

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 DECEMBER 13, 2007

3 The Owensboro Metropolitan Planning Commission  
4 met in regular session at 5:30 p.m. on Thursday,  
5 December 13, 2007, at City Hall, Commission Chambers,  
6 Owensboro, Kentucky, and the proceedings were as  
7 follows:

8 MEMBERS PRESENT: Drew Kirkland, Chairman  
9 Gary Noffsinger  
10 Judy Dixon  
11 Dave Appleby  
12 Scott Jagoe  
13 Irvin Rogers  
14 Keith Evans  
15 Martin Hayden  
16 Madison Silvert, Attorney

17 \* \* \* \* \*

18 CHAIRMAN: I would like to welcome everybody  
19 to the December 13th meeting of the Owensboro  
20 Metropolitan Planning Commission.

21 Will you please rise. Our invocation will be  
22 given by Ms. Judy Dixon.

23 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

24 CHAIRMAN: Let us consider the minutes of the  
25 November 8th meeting. Are there any additions,  
26 corrections?

27 (NO RESPONSE)

28 CHAIRMAN: If not the chair is ready for a  
29 motion.

1 MS. DIXON: Move to approve.

2 CHAIRMAN: Motion for approval by Ms. Dixon.

3 MR. JAGOE: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 I would like to take this time, Mr. Scott  
9 Jagoe will be retiring from the commission after this  
10 meeting. I would like to take this opportunity to  
11 present Scott with a plaque and thank him for his  
12 dedication years of services from 1999 to 2007 for  
13 serving Daviess County and the City of Owensboro and  
14 the City of Whitesville.

15 Scott, appreciate having you on board. Thanks  
16 for all the help you've given us. We appreciate all  
17 your service.

18 Mr. Noffsinger, next order of business.

19 -----

20 ZONING CHANGE

21 ITEM 2

22 1117 Allen Street, 0.160 acres  
23 Consider zoning change: From R-4DT Inner-City  
24 Residential to I-1 Light Industrial.  
Applicant: Steven Mayton

25 MR. SILVERT: State your name, please.

1 MR. HOWARD: Brian Howard.

2 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

3 PLANNING STAFF RECOMMENDATIONS

4 Staff recommends denial because the proposal  
5 is not in compliance with the community's adopted  
6 Comprehensive Plan. This recommendation is made  
7 subject to the following findings of fact:

8 FINDINGS OF FACT:

9 1. The subject property is located in a  
10 Central Residential Plan Area, where light industrial  
11 uses are appropriate in very-limited locations;

12 2. The current zoning classification of R-4DT  
13 Inner-City Residential is appropriate for the subject  
14 property;

15 3. The expansion of I-1 Light Industrial  
16 zoning is not a logical expansion into the Allen  
17 Street blockfront because it would create the only  
18 industrial zoning within the 1101 block of Allen  
19 Street;

20 4. The criteria for expansion into a  
21 residential area across an intervening street have not  
22 been met; and,

23 5. The subject property adjoins R-4DT  
24 Inner-City Residential zoning to the south which is  
25 consistent within the entire blockfront.

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

3           MR. NOFFSINGER: Mr. Chairman, before we move  
4 any further I do need to make a statement.

5           On Items 2 through 6 Zoning Changes, the  
6 action taken tonight by the Planning Commission will  
7 be a recommendation. The action they take will become  
8 final in 21 days unless someone files a request here  
9 tonight or in the offices of the OMPC within 21 days  
10 requesting that the City of Owensboro or the Daviess  
11 County Fiscal Court take final action. So, again, the  
12 action of the Planning Commission becomes final in 21  
13 days unless someone files a petition for City of  
14 Owensboro or Daviess County to hear the item.

15           CHAIRMAN: Thank you.

16           Is there anybody here representing the  
17 applicant?

18           MR. MAYTON: Yes.

19           CHAIRMAN: Does anybody have any questions of  
20 the applicant?

21           (NO RESPONSE)

22           CHAIRMAN: Would the applicant like to make a  
23 statement?

24           MR. MAYTON: Yes. My name is Steve Mayton. I  
25 own the property.

1 (MR. STEVE MAYTON SWORN BY ATTORNEY.)

2 MR. MAYTON: I'm Steve Mayton. I'm the one  
3 that owns the property that abuts this lot. I've  
4 owned it for the last six years. It hasn't been  
5 developed. Nobody wants to develop it. I need to  
6 expand my existing business. On the Allen Street side  
7 they're referring to, there will be a 65 foot offset  
8 from that street that will be green space and parking  
9 lot. The property years ago used to be I-1. To me  
10 it's a logical expansion so I can expand my business  
11 without having to go buy the property somewhere else.  
12 That's why I think it should be rezoned to I-1.

13 CHAIRMAN: Mr. Mayton, is this property, isn't  
14 it right next-door to the railroad tracks?

15 MR. MAYTON: Yes. The railroad tracks are to  
16 the north. There's a big warehouse right straight  
17 across the street on Allen Street. It actually, the  
18 warehouse's address is 12th Street, but it has access  
19 off of Allen Street and it's zoned I-1.

20 CHAIRMAN: When going to an I-1 zone, exactly  
21 what is going to be your nature of your business?

22 MR. MAYTON: I have a restoration shop on the  
23 Daviess Street side. If I add on to my existing  
24 building, my access will come off my parking lot from  
25 Daviess Street to this. It won't have access off

1 Allen Street. Won't affect it in any way as far as  
2 traffic or anything like that is concerned.

3 CHAIRMAN: So you will not have, you don't  
4 want any access off of Allen Street. Are you going to  
5 expand your building back into that area?

6 MR. MAYTON: Yes.

7 CHAIRMAN: So there will be no open area or  
8 storage or anything going on back there?

9 MR. MAYTON: No, sir.

10 CHAIRMAN: Be a little bit more specific.  
11 Exactly what kind of operation do you run? Don't you  
12 do --

13 MR. MAYTON: I restore antique cars, boats,  
14 motorcycles. Just anything like that. I've been  
15 there for six years. I haven't had one complaint.  
16 Nobody has ever complained about what I did, my  
17 building that I built or anything. I haven't had any  
18 problem with anybody in the neighborhood that I know  
19 of. I think my building added to the neighborhood and  
20 raised their property value rather than took away.

21 Nobody wants to put a house 50 feet from a  
22 railroad track. The lot has been sitting there vacant  
23 for six years and I just felt like it would be better  
24 used if I got to rezone it.

25 CHAIRMAN: What you're going to put back in

1       there will be your building. You will expand back  
2       there with your building. Everything you do will  
3       actually be inside?

4               MR. MAYTON: Yes. There will be a parking  
5       lot. I'll have to have more parking space so I can  
6       expand my building. Everything will be inside the  
7       building.

8               CHAIRMAN: Does anybody else got any questions  
9       of the applicant?

10              (NO RESPONSE)

11              CHAIRMAN: As the commission knows the Staff  
12       has recommended for denial. Does anybody on the  
13       commission have any other thoughts?

14              (NO RESPONSE)

15              CHAIRMAN: Are there any further comments?

16              (NO RESPONSE)

17              CHAIRMAN: No further comments by anybody.

18              Mr. Appleby.

19              MR. APPLEBY: Thank you.

20              CHAIRMAN: Chair is at the point now where we  
21       need to make a motion.

22              MR. APPLEBY: Mr. Chairman, I'm going to make  
23       a motion for approval with the condition that there be  
24       no access on Allen Street and would change the  
25       condition that it would be a logical expansion of the

1 I-1 on Daviess Street in place of the, I guess it  
2 would eliminate Findings of Fact Number 4.

3 MR. NOFFSINGER: Mr. Chairman, if I might.

4 CHAIRMAN: Yes, sir, Mr. Noffsinger.

5 MR. NOFFSINGER: What you may want to look at,  
6 findings of fact Number 1 would still be applicable.  
7 You may also want to consider the location of the  
8 railroad in this area. Also it's been presented in  
9 the testimony that the adjoining property to the west  
10 across Allen Street is zoned and used for I-1 light  
11 industrial, then the property to the east is zoned and  
12 used for I-1 light industrial. Mr. Mayton has  
13 indicated that the property was zoned industrial back  
14 many years ago.

15 The issue of logical expansion I think you can  
16 certainly find that if you feel this is a logical  
17 expansion. The reason Staff did not determine it to  
18 be that was because of orientation, because we're  
19 moving onto another street, but that's not to say that  
20 you couldn't find it to be a logical expansion of the  
21 existing business. I think all of those you could use  
22 as your findings.

23 CHAIRMAN: Mr. Appleby.

24 MR. APPLEBY: Then the Findings of Fact would  
25 be Number 1 would still apply.

1           Number 2 would be eliminated.

2           Number 3 would be the expansion of I-1 Light  
3 Industrial zoning is a logical expansion of the  
4 existing industrial zoning.

