

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 AUGUST 12, 2010

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 August 12, 2010, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

- 8 MEMBERS PRESENT: Drew Kirkland, Chairman
- 9 Ward Pedley, Vice Chairman
- 10 Gary Noffsinger, Director
- 11 Madison Silvert, Attorney
- 12 Rev. Larry Hostetter
- 13 Tim Allen
- 14 Irvin Rogers
- 15 Keith Evans
- 16 Martin Hayden
- 17 Rita Moorman

18 * * * * *

19 CHAIRMAN: I would like to welcome you to the
20 August 12th meeting of the Owensboro Metropolitan
21 Planning Commission. Would you please rise while our
22 invocation and pledge of allegiance will be given by
23 Mr. Madison Silvert.

24 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

25 CHAIRMAN: Our first order of business is to
consider the minutes of the July 8, 2010 meeting. Are
there any additions, corrections, questions?

(NO RESPONSE)

CHAIRMAN: If not the Chair is ready for a

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1 motion.

2 MR. PEDLEY: Motion to approve.

3 CHAIRMAN: Motion for approval by Mr. Pedley.

4 MR. HAYDEN: Second.

5 CHAIRMAN: Second by Mr. Hayden. All in favor
6 raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

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11 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

12 ITEM 2

13 Paradise Landing, 6.461 acres (Postponed at July 8,
14 2010 meeting)

15 Consider approval of major subdivision preliminary
16 plat/final development plan.

17 Applicant: Paradise Landing, LLC

18 MR. NOFFSINGER: Mr. Chairman, this plan has
19 been reviewed by the Planning Staff and Engineering
20 Staff. It's found to be in order. The land use is
21 consistent with the Adopted Comprehensive Plan and the
22 property is laid out in such a way that it is in
23 accordance with the subdivision regulations and zoning
24 ordinance.

25 CHAIRMAN: Is there any questions?

(NO RESPONSE)

CHAIRMAN: If not the Chair is ready for a

1 motion.

2 MR. EVANS: Motion to approve.

3 CHAIRMAN: Motion for approval by Mr. Evans.

4 MS. MOORMAN: Second.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 -----

11 MINOR SUBDIVISIONS

12 ITEM 3

13 999, 1011 Highway 140 E, 4.972 acres

Consider approval of minor subdivision plat.

14 Applicant: Glen & Johnna Gray

15 MR. SILVERT: Would you state your name,
16 please.

17 MR. HOWARD: Brian Howard.

18 (BRIAN HOWARD SWORN BY ATTORNEY.)

19 MR. HOWARD: This plat comes before you as an
20 exception to the zoning ordinance requirements.

21 They're requesting to create a tract just under five
22 acres with 50 feet of road frontage. There is an
23 existing home site in the northwest corner of that
24 approximately five acre tract. For findings and
25 purposes they're requesting that this be created.

1 They have put a note on the plat that there be no
2 further division of the property. It does meet the
3 zoning ordinance regulations, subdivision regulations.
4 So with that we would recommend that you consider for
5 approval.

6 CHAIRMAN: Do we have anybody representing the
7 applicant?

8 APPLICANT REP: Yes.

9 CHAIRMAN: Do we have any questions?

10 (NO RESPONSE)

11 CHAIRMAN: If not the Chair is ready for a
12 motion.

13 MR. ROGERS: Motion for approval.

14 CHAIRMAN: Motion for approval by Mr. Rogers.

15 MR. ALLEN: Second.

16 CHAIRMAN: Second by Mr. Allen. All in favor
17 raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item, please.

21 ITEM 4

22 6650, 6664 US Highway 231, 4.719 acres

Consider approval of minor subdivision plat.

23 Applicant: Robert A. Blandford

24 MR. HOWARD: Again, this plat comes before you
25 for a similar circumstance. They have the minimum

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1 amount of road frontage, but it does exceed the three
2 to one length to width ratio. There is an existing
3 home on the property that they're creating a one acre
4 tract around which leaves approximately 3.7 acres as
5 the remainder. They have also noted on the plat that
6 there will be no further division of the property.
7 Meeting the subdivision regulation, zoning ordinance
8 requirements. So with that we would recommend that
9 you consider it for approval.

10 CHAIRMAN: Do we have anybody representing the
11 applicant?

12 APPLICANT REP: Yes.

13 CHAIRMAN: Does anybody have any questions?

14 (NO RESPONSE)

15 CHAIRMAN: If not the Chair is ready for a
16 motion.

17 MR. HAYDEN: Make a motion for approval.

18 CHAIRMAN: Motion for approval by Mr. Hayden.

19 MR. EVANS: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

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ZONING CHANGES

ITEM 5
1601, 1605, 1609 Frederica Street, 0.666 acres
Consider zoning change: From R-4DT Inner-City
Residential to P-1 Professional/Service
Applicant: Marcus Bosley; Bill T. Timbrook

MR. HOWARD: Before I read the Staff Report I will note that all zonings heard tonight will become final 21 days after the meeting unless an appeal is filed. If an appeal is filed, then we will forward that rezoning request before the legislative body for their final consideration. The appeal forms should be available on the back table, on-line and in our office.

PLANNING STAFF RECOMMENDATIONS

The Planning Staff recommends approval subject to the conditions and findings of fact that follow:

CONDITIONS:

1. Approval of a consolidation plat to consolidate the three tracts into a single tract;
2. Due to the proximity to existing residential zones, all lighting for the subject property shall be directed away from the residential property to reduce the glare and impact of the lighting on the residential uses; and,
3. Access to Frederica Street shall be

1 limited to the existing public alley only. The alley
2 may be widened to provide sufficient width for two-way
3 traffic.

4 FINDINGS OF FACT:

5 1. Staff recommends approval because the
6 proposal is in compliance with the community's adopted
7 Comprehensive Plan when considering the entire acreage
8 proposed for rezoning that is bisected by the public
9 alley;

10 2. The Subject property is located in a
11 Central Residential Plan Area, where
12 professional/service uses are appropriate in limited
13 locations;

14 3. The use as a professional office will be
15 nonresidential in nature and use;

16 4. The proposal is a logical expansion of
17 existing P-1 zoning located across Phillip Court to
18 the north and across Frederica Street to the west;
19 and,

20 5. At a total of 1.151 acres of proposed P-1
21 zoning, the expansion should not overburden the
22 capacity of roadways and other necessary urban
23 services that are available in the affected area.

24 MR. HOWARD: We would like to enter the Staff
25 Report into the record as Exhibit A.

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1 CHAIRMAN: Do we have anybody representing the
2 applicant?

3 MR. WILSON: Mr. Chairman, Bill Wilson. I'm
4 here on behalf of Mark Bosley.

5 We've got a little handout here I'd like the
6 board members to take a look at what is proposed on
7 this property.

8 Mr. Chairman, we're here tonight to answer any
9 questions any members of the commission might have.

10 We have someone from Bryant Engineering who is
11 here and Mark is here to describe it.

12 As you can tell from the photo, that's an
13 actually photo of what the front of this property is
14 going to look like. In the bottom right corner, let
15 me call your attention. There's a swimming pool
16 shown. That is not part of this project. There will
17 be a veranda out back. But the front is an actual
18 picture of what the building is going to look like.
19 That's what you're going to seeing as you approach
20 Frederica, I guess, on Griffith Avenue intersection
21 there. You're going to be looking at that. What a
22 beautiful addition it's going to be Frederica Street.

23 If anybody has any questions, Mark can
24 describe in detail what's going to be done with this
25 property, to this property, front, backside. We would

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1 appreciate your all's favorable consideration of this
2 rezoning application.

3 CHAIRMAN: Thank you. Is that your statement,
4 Mr. Wilson?

5 MR. WILSON: Yes.

6 CHAIRMAN: Does anybody have any questions of
7 the applicant?

8 Step to the microphone, please.

9 MR. SILVERT: State your name, please.

10 MR. PELPHREY: Thomas Pelphrey.

11 (THOMAS PELPHREY SWORN BY ATTORNEY.)

12 MR. PELPHREY: I live at 203 West 17th Street.
13 My home, two of the properties back up to the alley of
14 which my home resides next to. My home faces 17th
15 Street.

16 I'm concerned on a couple of levels there
17 about the safety that goes into this area. That the
18 alleys will be, will the alleys remain both --

19 CHAIRMAN: Sir, ask the questions to us and
20 then we'll turn around and turn the podium over to
21 whoever needs to answer them.

22 MR. PELPHREY: Will both of the alleys remain
23 open and is consideration being given to the -- that's
24 an offset alley there already and it's dangerous as it
25 is where the alleys intersect in the middle of the

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1 block. My concern is that there would be something
2 done that would make that a safe place.

3 Also concerned that the property dividers or
4 some kind of dividers between the property that's
5 developed and the alley. As you go down that alley,
6 behind the bank that's across from the school and you
7 go on down that alley behind the other businesses that
8 face Frederica, there's a number of places where the
9 alley gets squeezed by things that are in there. It's
10 hard to tell whether you're on the alley or when
11 you're on the other person's property. Just wanted to
12 know how that was going to be handled.

13 Also the intersection there at Griffith and
14 Frederica and Phillips Court, that is an offset
15 traffic light already. If you come out from Phillips
16 Court and you try to make a left-hand turn, many
17 people off of Griffith do not realize that you have
18 the right-of-way there. You're trying to make a
19 left-hand turn. I would think that traffic light in
20 that spot needs to be looked at carefully for increase
21 traffic.

22 As a neighbor, I just want someone who is
23 going to be a good neighbor there. The homes that are
24 there now have been let run down. They aren't nearly
25 what they could be. I want a good neighbor. I would

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1 prefer it to stay residential, but if it goes P-1,
2 then I would just like for the residents, the new
3 people that take care of that would take care of it
4 well. Build a new building. Build something that
5 looks like the rest of the homes in the area.
6 Preferably something of two-story structure. All of
7 those homes around there are two-story. We had some
8 construction across the street where the corner of
9 Griffith and Frederica. Building was put in there,
10 one level. The AAA building. It looks out of place
11 frankly. I would appreciate others being given some
12 consideration to match the homes that are in that
13 area.

14 Finally, if it does change, my understanding
15 is that the construction as planned is for just the
16 three tracts between the alley and Phillips Court.
17 What would be the disposition then of the other two
18 homes there on the south side of the alley. If it
19 gets changed to P-1, do those home immediately, do
20 they stop being rentals? How long would that take?
21 What would the property owner do in the meantime in
22 terms of keeping that property up now that it's gone
23 to P-1. I don't know and I'm asking a question: If
24 it's changed, does it change from rentals to P-1
25 immediately or is there time given, etcetera?

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1 CHAIRMAN: Does that conclude your questions?

2 MR. PELPHREY: That's a long question.

3 CHAIRMAN: We got it. If you'll be seated, I
4 think I'm going to start from the bottom up.

5 Mr. Noffsinger.

6 MR. NOFFSINGER: Yes, sir.

7 CHAIRMAN: Why don't you take the one about
8 the remaining two homes and the P-1 division, the
9 two-story request about the building, and the
10 intersection of Griffith Avenue and Phillips Court.

11 MR. NOFFSINGER: First of all, the properties
12 that are rezoned, being proposed to be rezoned
13 tonight, once they're zoned P-1 the residential use
14 may continue. They become nonconforming uses and they
15 can continue without alteration. Meaning you could
16 not make any additions to those buildings. They'll
17 continue to be used for residential, if that's the
18 owner's desire, until such time as they're converted
19 to a professional service use.

20 I think the second item was the two-story
21 request. That is something that the applicant is here
22 tonight that can comment on the height of the
23 structure, but Owensboro Metropolitan Zoning Ordinance
24 that this community has adopted does not have a
25 minimum height requirement. There are maximum height

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1 requirements in that ordinance. There are no minimum.
2 So there is nothing that this board could do to
3 require this building to be two stories in height.

4 I think the third question was the traffic
5 signal at this intersection. The streets are
6 existing. They will have an existing access point or
7 they'll utilize the alley on Frederica Street for
8 ingress/egress to the property. There will also be
9 two access points on Phillips Court. If there are any
10 issues related to traffic movements and
11 signalizations, those would be have to be addressed at
12 the time of the final development plan which has not
13 been submitted here tonight. That's something for the
14 local traffic engineers to take a look at and see what
15 improvements may be deemed necessary.

16 CHAIRMAN: Mr. Wilson, I think the other two
17 questions, the division of the alley and the property,
18 and will both alleys be open.

19 MR. WILSON: Mr. Chairman, the alleyway that
20 comes in, which is the only access to Frederica
21 Street, and that's under the Plan Staff
22 Recommendation, is the existing alleyway which is on
23 the south side of these three units that are under
24 this present rezoning application. That entrance will
25 in fact be widen in order to have safe capacity in and

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1 out of that alley.

2 The overall traffic, these are investment
3 counselors, planners. Probably going to be less
4 traffic than what's been in there in the last good
5 many years. It's not going to be a high traffic
6 situation at all.

7 The alley that runs north/south to the rear of
8 it has been there for, gosh, I hate to say how many
9 years. Of course, it will remain there. It's a
10 public alley and it will remain there. The back will
11 be attractively done as will the front. The
12 architecture, as you can tell, is similar to the
13 existing I think it's the Collignon & Nunley building
14 now. It's used to be on the corner of Phillip and
15 Frederica. It's very similar to that. It will be
16 very compatible to that type of architecture. As you
17 can see from the photo, and that's an actual of what
18 it's going to look like. It's going to be extremely
19 attractive. I assure all the neighbors that they will
20 be pleased with what comes in by them.

21 CHAIRMAN: He also asked about the division of
22 the property in the alley.

23 MR. WILSON: I can't address that. Perhaps
24 Mr. Bosley can.

25 MR. SILVERT: Could you state your name,

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1 please.

2 MR. BOSLEY: Mark Bosley.

3 (MARK BOSLEY SWORN BY ATTORNEY.)

4 MR. BOSLEY: The alleys will remain, as
5 Mr. Wilson said, the same. They'll be widen from 10
6 feet to 24 feet. It's lot better ingress/egress. As
7 a primary entrance to our property, we'll use the
8 Phillips Court entrance. We won't use the alley as a
9 primary entrance point. Will go in beside the
10 building. Have a circular drive in the front.
11 Parking in the back. There will be a solid wall
12 around the property in the back.

13 As far as the other two properties for right
14 now, we do not intend to maintain those houses as
15 rentals. We intend to demolish them and do the site
16 plan elevation for all five lots at the same time. If
17 they're not immediately sold to someone at P-1, under
18 an approved plan, then we'll do whatever landscaping
19 is required by the City to maintain them in the
20 interim.

21 CHAIRMAN: Thank you.

22 Are there any further questions or any other
23 questions in regard to this?

24 Yes, sir.

25 MR. SILVERT: Could you state your name,

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1 please.

2 POSTLEWAITE: Gary Postlewaite, 201 West 17th
3 Street.

4 (GARY POSTLEWAITE SWORN BY ATTORNEY.)

5 MR. POSTLEWAITE: My major concern is changing
6 the atmosphere of the neighborhood. Just because
7 we've got George Collignon's property there that's a
8 semi-Mediterranean style doesn't mean it's correct for
9 the neighborhood and we need to do another one.

10 We've got the AAA building across the street,
11 which is horrendous for the neighborhood. It changed
12 the whole looks of the neighborhood. I'm appalled
13 that even happened.

14 I mean I moved in that neighborhood because of
15 what it is. There are historic homes in the
16 neighborhood. There's I know at least one on the
17 historical register.

18 When we start tearing down these nice looking
19 two-story homes on Frederica Street, it's going to
20 completely open up all front of that property and
21 significantly change what is down on Phillips Court,
22 and I don't even live on Phillips Court. I live
23 around the corner from it, but my property adjoins the
24 backside across from where this building is proposed.

25 Phillips Court is one of the nicer areas we

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1 have left in the city of some major fine homes. This
2 is going to change that so dramatically that I think
3 it will be a crying shame if it happens.

4 Personally I'm not opposed to the P-1
5 designation. We've got P-1 all up and down Frederica
6 Street in existing homes that look fine because you
7 haven't changed the neighborhood. When we do this and
8 tear those homes down, it completely changes the look
9 of the neighborhood. There's not many left on
10 Frederica Street. We have difficulty now because the
11 homes aren't maintained. They're rental units. They
12 haven't been maintained for years.

13 One other issue that hasn't been addressed,
14 back in the alley where the alley that runs
15 north/south is an offset alley. Where the offset is,
16 which is on the corner of where they're proposing
17 there, is an existing garage. So there's a blind
18 corner from two sides right there. It's an extremely
19 difficult situation to deal with. There have been
20 several accidents right there just by what few cars
21 run up and down that alley. There is considerable
22 traffic on that alley. There's a lot of traffic that
23 comes out the home down the way, down toward Davis
24 Street. So I'm very concerned about that.

25 I'm concerned mainly that we're going to go

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1 back and put in a single-story building that doesn't
2 fit the character of the neighborhood. I would ask
3 that that not happen.

4 We had several things in that neighborhood
5 that have happened over the years that have caused it
6 to not look as good and has brought my home value down
7 and I don't want my home value to come down again.
8 We've got two habitat houses over on 18th Street,
9 which are right there that look like two sore thumbs
10 stuck in the middle of some nice craftsman style
11 homes.

12 I don't think a Mediterranean style home
13 sitting on that corner is the thing to do.

14 CHAIRMAN: Mr. Postlewaite, what would be your
15 suggestions based on your background? What would be
16 suggestions to improve this proposal.

17 MR. POSTLEWAITE: A two-story building would
18 be my first suggestion. Something not Mediterranean
19 style. Something more in style with what's on
20 Frederica Street.

21 One thing is going to happen, by taking those
22 three lots, and I'm guessing now, but I'm sure most of
23 the trees are going to come down.

24 There's a significant grade change when you
25 start in the other two lots. When you try to come

1 down on Frederica Street off that alley, there's
2 probably a four foot grade change right there. So
3 when you're trying to pull out on Frederica Street,
4 you've got to get all the way out on the sidewalk, all
5 the way out on the edge of the street before you can
6 see south. So that needs to be addressed.

7 When we take down those three houses and two
8 more houses on that corner, it's going to open that up
9 so much and it's going to completely change the looks
10 of that neighborhood. I think it would be a travesty.

11 I'm not against the P-1. If you could take
12 the existing homes and remodel them to use as a P-1, I
13 think that would be fine.

14 Anything else, Mr. Kirkland?

15 CHAIRMAN: Are you finished, Mr. Postlewaite?

16 MR. POSTLEWAITE: Maybe. I want everybody to
17 know that I think this is wrong. I don't think P-1 is
18 out of line at all, but taking those houses down and
19 opening that up that much I think, from my
20 architectural background, is the wrong thing to do.

21 CHAIRMAN: Would you be willing to lend your
22 expertise to the project, if they ask?

23 MR. POSTLEWAITE: Absolutely. Be glad to. It
24 would be free.

25 CHAIRMAN: Thank you, Mr. Postlewaite.

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1 Mr. Wilson, which one of your team would you
2 like to bring to the podium for this?

3 MR. WILSON: Mr. Bosley.

4 MR. SILVERT: Could you state your name again
5 for the record.

6 MR. BOSLEY: Mark Bosley.

7 CHAIRMAN: Mr. Bosley, I'm sure you understood
8 Mr. Postlewaite's concerns.

9 MR. BOSLEY: I do.

10 CHAIRMAN: I know obviously this is a design
11 that you like. Obviously you're the owner, investor.
12 Is there any other avenue that you could use, any
13 other development, any other renovation that you could
14 do to enhance what's given in the neighborhood, other
15 than abruptly change the style of the neighborhood? I
16 don't think in any shape, form or fashion was Mr.
17 Postlewaite opposed to a P-1 zoning. In other words,
18 your business being there or whatever business is
19 there, he's not opposed to that, but he made it very
20 clear that he's opposed to the architectural design.
21 I think Mr. Postlewaite did state that he does have an
22 architectural background and would be willing to help,
23 and I think his price is very reasonable. Is there
24 any consideration that this could be something that
25 you would be willing to consider to make it cost

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1 effective?

