I don't have a question,  
16 but I do have a letter that we received in the office  
17 June 13, 2001, that I've been asked to read into the  
18 record if I may.

19 CHAIRMAN: Please do.

20 MR. NOFFSINGER: This is from Patricia  
21 Colburn and Thomas Means. They do own the property at  
22 2423 St. Ann Street. This is a rental unit. It says,  
23 "Dear Mr. Noffsinger, We own the house at 2423 St. Ann  
24 and are very alarmed by the possible zoning change to  
25 our neighborhood. Pat grew up in Owensboro and bought

1 this house because she knew it was in a stable  
2 residential neighborhood. It is a beautiful, quiet  
3 street that would be severely impacted by the  
4 intrusion of commercial development. There is no  
5 amount of shielding that would mitigate this change to  
6 our street. We strongly object to this proposal.  
7 Thank you for your time and consideration. Patricia  
8 Colburn and Thomas Means, 1340 Park Avenue, Alameda,  
9 California."

10 MRS. CLARK: May I add something here,  
11 sir?

12 CHAIRMAN: Yes, ma'am.

13 MS. CLARK: I'll make it short. When Mr.  
14 and Mrs. Neighbor were fixing up this house, it had  
15 just been sold recently, Mr. Kazlauskas assumed they  
16 were going to be their new neighbors so he introduced  
17 himself and he said, doing a nice job fixing it up.  
18 When are you moving in? Patricia Colburn's mother  
19 said, we are not moving in. My daughter in California  
20 owns the house. We are just fixing it up for rental  
21 property. He then said, rental? This is what Ms.  
22 Colburn's mother told me. Rental, he says, I guess  
23 that means we're going to have to move. She says, why  
24 would you say that? He says, you never know what  
25 you're going to get when you've got rental property.



1 You never know who's going to rent next to you.

2 CHAIRMAN: I think really conversations  
3 between people and everything, I think at this point  
4 in time I think really we need to stick with actual  
5 factual things, testimony about people that are here.

6 MS. CLARK: This seems like Mr.  
7 Kazlauskas just doesn't want anything done to the  
8 neighborhood at all.

9 CHAIRMAN: Well, Mr. Kazlauskas was very  
10 able to speak for himself. He is personally here and  
11 I think really it would be better if we sort of stick  
12 with what we're trying to do whether we zone or not  
13 rezone it because the whole board here, you know,  
14 we're charged to protect the neighborhood and support  
15 business. We've got to draw a fine line with the  
16 facts that are given us to make that decision.

17 MRS. CLARK: Strike that from the record.

18 MS. DIXON: I have another question of  
19 Gary.

20 Mr. Noffsinger, if there were to be  
21 developed on this particular piece of property, would  
22 ingress and egress have to be on St. Ann? Is that  
23 what I'm understanding because the accesses are  
24 limited on 25th?

25 MR. NOFFSINGER: Access should be limited

1 to the alley that is located to the west of the  
2 subject property intersecting 25th Street with no  
3 additional access to points on to 25th Street.  
4 However, they would be allowed to have access on to  
5 St. Ann Street.

6 CHAIRMAN: Let me ask Mr. Kazlauskas  
7 several questions. Would you mind returning?

8 MR. KAZLAUSKAS: Sure.

9 CHAIRMAN: We've got a very fine line  
10 situation here. We've got contiguous properties with  
11 business that are already there that are in that area  
12 that are adjoining properties. Those are the facts  
13 that we're faced with here. We've got a very nice  
14 Buena Vista neighborhood which when I was a little boy  
15 I used to ride my bike over in that area so I'm very  
16 familiar with what you have over there and it's a  
17 wonderful family oriented child type neighborhood;  
18 however, the rules and regulations that we're dealt  
19 that we must deal with also say certain things that we  
20 can and cannot do. This is an area that can go either  
21 way. So my question after saying that, my question to  
22 you, Mr. Kazlauskas: What would you propose to us  
23 that would keep the Buena Vista neighborhood as you  
24 see it and have a business section that is contiguous  
25 with and in that area be compatible because, you know,

1       you've got Winn Dixie.  You've got other things.  
2       You've got Papa John's.  You've got a bank, but yet we  
3       want to protect the integrity of your neighborhood,  
4       but yet we've got other things that we're faced with  
5       also.

6                       MR. KAZLAUSKAS:  Mr. Kirkland, I  
7       understand what you're saying and I thank you for  
8       giving me the opportunity to be as a solomon that I  
9       might.  That's a decision that you and your panel are  
10      going to have to make.  I will say this:  There has  
11      been business on Frederica Street.  Frederica Street  
12      has been developed a long time now.  It was always our  
13      understanding for those of us that lived in that  
14      neighborhood that as long as business stayed on that  
15      alley and did not come to residential property that  
16      faced St. Ann Street that we could coexist, you know.  
17      I still think that can happen, but the minute that you  
18      start taking this property that faces the 2400 block  
19      of St. Ann Street and start making that B-4 in that  
20      residential section, you're starting to chip away at a  
21      residential section and keep on chipping away and  
22      chipping away and you're going to take the whole  
23      corner of that community out.  Is that important to  
24      the City of Owensboro?  Those of us that live there  
25      and have lived there for a length of time says, yes,

1 it's got to stop somewhere. It has got to stop  
2 somewhere. The property is residential. We suggest,  
3 I suggest that it stay residential. It can be  
4 developed. The back of it can be developed towards  
5 Frederica Street. The minute you start coming towards  
6 St. Ann Street, you're decaying is going to start and  
7 we certainly don't want to run people out of the  
8 neighborhood. The city can't live without people.  
9 Yes, I'm passionate. I've very passionate about where  
10 I live. The old house that I live in was in the  
11 Roberts family for years and years. I put a lot of  
12 sweat and blood and tears. I don't want to lose it.  
13 In fact, every time I suggest about going somewhere my  
14 wife has a fit. That starts a fight. So, yes, we  
15 continue to be there and try to support the people  
16 that are there. The front of the property on St. Ann  
17 Street that needs to stay residential.

18 CHAIRMAN: Thank you. Did you have a  
19 question, Mr. Appleby?

20 MR. APPLEBY: Yes, to Mr. Kamuf.

21 Charlie, have you all given consideration  
22 that you and your client discuss the possibility of  
23 limiting access on the St. Ann side on this property?  
24 Have access somewhere other than St. Ann Street?

