

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 FEBRUARY 9, 2006

3 * * * * *

4 The Owensboro Metropolitan Planning

5 Commission met in regular session at 6:00 p.m. on

6 Thursday, February 9, 2006, at City Hall, Commission

7 Chambers, Owensboro, Kentucky, and the proceedings

8 were as follows:

9 MEMBERS PRESENT: Drew Kirkland, Chairman
Gary Noffsinger
10 Dave Appleby
Jimmy Gilles
11 Scott Jagoe
Irvin Rogers
12 Tim Miller
Judy Dixon
13 Dr. Bothwell
Madison Silvert
14 Attorney
Stewart Elliott,
15 Attorney

16 * * * * *

17 CHAIRMAN: I would like welcome everyone
18 to the February 9, 2006, Owensboro Metropolitan
19 Planning Commission meeting.

20 Would you please rise. Our invocation and
21 pledge of allegiance will be given by Mr. Gary
22 Noffsinger.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Our first order of business is
25 to consider the minutes of the January 12, 2006

1 meeting. Are there any additions, corrections?

2 (NO RESPONSE)

3 CHAIRMAN: If not the chair is ready for a
4 motion.

5 MS. DIXON: Move to approve.

6 CHAIRMAN: Motion for approval by Ms.
7 Dixon.

8 DR. BOTHWELL: Second.

9 CHAIRMAN: Second by Dr. Bothwell. All in
10 favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please, Mr. Noffsinger.

14 -----

15 ZONING CHANGES - CITY

16 ITEM 2

17 1433 1/2 West Fourth Street, 0.184 acres
18 Consider zoning change: From R-4DT Inner-City
19 Residential to B-4 General Business
Applicant: Rose Hayden

20 MR. ELLIOTT: State your name, please.

21 MR. HOWARD: Brian Howard.

22 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

23 PLANNING STAFF RECOMMENDATIONS

24 Staff recommends approval because the
25 proposal is in compliance with the community's adopted

1 Comprehensive Plan. The conditions and findings of
2 fact that support this recommendation include the
3 following:

4 Conditions:

5 1. No new access along West Fourth Street
6 shall be permitted. The expansion of the existing
7 drive on West Fourth Street shall be to the west;

8 2. A ten foot landscape easement with a
9 six foot high continuous element with a tree every 40
10 linear feet shall be installed to the west and north
11 property lines where the subject property adjoins
12 residentially zoned property; and,

13 3. Submission and approval of a
14 consolidation plat to join the subject property and
15 the existing auto sales lot to the east.

16 Findings of Fact:

17 1. The subject property is located in a
18 Central Residential Plan Area where general business
19 uses are appropriate in limited locations;

20 2. The subject property is located
21 immediately west of an existing B-4 General Business
22 zone and use; and,

23 3. The logical expansion of the B-4 zone
24 and use will not significantly increase the extent of
25 the zoning within the area and will not overburden

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

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

5 CHAIRMAN: Are there any comments or
6 questions?

7 (NO RESPONSE)

8 CHAIRMAN: If not the chair is ready for a
9 motion.

10 DR. BOTHWELL: Motion for approval based
11 on Conditions 1 through 3 and Findings of Fact 1
12 through 3.

13 CHAIRMAN: Motion for approval by Dr.
14 Bothwell.

15 MS. DIXON: Second.

16 CHAIRMAN: Second by Ms. Dixon. All in
17 favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item, please.

21 ITEM 3

22 304 East 25th Street, 0.95 +/- acres
23 Consider zoning change: From B-4 General Business
24 to B-5 Business/Industrial
Applicant; Adams Motor Sales, Lindy L. Mercer & Abbie
C. Mercer Revocable Trust

25 PLANNING STAFF RECOMMENDATIONS

Ohio Valley Reporting
(270) 683-7383

1 Staff recommends approval because the
2 proposal is in compliance with the community's adopted
3 Comprehensive Plan. The conditions and findings of
4 fact that support this recommendation include the
5 following:

6 Conditions:

7 1. If outdoor storage occurs, a six foot
8 high solid wall or fence shall be constructed to
9 provide required screening; and,

10 2. No new access to J.R. Miller Boulevard
11 shall be permitted.

12 Findings of Fact:

13 1. The subject property is located within
14 a Business/Industrial Plan Area, where general
15 business and light industrial uses are appropriate in
16 general locations;

17 2. The subject property lies within an
18 existing area of business and light industrial zones;

19 3. The Comprehensive Plan provides for
20 the continuance of mixed use areas; and,

21 4. The proposed land use for the subject
22 property is in compliance with the criteria for a
23 Business/Industrial Plan Area and a B-5
24 Business/Industrial zoning classification.

25 MR. HOWARD: We would like to enter the

1 Staff Report as Exhibit B.

2 CHAIRMAN: Are there any questions?

3 (NO RESPONSE)

4 CHAIRMAN: If not the chair is ready for a
5 motion.

6 MS. DIXON: Move to approve based upon
7 Planning Staff Recommendations and Findings of Fact 1
8 through 4 and subject to Conditions 1 and 2.

9 CHAIRMAN: Motion for approval by Ms.
10 Dixon.

11 MR. MILLER: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 -----

18 ZONING CHANGES - COUNTY

19 ITEM 4

20 4619 Countryside Drive, .0556 acres
21 Consider zoning change: From R-1B Single-Family
22 Residential to R-2MF Multi-Family Residential
Applicant: John M. Wells

23 PLANNING STAFF RECOMMENDATIONS

24 Staff recommends approval because the
25 proposal is in compliance with the community's adopted

Ohio Valley Reporting
(270) 683-7383

1 Comprehensive Plan. The findings of fact that support
2 this recommendation include the following:

3 Findings of Fact:

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

7 2. Sanitary sewer service is currently
8 available to the subject property;

9 3. There is an R-2MF zoning
10 classification located immediately south of the
11 subject property; and,

12 4. The expansion of the R-2MF zone should
13 not overburden the capacity of roadways and other
14 necessary urban services that are available in the
15 affected area.

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

18 CHAIRMAN: Are there any questions?
19 Step to the microphone, please.

20 MR. ELLIOTT: State your name, please.

21 MR. WILLIS: My name is David Willis. I
22 own the house at 4613 Countryside Drive directly
23 beside that property.

24 (MR. DAVID WILLIS SWORN BY ATTORNEY.)

25 MR. WILLIS: I feel that a four unit

1 dwelling, four units is going to be a little more than
2 what that particular piece of property can stand.
3 There's a water consideration with some drainage
4 problems that we've had over time. If they build up
5 the property, you know, we'd have some problems with
6 that. I just want it to be known that there is some
7 considerations. I'm not sure of the process. I
8 wanted to let you know my concerns.

9 CHAIRMAN: If you'll take a seat, we'll
10 have the applicant come to the mike and address those.

11 Do we have somebody representing the
12 applicant?

13 MR. ELLIOTT: State your name, please.

14 MR. WELLS: Darren Wells.

15 (MR. DARREN WELLS SWORN BY ATTORNEY.)

16 CHAIRMAN: Mr. Wells, did you hear his
17 questions? One regarding draining and another one
18 regarding the density of the property.

19 MR. WELLS: Yes. There is a major
20 drainage ditch on the back line of the property. I do
21 know that. That's where the water is shed to. As far
22 as I know, there is no drainage problem back there at
23 this time.

24 The density problem I really wouldn't know
25 how to address that.

1 CHAIRMAN: The density is something that
2 we take care. Let me have one of the staff members
3 address that, please, or Mr. Noffsinger.

4 MR. NOFFSINGER: Mr. Wells, what type of
5 unit in terms of is this going to be a single building
6 with four dwelling units in it?

7 MR. WELLS: Yes. Be a single building
8 with four dwellings. Kind of up-scale four-plex.

9 MR. NOFFSINGER: You realize that you will
10 need to obtain building permits for the development as
11 well as submit a site plan for the building
12 inspector's review and the county engineer's review
13 for drainage?

14 MR. WELLS: Yes.

15 MR. NOFFSINGER: Thank you.

16 CHAIRMAN: Mr. Willis, did that seem to
17 answer your questions?

18 MR. WILLIS: I have some sworn affidavits
19 by a few different people in the past that states that
20 - - I know that my yard stays pretty much wet all the
21 time. I have some, like I said, some statements that
22 said that there's been a problem at the subdivision
23 with drainage. Like I said, I'm afraid that if they
24 build it up or do any building, of course, that's
25 going to make me even have more water.

1 CHAIRMAN: Mr. Willis, do you understand
2 that before Mr. Wells will be allowed to build
3 anything that it has to be approved by the county
4 engineer?

5 MR. WILLIS: Yes, sir. I was aware of
6 that. I also through reading some of this paperwork
7 in the past have found that engineers have worked with
8 this before and I guess really have never solved the
9 problem. I was just kind of looking out for my best.
10 No that it's not possible.

11 CHAIRMAN: Very, very possibly after the
12 engineers survey this property, Mr. Wells will be
13 responsible for draining that property. If there is a
14 drainage ditch to the back, he will have to submit a
15 plan to the engineer to remove all the water from the
16 property with that without impeding you all. So very
17 possibly when this is finished, due to the drainage
18 and the work of the county engineer, your situation
19 could be improved. It will be improved form the
20 standpoint of Mr. Wells' property towards yours.
21 Other property that drains to yours, will not be
22 helped by this, but Mr. Wells will definitely meet the
23 criteria where he will not shed water.

24 MR. WILLIS: I see. I guess finally the
25 fact is and I guess it's of my concern only, but we

1 bought the house in the subdivision that's
2 predominately single-family units. There's a few
3 other duplexes. There's 18 other duplexes in that
4 area. They don't seem to be on a lot that is much
5 smaller than the lot that he propose is a four-plex.
6 It just seems to me, you know, I have a seven foot
7 area between houses and that's a concern to me too. I
8 know that the property value 10 years down the road
9 when we should be appreciating, or 15, it will be
10 depreciating because, you know, characteristically
11 rental properties aren't as well kept as a residential
12 unit.

13 CHAIRMAN: Well, I would have Mr.
14 Noffsinger address the density as far as the criteria
15 that they have to meet on that.

16 MR. NOFFSINGER: Back to the draining, if
17 I may. I will ask Jim Mischel. Jim is the building
18 administrator for the City of Owensboro and Daviess
19 County. I will ask him to make sure prior to the
20 issuance of the building permit that he makes contact
21 with Sinan Rayyan, he's the county engineer, and
22 discuss the drainage issue. I'm sure Mr. Wells will
23 be required to do that as well.

24 In terms of density, right now you could
25 build one single-family home on the property. That

1 home could be 1,500 square feet. It could be 6,000
2 square feet. In terms of the drainage, it's probably
3 not going to make that much difference whether it's a
4 four-plex or a single-family home, but you are right.
5 You are altering the density in terms of the number of
6 dwelling units you can have on this property by
7 rezoning it to a multi-family zone.

