

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 SEPTEMBER 13, 2018

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

7 MEMBERS PRESENT: Larry Boswell, Chairman  
8 Larry Moore, Vice Chairman  
9 Brian Howard, Director  
10 Terra Knight, Attorney  
11 Lewis Jean, Secretary  
12 Fred Reeves  
13 Irvin Rogers  
14 Beverly McEnroe  
15 Manuel Ball  
16 Angela Hardaway  
17 John Kazlauskas

18 \* \* \* \* \*

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

24 (INVOCATION AND PLEDGE OF ALLEGIANCE)

25 CHAIRMAN: Thank you, Commissioner McEnroe.

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

(NO RESPONSE.)

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

3                   MR. JEAN:  Motion to approve.

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

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

8                   (NO RESPONSE.)

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

11                   (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12                   CHAIRMAN:  Opposed?

13                   (NO RESPONSE.)

14                   CHAIRMAN:  Motion carries.

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

21                   \* \* \* \* \*

22                   ZONING CHANGES

23   ITEM 3

24   631, 633 Triplett Street, 0.317 acres  
25   Consider zoning change:  
25   From B-4 General Business to P-1 Professional/Service  
25   Applicant:  Wendell Foster Campus for Developmental

1 Disabilities

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

4 MS. EVANS: Melissa Evans.

5 (MELISSA EVANS SWORN BY ATTORNEY.)

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

9 Conditions:

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

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

15 Findings of Fact:

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

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

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

1 property; and,

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

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

7 CHAIRMAN: Thank you, Melissa.

8 Is there anyone here representing the applicant?

9 (NO RESPONSE.)

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

13 (NO RESPONSE.)

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

16 (NO RESPONSE.)

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

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

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

25 MS. McENROE: Second.

1 CHAIRMAN: Ms. McEnroe seconded. Any questions  
2 or discussions about the motion and the second?

3 (NO RESPONSE.)

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Opposed, like sign.

8 (NO RESPONSE.)

9 CHAIRMAN: Motion carries.

10 ITEM 4

11 819 East Ninth Street, 0.876 acres  
12 Consider zoning change:  
13 From B-4 General Business to P-1 Professional/Service  
14 Applicant: Wendell Foster Campus for Developmental  
15 Disabilities

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

19 Conditions:

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

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

24 Findings of Fact:

25 1. Staff recommends approval because the  
26 proposal is in compliance with the community's  
27 adopted Comprehensive Plan;

1           2. The subject property is located in a  
2 Professional/Service Plan area where  
3 professional/service uses are appropriate in general  
4 locations;

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

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

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

12           CHAIRMAN: Thank you, Melissa.

13           Is there anyone here representing the applicant?

14           (NO RESPONSE.)

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

18           (NO RESPONSE.)

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

21           (NO RESPONSE.)

22           CHAIRMAN: Chair is ready for a motion.

23 Mr. Ball?

24           MR. BALL: Like to make a motion to approve  
25 based on Planning Staff recommendations, Conditions 1 and

1 2, and Findings of Fact 1 through 4.

2 CHAIRMAN: Thank you, Mr. Ball.

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

6 MR. ROGERS: I second.

7 CHAIRMAN: Any discussion about the motion or  
8 the second?

9 (NO RESPONSE.)

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

12 MR. HOWARD: A vote.

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

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Opposed, like sign.

19 (NO RESPONSE.)