2 MR. BOSLEY: Let me address some of the issues
3 and start first with the idea that maybe we could
4 remodel the existing buildings that are there and use
5 them for P-1.

6 In my mind, I'm not an architect, but I would
7 say that's not even remotely feasible to do. If
8 anybody has been in those buildings and seen them,
9 they're not something that in my mind could be
10 repaired period.

11 When you look at the height of the building,
12 one-story versus two-story story, our proposal is to
13 bring the building up at least five blocks high. So
14 it will start maybe this high off the ground to begin
15 with. There's 12 foot ceilings in the building. So
16 all the rooms will be much higher than a regular
17 standard 8 or 9 foot standard height that you have in
18 most offices. So it's going to sit much higher
19 anyway.

20 Our clientele that we work with, we do a lot
21 of estate business planning for people that are at or
22 near retirement age. We need something on one level.
23 We wanted something that was easily accessible, you
24 know, for our clients and would be easy for them to
25 get in and out. Be very visible for them to see.

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1 A lot of the trees will come down, but in
2 place we'll have new trees that will go up. We've
3 already contacted a tree service to put in full grown
4 trees. So they'll be put strategically placed that
5 will be a benefit to the lot and enhance the lot as
6 opposed to some of the very over grown trees that are
7 in there now.

8 As far as the alleys and access and what's
9 going to happen with the offset alley, you we're going
10 to do is widen the alleys. We're going to take them
11 from 10 feet to 24 feet. There won't be a visibility
12 problem as you pull out on Frederica Street because in
13 our site plan recommendation will get approved by
14 Planning & Zoning to show that there will be no blind
15 spot as you pull in and out of that because we'll
16 level that out.

17 As far as the Mediterranean style house, I
18 don't know. Like I said, the building right across
19 the street is that style. We could argue
20 philosophically about whether it would look better to
21 go in and put a Victorian style house in as an office,
22 but it's not going to fit in with our plans. We can't
23 do two-story. We could, I guess, if you put an
24 elevator in. We discussed all of that and we thought
25 with our clientele and the ages they are, we're much

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1 better served having everything on one level, again,
2 with high ceilings.

3 CHAIRMAN: I understand what Mr. Postlewaite
4 is saying. I mean obviously, you know, I don't think
5 -- nobody has spoken against going to P-1. I think if
6 there was a way that, you know -- I don't know how the
7 board will vote, of course. If we could advance this
8 project, but have you work with, I mean I don't see
9 where you have anything to lose with Mr. Postlewaite's
10 challenge of using him for free. If you don't like
11 what he does, you know, it's still your money. If
12 there was a way that he could economically figure out
13 how to save or enhance the buildings that are there
14 and enhance your operation, seems like it would be a
15 win-win. If there's not, they go down, trees go down,
16 and you start.

17 I can understand the dramatic change in the
18 neighborhood where we do have residential citizens
19 backing up to that and some concern about this is a
20 pretty dramatic change in architecture for that area.
21 I understand the two-story, but I understand your side
22 from the business standpoint is the two-story building
23 with an elevator and other things that come into
24 effect.

25 MR. BOSLEY: I think with this building being

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1 set up higher and having the 12-foot ceiling, the
2 porch across the front is probably 17 or 18 feet high
3 after you get up to the porch. It's going to look a
4 lot closer to a two-story building than it is a
5 one-story anyway just because of the way it's going to
6 be built.

7 As far as the style, we think the style is
8 going to be important. I think it's going to be very
9 attractive. I think it's going to be anything that's
10 going to be out of place. Again, look across the
11 street to see a very similar style house.

12 We won't have the palm trees. When you look
13 in your picture there, the palm trees will not be part
14 of it. So it won't look quite so Spanish style as
15 that picture looks.

16 CHAIRMAN: That was the total aspect of the
17 project swaying me was the palm trees. I was wanting
18 to see how that was going to take place.

19 MR. BOSLEY: We already have the plans. We
20 already have -- I didn't anticipate, you know, candor
21 that there would be a question about the style of the
22 office. We thought if anything that -- the people
23 that we've shown the photograph to and have seen the
24 picture think it's a very attractive building. It
25 will be much better to everybody we've talk to, except

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1 for Mr. Postlewaite, as opposed to putting up just a
2 standard rectangular shape office building that we
3 commonly see along Frederica Street.

4 CHAIRMAN: I applaud you for your efforts in
5 going the extra mile to the design that you have.
6 You're not putting up an inexpensive design. You're
7 not going straight line and square.

8 MR. BOSLEY: That's right.

9 CHAIRMAN: And I applaud you for that. I was
10 just seeing if there was some middle ground where we
11 have a resident who is a qualified, you know,
12 architect that is willing to donate his services to
13 try to better the neighborhood. Victorian style may
14 not be appropriate. May not work, but it's something
15 that if you would consider I think would be a nice
16 touch to the neighborhood at no additional cost to
17 you.

18 MR. BOSLEY: Tactfully, no. I wouldn't like
19 to consider it. We like this building. We think that
20 the building as is, is appropriate for the lot. I
21 think it will drastically change the look of the lot,
22 but I think it will be an improvement. Not bad. I
23 don't think it's going to detract from any of the
24 homes that are on Phillips Court.

25 I took architect at Western myself. I don't

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1 have a degree. I think I know a little bit about
2 architecture. I designed my house. We put a lot a
3 thought and effort into this design. It lays out
4 exactly the way we need for our practice. We have two
5 financial planning offices that will be inside one
6 building. It's zoned very well so we can share a
7 reception area and share a conference room. My wife,
8 Cindy, has her newly formed company, Ashley Worth,
9 that will be on one side and I'll be on the other side
10 with my established practice.

11 CHAIRMAN: I don't think the interior is the
12 least bit of concern. I think the exterior is where
13 the concern is. That's your statement. As a member
14 of commission, I thought it would be appropriate to
15 ask if there was something you all could do because
16 this is an unusual request. Not from somebody that's
17 says, well, let me draw something on the back of a
18 napkin and hand it to you. It's from somebody that
19 does this for a living that was willing to change some
20 exterior, and it may not be that big of a deal.

21 MR. BOSLEY: I think the exterior will be a
22 commercial grade exterior. It will look very much
23 like the photograph that you have there.

24 CHAIRMAN: Does anybody else on the commission
25 have any questions or ideas?

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1 Have a seat, Mr. Bosley.

2 Does anybody else have --

3 Yes, ma'am. Step to the podium, please.

4 MR. SILVERT: State your name, please.

5 MS. FONTAINE: My name is Jennifer Fontaine.

6 I apologize. I thought we were a little late and
7 missed the vote.

8 MR. SILVERT: I need to swear you in first.

9 (JENNIFER FONTAINE SWORN BY ATTORNEY.)

10 MS. FONTAINE: I thought maybe we were a
11 little late and missed opposing the vote. Am I
12 correct?

13 CHAIRMAN: Ma'am, we have not voted yet.

14 MS. FONTAINE: I live at 1611 Frederica. What
15 he was saying about none of them being able to be --
16 I've been cleaning on three of the properties since
17 February and they're beautiful homes. I mean it
18 wouldn't take a lot, you know. I have a little bit of
19 a drafting background. I can do things. They're not
20 in that bad of a shape. I mean mine isn't. It's a
21 grade vine in the back. I don't even know how many
22 years it's been there. I haven't been able to look
23 into that yet. There's just so many things wrong with
24 tearing down mine anyway. The one that she lives in
25 they need a little bit of work, but there's not a lot

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1 of structural damage to them. They haven't changed a
2 lot of them. They've got beautiful floors. They have
3 a lot of character. I would just like to keep my
4 home. I would like to be given the option to buy that
5 house. I would love to have that house. That's all I
6 have to say. I just don't agree with it being torn
7 down.

8 CHAIRMAN: Thank you very much.

9 Yes, ma'am.

10 MS. DALTON: Tina Dalton.

11 (TINA DALTON SWORN BY ATTORNEY.)

12 MS. DALTON: My home is at least 100 years
13 old. The staircase in it --

14 CHAIRMAN: Excuse me. Would you state your
15 address, please?

16 MS. DALTON: 1605 Frederica.

17 CHAIRMAN: Thank you.

18 MS. DALTON: The staircase in it is made of
19 endangered wood. You can't even get the wood anymore
20 that it's made out of. The interior of my home there
21 is nothing wrong with it. The exterior, we've already
22 talked to the owner about painting it and fixing it up
23 and taking care of it. Yes, a lot of people didn't
24 live in the homes for a while, but we love the homes.
25 They're historic. Your grandparents, your cousins,

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1 your aunts, somebody could live in that home. They
2 don't need to be destroyed. There's nothing wrong
3 with them. You can't find craftsmanship like these
4 homes have any more. My family lives there. Her
5 family lives there. There's other families that live
6 in these homes.

7 Down Frederica there are empty buildings for
8 rent and for sale that if they want to develop
9 something they can develop it down there. They don't
10 need to destroy these homes. One of the homes is 110
11 years old. That is part of Owensboro's history. If
12 they destroy that, what's going to happen next?
13 That's all I have to say.

14 CHAIRMAN: Thank you very much.

15 Are there any other comments?

16 Yes.

17 MR. SILVERT: Could you state your name,
18 please.

19 MR. ROBERTS: My name is Bob Roberts.

20 (BOB ROBERTS SWORN BY ATTORNEY.)

21 MR. ROBERTS: I guess I've got a little unique
22 situation. I've lived in the area. I live at 1729
23 Freeman and worked in the area since I was 11 years
24 old at Roberts Motors. In that time, I've passed
25 these houses and I've been down those alleys. I don't

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1 know how many people have lived there for I can say 46
2 years. That's how long it's been. I don't know how
3 many of these people have been there, but those house
4 have gone downhill not just in the last few years.
5 They've been going downhill consistently.

6 I know Mark and Cindy. I don't think there's
7 anyone that has to have any concern about how they'll
8 take care of their property because it will be take
9 care of much better than what's being done now.

10 I know Gary. I understand his concerns.
11 There are a lot of buildings in a lot of areas in town
12 that may not go with what neighbors think blend. I've
13 got one or two houses down from me that I don't
14 necessarily think blend. I even have a problem, I
15 guess, with telling someone who is wanting to improve
16 the looks of an area and invest in Owensboro and
17 continue to give a good look to Owensboro, people that
18 come from outside, I have a problem with telling them
19 what they ought to do. I think that people of
20 Owensboro should be happy that in climate, in this
21 financial climate that someone is willing to risk
22 building this building. I just think you all should
23 approve it. Thank you.

24 CHAIRMAN: Mr. Roberts, there's no way the
25 commission was trying to prevent or suggest what

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1 somebody should or should not do.

2 MR. ROBERTS: I realize that.

3 CHAIRMAN: Just determine whether it's going
4 to be approved P-1.

5 MR. ROBERTS: Right.

6 CHAIRMAN: Thank you.

7 Does anybody else have any comments?

8 Yes, ma'am.

9 MR. SILVERT: Could you state your name,
10 please?

11 MS. BRADLEY: Nancy Bradley.

12 (NANCY BRADLEY SWORN BY ATTORNEY.)

13 MS. BRADLEY: I live at 206 Phillips Court.
14 My house is on the historical registry.

15 The only thing I had or the only thing I want
16 to say is that I would like to have the integrity of
17 the neighborhood, I would like to have the integrity
18 of Phillips Court kept in mind. I would like to have
19 the old houses that we have on Phillips Court thought
20 of and know that they will stay for years to be.

21 Changing that to a P-1 I can understand and
22 I'm not against that. That part I can understand, but
23 I don't quite understand with all the trees going down
24 we will actually face -- now I face Phillips Court.
25 Coming in I would be on the right-hand side. So I

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1 come right behind -- I'm 206. There's a 210 Phillips
2 and then the alley. Then would be the lot that you
3 people are talking about. I guess with everything,
4 the trees and everything coming down I feel that we
5 would be directly looked into or that we could
6 directly see Frederica, of course. I think people
7 coming down Frederica can look back into us.

8 You stated that there would be a wall; is that
9 correct?

10 MR. BOSLEY: Yes.

11 MS. BRADLEY: I don't know how high the wall
12 is.

13 CHAIRMAN: Ms. Bradley, if you have some
14 questions I'll --

15 MS. BRADLEY: I have to talk to you.

16 They stated that there would be a wall behind
17 their building; is that correct?

18 CHAIRMAN: Yes, ma'am. He did state that.

19 MS. BRADLEY: How high is the wall; do you
20 know?

21 CHAIRMAN: Mr. Noffsinger.

22 MR. NOFFSINGER: No, ma'am, I do not. I have
23 questions about the wall too.

24 MS. BRADLEY: The alley would be increased.
25 The houses that those ladies spoke about, I've lived

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1 there for 20 years. The people that live in the
2 houses, people that are coming and going, they come
3 and go pretty quickly. I don't know how long you have
4 lived there. I have been in some of the houses that
5 were 20 years ago and they were kept very fine and
6 they are beautiful. I don't know what you're saying
7 about the wood in the staircase, but I do know the
8 houses that does have that staircase.

9 Could they be turned back into something? I'm
10 not sure about that. They have gone to great, they
11 are, in to my estimation, they are in decay to my
12 estimation. The health department has been called
13 several times. That's what you people are saying that
14 you would do for us. I do understand that. Again, I
15 would like to have the building, I guess I'm going
16 back to more historical, more of a Victorian. That's
17 cosmetic I know, but that's my feeling.

18 I had to smile when he said that when you're
19 saying it needed to be on one floor because of your
20 clientele. I am 71. I have gone through the, and I
21 truly can get up on to the second floor office. So
22 don't shortchange us please. That we do have a way
23 that we can exist.

24 I just want it to fit into the neighborhood.
25 I want it to fit into Phillips Court. I want it to be

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1 a pleasant neighborhood.

2 I used to teach. Now I'm getting from the
3 kids the in the back telling me how to teach. That's
4 been a while.

5 To keep it historical. I don't think I have
6 anything else to say.

7 CHAIRMAN: Thank you.

8 Let me bring Mr. Bosley to the podium one more
9 time. I think the questions regarding the height of
10 the wall and then I think Mr. Noffsinger.

11 MR. NOFFSINGER: In the location please.
12 Because I understood him to say it would be surrounded
13 by a wall, but you have parking off the alley. If you
14 would explain the location of the wall and then the
15 height.

16 MR. BOSLEY: For one thing the building is a
17 very wide building. It's 102 feet wide. So it
18 expands across two full lots. There will be parking
19 on the side. The backyard will be enclosed by a solid
20 wall. We haven't gotten to the point of how high it
21 will be. I would guess 6 to 8 feet tall, something
22 like that. The building itself is very long. It will
23 be very tall and will shield a lot of, I think, the
24 concerns from the people in the back. They're not
25 going to be people driving down Frederica that are

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1 going to look in anybody's yard because they're going
2 to see the building. It will be very prominent on the
3 block.

4 We do want to enclose the backyard because
5 it's really not going to be that big by the time the
6 building gets in. There's an enclosed veranda in the
7 back. By the time you take that out, I'm guess
8 there's not going to be a very big yard in the back.
9 There will be a solid wall, from the back of the
10 building itself to the back, but we haven't gotten
11 that far along. That will be part of our proposal
12 that we would have for Planning & Zoning.

13 MR. NOFFSINGER: Excuse me, if I could.

14 So the wall would be between the building and
15 your parking area to the rear?

16 MR. BOSLEY: That's correct.

17 MR. NOFFSINGER: Thank you.

18 MR. BOSLEY: I would like for Mr. Wilson, if I
19 could, to address an article that was in the paper
20 from Gary Adams with the historical society. Could I
21 do that?

22 CHAIRMAN: I'm sure Mr. Wilson will be very
23 brief.

24 MR. WILSON: I will be brief.

25 CHAIRMAN: Mr. Wilson, would you like to

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1 address that question also about --

2 MR. WILSON: We seem to be talking about
3 people's taste and different architectural designs.
4 There's one person that's absent tonight that's dealt
5 with a lot over the years and a lot of you all have.
6 He's a very talented man. Used to work for this
7 commission, and that's Gary Adams with the
8 Preservation Alliance.

9 I've worked with Gary on both sides of the
10 issues over the years. Most recently with the
11 demolition of Longfellow Elementary School where he
12 took a very active position.

13 Gary was quoted repeatedly in an article that
14 appeared in the paper over the weekend about this
15 development. Without going through what all he had to
16 say, in quoting him, and I quote, "If this goes
17 forward and the new building is done in a Spanish
18 revitalize style, that is one of the types identified
19 as reflected in the district in the application for
20 the historical district Adams said."

21 I'm saying Gary, while he's not up here waving
22 the flag one way or the other, he would be if he found
23 this not to not be appropriate as far as the
24 Preservation Alliance is concerned. He had a very
25 favorable comment in the article that just appeared on

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1 this thing. I would ask the commission to bring this
2 on to vote and let these people go forward with a
3 really nice development. Thank you.

4 CHAIRMAN: Thank you, Mr. Wilson.

5 Are there any other further comments,
6 questions?

7 Mr. Postlewaite.

8 MR. SILVERT: Just state your name again for
9 the record, please.

10 MR. POSTLEWAITE: Gary Postlewaite.

11 Mark, I just want to say that I think you
12 would be a great neighbor.

13 I'm glad and I think what he wants to do will
14 be very nice when he gets through. Just because
15 Mr. Adams was quoted as saying there was that style in
16 the neighborhood does not mean that it's appropriate
17 or does not mean that he said it was appropriate. He
18 said that style was in the neighborhood.

19 CHAIRMAN: Are you familiar with Mr. Adams?

20 MR. POSTLEWAITE: Absolutely.

21 CHAIRMAN: Thank you.

22 MR. POSTLEWAITE: I want Mark to understand
23 that I think it would be great to have something done
24 there because otherwise there's probably not going to
25 be anything done that will help that neighborhood.

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1 I'm very adamant about the style of the building.

2 CHAIRMAN: The exterior design?

3 MR. POSTLEWAITE: Exterior design.

4 One more question. I still don't understand
5 where the fence will be.

6 CHAIRMAN: Mr. Noffsinger can handle that.

7 MR. NOFFSINGER: I worked on that one.

8 It's going to be between the building and the
9 parking to the rear. It will not enclose the alley.
10 So it will be right behind the rear of the building or
11 to the rear.

12 MR. POSTLEWAITE: Parking would be outside the
13 fence wall?

14 MR. NOFFSINGER: Outside the wall, yes, sir.
15 That's as I understood it.

16 MR. POSTLEWAITE: Which doesn't suit me at
17 all. If you look at Mr. Collignon's building across
18 the way, his parking is enclosed with a fence which
19 really helps. Thank you.

20 CHAIRMAN: All right. I think we've had
21 adequate discussion on this matter. Does anybody from
22 the commission have any questions, suggestions?

23 MR. PEDLEY: I don't have any questions. I
24 have some comments.

25 CHAIRMAN: Okay, Mr. Pedley.

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1 MR. PEDLEY: I visited that site today.
2 Walked it and drove through. Those buildings are
3 deteriorating very, very badly. This is an
4 opportunity to enhance that neighborhood. If we turn
5 this down, Mr. Bosley goes to another site, how long
6 will it sit there for the buildings to continue to
7 deteriorate. Also someone come back with B-4 zone
8 which would be much worse.