8 I will state for the record that property
9 to the south of the subject property is currently
10 zoned R-2MF. Although I think that property may be
11 vacant right now, there has been some discussion in
12 talks about building multi-family units on that
13 property. So this is a logical expansion, but you do
14 bring up some interesting - -

15 MR. WILLIS: I had read about the logical
16 expansion, but in my point of view since it is a
17 residential neighborhood, it would be logical to
18 expand with a single-family unit than with a rental
19 property. That's just my opinion.

20 MR. NOFFSINGER: Right. That's something
21 that this board has to wave through the evidence from
22 this meeting in terms of whether or not it should be
23 changed; however, if they do recommend a change in the
24 density, it would be in keeping with the typical
25 pattern within the existing residential development.

1 MR. WILLIS: Thank you, sir.

2 CHAIRMAN: Are there any other questions
3 or comments?

4 (NO RESPONSE)

5 CHAIRMAN: If there are none, the chair is
6 ready for a motion.

7 MR. APPLEBY: I make a motion for approval
8 based on the Staff Recommendations and Finding of Fact
9 1 through 4.

10 CHAIRMAN: We have a motion for approval
11 by Mr. Appleby.

12 MR. GILLES: Second.

13 CHAIRMAN: Second by Mr. Gilles. All in
14 favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, please.

18 ITEM 5

19 3545 Medley Road, 5.046 +/- acres
20 Consider zoning change: From EX-1 Coal Mining to
21 A-U Urban Agriculture
Applicant: James C. Ellis, III

22 PLANNING STAFF RECOMMENDATIONS

23 Staff recommends approval because the
24 proposal is in compliance with the community's adopted
25 Comprehensive Plan. The condition and findings of

1 fact that support this recommendation include the
2 following:

3 Condition: Any future access to the subject
4 property will be required to meet the requirements of
5 the Access Management Manual.

6 Findings of Fact:

7 1. The subject property is located in a
8 Future Urban Plan Area where rural small-lot
9 residential uses are appropriate in general locations;

10 2. The subject property has frontage on
11 Medley Road which is an existing, publicly maintained
12 road;

13 3. The five plus acre tract of land is
14 sufficient in size to accommodate a septic system;

15 4. Mining activities have ceased and
16 reclamation has been completed; and,

17 5. The Owensboro Metropolitan Zoning
18 Ordinance Article 12a.31 requires that the property
19 shall revert to its original zoning classification
20 after mining.

21 MR. HOWARD: We would like to enter the
22 Staff Report as Exhibit D.

23 CHAIRMAN: Are there any questions?

24 (NO RESPONSE)

25 CHAIRMAN: If not the chair is ready for a

1 motion.

2 MR. GILLES: Motion for approval based on
3 Findings of Facts 1 through 5 and the one condition.

4 MR. APPLEBY: Second.

5 CHAIRMAN: We have a motion for approval
6 by Mr. Gilles. We've got a second by Mr. Appleby.
7 All in favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item, please.

11 ITEM 6

12 9501-9601 Blks, Sauer Lane, 39 +/- acres
13 Consider zoning change: From A-R Rural Agriculture
14 to I-1 Light Industrial
Applicant: Buskill Properties Partnership, The Strode
Farming Partnership, LTD

15 MR. ROGERS: Mr. Chairman, I need to
16 disqualify myself on this item.

17 CHAIRMAN: Let the record show that Mr.
18 Rogers is qualifying himself from this item.

19 (MR. ROGERS LEAVES ROOM AT THIS TIME.)

20 PLANNING STAFF RECOMMENDATIONS

21 Staff recommends approval because the
22 proposal is in compliance with the community's adopted
23 Comprehensive Plan. The conditions and findings of
24 fact that support this recommendation include the
25 following:

1 Conditions:

2 1. Widen Sauer Lane to 22 feet from where
3 roadway improvement end at the Kimberly Clark site to
4 the easternmost access point of the subject property.
5 The transition taper back to 18 feet shall begin
6 beyond the access point;

7 2. All vehicular use areas shall be
8 paved; and,

9 3. Outdoor storage areas shall be
10 screened per zoning ordinance requirements.

11 Findings of Fact:

12 1. The subject property is located in a
13 Rural Maintenance Plan Area where light industrial
14 uses are appropriate in limited locations;

15 2. That proposed storage use associated
16 with the existing Kimberly Clark facility will be
17 nonresidential in use;

18 3. The proposed zoning change is a
19 logical expansion of an existing industrial zoning
20 classification located immediately south of the
21 subject property; and,

22 4. With the commitment by the developer
23 to widen Sauer Lane, the proposed zoning change should
24 not overburden roadways or other necessary urban
25 services that are available in the affected area.

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

3 At this time as well, I also have two
4 letters that were submitted to the Planning Staff that
5 I would like to read into the record as well. We will
6 enter those as Exhibits F and G.

7 The first one is dated January 31, 2006.

8 "As neighbors of the proposed zoning
9 change from Agriculture-Residential to light
10 industrial in west Daviess County on Sauer Lane, we
11 are opposed.

12 "In 1989 we inquired about a zoning change
13 from A-R to Business for a beauty shop and were told
14 that would never happen but we could apply for a
15 conditional use permit. With no objections from the
16 neighbors, we were granted this permit. In 1999, we
17 applied for a conditional use permit to build a gift
18 shop. With no objections from neighbors we were
19 granted this also.

20 "In order to get a permit we had to meet
21 certain criteria to promote public health, safety or
22 welfare in our zone and not impair the integrity and
23 character of the zone in which we were located, or in
24 adjoining zones.

25 "We don't understand how warehouses which

1 would generate a great amount of truck traffic,
2 located on prime farm land, in our area with nice
3 residential homes, would meet this criteria.

4 "With a zoning change from A-R to I-1 for
5 a storage warehouse, if the business failed this would
6 leave it open for any other business to come in
7 without a notice to neighbors. It would cheapen the
8 residential properties even more.

9 "Sincerely, Carl & Brenda Millay."

10 The second letter is dated February 8,
11 2006.

12 "Dear Members of the Commission: I have
13 received notice of the request for zoning change of
14 the property across Sauer Lane from my farm. I
15 understand the property will be used for warehouse
16 storage.

17 "I am very pleased to see a private
18 investment being made to serve and encourage our
19 existing industry and promote job growth and the
20 economy of Daviess County. I'm sure the storage in
21 the neighborhood will save money not only for
22 highways, but also for the industry.

23 "I appreciate your providing a copy of
24 this letter to the members of the Commission and
25 including it in the record of your proceedings.

1 "Very truly yours, Charles L. Lamar."

2 CHAIRMAN: Are there any questions?

3 MR. GREENWELL: I would like to read a
4 little bit here if you don't mind.

5 MR. ELLIOTT: State your name, please.

6 MR. GREENWELL: Dan Greenwell.

7 (MR. DAN GREENWELL SWORN BY ATTORNEY.)

8 MR. GREENWELL: My name is Dan Greenwell.

9 My wife, Beth, and I have been on Sauer Lane, 9711

10 Sauer Lane for 17 years.

11 Many of our neighbors and friends here
12 tonight have lived there longer. Some their whole
13 lives. I was raised on a farm. Lived in the country
14 all my life. We choose to live in the country for a
15 reason. So we can have peace and quiet and listen to
16 the night sound and enjoy the wildlife.

17 Sauer Lane used to be a quiet country
18 road, but not any more. Traffic is terrible. Coming
19 home or leaving when the shift changes at Kimberly
20 Clark it's dangerous to say the least. Don't even
21 think about letting a kid ride a bicycle on Sauer Lane
22 at these times.

23 When you live in the country you do so
24 because you don't want to hear the traffic noise,
25 bright lights which industry brings. Well, we have

1 these now.

2 This rezoning would make it only worse.
3 It would literally put it right outside our bedroom
4 windows or right across the streets from some of our
5 neighbors.

6 I have great concern about this because of
7 the track of land you want to rezone and mine
8 separated only by a fence row, which in no doubt will
9 disappear.

10 If this piece of farmland is rezoned, the
11 next piece of land will be easier to rezone and I
12 wonder where it will stop.

13 Will we who live in the country now live
14 in an industrial park?

15 We're here tonight along with our friends
16 and neighbors of Sauer Lane and the surrounding
17 neighborhood to express our opposition to this
18 proposed rezoning at 9501 and 9601 Sauer Lane. It's
19 not a logical choice of land to rezone. Prime piece
20 of farmland joined on three sides of the residences.

21 As we see it, this rezoning would bring no
22 benefits for adjoining property owners or residents of
23 Sauer Lane. It would greatly decrease our property
24 value, our privacy and greatly increase our already
25 existing traffic problems.

1 I have a petition here tonight signed by
2 over 60 residents of Sauer Lane and surrounding areas
3 that would be directly affected by this rezoning in
4 which would further disrupt our lives and lifestyles.

5 Everybody with me on that.

6 CHAIRMAN: Yes, ma'am.

7 MS. WARREN: My name is Sharon Warren.

8 (MS. SHARON WARREN SWORN BY ATTORNEY.)

9 MS. WARREN: I've lived on Sauer Lane 37
10 of my 44 years. I chose to come back to Sauer Lane
11 because we love that area so much and my children even
12 want to come back to that area when they graduate from
13 college.

14 I do have something from the Owensboro
15 Metropolitan Zoning Ordinance. I believe these are
16 your words that you wrote.

17 8.1 Development and Intent of Zones. I
18 would like to read you your words. "Agriculture
19 Zones: The two agricultural zones are created from
20 the original A-1 Agricultural zone. The A-1 Urban
21 Agricultural zone is established to provide for
22 agricultural and related open space uses for portions
23 of the Owensboro Urban Service area projecting for
24 urban development. The A-U zone is also intended to
25 designate potential development areas surrounding

1 particular rural communities of Daviess County and the
2 area surrounding Whitesville. The zone change from
3 A-U to a more urban classification shall be encouraged
4 for projects that promote the objectives of the
5 comprehensive plan land use element. The A-R rural
6 agricultural zone is established to preserve the rural
7 character of the Daviess County rural service area by
8 promoting agricultural and agricultural related uses
9 and by discouraging all forms of urban development
10 except for rural residential and limited conditional
11 uses."

12 Then from the Land Development Policies
13 4-31, Analysis of Development Constraints. "As we
14 develop our community, we affect the land. Our
15 community's basic physical resource. In a broad
16 sense, the land is comprised of the sun, soil, rocks,
17 water, air, plant life and wildlife. These land
18 elements have been and will continue to be highly
19 important to our community's future development since
20 they provide the air we breathe, the water we drink,
21 the basis for the food and the fiber we grow, the
22 materials from which we make all of our physical
23 artifacts, the resources from which we provide and
24 produce energy, the foundation upon which we construct
25 all our buildings, and the natural environment

1 necessary for our emotional health and intellectual
2 growth. As we build more houses, streets, stores,
3 industries, schools, etcetera, the process of
4 urbanization will necessarily impact both the natural
5 and built environments. If we wish to make our
6 community primarily a place of and for people and to
7 achieve a good quality of life, we must recognize
8 certain constraints upon how we develop the land.