20 CHAIRMAN: My brain was somewhere else for some  
21 reason.

22 ITEM 5

23 1600 Highway 603, 16.82 acres  
24 Consider zoning change:  
25 From A-U Urban Agriculture to B-4 General Business  
Applicant: Angus Hills Farms, LLC

1 MS. EVANS: The Planning Staff recommends  
2 approval subject to the conditions and findings of fact  
3 that follow:

4 Conditions:

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

12 Findings of Fact:

- 13 1. Staff recommends approval because the  
14 proposal is in compliance with the Community's  
15 adopted Comprehensive Plan;
- 16 2. The subject property is located in a  
17 Business Plan Area where general business uses are  
18 appropriate in limited locations;
- 19 3. The proposed use as an assisted living  
20 facility is conditionally permitted in a B-4 zone.
- 21 4. The proposed use of general business  
22 conforms to the criteria for nonresidential  
23 development;
- 24 5. The proposal is a logical expansion of B-4  
25 zoning to the north, south, and east; and,



1           6. With access limited to the proposed  
2           extension of Pleasant Valley Road, the proposed  
3           expansion should not overburden the capacity of  
4           roadways and other necessary urban services that are  
5           available in the affected area.

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

8           CHAIRMAN: Thank you, Melissa.

9           Is there anyone here representing the applicant?

10          Yes. Would you like to speak? on its behalf?

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

13          MR. DWYER: Nick Dwyer.

14          (NICK DWYER SWORN BY THE ATTORNEY.)

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

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

24          (NO RESPONSE.)

25          CHAIRMAN: Anyone in the audience would have any

1 questions or comment about this application?

2 (NO RESPONSE.)

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

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

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

11 Ms. Hardaway?

12 MS. HARDAWAY: Second.

13 CHAIRMAN: Second by Ms. Hardaway. Any  
14 discussion about the motion or the second?

15 (NO RESPONSE.)

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

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Opposed, like sign.

20 (NO RESPONSE.)

21 -----

22 RELATED ITEM

23 ITEM 5A

24 Portion of 1600 Highway 603, zoned A-U Urban Agriculture  
to B-4 General Business  
25 Consider request for a Conditional Use Permit in order to  
construct and operate an assisted living facility

1 Reference: Zoning Ordinance, Article 8, Section 8.2C1  
2 Applicant: Angus Hills Farms, LLC

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

5 MR. PEDLEY: Trey Pedley.

6 (TREY PEDLEY SWORN BY ATTORNEY.)

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

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

24 The zoning ordinance requirements for an  
25 assisted living facility include the need for one parking

1 space for every four beds plus one space for each employee  
2 on maximum shift. Based on the number of anticipated  
3 units and staff members, this lot will be required to  
4 maintain 33 parking spaces. The conceptual plan shows 84  
5 parking spaces on site with a single access point from the  
6 proposed street stemming from Highway 603.

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

14 If approved, special conditions include:

- 15 1. Approval of a final development plan; and,
- 16 2. Obtain all necessary building, electrical,  
17 and HVAC permits, inspections, and certificates of  
18 occupancy and compliance shall be obtained.

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

21 CHAIRMAN: Thank you, Trey.

22 Is there anyone here representing the applicant?

23 Would you like to speak on it's behalf?

24 (NO AUDIBLE RESPONSE.)

25 CHAIRMAN: Thank you.

1           Any of the commissioners have any questions  
2     concerning this application?

3           Yes, Mr. Reeves?

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

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

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

15          (NO RESPONSE.)

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

19          (NO RESPONSE.)

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

22          MR. JEAN: I make a motion we approve this  
23    application based on the Staff Report with Conditions 1  
24    and 2 and Findings of Fact 1, it would be of benefit to  
25    the community because there is a need for this type of

1 housing; 2, it is a very compatible use for this area;  
2 and, 3, it would not be an adverse influence on future  
3 uses and development.

4 CHAIRMAN: Motion has been made by Mr. Jean for  
5 approval based on the Zoning Ordinance Requirements 1 and  
6 2, Special Conditions 1 and 2. And I'm not sure I got  
7 down all the other ones. It was certainly needed by the  
8 community, shown to be needed by the community.

9 Did that catch all of them, Mr. Jean?

10 (NO AUDIBLE ANSWER.)

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

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

20 (NO RESPONSE.)

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Opposed, like sign.

25 (NO RESPONSE.)