9 The P-1 zone is the most compatible thing you
10 can have in a residential neighborhood. It's very
11 compatible. That's the comments I have, if you're
12 ready for a motion.

13 CHAIRMAN: Yes, sir. The chair would be ready
14 for a motion.

15 Wait, Mr. Pedley.

16 Step to the podium, please.

17 MR. SILVERT: Could you state your name again
18 for the record.

19 MS. FONTAINE: Jennifer Fontaine.

20 I haven't had anybody to come into my home and
21 look at it, to look at the structural. I don't see
22 why they say --I mean from the outside they look, you
23 know, a little rough, but I do not believe not one
24 minute that these homes could not be saved with some
25 effort and labor that we're all willing to put into

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1 it. They are not that deteriorate. Mine has is good
2 roof. Needs a facial, like the gutters. It probably
3 would make it another year, you know, without all of
4 that, but the roof is perfect. My attic is the driest
5 thing in that house. Three of them I know that does
6 not deteriorate. I mean they are deteriorating, but
7 it could be stopped and with the effort of us. I just
8 don't think it ought to go through at all. I mean
9 nobody has come in to look to be able to say for sure.
10 They haven't come into my house to see that they're
11 gone, they're not savable.

12 CHAIRMAN: Thank you for your comments.

13 Yes, ma'am.

14 MR. SILVERT: Could you state your name again,
15 please.

16 MS. DALTON: Tina Dalton.

17 And I would like to invite anyone to come and
18 see the interior of my home. There is nothing wrong
19 with it. Like I said, the hardwood, the
20 craftsmanship, everything is beautiful in the house.
21 Yes, the exterior needs painting. We've already
22 talked to the owners. We're willing to work to fix
23 these homes up. They don't need to be destroyed.
24 This is Owensboro's history. Thank you.

25 CHAIRMAN: All right.

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1 MR. ADAMS: Can I say one thing, please?

2 CHAIRMAN: Yes, sir.

3 MR. SILVERT: Could you state your name,
4 please?

5 MR. ADAMS: Don Adams.

6 (DON ADAMS SWORN BY ATTORNEY.)

7 MR. ADAMS: I live at 210 Phillips Court.
8 I've been in the construction business for years. Not
9 like this gentleman being an architect, but I know
10 structure and the outside. It seems like those houses
11 are beyond economical repair. I don't think the owner
12 now is willing to do anything to bring them up to
13 enhance the neighborhood. Mr. Bosley here is doing
14 something to enhance the neighborhood. If you all
15 don't vote to approve this, that means they'll just
16 sit there and then fall around everybody in three,
17 four or five years, and then nothing will be done.
18 Then what are you going to do? That's about all I
19 have got to say.

20 CHAIRMAN: Mr. Adams, you realize this
21 commission is not to determine the ability to fix or
22 to the upkeep of buildings?

23 MR. ADAMS: I know that, yes.

24 CHAIRMAN: Thank you very much.

25 All right I think everybody has had the

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1 opportunity to comment. We've heard all sorts of
2 different opinions and options. I think at this point
3 in time Mr. Pedley is on the verge of making a motion.

4 MR. PEDLEY: I think I need to clarify my
5 statement. I was only speaking of the houses that are
6 proposed to be torn down. None other in the
7 neighborhood. There are very nice homes on Phillips
8 Court. I drove through several times. Very, very
9 nice homes. Good state of repair. I'm speaking of
10 the houses that's proposed to be torn down. Only
11 that. That's the only thing I looked at.

12 With that I'm ready to make a motion.

13 CHAIRMAN: Go ahead, Mr. Pedley.

14 MR. PEDLEY: I make motion for approval based
15 on Planning Staff Recommendation with Conditions 1
16 through 3 and Findings of Fact 1 through 5.

17 CHAIRMAN: Motion for approval by Mr. Pedley.
18 Do we have a second?

19 MS. MOORMAN: Second.

20 CHAIRMAN: Ms. Moorman has a second. All in
21 favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, plea.

25 RELATED ITEMS:

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1 ITEM 5A
2 1601, 1605, 1609 Frederica Street, proposed P-1
3 Consider request for Variances in conjunction with an
4 application for zoning change to reduce the roadway
5 buffer on Frederica Street from 60 feet to 40 feet
6 Reference: Zoning Ordinance, Article 13,
7 Section 13.6221

8 Applicant: Marcus Bosley; Bill T. Timbrook

9 MR. HOWARD: The applicant has requested a
10 variance. During the review we found that there are
11 at least six other instances where roadway buffer
12 variances have been granted in the vicinity up and
13 down Frederica Street.

14 Typically those roadway buffer variances have
15 been reduced to 45 feet from the center line of the
16 road. The applicant requested 40 feet. Based on talk
17 with the applicant and their engineer redid the
18 drawing, they're agreeable to a roadway buffer of 45
19 feet instead of going all the way down to 40, which is
20 the right-of-way at that location.

21 Due to the size of the lots and the building
22 and the shape, we would recommend that the variance be
23 approved with the conditions that they do submit a
24 consolidation plate for the properties and that the
25 roadway buffer variance be granted at 45 feet instead
26 of 40 feet.

27 I would like to enter that Staff Report into
28 the record as Exhibit B.

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1 CHAIRMAN: There's somebody here representing
2 the applicant. Are there any other questions?

3 Do you have a statement, Mr. Wilson?

4 MR. WILSON: No, I don't, Mr. Chairman. We're
5 here to answer any questions that anyone might have
6 that goes with the rezoning and the development of the
7 area.

8 CHAIRMAN: Thank you.

9 Any questions from the commission?

10 (NO RESPONSE).

11 CHAIRMAN: If not the Chair is ready for a
12 motion.

13 MR. ROGERS: Motion to approve the Variance
14 with the two conditions.

15 MR. NOFFSINGER: Excuse me. You will need to
16 adopt Findings of Fact for that recommendation.

17 MR. ROGERS: With the Findings of Fact 1
18 through 4.

19 CHAIRMAN: We've got a motion for approval by
20 Mr. Rogers.

21 MR. HAYDEN: Second.

22 CHAIRMAN: Second by Mr. Hayden. All in favor
23 raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

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1 Next item, please.

2 ITEM 6

3 1611, 1615 Frederica Street, 0.485 acres

Consider zoning change: From R-4DT Inner-City

4 Residential to P-1 Professional/Service

Applicant: Marcus Bosley; Bill T. Timbrook

5

6 PLANNING STAFF RECOMMENDATIONS

7 The Planning Staff recommends approval subject

8 to the conditions and findings of fact that follow:

9 CONDITIONS:

10 1. Approval of a consolidation plat
11 consolidating the two tracts into a single tract;

12 2. Due to the proximity to existing
13 residential zones, all lighting for the subject
14 property shall be directed away from the residential
15 property to reduce the glare and impact of the
16 lighting on the residential uses; and,

17 3. Access to Frederica Street shall be
18 limited to the existing public alley only. The alley
19 may be widened to provide sufficient width for two-way
20 traffic.

21 FINDINGS OF FACT:

22 1. Staff recommends approval because the
23 proposal is in compliance with the community's adopted
24 Comprehensive Plan when considering the entire acreage
25 proposed for rezoning that is bisected by the public

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1 alley;

2 2. The subject property is located in a
3 Central Residential Plan Area, where
4 professional/service uses are appropriate in limited
5 locations;

6 3. The use as a professional office will be
7 nonresidential in nature and use;

8 4. The proposal is a logical expansion of
9 existing P-1 zoning located across Frederica Street to
10 the west; and,

11 5. At a total of 1.151 acres of proposed P-1
12 zoning, the expansion should not overburden the
13 capacity of roadways and other necessary urban
14 services that are available in the affected area.

15 MR. HOWARD: We would like to enter the Staff
16 Report into the record as Exhibit C.

17 CHAIRMAN: We have somebody representing the
18 applicant. Mr. Wilson is here.

19 MR. WILSON: Here to address anything you
20 might have. I believe you've heard it, but we're here
21 to address what's intended for that property.

22 CHAIRMAN: Thank you.

23 Do we have any other questions?

24 (NO RESPONSE)

25 CHAIRMAN: If not the Chair is ready for a

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1 motion.

2 MR. HAYDEN: I make a motion for approval with
3 Staff Recommendations and Conditions 1 through 3 and
4 Findings of Fact 1 through 5.

5 CHAIRMAN: Motion for approval by Mr. Hayden.

6 MR. PEDLEY: Second.

7 CHAIRMAN: Second by Mr. Pedley. All in favor
8 raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please.

12 RELATED ITEM:

13 ITEM 6A

14 1611, 1615 Frederica Street, 0.485 acres

15 Consider request for Variances in conjunction with an
16 application for zoning change to reduce the roadway
17 buffer on Frederica Street from 60 feet to 40 feet.

18 Reference: Zoning Ordinance, Article 13,
19 Section 13.6221

20 Applicant: Marcus Bosley; Bill T. Timbrook

21 MR. HOWARD: A very similar scenario to the
22 previous variance. Numerous variances along Frederica
23 Street reducing roadway buffer to 45 feet. Similar
24 conditions as well. That we would recommend approval
25 that they resubmit subdivision plat to consolidate the
lots. That the roadway buffer be granted at 45 feet
instead of at 40 feet.

We feel this because based on findings it will

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1 not adversely affect the public health, safety or
2 welfare; it will not alter the essential character of
3 the general vicinity; it will not cause a hazard or a
4 nuisance to the public; and it will not allow an
5 unreasonable circumvention of the requirements of the
6 zoning regulations.

7 We would like to enter the Staff Report in to
8 the record as Exhibit D.

9 CHAIRMAN: We do have somebody representing
10 the applicant. Are there any questions?

11 (NO RESPONSE)

12 CHAIRMAN: If not the Chair is ready for a
13 motion.

14 MR. PEDLEY: Mr. Chairman, make a motion for
15 granting the Variance based on the findings it will
16 not adversely affect the public health, safety or
17 welfare; it will not alter the essential character of
18 the general vicinity; it will not cause a hazard or a
19 nuisance to the public; and it will not allow an
20 unreasonable circumvention of the requirements of the
21 zoning regulations with the conditions of approval of
22 a Consolidation Plat and the roadway buffer variance
23 is granted at 45 feet from the centerline of Frederica
24 Street.

25 CHAIRMAN: We have a motion for approval by

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1 Mr. Pedley.

2 MR. EVANS: Second.

3 CHAIRMAN: Second by Mr. Evans. All in favor
4 raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 ITEM 7

9 Portion of 4300 Highway 54, 7.72 acres

10 Consider zoning change: From A-U Urban Agriculture to
11 B-4 General Business

12 Applicant: Lake Forest Community, LLC

13

14 PLANNING STAFF RECOMMENDATIONS

15 The Planning Staff recommends approval subject
16 to the conditions and findings of fact that follow:

17 CONDITIONS:

18 1. Access to Highway 54 shall be limited to a
19 single access point in alignment with Gate Way. All
20 individual lot access shall be from internal streets
21 only;

22 2. Install a right-turn lane on Highway 54 at
23 the access in alignment with Gate Way unless the
24 projected intersection traffic does not meet the
25 warrants of the Kentucky Transportation Cabinet policy
for auxiliary turn lanes;

3. A 10 foot landscape easement with a six

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1 foot element and one tree every 40 linear feet shall
2 be installed along the south property line where
3 adjoining residential zoning; and,

4 4. Due to the proximity to existing
5 residential zones, all lighting for the subject
6 property shall be directed away from the residential
7 property to reduce the glare and impact of the
8 lighting on the residential uses.

9 FINDINGS OF FACT:

10 1. Staff recommends approval because the
11 proposal is in compliance with the community's adopted
12 Comprehensive Plan;

13 2. The subject property is located in an
14 Urban Residential Plan Area, where general business
15 uses are appropriate in very-limited locations;

16 3. The proposed use of the property as a
17 commercial subdivision will be nonresidential in use;

18 4. The proposed zoning change is a logical
19 expansion of an existing general business zoning
20 classification located immediately east of the subject
21 property; and,

22 5. With the installation of an access point
23 to Highway 54 and improvements required by the
24 Kentucky Transportation Cabinet, the development
25 should not overburden the capacity of roadways and

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1 other necessary urban services that are available in
2 the affected area.

3 MR. HOWARD: We would like to enter the Staff
4 Report into the record as Exhibit E.

5 MR. PEDLEY: Mr. Chairman, I need to
6 disqualify myself on Items 7, 8 and 8A.

7 CHAIRMAN: Let the record show that Mr. Pedley
8 has disqualified himself on those mentioned items.

9 Do we have somebody representing the
10 applicant?

11 MR. RINEY: Yes.

12 CHAIRMAN: Do we have any questions of the
13 applicant?

14 MR. EMBRY: Yes.

15 CHAIRMAN: Yes, sir.

16 MR. SILVERT: Could you state your name,
17 please?

18 MR. EMBRY: Barry Embry, 4748 Water Wheel Way,
19 Owensboro.

20 (BARRY EMBRY SWORN BY ATTORNEY.)

21 MR. EMBRY: I also represent the Tanglewood
22 Homeowners Association.

23 The only question we have is dealing with the
24 previous zoning on 54 where there's supposed to be a
25 buffer and trees put in. The street work has been put

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1 in. The roughing has been put in. Nothing has been
2 done as far as putting the buffer in. So we're not
3 opposed to any of the zoning to B-4, but curious when
4 the work is going to be done as far as what was
5 approved with the original piece on the corner of
6 Thruston-Dermont Road and 54.

7 CHAIRMAN: Okay, Mr. Embry. Thank you.

8 Mr. Riney, I believe you're representing the
9 applicant.

10 MR. RINEY: Yes, sir.

11 MR. SILVERT: State your name, please.

12 MR. RINEY: Jim Riney.

13 (JIM RINEY SWORN BY ATTORNEY.)

14 MR. RINEY: The developers have the screening
15 requirement and they fully intend to implement that
16 screening requirement. Two things have occurred.

17 Number one, there has been some discussion
18 with some of the adjacent Tanglewood property owners.
19 That they may want to acquire a small strip. Of
20 course, that would have to come back before the
21 Planning Staff at a minimum, possibly this body. Then
22 there's also a temporary detention basin there that
23 was built during construction.

24 As Mr. Embry said, there has been some work
25 out there, earth work and preliminary streets and some

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1 utilities have been installed, but with the unknown
2 about the acquisition of the strip along that property
3 and the retention basin, the screening hasn't been put
4 in. Typically the screening is installed when there's
5 some buildings or parking, something that warrants
6 that more than the earth work and the beginning of the
7 infrastructure. So the developers are aware. The
8 screening is in. They're committed to do that and
9 basically it's a question of timing.

10 CHAIRMAN: Thank you, Mr. Riney.

11 Does anybody else have any questions?

12 (NO RESPONSE)

13 CHAIRMAN: Mr. Embry, I think he answered your
14 question.

15 MR. EMBRY: Yes. We don't expect an exact
16 date. I know we're not getting an exact date, but
17 it's sort of been sitting there, sitting there. So
18 we're just kind of curious if it's this year or next
19 year.

20 CHAIRMAN: I think he sort of gave you the
21 reasons for.

22 MR. EMBRY: Yes. I know the reasons. Mainly
23 thing just wanted it brought that it was still laying
24 out there.

25 CHAIRMAN: Thank you.

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1 If there no further questions, the Chair is
2 ready for a motion.

3 MR. ROGERS: Motion for approval based on
4 Planning Staff Recommendations with Conditions 1
5 through 4 and Findings of Fact 1 through 5.

6 CHAIRMAN: We've got a motion for approval by
7 Mr. Rogers.

8 MR. HAYDEN: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
12 WITH THE DISQUALIFICATION OF WARD PEDLEY.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 ITEM 8

16 Portion of 4300 Highway 54, 15.41 acres
17 Consider zoning change: From A-U Urban Agriculture,
18 R-1A Single-Family Residential and B-4 General
19 Business to R-1C Single-Family Residential
20 Applicant: Lake Forest Community, LLC

21 PLANNING STAFF RECOMMENDATIONS

22 The Planning Staff recommends approval subject
23 to the condition and findings of fact that follow:

24 CONDITIONS:

25 Provide a pedestrian connection to the
greenbelt trail to the south.

FINDINGS OF FACT:

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1 1. Staff recommends approval because the
2 proposal is in compliance with the community's adopted
3 Comprehensive Plan;

4 2. The subject property is located in an
5 Urban Residential Plan Area, where urban low-density
6 residential uses are appropriate in limited locations;

7 3. The proposed use is in compliance with
8 "Urban Residential Development" as outlined in the
9 Comprehensive Plan;

10 4. The proposal is a logical expansion of
11 existing R-1C zoning to the east, south and west; and,

12 5. Sanitary sewer service is available to the
13 subject property along with all other urban services.

14 MR. HOWARD: We would like to enter the Staff
15 Report into the record as Exhibit F.

16 CHAIRMAN: We have somebody here representing
17 the applicant. Are there any questions of the
18 applicant?

19 Yes, sir.

20 MR. SILVERT: State your name again for the
21 record.

22 MR. EMBRY: Barry Embry.

23 We live at the entryway to our subdivision,
24 Tanglewood. It is called Water Wheel Way. We know by
25 looking at the plan that it's going to connect into

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1 Lake Forest to what's called Springhurst.

2 We're curious as far as changing the street
3 name and then also need to know from a buffer
4 standpoint, traffic is going to pick up quite a bit on
5 a street that is currently dead end. Is there going
6 to be an entry buffer distinguishing Lake Forest from
7 Tanglewood Park. Another concern is some communities
8 they have put in speed bumps. They have slow down
9 traffic and that effects property value. So just
10 curious of what's going to make not go passing through
11 our subdivision, because traffic will pick up if
12 people are cutting through Lake Forest to get to 54
13 and miss the stoplight on the corner of Thruston and
14 54.

15 MR. NOFFSINGER: Mr. Chairman, I think I can
16 address that.

17 There will be a median at the end of Water
18 Wheel Way as you go on to Springhurst Lane. That
19 median will be like a grass type median and you'll go
20 on either side of it. So that should give you your
21 buffer in terms of the going from one development to
22 the other. There are no speed bumps proposed. Since
23 these are public streets, there will be no speed bumps
24 on those streets.

25 MR. EMBRY: So this will be similar to where

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1 Brooks connects to Lake Forest, where you have the
2 road that actually splits in the middle with grass on
3 both sides?

4 MR. NOFFSINGER: Right. There will be no
5 street name changes or addresses changes for anyone.
6 You'll stay Water Wheel Way and the new part will be
7 Springhurst Lane through Lake Forest.

8 MR. EMBRY: Thank you.
9 There will be no stop sign or anything. It
10 will be just a flow through?

11 MR. NOFFSINGER: That's correct.

12 CHAIRMAN: If there are no further questions,
13 the Chair is ready for a motion.

14 MR. ALLEN: Make a motion for approval subject
15 to the condition they provide a pedestrian connection
16 to the greenbelt trail to the south and the Staff
17 recommendations and Findings of Fact 1 through 5.

18 CHAIRMAN: Motion for approval by Mr. Allen.

19 MR. EVANS: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
23 WITH THE DISQUALIFICATION OF WARD PEDLEY.)

24 CHAIRMAN: Motion carries unanimously.

25 Next item, please.

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1 Related Item:
2 ITEM 8A
3 Lake Forest, 15.41 acres
4 Consider approval of major subdivision preliminary
plat.
Applicant: Lake Forest Community, LLC

5
6 MR. NOFFSINGER: Mr. Chairman, this
7 application has been reviewed by the Planning Staff
8 and Engineering Staff. It's found to be in order.
9 The land use is consistent with the underlying zone
10 and comprehensive plan. The proposal meets with the
11 adopted subdivision regulations and zoning ordinance.