9 "These constraints arise from the
10 following needs: To protect fragile areas of the
11 environment from detrimental impacts of urban
12 development. To provide necessary urban services to
13 protect the public welfare and to provide relief to
14 the natural environment and to create compatible
15 relationships between diverse and urban land uses and
16 also between urban and rural activities.

17 This would affect plant life and animal
18 life. Urban development typically impacts plant and
19 animal life which can leave to losses of unrenewable
20 resources and possible extension of unique wildlife
21 species.

22 "Although some loss of wildlife is
23 inevitable with more urban development, we should
24 retain unique areas; especially wet lands in their
25 natural state. This is becoming a national issue and

1 had led to more federal and state programs to protect
2 the unique and important habitats that wet lands
3 nurture."

4 This is also a flood plain. Most land
5 uses associated with urban development are extremely
6 incompatible with flood plain. That is a flood plain.

7 Building spill land or materials stored
8 outdoors can block floodways and thus increase flood
9 elevations to the point that loss of property or life
10 results. This issue is of such major significance to
11 our community that our local government has regulated
12 building construction relative to flood plains since
13 1980 under the natural flood insurance program.
14 Through this regulation floodways are kept
15 unobstructed. Acceptable land uses in floodways
16 include agriculture, recreational areas, parking
17 areas, and similar open space uses.

18 Thank you.

19 CHAIRMAN: Does anybody else have a
20 comment?

21 (NO RESPONSE)

22 CHAIRMAN: Mr. Kamuf, do you have a
23 comment?

24 MR. KAMUF: I do.

25 MR. ELLIOTT: State your name, please.

1 MR. KAMUF: Charles Kamuf.

2 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

3 MR. KAMUF: I represent Strode Farming and
4 also the applicant, Buskil Properties. Let me show
5 you where this property is located.

6 The far line over here is the Henderson
7 County line. This is is the road 60 going to Newman.
8 This is the subject property that we see. It's a 39
9 acre tract. When we filed the application for
10 rezoning, we did not ask for I-2. All of this
11 property that you see, the 400 or 500 acres is
12 Kimberly Clark. It is zoned I-2. We specifically did
13 not ask for I-2 because there will not be any outdoor
14 storage.

15 The big photo also shows as the old area
16 that he had. This is Innovative Way. This is an area
17 that comes down and comes back. It built I think by
18 the county for the industrial development of Kimberly
19 Clark.

20 All of us knew when this property was
21 zoned at that time, the 400 or 500 acres, that
22 eventually they would need off-site storage. A lot of
23 the off-site storage now is hauled to Owensboro to the
24 Riverport and other properties here in Owensboro.

25 What we propose here on this 39 acre tract

1 is to have a storage for the off-site for Kimberly
2 Clark.

3 If you see this widens Sauer Lane. We
4 have met with the county engineer. The county
5 engineer has come to the property. We meet with him.
6 He finds no problem with this proposal.

7 From this point, which will be Gate C,
8 Gate C of the plant to this point which is called
9 Martins Creek is about 900 feet. We will pay at our
10 own expense to have the road widen. The widening of
11 the road will take place on property owned by Kimberly
12 Clark. It's approximately 900 feet from this point to
13 this particular point.

14 The screening, as you can see by the
15 photos that I will show you. This first photo that I
16 show you, this is the 900 feet that you see will be
17 from Gate C shown on the map here. Gate C will be
18 from this point to this point. That shows Gate C. It
19 will be about 900 feet. It will be on the Kimberly
20 Clark side and it will be widen. The county engineer
21 approved that particular widening.

22 CHAIRMAN: Mr. Kamuf, would you show your
23 photos to the audience also.

24 MR. KAMUF: Sure will.

25 The next photograph that I'll show you,

1 I'll show it to you first and then I'll show it to the
2 other gentlemen, is the property owned by Charles
3 Lamar. It is to the right. He is the individual that
4 wrote the letter and said that he would like for the
5 property to be rezoned. One of the reasons for it is
6 industrial development. There will be six to eight
7 jobs that will be included in this property.

8 The other picture that I show you, this
9 shows Charles Lamar's property also.

10 The next photo that I show you will be the
11 property going west. I think it adjoins Mr.
12 Greenwell's property. As you can see, there is a
13 natural barrier that will separate Mr. Greenwell's
14 property from the subject property. Those trees have
15 been there for years.

16 Here is the other property. Another
17 photograph that shows the Greenwell property. It
18 shows the natural screening to the west of subject
19 property and to the east of Mr. Greenwell's property.

20 This is also a photograph showing the
21 screening between the two properties.

22 This shows the subject property to the
23 east. This is the property that you see with the hash
24 marks in red on the big plat that we have.

25 This is the Rudy property to the rear. It

1 shows a natural screening area around that property.
2 This building will be built to the rear of the 39 acre
3 tract and it will be close to the rear. It will
4 screened by that as you see there.

5 Then the other picture is also another
6 photograph of the property next to Mr. Greenwell's
7 property. It shows the Willow Creek as marked on
8 here, the Martin Creek coming through.

9 I would like to mark these 1, 2, 3 and
10 continuous.

11 As I said before, we would not have filed
12 this application. Before we file the application, we
13 met with the county engineer to get his approval to be
14 sure that there would not be any problem with the
15 widening of the property. Widening of the property
16 will take place on the Kimberly Clark side. If there
17 is any problem, as you noticed in the Staff Report the
18 county engineer said he had no problem with it. If
19 there is a bonding that needs to take place on the
20 road, we will supply that.

21 The screening, whatever is required in
22 addition to the natural screening. I wouldn't think
23 that there would be much more directly to the west of
24 this property and to the rear of it than the natural
25 screening. If there were requirements that you all

1 place on that, we'll be glad to do that.

2 The findings as you have seen, it is in
3 accord with the Comprehensive Plan. It is a logical
4 expansion. It touches as we see here. Everybody knew
5 when the property down there was zoned for this large
6 industrial complex, and the Comprehensive Plan took
7 that into affect, that this property some day would
8 need off-site storage. This is an idea place for the
9 storage for Kimberly Clark.

10 This property, as you can see from Gate C,
11 the Willow Creek it will be widen. It will widen in
12 the same area that you see Innovated Way and the other
13 Sauer Lane that will be directly to the west.

14 If you see here, there are four houses
15 that will be affected along this area. The truck
16 traffic that you will see on this particular road will
17 go no further than the front of this property. So the
18 people here that are objecting, as far as using Sauer
19 Lane, other than the property I think is the 9500
20 block, those are the only two. There will be four
21 families that will be affected by this rezoning. One,
22 two, three. We do not propose to use Sauer Road any
23 further than the Willow Creek area where it adjoins
24 and where we make an ingress and egress area going
25 onto the subject property. So there will be four

1 property owners that will be affected. We will widen
2 the road. All of the expenses that will be paid will
3 be paid at our expense.

4 If you have any questions, the land owner
5 is here, Richard Strode, and also the applicant, Dale
6 Buskill. I've tried to answer some of the questions.
7 I'm sure there will be more. We're here to answer
8 them.

9 CHAIRMAN: Mr. Kamuf, is the goods going
10 to the warehouse, are they goods that are going to be
11 manufactured at Kimberly Clark going to the warehouse
12 or are they coming to be incoming raw materials that
13 are going to be warehoused and shipped in to Kimberly
14 Clark?

15 MR. KAMUF: I think Mr. Buskill can answer
16 that question.

17 MR. ELLIOTT: State your name, please.

18 MR. BUSKILL: Dale Buskill.

19 (MR. DALE BUSKILL SWORN BY ATTORNEY.)

20 MR. BUSKILL: The question again, sir.

21 CHAIRMAN: The question would be: Are the
22 goods and products going to be coming out of Kimberly
23 Clark to the warehouse or are they going to be raw
24 materials that are going to be shipped off site in to
25 the warehouse and then shipped to Kimberly Clark?

1 MR. BUSKILL: My opinion the majority of
2 it will be manufactured at the plant. Be finished
3 product.

4 CHAIRMAN: So it'd be raw materials that
5 have already been shipped in to Kimberly Clark.
6 Manufactured and then shipped over to your - -

7 MR. BUSKILL: My opinion the majority of
8 it. I'm sure there would be some raw materials. I
9 can't imagine that there wouldn't be. The quantity I
10 couldn't answer.

11 CHAIRMAN: Mr. Buskill, what size are your
12 warehouses going to be? Do you have an idea at this
13 time?

14 MR. BUSKILL: I'm not past the point of
15 negotiation yet. We had a warehouse that collapsed
16 back in 2004 from the 24 inches of snow that we had.
17 It was 52,000 square feet. It will be at least that
18 big.

19 CHAIRMAN: 52,000, just for the rest of
20 the audience, would you sort of give them a rough
21 parameter.

22 MR. BUSKILL: It was 150 feet by 3
23 something. I don't remember the exact dimensions.
24 400 feet by 150 feet is 60,000 square feet. So it's a
25 little less than that.

1 CHAIRMAN: Isn't this property, the Strode
2 property, isn't it actually across Sauer Lane from
3 Kimberly Clark?

4 MR. BUSKILL: It's catty-corner, yes.

5 AUDIENCE: It's across the creek.

6 CHAIRMAN: Let me ask now if anybody, any
7 other commission members or anybody in the audience
8 has any questions. We've got Mr. Kamuf. We've got
9 Mr. Buskill. It looks like we've got their engineer
10 also.

11 Yes, ma'am.

12 MR. APPLEBY: I have a question for Mr.
13 Buskill.

14 Do you have any idea what kind of truck
15 traffic volume, daily volume you're talking about?

16 MR. BUSKILL: Mr. Appleby, I don't. We're
17 not to that point yet. The amount of truck traffic
18 that our warehouse in Owensboro receives now is six to
19 eight trucks a day.

20 CHAIRMAN: It seems like really the
21 amount, you're not going to really generate any more
22 truck traffic because these goods will be coming in to
23 Kimberly Clark as they've been coming in before and
24 they'll be disbursed to your warehouse where they've
25 been disbursed to other sites; is that correct?

1 MR. BUSKILL: Correct.

2 CHAIRMAN: Yes, ma'am.

3 MR. ELLIOTT: State your name, please.

4 MS. BROWN: Mary Ellen Brown. I live
5 directly across from Kimberly Clark.

6 (MS. MARY ELLEN BROWN SWORN BY ATTORNEY.)

7 MS. BROWN: I live directly across from
8 the entrance to Kimberly Clark where the employees go
9 in.

10 CHAIRMAN: Excuse me. Just for the
11 record, Mr. Buskill, are you familiar on the map
12 where she's talking about?

13 MR. BUSKILL: Yes, sir.

14 CHAIRMAN: Would you point that out just
15 for the record, please.

16 MR. BUSKILL: The entrance is right there.

17 MS. BROWN: I have four acres of ground
18 right in the little corner with Will Hardesty right
19 behind me.

20 The thing is we bought our house like four
21 years ago. Kimberly Clark has been a fairly good
22 neighbor. We have like sometimes maybe 15 or 20
23 trucks that passes our house a day. A lot of the
24 trucks instead of going all the way into Innovative
25 Way they have made a drop lot. They come from

1 Kimberly Clark and they go all the way on Sauer Lane,
2 go back another entrance and go in to their drop lot.
3 There's times that there's 15 or 20 trucks that go by.
4 Sometimes we might see three or four. If you look at
5 the road at the entrance to Innovative Way from Sauer
6 Lane from where we go, the road is falling apart
7 already. I mean the whole right-hand side of the road
8 is falling apart where all these semis go through
9 there.