1                   CHAIRMAN: Motion carries.

2                   -----

3                   FINAL DEVELOPMENT PLANS

4    ITEM 6

5    1535 Frederica Street, 207 Phillips Court, 0.820 acres  
6    (Postponed from August 9, 2018)

7    Consider approval of a final development plan

8    Applicant: WBW Properties, LLC

9

10                  MR. HOWARD: This plan has been reviewed by the

11    Planning Staff and Engineering Staff and found to be in

12    order. It's found to be consistent with the underlying

13    zoning of the property and the conditions that were placed

14    upon the property when it was rezoned a few months ago,

15    and it is ready for your consideration.

16                  CHAIRMAN: Thank you, Mr. Howard.

17                  Is there anyone here representing the applicant?

18                  Yes, would you like to say anything on its

19    behalf?

20                  MR. MEYER: My name's J. D. Meyer. I'm here on

21    behalf of WBW Properties. We have no other comments

22    unless there are questions from the commissioners.

23                  MS. KNIGHT: Let the record reflect you're sworn

24    as an attorney.

25                  MR. MEYER: Thank you. Sorry.

26                  CHAIRMAN: Thank you, Mr. Meyer.

27                  Any commissioners have any questions concerning

1 this application?

2 (NO RESPONSE.)

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

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

7 MS. McCULLEY: Mary McCulley.

8 (MARY McCULLEY SWORN BY ATTORNEY.)

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

15 MS. McCULLEY: Right. I understand that.

16 CHAIRMAN: Okay. Thank you.

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



1 city commission said that it was specifically noticed to  
2 be the same as required by the requirements for petition  
3 for rezoning, so...

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

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

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

10 MR. HOWARD: Looks like first notice was June,  
11 I'm going to say 29th. It's, hard to read. Second notice  
12 was July 5th, and the third was -- does that look like  
13 16th?

14 MS. KNIGHT: September.

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

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

21 MR. HOWARD: Well, the original notice went out  
22 as required. And this item has been postponed at every  
23 meeting. We don't send out additional notice on  
24 postponement. No action has been taken at this point, and  
25 that's why it's still active on this agenda.

1 MS. McCULLEY: Okay. Well, I would -- I would  
2 debate that, but I would have to ask an attorney about  
3 that.

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

6 (COMMISSIONERS RAISE HANDS.)

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

8 COMMISSIONER: Yeah.

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

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

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

1 is a violation of your own ordinances. So I don't  
2 understand how that could happen.

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

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

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

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

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

25 MR. REEVES: Mr. Howard, was this prior to the

1 zoning ordinance?

2 MR. HOWARD: It certainly would predate the  
3 zoning.

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

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

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

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

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

24 MR. HOWARD: Let me verify real quick, but  
25 there's not a 10-foot buffer requirement, I don't believe,

1 between a P-1 and a Single Family Residential zone.

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

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

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

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

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

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

24 MR. KAZLAUSKAS: Yes.

25 MS. McCULLEY: Do you not feel that this site

1 development is similar to what you argued about in 2001?

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

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

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

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

14 MS. McCULLEY: Okay. That's fair.

15 MR. KAZLAUSKAS: Thank you.

16 MS. McCULLEY: Thank you.

17 CHAIRMAN: Thank you.

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

20 MR. ADAMS: Can we speak after this part?

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

23 CHAIRMAN: Exactly.

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

1 MR. WEAVER: David Weaver.

2 (DAVID WEAVER SWORN BY ATTORNEY.)

3 MR. WEAVER: In regards to the landscape buffer,  
4 let me start there. There is -- on the development plan,  
5 we're showing a slight expansion on our existing parking  
6 lot, existing Bryant Engineering parking lot to the east.  
7 And that vehicle use area expansion will be buffered from  
8 the adjoining residence to the east by the existing house  
9 in the middle. There's an ADA ramp in the back that's  
10 required. It will act as a buffer. The plan states that.  
11 And along the front, there is a 3-foot, a traditional  
12 3-foot tall, 3-foot wide continuous element with deciduous  
13 trees four feet on center. So I believe that meets the  
14 requirement of the ordinance.