12 CHAIRMAN: We have somebody here representing
13 the applicant. Do we have any questions?

14 (NO RESPONSE)

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

17 MR. HAYDEN: I make a motion for approval.

18 CHAIRMAN: Motion for approval by Mr. Hayden.

19 MS. MOORMAN: Second.

20 CHAIRMAN: Second by Ms. Moorman. All in
21 favor raise right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
23 WITH THE DISQUALIFICATION OF WARD PEDLEY.)

24 CHAIRMAN: Motion carries unanimously.

25 Next item, please.

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1 ITEM 9

2 507 East Parrish Avenue, 0.511 acres

3 Consider zoning change: From I-1 Light Industrial to
4 B-4 General Business

5 Applicant: Aaron Clark; William A. & Patricia J.
6 Johnson

7 PLANNING STAFF RECOMMENDATIONS

8 The Planning Staff recommends approval subject
9 to the condition and findings of fact that follow:

10 CONDITION:

11 No access shall be permitted to East Parrish
12 Avenue. Access shall be limited to Sweeney Street and
13 the alleys only.

14 FINDINGS OF FACT:

15 1. Staff recommends approval because the
16 proposal is in compliance with the community's adopted
17 Comprehensive Plan;

18 2. The subject property is located in an
19 Industrial Plan Area, where general business uses are
20 appropriate in very-limited locations;

21 3. The use as a chiropractic office will be
22 nonresidential in nature and use;

23 4. The proposal is a logical expansion of
24 existing B-4 zoning located across East Parrish Avenue
25 to the south; and,

5. At 0.511 acres of proposed B-4 zoning, the
expansion should not overburden the capacity of

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1 roadways and other necessary urban services that are
2 available in the affected area.

3 MR. HOWARD: We would like to enter the Staff
4 Report into the record as Exhibit G.

5 CHAIRMAN: Do we have anybody representing the
6 applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Do we have any questions?

9 (NO RESPONSE)

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

12 FATHER LARRY: Mr. Chairman, I move to accept
13 the Staff Recommendation based on Findings Fact 1
14 through 5 and the condition that no access shall be
15 permitted to East Parrish Avenue. Access shall be
16 limited to Sweeney Street and the alleys only.

17 CHAIRMAN: Father Larry has a motion for
18 approval.

19 MR. HAYDEN: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25 ITEM 10

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1 Portions of 2401-2501 Blocks Barron Drive,
37.648 acres

2 Consider zoning change: From A-U Urban Agriculture to
B-4 General Business

3 Applicant: Massie-Clarke Development Company, Inc.,
James C. Ellis Estate

4

5 PLANNING STAFF RECOMMENDATIONS

6 The Planning Staff recommends approval subject
7 to the conditions and findings of fact that follow:

8 CONDITIONS:

9 General Conditions:

10 1. Surety for roadway improvements for each
11 individual phase will be posted at the time of final
12 platting and must be installed prior to the issuance
13 of any occupancy permit for that phase of development
14 except for the left-turn lane on Barron Drive at
15 Access 1 as stated in Phase 1, Item 2 conditions.

16 2. Any commercial development beyond the
17 25,000 square foot threshold as established in the
18 Traffic Impact Study will trigger the need for all
19 roadway improvements to be completed.

20 3. Provide a minimum of 700 feet of spacing
21 between the stop bar on Barron Drive at the Carter
22 Road intersection and Site Access 2.

23 4. Provide a minimum of 250 foot spacing
24 between any site access points.

25 5. Connect internal sidewalks to the existing

1 sidewalk system.

2 6. Submission and approval of a final
3 development plan.

4 7. Due to the proximity to residential
5 structures, all lighting for the subject property
6 shall be directed away from the residential structures
7 to reduce the impact of the commercial light and glare
8 onto the residential property.

9 Phase I Conditions:

10 1. Install Access 1 to serve as the main
11 access to Phase 1 development with the first final
12 plat.

13 2. On Barron Drive at the intersection of
14 Site Access 1, install an eastbound left-turn lane per
15 KYTC specifications when the 125th lot is final
16 platted.

17 Phase II Conditions

18 1. Install a traffic signal at the Carter
19 Road and Barron Drive intersection if the signal has
20 not been installed by others.

21 2. Install a northbound right-turn lane on
22 Carter Road at Barron Drive per KYTC specifications.

23 3. Extend the westbound left-turn lane on
24 Barron Drive at Carter Road from 125 feet to 225 feet
25 or as required by KYTC.

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1 4. Provide sufficient left-turn lane capacity
2 for eastbound traffic on Barron Drive at Site Access 2
3 per KYTC specifications.

4 5. Widen Barron Drive from the Carter Road
5 intersection to Site Access 1 (the easternmost site
6 access) to accommodate three 11-foot lanes with a
7 center, two-way left-turn lane.

8 6. Review with local officials the need for
9 additional traffic control at Tamarack Road and Barron
10 Drive.

11 FINDINGS OF FACT:

12 1. Staff recommends approval because the
13 proposal is in compliance with the community's adopted
14 Comprehensive Plan;

15 2. The subject property is located in an
16 Urban Residential Plan Area, where general business
17 uses are appropriate in very-limited locations;

18 3. The use as a commercial center will be
19 nonresidential in nature and use;

20 4. The proposal is a logical expansion of
21 existing B-4 zoning located across Barron Drive to the
22 east;

23 5. At 37.648 acres, the proposal exceeds the
24 1.5 acre minimum recommended in the Comprehensive
25 Plan; and,

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1 6. With roadway improvements as required by
2 the traffic impact study and the reviewing agencies,
3 the expansion should not overburden the capacity of
4 roadways and other necessary urban services that are
5 available in the affected area.

6 MR. HOWARD: We would like to enter the Staff
7 Report into the record as Exhibit H.

8 CHAIRMAN: Do we have anybody representing the
9 applicant?

10 MR. SANDIDGE: Yes, Mr. Chairman. My name is
11 Ridley Sandidge. I'm here on behalf of Massie-Clarke
12 Development Company. Accompanying me tonight are Mr.
13 Jim Riney who is the engineer and Mr. Bill Hayes who
14 is a traffic engineer. We're here to answer any
15 questions the commission may have or that anybody else
16 may have. Thank you.

17 CHAIRMAN: Thank you, Mr. Sandidge.

18 Are there any questions from the audience?

19 Yes, sir.

20 MR. VESSELS: My name is Mark Vessels.

21 (MARK VESSELS SWORN BY ATTORNEY.)

22 MR. VESSELS: I live at 4060 Pine Lake Court.
23 So I live in Brookhill, but my parents live at 2512
24 Middleground Drive. They have since 1971.

25 I think what we have here is two different

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1 issues. I think the first issue is the flood problem.
2 This was addressed a little bit a couple of nights ago
3 at the meeting I believe at Lewis Lane Baptist Church.

4 Mom and Dad has lived there, like I said,
5 since 1971, since I was 11. There were floods there
6 back then.

7 CHAIRMAN: Sir, let me interrupt you at this
8 point. This commission has nothing to do with the
9 flooding, the retention basin or anything like that.
10 This meeting tonight, this hearing tonight is only
11 concerned with the zoning change. So flooding is an
12 entirely separate issue which we will not address.

13 MR. VESSELS: So who do we complain to the
14 fact that it's flooding Mom and Dad's property like
15 never before?

16 CHAIRMAN: The complaint will be tied in with
17 the applicant because the city engineer will
18 eventually sign off on the plot. When he signs off on
19 the plot, it will state that the flooding and
20 retention basin and everything meets where there's no
21 water from flood property flowing on another property
22 owners. That will come to us later, but tonight we're
23 only discussing the changing of the application for
24 the zoning change.

25 MR. VESSELS: Okay. So this will be brought

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1 up later, the problem with the flooding?

2 CHAIRMAN: It will be dealt with in the
3 application when it goes -- if we change the zoning
4 requirement or we change the zoning from agricultural
5 to the different zoning change, then it will go to the
6 city engineer for approval and he has to sign off on
7 it for the drainage, for the runoff, and stating that
8 there will be no property, water going from one
9 property owner to another.

10 MR. VESSELS: So the fact that they change
11 this thing four times trying to keep the water from
12 doing anything is --

13 CHAIRMAN: That really has no bearing on the
14 zoning change, but I think Mr. Noffsinger will address
15 that.

16 MR. NOFFSINGER: Yes. Thank you, Mr.
17 Chairman.

18 Tonight we are here to consider the land use
19 for the property in terms of the zoning. Right now
20 it's zoned agricultural. We're considering whether to
21 be B-4 general business, residential or multi-family
22 residential. We do not have a drainage plan on the
23 agenda tonight. There is not a drainage plan for this
24 property. That will come at a later date. That later
25 date is at the time that the developer files a

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1 preliminary subdivision plat and final development
2 plan for the property. The developer cannot turn one
3 shovel of dirt until such time as that plan comes
4 before this commission and is considered. Any
5 concerns about drainage that occur out there now that
6 you have need to be taken up with the City of
7 Owensboro and the city engineer's office.

8 CHAIRMAN: That's step one.

9 MR. VESSELS: I understand. I understand.
10 We've done that to no avail for over a year now.

11 On the other, as far as the B-4 thing, I mean
12 does anybody really want businesses in our backyard?

13 Mr. Pedley pointed out earlier on another
14 matter that a P-1 would be much more preferential than
15 the B-4 in somebody's yard or in somebody's
16 neighborhood. That's what you all are going to these
17 guys neighborhood. Is you're putting businesses right
18 in their backyards, and they don't like it.

19 I was under the impression that you wouldn't
20 just zone something B-4 that wasn't contiguous with
21 any other B-4. It's kind of spot zoning something
22 B-4.

23 MR. NOFFSINGER: I can address that question,
24 if you would like.

25 CHAIRMAN: Yes, sir,

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1 MR. NOFFSINGER: The way the zoning ordinance
2 is written, if you're on a major street within the
3 limits of the bypass, such as an arterial or major
4 collector, you can make application for commercial
5 zoning. If you're outside the limits of the bypass,
6 you have to adjoin an existing B-4 general business
7 zone in order to make application for that. So due to
8 the location of this property and the flexibility of
9 the adopted comprehensive plan we have for this
10 community, the applicant is able to submit an
11 application.

12 MR. VESSELS: Okay. Well, those are my
13 concerns. I know that my father, my mother and the
14 others in the neighbor that I know of absolutely don't
15 want businesses in their backyard. Thank you.

16 CHAIRMAN: Any other comments?

17 Yes, sir.

18 MR. SILVERT: State your name, please.

19 MS. MASTELLER: Kimberly Masteller.

20 (KIMBERLY MASTELLER SWORN BY ATTORNEY.)

21 MS. MASTELLER: I live at 2516 Middleground
22 Drive and that's at the end of where Barron and carter
23 meets.

24 My understanding was, and you've just stated
25 that, that you're not talking about flooding issues

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1 and I understand that now, but I didn't think they
2 would zone anything until this issue was fixed before.
3 I understand what you just said.

4 Also, my concern is I live behind, my house
5 will be right behind. I'm the second to the end of
6 Middleground. My house will be behind where the
7 commercial buildings will be built. I don't know what
8 kind of commercial building you're talking about. If
9 it's a gas station or what it may be. My concern is
10 if this does happen I want to know if they're going to
11 put a concrete, at least an 8 foot or higher concrete
12 wall that divides our neighborhood to the commercial
13 area for privacy or just for protection. If it's a
14 gas station, I don't want someone at 3:00 in the
15 morning robbing the place and running into my
16 backyard. I have children and there's other families
17 that have children in our neighborhood. I want to see
18 that.

19 Exactly what he was saying. I don't
20 understand how they would put commercial and then I
21 understand that it would be apartment buildings and
22 then another neighborhood. How that all ties together
23 when it's going against another neighborhood. I don't
24 see why they would do that because that would also
25 make our homes be less in value because of this.

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1 I moved in and they have cut off Barron Drive
2 to Middleground because of the traffic, because of
3 children and it's neighborhood. They cut that off for
4 that reason and now with the commercial building
5 you're putting in behind us and the side street that
6 stops and doesn't come in, you're opening that up for
7 commercial traffic to go through the neighborhood. I
8 understand if it opens up down the road where there's
9 more neighborhoods being built, but not behind our
10 house where it's commercialized. You're going to have
11 delivery trucks going in and out of that neighborhood.
12 It's hard right now for our school bus drivers to
13 drive a school bus down and be able to turn around
14 because you can't turn around and go through -- you
15 have to turn around in that little area.

16 So it concerns me that they're going to open
17 that road up for commercial use.

18 CHAIRMAN: Thank you.

19 Mr. Sandidge.

20 MR. SANDIDGE: Yes, Mr. Chairman.

21 CHAIRMAN: I think there were several
22 questions there. There was a question there about the
23 kind of development of the B-4 business development
24 and about the screening that will take place there. I
25 assume you were following along there with the

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1 neighborhoods there on Middleground.

2 MR. SANDIDGE: Correct. I believe that's
3 right.

4 There are no plans in place for any particular
5 use, gas station or any other commercial use for this
6 particular property at this time. So I can't identify
7 any particular use that is going to be put to right
8 now.

9 If the zoning change is approved, it will be
10 B-4 general business.

11 With respect to screening, we're going to
12 comply with whatever the requirements of the zoning
13 ordinance are for 6 foot continuous element, trees
14 every 40 feet. Certainly whatever is imposed on us in
15 the final development plan we'll comply with. That's
16 our plan for that.

17 CHAIRMAN: At this present time, Mr. Sandidge,
18 there are no businesses that are signed up or anything
19 that's going to go in these B-4 areas at this time?

20 MR. SANDIDGE: That is correct.

21 CHAIRMAN: Thank you.

22 MR. SANDIDGE: Yes, sir.

23 CHAIRMAN: Are there any other questions?

24 Yes, ma'am.

25 MS. MASTELLER: He said it's not going to be

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1 as of right now any commercial buildings or whatever,
2 but there will be sooner or later.

3 CHAIRMAN: No, ma'am, that is not what he
4 said. He said at this time there are no plans for
5 what they are going to use it for. He didn't say
6 there weren't going to be commercial buildings.

7 MS. MASTELLER: But there will be.

8 I would not like to see trees or bushes put
9 there every 40 feet. Is that what he said? That's
10 not any protection or privacy between a residential
11 area neighborhood.

12 CHAIRMAN: Excuse me. What Mr. Sandidge was
13 saying there, and I'll allow you to correct me if I'm
14 wrong. I think Mr. Sandidge referred to the
15 ordinance, whatever the ordinance required for that
16 specific incident. Whatever it might be they are
17 willing to do it and will do it. Mr. Noffsinger could
18 be more specific.

19 MR. NOFFSINGER: For B-4 General Business it
20 would be a 6 foot high continuous element. That might
21 be a wooden privacy fence. It could be shrubs, but it
22 has to be meet I believe it's an 80 percent opacity
23 requirement. So it has to be close to solid. It's
24 not necessarily solid. If it's a vinyl privacy fence,
25 perhaps you're going to get closer to that. It's an

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1 80 percent opacity and it's a 6 foot element.

2 MS. MASTELLER: I'm new to this. I'm not sure
3 what all of this means.

4 When this does take place, do I come back
5 again to find out what they're going to be putting
6 there? Because they can't tell us now what's going to
7 be put there. Is this another time and date?

8 MR. NOFFSINGER: There will be another
9 application before this board at some point in the
10 future to show to this board and the public what they
11 intend to do.

12 Now, adjoining property owners are not
13 notified. In a zoning change they are. However, on a
14 preliminary subdivision plat final development plan,
15 adjoining property owners are not notified. I would
16 hope that some way you are notified by the press or by
17 the developer.

18 MR. SANDIDGE: Let me say this about that.

19 CHAIRMAN: Mr. Sandidge.

20 MR. SANDIDGE: I understand her concerns and I
21 appreciate that. We're willing at such time a final
22 development plan comes up to give notice voluntarily
23 to everybody that was given notice of this hearing
24 tonight.

25 MS. MASTELLER: I would appreciate that.

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1 MR. NOFFSINGER: That would give you the
2 opportunity, everyone that receive a notice with the
3 zoning change, you would receive that notice. You
4 would know when this board is going to take action on
5 that development plan. At that time you would have
6 the specifics on the street design, the drainage,
7 screening and buffering requirements. I'm not saying
8 you shouldn't address screening tonight. I think
9 that's certainly something in terms of land use
10 compatibility there that you should talk about, but
11 there will be plan at a later date that is not here
12 tonight.

13 CHAIRMAN: Wouldn't it be correct at that time
14 also, Mr. Noffsinger, that the certification by the
15 county engineer would go with that piece of property
16 about the drainage?

17 MR. NOFFSINGER: The city engineer, yes, sir,
18 would have to sign off on the drainage plan, if it's
19 in the city annex. If it's not annexed in the city,
20 it would be the county engineer.

21 CHAIRMAN: Presently I think it's county
22 property.

23 Are there any other questions?

24 Yes, sir.

25 MR. SILVERT: Could you state your name,

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1 please.

2 MR. BABBITT: Bob Babbitt.

3 (BOB BABBITT SWORN BY ATTORNEY.)

4 MR. BABBITT: I live at 2530 Chant Court.

5 It's on the corner of Middleground and Chant Court.

6 I can tell you that the drainage problem and
7 what the city or whoever has done it is not adequate.
8 I know you're not here to address flooding, but I've
9 been in that area since 1993. I remember some good
10 floods. I can remember 1997. That two hours of that
11 flood they called it that they had a week or so ago
12 was up to -- and I'm down at the far end close to
13 Marywood. The water was almost up to my garage,
14 almost in there. If it hadn't stopped, I would have
15 had water in my garage, in my house. I spent a lot of
16 money on my house. I've got laminate floors. All it
17 takes is a little bit of water and it's all wiped out.

18 Now, my question is this: When is the
19 purchase of this, when are they going to address the
20 problem of sewers? They've done a bad job on the
21 sewers. A real bad job. It's so dry out there right
22 now there shouldn't have been any water in the basin
23 at all. Everything came from down around Barron Drive
24 all the way down that ditch to Chant Court. Chant
25 Court was completely flooded. The backyards of people

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1 on Chant Court was flooded. My backyard was. In
2 about one more hour of rain, it would have been in my
3 house.

4 CHAIRMAN: I appreciate your comments, but
5 there again we're not doing this tonight.

6 MR. BABBITT: I realize that.

7 CHAIRMAN: Mr. Noffsinger will give you an
8 update of when this will take place and we will have a
9 certification by the city or the county engineer and
10 the correction of the drainage situation.

11 MR. BABBITT: I realize that and I hate to
12 take your time up and I don't mean to be impolite, but
13 I've been retired. I've got everything tied up in my
14 house right now. Like I say, one more hour of rain
15 coming down and I would have been wiped out.

16 CHAIRMAN: All right. Mr. Noffsinger.

17 MR. BABBITT: I would have been wiped out.
18 The rest of the people would have been wiped out. The
19 only way with us, and I know I'm out of order, is to
20 bring our problem to the forefront of the people that
21 we can talk to. We were down at the Neighborhood
22 Alliance meeting. There was probably about 65 down
23 there stressing our point. It's the only reason I'm
24 up here. I know I'm out of the order and I don't mean
25 to be impolite. I thank you people for listening to

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1 me, but you're going to have a whole neighborhood over
2 there that's just going to be a mess.

3 CHAIRMAN: You have not been impolite and we
4 will address your concerns, but at this time we cannot
5 address your concerns.