10 Also down the road to the left of my house
11 is a creek. Are you going to put in a new bridge? I
12 don't think that bridge is capable of handling a bunch
13 of semis. It's not just the widening of the road
14 we're concerned about. It's also the bridge right
15 there.

16 I can understand why you want to put the
17 warehouse there, but why can't it be like over to
18 Innovative Way to Murphy Road. Why does it have to be
19 right there in the middle of all those homes?

20 CHAIRMAN: Let me condense it so he can
21 answer your questions one at a time.

22 If I understand the location of her house
23 and the location of the proposed property, purchased
24 property, where she's talking about, isn't that beyond
25 where you're going to widen the road and where you're

1 going to - -

2 MR. BUSKILL: You're speaking of the
3 construction gate where the trucks go past your house
4 to the gate that has a Y?

5 MS. BROWN: I'm speaking of the entrance.
6 Not Innovative Way, but the next entrance where the
7 employees go in and out to the employees parking lot.

8 MR. BUSKILL: I don't know.

9 CHAIRMAN: Mr. Buskill, for my benefit, is
10 the entrance, is her house going to be on or beyond
11 where you're going to widen the road?

12 MR. BUSKILL: Your house, if I'm thinking
13 right, it's already widen, is it not?

14 MS. BROWN: No. It's not widen there.

15 MR. BUSKILL: Then you're not right across
16 from the employee entrance?

17 MS. BROWN: I'm across the employee
18 entrance to Kimberly Clark.

19 MR. BUSKILL: Well, I think the picture
20 shows that it's widen all the way past your house
21 until you get to this gate and then it narrows up, I
22 think. I'm not sure where.

23 MS. BROWN: Well, this lady here says I'm
24 right at one of the gate entrances. I mean there's no
25 gate there, but one of the main entrances.

1 CHAIRMAN: Mr. Buskill is proposed that he
2 is going to widen the road from where he comes on to
3 Sauer Lane up to the gate that you'll be entering.

4 Is that correct, Mr. Buskill?

5 MR. BUSKILL: Yes, sir.

6 CHAIRMAN: So if you're anywhere in that
7 area where Mr. Buskill's trucks will be traveling back
8 and forth, then the road will be widen. He is going
9 to whatever needs to be done to that road. I assume
10 it's between you and the county engineer.

11 MS. BROWN: What about the bridge there?

12 CHAIRMAN: Will your truck be crossing the
13 bridge?

14 MR. BUSKILL: They will cross the bridge,
15 that's correct.

16 CHAIRMAN: If his trucks are crossing the
17 bridge, then Mr. Buskill, correct me if I'm wrong, you
18 will meet whatever requirements the county engineer?

19 MR. BUSKILL: The county engineer has been
20 there, yes, sir.

21 CHAIRMAN: Does that answer your question?

22 MS. BROWN: Yes, but we're still not happy
23 with it.

24 CHAIRMAN: I can't help that.

25 MS. BROWN: I understand that. Like even

1 when they put the drop lot back there they're still
2 using the road. I don't understand why they couldn't
3 have made it like on their property instead of coming
4 out on the main road to get to the drop lot. I mean
5 it's

6 CHAIRMAN: The drop lot has nothing to do
7 with this proposal. His proposal is with the 39
8 acres.

9 MS. BROWN: It has to do with the road
10 that goes in front of my house that they're talking
11 about widening though.

12 CHAIRMAN: Mr. Buskill is going to be
13 required to widen that road and do whatever the county
14 engineer lays down to make the road where it will
15 handle his truck traffic that he has on it. As far as
16 the drop lot and other comments you've made, that
17 really has nothing to do with Mr. Buskill's proposal.

18 MS. BROWN: Thank you.

19 MR. BUSKILL: Ma'am, can I show her some
20 pictures of the type of equipment that will do the
21 majority of the transportation?

22 CHAIRMAN: Yes, sir, you can respond.

23 MR. BUSKILL: Ma'am, this is the type of
24 truck that will be used the majority of the time.

25 CHAIRMAN: Mr. Buskill, let me have the

1 photos and you comment to her from that podium so we
2 can have it recorded and I'll do the shuffling for
3 you. That way we'll have it recorded.

4 MR. BUSKILL: All right. Thank you.

5 Yes, it's a truck. That particular truck
6 it only runs 28 mile an hour. It doesn't have a
7 trailer hooked to it, but it will have a trailer
8 hooked to it. That particular unit only runs
9 approximately 28 miles an hour. There's not going to
10 be more traffic.

11 CHAIRMAN: What's the gross weight on
12 that? Probably 62,000 or something, the maximum gross
13 weight?

14 MR. BUSKILL: Their product weighs
15 different amounts, but I would say in the neighborhood
16 you're pretty close.

17 CHAIRMAN: Mr. Buskill, Mr. Noffsinger is
18 going to read a letter from the county engineer in
19 regards to the bridge.

20 Has Mr. Buskill received a copy of this
21 letter?

22 MR. NOFFSINGER: I do not believe he has.

23 MR. BUSKILL: No, I haven't.

24 CHAIRMAN: Let me have Mr. Noffsinger read
25 the county engineer's response to the bridge.

1 MR. NOFFSINGER: This is to Brian Howard,
2 Planning & Zoning.

3 "Dear Brian, In reference to the rezoning
4 request by Dale Buskill for 39 +/- acres at 9501 and
5 9601 Blocks Sauer Lane, I was informed that storage
6 facilities would be built on the above mentioned
7 property on the north side of Sauer Lane near Kimberly
8 Clark. This facility will accommodate several trucks
9 that will be traveling a section of Sauer Lane and a
10 bridge across a ditch. I have discussed with Mr.
11 Buskill and Attorney Charlie Kamuf with the presence
12 of Mike Riney, County Commissioner, the need to widen
13 the section of Sauer Lane to the width that matches
14 the existing width and then taper down beyond the
15 entrance of the proposed facility. The existing
16 bridge will remain the same with no improvement. We
17 also discussed the possibility of issuing an excess
18 weight limit permit to ensure the road structural
19 workabilities. Sincerely, Sinan Rayyan."

20 CHAIRMAN: There is his response to the
21 condition and the status of the bridge.

22 Yes, sir, would you like to make a
23 comment.

24 MR. ELLIOTT: State your name, please.

25 MR. HARDESTY: Willie Hardesty.

1 (MR. WILLIE HARDESTY SWORN BY ATTORNEY.)

2 MR. HARDESTY: I'm currently an employee
3 of Kimberly Clark and I also reside in a new house
4 that me and my wife built this past year on Sauer Lane
5 right across from Kimberly Clark.

6 I've got some facts here that I obtained
7 from our website, Kimberly Clark's website, regarding
8 the amount of traffic. I'll just read here.

9 Each month Kimberly Clark uses Averitt
10 Express to transport finished cases of product to the
11 Riverport Warehouse in Owensboro. Each day 32 shuttle
12 trucks leave the mill.

13 That is 224 shuttles a week, 896 shuttles
14 a month, 11,648 shuttles a year. Keep in mind, that a
15 shuttle truck is a round-trip truck. So in essence
16 those 32 shuttle trucks that leave the mill every day
17 are traveling the same roads going back to the mill.
18 That's a tremendous amount of big truck traffic for
19 that road. That's going to the Riverport Warehouse in
20 Owensboro.

21 Currently two storage facilities are being
22 used by Kimberly Clark. They are the BFA Warehouse
23 and also the Riverport Warehouse.

24 I've talked with our operating manager Rae
25 Hill about this. She is totally unaware about this

1 warehouse that's being built. Totally unaware. It
2 would seem to me that if I was going to build a
3 warehouse, I would kind of want to get my ducks in a
4 row. Make sure I had someone to use that warehouse.
5 She has informed me that she's totally unaware of this
6 warehouse.

7 CHAIRMAN: The situation whether Kimberly
8 Clark or Ms. Hill or really anybody else is aware or
9 what business Mr. Buskill has lined up is really no
10 concern of this board. Our concern is whether he
11 meets certain criteria and what the county engineer's
12 criteria are for him. You know, that is nothing this
13 board can really be concerned about. Whatever Mr.
14 Buskill, as long as he meets the criteria for storage
15 and other criterias that we set down for land usage,
16 you know, who he does business with is no - -

17 MR. HARDESTY: Can I make another comment?

18 CHAIRMAN: Yes.

19 MR. HARDESTY: Mr. Kamuf talked about the
20 natural barriers surrounding this 39 acres over there.
21 That's just a tree line. That's not going to be a
22 barrier to all the truck noise and the lights at
23 night. The back-up lights on these semis they drive
24 you crazy. Mr. Greenwell, he so eloquently put it,
25 you know, this is the country. We don't need all

1 these trucks, all this traffic. It's affecting a lot
2 more than just the four people that this gentleman
3 talked about.

4 CHAIRMAN: As far as your question, let me
5 get Mr. Noffsinger to answer your question in regards
6 to screening.

7 Mr. Noffsinger.

8 MR. NOFFSINGER: In terms of screening, I
9 have a question with the existing tree line. Where
10 are those trees? Are they located on the subject
11 property? Are they located on the adjoining property
12 and will the existing tree line remain?

13 MR. BUSKILL: There's a tree line and a
14 fence row. The majority of the trees are on this
15 property and they're along this line as the picture
16 show.

17 CHAIRMAN: Mr. Buskill, do they go
18 completely from front to back, that complete line?

19 MR. BUSKILL: Yes, sir.

20 CHAIRMAN: What about the other lines of
21 the property?

22 MR. BUSKILL: On the back side, the trees
23 go all the way across as the picture shows. There's a
24 small group of trees on the east along here. The area
25 that the proposed site is going to be, I don't know if

1 you can see the little creek that goes through here,
2 but the trees in the picture show them following that
3 little creek. I'm not going to build by the creek.
4 I'm going to build over here. If you saw the buck
5 signs in those woods back over there, you wouldn't
6 dare do anything to those trees.

7 CHAIRMAN: Are there any other comments or
8 questions?

9 Yes, sir.

10 MR. ELLIOTT: State your name, please.

11 MR. GREENWELL: Dan Greenwell.

12 This tree line at any given time of the
13 year you can see lights, neighbors, you know, Carl and
14 Brenda Millay, the one that had the letter in here,
15 you can see any direction. Those trees are not much
16 of a blockage. Sound, the same difference. You can
17 hear the coyotes and stuff out there all across the
18 country. These trees are not going to stop noise.
19 They're not going to stop light. Mr. Charles Lamar
20 has the property across the road. He's not concerned
21 about this at all because he doesn't live there. The
22 bridge that you're talking about crossing, in 1997
23 when the flood was on that bridge was under three feet
24 of water. You won't cross that with a semi with three
25 feet of water. Empty, full, it done matter.