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

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

25 CHAIRMAN: Did you answer that question about

1 the buffer?

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

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

23 MR. HOWARD: So Article 17 of the zoning  
24 ordinance deals with buffering. It says that a perimeter  
25 buffer is required when any -- let's see -- when any



1 residential area adjoins a business or industrial zone.

2 And that standard does apply to the downtown district.

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

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

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

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

23           MR. HOWARD: I'm not sure.

24           MS. McCULLEY: Okay.

25           MR. WEAVER: Brian, we've done hundreds of

1 development plans and site plans in our office. And I  
2 would feel like we have done the buffering of this plan  
3 consistent with similar projects that we've done in the  
4 past. I would contend that it complies with the zoning  
5 ordinance.

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

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

14 MR. HOWARD: We believe it's ready.

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

21 The existing house, for those of you that maybe  
22 haven't seen it, is vinyl. It's a wood vinyl, and it's  
23 been weathered by the sun. It's kind of dulled. And  
24 clearly that vinyl siding on that house could not possibly  
25 be the original siding. We anticipate removing that

1 siding and putting a newer model siding on it. We haven't  
2 selected a color or exactly what the siding would look  
3 like; but, you know, we're not going to stucco it or brick  
4 it. You know, more than likely it will be vinyl. And  
5 we're not going to alter the building dimensions, the  
6 footprint. The building footprint will stay the same.  
7 The roof will stay the same. So, you know, I guess that's  
8 pretty much it.

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

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

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

20 And directly across the street is my house.  
21 This is Don Adams. He is going to be looking right into  
22 that parking lot. I mean, it's not a parking lot now, and  
23 that's what they want to do with it.

24 And I just -- I have an issue with making more  
25 concrete in this development plan. If they want to access

1 it, they don't have to pave all the way down Phillips  
2 Court to the side of the house. That's not a good plan,  
3 you know. And it violates the master plan, you know, the  
4 historic feeling and all these master plan sites that you  
5 guys voted on. I don't see how you can think that  
6 creating a giant parking lot in a historic area is any --  
7 it doesn't -- it doesn't work. I don't get it.

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

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

12 CHAIRMAN: The parking lot or?

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

16 CHAIRMAN: Making a statement. Okay.

17 Yes, Mr. Reeves?

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

24 MR. HOWARD: There are no design guidelines for  
25 what a structure would look like outside the downtown

1 overlay district, so you're correct there. As far as the  
2 design and layout, you know, it has to meet the zoning  
3 ordinance requirements. The city engineer's office has  
4 to, or whatever jurisdiction it's in, would have to review  
5 it to make sure that it meets drainage requirements and  
6 that type of thing.

7 MR. REEVES: And it has met --

8 MR. HOWARD: Yes. City engineer's office signed  
9 off on the plan.

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

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

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

25 MS. McCULLEY: Okay.

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

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

1 comprehensive plan and what they're proposing to do.

2 CHAIRMAN: So noted.

3 Anyone else would like to speak concerning this  
4 application?

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

7 MR. ADAMS: Don Adams.

8 (DON ADAMS SWORN BY ATTORNEY.)

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

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

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

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

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

24 MR. WEAVER: I guess I'll speak to the parking  
25 first. We are doing a slight parking lot expansion to the

1 east of our existing parking lot. I believe that's in the  
2 neighborhood of plus or minus ten feet. All we're doing  
3 is we're making our parking lot wider along the east side  
4 to accommodate two rows of parking and to meet the zoning  
5 ordinance requirement on the number of parking spaces.

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

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

20 CHAIRMAN: Thank you.

21 That answer your question?

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



1 You're adding traffic to that little narrow street.

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

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

10 CHAIRMAN: Because of the?

11 MR. WEAVER: Because of the relatively small  
12 size.

13 CHAIRMAN: Small traffic in that area.

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

16 CHAIRMAN: Thank you.

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

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

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

25 MR. WEAVER: We certainly have not talked to the

1 Mary Kendall Home about -- our staff doesn't utilize their  
2 private drive. They've clearly got that marked as a  
3 private drive.