6 MR. BABBITT: I understand that.

7 CHAIRMAN: But they will addressed at a later
8 time.

9 MR. BABBITT: I just would like to know when
10 the people purchasing this and they come up with this
11 when will they address it. That's all my concern is.

12 CHAIRMAN: Mr. Noffsinger.

13 MR. NOFFSINGER: I believe the City of
14 Owensboro is currently attempting to address the
15 problem. The city engineer, Joe Schepers, is here
16 tonight. I think the city was out. Their contractors
17 were out today working to clean the ditches in that
18 area.

19 Again, we're not here to solve that problem
20 tonight. We can't solve that problem tonight. The
21 city engineer is fully aware of the situation. Prior
22 to the plan coming in for our approval and this board
23 approving any plan to develop that property, the city
24 or county engineer will have to sign off on the plan,
25 the drainage plan, and those problems need to be

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1 corrected.

2 They realize there is a problem and they're
3 working very feverishly to correct any problems that
4 might exist out there today. It's going to take time
5 and the developer will not be turning dirt next week,
6 next month. It's going to take a little bit of time.

7 MR. BABBITT: Can I say one more thing?

8 CHAIRMAN: No, sir. We've got another
9 gentleman that has not spoken. We're going to give
10 him the opportunity.

11 MR. SILVERT: Will you state your name,
12 please?

13 MR. HOWARD: My name is John Howard.

14 (JOHN HOWARD SWORN BY ATTORNEY.)

15 MR. HOWARD: We reside at 2250 Middleground
16 Drive. I've got a question for the chairman.

17 It's my understanding that one of the primary
18 functions of this commission is to protect the safety
19 of the citizens of Owensboro; is that correct?

20 CHAIRMAN: Amongst many others.

21 MR. HOWARD: Is that correct?

22 CHAIRMAN: We are charging with planning and
23 zoning and obviously the safety of the citizens is one
24 of those things. I would say the police and other
25 organizations stand before us in being the primary.

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1 MR. HOWARD: I want to state that I'm not in
2 an adversarial position with the James C. Ellis heirs
3 or with the Massie-Clarke Development Company.

4 Good to see you back in town, Ridley.

5 MR. SANDIDGE: Thank you, John.

6 MR. HOWARD: This might be a little
7 unorthodox. We used to have an inconvenience in
8 Thoroughbred Acres. Thoroughbred Acres is a beautiful
9 place to live. Got good neighbors. Everybody keep
10 their property up. Minds their own business. No
11 crime.

12 We now have a severe safety problem in
13 Thoroughbred Acres. I would like to ask the
14 Commission if -- now, this safety problem comes as a
15 result of the changes that were made in the James C.
16 Ellis property. If it hadn't been changed, I wouldn't
17 be here tonight.

18 That property is going to have to play a role
19 in re-establishing the safety of the citizens of
20 Thoroughbred Acres. I would like to ask the
21 Commission if you would perform the part of the duty
22 that I think you do, is protect the safety of citizens
23 of Owensboro. Would you all consider maybe tabling
24 this application?

25 Our problem is this: The city is beating

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1 around the bush about what they're going to do here.
2 Now, I'm not an expert, but I've been around the
3 drainage issue for many years. That Ellis property is
4 going to have to play a part in straightening out the
5 safety problems that exist in Thoroughbred Acres. I
6 don't know it's going to be additional easements or
7 what's going to happen. I think that we're looking at
8 a very expensive fix. Now, if the rezoning is
9 approved, then that kind of closes an avenue we have
10 to help the city to get this problem straightened out.
11 I don't think delaying the rezoning of this property
12 for 30 days is going to be hurt anybody. It might be
13 very important to us.

14 CHAIRMAN: Mr. Howard, let me --

15 MR. HOWARD: I didn't say anything about
16 flooding. I'm talking about safety. I know that you
17 protect the safety of the citizens of Owensboro and
18 we're pleading with you now to hear our case.

19 CHAIRMAN: What is the safety issue that
20 you're identifying?

21 MR. HOWARD: Now, don't accuse me of talking
22 about flooding.

23 CHAIRMAN: You were going someplace and I know
24 we were going there together, but I didn't get there.

25 MR. HOWARD: I'm going to try to explain to

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1 you what the safety problem is.

2 CHAIRMAN: Very good. Very quickly I hope.

3 MR. HOWARD: I've got a Dixie Dumpster that
4 belongs to the City of Owensboro. It's sit in the
5 same place for years, and years, and years. You know
6 where my Dixie Dumpster wound up at?

7 CHAIRMAN: No, sir. I have no idea.

8 MR. HOWARD: Over four miles away. Now, how
9 did it get over there? Now, if my Dixie Dumpster had
10 instead been a two year old child, he'd been over
11 there too. I'm an old gray-headed guy. If I was out
12 there wading around and fell down, I would have been
13 over there. So we've got a safety problem.

14 I don't see that it's unreasonable to ask this
15 Commission to simply delay this decision for 30 days
16 until the City comes up with a concrete proposal that
17 satisfies the citizens of Thoroughbred Acres. You've
18 got a responsibility to protect our safety.

19 CHAIRMAN: Is that the conclusion?

20 MR. HOWARD: No, sir.

21 You opened a can worms here. Okay. It's been
22 stated that no water will come off --

23 CHAIRMAN: Sir, we've been down --

24 MR. HOWARD: Wait a minute. You're the one
25 stated -- it was stated here tonight that no water

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1 will be permitted off this property onto other
2 property.

3 CHAIRMAN: I said that is what the city or the
4 county engineer does. That's not what this commission
5 does.

6 MR. HOWARD: Did I hear that wrong?

7 CHAIRMAN: That is not what this commission
8 does. That is what the city or the county engineer,
9 and that's exactly the way I stated it and that's the
10 way I will restate it.

11 MR. HOWARD: Might I ask Mr. Ridley a
12 question?

13 CHAIRMAN: You can ask the commission and I'll
14 address Mr. Sandidge.

15 MR. HOWARD: Would you ask the counsel for the
16 Massie-Clarke Development Company if they would delay
17 this application for 30 days?

18 CHAIRMAN: I'll be glad to. Thank you.

19 Mr. Sandidge.

20 MR. SANDIDGE: I heard the question.

21 CHAIRMAN: I'm sure you understand it.

22 MR. SANDIDGE: I do. I do.

23 I want to make a couple of things clear here
24 in response to the question first.

25 We've got an option to purchase this real

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1 estate. The option is contingent upon obtaining
2 satisfactory zoning for the intended use that we want
3 to put the property to.

4 We haven't turned a spade of dirt. We have
5 nothing to do with any drainage issues out there.
6 While I appreciate the concerns that are being
7 expressed here about drainage, we don't have anything
8 to do with that. That's not our responsibility. We
9 simply have an option. We're trying to get the
10 property rezoned.

11 We have contractual obligations which have
12 time limitations, and that's why we're here before you
13 tonight. My client has spent a great deal of money
14 getting this property set up as it's set up now. With
15 whatever drainage solutions work out, and I'm
16 confident something will be worked out, we're going to
17 spend more money. We're doing this thing incremental.
18 One thing we need to know is whether or not we can get
19 the property rezoned for the uses that we intend.
20 If we can't do that, we can stop and quit. Until we
21 know that, we can't really move on and move forward.

22 Given that fact and given the time limitations
23 that we are under, and we are under time limitations,
24 I cannot consent to tabling this matter.

25 CHAIRMAN: Mr. Sandidge, would you say that

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1 the drainage situation is an utmost concern of your
2 client?

3 MR. SANDIDGE: I don't want to say it's the
4 utmost, but it is certainly a major concern, yes.
5 Yes, it is. It's something we're going to have to
6 look at.

7 CHAIRMAN: There's one person here that I
8 think I may ask to come to the podium. He may be able
9 to help us with some of these issues.

10 Mr. Schepers, would you mind stepping to the
11 podium?

12 MR. SILVERT: Could you state your name,
13 please?

14 MR. SCHEPERS: Joe Schepers.

15 (JOE SCHEPERS SWORN BY ATTORNEY.)

16 CHAIRMAN: First I want to thank you on behalf
17 of the commission and all the audience here for being
18 and attending this meeting. Thank you very much.

19 Now, obviously you've heard the concerns of
20 many of our citizens. Obviously you're very much
21 aware of the drainage situation. Would you take the
22 commission and the audience through the steps the city
23 is taking and will take to alleviate this problem?

24 MR. SCHEPERS: Yes, sir.

25 We met with the neighborhood alliance two

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1 nights ago and went through this with them to try to
2 alleviate some of their concerns. Basically currently
3 we're working with the design firm that we had hired
4 to design the entire project to come up with solutions
5 to some of the drainage projects. We're working at
6 redesigning the ditches along Barron. We're working
7 at some of the ditches, redesigning the ditches on the
8 backside of Middleground. We've already started
9 working on cleaning out the main ditch that goes down
10 the center of the field. So basically we are working
11 on, as Gary said, it's not a quick fix. It is
12 something that we are working with that. We're also
13 working with the Ellis Estate as far as obtaining some
14 easements from them to put these additional ditches
15 in. Our intention is by the end of the week, which is
16 tomorrow afternoon, we'll have a final solution.

17 We are divided up into two halves. The west
18 half and the east half. We have presented the western
19 half solution to the Ellis Estate. We intend to
20 produce the eastern half to them tomorrow working with
21 our design firm.

22 CHAIRMAN: What would you say your estimate,
23 and I'm not asking a professional opinion. I'm just
24 asking an estimate. The flow through the ditches
25 currently versus the flow that they're able to achieve

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1 with the re-engineering that you all are doing and the
2 cleaning up?

3 MR. SCHEPERS: Well, the main ditches there's
4 no more water. It's still the same amount of water
5 getting to the main ditches. Still the same amount of
6 water getting to Scherm. So that hasn't changed.

7 As far as volume, that I can't tell you those
8 numbers off the top of my head.

9 CHAIRMAN: But obviously your improvement so
10 far is to obviously alleviate these problems that
11 we're facing right now?

12 MR. SCHEPERS: Yes. The water that used to
13 flow across the Ellis Estate at a diagonal used to
14 come off of the streets and flow kind of diagonally
15 across the Ellis Estate and get into the ditches.
16 What we're trying to do is create ditches along the
17 north property line that will take it around the
18 border of the Ellis Estate and then directly into the
19 same ditches it was getting into prior to the project.

20 CHAIRMAN: My previous statement about what
21 your, if it is city or the county engineer if it stays
22 county, is to make sure that when you sign off on the
23 property that the water from one property does not
24 leave that property and flood another property.

25 MR. SCHEPERS: Yes, but you've got two

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1 different issues.

2 The first is the issue of what the city's
3 project has done out there. That is not part of
4 Massie-Clarke's doing. It's not part of
5 Massie-Clarke's project. They're not really involved
6 in that. They really have nothing to do with it.
7 That is the city's project. That is the city's
8 concern and the city's fix. I don't see where that
9 could tie with Massie-Clarke.

10 The second issue is once Massie-Clarke
11 develops on the property that the city has raised, at
12 that point we would be stepping in, reviewing their
13 drainage and making sure their drainage plan works,
14 all their design calculation works.

15 So you have two different issues, two
16 different projects. One is the city's concern. The
17 would be the Massie-Clarke's to have develop
18 afterwards, which both the city and the county would
19 be reviewing. So there are kind of two steps, two
20 issues, two different responsible parts.

21 CHAIRMAN: When you say "works," you mean
22 there' not a drainage problem, correct?

23 MR. SCHEPERS: That is correct. So once the
24 city gets everything up and running, the city gets the
25 problem resolved, we will have the ditch work going

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1 around, then Massie-Clarke or whoever, Massie-Clarke
2 if they get the rezoning, they get to develop it, then
3 we will be reviewing all of their calcs. and making
4 sure their calcs. follow on the improvement specs and
5 they have no additional water, more than what's there
6 now coming to them.

7 CHAIRMAN: When you say you've worked with
8 Massie-Clarke for additional easements --

9 MR. SCHEPERS: No, sir. I'm working with the
10 Ellis Estate.

11 CHAIRMAN: I'm sorry. Ellis Estate.
12 Incorrect.

13 With the Ellis Estate for additional
14 easements, would you explain that?

15 MR. SCHEPERS: I would rather not because
16 they're talking about property acquisition. I would
17 rather not talk about that publicly.

18 We are working with them to obtain purchase
19 additional easements from them. No, I would not like
20 to elaborate because that's property acquisition.

21 CHAIRMAN: I'm sorry. I thought maybe it
22 would tie in somewhat to the drainage situation. I
23 understand your position on that.

24 Now, after I got a few of my questions cleared
25 up and answered, Mr. Schepers, stay close at hand.

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1 Why don't you sit down close because I'm sure we'll be
2 calling you back.

3 Yes, ma'am.

4 MR. SILVERT: State your name, please.

5 MS. BELL: Ashley Bell.

6 (ASHLEY BELL SWORN BY ATTORNEY.)

7 MS. BELL: I just have a couple of questions.

8 One, if it is rezoned to a B-4, what would
9 that do the adjoining property value? The second one
10 is, I know one of the ordinances is to be 10 feet from
11 the adjoining to start building, 10 from the adjoining
12 property. I know the city is speaking of digging a
13 deeper ditch. Would that be 10 feet from the ditch or
14 10 feet from like my fence line?

15 CHAIRMAN: Mr. Noffsinger.

16 MR. NOFFSINGER: One, this commission cannot
17 comment on property values. That would be a job of an
18 appraiser. So you would have to consult an appraiser.

19 Setbacks are measured from the property line.
20 Not a ditch line. It will be where the property line
21 falls.

22 MS. BELL: Thank you.

23 CHAIRMAN: Yes, ma'am.

24 In the back.

25 MR. SILVERT: State your name, please.

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1 MS. BRANCH: Deborah L. Branch.

2 (DEBORAH L. BRANCH SWORN BY ATTORNEY.)

3 MS. BRANCH: My question is: We're not as
4 much involved with the commercial end on Middleground
5 because we live at 2238 Count Turf, but we are
6 concerned with the individual who is representing
7 Massie-Clarke stated that he would be willing to
8 notify the people along Middleground of any future
9 plans on B-4. However, that affects more than just
10 line of Middleground. That affects all the people
11 that's over in that area of the subdivision. I'm
12 asking for them to take into consideration to ask all
13 of us along that west end or southwest end of
14 Thoroughbred Acres for our input on what a B-4 and
15 what B-4's can be put in there, plus the multi-family
16 dwelling. Ultimately that is going to affect
17 everyone's property values. That is not an
18 enhancement to a Thoroughbred Acre Subdivision. I
19 don't care if you put up a 6 foot wall, you put up 40
20 trees. I don't care what you do out there. That is a
21 traffic problem when you're opening up the streets,
22 opening up access roads. There's going to be a lot
23 more traffic coming through there. There's going to
24 be a lot more noise. Right now our streets are not
25 even -- a lot of parts of the streets need to be

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1 repaired. So we're going to have more damage onto the
2 streets. So that's my question in regards will they
3 take into consideration if this is zoned to a
4 commercial B-4 multi-family dwelling, residential,
5 whatever they're going to zone it as, that they take
6 into consideration everyone in that subdivision. Not
7 just the people along Middleground. Because there's
8 Count Turf. There's Venetian Way. There's Canonero
9 Loop. There's Chateau. There's Chant Court. There
10 is Carry Back Court. They're all going to be affect
11 by it.

12 CHAIRMAN: Thank you, Ms. Branch.

13 Mr. Sandidge, I know that you willing
14 volunteered to notify the people that you're required
15 to notify by our ordinance. Ms. Branch has a concern
16 and a question.

17 MR. SANDIDGE: Let me say thins: I want to
18 clarify my offer a little while ago. My offer is
19 contingent upon us being the proponent of the
20 development plan. If somebody else, then the deal is
21 off. If we're the proponent of the development plan,
22 we will voluntarily give notice to people in the B-4
23 zone. I cannot agree to give notice to everybody in
24 the world. If this lady wants to give her name and
25 address to me, I'll add her to the list, but I'm not

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1 going to agree street by street.

2 CHAIRMAN: Yes, sir. Thank you.

3 MR. NOFFSINGER: Mr. Chairman, it will be the
4 Planning Staff's recommendation that if an approval is
5 granted tonight on any or all of these zoning changes
6 that a condition be placed on the rezoning that
7 requires the applicant at the time they submit their
8 detailed plans, preliminary plat, final development
9 plan, that the applicant notify all adjoining property
10 owners as they did with the zoning change. Now,
11 that's note everyone up Venetian Way, but I feel like
12 the word is probably going to get out that the
13 development is proposing to develop the property. If
14 these properties were notified as part of the zoning
15 change, the same property owners of property should be
16 notified with the development plan.

17 CHAIRMAN: Mr. Sandidge, yours originally was
18 sort of a voluntary pledge on your part.
19 Mr. Noffsinger is making this a part of the condition.

20 MR. SANDIDGE: That's fine. I just didn't
21 want to create a requirement that I would ultimately
22 fail in complying with.

23 CHAIRMAN: I understand. I wanted to make
24 sure that now --

25 MR. NOFFSINGER: We're going to help you.

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1 MR. SANDIDGE: Thank you. That's fine.

2 CHAIRMAN: Thank you, Mr. Sandidge.

3 Let me make sure that we've gotten everybody
4 who has not had a chance to speak to speak.

5 Yes, ma'am.

6 MR. SILVERT: Could you state your name,
7 please?

8 MS. SNYDER: Beth Snyder.

9 (BETH SNYDER SWORN BY ATTORNEY.)

10 MS. SNYDER: Before you vote on the B-4 I
11 would like for you to ask Mr. Sandidge an option.
12 He's got the multi-family behind the residential area
13 on Middleground. To me, I'm not a planner or
14 anything, but it appears that maybe a multi-family
15 area, which could be quite a few people, if it's a
16 high-rise, three or four stories high maybe or how
17 many apartments or duplexes or whatever they're going
18 to put there. I don't think you can limit that. If
19 he could move that multi-family zoning there, before
20 you vote on B-4, because I think after you vote on
21 B-4, stick that over there by that basin. Put it over
22 there by the basin. That will be a big chunk of the
23 residents, a larger group of the population that are
24 single-family dwellings and they would be going out
25 Barron Drive. That would help as far as our

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1 neighborhood maybe. I'm not against people that live
2 in apartments, but there wouldn't be quite so much
3 noise. There wouldn't be quite so much traffic. They
4 would go out Barron Drive and that would relieve some
5 of the traffic over in the residential neighborhood.
6 I don't know if it's too late for him to change his
7 plan, but I feel like after he gets it on B-4 it will
8 be B-4 from now on.

9 CHAIRMAN: We can sure ask.

10 We'll start with Mr. Sandidge. That may not
11 be his expertise.

12 Mr. Sandidge.

13 MR. SANDIDGE: Thank you. It's certainly not
14 my expertise. We have developed the proposed use of
15 this real estate over time and we brought it before
16 this commission tonight. I don't have the authority,
17 I certainly don't have skill, don't have the ability
18 to make changes and move things around. So what's
19 before you tonight is what has to be either voted on
20 tonight and approved or declined. I don't have the
21 ability to make that change nor the authority to make
22 that change.

23 CHAIRMAN: Thank you, Mr. Sandidge.

24 Yes, sir.

25 MR. SILVERT: Would you state your name,

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1 please?

2 MR. HELM: Reggie Helm.

3 (REGGIE HELM SWORN BY ATTORNEY.)

4 MR. HELM: I just want to agree with both John
5 and this lady here. That I think if we delay this
6 maybe they can go back to the drawing board and maybe
7 work with it a little bit.