5           Number 4 would not apply and neither would 5.

6           Am I reading that right?

7           MR. NOFFSINGER: Right. You might want to  
8 talk about the railroad track and the uses in the  
9 area.

10          MR. APPLEBY: There will be an additional  
11 findings of fact that the property adjoins the  
12 railroad track and the three surrounding properties  
13 are currently zoned I-1 and used for light industrial  
14 use. That would be my findings of fact.

15          MR. NOFFSINGER: That would be contained in  
16 the report and the testimony.

17          Any commitments that are made here on record  
18 that are said here tonight can be used at a later date  
19 in terms of commitments you've made on the zoning  
20 change. The record, we do keep a permanent record and  
21 that record will be used in the future to make sure  
22 that you adhere to what's said here tonight.

23          CHAIRMAN: Mr. Mayton, you understood  
24 obviously my question about open area storage and  
25 about enclosed work area for your business?

1           MR. MAYTON: Right. The last six year I've  
2           been there everything has been kept inside.

3           CHAIRMAN: I wanted you to know that part of  
4           your testimony was going to be things that you're also  
5           agreeing to.

6           MR. MAYTON: Yes.

7           MR. APPLEBY: And understand we're limiting  
8           access, we're not going to have any access on Allen  
9           Street.

10          MR. MAYTON: That's fine. I didn't want  
11          access off Allen Street. It's too small.

12          MR. JAGOE: Are those both going to be  
13          conditions of the zoning?

14          MR. APPLEBY: Are you making that a -- would  
15          that be a condition, the outdoor storage?

16          MR. NOFFSINGER: That can certainly be a  
17          condition, if you want to reenforce that. The  
18          gentleman has made that statement. I think that can  
19          be used in the future in terms of use of this  
20          property, but you can reenforce that through a  
21          condition.

22          MR. APPLEBY: We make that a second condition.

23          CHAIRMAN: So, Mr. Appleby, are you ready to  
24          tie it into a motion?

25          MR. APPLEBY: I think so.

1           Make a motion for approval with the condition  
2           there be no access on Allen Street. The second  
3           condition there will be no outside storage of  
4           vehicles.

5           Findings of Fact: Number 1, The subject  
6           property is located in a Central Residential Plan  
7           Area, where light industrial uses are appropriate in  
8           very-limited locations;

9           2. Expansion of I-1 Light Industrial zoning  
10          is a logical expansion of the existing zoning;

11          3. There are light industrial uses on three  
12          sides of the property; and,

13          4. The property is located adjacent to the  
14          railroad track.

15          CHAIRMAN: Mr. Appleby has made a motion for  
16          approval based on conditions and findings of fact. Do  
17          I have a second?

18          MR. EVANS: Second.

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

21          (BOARD MEMBERS SCOTT JAGOE, IRVIN ROGERS, DAVE  
22          APPLEBY, DREW KIRKLAND, KEITH EVANS, MARTIN HAYDEN  
23          RESPONDED AYE.)

24          CHAIRMAN: All opposed.

25          (BOARD MEMBER JUDY DIXON RESPONDED NAY.)

1 CHAIRMAN: We've got six for and one against.

2 The motion carries.

3 Next item, please.

4 ITEM 3

5 10760 Jackson Road North, 49.470 acres  
6 Consider zoning change: From A-R Rural Agriculture  
7 and EX-1 Coal Mining to A-R Rural Agriculture  
8 Applicant: Jared L. Gibson

9 PLANNING STAFF RECOMMENDATIONS

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

14 FINDINGS OF FACT:

15 1. The subject property is located in a Rural  
16 Maintenance Plan Area, where rural farm residential  
17 uses are appropriate in general locations;

18 2. A portion of the subject property is  
19 designated as prime agricultural farmland according to  
20 the "Important Farmlands" map created by the US  
21 Department of Agriculture Soil Conservation Service  
22 dated March 1980;

23 3. The subject property has frontage on and  
24 access to Jackson Road North which is an existing  
25 street with no new streets proposed;

4. There is no mining activity on the subject

1 property; and,

2 5. The Owensboro Metropolitan Zoning  
3 Ordinance Article 12a.31 requires that property shall  
4 revert to its original zoning classification after  
5 mining.

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

8 CHAIRMAN: Is there anybody here representing  
9 the applicant?

10 (NO RESPONSE)

11 CHAIRMAN: Does anybody have any questions?

12 (NO RESPONSE)

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

15 MS. DIXON: Move for approval based upon  
16 Planning Staff Recommendations and Findings of Fact 1,  
17 2, 3, 4 and 5.

18 CHAIRMAN: Motion for approval by Ms. Dixon.

19 MR. HAYDEN: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25 ITEM 4

1 1937 Leitchfield Road, 2050 East Parrish Avenue, 3.46  
2 acres (postponed from 11/8/07)  
3 Consider zoning change: From A-U Urban Agriculture  
4 and P-1 Professional/Service to P-1  
5 Professional/Service  
6 Applicant: Dale Buskill, SMB Properties, LLC

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
PLANNING STAFF RECOMMENDATIONS

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

CONDITIONS:

1. Access to 2050 East Parrish Avenue shall be limited to approval locations as shown on the final development plan approved on January 4, 2007;

2. The need for a right-turn decel and storage lane should be evaluated when access is established on East Parrish Avenue; and,

3. Access to 1937 Leitchfield Road shall be limited to a single access point on Leitchfield Road in compliance with the Access Management Manual.

FINDINGS OF FACT:

1. The subject property is located in an Urban Residential Plan Area where professional/service uses are appropriate in limited locations;

2. The subject property is a logical

1 expansion of an existing P-1 Professional/Service zone  
2 located immediately west of the subject property; and,

3 3. The proposed rezoning will not  
4 significantly increase the extent of the P-1 zoning  
5 classification in the vicinity and will not overburden  
6 roadway capacity and other urban services that are  
7 available in the affected area.

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

10 Also I would like to add that the  
11 commissioners have been given a copy of a map that I'm  
12 going to show at this point and enter it into the  
13 record as well. It may take a minute for it to come  
14 up on the screen.

15 Basically this outlines to our understanding  
16 as is stated in the applicant's packet what their  
17 proposal is as far as access and as far as viewing the  
18 proposal tonight.

19 Basically it shows where the approved access  
20 location is for the property of East Parrish Avenue,  
21 which is Dr. Block's property. Basically an  
22 approximate location of where they propose to relocate  
23 the access and then access across the street which is  
24 not in alignment with their proposed location and in  
25 an area where there could be some conflict.

1           I would like to enter that into the record as  
2 well. Thank you.

3           MR. ROGERS: Mr. Chairman, I need to  
4 disqualify myself on this one.

5           CHAIRMAN: Let the record show that Mr. Rogers  
6 is disqualifying himself.

7           Is there anybody representing the applicant?

8           MR. SILVERT: State your name, please.

9           MR. KAMUF: Charles Kamuf.

10          (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

11          MR. KAMUF: Judy and Board Members, I  
12 represent Dr. Block and also Dale Buskill concerning  
13 the rezoning out there on Highway 54.

14          I think as Brian stated, it was continued from  
15 the last meeting and it was continued because Dr.  
16 Block was at a medical seminar in Atlanta.

17          I think this just helps in line with the  
18 photograph that has been shown. We have a small copy  
19 of this for everybody, for the board. It really is in  
20 line with what you see up on the screen.

21          I might point out is that this is the  
22 Buskill/Block property. This is the property that you  
23 rezoned last month, which is further down the road.  
24 This track that we see here on the Block property, the  
25 block property here is about two point something

1        acres. The other track that you see here in the  
2        yellow is 1.7 acre tract of ground.

3                We have an access point. In January of this  
4        year by a development plan, you all approved an access  
5        point, which I will show you in just a second, along  
6        this line. The only thing that we're asking tonight  
7        is that that access point be shifted further east  
8        approximately 200 feet so that it will not only serve  
9        one property, it will serve two property owners. So  
10       that's what this argument will be about tonight. Is  
11       that we want to shift.

12               If you'll show that next exhibit.

13               What we have here, this is the January  
14       approval. If you look at the bottom of it according  
15       to that plat, it shows at the bottom that this is a  
16       final development plan. It covers the property. At  
17       that time I believe there was one building on the  
18       Block property. You'll see later that we have  
19       approximately four buildings on the property. The  
20       access point that you see on that particular map that  
21       is designated as Exhibit A is this point right here on  
22       the big map. That's right here. It will be to the  
23       west of the subject property. What we intend to do is  
24       to have one joint access that you see in green on the  
25       big map. This will be the joint access for both the

1 Block and the Buskill property.

2 Now, the proposed, this is the proposed map  
3 that you see which will show the -- this is the joint  
4 access that you saw in the green on the property. It  
5 will be a joint access for both the Block and the  
6 Buskill property. It will be shifted from right here  
7 where I show here approximately 200 feet up to this  
8 particular point.