25 MR. KAMUF: We have talked about that and

1 certainly when the development plan finally comes that  
2 will be taken up at that time. In other words, the  
3 access issue will be brought up at that time. We  
4 thought about that. I might say this: Respectfully  
5 to John Kazlauskas, you know, things change. From the  
6 photographs and the evidence that I've shown you there  
7 isn't any question that this area has changed. 25th  
8 Street has changed. 25th Street has changed there at  
9 Frederica. It has already been chipped away and this  
10 is not to say that these are not fine people and that  
11 they live - - when I was a kid I lived across from the  
12 Sports Center on 12th Street. Things have changed  
13 down there with the Sports Center. Everything changes  
14 and in this area here certainly what are these people  
15 going to do with this lot? This is not something that  
16 she bought to tear down. The tornado tore it down.  
17 Now, what are we going to do with it? In other words,  
18 I think the question that you asked is what proposal  
19 will work where we can coexist. In other words, what  
20 we're going trying to do is expand something that is  
21 there. It's been there since '75. When the decay  
22 began to take place was in 1975. It began to take  
23 place prior to that when you had the Beltone  
24 commercial, when you had the State Farm building, that  
25 time.

1                   Mrs. Dixon, in all honesty I wasn't trying  
2                   to show that - -

3                   MS. DIXON: I've got you.

4                   MR. KAMUF: - - something was irrelevant  
5                   about rental property. I think it shows one thing.  
6                   That in that particular areas renters are coming in  
7                   more and more and the area is not what it used to be.  
8                   It's certainly not what it used to be at the  
9                   intersection of St. Ann Street and 25th Street.  
10                  There's been a change. You don't like change. I'm  
11                  German and I hate change, but change is there and it's  
12                  been done and it's time for that property to be zoned.  
13                  If you look - - I went out to start taking pictures up  
14                  and down 25th Street. The first house on the right as  
15                  you get there is home occupation. As you get down  
16                  another part of it, there's a sign out front. These  
17                  just indicate that there is change. When you look at  
18                  this area and you start talking about home occupation;  
19                  in other words, in that particular area, in other  
20                  words, there are rents there. They're not home  
21                  occupied. Most of them are not. If you look at the  
22                  first one, the second one, the third one, the fourth  
23                  one, the fifth one, and then you look are there  
24                  multi-family units there. You've got a four-story  
25                  apartment. You've got a duplex that's right next to

1 Mr. Pollock, but these are changes that have taken  
2 place and under KRS 100.213 we think they justify a  
3 rezoning.

4 CHAIRMAN: Mr. Kamuf, in your closing do  
5 you have a solution? Do you have a frontage on the 10  
6 foot alley? You have no development plan. I  
7 understand we've approved many pieces of property  
8 without it, but we've got a very unique situation with  
9 a neighborhood that is right there. I think you  
10 misused the word when you said decay of the  
11 neighborhood. I don't think you really meant to say  
12 that.

13 MR. KAMUF: The chipping away.

14 CHAIRMAN: The decay of the business  
15 started. I don't think that's what you meant. I  
16 think you meant a change. That was degrading type  
17 word.

18 MR. KAMUF: That's right.

19 CHAIRMAN: Do you have anything - - I  
20 think something is doable here if all parties work  
21 together because this has been a very unique type  
22 contest for both parties and have been very amicable  
23 toward each other and it's gone rather well. I can  
24 see there can be common ground here if something could  
25 be proposed to get the neighbors on board, to get a

1 total support situation because I think the Buena  
2 Vista neighborhood is a unique neighborhood situation.

3 MR. KAMUF: With Mr. Pollock not  
4 objection, we - -

5 CHAIRMAN: Mr. Pollock is not here.

6 MR. KAMUF: Well, by the fact that he's  
7 not here tells you which side he's on.

8 CHAIRMAN: It doesn't tell me anything  
9 because I can't read his mind. He's not here.  
10 Without him being here we have no - - so he is - -

11 MR. KAMUF: At least he hasn't filed any  
12 objection.

13 CHAIRMAN: We will give you that.

14 MR. KAMUF: I think that a rezoning  
15 proposal with a develop plan to be filed at the time  
16 for ingress and egress takes care of that, Mr.  
17 Chairman. That's why you've got a development plan at  
18 a later date. Once we get the one tenant that we need  
19 to put on that property, we'll be here in with a  
20 development plan.

21 CHAIRMAN: We both understand that once we  
22 grant a zoning change then you're covered by the  
23 zoning change with certain parameters that go with  
24 that zoning change.

25 MR. KAMUF: Right. Those ingress and



1 egress issues can be determined and they generally are  
2 at the time of the development.

3 CHAIRMAN: Correct.

4 MR. KAMUF: Certainly there's no problem.  
5 We think that those issues need to be directed.

6 CHAIRMAN: Thank you.

7 Does anybody else on the board have any  
8 questions, suggests?

9 SISTER VIVIAN: I just had the same  
10 question that David asked because my dilemma is that  
11 on 25th I see it already commercial. So what faces  
12 25th I can see where their proposal is in keeping with  
13 it, but then on St. Ann the neighborhood I can see  
14 where they don't want a business across from them  
15 either. So I was going to ask the possibility of the  
16 egress and all being from the, you all call it an  
17 alley but it's a pretty wide alley. I've traveled  
18 that street a lot, that 10th Street. If it came in  
19 from that direction and kept the frontage toward  
20 Frederica. It makes a big difference to me.

21 CHAIRMAN: Do you have a solution?

22 MR. APPLEBY: Fronted toward Frederica or  
23 toward 25th?

24 SISTER VIVIAN: I want them to come  
25 through the alley rather than to come on 24th. That

1 would be my biggest issue.

2 CHAIRMAN: Let me ask Mr. Noffsinger a  
3 question, Sister, if you would. In these dilemmas  
4 we've brought him in and put him sort of in the middle  
5 to solve all these solutions with meeting, a diagram,  
6 all of the above.

7 From the questions and comments from the  
8 board, think the board is very split on the situation  
9 that we could be facing. Do you see something where  
10 we could protect the integrity of the neighborhood,  
11 keep the Buena Vista neighborhood as those of us who  
12 have grown up around here, know it and can appreciate  
13 it and respect the things that all of these neighbors  
14 have done, and continue what unfortunately we're faced  
15 with with contiguous development that this does  
16 present us with.