1 CHAIRMAN: Yes, ma'am.

2 MR. ELLIOTT: State your name, please.

3 MS. GREENWELL: Beth Greenwell.

4 (MS. BETH GREENWELL SWORN BY ATTORNEY.)

5 MS. GREENWELL: Our property, our house at
6 the very back part of our property. Our bedroom faces
7 those woods. It is a line of trees. Not a group of
8 trees. It is a line. A single line of trees. It
9 will disrupt our area. We live back on a 20 acre
10 stretch. The back of it is for our privacy and we
11 will not have privacy. The lights will be shining.
12 The back up horns will be going. How can you enjoy
13 your life when you live in an industrial park. We
14 don't want to live in an industrial park. We want to
15 live in a residential area.

16 We put up with Kimberly Clark which said
17 it would not smell and it does. You come visit us
18 sometime. That smells. That doesn't have anything to
19 do with this. I'm sorry. I'm off track. We like our
20 privacy and this will not allow us our privacy. Thank
21 you.

22 CHAIRMAN: Yes, ma'am.

23 Are there any other comments or questions?

24 Yes, sir.

25 MR. ELLIOTT: State your name, please.

1 MR. BROWN: Donald Brown.

2 (MR. DONALD BROWN SWORN BY ATTORNEY.)

3 MR. BROWN: We we bought our place down
4 there in 1973. Built a house there in '77. So we've
5 seen a whole lot of things come and go. So far we've
6 lived with what we've got. This we don't need. As
7 far as the road widening, I'm unaware of any road
8 widening. They're reblack-topped it. I think David
9 Warren was county commissioner then and he put us in a
10 good road. He might have had something to do with the
11 bridge. I think he did. This bridge is set up for
12 car traffic and pickup truck traffic. Well, the whole
13 road is. We don't really need this kind of traffic
14 down there.

15 As far as his tractor he's showing us,
16 that's a yard tractor. It has a hydraulic fifth wheel
17 on it to pick up trailers with and spot. It's a spot
18 trailer. Kimberly Clark has the same thing over
19 there. Twenty-eight miles an hour on a 45 mile an
20 hour speed zone ain't going to work very well I don't
21 think. It's up to you fellows. Like I say, this
22 thing just didn't, it's going to be a Pandora box
23 opened up and a new can of worms when all this gets
24 loose down there. We really don't need it. Thank
25 you.

1 CHAIRMAN: Thank you, sir.

2 Do we have any other comments or
3 questions?

4 MR. PEDLEY: Yes, I have a comment.

5 MR. ELLIOTT: State your name, please.

6 MR. PEDLEY: My name is Dale Pedley.

7 (MR. DALE PEDLEY SWORN BY ATTORNEY.)

8 MR. PEDLEY: We've talked all around about
9 the tree lines and barriers you've got and everything.
10 They have never mentioned the eastern side of the site
11 there.

12 CHAIRMAN: Just a moment.

13 Mr. Buskill, would you for the rest of us
14 point to what is the eastern side, please.

15 (MR. BUSKILL COMPLIES WITH REQUEST.)

16 CHAIRMAN: Thank you.

17 MR. PEDLEY: That side is wider. There's
18 no barrier there whatsoever. There's a little tiny
19 woods there by Millay's residence. The woods doesn't
20 barrier this side from the Millay residence.

21 Also there's a small farm between his farm
22 and the Millay residence. So once you zone this light
23 industrial, then that opens up that little farm to be
24 zoned light industrial. Once you start it, you open
25 it then it will stay there. Then you jump from that

1 zoning to that little farm. When you do, then that's
2 right in the driveway and windows and the doorway of
3 the Millay farm. My daughter lives about a quarter of
4 a mile from where this is going to happen. She built
5 her house there. She's been there for 20 years. She
6 built there because she lived in the area all of her
7 life. Her grandmother and granddaddy and my wife and
8 I have lived in that area all our life. We live there
9 because it's a residential area, farming area. It's
10 been quiet. We chose to live there. When we moved
11 down there, we decided that whatever the farmers do,
12 if they clean their barns out and spray it on the
13 fields we'll live with it, and we have. If they want
14 to build storage barns or storage bins, shops, we'll
15 live with it. This is different story. We don't
16 really feel like we have to live with whatever
17 someone's private industry wants to put on us. Now,
18 this is all in flood plain. Everything he's wanting
19 to do is in a flood plain. That needs to be looked at
20 especially. Another thing it's going to do it's going
21 to bring down the value of my daughter's property.
22 Going to bring down the value of the Millay property
23 and the properties across the road from it. That's
24 one thing that's in your own zoning regulations or
25 whatever, about knocking the value of people's

1 property. That's the one thing you set up to avoid is
2 down grade other people's property and that's what
3 they're going to do.

4 I don't know what kind of curtain you're
5 going to build to stop that from being viewed by the
6 Millays and everybody else on that eastern side.
7 There's a very slim line to the back, but nobody lives
8 behind it. Nobody cares about there. But Dan
9 Greenwell's place is just through a tree line. That's
10 not a barrier. That's all. Thank you.

11 CHAIRMAN: Just for the record, Mr.
12 Pedley, the homeowner right across the street, Mr.
13 Lamar, had written a letter in support of the
14 property.

15 MR. PEDLEY: He doesn't have a home across
16 the street.

17 CHAIRMAN: Well, I'm just stating he's the
18 property owner across the street.

19 MR. PEDLEY: Another thing about his
20 property. It's all flood plain. He really wouldn't
21 care what they do to his property.

22 CHAIRMAN: I was just saying for the
23 record.

24 Yes, sir.

25 MR. ELLIOTT: State your name, please.

1 MR. CHANDLER: My name is Scott Chandler.

2 (MR. SCOTT CHANDLER SWORN BY ATTORNEY.)

3 MR. CHANDLER: I'm probably the newest
4 homeowner on Sauer Lane. We moved there this past
5 October. We moved there after searching for three
6 years for a home in that part of the county. I work
7 for Vectren Energy Delivery over in Evansville,
8 Indiana. I did not grow up in Daviess County, but I
9 married a girl from Daviess County and we've moved
10 back here.

11 We've had the opportunity to look in homes
12 in Indiana and closer to my work, but Daviess County
13 is home for us. That's where we moved back to from
14 Colorado after 11 years. We've seen what industry
15 does when they expand into rural areas. You go out to
16 the Denver area now and you'll see how they've just
17 expanded it and there aren't wildlife areas any more.
18 You don't want that folks. I'm sorry.

19 We have two daughters and two dogs and
20 they like to walk their dogs. If you're going to
21 increase the traffic flow on that road, it's not going
22 to help us. It's going to hurt us, our family.

23 We are east of where this proposed
24 property is, but when the folks say that the traffic
25 at shift change is deadly, it is. It's very

1 hazardous. We just don't want more trucks out there.
2 You have from what I've seen in town you have tobacco
3 warehouses that aren't being used that are empty. Why
4 can't you use some of those. I'm not trying to, you
5 know, I'm not here just to complain. I don't think
6 that's right, but to complain and maybe provide an
7 alternative solution. We have these tobacco
8 warehouses. Why can't we use them if we're not going
9 to fill them up with tobacco? Why can't we use them.
10 I appreciate your time. Please, don't let his go
11 through. Thank you.

12 CHAIRMAN: Do we have any further comments
13 or questions?

14 Yes, sir.

15 MR. ELLIOTT: State your name, please.

16 MR. BALES: My name is Scott Beals.

17 (MR. SCOTT BEALS SWORN BY ATTORNEY.)

18 MR. BEALS: I live just east of the
19 proposed site across the road. The warehouse he's
20 proposing to build is going to be in my front yard
21 basically. My property line is 300 feet, 250, 300
22 feet from that property line. I've worked in
23 warehouses and trucking industry for the last 17
24 years. No matter what you do or what you build around
25 it as a barrier, I'm going to have to live with that

1 noise in my front yard for the rest of my life.
2 That's where I plan on living for the rest of my life.
3 I grew up two or three miles from where I live right
4 now and chose to stay in that area. A warehouse in
5 the front yard with the trucks and the back up horns
6 and the forklifts and all that goes with it is not
7 what I grew up with and not what I chose to live with.
8 My house is not a mansion, but we built our house
9 ourself. We didn't pay to have built. Me and my wife
10 and kids bought that property and built our house one
11 stick at a time. We chose to be in the country. Not
12 in the middle of an industrial zone. Kimberly Clark
13 was down the road when I built my house, but we don't
14 need this.

15 All the pictures that were taken don't
16 show the houses. They don't show how it's going to
17 affect the people that have chosen to live in the
18 country in peace.

19 Whatever road widening you do and
20 whatever, the 900 feet of traffic that you say is - -
21 that's not all of it. I'm going to look out my front
22 window and see whatever they decide to do over there
23 for the rest of my life. That's not what any of us
24 had planned when we live where we live. There are so
25 many other options besides right in the middle. The

1 corners of the property do touch, but all the way
2 around it are people that have chosen to live in the
3 country. I disagree with it. My property value is
4 from my sweat. It's not from anything else. All I've
5 got is my property. It's taken that away from me.
6 Taken the value from me. Thank you.

7 CHAIRMAN: Do we have any other comments
8 or questions?

9 MR. BUSKILL: I have one more comment.

10 CHAIRMAN: Yes, sir, Mr. Buskill.

11 MR. BUSKILL: Where the road is going to
12 be widen to, there won't be any traffic that this
13 facility causes that heads any further east than that.

14 CHAIRMAN: Thank you.

15 MR. KAMUF: Mr. Chairman, may I say
16 something, please.

17 CHAIRMAN: Mr. Kamuf.

18 MR. KAMUF: When Kimberly Clark was built,
19 it's natural that you're going to have an expansion of
20 an industrial zone. This is the reason that you have
21 a Comprehensive Plan. Your Comprehensive Plan tells
22 you that there will be what a logical expansion of
23 this type of use in that particular area. We didn't
24 start this issue. The issue was started by industrial
25 growth in Daviess County for a job which everybody

1 wanted. There will be an increase in jobs here. This
2 property here is a logical expansion according to your
3 Comprehensive Plan. That's the reason you have a
4 Comprehensive Plan is to have a guideline. Not a
5 straight jacket, but a guideline to tell you what to
6 do.

7 You're Comprehensive Plan has told you
8 that it fits in a rural maintenance area. Your Staff
9 has told you that it meets all of the requirements of
10 the Comprehensive Plan. They have recommended that
11 you approve it.

12 Your county engineer has been on the spot.
13 He looked at it. He has written you a letter saying
14 he approves it. If there is any bonding necessary, he
15 will require it.

16 All of the improvements will not be on any
17 adjoining property owner. The adjoining property
18 owners will not have a detriment as a result of taking
19 any property for a roadway.