8 When we bought this property, we knew
9 eventually one day that it would be built, but we
10 didn't realize it was going to be three feet taller
11 than what it was or that there would be businesses
12 there. We figured maybe, you know, hopefully to be
13 family, but not multi-dwelling. We wish that they
14 would delay and maybe meet with the alliance. When
15 they do notify, notify the alliance who can also
16 assist in notifying the neighborhood. I ask that you
17 delay for 30 days so maybe we can work on some issues.
18 Thank you.

19 CHAIRMAN: Yes, sir.

20 MR. SILVERT: State your name, please.

21 MR. ALBERS: My name is Josh Albers.

22 (JOSH ALBERS SWORN BY ATTORNEY.)

23 MR. ALBERS: I live along Chippewa Drive. My
24 first question is about the gray area, about the city
25 and the county. What portion of this is in the city

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1 jurisdiction and what portion is in the county?

2 I'm also delighted at the residential area
3 that we'll have behind us. However my question is, I
4 anticipate that it will be, especially right from the
5 basin that it will be a little more upscale than our
6 neighborhood. I would ask that some barrier be put up
7 or something like that to separate it out from the
8 more humble neighborhood that we have.

9 CHAIRMAN: Thank you. You did a nice job.
10 Very concise and quick questions.

11 Mr. Noffsinger, I think both of these are
12 yours.

13 MR. NOFFSINGER: Two questions.

14 One, all of this property is located within
15 the limits of Daviess County. There's not any of it
16 that's been annexed into the City of Owensboro at this
17 point. I can't tell you that it's going to be or it's
18 not going to be, but it hasn't been at this point.

19 Two, in terms of the screening from
20 residential R-1C to R-1C, typically the zoning
21 ordinance does not require a buffer from residential
22 to residential. So typically you do not buffer
23 residential uses. The adopted comprehensive plan
24 actually encourages a variety of housing types within
25 developments so that you don't have particularly

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1 exclusionary zoning where you only have houses of one
2 price level. It encourages and a good planning
3 practice, encourage these housing types of many
4 different values and sizes. We don't have any
5 requirements there.

6 CHAIRMAN: Mr. Schepers, would you come back
7 to the podium again.

8 Some of the people in the community and the
9 surrounding neighbors are obviously concerned with
10 their drainage issues and other things. Mr. Sandidge
11 representing the developers obviously want to move
12 forward on the project, which I think, you know,
13 obviously we want to promote projects if we can. The
14 city or the county engineer is really, I know and I
15 applaud the city for the efforts that you say they're
16 doing as we speak. They're right on this. Clearing
17 out and doing things to help promote this project, to
18 help promote drainage, to help the neighbors in
19 Thoroughbred Acres with the water problem, which
20 they've made it very obvious it is a very bad
21 situation.

22 Would you reiterate the final step that either
23 you, the city engineer, or the county engineer in your
24 position would be that have really the final key on
25 this drainage situation. I mean in no shape or form

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1 will you let this thing progress with your approval
2 until it meets your satisfaction or whether it be in
3 the county.

4 MR. SCHEPERS: Yes, sir. Again, you have to
5 divide up it into two different projects like I said.
6 Once we get the problem fixed, then either the city
7 engineer or county engineer will make sure that the
8 development is designed per the public improvement
9 specs. We can't have additional requirements other
10 than the PI specs, but we will require it to be
11 designed according to the public improvement specs,
12 which basically it's quite detailed, but yes, it's
13 exactly like you said. We have to look at the amount
14 of runoff coming from it. We have to make sure the
15 drainage is going to the basin. Not dumping into the
16 ditches.

17 CHAIRMAN: Or in these people's backyards.

18 MR. SCHEPERS: Or into the people's backyards.
19 We will be ensuring that they take all the drainage
20 directly into the basin.

21 CHAIRMAN: I know your plan is to get it done
22 and get it done as quickly and into the best fashion
23 as you can. I understand that.

24 But, for instance, if for some reason when
25 this comes up the next time, if all of these things

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1 have not been done, what will be your position at that
2 state?

3 MR. SCHEPERS: If all what being done?

4 CHAIRMAN: If the drainage does not meet your
5 specification and all the flow has not been documented
6 and isn't correct at that time.

7 MR. SCHEPERS: I would not sign off on it. If
8 I don't sign off on it, I don't believe, Gary, you can
9 answer that, but if I don't sign off on it I don't
10 believe you can proceed.

11 MR. NOFFSINGER: That is correct. The
12 developer may ask for the Planning Commission to
13 consider it anyway, but our position would be in
14 support with the county engineer that we not proceed
15 if there's still issues that the engineers aren't
16 comfortable with.

17 CHAIRMAN: Thank you very much. You've been
18 very, very helpful.

19 Do we have anybody else? This gentleman right
20 back here has not spoken.

21 Yes, sir. Would you like to step to the
22 podium?

23 MR. SILVERT: Could you state your name,
24 please?

25 MR. BYRNE: Johnny Byrne, 2513 Middleground

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1 Drive.

2 (JOHNNY BYRNE SWORN BY ATTORNEY.)

3 MR. BYRNE: I basically just wanted to let you
4 guys know that the stub streets, that's what I call
5 them, these little streets that were put in and never
6 used on Middleground, that those things are awfully
7 handy to us. Once we get traffic coming in and out of
8 those, it's going to be difficult for people to even
9 back out of their driveways, you know. We don't back
10 in to those really today, but once we get traffic
11 coming out on Middleground, Middleground ends up at
12 Gary Back. It's a dead end. I hope you're aware of
13 that. It's just for those folks of us that live up in
14 that area it's going to be really inconvenient and
15 maybe potentially hazardous. I wanted to let you know
16 that.

17 I personally, just speaking for myself, would
18 like not to see any multi-family dwellings. I'd love
19 to see that field full of single-family dwellings. I
20 think it would enhance everybody's property. Again,
21 that's just my opinion.

22 Again, you've heard all about the drainage.
23 We're looking really forward to getting that fixed.

24 I'd just like to thank you, Joe, for coming
25 tonight and supporting us. I believe the city is

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1 going to help us get this fixed. We're looking
2 forward to that.

3 I'd like to appeal to the Commission to table
4 this rezoning request until a 30 day time period has
5 elapsed. That's what I've got to say. Thank you.

6 CHAIRMAN: Thank you.

7 I think everybody has had the opportunity to
8 speak.

9 Yes, sir.

10 MR. SILVERT: State your name, please.

11 MR. DECKER: Richard Decker.

12 (RICHARD DECKER SWORN BY ATTORNEY.)

13 MR. DECKER: I live at 2508 Middleground.

14 Since I have Joe right here to my right, may I
15 address a question to you and you to him?

16 CHAIRMAN: Be glad to, yes, sir.

17 MR. DECKER: We're looking at the north
18 property line, the ditch that's being constructed
19 there. I understand that is a permanent fix for our
20 drainage issues. That's the way it's been presented
21 to us. I wonder, these ditches will be constructed to
22 grade and let's say they do work. Will these ditches,
23 how are they going to maintained if they're not
24 concrete lined? Because you see ditches there will be
25 silt run-off, there will be buildup. How are they

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1 going to get back in there and maintain these ditches
2 and recreate the situation that if it does work
3 continues to work. Because as you look around town
4 right now, even the concrete lined ditches are silted
5 up, but they can be accessed, cleaned out and brought
6 back to that flood line where it's designed to work.
7 That's my first question to Mr. Schepers.

8 CHAIRMAN: Thank you.

9 Mr. Schepers, I believe there's no sense in me
10 restating the question. I think you've got it.

11 MR. SCHEPERS: We've got our own ditch
12 cleaning crew. It's a crew dedicated to do nothing
13 but cleaning out ditches. We will be acquiring
14 easements from the Ellis Estate. We will have
15 easements to get in there to regrade the ditch. We
16 are keeping ditches better than in the past. They're
17 not silting up like they did in the past, since we do
18 have a full-time ditch crew. I don't believe we've
19 ever had a full-time ditch crew in the history of
20 Owensboro until the last five years. So we are
21 keeping ditches better. They are staying better
22 cleaned out. They won't get into the shape that some
23 of the ditches have in the past.

24 CHAIRMAN: Thank you.

25 I've sort of limited to one stand per person.

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1 I've got another gentleman over here that has not
2 spoken.

3 GENTLEMAN: May I come back later?

4 CHAIRMAN: Well, I'm going to give this
5 gentleman over here who has not had a chance to speak
6 to speak. Thank you.

7 Yes, sir.

8 MR. SILVERT: Could you state your name,
9 please?

10 MR. BRADLEY: Don Bradley.

11 (DON BRADLEY SWORN BY ATTORNEY.)

12 MR. BRADLEY: I live at 2526 Venetian Way.

13 I oppose the current development plan for
14 rezoning on numerous reasons.

15 A little bit confused as far as not discussing
16 the flooding. I was looking at your brochure that you
17 pass out. It looks like that in it it says that part
18 of yours is to be in charge of the development plan.
19 That includes drainage of surface water. So I was a
20 little bit confused when we kind of went away from
21 that and we came back.

22 You know, most of the residents, and I agree
23 with Mr. Howard, we have a safety problem. That
24 safety problem is fire trucks, ambulances, when we
25 have these problems in the street.

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1 Looking at the development plan we've got a
2 problem with traffic. A lot of these families that's
3 been a childhood neighborhood for as long as I can
4 remember. There's some older residents that live
5 there, but a lot of families move there. I moved
6 there to raise my children.

7 So as it currently is I just want to go on
8 record that I oppose it. I would like to see it come
9 back and proposed as single-family dwellings. Thank
10 you.

11 CHAIRMAN: Thank you.

12 Do we have anybody else that has not had the
13 opportunity to speak that would like to?

14 Yes, sir.

15 MR. SILVERT: Could you state your name,
16 please.

17 MR. HIGHSMITH: Wayne Highsmith.

18 (WAYNE HIGHSMITH SWORN BY ATTORNEY.)

19 MR. HIGHSMITH: Obviously none of us are
20 thrilled about the potential of a business zone behind
21 our house, but we understand development. We
22 understand that that is what this vote is going to
23 take place on.

24 A couple of things that I would ask when the
25 vote comes up is to consider making it conditional.

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1 That they have agreed, you know, they're going to do
2 the fence requirement. We ask that that be more
3 substantial. Whether it be defined as a brick wall, 8
4 foot, that's up to you, but we ask something more
5 substantial than potentially a wooden 6 foot fence.

6 The other thing on this particular zoning
7 question would be that we would like to see that spur
8 left closed. Thereby keeping basically the
9 neighborhood as a residential area. I don't think any
10 of us really see a need or a reason that that spur
11 should be opened up into the business area allowing
12 more traffic into our area.

13 CHAIRMAN: I think for the record would you be
14 a little bit more specific? I know exactly where
15 you're talking about. Can you be just a little more
16 specific for the record?

17 MR. HIGHSMITH: It's the spur on the west end
18 of Middleground that will empty into that B-4
19 potential zoning change.

20 MR. ALLEN: 2500 Middleground and 2432
21 Middleground section?

22 MR. HIGHSMITH: I can't see from here, but it
23 surrounds right.

24 CHAIRMAN: You do agree to Mr. Allen.

25 MR. HIGHSMITH: Besides those two things, I

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1 also ask the question about, I'm a little unclear. I
2 know that there's outline behind these houses in this
3 commercial area a 10 foot line. I'm not very clear on
4 what that plan is, if that 10 foot doesn't go with
5 this zoning change. If it remains grass. If it
6 becomes part of that north side ditch. I'd like a
7 little bit more clarity on what to expect with what's
8 happening directly behind my house and the neighbors
9 beside me. That's all I've got.

10 CHAIRMAN: Thank you very much.

11 Let us answer this question, please.

12 Mr. Noffsinger.

13 MR. NOFFSINGER: No, sir, I cannot address
14 that question without a final development plan to know
15 what's going to happen with the ditches.

16 CHAIRMAN: What about the 10 foot line?

17 MR. NOFFSINGER: Can't address that. It's 10
18 feet from the property line. Where that property line
19 will be, don't know about the drainage or the
20 easements. The ordinance says 10 feet from the
21 property line. Now, wherever that is, that's where
22 the 10 foot buffer would start.

23 CHAIRMAN: Mr. Sandidge.

24 MR. SANDIDGE: I'm not sure I understand what
25 the question is.

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1 CHAIRMAN: I will restate it.

2 MR. SANDIDGE: Thank you.

3 CHAIRMAN: He had a question there about the
4 screening. You know, there's a 6 foot high minimum
5 screening requirement. What he was requesting was
6 would you all consider a more extensive screening
7 requirement.

8 MR. SANDIDGE: I would say this: He mentioned
9 an 8 foot brick wall. I will say that we will not
10 consider that, but we would consider a more
11 substantial fencing in the form of a vinyl fencing as
12 opposed to a wooden fencing, which would be easier to
13 maintain over time. So we would consider that. That
14 fencing would be in compliance with the buffering
15 requirements of the zoning ordinance.

16 CHAIRMAN: Which the buffering requirement is?

17 MR. NOFFSINGER: Six foot.

18 MR. SANDIDGE: Correct.

19 CHAIRMAN: Thank you, Mr. Sandidge.

20 Yes, ma'am.

21 MR. SILVERT: Could you state your name,
22 please?

23 MS. BRADLEY: Wanda Bradley.

24 (WANDA BRADLEY SWORN BY ATTORNEY.)

25 MS. BRADLEY: I live at 2526 Venetian Way.

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1 The concerns I have with this project are traffic. I
2 haven't heard the applicant discuss what the traffic
3 implications are going to be on our neighborhood, but
4 there are three inlets that are going to be connected
5 both to the residential, the multi-family and to the
6 business. Venetian Way is a through street out of the
7 neighborhood. So I feel certain that we're going to
8 have quite a bit of increase in the volume of traffic
9 on our street. Of course, it's already been stated
10 it's a family neighborhood. My concern is with the
11 traffic.

12 I'm opposed to this, the way it's presented
13 tonight. Several people have suggested tabling it. I
14 think that would be a wonderful idea. Mr. Sandidge
15 could go back to the client. Tell them the concerns
16 and see if they would be willing to negotiate and make
17 some changes in some of these zoning proposals, but as
18 it stands I'm opposed to it.

19 CHAIRMAN: Mr. Noffsinger.

20 MR. NOFFSINGER: Mr. Chairman, from the
21 Thoroughbred Acres Development there will only be two
22 of the stub streets extended into this development.
23 That would be Count Turf Drive and then the one into
24 the commercial section.

25 The other street between Venetian Way and

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1 Canonero Loop, that street will not be extended.
2 There's a major drainage ditch there and trees. That
3 street will not be extended.

4 Now, there will be two other extensions into
5 this development. From Ottawa Drive and then one off
6 of Chippewa Drive, which are existing stubs.

7 The developer's traffic engineer is here
8 tonight, Mr. Bill Hays. There has been a traffic
9 impact study prepared on the property. He would be
10 the appropriate person to discuss traffic patterns and
11 what's being proposed.

12 MS. BRADLEY: I'd love to hear what he has to
13 say.

14 CHAIRMAN: Mr. Hays, would you step forward.

15 MR. SILVERT: Could you state your name,
16 please?

17 MR. HAYS: Bill Hays.

18 (BILL HAYS SWORN BY ATTORNEY.)

19 MR. HAYS: Let me start by explaining that
20 when we look at these type of developments, this size
21 and scope and the land use there is really three types
22 of traffic. Besure we understand what, use the
23 numbers. They're all three vary different types.

24 One of the types, when you have any type of
25 business is you have people who are already going on

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1 Carter Road or on Barron Road who decide to turn off,
2 conduct that business, and then continue back in the
3 same direction they were going. Those are called
4 pass-by trips. They're not new trips. They're just
5 people who divert, get something there rather than
6 getting something later on, some other time.

7 The second type that people don't think about
8 very much, but happens in a mixed use development is
9 that you have people who go from their residence to
10 one of the businesses and back. They may not even get
11 in the car. They may take a bike or walk. That's
12 what's called sustainable development. It's something
13 that a lot of planning agencies are trying to move
14 toward. Those trips are substantial in this
15 development. It's somewhere around 17 to 20 percent
16 of the total trips are never going to leave the site.

17 The third type, the one that you're most
18 familiar with are the trips that are either going to
19 be generated by the development by someone who lives
20 there, who goes to work or goes to church or something
21 or is people from outside going in to visit someone
22 there or to go to a business there.

23 So when we look at all these things, we have
24 to look at the type of trips. Then the second
25 question is: How are we going to get there?

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1 We spent quite a bit of time looking at the
2 traffic counts that are in the neighborhood there now.
3 There's several count stations available in the
4 neighborhood. We looked at how you go from one place
5 to another. I've driven the neighborhood. We came up
6 with a percentage of the trips that will be generated
7 by the site that we think will go through this
8 neighborhood. We think that will be about eight
9 percent of the total trips generated.

10 A lot of trips, depending on what businesses
11 come, would be coming off say the bypass, off of
12 Carter Road, off of Tamarack. You've got a lot of
13 different ways to get here. So when you start
14 chopping up those pieces and where they go, you've got
15 a lot of different players involved here.

16 Now, of that portion that go through this
17 neighborhood to the north, quite frankly I expect the
18 majority to be people who live there. Because if
19 you've got a business there, it's going to be quicker
20 for these people to go to that business rather than
21 two or three miles in the other direction. They may
22 even walk depending on where their house is to the
23 business or take a bicycle or something.

24 When you look at where these trips out, I
25 don't see a lot of people who are going to go to and

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1 from this development who are going to be coming from
2 downtown or from the east side of town who are going
3 to go through these streets because of the way they're
4 layed out. There's a three-way stop on Venetian and
5 Middleground, for instance. Many of the streets break
6 in different ways. I literally had to look at my map
7 twice to get out of the subdivision. It's very well
8 layed out. It's a wonderful neighborhood. I wish I
9 could have my kids grow up in a neighborhood like
10 that. It's super.

11 I know Joe. He's a colleague and friend of
12 mine. I know he's working hard with the drainage
13 problem.

14 I don't think the concerns are certainly, I
15 can't imagine a truck driver with an 18-wheeler
16 deciding to go down Middleground. I just don't think
17 it makes any sense. Trucks are going to get back on
18 state highways and go back on the bypass or wherever
19 they're going.

20 So I think in this sense most of the concerns
21 on the traffic are really not as pronounced as -- I
22 certainly understand the concerns of anyone who is
23 living there and seeing a new development come in, but
24 I don't think it's going to be as substantial as it
25 may appear at first glance.

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1 CHAIRMAN: Thank you.

2 Does anybody have any --

3 Yes, sir.

4 MR. SILVERT: State your name, please.

5 MR. KAMUF: James Lacy Kamuf.

6 (JAMES KAMUF SWORN BY ATTORNEY.)

7 MR. KAMUF: Just a quick question for Mr.
8 Hays.

9 You said this site is own only to generate an
10 additional 8 percent of traffic. If so, is there any
11 statistics on how many people are going to travel from
12 this new site, the Massie or the Ellis Development
13 Estate into Thoroughbred Acres? I mean do you have a
14 number of how many people you think are going to
15 actually go the other way? I know you're predicting
16 some people are actually going to travel to that.

17 CHAIRMAN: Is that the conclusion of your
18 question, sir?

19 MR. KAMUF: Yes.

20 CHAIRMAN: Mr. Hays.

21 MR. HAYS: I apologize if I didn't phrase it
22 correctly.

23 We have a procedure that's set nationally of
24 how we estimate the trips that any lane use is going
25 to develop. The Commonwealth of Kentucky requires us

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1 to go, in fact, they provide a spreadsheet of
2 flexibility. This is the way you do it. That's the
3 procedure we did with this.