17 MR. NOFFSINGER: I support the Planning  
18 Staff's recommendation. We're not dealing with a lot  
19 that's fronting only on 25th Street. We're dealing  
20 with a lot that's fronting on St. Ann Street as well.  
21 If we were dealing only with the lot fronting 25th  
22 Street, we would have a different situation. If we  
23 were dealing only with the rear portion of the lot  
24 that front 25th Street, we would have a different  
25 situation. We don't have that here. We have three

1 lots that are oriented towards St. Ann Street. I've  
2 heard a lot said that there can't be anything done  
3 with this lot that fronts 25th Street. Well, there  
4 can. There's a process and Mr. Kamuf is very aware of  
5 the variance process. You could seek in variance to  
6 construct a single-family residence on the property.  
7 Variances have been granted in situations like this.  
8 In terms of this, there are thing that you can do if  
9 this property is rezoned to limit the intrusion upon  
10 this residential neighborhood, but regardless of what  
11 you do you're still going to have that intrusion and  
12 that's limit access to a 10 foot alley that's located  
13 to the west of the property as well as require  
14 screening, continuous screening along St. Ann Street.  
15 That reduces the intrusion upon the neighborhood, but  
16 it doesn't make it go away.

17 MR. KAMUF: Mr. Chairman, I can answer to  
18 your question that Sister Vivian asked and Mr.  
19 Appleby. We will limit access to the alley and we'll  
20 do the screening. What Mr. Noffsinger just said,  
21 we'll agree to that.

22 MR. NOFFSINGER: Again, that's not my  
23 recommendation, Charlie. Those are suggestions to  
24 limit the intrusion.

25 MR. KAMUF: I understand that. That was

1 the question that Sister Vivian asked and that was the  
2 question that Mr. Appleby asked. We will agree to do  
3 that.

4 CHAIRMAN: Ms. Dixon.

5 MS. DIXON: As the Zoning Commission, we  
6 can agree to that not knowing what the tenant is or  
7 what the development plan looks like. You know,  
8 there's just too many unknowns.

9 MR. APPLEBY: You can make a zoning  
10 recommendation with conditions that like we do on  
11 every zoning application.

12 MR. JAGOE: I think the difference is that  
13 you don't have the development plan in front of you.

14 MR. APPLEBY: We can require one at a  
15 later date.

16 MR. JAGOE: You can require one, but I  
17 think what she's saying is I don't have a development  
18 plan sitting in front of me to look at that the  
19 neighbors can see also and that that's something that  
20 is not intrusive at this point.

21 CHAIRMAN: Yes, ma'am.

22 MS. McDONOUGH: Just quickly. We're not  
23 talking about no business. That block, 25th to 24th  
24 and Frederica has been zoned business/commercial  
25 forever. When I too was a child running my bike to

1 Green's to get a candy bar I was not allowed. That  
2 has always been business. That's not our concern. I  
3 bought my house knowing that was commercial. We're  
4 not opposed to commercial or business or new business  
5 coming in there. You can see in the pictures. This  
6 is not attractive business. Some of it is piecemeal  
7 and some of it is not particularly attractive. I  
8 would be proponent of taking away what is already  
9 commercial and putting something in there. I suggest  
10 a Star Bucks and a nice little book shop. That would  
11 be nice in addition to the neighborhood.

12 Here is what I'm saying though: The St.  
13 Ann property is not business. We're not talking about  
14 no business. We're not talking about great big  
15 business like a Walgreen's or a strip mall where there  
16 would be people coming in on St. Ann every day. In  
17 some ways it may be a non-issue. The properties are  
18 already zoned and with the option of variances for  
19 part of that property on 25th, there may be something  
20 that would be appropriate for the business. The  
21 people that own that property that's already  
22 commercial. We are not against that. We just don't  
23 want something encroaching. I think I can speak for  
24 my neighbors. We would not see that as a good  
25 compromise and assurance here tonight that would be no

1 egress from 24th Street. That would be - - we would  
2 need to see a business plan since our houses are right  
3 next door and across the street. So in some ways - -  
4 I know I've gotten all hiked about business, but then  
5 I thought it's already commercial. We're not talking  
6 about that. We're talking about not bringing  
7 commercial to one block east into a residential  
8 neighborhood. That's our concern. Does that make  
9 sense?

10 CHAIRMAN: Let me see if I can sum this up  
11 in my own mind. In other words, you all are not  
12 opposed to the general change of zoning to business?

13 MS. McDONOUGH: Yes. There is already  
14 business on Frederica Street. We are opposed to  
15 changing the lots that have been proposed to business  
16 because we're talking about taking residential lot in  
17 a residential neighborhood and making them accessible  
18 to business and to commercial.

19 What I'm saying is there is business and  
20 there is property zone business to be developed that  
21 faces Frederica already. All of that property, the  
22 bank. All of that is residential. We just don't want  
23 it coming any further than past the alley basically.

24 CHAIRMAN: Well, it's already on the other  
25 side of the alley.

1 MS. McDONOUGH: Right. I mean beyond what  
2 is already zoned commercial. Our concern is no more  
3 encroachment.

4 CHAIRMAN: If they make their frontage on  
5 the alley - -

6 MS. McDONOUGH: I can't speak about that.

7 CHAIRMAN: I thought this was simpler than  
8 what it was.

9 Mr. Kamuf, I assume you want a closing or  
10 are you done?

11 MR. KAMUF: I'm pretty well closed. If  
12 there is some question as to whether you think these  
13 real estate values go down, we have a broker here that  
14 will testify concerning those items.

15 CHAIRMAN: I think what we've seen in the  
16 past I don't think so.

17 MR. KAMUF: Then I also have the surveyor  
18 here that will testify as to what the lot setbacks  
19 are. I mean you've got to go through these other  
20 steps. As the lot exist at the present time, you  
21 can't build anything. You cannot build a residential  
22 house on than property.

23 Do you disagree with that, Gary, as it  
24 exist at the present time without taking appropriate  
25 procedural steps?

1                   MR. NOFFSINGER:   As it sits at this time,  
2                   you can't build commercial building on the property  
3                   either.

4                   MR. KAMUF:   Without consolidation.

5                   MR. NOFFSINGER:   Without taking  
6                   appropriate steps of the zoning.

7                   MR. KAMUF:   What would be the setbacks on  
8                   that property at the present time?

9                   MR. NOFFSINGER:   I believe, correct me if  
10                  I'm wrong, Staff, 75 from center line street  
11                  right-of-way.

12                  MS. WATSON:   Sixty.

13                  MR. NOFFSINGER:   Sixty from center line.

14                  CHAIRMAN:   Thank you.

15                  MR. NOFFSINGER:   Now, there are things we  
16                  can do in terms of setback averaging that may come  
17                  into play there.   I'm not saying that it would.   I  
18                  cannot say it wouldn't, but that is a setback as  
19                  required by the ordinance.