20 Look at the pictures. The road has been
21 expanded I think to 22 foot. This road will be
22 expanded somewhat just to be in line with the other
23 improvements that you see. If you look in this
24 particular area, as the county built the roadway,
25 Innovative Way, coming in from Newman. They also

1 built next to it a track, an embankment for a railroad
2 track.

3 In other words, this is an industrial
4 property. It shows it on the Comprehensive Plan. You
5 have approved an I-2. We didn't ask for an I-2.
6 There will not be any storage outside. We have met
7 every requirement. We'll meet every requirement as
8 far as screening, but those are pretty - - in other
9 words, the trees that you have there on the west side
10 of this property are pretty nice. It's pretty nice
11 screening, but if you need any more screening we'll do
12 it. Whatever is requirement by this board as far as
13 screening we will do it, but there's not much more
14 that we can do.

15 If you had to pick a place in Daviess
16 County to put an industrial zone, to rezone some
17 property industrial, you'd put it right there. It's
18 right next to 400 or 500 acres that's an industrial
19 plant.

20 If you have any more questions we'll try
21 to answer them.

22 CHAIRMAN: Thank you, Mr. Kamuf.

23 Just for the record. Mr. Kamuf, the
24 county engineer did not say he supported the rezoning.
25 He said that he supported no improvements to the road

1 and the widening of the road and that there would not
2 have to be any improvements made to the bridge. He
3 did not state that he supported.

4 MR. KAMUF: He didn't take an issue as far
5 as supporting, but he supported as far as the way we
6 were doing it if we were going to do it.

7 CHAIRMAN: He stated there would be no
8 improvements necessary to the bridge. That's what the
9 county engineer stated just to correct the record.

10 CHAIRMAN: Yes, ma'am.

11 MR. ELLIOTT: State your name.

12 MS. GREENWELL: Beth Greenwell.

13 We're not worried a whole lot about the
14 traffic. We're worried about our privacy, the lights.
15 How many lights are we going to have out there?

16 Is it going to be really lit up, Mr.
17 Buskill?

18 CHAIRMAN: Ma'am, direct the questions to
19 us.

20 MS. GREENWELL: Also they've got
21 Innovative Way. Why don't they put that down there by
22 Innovative Way. Then they wouldn't have to widen the
23 road. They wouldn't have to worry about the rest of
24 us because there's nobody that lives down by
25 Innovative Way.

1 CHAIRMAN: Those questions we cannot
2 answer.

3 MS. GREENWELL: I know, sir.

4 CHAIRMAN: All we're here to deal with is
5 his proposal on this piece of property. That's all.
6 Where he is, that's not our - -

7 MS. GREENWELL: Would you ask him what
8 kind of lights they're going to have?

9 CHAIRMAN: I'd be glad to.

10 MS. GREENWELL: And how much noise. Thank
11 you.

12 CHAIRMAN: I will be glad to ask him.

13 Mr. Buskill, lights and the noise factor.

14 MR. BUSKILL: Outside lights, if you have
15 ever tried to back a trailer up into a dock, the best
16 light to have is a sodium light. It does not put out
17 a glare when you're trying to back up, especially if
18 it's after dark. If it's a glare, of course, you
19 can't see out your mirror. So the type of lights that
20 will be exterior will be a sodium type light. A low
21 glare light.

22 CHAIRMAN: Will this be similar to
23 lighting in such at Kimberly Clark by chance?

24 MS. BUSKILL: I'm not real sure what
25 lighting they use, sir. I don't know. Sodium light

1 is more of a yellow light.

2 MR. APPLEBY: Will there be lighting on
3 the building or is there going to be parking lot
4 lighting or turn around area going to be lit?

5 MR. BUSKILL: Unless I'm required to do
6 more than I have to, it's going to be on the corners
7 of the building and over the dock.

8 CHAIRMAN: Thank you, Mr. Buskill.

9 MR. GILLES: Mr. Buskill, is there trucks
10 going to be coming in to your facility during the
11 night?

12 MR. BUSKILL: Our operating, normal
13 operating hours is 7 a.m. to 4 p.m. Now, I'm not
14 going to say that no trucks ever come to our facility
15 after that. Of course, they do. I'm sure there's
16 people here that have to work overtime that sometimes
17 they may not want to do, but it's just something that
18 happens. Our normal hours is 7 a.m. to 4 p.m.

19 MR. GILLES: Will there be any trucks
20 parked on your lot? You'll just have a building and
21 the trucks and trailers will be parked there?

22 MR. BUSKILL: I would say that it probably
23 will - - there will be some trailers there probably in
24 the docks waiting for the next morning.

25 CHAIRMAN: Ma'am, you'll have to step back

1 to the podium, if you would.

2 MR. ELLIOTT: Restate your name, please.

3 MS. BROWN: Mary Ellen Brown.

4 I made a comment once before and I can't
5 read his name. You said that - -

6 CHAIRMAN: Who would you like to refer to?
7 We'll get that for the record. Is it Mr. Noffsinger?

8 MS. BROWN: Just the board in general.

9 It's not that we don't want Kimberly Clark
10 to expand. That's fine. What we don't want is that
11 particular lot a warehouse there. Do you understand
12 what I'm saying?

13 CHAIRMAN: Yes, ma'am.

14 MS. BROWN: I mean there's so many other
15 places they could have put it, but not right there in
16 the middle of that neighborhood.

17 CHAIRMAN: Thank you.

18 I believe we have one more. Yes, ma'am,
19 you're waiting to make a comment.

20 MR. ELLIOTT: State your name, please.

21 MS. HARDESTY: Kathy Hardesty.

22 (MS. KATHY HARDESTY SWORN BY ATTORNEY.)

23 MRS. HARDESTY: My husband and I, we live
24 across from I think it's Gate C. We bought a farm, 21
25 acres, last years or a few years ago. Built a house

1 last year.

2 I don't know how many of the board are
3 familiar with the area, if you've been out there and
4 looked at it because I think the pictures that Mr.
5 Kamuf showed were very deceiving. It makes it look
6 like it's this huge area. It's not like that. I mean
7 the houses are right by. It's not just excluded all
8 by itself. It's wide open. Where the like the
9 Millays, they definitely would see it all. It's very
10 deceiving. I don't know if you have seen it or not.
11 I understand that you have to meet whatever the
12 criteria is and that's how you make your decision, but
13 I believe if you saw it you would see that that is
14 very deceiving, the pictures were. I don't know if
15 that makes sense or not.

16 What our neighbor here said about what the
17 commission says about country life and agriculture. I
18 can't repeat what she said, but those things are
19 important. I believe if you did see actually how it
20 is it would change your opinion.

21 We are all tax payers. What's the
22 democracy of the majority of the people. We're all
23 tax payers. That's one man or two men building a
24 warehouse. From what you said, and they're saying
25 Kimberly Clark, but I don't think Kimberly Clark has

1 anything to do with it. They're saying Kimberly Clar,
2 but you say Kimberly Clark doesn't have anything to do
3 with it. I don't know. From what I'm understanding
4 there's no business for it right now anyway. Is that
5 right? So we don't even know what kind of traffic it
6 will produce or hours of the night. Kimberly Clark
7 runs 24/7. Our farm is right in front of where those
8 trucks will go to load. The trucks right now are
9 loud. If it is Kimberly Clark that they're going to
10 store for, if it's right there, then there would be
11 more than 32 a day, if that's what it was, if it 32
12 trucks a day. It would be more than that because it
13 would be closer.

14 I do have a question as far as do you
15 already have a contract with Kimberly Clark to do that
16 or are you just speculating that you would have their
17 business?

18 CHAIRMAN: Ma'am, you ask the question and
19 we'll redirect it. That keeps a lot of conflict down.
20 Is that your question?

21 MS. HARDESTY: Yes.

22 CHAIRMAN: Let me respond to one. One,
23 the board made no comment connection the connection to
24 or with Kimberly Clark with Mr. Buskill's
25 organization. Secondly, yes, the board is bound by

1 the regulations and the Comprehensive Plan to review
2 all proposed things put before the board. If they
3 meet certain criteria, then the board has to or the
4 staff will recommend, make their recommendation based
5 on findings of facts and the other recommendations
6 that they have, if they meet certain criteria. So
7 that is what governs our board.

8 As far as your question about does Mr.
9 Buskill have a contract with or have an arrangement
10 with Kimberly Clark, that's a question that we can ask
11 him, but he does not have to answer that because
12 that's not really pertinent to his application.

13 MS. HARDESTY: But I do think that has
14 been stated made by Mr. Kamuf. It was implied that so
15 it makes it look like it's all part of Kimberly Clark.
16 Kimberly Clark's property is across the road.

17 CHAIRMAN: From the testimony that I heard
18 I don't think Mr. Kamuf or Mr. Buskill at any time
19 implied that their property was part of Kimberly
20 Clark. They implied that they were going to widen the
21 road and they were going to have trucks going in and
22 out, but I don't think they ever implied that they
23 were part of Kimberly Clark.

24 MS. HARDESTY: Not part of but - -

25 CHAIRMAN: Let me direct your question,

1 and I think this is probably a question Mr. Kamuf
2 should probably answer.

3 Mr. Kamuf, did you understand the
4 question? She asked if Mr. Buskill had an arrangement
5 with or was with Kimberly Clark in any way?

6 MR. KAMUF: Let me answer it his way: I
7 don't think anybody - - I will not answer it
8 specifically. In other words, I don't think anybody
9 is going to build a - - I don't want to be cute by the
10 answer that I give.

11 CHAIRMAN: But it will be brief.

12 MR. KAMUF: They're certainly not going to
13 be interested in General Electric down there. By
14 being across from that property certainly they're
15 going to be interested and sometimes do some storage
16 work or off-site storage for Kimberly Clark.

17 CHAIRMAN: Thank you.

18 MS. HARDESTY: Thank you. That is two
19 people, Mr. Strode and Mr. Buskill, and we all live
20 out there. That's our homes. So they're going to
21 build a warehouse to store whatever, whether it's
22 Kimberly Clark or not, in the middle of houses and
23 farms.

24 CHAIRMAN: Based on the testimony we've
25 heard so far, I do not think that we've heard from Mr.

1 Strode.

2 MS. HARDESTY: I know he's the part owner
3 in it or whatever.

4 CHAIRMAN: I think Mr. Strode, according
5 to this, I think Mr. Strode is the owner of the
6 property.

7 MS. HARDESTY: Thank you.

8 CHAIRMAN: Yes, ma'am.

9 Let's take one more question.

10 MR. ELLIOTT: State your name, please.

11 MS. MURPHY: Gale Murphy.

12 (MS. GALE MURPHY SWORN BY ATTORNEY.)

13 MS. MURPHY: They have said they don't
14 know if it will be Kimberly Clark's product or not.
15 They can't say that they will take Innovative Way
16 because they told us that when they built Kimberly
17 Clark that the employees would use Innovative Way.
18 They don't. They go down Sauer Lane, get on 1554,
19 Oakford Road and Highway 60 because it's shorter.
20 What if all these semis start going that way? That
21 affects more than four families. I think so.