9 The access that we had was for a single  
10 property owner. This will be now for a joint property  
11 owner.

12 Block will give up his access point that you  
13 see on the one exhibit. I guess it's Exhibit A. He  
14 will now ask for on Exhibit B that he have a joint  
15 access for both properties. So it will serve two  
16 properties instead of one.

17 Since the filing of this application prior to  
18 November and since the board hearing at the last  
19 meeting, there has been one major development in this  
20 particular area. That the last meeting on November  
21 8th by unanimous decision this board approved the  
22 rezoning of the Hinton property which is at this  
23 corner here. It's on your big map that you see as  
24 Exhibit C. You all approved that by unanimous  
25 decision.

1           What you actually did is you approved this  
2           property which is, it's a stone throw, I don't know  
3           how many feet, from the subject property. What it  
4           did, what you actually did at that time is you  
5           approved it. If you see this little exhibit that I  
6           show you at this time, on the first part it was  
7           approval with no conditions and it was approved with  
8           access to Highway 54.

9           If you'll turn to the third page, which is  
10          underlined in yellow when you get it. It was approved  
11          without any limitation as to the access on Highway 54.  
12          If you look at the conditions that was requested by  
13          the Staff, it said, "The existing access to East  
14          Parish Avenue should be closed and access be limited  
15          to east shall be closed and access shall be limited to  
16          Wing Avenue." You all approved that without any  
17          condition whatsoever.

18          The issues that we're here to discuss tonight  
19          will be three.

20          One, the first condition that you all have  
21          requested is that access to Parrish Avenue shall be  
22          limited to a final development plan.

23          We're asking you to do no more than amend Dr.  
24          Block's final development plan and change the access  
25          point as I went over.

1           The second condition is a right turn decel  
2           storage lane shall be evaluated. We think that the  
3           decel storage lane should be evaluated at the time  
4           that the Buskill property has a final development  
5           plan. The Block final plan was approved without a  
6           right turn decel lane.

7           We have a traffic engineer here who will  
8           testify concerning that. Basically at that time it  
9           will be up to the state highway engineer to make that  
10          call. The third condition that's requested is that  
11          access to 1937 Leitchfield Road be limited to a single  
12          access point. We think that the primary access point  
13          would be better if it was on 54 and the secondary  
14          access point would be better if it was on the  
15          Leitchfield Road area.

16          The Hinton property that you rezoned last  
17          month is in the area that we have in purple. At that  
18          time the Hinton property as you can see was in a sharp  
19          curve. There was some question in the Staff Report  
20          about the sharp curve on the property that we're going  
21          to have in a few minutes. As you can see at that  
22          time, along Highway 54 on the Hinton property it was  
23          196 feet to that point that you have the center line  
24          of the proposed entrance.

25          What makes that important is that according to

1 the required guidelines it was suppose to be 500 feet.  
2 So you approved it with 167 foot.

3 As you see the Wing Avenue exit there, the  
4 Wing Avenue exit allowed them at that time the access  
5 point. So they asked for the access point to be at  
6 the intersection where you see the center line.

7 The access point at that area that you have  
8 the Hinton property was for one property owner. The  
9 board at that time decided that an access point was  
10 good to have on Highway 54 for the Hinton property.

11 Now, when you see this other exhibit, what  
12 makes this different is this is about a two acre track  
13 of ground that you have on the Block property. As you  
14 can see, the curve is not near as sharp that we have.

15 The access point, there was some question  
16 about the access point that you see here across from  
17 the property. As you compare these two pieces of  
18 property, the access point I would say on this area  
19 that you have here is across from a strip center which  
20 is a traveled area that also I think is an area for  
21 Wholesale Petroleum. It is a lot more, there's a lot  
22 more traffic at that particular area than there would  
23 be that we see along this area here.

24 The track that you see where you have the  
25 green area is in line somewhat with the driveway

1 across the road. I think all of us know that when you  
2 have this driveway across the road it will be closed  
3 at a later date. I don't think there's any question  
4 that there's a driveway to this house here. I think  
5 it goes to a Mr. Welch. I'm not for sure. That  
6 driveway eventually will be closed because you can see  
7 it will not go to the rest of this traffic that will  
8 be closed because of these buildings here.

9 The proposed access that we have here on this  
10 property if you see is 465 feet or 468 feet from the  
11 intersection of Leitchfield Road. So the other one  
12 that you approved last month was 168 foot, but we'll  
13 have the engineer to testify that there's nothing  
14 magic about whether it's 468 or 168. It depends up on  
15 the question.

16 We think that our proposed rezoning tonight is  
17 a lot stronger case than the one that you approved  
18 last week.

19 CHAIRMAN: Mr. Kamuf, excuse me. You've done  
20 a great job with all the maps and everything. Big  
21 question I need to ask is: This property in yellow,  
22 the Dale Buskill property, where is their entrance and  
23 exit?

24 MR. KAMUF: Where is their entrance?

25 CHAIRMAN: Yes.

1           MR. KAMUF: It will be joined, you see in the  
2 green.

3           CHAIRMAN: So you are proposing to close the  
4 Buskill property entrance and there's going to be one  
5 joint; is that correct?

6           MR. KAMUF: No. The block property will be,  
7 if you see the Block property which is at the end of  
8 the red. It's on one of those exhibits. I think it's  
9 Exhibit A.

10          CHAIRMAN: Right. But we've got the Dale  
11 Buskill property down here. Isn't their access to  
12 East Parrish Avenue up there pretty close to this one  
13 that you're proposing?

14          MR. KAMUF: I'm sorry, Mr. Chairman, I don't  
15 understand.

16          MR. NOFFSINGER: Excuse me.

17          Mr. Chairman, the Buskill property does not  
18 have frontage on 54. Therefore it does not have a  
19 driveway or an access to 54. It's frontage and  
20 driveway access is limited to Leitchfield Road.

21          The proposal Mr. Kamuf is sharing with you  
22 tonight is to get Mr. Buskill a driveway onto 54.

23          CHAIRMAN: Okay.

24          MR. KAMUF: The reason for that is along this  
25 particular area that you see through here is that

1       there was some land that they wanted to interchange.  
2       So Mr. Buskill and Mr. Block will interchange some  
3       land and make it where it's convenient for both of  
4       them to have that joint access in the green where both  
5       of them would share it to Highway 54.

6               CHAIRMAN: I'll have to ask Mr. Buskill some  
7       questions. Just had to clear myself up on where we  
8       were going.

9               MR. JAGOE: Can I ask a question?

10              CHAIRMAN: Please.

11              Mr. Kamuf, Mr. Jagoe has a question.

12              MR. JAGOE: The property that's in front of  
13       Mr. Buskill's, is adjacent to Parrish Avenue. Where  
14       would you anticipate that they would have access?

15              MR. KAMUF: That is a very good question. We  
16       are willing at this time to give them access from, it  
17       would be a shared access between Buskill, Block and  
18       whoever those individuals would be. We're willing to  
19       do that. We have not made an agreement with them.

20              CHAIRMAN: Who owns, do we know of record who  
21       owns this property?

22              MR. NOFFSINGER: Yes, sir, we do. That  
23       property is owned by Welsh. Last name is Welsh. They  
24       are represented here tonight.

25              MR. KAMUF: We have a traffic engineer here,

1 Bill Hays. If you would pass those. Mr. Hays has had  
2 a great deal of experience with the City of Bowling  
3 Green in making application of the access manual. He  
4 graduated in engineering at Vanderbilt University.  
5 He's had 33 years of experience with all of the  
6 traffic. He's prepared over 100 traffic impact  
7 studies. I think he'll tell you that the safest place  
8 along this highway to have an access point will be the  
9 proposal that we have asked you all to approve. Mr.  
10 Hays is here.

11 CHAIRMAN: Mr. Kamuf, I hate to interrupt you.  
12 I think at this point in time, at least for my behalf  
13 and maybe the rest of the commission, I think we need  
14 to hear from Mr. Buskill to make sure if he's in on  
15 this. If he's agreeable to this at this point in time  
16 as far as having this point.

17 MR. APPLEBY: It's his application.

18 CHAIRMAN: Okay.

19 MR. NOFFSINGER: It's his application. What  
20 you I think will hear from in just a moment is from  
21 the adjoining property owner, Welsh, that has this  
22 frontage all along Kentucky 54, Parrish Avenue from  
23 where they're proposing the access point to  
24 Leitchfield Road. I think that is the fact. Mr.  
25 Buskill as part of this application has no frontage on

1 54.