20                  CHAIRMAN:   Sister Vivian, did you have a -  
21                  - I saw you sitting on the edge of your chair.   Do  
22                  you've got something that you want to make a comment  
23                  about?

24                  SISTER VIVIAN:   No.   I hear only when I  
25                  see.



1                   CHAIRMAN: You have not been recognized  
2 before. If you would like to make a very brief  
3 statement.

4                   MR. ELLIOTT: State your name, please.

5                   MRS. HAYCRAFT: My name is Mary Lou  
6 Haycraft.

7                   (MRS. MARY LOU HAYCRAFT SWORN BY  
8 ATTORNEY.)

9                   MRS. HAYCRAFT: I have a question for Pat,  
10 please.

11                  CHAIRMAN: To keep this thing very civil,  
12 please direct your question to me and then I will get  
13 your answer.

14                  MRS. HAYCRAFT: I would like to know when  
15 she purchased that vacant lot that is vacant now. It  
16 wasn't before.

17                  MRS. CLARK: I think it was 1998.

18                  MRS. HAYCRAFT: Well, the piece of  
19 property that you purchased then was in the shape,  
20 terrible shape. You probably couldn't have had it  
21 insured at that point in time, right?

22                  MRS. CLARK: That's true.

23                  MRS. HAYCRAFT: So you knew what you were  
24 purchasing at the time.

25                  CHAIRMAN: Please direct your questions to

1 me.

2 MRS. HAYCRAFT: It was going to have to be  
3 torn down or fixed up at some point in time. Now, I  
4 own the property catty-corner across the street, 2441,  
5 my husband and I. We got damage from the tornado  
6 also, but we had insurance and we had it repaired.  
7 When she purchased that piece of property she knew  
8 there wasn't anything to do with it. What could she  
9 do with it once the house fell down or had been town  
10 down.

11 CHAIRMAN: Mrs. Haycraft, in her previous  
12 testimony I believe she stated that. She stated  
13 disrepair. That the property was in - -

14 MRS. HAYCRAFT: Well, it was, but now  
15 she's worried about that she can't do anything with  
16 that one piece of property.

17 CHAIRMAN: Well, that issue doesn't come  
18 into play. We're not here to facilitate what she can  
19 or can't do with the property that she previously  
20 bought.

21 I think the Chair is in a situation,  
22 unless anybody has any other comments, questions from  
23 the Board.

24 (NO RESPONSE)

25 CHAIRMAN: Chair is ready for a motion.

1                   MR. APPLEBY: Mr. Chairman, I sympathize  
2                   with the neighbors. I tend to agree with the  
3                   applicant that this area has changed. I don't see  
4                   this property as being residential on 25th Street any  
5                   more. In light of that, I would make a motion for  
6                   approval based on the applicant's findings with the  
7                   conditions that the business be either oriented toward  
8                   the alley or to 25th Street and with the conditions,  
9                   further conditions that access be limited to the  
10                  alleyway west and that there be screening on the St.  
11                  Ann Street side.

12                  CHAIRMAN: Before I ask for a second, Mr.  
13                  Kamuf, would you step forward, please. Do you  
14                  understand the proposal.

15                  MR. KAMUF: It was an R condition and I  
16                  understand.

17                  CHAIRMAN: And your client understands the  
18                  conditions?

19                  MR. KAMUF: Be sure she does.

20                  She says she does.

21                  CHAIRMAN: I didn't want to step forward  
22                  with asking for a second without - -

23                  MR. KAMUF: Yes, sir.

24                  MR. ELLIOTT: If I might. That may be  
25                  very difficult to employ once you rezone the property.

1 I mean if they don't comply with the conditions, I  
2 don't know of any procedure you could unrezzone it and  
3 that's the reason we usually have a development plan  
4 submitted and subject to the development plan.

5 MR. APPLEBY: Can we approve a zoning  
6 subject to the development plan?

7 MR. ELLIOTT: Yes, we can, but then we  
8 usually do it we have a development plan before us so  
9 we can see what the development plan provides. All  
10 I'm saying is with the conditions on it in my opinion  
11 that would be difficult to enforce those conditions at  
12 a later time.

13 MR. KAMUF: We're going to come forward  
14 with a development plan and I can assure you we'll  
15 agree to those conditions. They'll be written on the  
16 side of the development plan and we'll agree to them.

17 MR. NOFFSINGER: It's been a long policy  
18 of this Planning Commission and this situation that  
19 they have not moved forward unless they see a  
20 development plan. This would be a move away from that  
21 position.

22 MR. KAMUF: Gary, you've approved many of  
23 these rezoning without a development plan.

24 MR. NOFFSINGER: Yes, sir, but when the  
25 situation arises we have not for a long time approved

1 a zoning change subject to a development plan in  
2 conjunction with the development plan.

3 CHAIRMAN: Mr. Kamuf, we're in the process  
4 of a motion here.

5 MR. ELLIOTT: My only point was if someone  
6 else becomes the owner of this property zoned B-4,  
7 words are unfortunate against Walgreen or whoever may  
8 come in. How do we enforce this condition?

9 CHAIRMAN: Mr. Appleby.

10 MR. ELLIOTT: I'm just bringing it up as  
11 far as I see a problem in enforcing this.

12 CHAIRMAN: The Chair would like you to  
13 amend.

14 MR. APPLEBY: I mean the only way we could  
15 amend it would be subject to a development plan with  
16 those conditions which I would do if that's the  
17 answer.

18 MR. ELLIOTT: My point is it's very  
19 difficult to enforce. I'm not saying that you can't  
20 do it subject to the conditions, but as long as this  
21 board knows that there may be enforcement problem with  
22 that type of zoning.

23 CHAIRMAN: Mr. Elliott, you see where  
24 we're trying to head with this.

25 MR. ELLIOTT: I know where you're trying

1 to head.

2 CHAIRMAN: Can you frame a motion that  
3 Mr. Appleby can - -

4 MR. APPLEBY: I think what he's saying is  
5 I can make the motion that way. It's just that we've  
6 got an enforcement problem possibly.

7 MR. JAGOE: You do have enforcement  
8 problem.

9 MR. APPLEBY: We have to take them at  
10 their word that they'll come back with a development  
11 plan. Well, we'll see the development plan. We'll  
12 know.