22 CHAIRMAN: Thank you.

23 I'll have to correct myself. In the
24 applicant's findings it says the applicant will use
25 the subject property as an accessory storage for

1 Kimberly Clark products. So I stand corrected.

2 MR. KAMUF: I might say this. We don't
3 intend, and we'll tell the board now that we don't
4 intend to go any further than the 900 feet that we
5 have on the plat, as far as using the property. We'll
6 go from Gate C to this property. In other words, we
7 will not - - there's no reason to go down Sauer Lane.
8 Any type of storage that we use will be going from
9 point A to point B. Do we have a contract with
10 Kimberly Clark and locked in at the present time?
11 Maybe, maybe not. Certainly we intend to use the area
12 going this 900 feet going to Kimberly Clark.

13 CHAIRMAN: Thank you, Mr. Kamuf.

14 At this point I think everybody on both
15 sides of the issue, we've had adequate time to ask
16 questions and make comments and make presentations. I
17 thank each and every one of you. I thank the property
18 owners for your directness and preparedness and not
19 being redundant and the board appreciates that. I
20 think each one of you realize the situation and the
21 things that the board must consider.

22 At this point in time we'll ask if any
23 board members have any questions or comments?

24 MS. DIXON: I have a question for Mr.
25 Kamuf or Mr. Buskill one.

1 At any point have you met with neighbors
2 to discuss any of these concerns of theirs as far as
3 screening the road?

4 MR. KAMUF: Not to my knowledge. What we
5 tried to do is that we met with the county to see if
6 we qualified as far as all the regulations as far as
7 the road. We met with the engineer and the county
8 commissioner to see if they had any objection, strong
9 objection. We have not meet with the neighbors. We
10 felt that whatever requirements that you all would
11 place on us that's exactly what we would do. We would
12 follow what whatever planning and zoning regulations
13 there were.

14 To be honest with you I didn't know that
15 there would be any objection. We built in that
16 particular area. At the time that we filed it I
17 didn't know that there would be. Now, I know there's
18 some tonight.

19 CHAIRMAN: Does anybody else from the
20 commission have any questions or comments?

21 (NO RESPONSE)

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

24 MR. APPLEBY: Mr. Kamuf, we are curious if
25 you would entertain the idea of doing some additional

1 screening. You volunteered that possibly.

2 MR. KAMUF: Where is the additional
3 screening that you would like, sir?

4 MR. APPLEBY: From what we understand
5 there's no screening on the east side of the property
6 at all.

7 MR. KAMUF: There's very little. There's
8 some back further, but not along this particular area
9 that you see. You're correct, Mr. Appleby.

10 MR. APPLEBY: What about to the rear of it
11 though?

12 MR. KAMUF: If you look to the rear of
13 that property is Neel Rudy and there isn't any tree
14 lines to the rear. Some of it comes up to the side.
15 I can show you a photograph if you would like.

16 MR. APPLEBY: I remember. Would you
17 entertain the idea of doing some screening, say pine
18 trees on that eastern side?

19 MR. BUSKILL: Yes, sir, I would entertain,
20 and no, it's not a problem.

21 CHAIRMAN: I will take that as meaning,
22 yes, you would and continue the tree line all the way
23 to the back property line; is that correct?

24 MR. BUSKILL: Yes, sir.

25 CHAIRMAN: Thank you.

1 MR. NOFFSINGER: This reason this item
2 needs to be discussed is we've heard testimony from
3 both sides. The Planning Staff is recommending
4 approval. I want to make sure everyone understood the
5 zoning ordinance does not require screening between
6 industrial property and agricultural property unless
7 the agricultural tract is under ten acres in size.
8 Therefore, if we need to address screening in addition
9 to what the ordinance calls for, now is the time to do
10 it. You need to be specific on the type of screening
11 so that we get that into the record should be wish to
12 approve this item. That's an issue that should be
13 addressed. I think the only agricultural tract that
14 is less than ten acres would be the James Elliott
15 tract at 9651 Sauer Lane. I think the Greenwell tract
16 is 20 acres. The Rudy tract I believe is over ten
17 acres, as well as the Crowe tract may very well be
18 over ten acres.

19 MR. APPLEBY: There is some screening
20 required along Sauer Lane; is that correct?

21 MR. NOFFSINGER: There would not be
22 screening required along Sauer Lane unless there would
23 be a vehicular use area running parallel with Sauer
24 Lane. The ordinance would require that. It needs to
25 be at least addressed on the north and east boundary

1 line and the consideration for the existing tree stand
2 that's along the western property line. That's the
3 Greenwell property.

4 CHAIRMAN: Mr. Appleby, are you about to
5 make a recommendation based on additional conditions?

6 MR. APPLEBY: I'm working on it.

7 Mr. Chairman, I would make a
8 recommendation. For better or worse the character of
9 the neighborhood changed when Kimberly Clark came out
10 there. I think we've got to agree on that.

11 Based on the Staff's recommendations and
12 the Conditions 1, 2 and 3 with the additional
13 condition that the property be screened with a row of
14 pine trees on the north and east boundaries and with
15 the findings of fact 1, 2, 3 and 4, I would make a
16 motion for approval.

17 CHAIRMAN: Let me ask Mr. Buskill.

18 Do you understand the motion?

19 MR. BUSKILL: Yes, sir.

20 CHAIRMAN: Do you accept those conditions
21 if the board votes positive or if they vote for it?

22 MR. BUSKILL: Yes, sir.

23 CHAIRMAN: Thank you.

24 MR. APPLEBY: Would also request those
25 trees be ten foot apart.

1 MR. BUSKILL: Yes, sir.

2 CHAIRMAN: Why don't you restate that, Mr.
3 Appleby.

4 MR. APPLEBY: Motion for approval based on
5 Staff Recommendations, Conditions 1, 2 and 3, with an
6 additional requirement requiring screening of pine
7 trees on the north and east property line. Trees to
8 be approximately ten feet apart and the Findings of
9 Fact 1 through 4.

10 CHAIRMAN: We have a motion for approval
11 by Mr. Appleby. Do we have a second?

12 DR. BOTHWELL: Second.

13 CHAIRMAN: Second by Dr. Bothwell. All in
14 favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT - DAVE APPLEBY,
16 DREW KIRKLAND AND DR. BOTHWELL, WITH THE
17 DISQUALIFICATION OF IRVIN ROGERS - RESPONDED AYE.)

18 CHAIRMAN: All opposed.

19 (ALL BOARD MEMBERS PRESENT - SCOTT JAGOE,
20 TIM MILLER, JIMMY GILLES AND JUDY DIXON, WITH THE
21 DISQUALIFICATION OF IRVIN ROGERS - RESPONDED NAY.)

22 CHAIRMAN: Motion does not carry. It's
23 not approved.

24 Next item.

25 ITEM 7

1 3300 Blocks US 60 East, 2.889 acres
2 Consider zoning change: From R-1A Single-Family
3 Residential and P-1 Professional/Service to P-1
4 Professional/Service
5 Applicant: Owensboro Church of Christ

6 PLANNING STAFF RECOMMENDATIONS

7 Staff recommends approval because the
8 proposal is in compliance with the community's adopted
9 Comprehensive Plan. The conditions and findings of
10 fact that support this recommendation include the
11 following:

12 Conditions:

- 13 1. Submittal and approval of a
14 consolidated plat;
- 15 2. With any future building or
16 construction activity on the subject property, a final
17 development plan shall be submitted. The open access
18 along both Isaac Shelby Drive and east Sixth Street
19 shall be consolidated into defined access points,
20 pavement within the right-of-way shall be returned to
21 grass, and appropriate vehicular use area screening
22 shall be installed; and,
- 23 3. No new access shall be permitted to US
24 60 East.

25 Findings of Fact:

1. The subject property is located in a
Professional/Service Plan Area where

1 professional/service uses are appropriate in general
2 locations;

3 2. A portion of the subject property is
4 currently zoned P-1 Professional/Service and once
5 rezoned the entire property will be consolidated into
6 a single tract; and,

7 3. The use of the subject property as a
8 church will be nonresidential in use and is
9 appropriate in a Professional/Service zone.

10 MR. HOWARD: We would like to enter the
11 Staff Report as Exhibit H

12 CHAIRMAN: Hold on. Let me ask you to
13 pause just a moment, please.

14 Let me ask for a ruling of counsel on that
15 last item.

16 MR. ELLIOTT: We had a motion and it did
17 not carry. I think that the application is still
18 before the board. There hasn't been action taken. If
19 it's the board's pleasure to deny, I think we need to
20 make a motion for denial with a finding of fact as to
21 why it's being denied, or to support the motion, we
22 need to have a vote on that.

23 CHAIRMAN: I think in courtesy to some of
24 the people out there that they probably should be
25 asked back.

1 MR. JAGOE: Could I ask a question of
2 counsel.

3 We either have to have a motion that we
4 recommend, that we send it to the county for
5 recommendation or that we send it to the county for
6 denial.

7 MR. ELLIOTT: Our recommendation would be
8 for approval or denial. I think we should take some
9 type of action on it.

10 MR. JAGOE: We cannot send it - - can we
11 send it with no action?

12 MR. ELLIOTT: I don't think so, would be
13 my opinion. You have to take some type of action.

14 MR. APPLEBY: We've got to make some
15 recommendation.

16 MR. ELLIOTT: Yes, some type of
17 recommendation.

18 CHAIRMAN: We've asked you all back
19 because there's a technicality on how we denied it so
20 we're going to continue with this process. We felt
21 like we owed you all a courtesy of asking some of you
22 back that we could have back.

23 At this point in time, Mr. Elliott, would
24 you state the steps we need to take.

25 MR. ELLIOTT: There needs to be a motion

1 at this point to dispose of the item. If that motion
2 is for denial, there must be a finding of fact with
3 reasons for the denial and the board should vote on
4 that. We had a motion for approval that did not pass.
5 That kind of leaves the item still on the table.

6 CHAIRMAN: So we have three affirmative
7 votes and then we had four denials. So do one of the
8 denial votes have to - -

9 MR. SILVERT: I think it mischaracterizes
10 it in that there were four people who disagreed with
11 the motion as read. That might not necessarily be
12 approval or denial. So a motion needs to pass in a
13 majority, either to approve or deny. Currently the
14 motion that's been on the table did not pass so we're
15 waiting on a motion that could have a majority,
16 however it's worded, either to approve or deny.

17 MR. JAGOE: But we cannot do neither. We
18 have to take some action before it goes to the county.

19 MR. ELLIOTT: Yes.

20 MR. JAGOE: No matter what action we take,
21 it still goes before the county?

22 MR. ELLIOTT: Yes.

23 CHAIRMAN: So at this point in time we
24 have a motion for approval of Mr. Appleby.

25 MR. ELLIOTT: That's already been voted

1 down.