2 CHAIRMAN: All right.

3 MR. JAGOE: Just one more point of  
4 clarification. On Exhibit B, is the proposed for the  
5 Block property.

6 MR. KAMUF: That's correct.

7 MR. JAGOE: That does front 54, correct?

8 MR. KAMUF: Which exhibit?

9 MR. JAGOE: Exhibit B.

10 MR. KAMUF: David Weaver can answer that.

11 MR. SILVERT: State your name, please.

12 MR. WEAVER: David Weaver.

13 (MR. DAVID WEAVER SWORN BY ATTORNEY.)

14 MR. WEAVER: I'm an employee of Bryant  
15 Engineering. We worked on the conceptual plan with  
16 Dr. Block as well as this currently approved final  
17 development plan. We've also been working directly  
18 with Dale Buskill on his site.

19 Scott, I think what you're looking at is this  
20 area through here would be an exchange in the future.  
21 Dale would acquire this in an ingress/egress easement  
22 we would place in that area.

23 MR. JAGOE: Actually my question is, do they  
24 own to the right of way where the parking lot sits  
25 against 54?

1 MR. WEAVER: Dale Buskill does not.

2 MR. JAGOE: Does the Block property?

3 MR. WEAVER: The Block property does. The  
4 Block property right now is somewhat irregular.  
5 There's a finger that comes out along in front of Dale  
6 Buskill's property.

7 MR. JAGOE: So they do have frontage through  
8 there.

9 MR. WEAVER: They will have frontage through  
10 there after the property is transferred from Dr. Block  
11 to Dale Buskill.

12 MR. APPLEBY: I think he's asking about the  
13 Block property.

14 MR. JAGOE: The Block property has frontage?

15 MR. WEAVER: That's correct. All the frontage  
16 along here is Dr. Block's.

17 MR. JAGOE: All along 54.

18 MR. WEAVER: Yes. With the exception that  
19 once you get past this point, once you get past the  
20 green area on this map, the area that's not colored is  
21 the Welsh property. This area through here is  
22 actually right of way.

23 MR. JAGOE: I'm just speaking to Exhibit B.  
24 The one that you have there. Is access allowed  
25 anywhere along that property?

1           MR. WEAVER: Dr. Block currently has an  
2 approved access point. He has an approved final  
3 development plan. His current approved plan --

4           MR. APPLEBY: Exhibit A.

5           MR. JAGOE: I thought Exhibit A was the  
6 Buskill property.

7           MR. APPLEBY: No. Exhibit A is the Block  
8 property.

9           MR. WEAVER: This is Dr. Block's current  
10 approved access point. He'll be moving this access  
11 point to a joint access point here on property that  
12 will be transferred to Dale Buskill.

13          MR. APPLEBY: That's the way it exist right  
14 now.

15          CHAIRMAN: I think maybe the commission is  
16 getting a grip of this.

17          Scott, I appreciate your efforts there in  
18 going through the exhibit.

19          MR. JAGOE: I was just trying to determine  
20 where the access was, where the approved access is for  
21 the Block property on Exhibit B.

22          MR. WEAVER: If you look at Exhibit B. You  
23 see the two squares here. Those are actually, I left  
24 those on there intentionally. That was the --

25          MR. JAGOE: It got it. Thank you.

1           MR. NOFFSINGER: Which is also Exhibit A  
2 approved plan.

3           CHAIRMAN: At this point in time maybe it  
4 would be easier, I hate to hold up your expert  
5 witness, but I think at this point in time maybe for  
6 the sake of the commission we may bring the Welshes  
7 up, if there's somebody representing that party, and  
8 see. That was the access that I was trying to find  
9 out. I got through my exhibits. That's really the  
10 access, I need to find out where that is. Obviously  
11 we have that, but I'd like Mr. Welsh to testify.

12           MR. SILVERT: State your name, please.

13           MR. WELCH: Denny Welsh.

14           (MR. DENNY WELSH SWORN BY ATTORNEY.)

15           MR. WELSCH: I tell you guys, this is a little  
16 bit overwhelming for me.

17           I'm here representing my father who owns the  
18 two adjoining properties. He also owns the property  
19 across the road which is several acres. When I say  
20 several, probably between two and three acres. He  
21 owns the property that has access on 54 that adjoins  
22 this property that we're talking about.

23           My father has a little heart condition. He  
24 didn't feel like he needed to be here today.  
25 Stress-related with all of this stuff. My brother and

1 I are trying to do what we can to make this clear.

2 I think if you listen to me and forget the  
3 razzle-dazzle, you will have a clear understanding of  
4 what's going on here and what we're talking about.  
5 Okay.

6 Like I said, I don't have a lot of experience  
7 in this area, but I do understand what this hearing is  
8 about. It basically is boiling down to access.

9 CHAIRMAN: Mr. Welsh, that's our question.  
10 Where is your access?

11 MR. WELSCH: We don't have access on 54 right  
12 now. My father's family has owned all of that  
13 property for back into, he grew up on that land, 100  
14 years ago. It's been in my family history.

15 When my grandparents died, they separated it  
16 between the four brothers and sisters. Then it become  
17 divided into two. My father bought part of it out and  
18 one of my aunts and uncles bought the other part of it  
19 out. So it was basically divided into two properties.

20 Then at some point 54 was built through there.  
21 Then they come along and the state took my dad's home  
22 and he moved it up on the hill. It cut right down  
23 through both people's properties, my aunt's and my  
24 father's, which was still that whole little piece of  
25 land. Okay?

1           CHAIRMAN: Okay.

2           Mr. Noffsinger, does Mr. Welsh have the  
3 potential for an access to 54 because he's going to be  
4 --

5           MR. NOFFSINGER: Yes. Mr. Welsh does have  
6 potential for access to 54 and here's why. He does  
7 not currently have an access point to the property at  
8 2065 Parrish Avenue, which is on 54. There's not one  
9 there currently. However, there is a driveway located  
10 across Parrish Avenue going to their existing  
11 residence. They own property on the other side at  
12 2065 Parrish Avenue. That driveway is existing. That  
13 driveway was put in by the state when 54/Parrish  
14 Avenue was constructed in this area. This driveway  
15 will be allowed to continue from here on out. When  
16 that property is considered for rezoning, it is likely  
17 that the driveway access will be afforded at that  
18 location where the existing driveway is and across  
19 from Leitchfield Road.

20           Now, the property on this side of 54 where the  
21 subject property is located does not have access to  
22 Highway 54, but in the future if it does it will need  
23 to be in alignment with the driveway across Parrish  
24 Avenue. So Mr. Welsh is concerned and we're concerned  
25 with what happens in the future if there's an access

1 point across from their existing driveway to the home,  
2 and then there's an access point at the proposed  
3 location that Mr. Kamuf has explained to you.

4 The Planning Staff is not proposing, we're not  
5 proposing to deny access to 54. Mr. Block has access  
6 to 54 at an approved location. The rezoning you  
7 considered last month down the road we did not deny  
8 access to 54. They had an existing access point onto  
9 54. The Planning Staff was recommending that that be  
10 closed; however, the applicant made an argument as to  
11 why the existing access point should remain open. If  
12 it were closed they would have no access to 54. Their  
13 only access would be Wing Avenue. That case has been  
14 brought up here tonight, but we weren't proposing a  
15 new access point there. Here we're proposing a new  
16 access point at a different location, which has an  
17 affect on this gentleman's future access. That's our  
18 concern. If the proposed location Mr. Kamuf has  
19 described to you works for the Welsh's and they're  
20 willing to close the driveway to the home upon  
21 redevelopment of that property, then we would be  
22 recommending to you that the access point be located  
23 as Mr. Kamuf has stated, but it's my understanding  
24 that the Welshes aren't willing to do that because  
25 they don't want to lose their accessibility that they

1 have and future accessibility to Kentucky 54.

2 So that's kind of where we're at. We're not  
3 denying anyone access to 54. They're going to have  
4 access to 54. They have frontage on 54, but it's a  
5 question of where to put it. If we approve it where  
6 Mr. Kamuf proposes it, then you are going to have a  
7 conflict with left turn movements.

8 I know the traffic engineer is here to talk to  
9 you about that. I would think that he's going to have  
10 to address that because you would have two driveways  
11 offset in a bad direction. Meaning you have vehicles  
12 that are coming head on wanting to make left turns and  
13 they're going to hit before they get to the driveway.  
14 That is a serious transportation issue.

15 CHAIRMAN: My question will be: If Mr.  
16 Buskill agrees to some proposal on this side, with Mr.  
17 Buskill and Mr. Welsh, if they agree to some joint  
18 entrance where Mr. Kamuf is proposing, he will not  
19 lose this access to the house until that property is  
20 developed, correct? We're not going to close him off  
21 to his house.