13 MS. DIXON: Then what are you going to do  
14 if it's not right.

15 MR. APPLEBY: We don't approve the  
16 development plan.

17 MR. HAYDEN: You can enforce it by  
18 approving the development plan. That's the way you  
19 can enforce it.

20 CHAIRMAN: If I understand what Mr.  
21 Elliott is saying. If there is a change in property  
22 owners, say Ms. Dixon goes down there and decided to  
23 expand her holdings, then the enforcement problem  
24 becomes greater. Is that not correct?

25 MR. ELLIOTT: That's right.

1 MR. HAYDEN: But she can't do anything  
2 with that property without a development plan. It has  
3 to be approved.

4 MR. ELLIOTT: That's the second point. If  
5 a development plan is submitted and it complies with  
6 all the legal requirements of the ordinance and  
7 statute, then you may not have a basis to deny it.

8 CHAIRMAN: Because then they could go to  
9 court even if we denied it and we're back in court  
10 again.

11 Do you want to restate.

12 MR. APPLEBY: I don't know any other way to  
13 make the motion that I made.

14 CHAIRMAN: Could we legitimately the Board  
15 postpone this until we see a development plan?

16 MR. ELLIOTT: Yes, the board can table it.  
17 Either postpone it or table it if the applicant would  
18 agree.

19 CHAIRMAN: Mr. Appleby, you're in the  
20 middle of a motion. Unfortunately we had too many  
21 clarifications, but I think they were justified. I  
22 don't mean to interrupt, but I didn't want to get a  
23 second without agreement from the applicant and get  
24 clarification from the attorney.

25 MR. APPLEBY: The applicant has agreed to

1 the conditions proposed. I think we can enforce it.

2 I'll leave the motion as it stands.

3 CHAIRMAN: Okay. Mr. Appleby has a motion  
4 on the floor. Do we have a second?

5 MR. HAYDEN: I'll second it.

6 CHAIRMAN: Mr. Hayden seconds the motion.  
7 Is there any more discussions, suggestions?

8 MR. NOFFSINGER: I have a question on the  
9 motion. Mr. Appleby, on the screening along St. Ann  
10 Street, you included a height on this screening?

11 MR. APPLEBY: What's typical? Six foot  
12 continuous element?

13 MR. NOFFSINGER: Three foot or six foot  
14 continuous element.

15 MR. APPLEBY: I don't know what the  
16 neighbors would prefer. I would say at least three  
17 foot, preferably a six foot. I'd say make it a six  
18 foot continuous element.

19 MR. NOFFSINGER: Thank you.

20 CHAIRMAN: We move to six foot element.

21 Does everybody on the Board understand the  
22 motion now as it stands?

23 Time to call for a vote. All in favor of  
24 Mr. Appleby's motion please raise your right hand.

25 (ALL BOARD MEMBERS PRESENT WITH THE



1 EXCEPTION OF MS. DIXON RESPONDED AYE.)

2 CHAIRMAN: All opposed.

3 (MS. DIXON RESPONDED NAY.)

4 CHAIRMAN: One. Seven to one. The motion  
5 passes as is with it conditions.

6 Next item, please.

7 ITEM 7

8 307 East Fifth Street, 0.15 acres  
9 Consider zoning change: From R-4DT Inner-City  
10 Residential to B-2 Central Business  
11 Applicant: John S. Wright, Elaine R. Wright

11 PLANNING STAFF RECOMMENDATIONS

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

14 This recommendation is made subject to the condition  
15 and findings of fact that follow:

16 Condition:

17 There shall be no direct access to West Fifth  
18 Street. Access shall be provided via the public alley  
19 to the east of the subject property.

20 Findings of Fact:

21 1. The subject property is located in a Central  
22 Business Plan Area, where central business uses are  
23 appropriate in general locations;

24 2. The subject property adjoins B-2 Central  
25 Business zoning to the north, east and west; and

1           3. The proposed zoning of B-2 Central Business  
2 is a more appropriate zone in this Plan Area than the  
3 existing R-4DT Inner-City Residential zone.

4           MS. WATSON: We'd like to enter this as  
5 Exhibit C.

6           CHAIRMAN: Anybody here representing the  
7 applicant?

8           (NO RESPONSE)

9           CHAIRMAN: Anybody on the commission have  
10 any questions?

11          (NO RESPONSE)

12          CHAIRMAN: The Chair is ready for a  
13 motion.

14          MR. ROGERS: Motion for approval, Mr.  
15 Chairman, based on the Planning Staff's Findings of  
16 Facts 1 through 3.

17          CHAIRMAN: Motion for approval by Mr.  
18 Rogers.

19          SISTER VIVIAN: Second.

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

22          (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23          CHAIRMAN: The motion carries unanimously.

24                 Just for the record Ms. Dixon has had  
25 surgery within the last week and was feeling that it

1 was time that she needed to leave so she's been  
2 excused and we still have a quorum.

3 MR. APPLEBY: I have one question for  
4 Stewart. On this zoning application, Staff made the  
5 recommendation that limited access. Why is that  
6 different than it was on our last motion?

7 MR. ELLIOTT: My point is that these type  
8 of things would be enforcement problems if they don't  
9 comply with them. Not that it can't be done. This  
10 last particular situation we had some objections from  
11 the neighbors and it comes into an enforcement  
12 problem, a new owner takes over, develops it  
13 commercial. It would be a problem. That's my only  
14 point. I think the board should know that when they  
15 vote those conditions.

16 MS. WATSON: Plus this condition be  
17 enforceable to the access standards. It would be  
18 limited, the access would be limited by the  
19 classifications. We're just bringing that to your  
20 attention.

21 MR. JAGOE: Would those standards also  
22 apply to the last zoning?

23 MS. WATSON: Not the access on St. Ann  
24 Street.

25 CHAIRMAN: We have voted and we have

1 passed and we're ready for the next.

2 ITEM 8

3 Portion 104 West Ninth Street, 0.84+ acres  
4 Consider zoning change: From B-4 General business to  
5 I-1 Light Industrial  
6 Applicant: Bryant-Busch, LLC

7 MR. NOFFSINGER: Mr. Chairman, I have a  
8 letter from the applicant's representative asking that  
9 this item be postponed until the July 12, 2001,  
10 meeting in order to prepare an amended development  
11 plan.