4 The 8 percent what I'm referring to is of all
5 the people who are driving to this site. Not people
6 inside the site already, but people driving there.
7 You look at different ways they can get there. They
8 can get there by Tamarack. They can get on Carter by
9 either direction. You look at all of these. We
10 estimate that by 8 percent of those total trips are
11 going to be going to or from, going through the
12 neighborhood to get to and from this site. I'm saying
13 furthermore --

14 CHAIRMAN: Excuse me for a second.

15 Sir, would you excuse yourself. There's
16 people who you are disturbing.

17 Mr. Hays, go ahead. It was somewhat
18 distracting to me.

19 MR. HAYS: Of all the trips, and I'm trying
20 catch my numbers here.

21 Full development with everything 20 years from
22 now, we have numbers give, for instance, in the
23 afternoon peak. About 380 trips going in. About 390
24 coming out. We're saying of that 380, 390, obviously
25 some of those are going to be internal trips. Some

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1 are going to be trips where people are passing by, but
2 8 percent of the generated trips are going to go to
3 and from the neighborhood. We think that's going to
4 be around 60 going in and 60 going out. A total of
5 120. You've got multiple ways they're going to go,
6 stub streets they're going to go. A lot of it is
7 going to be from people in the neighborhood.

8 CHAIRMAN: Let me ask you one thing too.

9 With these stub streets, and maybe you stated
10 it and I wasn't quick enough to catch it. With these
11 stub streets coming out of what I would refer to as
12 Thoroughbred Acres, don't you feel like people in
13 Thoroughbred Acres are using these stub streets also
14 to exit Thoroughbred Acres?

15 MR. HAYS: Joe asked me that question. It's a
16 good question.

17 If I lived here, I could be more precise and
18 tell you who would come out and which direction and
19 everything.

20 The one thing I would caution is coming out.
21 You're heading away from downtown. So you would have
22 to have a destination to the south part of town
23 somewhere from Carter. So I'm not sure of all
24 destinations in the city, how many people in this
25 neighborhood are going to be going to and from the

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1 south direction there.

2 I think, yes, some of them will. I would ask
3 how they're going there now? Are they going down
4 Scherm? Are they taking one of the local streets and
5 making a left turn on Carter during rush hour? Are
6 they going up to the next traffic signal and turning
7 left? Some of those, yes, probably. They will have
8 as much impact on the people who live in this, who
9 will eventually live in this subdivision as vice
10 versa.

11 I don't think those are going to be huge
12 numbers because you're still going to come out and be
13 the signal. You're going to be wanting to make a left
14 turn that you can't make now from some other way.

15 CHAIRMAN: Thank you.

16 I think everybody has had the opportunity to
17 speak. I think we're at the point in time now where -

18 MR. ALLEN: Mr. Chairman, I have one quick
19 question.

20 CHAIRMAN: Absolutely.

21 MR. ALLEN: You mentioned the spur access. I
22 think what I'm hearing from the neighbors over in that
23 area is that they would like a more distinct barrier
24 between the residential area and the business area.
25 It seems like looking at the plan the own real area,

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1 the only real issue here is that one little spur up at
2 the end of Middleground. Is this an absolute
3 necessity for the project? In other words, it looks
4 like it's just one little access point. Is that a
5 necessity for that project to be successful or is that
6 just there was a spur there and it seemed like a
7 natural progression to join those streets?

8 CHAIRMAN: Mr. Sandidge, you can bring up
9 whoever you'd like.

10 MR. SANDIDGE: Well, I may have to bring up
11 somebody else.

12 Gary, you may be able to answer this question.

13 My understanding is is that when subdivisions
14 in the City of Owensboro and other cities are laid out
15 and when you reach the end of the development, the
16 current development, they stub in streets for the
17 purpose of connecting them in the future to other
18 developments that may be contiguous and develop at a
19 later time.

20 When we submitted this plan, Mr. Allen, we
21 submitted because the planning people here in
22 Owensboro require. That's what they want us to do to
23 make these neighbors flow together and be connected.
24 That's why we did that and that's why it appears as it
25 does.

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1 MR. ALLEN: I understand that. I was just
2 saying though from your perspective, from the
3 developer's perspective, is that stub being connected,
4 is that a necessity? Do you feel that like that's an
5 essential part of this project being successful or
6 being viable up there or is it you're just following
7 the directions that normally happen with the planning
8 and zoning?

9 MR. SANDIDGE: I don't know that I can answer
10 that.

11 Can you answer that?

12 MR. RINEY: Mr. Allen, we had a
13 pre-application meeting with the Planning Staff which
14 is a usual customary procedure. As Mr. Sandidge says,
15 the planning of this community and other areas, those
16 stub streets are required to be stubbed out for
17 connectivity. Either pedestrian or obviously
18 vehicular.

19 So when we met with Planning Staff, there are
20 a total of five around the perimeter of this property.
21 The requirement was that they needed to maintain that
22 connectivity from the planning concept. The one that
23 was eliminated was because of the large ditch and the
24 drainage feature there. It comes back to planning
25 features. It was not driven by a need by the

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1 development I guess is what I was saying. It was
2 driven because it was already planned to connect to
3 whatever was developed on this existing site.

4 MR. ALLEN: Thank you.

5 Gary, my question to you then would be: From
6 a planning perspective, is that little stub absolutely
7 necessary?

8 MR. NOFFSINGER: I think it's absolutely
9 necessary. Is it absolutely necessary for the success
10 of the business? No. But is it absolutely necessary
11 for connectivity and for the convenience of these
12 neighborhoods and based upon what the traffic
13 engineer, what their traffic model shows should
14 happen, I think it's absolutely critical. Because
15 their model is based upon these street stubbing. If
16 that street doesn't stub, then where does that divert
17 traffic? Then you start diverting traffic onto some
18 of these other stubs. I think in terms of planning
19 perspective it's absolutely critical.

20 CHAIRMAN: Does anybody else on the commission
21 have any questions?

22 (NO RESPONSE)

23 CHAIRMAN: Sir, we've got other people. We've
24 let everybody speak one time. If we start with you a
25 second time, then we need to give everybody a second

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1 time. I think the commission --

2 MR. DECKER: I have signatures of a petition
3 that --

4 CHAIRMAN: You may submit it to the
5 stenographer here and we will put it into the record.
6 Madison, how do we do that?

7 MR. SILVERT: Just as a reminder to the
8 Commission about the law regarding petitions. We
9 customarily accept them as exhibits. We not accept
10 them as evidence that should give any weight as to
11 whether or not this should or should not be approved,
12 but merely that the exhibit was presented at the
13 hearing.

14 CHAIRMAN: Thank you.

15 MR. DECKER: Could I say --

16 CHAIRMAN: No, sir. We've given everybody an
17 opportunity. I'm not going to start over a second
18 round with everybody else.

19 MR. DECKER: I didn't get to address the
20 zoning. I addressed the drainage.

21 CHAIRMAN: No, sir. We've given everybody a
22 chance.

23 Sir, go ahead.

24 MR. SILVERT: Could you state your name again
25 for the record, please.

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1 MR. DECKER: Richard Decker.

2 MR. SILVERT: Remind you that you've been
3 sworn.

4 MR. DECKER: I guess as far as the traffic
5 impact study, those are fine and okay, but they really
6 are just assumptions and projections and nobody really
7 knows how it's going to play out.

8 I guess the neighborhoods is concerned with
9 the Planning Commission, if we open that street stub
10 up at 2500 and that commercial traffic, for whatever
11 reason it doesn't play out as the traffic study
12 indicated, that we've got a mistake there that can't
13 be corrected. I guess the neighborhood is concerned
14 with we've got a 50/50 chance that he's either right
15 or he's wrong. If that stub is wrong for the
16 neighborhood, that is a negative impact that we can't
17 correct. What that does is throw traffic in the
18 neighborhood. It creates a safety issue because of
19 that. The property values are affected also.

20 I guess we just ask the Planning Commission to
21 step back and say, what if that is wrong and if that
22 is a negative impact how are we going to fix it?

23 Also I would like to also I should talk about
24 here that I would like to suggest that instead of a 6
25 foot solid element being a board fence, which as we

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1 all know maintenance issues of that. That a solid
2 brick wall be constructed. I know that's been kind of
3 shot down, but I would like to put that on record as
4 that is being requested by the whole neighborhood.
5 Thank you for the opportunity.

6 CHAIRMAN: Thank you very much.

7 MR. HOWARD: May I make one real quick
8 question? I promise to be brief.

9 CHAIRMAN: Mr. Howard needs to speak.

10 MR. BRIAN HOWARD: We had a letter submitted
11 to the office that I need to read into the record.

12 It was written to Mayor Payne dated August 3,
13 2010.

14 "I am writing concerning the August 12, 2010,
15 meeting related to a possible change of zoning for
16 undeveloped property that is bounded by Barron Drive,
17 Scherm Road and Thoroughbred Acres. I will not be
18 available to attend the public hearing; therefore I
19 will express my concerns by this correspondence which
20 I trust you will share with the Commissioners or
21 others who will act on the matter of rezoning.

22 "First - I am concerned about the water
23 drainage that the recent site grading has brought
24 about. The recent overnight heavy rain has shown that
25 a large volume of water will be dumped into the

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1 Thoroughbred Acres where Count Turf adjoins the
2 property being considered for zoning change. If this
3 situation is not corrected before granting rezoning,
4 there will be little incentive for it to be addressed
5 at all. Houses are threatened.

6 "Second - There is the matter of significant
7 traffic increase into Thoroughbred Acres via Count
8 Turf Drive. I am especially concerned about
9 commercial/truck traffic into Thoroughbred Acres.
10 Commercial traffic needs to be directed to Barron Road
11 and banned access into Thoroughbred Acres. An access
12 for private vehicles onto Ottawa Drive would give
13 options for private vehicles and divide traffic. As
14 with the water issue, this concern should be granted
15 prior to rezoning approval.

16 "Thank you for hearing my concern and sharing
17 it with others who will be considering the rezoning.

18 "Sincerely, Ronald F. Schulz.

19 CHAIRMAN: Thank you.

20 Have you spoken before?

21 MR. SILVERT: Could you state your name,
22 please?

23 MR. STEWART: John Stewart, 2545 Chant Court.

24 (JOHN STEWART SWORN BY ATTORNEY.)

25 MR. STEWART: I just like to go on the record

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1 to say that this should be tabled tonight for at least
2 30 days. All I've heard is suppositions and maybes.
3 Owensboro is typically built on this suppositions.
4 They put in a shopping center or whatever without any
5 consideration toward drainage or anything else. So
6 this needs to be straightened out before this is even
7 thought about again.

8 As far as ditches go, there's a ditch behind
9 my house. I live in the very corner of the Ellis
10 Estate and Thoroughbred Acres. I've got an easement
11 behind my house. I've been there 11 years and I've
12 been trying to get it cleared and nobody. I've called
13 everybody in Owensboro and nobody has addressed it.
14 The ditch that goes from my property towards Scherm
15 Road has never been cleaned out. If they have a
16 permanent ditch crew, that would be a wonderful
17 improvement for Owensboro. I just wanted that to be
18 stated on the record.

19 CHAIRMAN: Thank you very much.

20 Does anybody else from the Commission have any
21 questions?

22 (NO RESPONSE)

23 CHAIRMAN: Mr. Howard, I've sort of given
24 everybody an opportunity one time.

25 MR. HOWARD: I have one quick question.

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1 CHAIRMAN: We're not going to take any more.
2 We've reached the point that we've gone into
3 redundancy. I think we've pretty well done everything
4 and listened and has given everybody a single chance.

5 I think the Chair has reached a point where we
6 need to accept a motion on this issue.

7 MR. EVANS: Mr. Chairman, could I ask
8 Mr. Sandidge a question?

9 CHAIRMAN: Absolutely.

10 MR. EVANS: Are you at liberty to say what a
11 postponement of 30 days, what would it do to your
12 plans? Would it skew them in any way? Would it
13 jeopardize your deal?

14 MR. SANDIDGE: Yes, it certainly could because
15 we've got a time limitation to get the zoning either
16 done or not done. The time limitation is fast
17 approaching. If we table this for 30 days, that's
18 going to put us right up on the end of it. We need to
19 go on and get this done and decide it one way or the
20 other.

21 Let me just add. I understand where you may
22 be coming from. It seems to me that the purpose here
23 and the concerns that the residents have there, which
24 they're certainly legitimate concerns, what's being
25 done here is they want to hold us hostage in order to

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1 get Joe to do what he's already committed to do. It
2 just seems to me that's the purpose here. Again, we
3 have nothing to do with this drainage problem. When
4 the time comes, when the development plan is, if a
5 development plan is submitted on our behalf, we're
6 going to have to satisfy all the drainage
7 requirements. That's already been testified to. And
8 we will do that. But in the meantime, as I said
9 earlier, this is an incremental process for us. It
10 involves great expense. For us to go beyond this
11 tonight without knowing, then we're going to have to
12 go on and we would incur further expense without
13 knowing whether or not the property be rezoned or not.
14 That's why I'm expressing a degree of urgency under
15 this contract. Thank you.

16 CHAIRMAN: Thank you, Mr. Sandidge.

17 Does anybody on the Commission have a
18 suggestion or a question?

19 MR. PEDLEY: I have one.

20 I understand Mr. Sandidge's situation with him
21 client. Sometimes we have that. Someone else might
22 be looking at that land. Time is of the essence. I
23 understand that. I also understand the citizens
24 concern. Thoroughbred East area, if we do approve
25 this nothing can happen. It cannot move further. No

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1 drainage, no grade work, no nothing until the
2 development plan.

3 Is that right, Mr. Noffsinger?

4 MR. NOFFSINGER: That is correct.

5 MR. PEDLEY: As far as the Thoroughbred East
6 community I can see no harm in approving this zoning
7 change. I understand Mr. Sandidge and his client.
8 I've been in the same situation before.

9 With that, Mr. Chairman, I think I'm ready for
10 a motion.

11 CHAIRMAN: Your motion is, Mr. Pedley?

12 MR. PEDLEY: Are you ready?

13 CHAIRMAN: Yes, sir.

14 MR. PEDLEY: I want to make a motion for
15 approval based on Staff Recommendations with the
16 Continues, on the General Conditions 1 through 7;
17 Phase I Condition 1 through 2; Phase II Condition 1
18 through 6; and Findings of Fact 1 through 6.

19 CHAIRMAN: We had this additional condition
20 that Mr. Sandidge has agreed to about notifying all of
21 the property owners that were notified in this
22 hearing. So they will be duly notified when we have
23 the next hearing that you all can be there. That
24 hearing will be only after Mr. Schepers signs off on
25 the drainage situation. It's up to --

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1 MR. SANDIDGE: And the county.

2 CHAIRMAN: And the county. I'm sorry, I
3 didn't want to give you -- you were here and we
4 greatly appreciate you being here.

5 MR. PEDLEY: That condition is included in my
6 motion.

7 CHAIRMAN: I hope all the homeowners realize
8 that until all these things, all your concerns, I mean
9 they're our concerns too. I sympathize with each and
10 every one of you on this. This thing cannot move
11 forward until the drainage situation is taken care of.
12 The city is taking on a double burden. They are also
13 doing the work. Then Mr. Schepers or the county will
14 sign off on it.

15 MR. PEDLEY: Mr. Chairman, Mr. Noffsinger has
16 an issue before we have a second on this.

17 MR. NOFFSINGER: Yes, sir.

18 Mr. Pedley, would you consider reading the
19 conditions and findings of fact into the record
20 because it has been quite a while since those were
21 read into the record by Staff? I think it would be
22 good to make those clear as to what your conditions
23 are and your findings of fact are. I know it's a lot
24 of reading.

25 MR. PEDLEY: Under Conditions:

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1 General Conditions:

2 1. Surety for roadway improvements for each
3 individual phase will be posted at the time of final
4 platting and must be installed prior to the issuance
5 of any occupancy permit for that phase of development
6 except for the left-turn lane on Barron Drive at
7 Access 1 as stated in Phase 1, Item 2 conditions.

8 2. Any commercial development beyond the
9 25,000 square foot threshold as established in the
10 Traffic Impact Study will trigger the need for all
11 roadway improvements to be completed.

12 3. Provide a minimum of 700 feet of spacing
13 between the stop bar on Barron Drive at the Carter
14 Road intersection and Site Access 2.

15 4. Provide a minimum of 250 foot spacing
16 between any site access points.

17 5. Connect internal sidewalks to the existing
18 sidewalk system.

19 6. Submission and approval of a final
20 development plan.

21 7. Due to the proximity to residential
22 structures, all lighting for the subject property
23 shall be directed away from the residential structures
24 to reduce the impact of the commercial light and glare
25 onto the residential property.

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1 Phase I Conditions:

2 1. Install Access 1 to serve as the main
3 access to Phase 1 development with the first final
4 plat.

5 2. On Barron Drive at the intersection of
6 Site Access 1, install an eastbound left-turn lane per
7 KYTC specifications when the 125th lot is final
8 platted.

9 Phase II Conditions

10 1. Install a traffic signal at the Carter
11 Road and Barron Drive intersection if the signal has
12 not been installed by others.

13 2. Install a northbound right-turn lane on
14 Carter Road at Barron Drive per KYTC specifications.

15 3. Extend the westbound left-turn lane on
16 Barron Drive at Carter Road from 125 feet to 225 feet
17 or as required by KYTC.

18 4. Provide sufficient left-turn lane capacity
19 for eastbound traffic on Barron Drive at Site Access 2
20 per KYTC specifications.

21 5. Widen Barron Drive from the Carter Road
22 intersection to Site Access 1 (the easternmost site
23 access) to accommodate three 11-foot lanes with a
24 center, two-way left-turn lane.

25 6. Review with local officials the need for

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1 additional traffic control at Tamarack Road and Barron
2 Drive.

3 FINDINGS OF FACT:

4 1. Staff recommends approval because the
5 proposal is in compliance with the community's adopted
6 Comprehensive Plan;

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

10 3. The use as a commercial center will be
11 nonresidential in nature and use;

12 4. The proposal is a logical expansion of
13 existing B-4 zoning located across Barron Drive to the
14 east;

15 5. At 37.648 acres, the proposal exceeds the
16 1.5 acre minimum recommended in the Comprehensive
17 Plan; and,

18 6. With roadway improvements as required by
19 the traffic impact study and the reviewing agencies,
20 the expansion should not overburden the capacity of
21 roadways and other necessary urban services that are
22 available in the affected area.

23 MR. NOFFSINGER: Did you get the notification
24 of adjoining property owners?

25 MR. PEDLEY: With the notification of

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1 adjoining property owners for the preliminary final
2 development plan.

3 MR. NOFFSINGER: As per the same process that
4 was used for the zoning change.

5 MR. PEDLEY: As same the process as for the
6 zoning change.

7 MR. NOFFSINGER: Yes.

8 CHAIRMAN: Thank you, Mr. Pedley, for your
9 motion and your reading skills. You're very good.

10 Mr. Pedley has made a motion. I assume we all
11 remember Mr. Pedley's motion for approval. Do we have
12 a second.

13 MS. MOORMAN: Second.

14 CHAIRMAN: We've got a second by Ms. Moorman.
15 All in favor raise your right hand.

16 (BOARD MEMBERS TIM ALLEN, IRVIN ROGERS, FATHER
17 HOSTETTER, DREW KIRKLAND, WARD PEDLEY, KEITH EVANS AND
18 RITA MARTIN RESPONDED AYE.)

19 CHAIRMAN: All opposed.

20 (BOARD MEMBER MARTIN HAYDEN RESPONDED NAY.)