22 MR. NOFFSINGER: That's correct, but in the  
23 future should that property across the road, where the  
24 house is, be redeveloped, then that driveway would  
25 need to be closed because you would have driveways

1 that are offset in the wrong direction, unless they  
2 were in alignment. Now, if a deal can be reached to  
3 where the proposed driveway is in direct alignment  
4 with that home, the driveway to the home and Mr. Block  
5 and Mr. Buskill and Mr. Welsh agree to that, then  
6 that's certainly doable, but what we want to avoid is  
7 having driveways that are offset in the wrong  
8 direction because of left turn movements.

9 MR. WELSH: I don't think you all appreciate  
10 the left turn access that we're talking about. You  
11 don't find streets all over town that are not -- you  
12 don't have these things lined up like that. There's  
13 only one place on 54 that's like that, and that's  
14 right there at Alvey Park and across from the county  
15 garage and the access to the Owensboro Youth  
16 Development Center where my office has been for 25  
17 years. So I've traveled 54. I've worked that road.  
18 I go to my father's home. I come back and I make  
19 those left-hand turns into the Owensboro Youth  
20 Development Center where the access to Alvey Park  
21 Drive is practically the same to a what they're  
22 showing you. What happens is just like Mr. Noffsinger  
23 said. You've got people coming. They end up caught  
24 in the middle of the turn lane and they're stopping.  
25 Then what happens? You've got another car that's

1 coming up the road and they want to make a turn and  
2 they're looking at their access all of a sudden their  
3 access is blocked. They can't get into the turn lane.  
4 So you've got people running in the back of each  
5 other. You've got people hitting head on. You've got  
6 people jumping out because they can't see somebody  
7 coming out. Then they jump out and cause an accident  
8 there. We've seen accidents like that for years.  
9 People come into the building and they say they saw  
10 this terrible accident up on the hill. The next thing  
11 they say, you know, it's somebody that worked there.  
12 They say, somebody is going to get killed out there.

13 CHAIRMAN: Mr. Welsh, what we're trying to do,  
14 as Mr. Noffsinger has mentioned, is the possibility of  
15 lining up this exit that Mr. Kamuf is proposing for  
16 his client with the driveway to your house and give  
17 you access on property that you currently own and  
18 somebody else with agreement with all parties. You  
19 would end up with an access at minimal cost.

20 MR. WELSH: Yes, but the thing about it is the  
21 access, we don't have a development plan for either  
22 side of the road. We didn't come in here prepared to  
23 show some kind of development plan.

24 CHAIRMAN: We're trying to line this up in the  
25 future to give you potential to do whatever you wanted

1 to do.

2 MR. WELSH: That's what I would like to do  
3 too, but I'd like and my father would like with both  
4 of his pieces of property, he should be able to line  
5 them up the way he -- come before you and ask to have  
6 them lined up the way he wants to. He might want at  
7 some point to move or whoever develops the land. It's  
8 not going to be me. It's not going to be my father.  
9 Whoever develops the land say on the other side of the  
10 road, they might come along after they clear  
11 everything down they want to move the access up ten  
12 feet or they might want to move -- and they don't have  
13 the access on the other side and they want to line  
14 them up.

15 CHAIRMAN: Once we have an access from this  
16 Buskill and Block property --

17 MR. WELSH: But they have access, but it's  
18 down at the other end of the road.

19 CHAIRMAN: Yes, sir, I understand that.  
20 Through their proposal if we were to consider that and  
21 put them in an access point there, then your access  
22 point, any future access points you would have with  
23 the closing of the house would have to come off the  
24 measurement of that access point.

25 MR. WELSH: The property would be worthless if

1 you didn't have the access.

2 CHAIRMAN: You would be given access. What  
3 Mr. Noffsinger said is what we would like to do at  
4 this point in time is to align or get an agreement  
5 with all the property owners, get an access on this --

6 MR. WELSH: See, I don't have the liberty to  
7 do that.

8 CHAIRMAN: I'm sorry.

9 MR. WELSH: I don't have the liberty to sell  
10 off pieces of --

11 CHAIRMAN: Wait a minute. We're not trying  
12 to -- what we're trying to do is get this access lined  
13 up with the other access.

14 MR. WELSH: But the other access comes in to  
15 our property.

16 CHAIRMAN: Correct. Then it's set for the  
17 future. Anything you want to do in the future your  
18 access points would be lined up. You would have an  
19 access point. This part of the process you wouldn't  
20 have to go through.

21 MR. WELSH: You understand where you're  
22 putting the access if I take that across the road  
23 compared to how far that access is to this whole  
24 property all the way down to Leitchfield Road?  
25 Several hundred feet. If I'm trying to sell this

1 property and somebody wants to develop it and that's  
2 the only option they've got for their access is right  
3 down there at the very end of the property.

4 MR. NOFFSINGER: Excuse me.

5 Based upon the access management manual  
6 standards that these folks are required to live by and  
7 anyone that's developing on Parrish Avenue, Mr. Welsh,  
8 that's where the access would be. In line with where  
9 the drive is to the residential house now. Because  
10 it's suppose to be a minimum of 500 feet from the  
11 intersection of Leitchfield Road.

12 I can tell you that most likely Staff would  
13 not recommend moving your access point any closer to  
14 Leitchfield Road because that is a major intersection.

15 Now, if you can work a deal with these folks  
16 and we can alignment the driveways, and we're  
17 certainly supportive of that, but we have no way of  
18 making you do that. I think it would be --

19 MR. WELSH: I'm not inclined, I didn't come  
20 here to make deals today. I'm not inclined to -- go  
21 ahead, I'm sorry.

22 MR. NOFFSINGER: I think in terms of where  
23 your access to that property would be and could be in  
24 the future, I think it could be a workable situation  
25 amongst the three parties for that driveway to be

1 located on your property in alignment with the  
2 driveway that goes to the residential home. Whatever  
3 deal you strike, that's up to you. I'm just saying  
4 the way I see the property developing down the road  
5 for access, it needs to be across from the residential  
6 property.

7 MR. WELSH: So I don't have to sell; is that  
8 right?

9 CHAIRMAN: We've got the engineers here that  
10 could help us craft a proposal. What very likely you  
11 could end up with, Mr. Welsh, is access to 54. No  
12 cost in the road or the entrance and the exit. End up  
13 with your other property set up with an alignment of  
14 the driveway, there again through no cost of your own.

15 MR. NOFFSINGER: And also Mr. Block could  
16 possibly retain the driveway that has already been  
17 approved so that all of these developments have more  
18 than one or two ways out and you would not have to  
19 sell your property to them depending on the deal you  
20 reach. It could still be owned by you, but they do  
21 all the construction. Then you do have access for the  
22 future, where your access should be in the future and  
23 could be. I'm not trying to push you in that  
24 direction. That opportunity is there if the parties  
25 could come together.

1           MR. WELSH: I don't have any idea what -- you  
2 all are kind of throwing stuff at me. I'm not ready  
3 to make a decision on it. It's been overwhelming.

4           MR. WEAVER: Mr. Chairman, if I could speak to  
5 that.

6           CHAIRMAN: Absolutely.

7           MR. WEAVER: David again with Bryant  
8 Engineering.

9           The two access points, the existing access  
10 point to Mr. Welsh's property across the street and  
11 the proposed access point we've got here are only 19  
12 foot out of line. If we align the two access points  
13 to allow Mr. Welsh to have access straight across from  
14 ours in the future, all would have to happen was Mr.  
15 Welsh would have to grant an ingress/egress easement  
16 to allow all three parties to share the common access  
17 point.

18          MR. APPLEBY: You're not actually on his  
19 property, are you?

20          MR. WEAVER: We would be on his property with  
21 the access.

22          MR. JAGOE: Nineteen feet.

23          MR. WEAVER: Well, the center of the access  
24 would be 19 feet. It would actually be more than that  
25 with the easement.

1           MR. APPLEBY: I'm looking at the right-of-way  
2           though, David. This in green is your property?

3           MR. WEAVER: That in green is the property.

4           MR. APPLEBY: From there to the road is  
5           right-of-way?

6           MR. WEAVER: Yes.

7           MR. APPLEBY: Is there a reason you can't put  
8           a bend in this road to align with his access point on  
9           the right-of-way today?

10          MR. WEAVER: Typically the state highway  
11          department allows a 15 degree skew off the  
12          perpendicular. It's very likely that we could do that  
13          with a skew. Obviously we'd have to check in the  
14          office.

15          MR. APPLEBY: Then you wouldn't really effect  
16          him at this point. What I'm getting at is, if that  
17          were a possibility and you agree in your proposal to  
18          if in the future he wants that access, he has a right  
19          to it. He doesn't have to do anything today. He  
20          doesn't have to give up anything. He doesn't have to  
21          agree to any access points or anything else. He can  
22          make his case when he comes in in the future. Am I  
23          thinking right?