12 CHAIRMAN: We need to take action?

13 MR. NOFFSINGER: Yes, sir.

14 CHAIRMAN: The Chair actually needs to  
15 receive a motion.

16 MR. HAYDEN: I make a motion we postpone.

17 CHAIRMAN: Motion for postponement by Mr.  
18 Hayden.

19 MR. APPLEBY: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion is postponed.

24 ITEM 9

25 115 East 12th Street, 0.141 acres  
Consider zoning change: From I-1 Light Industrial to  
R-4DT Inner-City Residential  
Applicant: Roger D. & Sarah M. Whittaker

## 1 PLANNING STAFF RECOMMENDATIONS

2 Staff recommends approval because the proposal is  
3 in accordance with the adopted Comprehensive Plan.  
4 Findings in support of this recommendation are as  
5 follows:

## 6 Findings of Fact:

- 7 1. The subject property is located in a Central  
8 Residential Plan area where low density urban  
9 residential uses are appropriate in general locations;
- 10 2. The subject property adjoins R-4DT Inner-City  
11 Residential zones and uses; and,
- 12 3. The current zoning of I-1 Light Industrial is  
13 inappropriate and the proposed zoning of R-4DT  
14 Inner-City Residential is appropriate as there is a  
15 single-family dwelling located on the property and the  
16 subject property is a part of the JZ Moore Residential  
17 Historic District.

18 CHAIRMAN: Is there anybody representing  
19 the applicant?

20 APPLICANT: Yes.

21 CHAIRMAN: We'll see if we have any  
22 questions.

23 Does anybody from the board have a  
24 question of the applicant?

25 (NO RESPONSE)



1 house. With that it's ready for your approval.

2 CHAIRMAN: Is anybody representing the  
3 applicant here?

4 Do you have a statement you'd like to make  
5 at this time?

6 APPLICANT: No.

7 CHAIRMAN: Chair is ready for a motion.

8 MR. APPLEBY: Motion for approval.

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

11 MR. HAYDEN: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 ITEM 11

18 3624 Wathens Crossings, 1.263 acres  
19 Consider approval of final development plan.  
20 Applicant: Jagoe Homes, Inc., O'Bryan Heirs c/o  
William Wright

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

25 MR. JAGOE: Mr. Chairman, I to disqualify





1 Brookhill Heritage, Unit #13, 5.580 acres  
2 Consider approval of major subdivision final plat.  
3 Surety (Certificate of Deposit) posted: \$27,156.00  
4 Applicant: JMJ Construction

5

6 MR. NOFFSINGER: Mr. Chairman, this  
7 application has been reviewed by the Planning Staff.  
8 Found to be in order. It is for the construction of  
9 18 single-family homes.

10 CHAIRMAN: Chair is ready for a motion.

11 MR. APPLEBY: Motion for approval.

12 CHAIRMAN: Motion for approval by Mr.  
13 Appleby.

14 MR. HAYDEN: Second.

15 CHAIRMAN: Second by Mr. Hayden. All in  
16 favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 Next item, please.

20 ITEM 13

21 Cinderella Drive, Lots 1-6, 1.635 acres  
22 Consider approval of major subdivision final plat.  
23 Surety (Performance Bond) posted: \$31,778.50  
24 Applicant: James Glenn Causey

25

26 MR. NOFFSINGER: Mr. Chairman, this  
27 application has been reviewed by the Planning Staff.  
28 It is in order. It's for six residential lots with an  
29 improvement to Cinderella Drive which includes curb

1 and gutter. With that it's ready for your  
2 consideration.

3 CHAIRMAN: Chair is ready for a motion.

4 MR. HAYDEN: Make a motion for approval.

5 CHAIRMAN: Motion for approval by Mr.  
6 Hayden.

7 SISTER VIVIAN: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 ITEM 14

14 Hunters Ridge, Unit #7, Lots 42-51, 12.625 acres  
15 Consider approval of revised major subdivision  
16 preliminary plat.  
17 Applicant: Hunters Ridge Development, Inc.

18 MR. NOFFSINGER: Mr. Chairman, this  
19 application has been reviewed by the Planning Staff.  
20 Found to be in order. It has previously been approved  
21 by this commission; however, there is a revised  
22 drainage plan as well as a revision to the street  
23 grade for this development. With that it's ready for  
24 your consideration.

25 CHAIRMAN: Chair is ready for a motion.

SISTER VIVIAN: Motion for approval.

1                   CHAIRMAN: Motion for approval by Sister  
2 Vivian.

3                   MR. GILLES: Second.

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

6                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7                   CHAIRMAN: Motion carries unanimously.

8                   Next item.

9                   ITEM 15

10                  Lake Forest, Unit #12, Lots 182-186, 219-221, 4.894  
11                  acres

12                  Consider approval of major subdivision final plat.  
13                  Surety (Certificate of Deposit) posted: \$21,981.60  
14                  Applicant: Lake Forest Community, LLC

15                  MR. NOFFSINGER: Mr. Chairman, this  
16                  application has been reviewed by the Planning Staff.  
17                  Found to be in order and it is for eight lots for  
18                  single-family development and it's ready for your  
19                  consideration.

20                  CHAIRMAN: Chair is ready for a motion.

21                  MR. JAGOE: Move to approve.

22                  CHAIRMAN: Motion for approval by Mr.  
23                  Jagoe.

24                  MR. ROGERS: Second.

25                  CHAIRMAN: Second by Mr. Rogers. All in  
26                  favor raise your right hand.

27                  (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion approved unanimously.

2 Next item.

3 MINOR SUBDIVISIONS

4 ITEM 16

5 4318 Curdsville-Delaware Road, 2.181 acres  
6 Consider approval of minor subdivision plat.  
7 Applicant: Raw Prawn Properties, LLC c/o J.B. Oexmann

8 MR. NOFFSINGER: Mr. Chairman, this  
9 application has been reviewed by the Planning Staff.  
10 It was not signed by the Planning Staff and it was  
11 forwarded to the Commission for their consideration.  
12 It does create a flag-shaped lot that does not meet  
13 the minimum frontage requirements at the building  
14 setback line and exceeds the depth to width ratio  
15 requirements. With that it's ready for your  
16 consideration.

17 CHAIRMAN: Do we have anybody representing  
18 the applicant?

19 MR. KNOTT: Yes.

20 CHAIRMAN: Would you step forward, please.

21 MR. ELLIOTT: State your name, please.

22 MR. KNOTT: Kenny Knott.

23 (MR. KENNY KNOTT SWORN BY ATTORNEY.)

24 CHAIRMAN: Mr. Knott, are you aware that  
25 the Planning Staff has some questions about the shape,  
the irregular shape of your lot?