2 CHAIRMAN: So now we're at the state where
3 we need another motion.

4 MR. JAGOE: Do we need a finding of fact?

5 MR. ELLIOTT: Yes.

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

8 (NO RESPONSE)

9 DR. BOTHWELL: Whoever voted down should
10 make the motion with their findings of fact, second,
11 and then we take a new vote.

12 CHAIRMAN: Counsel, do you all agree on
13 Dr. Bothwell's assessment?

14 MR. ELLIOTT: It would be up to the board.
15 Anyone can make a motion. It may be a motion for
16 approval for different reasons than we had.

17 CHAIRMAN: We need a motion.

18 AUDIENCE: Can I make a motion?

19 CHAIRMAN: No. We appreciate it, but no.

20 Mr. Jagoe, I think - -

21 MR. JAGOE: I don't have a - - Mr.

22 Appleby's motion went beyond our requirements, if I
23 understood the motion correctly. That's why I voted
24 against it.

25 MR. MILLER: Mr. Chairman, I'll make a

1 motion.

2 MR. JAGOE: But I don't know that I have a
3 finding of fact for denial.

4 CHAIRMAN: Mr. Jagoe, if you let Mr.
5 Miller, I think he's in a position now he wants to
6 make a motion.

7 Mr. Miller.

8 MR. MILLER: I make this with these
9 comments. While it's true that an expansion is
10 expected near a large industrial complex, I feel that
11 Kimberly Clark rezoned property necessary for their
12 operation at the time that it opened. It's the right
13 of every individual, especially a businessman, to buy
14 property to pursue business interest, but when such
15 purchase threatens the rural character of a community,
16 what's left of the rural character of this community,
17 such purchase would depreciate the objectives of the
18 Comprehensive Plan and in my opinion exceeds the
19 expected incidental land use in this area. So my
20 motion is to deny.

21 CHAIRMAN: Would he also need some
22 findings of facts.

23 MR. ELLIOTT: He just stated them.

24 CHAIRMAN: Those are his findings of fact.
25 We have a motion on the floor by Mr. Miller for

1 denial.

2 MR. MILLER: Yes, sir. That's correct.

3 MS. DIXON: Second.

4 CHAIRMAN: We've got a second by Ms.
5 Dixon. All in favor of Mr. Miller's motion for denial
6 raise your right hand.

7 (ALL BOARD MEMBERS PRESENT - MR. JAGOE,
8 MR. MILLER, MR. GILLES AND MS. DIXON, WITH THE
9 DISQUALIFICATION OF IRVIN ROGERS - RESPONDED AYE.)

10 CHAIRMAN: Four. All opposed to Mr.
11 Miller's motion.

12 (ALL BOARD MEMBERS PRESENT - DAVE APPLEBY,
13 DREW KIRKLAND AND DR. BOTHWELL, WITH THE
14 DISQUALIFICATION OF IRVIN ROGERS - RESPONDED NAY.)

15 CHAIRMAN: Three. So the motion is denied
16 based on Mr. Miller's findings of fact.

17 Now we will return to the next item.

18 Sorry to have brought you all back, but we
19 needed to do a little housekeeping. Thank you.

20 AUDIENCE: I have one more question before
21 I go, if you don't mind. Now, your recommendation
22 goes to the courts.

23 CHAIRMAN: Correct.

24 AUDIENCE: Then the court make the final
25 decision?

1 CHAIRMAN: Correct.

2 AUDIENCE: Do we know when that would be?

3 Is there any further recourse for us?

4 CHAIRMAN: Mr. Noffsinger.

5 MR. NOFFSINGER: You can contact the
6 office of the Daviess County Judge or the county
7 attorney and they would be able to tell you when that
8 would be on the Daviess County Fiscal Court agenda.
9 It will take about a month for us to get this
10 transcript back and a recommendation over to the
11 Daviess County Fiscal Court. So you're looking at
12 probably a minimum of a month before they would have
13 that on the Daviess County Fiscal Court agenda. But
14 you do in about I'd say three weeks you need to call
15 and touch base with the Daviess County Court's office,
16 judge's office to find out when that item will be on
17 their agenda.

18 CHAIRMAN: Thank you.

19 Sorry for our interruption. We had a
20 little housekeeping to do. Would you return to the
21 podium.

22 MR. HOWARD: I actually finished reading
23 the last one. Do you want me to start over?

24 CHAIRMAN: Would you please start from the
25 beginning.

1 PLANNING STAFF RECOMMENDATIONS

2 Staff recommends approval because the
3 proposal is in compliance with the community's adopted
4 Comprehensive Plan. The conditions and findings of
5 fact that support this recommendation include the
6 following:

7 Conditions:

- 8 1. Submittal and approval of a
9 consolidated plat;
- 10 2. with any future building or
11 construction activity on the subject property, a final
12 development plan shall be submitted. The open access
13 along both Isaac Shelby Drive and east 6th Street
14 shall be consolidated into defined access points,
15 pavement within the right-of-way shall be returned to
16 grass, and appropriate vehicular use area screening
17 shall be installed; and,
- 18 3. No new access shall be permitted to US
19 60 East.

20 Findings of Fact:

- 21 1. The subject property is located in a
22 Professional/Service Plan Area where
23 professional/service uses are appropriate in general
24 locations;
- 25 2. A portion of the subject property is

1 currently zoned P-1 Professional/Service and once
2 rezoned the entire property will be consolidated into
3 a single tract; and,

4 3. The use of the subject property as a
5 church will be nonresidential in use and is
6 appropriate in a Professional/Service zone.

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

9 CHAIRMAN: Is there anybody representing
10 the applicant?

11 APPLICANT REP: Yes.

12 CHAIRMAN: Does anybody have any
13 questions?

14 (NO RESPONSE)

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

17 MS. DIXON: Move to approve because it's
18 in compliance with the Comprehensive Lane Use Plan and
19 based upon Planning Staff Recommendations 1, 2 and 3
20 and subject to Conditions 1, 2 and 3.

21 CHAIRMAN: Motion for approval by Ms.
22 Dixon.

23 MR. GILLES: Second.

24 CHAIRMAN: Second by Mr. Gilles. All in
25 favor raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item, please.

4 -----

5 ZONING CHANGES - CITY/COUNTY

6 ITEM 8

7 2600, 2624, 2626 New Hartford Road, 1.1 +/- acres
8 Consider zoning change: From R-1C Single-Family
9 Residential to B-4 General Business
Applicant: Southside Wesleyan Church, Jerry & Betty
Yeiser

10 PLANNING STAFF RECOMMENDATIONS

11 Staff recommends approval because the
12 proposal is in compliance with the community's adopted
13 Comprehensive Plan. The conditions and findings of
14 fact that support this recommendation include the
15 following:

16 Conditions:

- 17 1. Submittal and approval of a final
18 development plan;
- 19 2. Access for the subject property to New
20 Hartford Road shall be limited to a maximum of one
21 access point;
- 22 3. Open access along Sunrise Drive shall
23 be eliminated with defined curb cuts established.
24 Curbing shall be installed and pavement in the
25 right-of-way shall be removed and returned to grass;

1 and,

2 4. A 10 foot landscape buffer with a six
3 foot high element and one tree every 40 linear feet
4 shall be installed along the southern property line of
5 the subject property.

6 Findings of Fact:

7 1. The subject property is located in a
8 Professional/Service Plan Area where general business
9 uses are appropriate in very-limited locations;

10 2. Lots fronting New Hartford Road in the
11 vicinity are non-residential in nature on the east and
12 west;

13 3. The proposal is a logical expansion of
14 B-4 General Business zone and use located immediately
15 south of the subject property; and,

16 4. The expansion of the B-4 General
17 Business zone will not significantly increase the
18 extent of the zone in the vicinity and will not
19 overburden the capacity of roadways and other
20 necessary urban services that are available in the
21 affected area.

22 MR. HOWARD: We would like to enter the
23 Staff Report as Exhibit I.

24 CHAIRMAN: Is anybody representing the
25 applicant?

1 APPLICANT REP: Yes.

2 CHAIRMAN: Does anybody have any questions
3 of the applicant?

4 (NO RESPONSE)

5 CHAIRMAN: If not the chair is ready for a
6 motion.

7 DR. BOTHWELL: Motion for approval, Mr.
8 Chairman, based on Conditions 1 through 4 and Findings
9 of Fact 1 through 4.

10 CHAIRMAN: We've got a motion for approval
11 by Dr. Bothwell.

12 MS. DIXON: Second.

13 CHAIRMAN: Second by Ms. Dixon. All in
14 favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, please.

18 -----

19 MAJOR SUBDIVISIONS

20 ITEM 9

21 Graystone Estates, Section 2, Unit 2,
22 Lots 152-167, 254, 4.820 acres
23 Consider approval of major subdivision final plat.
24 Surety (Performance Bond) posted: \$21,354.60
25 Applicant: Jagoe Land Corporation

26 MR. NOFFSINGER: Mr. Chairman, the
27 application has been reviewed by the Planning Staff.

1 It's found to be consistent with the adopted
2 Comprehensive Plan, the adopted zoning ordinance and
3 subdivision regulations.

4 MR. JAGOE: Mr. Chairman, I need to
5 disqualify myself.

6 CHAIRMAN: Mr. Jagoe for the record is
7 disqualifying himself.

8 Is there anyone representing the
9 applicant?

10 (NO RESPONSE)

11 CHAIRMAN: Do we have any questions?

12 (NO RESPONSE)

13 CHAIRMAN: If not the chair is ready for a
14 motion.

15 MS. DIXON: Move to approve.

16 CHAIRMAN: Motion for approval by Ms.
17 Dixon.

18 MR. ROGERS: Second.

19 CHAIRMAN: Second by Mr. Rogers. All in
20 favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT - WITH THE
22 DISQUALIFICATION OF SCOTT JAGOE - RESPONDED AYE.)

23 CHAIRMAN: Motion carry unanimously.

24 Next item, please.

25 ITEM 10

1 Hidden Valley Townhomes, Building 4-A, 6.429 acres
2 Consider approval of major subdivision final plat.
3 Surety Previously Posted
4 Applicant: Miles Farms, LLC

5 MR. NOFFSINGER: Mr. Chairman, Planning
6 Staff has reviewed this application. Found to be in
7 order. The use is consistent with the adopted
8 Comprehensive Plan, adopted subdivision regulations
9 and zoning ordinance.

10 CHAIRMAN: Is anybody here representing
11 the applicant?

12 APPLICANT REP: Yes.

13 CHAIRMAN: Any questions of the applicant?

14 (NO RESPONSE)

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

17 DR. BOTHWELL: Motion for approval

18 CHAIRMAN: Motion for approval by Dr.
19 Bothwell.

20 MS. DIXON: Second.

21 CHAIRMAN: Second by Ms. Dixon. All in
22 favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 The chair is ready for one final motion.

MS. DIXON: Move it adjourn.

1 CHAIRMAN: Move to adjournment by Ms.

2 Dixon.

3 DR. BOTHWELL: Second.

4 CHAIRMAN: Second by Dr. Bothwell. All in
5 favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: We are adjourned.

8 -----

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