24          MR. NOFFSINGER: Well, except that you've  
25          already established an access point and you forced him

1 --

2 MR. APPLEBY: We haven't forced him to do  
3 anything. He can argue it when he comes in here in  
4 the future is what I'm getting at.

5 MR. NOFFSINGER: I think you've significantly  
6 reduced his chances of having access to 54.

7 MR. APPLEBY: Other than right here.

8 MR. NOFFSINGER: On the opposite side of 54.  
9 To the property on the same side of 54 as the Block  
10 and Buskill property I think you've significantly  
11 reduced it.

12 MR. APPLEBY: If they give him the right to  
13 their access road?

14 MR. NOFFSINGER: If they give him that right  
15 then --

16 MR. APPLEBY: That's what I'm saying. That's  
17 a condition. That they have to give him access to  
18 that access.

19 CHAIRMAN: But if he would come down and they  
20 would acquire 15, 20, 50 feet of his property, they  
21 could line those things right up.

22 MR. APPLEBY: As I understand, this gentleman  
23 is not in a position to do that, if I'm hearing him  
24 right.

25 CHAIRMAN: I understand that.

1           MR. APPLEBY: He doesn't want to make that  
2 decision.

3           MR. WELSH: The basic thing is we're not  
4 developing this property at this time. The land has  
5 just been filled. You can't develop anything on it  
6 for a year or two anyway. We're not going to develop  
7 it. We're going to wait and try to sell it to  
8 somebody and then whoever develops it would want to  
9 come in with their access and run it however they  
10 might -- it might be feasible to whatever they might  
11 want to do. I don't have any idea. It won't be me  
12 developing anything.

13          CHAIRMAN: Mr. Welsh, what we're saying is  
14 we're putting you a step ahead.

15          MR. WELSH: No. You're putting me where you  
16 want me. You're putting me where they want me.

17          CHAIRMAN: No. We're putting you where the  
18 access makes the most sense whereas you end up with a  
19 piece of property that has an access. It's existing.  
20 There's no -- you don't have to come back to get an  
21 access. It already exist on your property plus  
22 somebody else is paying to put it in.

23          MR. WELSH: If they don't have that access and  
24 we come back, our line across the road lines up with  
25 our property, we can ask for an access there. It's as

1 simple as that.

2 CHAIRMAN: Absolutely.

3 MR. WELSH: At this point I have no interest.

4 CHAIRMAN: How far is the existing access,  
5 Gary, from where --

6 MR. JAGOE: If they put their access in where  
7 they're proposing right now, that doesn't line up with  
8 his across the street and there's no agreement between  
9 the two property owners, that puts Mr. Welsh at a  
10 disadvantage. Where they're at, access is going to  
11 go; is that correct?

12 MR. NOFFSINGER: That's a correct statement.

13 CHAIRMAN: Because where is he going to get  
14 his 500 foot from the intersection?

15 MR. JAGOE: Where does he get his 500 foot  
16 from the intersection now if this proposal was not in  
17 front of us and he had a proposal in front of us?

18 MR. NOFFSINGER: There is a driveway across  
19 54.

20 MR. JAGOE: So that gives him the access  
21 across?

22 MR. NOFFSINGER: Not by right. That gives him  
23 the opportunity to come before this commission as have  
24 been done in the past and say, there's one established  
25 across the street. We don't have 500 feet, but this

1 is the logical point to place it.

2 MR. JAGOE: Okay.

3 MR. WELSH: The bottom line to me, if they  
4 want to develop their property now, they can use the  
5 access that's been granted and develop it utilizing  
6 that. You've got all these engineers and lawyers and  
7 you can't come up with a plan how you can develop that  
8 property together without having to come in here and  
9 use an access that we're not --

10 CHAIRMAN: Do you understand that in the  
11 future if their access, the original granted access on  
12 54, if we deny this request and they have their  
13 original access there on 54, more than likely the only  
14 place that you're going to be able to get an access is  
15 right across from the driveway.

16 MR. WELSH: That's right. That access becomes  
17 much more valuable because we don't have three  
18 properties and three developments running into this  
19 access. When somebody wants to develop the property  
20 across the street, their access will be okay and he  
21 won't have this big mass of cars running in and out of  
22 there and crossing all kinds of traffic.

23 CHAIRMAN: I don't know. I can ask.

24 Mr. Appleby, is that a correct statement?

25 MR. APPLEBY: I don't know. That's not my

1 field of expertise.

2 CHAIRMAN: Mr. Jagoe?

3 MR. JAGOE: I'd have to have a traffic  
4 engineer look at it.

5 MR. WELSH: You can't say what will happen.  
6 Your all's position is planning, if you look at eight  
7 or ten years down the road. This situation out there  
8 at Alvey Park Drive didn't happen overnight.

9 CHAIRMAN: Mr. Welsh, that's really what we're  
10 trying to do in this situation is look to the future.  
11 We're getting one access or we're considering moving  
12 one access down here. This is going to be -- if we  
13 leave his access where it is up here, when you come  
14 back and ask for an access or your heirs or whoever  
15 comes back before us, their situation is going to be  
16 moved 18, 19, 20 feet from what this is at a full cost  
17 to you and that's it.

18 MR. WELSH: It won't cost me anything.

19 CHAIRMAN: Somebody will be paying for that  
20 access at that point in time. What we're trying to do  
21 is just tidy the whole thing up. Do away with one  
22 access. Give you an advantage of the possibility or  
23 potential with their agreement and your agreement with  
24 the potential for one access there. They're  
25 potentially -- I can't speak for them obviously.

1 They're potentially at this point in time will bear  
2 the burden of the total cost. The only difference is  
3 you're going to be 18 feet one way or the other is the  
4 only access you would gain would be greater in the  
5 future.

6 MR. WEAVER: Mr. Chairman, can I speak to  
7 that?

8 CHAIRMAN: Absolutely.

9 MR. WEAVER: Dave Weaver with Bryant  
10 Engineering once again.

11 We've talked amongst ourselves and we feel as  
12 though we can align the two access points via PI in  
13 the middle of 54 and put a 15 degree skew and stay on  
14 our property. Although we feel as though the better  
15 alternative would be to do a perpendicular access  
16 point as we have it shown. If Planning Staff is  
17 willing to work with us, I believe we can stay off of  
18 the Welsh property and still line up the two access  
19 points.

20 Do you follow me, Gary?

21 MR. NOFFSINGER: Yes, however I still have  
22 concern over this gentleman's right of access in the  
23 future. That's the concern we're going to have  
24 regardless because what we don't want to have occur is  
25 for there to be an access point 200 feet or 250 feet

1 from this proposed access point.

2 MR. WEAVER: Yes. Certainly can't speak to  
3 that tonight as far as what a developer might try to  
4 do with the Welsh property in the future.

5 CHAIRMAN: Let me ask you a question, please.  
6 A rough estimate of what just a straight line proposed  
7 access is going to cost if you don't care to divulge.  
8 I'm looking for a ballpark figure.

9 MR. WEAVER: Are you talking about just the  
10 access point itself?

11 CHAIRMAN: Yes.

12 MR. WEAVER: Construction, concrete apron out  
13 54 which will probably be about 36 feet wide. Ten to  
14 fifteen thousand.

15 CHAIRMAN: The total and that would --

16 MR. WEAVER: Just for the portion on the  
17 right-of-way.

18 CHAIRMAN: But I mean running the road on in.

19 MR. WEAVER: Yes. I think that would get you.  
20 What we would do, I think what would make the most  
21 sense to me, of course, to go ahead and grant the  
22 ingress/egress easement out to the property line which  
23 would obviously touch the Welsh property. Then all  
24 three properties could use the access point we're  
25 proposing and it would still align with the access

1 point across the street. If it was constructed in  
2 that manner, there wouldn't be damage to the Welsh  
3 property whatsoever that I can see.

4 CHAIRMAN: And they would have access?

5 MR. WEAVER: Yes. If in the future they're  
6 allowed to keep their access point across the street,  
7 because it would be in alignment with what they're  
8 proposing, then they would have access via  
9 ingress/egress easement to the access point we're  
10 looking to construct.

11 CHAIRMAN: Mr. Noffsinger.

12 MR. NOFFSINGER: At this point Planning Staff  
13 has made a recommendation. I think we've made it  
14 clear in terms of what our concerns are. Until the  
15 three parties can come together, I don't know what to  
16 offer because certainly we have a concern in working  
17 with the applicants as well as Mr. Welsh that's raised  
18 certainly a concern he has about the future  
19 accessibility to his property. I would like to see  
20 all three parties work together on it and come back to  
21 us with a plan that everyone is in favor.

22 MR. JAGOE: What was just described though  
23 would keep the existing driveway across the street, an  
24 access, would it not? I think it would keep the  
25 existing driveway across the street. It aligns the

1 access and then it gives Mr. Welsh egress on that  
2 access. Is that not what I heard?