1                   MR. KNOTT: Yes, I am. There's really not  
2 a really good way of splitting it up. Our intentions  
3 is I was aiming to the buy the house from Dr. Oexmann.  
4 Our plans is to eventually by the entire farm with my  
5 brothers.

6                   CHAIRMAN: You're aware obviously of  
7 Planning Staff's concerns with the shape of the lot.  
8 We've tried to put a moratorium on what we refer to as  
9 a flag lot. Yours meets that criteria, very small and  
10 very wide. Mr. Noffsinger may be aware that there is  
11 a possible solution to this situation. He discussed  
12 it with you. Are you aware of that? I'm sorry. He  
13 said the surveyor. He discussed it with the  
14 surveyor. Did the surveyor not relay this?

15                   MR. KNOTT: He did mention that initially  
16 when we first did the survey this is the way we  
17 approached it. Then later on he expressed that maybe  
18 add a little more frontage to it. He thought maybe it  
19 would work better. We thought we would approach it  
20 this way. The way it's set up it just splits the farm  
21 up so much. Like I said I planned on to buy the  
22 entire farm anyway with my brothers eventually is the  
23 plan.

24                   CHAIRMAN: If you plan on buying the rest  
25 of the farm and go ahead and square this lot up, the

1 property will be yours in the future anyway to the  
2 adjacent property. We're really making a very strong  
3 effort to try to clean up the landscape and do away  
4 with these flag type portions that come and immense  
5 problems down the road for us and property owners and  
6 everybody else. We're not trying to put a hardship on  
7 you.

8 MR. KNOTT: I understand that, but if it's  
9 just the way the farm is laid out it's kind of hard to  
10 do. I mean if I take, which I think you all usually  
11 require ten acres. If I took ten acres I guess it  
12 would turn easement on the rest of the farm. I just  
13 didn't see - -

14 MR. NOFFSINGER: Sir, what the Planning  
15 Staff is proposing, we're not suggesting you take ten  
16 acres. We're suggesting that you reduce the road  
17 frontage in this curve on this proposed lot. Where  
18 now you have probably 160 feet of road frontage with  
19 this lot. Reduce that down to about 50 feet and then  
20 run a line at an angle up to one of your corner pins  
21 which would mean about 1 1/2 acres of additional  
22 property. What that does is you have 50 feet of the  
23 road, but immediately that lot starts to widen out and  
24 you would be able to meet the minimum frontage  
25 requirements at the required building setback line as

1 well as you would maintain the acceptable depth to  
2 width ratios that we have in our regulations. That  
3 would leave more frontage for the remainder of the  
4 property so that in the future whatever might take  
5 place in terms of developing there would be additional  
6 road frontage for that. Plus it gets rid of that  
7 dog-leg or irregular shape lot situation that's  
8 proposed now. That's what we're suggesting to you and  
9 it probably means, I'm just guessing, roughly about an  
10 acre and half, acre and three quarters additional land  
11 with this.

12 MR. KNOTT: You suggest we approach it  
13 that way then?

14 CHAIRMAN: Correct.

15 MR. GILLES: Mr. Knott, would that be a  
16 financially burdensome task?

17 MR. KNOTT: No.

18 MR. GILLES: In my opinion that would make  
19 a big consideration if this would be approved or  
20 disapproved. If it would be some kind of financial  
21 hardship.

22 MR. KNOTT: No, it wasn't. Like I said  
23 initially - - it's kind of hard the way the house sits  
24 on the property the way it is. It's just the reason  
25 why we did it this way. Like I said our intentions

1 was to buy it later.

2 MR. APPLEBY: Gary, maybe you can have him  
3 come forward and show him. Just give him a brief idea  
4 of what you're talking about. I think he pretty much  
5 understands it, but be sure he's clear on it.

6 MR. NOFFSINGER: Yes.

7 MR. KNOTT: See, the farm it lays from  
8 here. It goes to here and back here. Most of the  
9 farm lays back in here anyway.

10 MR. NOFFSINGER: What I'm speaking of is a  
11 line back this point and a line comes up to somewhere  
12 right here.

13 MR. KNOTT: Yes. That's what the surveyor  
14 said.

15 MR. NOFFSINGER: Then I can sign that plat  
16 in-house without having to consider by the Planning  
17 Commission. That leaves frontage out here. This  
18 frontage is unused and that would be retained with the  
19 farm.

20 SISTER VIVIAN: Dr. Oexmann would be open  
21 to you purchasing that additional piece?

22 MR. KNOTT: Yes.

23 MR. NOFFSINGER: Thank you.

24 MR. APPLEBY: He just withdraw this; is  
25 that right?



1 MR. NOFFSINGER: I don't want to cost the  
2 gentleman another filing fee.

3 MR. JAGOE: Revise it.

4 MR. NOFFSINGER: I would recommend it be  
5 revised to meet the subdivision regulations and  
6 authorize the director to sign this plat once that's  
7 done.

8 MR. APPLEBY: I make that motion. That  
9 the director be authorized to sign the plat once it's  
10 amended.

11 CHAIRMAN: Mr. Appleby has made a motion.  
12 Do we have a second?

13 SISTER VIVIAN: Second.

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

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimously.

18 Next item, please.

19 ITEM 17

20 6756 Curdsville-Delaware Road, 10.19 acres  
21 Consider approval of agricultural division.  
22 Applicant: Thomas D. Zoglmann, Martha E. Zoglmann

23 MR. NOFFSINGER: Mr. Chairman, this  
24 application has been reviewed by the Planning Staff.  
25 It is considered to be an agricultural division in  
that the property is slightly over ten acres in size;

1       however, the entire farm does not have frontage on  
2       public right-of-way and the access to this farm is  
3       provided via easement and this is a plat that I can  
4       not sign administratively and have to forward to this  
5       commission for consideration. With that it's ready  
6       for your consideration.

7                   MR. APPLEBY: Motion for approval.

8                   MR. HAYDEN: Second.

9                   CHAIRMAN: Motion for approval and a  
10       second. All in favor raise your right hand.

11                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12                   CHAIRMAN: Motion carries unanimously.