21 CHAIRMAN: We have seven for and one opposed.
22 The motion carries.

23 Next item, please.

24 ITEM 11

25 Portions of 2401-2501 Blocks of Barron Drive, 3.575
acres

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1 Consider zoning change: From A-U Urban Agriculture to
R-3MF Multi-Family Residential

2 Applicant: Massie-Clarke Development Company, James
C. Ellis Estate

3

4 PLANNING STAFF RECOMMENDATIONS

5 The Planning Staff recommends approval subject
6 to the condition and findings of fact that follow:

7 CONDITIONS:

8 General Conditions:

9 1. Surety for roadway improvements for each
10 individual phase will be posted at the time of final
11 platting and must be installed prior to the issuance
12 of any occupancy permit for that phase of development
13 except for the left-turn lane on Barron Drive at
14 Access 1 as stated in Phase 1, Item 2 conditions.

15 2. Any commercial development beyond the
16 25,000 square foot threshold as established in the
17 Traffic Impact Study will trigger the need for all
18 roadway improvements to be completed.

19 3. Provide a minimum of 700 feet of spacing
20 between the stop bar on Barron Drive at the Carter
21 Road intersection and Site Access 2.

22 4. Provide a minimum of 250 foot spacing
23 between any site access points.

24 5. Connect internal sidewalks to the existing
25 sidewalk system.

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1 6. Submission and approval of a final
2 development plan.

3 7. Due to the proximity to residential
4 structures, all lighting for the subject property
5 shall be directed away from the residential structures
6 to reduce the impact of the commercial light and glare
7 onto the residential property.

8 Phase I Conditions:

9 1. Install Access 1 to serve as the main
10 access to Phase 1 development with the first final
11 plat.

12 2. On Barron Drive at the intersection of
13 Site Access 1, install an eastbound left-turn lane per
14 KYTC specifications when the 125th lot is final
15 platted.

16 Phase II Conditions

17 1. Install a traffic signal at the Carter
18 Road and Barron Drive intersection if the signal has
19 not been installed by others.

20 2. Install a northbound right-turn lane on
21 Carter Road at Barron Drive per KYTC specifications.

22 3. Extend the westbound left-turn lane on
23 Barron Drive at Carter Road from 125 feet to 225 feet
24 or as required by KYTC.

25 4. Provide sufficient left-turn lane capacity

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1 for eastbound traffic on Barron Drive at Site Access 2
2 per KYTC specifications.

3 5. Widen Barron Drive from the Carter Road
4 intersection to Site Access 1 (the easternmost site
5 access) to accommodate three 11-foot lanes with a
6 center, two-way left-turn lane.

7 6. Review with local officials the need for
8 additional traffic control at Tamarack Road and Barron
9 Drive.

10 FINDINGS OF FACT:

11 1. Staff recommends approval because the
12 proposal is in compliance with the community's adopted
13 Comprehensive Plan;

14 2. The subject property is located in an
15 Urban Residential Plan Area, where multi-family
16 residential uses are appropriate in limited locations;

17 3. The use of the property for multi-family
18 residential development meets the "urban residential
19 development" criteria of the Comprehensive Plan by
20 providing a variety of housing types suitable to a
21 variety of people;

22 4. Sanitary sewer services is available for
23 service to the subject property; and,

24 5. Although the R-3MF portion does not have
25 direct frontage on Barron Drive which is classified as

1 a collector roadway, the Comprehensive Plan
2 established "major-street" oriented to include access
3 through adjoining existing or new uses of the same or
4 higher intensity of the subject property.

5 MR. HOWARD: We would like to enter the Staff
6 Report into the record as Exhibit I.

7 CHAIRMAN: We definitely have somebody
8 representing the applicant.

9 MR. SANDIDGE: Yes, we do, Mr. Chairman.
10 We're here to answer any questions about this
11 application.

12 CHAIRMAN: Thank you, Mr. Sandidge.

13 Are there any other questions of the applicant
14 or any questions regarding this phase of this
15 application?

16 (NO RESPONSE)

17 CHAIRMAN: If there are no questions, are
18 there any questions from the Commission?

19 MR. NOFFSINGER: I just have one statement and
20 that is if you choose to approve this rezoning that
21 the motion be made to approve with the conditions as
22 stated in the previous motion and that you state the
23 findings of fact, you read each findings of fact
24 because they are somewhat different.

25 CHAIRMAN: Are there any other questions from

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1 the Staff or the Commission?

2 (NO RESPONSE)

3 CHAIRMAN: Mr. Sandidge.

4 MR. SANDIDGE: That was the same notification
5 requirement?

6 MR. NOFFSINGER: Yes, sir.

7 MR. SANDIDGE: Thank you.

8 MR. NOFFSINGER: For the preliminary
9 subdivision plat final development plan at your next
10 stage.

11 MR. SANDIDGE: Correct. As I said before, I
12 wanted to be sure.

13 MR. NOFFSINGER: As per the rezoning. The
14 same process you used in the rezoning process you'll
15 use the same process for the next step.

16 MR. SANDIDGE: Thank you.

17 CHAIRMAN: All right. The Chair is then ready
18 for a motion.

19 MR. PEDLEY: Mr. Chairman, I make a motion for
20 approval again based on:

21 FINDINGS OF FACT:

22 1. Staff recommends approval because the
23 proposal is in compliance with the community's adopted
24 Comprehensive Plan;

25 2. The subject property is located in an

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1 Urban Residential Plan Area, where multi-family
2 residential uses are appropriate in limited locations;

3 3. The use of the property for multi-family
4 residential development meets the "urban residential
5 development" criteria of the Comprehensive Plan by
6 providing a variety of housing types suitable to a
7 variety of people;

8 4. Sanitary sewer services is available for
9 service to the subject property; and,

10 5. Although the R-3MF portion does not have
11 direct frontage on Barron Drive which is classified as
12 a collector roadway, the Comprehensive Plan
13 established "major-street" oriented to include access
14 through adjoining existing or new uses of the same or
15 higher intensity of the subject property.

16 CHAIRMAN: Thank you.

17 Do we also have the mailing in there?

18 MR. NOFFSINGER: We've got the same conditions
19 as the previous motion.

20 CHAIRMAN: Thank you, Mr. Pedley. And that is
21 a motion for approval. Do we have a second?

22 MR. ROGERS: Second.

23 CHAIRMAN: Second by Mr. Rogers. All in favor
24 raise right hand.

25 (BOARD MEMBERS TIM ALLEN, IRVIN ROGERS, FATHER

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1 HOSTETTER, DREW KIRKLAND, WARD PEDLEY, KEITH EVANS AND
2 RITA MARTIN RESPONDED AYE.)

3 CHAIRMAN: All opposed.

4 (BOARD MEMBER MARTIN HAYDEN RESPONDED NAY.)

5 CHAIRMAN: We have seven to one. The motion
6 passes.

7 Next item, please.

8 ITEM 12

9 Portions of 2401-2501 Blocks of Barron Drive, 40.457
acres

10 Consider zoning change: From A-U Urban Agriculture to
R-1C Single-Family Residential

11 Applicant: Massie-Clarke Development Company, Inc. ;
James C. Ellis Estate

12

13 PLANNING STAFF RECOMMENDATIONS

14 The Planning Staff recommends approval subject
15 to the conditions and findings of fact that follow:

16 CONDITIONS:

17 General Conditions:

18 1. Surety for roadway improvements for each
19 individual phase will be posted at the time of final
20 platting and must be installed prior to the issuance
21 of any occupancy permit for that phase of development
22 except for the left-turn lane on Barron Drive at
23 Access 1 as stated in Phase 1, Item 2 conditions.

24 2. Any commercial development beyond the
25 25,000 square foot threshold as established in the

1 Traffic Impact Study will trigger the need for all
2 roadway improvements to be completed.

3 3. Provide a minimum of 700 feet of spacing
4 between the stop bar on Barron Drive at the Carter
5 Road intersection and Site Access 2.

6 4. Provide a minimum of 250 foot spacing
7 between any site access points.

8 5. Connect internal sidewalks to the existing
9 sidewalk system.

10 6. Submission and approval of a final
11 development plan.

12 Phase I Conditions:

13 1. Install Access 1 to serve as the main
14 access to Phase 1 development with the first final
15 plat.

16 2. On Barron Drive at the intersection of
17 Site Access 1, install an eastbound left-turn lane per
18 KYTC specifications when the 125th lot is final
19 platted.

20 Phase II Conditions

21 1. Install a traffic signal at the Carter
22 Road and Barron Drive intersection if the signal has
23 not been installed by others.

24 2. Install a northbound right-turn lane on
25 Carter Road at Barron Drive per KYTC specifications.

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1 3. Extend the westbound left-turn lane on
2 Barron Drive at Carter Road from 125 feet to 225 feet
3 or as required by KYTC.

4 4. Provide sufficient left-turn lane capacity
5 for eastbound traffic on Barron Drive at Site Access 2
6 per KYTC specifications.

7 5. Widen Barron Drive from the Carter Road
8 intersection to Site Access 1 (the easternmost site
9 access) to accommodate three 11-foot lanes with a
10 center, two-way left-turn lane.

11 6. Review with local officials the need for
12 additional traffic control at Tamarack Road and Barron
13 Drive.

14 FINDINGS OF FACT:

15 1. Staff recommends approval because the
16 proposal is in compliance with the community's adopted
17 Comprehensive Plan;

18 2. The subject property is located in an
19 Urban Residential Plan Area, where single-family
20 residential uses are appropriate in limited locations;

21 3. The use of the property for single-family
22 residential development meets the "urban residential
23 development" criteria of the Comprehensive Plan; and,

24 4. Sanitary sewer services is available for
25 service to the subject property.

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

3 CHAIRMAN: Obviously we have representation.
4 Are there any questions from the audience?

5 Yes, ma'am.

6 MR. SILVERT: Would you state your name,
7 please?

8 MS. GRAHAM: Crystal Graham.

9 (CRYSTAL GRAHAM SWORN BY ATTORNEY.)

10 MS. GRAHAM: My concern is where Chippewa
11 Drive is. I live on 2944. It's the stub of
12 Chippewa Drive. I've never heard that being presented
13 in his application.

14 My first and foremost concern is the decline
15 of my value of property. My also other concern is the
16 traffic to coming in to Chippewa. I feel that there
17 is no need to add a street right there when you have
18 access to Scherm Road and Barron Drive. The applicant
19 can go from anywhere if they decide to do a
20 single-family home or whatever it is they put there.

21 Also I would prefer a single-family home. It
22 compliments both sides of the neighborhood, the
23 Reservation and Thoroughbred Acres. Again, I really
24 do not see a point to put a through road right there
25 whenever you're able to access Scherm Road and Barron

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1 Drive with no problem.

2 CHAIRMAN: Thank you very much.

3 MS. GRAHAM: Thank you.

4 CHAIRMAN: Mr. Noffsinger.

5 MR. NOFFSINGER: Mr. Chairman, just to make
6 sure that this lady understands.

7 The zoning change here is R-1C which is
8 single-family residential. The proposal would be to
9 build single-family homes on that property.

10 MS. GRAHAM: Which is located right there?

11 MR. NOFFSINGER: Which is, right, located
12 behind you.

13 Secondly, again, we cannot address property
14 values. That is for an appraiser to do. This board
15 does not have the expertise to do that.

16 Then the issue of the streets connecting.
17 This would be a street that connects two
18 neighborhoods. It would provide pedestrian, bicycle
19 as well as vehicular traffic. I would think you would
20 see very little vehicular traffic here other than
21 what's on that cul-de-sac, proposed cul-de-sac, and
22 coming out of there perhaps or visiting neighbors.
23 It's not a through street. I think your traffic
24 impact will be very minimal. I think the traffic
25 engineer will support me in saying that that's for

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1 sustainable neighborhoods and sustainable planning so
2 that these neighborhoods connect and you have that
3 neighborhood type atmosphere and connectivity.

4 CHAIRMAN: Are there any other questions?

5 Yes, ma'am.

6 MR. SILVERT: Could you state your name again
7 for the record and you have been sworn.

8 MS. BELL: Ashley Bell.

9 It just had a question. It might be too early
10 to tell, but I was just wondering who the contractor
11 would be where the houses? Like would it be Jagoe or
12 Thompson or is it too soon to know?

13 CHAIRMAN: We can take care of that.

14 Mr. Sandidge.

15 MR. SANDIDGE: Yes, it will be Jagoe or
16 Thompson. We don't know. We don't have any contract
17 about that in place at this time, but it would,
18 obviously it would be, likely be a local builder.

19 CHAIRMAN: Thank you, Mr. Sandidge.

20 Are there any further questions?

21 (NO RESPONSE)

22 CHAIRMAN: If not the Chair is ready for a
23 motion.

24 MR. PEDLEY: Are all the conditions the same?

25 MR. NOFFSINGER: All the condition are the

1 same. We just need to make sure we read the findings
2 of fact into the record and previous conditions.

3 CHAIRMAN: Yes, ma'am.

4 MS. DECKER: Teresa Decker.

5 (TERESA DECKER SWORN BY ATTORNEY.)

6 MS. DECKER: I just have one quick question.
7 Where are the appeal forms?

8 MR. NOFFSINGER: On the back table. Right
9 back here by the glass.

10 MS. DECKER: Thank you.

11 CHAIRMAN: Are there any other questions?

12 (NO RESPONSE)

13 MR. SILVERT: If they're not there, they're
14 also available on-line at iompc.org and in the office.

15 CHAIRMAN: If there are no further questions,
16 the Chair is ready for a motion.

17 MR. PEDLEY: Mr. Chairman, I make a motion for
18 approval based on Staff Recommendations with all
19 conditions as previously read into the record with the
20 FINDINGS OF FACT:

21 1. Staff recommends approval because the
22 proposal is in compliance with the community's adopted
23 Comprehensive Plan;

24 2. The subject property is located in an
25 Urban Residential Plan Area, where single-family

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1 residential uses are appropriate in limited locations;

2 3. The use of the property for single-family
3 residential development meets the "urban residential
4 development" criteria of the Comprehensive Plan; and,

5 4. Sanitary sewer services is available for
6 service to the subject property.

7 CHAIRMAN: Is that a motion for approval?

8 MR. PEDLEY: That's a motion for approval.

9 CHAIRMAN: Motion for approval by Mr. Pedley.

10 MR. ROGERS: Second.

11 CHAIRMAN: Second by Mr. Rogers. All in favor
12 raise your right hand.

13 (BOARD MEMBERS TIM ALLEN, IRVIN ROGERS, FATHER
14 HOSTETTER, DREW KIRKLAND, WARD PEDLEY, KEITH EVANS AND
15 RITA MARTIN RESPONDED AYE.)

16 CHAIRMAN: All in favor there's seven. All
17 opposed.

18 (BOARD MEMBER MARTIN HAYDEN RESPONDED NAY.)

19 CHAIRMAN: Seven to one. The motion carries.

20 Next item, please.

21 Related Item:

22 ITEM 12A

23 Massie-Clarke Development Company, Inc., 81.68 acres
Consider approval of preliminary development plan.

24 Applicant: Massie-Clarke Development, Inc.; James C.
Ellis Estate

25

1 MR. NOFFSINGER: Mr. Chairman, this plan has
2 been reviewed by the Planning Staff and Engineering
3 Statue. It takes into account the preliminary street
4 concepts. There's no design information on here.
5 There's no drainage. It's not required on a
6 preliminary development plan. It just establishes the
7 general street layout as well as where any buffer
8 requirements might be. It also aids the State
9 Transportation Department as well as local officials
10 in determining what off-site roadway improvements need
11 to be made and it's ready for consideration.

12 CHAIRMAN: Are there any questions?

13 Yes, sir.

14 MR. SILVERT: State your name again, and
15 you've been sworn in.

16 MR. HIGHSMITH: Wayne Highsmith.

17 One last time. On the previous vote for the
18 commercial I didn't hear the condition for the minimum
19 fence improvement. I wanted to make sure that was on
20 record. That they have agreed to that when this plan
21 is approved.

22 The second thing is I would ask once again to
23 reconsider that spur at 2500 Middleground Drive
24 because I don't believe it's a good thing to create a
25 continuity between a business and a residential. I

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1 would ask that that be considered to be closed to
2 separate a business and a residential area. Thank
3 you.

4 CHAIRMAN: His question.

5 MR. NOFFSINGER: The condition on the
6 screening I don't think in terms of a vinyl fence that
7 Mr. Sandidge alluded to was not included as a
8 condition on the previous zoning changes is my
9 recollection. Certainly that could be a stipulation
10 here on the preliminary development plan if the
11 applicant is agreeable.

12 MR. SANDIDGE: Yes, we would do that.

13 MR. NOFFSINGER: Six foot high vinyl fence.

14 MR. SANDIDGE: We're talking about where?

15 MR. NOFFSINGER: It would be along the area as
16 shown as a 10 foot buffer per OMPC requirements. That
17 would be where the commercial would adjoin the
18 residential on Middleground.

19 MR. SANDIDGE: Correct.

20 CHAIRMAN: Mr. Highsmith, satisfactory?

21 MR. HIGHSMITH: Get what we can get.

22 CHAIRMAN: I will record that as a yes.

23 If there are no further questions, the Chair
24 is a ready for a motion.

25 MS. MOORMAN: I make a motion to approve the

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1 Massie-Clarke Development Company.

2 MR. SILVERT: Do you have any conditions on
3 that? He previously stated that he would -- if a
4 condition were proposed to the applicant, to add a
5 6-foot high continuous element.

6 MS. MOORMAN: Okay. Yes, with the condition
7 that a 6 foot buffer vinyl fence will be along the
8 area that separates Middleground from the business
9 section or the commercial section.

10 CHAIRMAN: That is a motion for approval?

11 MS. MOORMAN: Motion for approve.

12 CHAIRMAN: Thank you. The Chair is ready for
13 a second.

14 MR. PEDLEY: Second.

15 CHAIRMAN: A second by Mr. Pedley. All in
16 favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: That motion carries unanimously.

19 One last comment. I want to thank the
20 neighbors of Thoroughbred Acres. We understand your
21 concerns. I appreciate you being here. I appreciate
22 the manner in which you all conducted your concern.
23 We appreciate that very, very much. It was handled
24 very well. I would say nothing but thank you. I can
25 assure you that we will follow up on exactly what

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1 we've told you we will do and Mr. Schepers.

2 Mr. Schepers, I want to thank him tremendously
3 for being here and represented the effort of the city
4 to correct this problem ahead of time. I certainly
5 appreciate you being here. It helped us dramatically
6 in this situation.

7 With that the Chair is ready for one final
8 motion.

9 FATHER LARRY: Move to adjourn.

10 CHAIRMAN: Motion to adjourn by Father Larry.
11 Is there a second?

12 MR. ALLEN: Second.

13 CHAIRMAN: Second by Mr. Allen. All in favor
14 raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: We are adjourned.

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1 STATE OF KENTUCKY)

)SS: REPORTER'S CERTIFICATE

2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
 4 for the State of Kentucky at Large, do hereby certify
 5 that the foregoing Owensboro Metropolitan Planning
 6 Commission meeting was held at the time and place as
 7 stated in the caption to the foregoing proceedings;
 8 that each person commenting on issues under discussion
 9 were duly sworn before testifying; that the Board
 10 members present were as stated in the caption; that
 11 said proceedings were taken by me in stenotype and
 12 electronically recorded and was thereafter, by me,
 13 accurately and correctly transcribed into the
 14 foregoing 150 typewritten pages; and that no signature
 15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
 17 31st day of AUGUST, 2010.

18

19

20 LYNNETTE KOLLER FUCHS
 OHIO VALLEY REPORTING SERVICES
 21 202 WEST THIRD STREET, SUITE 12
 22 OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 19, 2010

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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