3 MR. NOFFSINGER: I hope that's what you heard.  
4 I'm not sure until we see what -- I would like to see  
5 it on paper.

6 MR. JAGOE: If the engineer can draw it and  
7 engineer that, that it meets those standards, I think  
8 that's what you're looking for, correct?

9 MR. NOFFSINGER: Sure.

10 MR. JAGOE: Plus he gets, the adjacent  
11 property owner doesn't lose across the street by  
12 virtue of that or isn't held back from an egress  
13 across that.

14 CHAIRMAN: But in the future, Mr. Jagoe, I  
15 believe, and correct me if I'm wrong, but in the  
16 future Mr. Welsh potential to get another access to 54  
17 would be -- say he said, okay, I've got access up  
18 there, but I don't want it. I want one in the middle  
19 of my property.

20 MR. NOFFSINGER: And we wouldn't recommend it.  
21 That's why we're concerned about what happens here  
22 tonight with the proposal. I think we need to have a  
23 firm proposal drawing that everyone is agreeable to  
24 and the state highway department has reviewed so that  
25 we know that what we're doing here tonight is

1 protecting all interest in the future.

2 CHAIRMAN: Mr. Welsh, would you be willing to  
3 meet with maybe with the aid of the Staff sort of  
4 helping you with the jargon and wording and the  
5 directions, meeting with the Staff and with Mr.  
6 Kamuf's group to maybe come back to us with something  
7 that every --

8 MR. WELSH: I don't know that I have -- I  
9 don't know. Right now we came in with the assumption  
10 you were going to deal with what they're proposing.  
11 You all for some reason have got switched off to  
12 changing stuff up and putting us in a position we have  
13 no idea what they're even proposing. All I knew was  
14 that these accesses didn't line up. I know what it's  
15 like from living out and driving on, working on 54  
16 from the time this road was built and what it's like  
17 at Alvey Park and where the old county garage is and  
18 any access to the state juvenile justice. It's just  
19 unthinkable that you could put something up, an access  
20 like that and they don't line up.

21 CHAIRMAN: That's what we're trying to set up  
22 in the future.

23 MR. WELSH: That's what I'm trying to say. My  
24 proposal is that they use the access that you've given  
25 them. That way I don't have to deal with putting in

1       an access now or worrying about an access now.  When  
2       the developer that wants to develop our property, can  
3       look at it and come to you with some kind of a plan of  
4       how they want to proceed with whatever they have in  
5       mind.  You have granted them an access.  All they have  
6       to do is use it.  For some reason they feel like they  
7       need to come forward down here at the edge of our  
8       property.  It's not necessary.

9               CHAIRMAN:  You understand as a commission what  
10       we're trying to do is if we can get all parties to  
11       agree, instead of having two accesses, and your access  
12       is going to have to be very similar to where they're  
13       proposing right now.

14              MR. WELSH:  And I know, but we won't have  
15       three developments.

16              CHAIRMAN:  In the future, and we can do away  
17       with one driveway.

18              MR. WELSH:  But we won't have three  
19       developments using it.  Potentially whatever is going  
20       to happen across the road.  I mean you've got two or  
21       three acres across the road that's going to be  
22       developed in probably the next --

23              CHAIRMAN:  So in other words what you're  
24       telling me is you would rather the Staff or the  
25       commission to make a decision now or would you rather

1 tell me that you will talk with them in good faith and  
2 maybe we can bring it back up next month and all  
3 parties could be agreeable?

4 MR. WELSH: I guess we could go that route.

5 MR. HAYDEN: Let's see if I understand this.

6 To go back and put the access where it is now,  
7 Buskill property don't have any access off of 54. If  
8 you put access where they have it now and they put the  
9 curb in, line it up, line it up with the access across  
10 the road, I think that's what we were talking about  
11 the whole time. Is lining the two accesses up. If  
12 you move it to the distant, Buskill still don't have  
13 access to 54. Is that right?

14 MR. NOFFSINGER: That's correct. This is  
15 really all about getting the Buskill property access  
16 to 54.

17 Mr. Welsh, the Planning Staff position has not  
18 changed. We stand firm in our recommendation to this  
19 commission, but this commission has the opportunity to  
20 review Planning Staff's recommendations, to listen to  
21 the applicant, to listen to you, and then make a  
22 decision. All we as the Planning Staff can do would  
23 be advise.

24 Now, the Planning Staff certainly would be  
25 interested if the three parties could come together so

1 that everyone uses a single entrance and everyone  
2 wins. That's what we would like to see happen, but if  
3 that can't happen, then we would stand firm in our  
4 recommendation. This board does not have to follow  
5 that.

6 CHAIRMAN: Mr. Hayden, thanks for your  
7 summary.

8 We have not recognized you, but I believe  
9 we've got another one of the Welshes. Why don't we  
10 swear him in and see if maybe -- I think we might be  
11 heading to a potential consensus.

12 MR. SILVERT: State your name, please.

13 MR. GAYLE WELSH: Gayle Welsh.

14 (MR. GAYLE WELSH SWORN BY ATTORNEY.)

15 MR. GAYLE WELSH: I just wanted to make one  
16 comment and clear something up for the record that I  
17 think was a misrepresentation by Mr. Kamuf. Not  
18 intentionally, but I did want to bring that to your  
19 attention.

20 He made the comment that this curve, and I'm  
21 failing with my directions here, coming toward the  
22 park area, toward Frederica Street, that direction.  
23 He made the comparison to that curve as being, he made  
24 the comparison to that curve on the property that you  
25 just approved back in November, I think, as a very

1 comparable situation. My comment is it's not  
2 comparable because that curve is a blind situation  
3 coming around that corner. My dad's property elevates  
4 there and you cannot see coming around that corner.

5 We came here tonight, our entire intention  
6 coming here tonight we had a concern about safety.  
7 That's why we came here. Our second concern was our  
8 future property access. You know, making the right  
9 decision for our property. I just wanted to clear up  
10 for the record that that corner is a blind corner. We  
11 are very concerned about safety for our dad. That is  
12 important.

13 CHAIRMAN: Just for the record. Mr. Welsh,  
14 you're a brother to the other Mr. Welsh?

15 MR. GAYLE WELSH: Brother.

16 CHAIRMAN: And you all are also a son to the  
17 property owner?

18 MR. GAYLE WELSH: Right.

19 CHAIRMAN: Thank you.

20 MR. GAYLE WELSH: My last comment was I also  
21 want to clear up another thing, and I couldn't see the  
22 maps that Mr. Kamuf was utilizing. He had alluded to  
23 the fact, again for the record, that I got the  
24 impression when he made the comment that I thought he  
25 was referring to my dad's driveway, Mr. Welsh's

1 driveway across the road be closed. There's no  
2 intention of closing that driveway at this point.

3 CHAIRMAN: No, sir.

4 MR. GAYLE WELSH: He's very healthy. He's  
5 doing fine. I think we can come to a resolution here  
6 tonight. I mean we're not here to beat a dead horse,  
7 but we want to resolve this. We didn't come here  
8 prepared to go forward other than that.

9 CHAIRMAN: You see what --

10 MR. GAYLE WELSH: Yes. I completely  
11 understand.

12 CHAIRMAN: That way we can bundle all this up.  
13 Line up your dad's property, both sides. In the long  
14 run should help your all's position dramatically and  
15 it cleans up the whole area for us. You all end up  
16 with an access at no cost, assuming this party agrees  
17 to that. If you all would say, yes, we will negotiate  
18 with them in good faith where we could tell them, hey,  
19 we can come back and smooth this whole thing out. The  
20 commission is happy. The Staff is happy. We have two  
21 accesses and you all have a lined up access, which I  
22 think obviously you all are sort of in a tough  
23 situation now. The Staff would be willing to help you  
24 on your part to sort of work through some of the  
25 wordage and everything. If I could get that agreement

1 from you, I can go back to Mr. Kamuf and his group.  
2 If they agree to it, then we can propose to postpone  
3 it with their approval and move on with this.

4 MR. GAYLE WELSH: I think our family would  
5 agree we have open ears, but we can't guarantee you --

6 CHAIRMAN: No, I didn't ask. I just say you  
7 would be willing to negotiate in good faith where  
8 you're not going to say, well, we're not going to do  
9 it.

10 MR. GAYLE WELSH: Absolutely. That's  
11 agreeable.

12 CHAIRMAN: Mr. Kamuf, may I bring you back to  
13 the stand. Did you hear what I was talking to with  
14 Mr. Welsh? Did you understand what we were doing? I  
15 know you've got expert witnesses here and everything  
16 else and we're not trying to not use them, but at this  
17 point in time I think this line up and this agreement  
18 with the Welsh property is the key to the whole  
19 situation.