13                   Next item.

14       ITEM 18

15       252, 270 Saint Anthony road, 10.000, 14.805 acres  
16       Consider approval of minor subdivision plat  
17       Applicant: William V. Pruden, Charleen D. Pruden

18                   MR. NOFFSINGER: Mr. Chairman, this too is  
19       a division considered for agricultural purposes. It  
20       is to place an existing farm home on a separate lot as  
21       well as there are two homes on that property now. The  
22       one lot will not have frontage on public right-of-way;  
23       however, access is provided via an easement and Staff  
24       would recommend that you consider this exception due  
25       to the fact there are two existing homes on the  
      property and this would be the only way to divide the

1 property so that the two homes could be each on a  
2 separate lot. They are sound homes in sound  
3 condition.

4 CHAIRMAN: Chair is ready for a motion.

5 MR. APPLEBY: Motion for approval.

6 CHAIRMAN: Motion for approval by Mr.  
7 Appleby.

8 MR. JAGOE: Second.

9 CHAIRMAN: Second by Mr. Jagoe. All in  
10 favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 -----

15 SURETY RELEASES

16 ITEM 19

17 Mapco Express, \$3,600  
18 Consider release of surety (Performance Bond) for  
19 landscaping.  
20 Surety posted by: Higginson Oil

21 ITEM 20

22 Mount Moriah, Unit #1, \$7,100  
23 Consider release of surety (Irrevocable Letter of  
24 Credit) for storm sewers and drainage.  
25 Surety posted by: Mount Moriah Holdings

ITEM 21

24 Saint Martin's Parrish Hall, \$3,577  
25 Consider release of surety (Certified Check) for  
landscaping.  
Surety posted by: Saint Martin's Church

1 MR. NOFFSINGER: Mr. Chairman, the Surety  
2 Release Number 19 through 21 are in order and may be  
3 considered for release in toto.

4 CHAIRMAN: Chair is ready for a motion.

5 SISTER VIVIAN: Motion for approval.

6 CHAIRMAN: Motion for approval by Sister  
7 Vivian.

8 MR. HAYDEN: Second.

9 CHAIRMAN: Second by Mr. Hayden. All in  
10 favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next items, please.

14 -----

15 SURETY TRANSFERS

16 ITEM 22

17 Hunters Ridge, unit #6, \$6,400  
18 Transfer of surety (Certificate of Deposit) for storm  
19 sewers to the City of Owensboro.  
20 Surety posted by: Hunters Ridge Development, Inc.

21 ITEM 23

22 Hunters Ridge, Unit #6, \$11,321.40  
23 Transfer of surety (Certificate of Deposit) for  
24 streets to the City of Owensboro.  
25 Surety posted by: Hunters Ridge Development, Inc.

MR. NOFFSINGER: Mr. Chairman, Surety  
Transfers Items 22 through 24 in are in order and may  
be transferred in toto.

1 CHAIRMAN: Chair is ready for a motion.

2 MR. HAYDEN: Motion for approval.

3 CHAIRMAN: Motion for approval by Mr.

4 Hayden.

5 MR. GILLES: Second.

6 CHAIRMAN: Second by Mr. Gilles. All in

7 favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Next item, please.

10 -----

11 NEW BUSINESS

12 ITEM 25

13 Consider for adoption the amended budget for fiscal  
14 year 2001.

14 MR. NOFFSINGER: Mr. Chairman, each  
15 Commissioner has been mailed a copy of this amended  
16 budget. The reason for this amendment is back in  
17 January we amended our budget and took out community  
18 development and property maintenance departments in  
19 our budgeting; however, that was a mistake. We should  
20 have left those two departments in for accounting  
21 purposes. Therefore, we're bringing this budget back  
22 to you for consideration to show you the expenditures  
23 within those two departments and ask that you approve  
24 this budget.

25 CHAIRMAN: Are there any questions, ideas?

1 (NO RESPONSE)

2 CHAIRMAN: On behalf of the Planning  
3 Commission, I'd like to thank Mr. Noffsinger and Mr.  
4 Adams for their extensive work on the budget and all  
5 the hard work they did during this change over and  
6 going to our two governmental bodies and putting  
7 together a very fine budget and working with both  
8 governmental agencies. We do appreciate that. You  
9 all have worked very hard. Thank you.

10 Now the Chair is ready for a motion.

11 MR. JAGOE: Move to approve.

12 MR. HAYDEN: I second.

13 CHAIRMAN: All in favor raise your right  
14 hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 ITEM 26

18 Consider for adoption in budget for fiscal year 2002.

19 MR. NOFFSINGER: Mr. Chairman, this will  
20 be the budget for the next fiscal year. It has been  
21 mailed out to each of the Planning Commissioners and  
22 certain obtain any questions that you may have.

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

25 (NO RESPONSE)

1 CHAIRMAN: Chair is ready for a motion.

2 MR. JAGOE: Move to approve.

3 MR. ROGERS: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 I believe the Chair is ready for one final  
9 motion.

10 MR. NOFFSINGER: Mr. Chairman, we have one  
11 additional item under Item 27.

12 ITEM 27

13 Consider for adoption fiscal year 2002 salary chart.

14 MR. NOFFSINGER: Each Planning

15 Commissioner has been mailed a copy of this chart.

16 This chart is consistent with the budget, 2002 fiscal  
17 year budget.

18 CHAIRMAN: Any questions on the salary  
19 chart?

20 (NO RESPONSE)

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

23 MR. JAGOE: Move to approve.

24 CHAIRMAN: Motion for approval by Mr.  
25 Jagoe.

1                   SISTER VIVIAN:  Second

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

4                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5                   CHAIRMAN:  Motion carries unanimously.

6                   Now the Chair is ready for one final  
7           motion.

8                   MR. GILLES:  Make a motion to adjourn.

9                   CHAIRMAN:  Motion to adjourn by Mr.  
10          Gilles.

11                  MR. HAYDEN:  Second.

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

14                  (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15                  CHAIRMAN:  Meeting is adjourned.

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

3 I, LYNNETTE KOLLER, Notary Public in and for  
4 the State of Kentucky at Large, do hereby certify that  
5 the foregoing Owensboro Metropolitan Planning & Zoning  
6 meeting was held at the time and place as stated in  
7 the caption to the foregoing proceedings; that each  
8 person commenting on issues under discussion were duly  
9 sworn before testifying; that the Board members  
10 present were as stated in the caption; that said  
11 proceedings were taken by me in stenotype and  
12 electronically recorded and was thereafter, by me,  
13 accurately and correctly transcribed into the  
14 foregoing 104 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this  
17 the 9th day of July, 2001.

18

19

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

22 COMMISSION EXPIRES:  
23 DECEMBER 19, 2002

24 COUNTY OF RESIDENCE:  
25 DAVIESS COUNTY, KENTUCKY