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

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

10 CHAIRMAN: Thank you.

11 Yes, Mr. Ball?

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

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

22 MR. BALL: Which it meets currently?

23 MR. HOWARD: It does.

24 MR. BALL: Thank you.

25 CHAIRMAN: Thank you, Mr. Ball. So it does meet

1 the minimum parking requirements.

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

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

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

9 (NO RESPONSE.)

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

12 Mr. Ball?

13 Pardon?

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

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

18 CHAIRMAN: Oh, yes, please, please.

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

21 MS. SCHULTZ: Stella Schultz.

22 (STELLA SCHULTZ SWORN BY ATTORNEY.)

23 MS. SCHULTZ: I live at 200 Phillips Court, and  
24 I wonder if any of you have ever tried to turn left off of  
25 Phillips Court. It's impossible. And more traffic, and

1 if Mary Kendall closes their road off, it's going to be  
2 very complicated to exit. And adding a business with more  
3 traffic, would be nigh impossible to cope with turning  
4 left off of Phillips Court.

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

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

23 MS. SCHULTZ: Thank you.

24 CHAIRMAN: Thank you.

25 Anyone else would like to speak concerning this

1 application?

2 MR. KAZLAUSKAS: Mr. Chairman?

3 CHAIRMAN: Yes.

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

6 CHAIRMAN: A clarification?

7 MR. KAZLAUSKAS: Yes.

8 CHAIRMAN: Yeah. Okay.

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

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

25 Is there anyone else that would like to speak

1 concerning this application?

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

4 MR. KAZLAUSKAS: (Inaudible.)

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

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

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

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

16 MS. McCULLEY: I'm sorry. What I was trying to  
17 ask or say was, his feelings about site development --  
18 right? -- and the development, including this parking lot,  
19 it does to me reflect that at some point, I believe, that  
20 he was in disagreement about developing older homes in the  
21 area. So my feeling is that -- that was 2001. I get that  
22 that was a while ago. But hopefully he's thinking about  
23 that -- or is he thinking about that? -- as he looks at  
24 this development and realizes the site development and how  
25 it is taking away green space and adding concrete to this

1 historic area. I know that at one point he felt that way,  
2 so that was what I was trying to ask. I'm sorry if it  
3 came off differently.

4 CHAIRMAN: Thank you.

5 Anyone else would like to speak concerning this  
6 application?

7 Mr. Ball?

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

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

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

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

24 MR. BALL: Thank you.

25 CHAIRMAN: Any further questions from the

1 audience or comment concerning this application?

2 (NO RESPONSE.)

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

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

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

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

11 (NO RESPONSE.)

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Opposed, like sign.

16 (NO RESPONSE.)

17 CHAIRMAN: Motion carries.

18 -----

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

24 (NO RESPONSE.)

25 CHAIRMAN: There being none, the chair is ready



1 for a motion. Mr. Moore?

2 MR. MOORE: Move to approve.

3 CHAIRMAN: Motion has been made for approval.

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

6 (NO RESPONSE.)

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Opposed, like sign.

11 (NO RESPONSE.)

12 CHAIRMAN: Motion carries.

13 The chair has no comments tonight.

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

16 (NO RESPONSE.)

17 CHAIRMAN: There being none, comments by the  
18 director?

19 MR. HOWARD: No, thank you.

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

22 MR. BALL: Motion to adjourn.

23 CHAIRMAN: Motion has been made by Mr. Ball to  
24 adjourn. Second by Mr. Jean. Any discussion or comment  
25 about the motion or the second?

1 (NO RESPONSE.)

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Opposed, like sign.

6 (NO RESPONSE.)

7 CHAIRMAN: Motion carries.

8 (The meeting adjourned at 6:17 p.m.)

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Dated this 30th day of September 2018.

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