20 MR. KAMUF: It's very important.

21 CHAIRMAN: We understand it. If we can get  
22 this behind us and they agree to negotiate in good  
23 faith with you all, would your party be willing to  
24 negotiate with them? Obviously we're going to have an  
25 alignment of the driveways is what we're asking for,

1       trying to get done, with you all bearing the cost of  
2       putting the driveway in and then whatever property  
3       alignments we have, then that will be between you all  
4       to work out.  If it's 15 feet, 20 feet or whatever.  
5       They end up with a free driveway.  You all can work  
6       those out.  Maybe we can have an attorney oversee  
7       that.

8               Mr. Kamuf, are you agreeable to that?

9               MR. KAMUF:  I have to talk to my -- give me a  
10       second.

11              CHAIRMAN:  A brief moment.

12              MR. KAMUF:  This is Mr. Block.

13              MR. SILVERT:  State your name, please.

14              DR. BLOCK:  Steven Block.

15              (DR. STEVEN BLOCK SWORN BY ATTORNEY.)

16              DR. BLOCK:  On our behalf, the one issue we  
17       have with this is that we have already approached them  
18       prior to coming here to try to make some sort of  
19       common agreement before we got to this point.  We've  
20       already brought an expert witness anticipating an  
21       antagonistic response from them.  Now we are told  
22       after brought this gentleman here tonight, that now  
23       we're able to have a meeting to try to come to some  
24       sort of agreement.  We have already made these  
25       channels to try to get this done in the past.

1           Just for the record I want it to be known, for  
2 my lot alone I already have a final development plan  
3 approved. There's a lot of discussion going on about  
4 lining up entry points adjacent, directly across from  
5 the residential driveway. There is no approved entry  
6 point at that location right now. I will behemothly  
7 fight any attempt to get an approval point directly  
8 across from the residence because it is within the  
9 guideline of the Planning Commission that it has to be  
10 beyond 500 feet. I would certainly rather have the  
11 two entry points 19 across from one another than 35 or  
12 40 feet from where they would be at the existing point  
13 that it is now.

14           CHAIRMAN: Would you want just a moment to  
15 consult with Mr. Kamuf?

16           Mr. Welsh, I think we've changed some  
17 situations for you all. Hopefully -- you understand  
18 where the Staff is coming from. I think maybe your  
19 brother, we're trying to put together for everybody.  
20 Hopefully your all's situation maybe has changed from  
21 some of the comments that he has made and maybe you  
22 all didn't really understand that really you're not  
23 going to get an entrance or an exit much different  
24 than this exit right there. It's going to be maybe 19  
25 feet one way and that's going to be it. Your point is

1 going to be there. You've got a golden opportunity  
2 now to seize upon the opportunity to get one for free  
3 or negotiate with them. I think maybe in the past  
4 maybe you all did not understand.

5 Let me get both of you since you both sort of  
6 represent your dad.

7 Let me pause just a moment and let me see if  
8 maybe Mr. Kamuf is --

9 Are you speaking now for the group, Mr. Kamuf?

10 MR. KAMUF: Mr. Chairman, I know you all have  
11 taken a long time tonight to try to work this out. We  
12 want to work it out. We're willing to work with the  
13 Staff in any way to work this out. I know you've  
14 listened to us. We've presented our side, but we're  
15 willing to work with the Staff and work with Mr. Welsh  
16 in trying to resolve this.

17 CHAIRMAN: In other words, the previous  
18 comment was not really --

19 MR. KAMUF: I think I'm giving you the final  
20 answer.

21 CHAIRMAN: That's your final comment and  
22 you're going to stick with it, right?

23 MR. KAMUF: Yes.

24 CHAIRMAN: To the expert witnesses, I  
25 appreciate you coming down here. We weren't even to

1 the point that we need to hear what you had to say  
2 until we get this situation cleared up with the other  
3 property owner because -- I hope you understand the  
4 situation we were in. We were just to a point where  
5 we needed to get this ironed out. I'm sure you can  
6 understand that you've been here or been in a  
7 situation like this before.

8 MR. KAMUF: I want to thank you for your  
9 consideration. I know it's been a tough issue. I  
10 appreciate trying to work together to work both sides  
11 out with the Staff.

12 CHAIRMAN: Mr. Kamuf, am I to assume that  
13 you're going to propose a postponement?

14 MR. KAMUF: Yes.

15 CHAIRMAN: Thank you. Merry Christmas.

16 I think at this point in time with no further  
17 comment I think the chair is ready for a motion.

18 MS. DIXON: Mr. Chairman, I move that we  
19 postpone this issue until the January meeting so that  
20 all parties concerned can work with their  
21 representative and the Staff to come up with a fair  
22 and equitable agreement between the two and in the  
23 interest of safety for the use of 54.

24 CHAIRMAN: Ms. Dixon, thank you for that  
25 proposal.

1                   We've got a motion by Ms. Dixon for  
2                   postponement.

3                   MR. APPLEBY:    Second.

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

6                   (ALL BOARD MEMBERS PRESENT - WITH THE  
7                   DISQUALIFICATION OF MR. ROGERS - RESPONDED AYE.)

8                   CHAIRMAN:    Motion carries unanimously.

9                   Next item, please.

10                  ITEM 5

11                  1300-1500 Blks River Road, 3200-3400 Blks Medley Road,  
12                  126.633 acres  
13                  Consider zoning change:  From I-1 Light Industrial and  
14                  EX-1 Coal Mining to A-U Urban Agriculture  
15                  Applicant:  Robert Wimsatt

16                  PLANNING STAFF RECOMMENDATIONS

17                  Staff recommends approval because the proposal  
18                  is in compliance with the community's adopted  
19                  Comprehensive Plan.  The condition and findings of  
20                  fact that support this recommendation include the  
21                  following:

22                  CONDITION:

23                  Access shall be in compliance with the  
24                  standards of the access management manual.

25                  FINDINGS OF FACT:

                  1.  A portion of the subject property is  
                  located in a Future Urban Plan Area, where

1 agricultural/forestry uses are appropriate in general  
2 locations and partially located in an Industrial Plan  
3 Area, where agricultural/forestry uses are generally  
4 not recommended;

5 2. A portion of the subject property is  
6 designated as prime agricultural farmland according to  
7 the "Important Farmlands" map created by the US  
8 Department of Agriculture Soil Conservation Service  
9 dated March 1980;

10 3. The subject property is a large tract  
11 capable of agricultural production;

12 4. There is no mining activity on the subject  
13 property; and,

14 5. The Owensboro Metropolitan Zoning  
15 Ordinance Article 12a.31 requires that property shall  
16 revert to its original zoning classification after  
17 mining.

18 MR. HOWARD: I would like to enter the Staff  
19 Report into the record as Exhibit D.

20 CHAIRMAN: Is there anybody representing the  
21 applicant?

22 APPLICANT REP: Yes.

23 CHAIRMAN: Does anybody have any comments they  
24 would like to make?

25 MR. KIRKLAND: Yes.

1 MR. SILVERT: State your name, please.

2 MR. KIRKLAND: Drew Kirkland.

3 (MR. DREW KIRKLAND SWORN BY ATTORNEY.)

4 MR. KIRKLAND: I'm with Dixieland Properties.  
5 On behalf of myself, my brother John Kirkland and my  
6 cousin Will Helwig, we own the 1600 Block of River  
7 Road that adjoins the property. Just wanted to have  
8 on record that we are zoned I-2. That we will be  
9 operating heavy industrial equipment. Cranes,  
10 anything associated with a scrap yard. Just wanted  
11 that to be on record.

12 CHAIRMAN: Thank you.

13 Are there any other comments?

14 (NO RESPONSE)

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

17 MR. ROGERS: Motion for approval based on  
18 Planning Staff Recommendations with one condition and  
19 Findings of Fact 1 through 5.

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

22 MR. EVANS: Second.

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1                   CHAIRMAN: Motion carries unanimously.

2                   Next item, please.

3                   ITEM 6

4                   635, 815 Triplett Street, 715, 719, 721, 801 East  
5                   Ninth Street; 800, 804, 805, 810, 814 East Seventh  
6                   Street; 616, 618, 620, 708-728 Center Street, 10.271  
7                   acres

8                   Consider zoning change: From R-4DT Inner-City  
9                   Residential, B-4 General Business and P-1  
10                  Professional/Service to P-1 Professional/Service  
11                  Applicant: Wendell Foster's Campus for Developmental  
12                  Disabilities, Inc.

13                  PLANNING STAFF RECOMMENDATIONS

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

19                  CONDITIONS:

20                  1. Access to Triplett Street and East Ninth  
21                  Street shall be limited to the access points as  
22                  approved on the final development plan dated April  
23                  2002. No additional access to Triplett Street or East  
24                  Ninth Street shall be permitted;

25                  2. Approval of a final development plan for  
26                  the entire campus; and,

27                  3. Approval of a consolidation plat to  
28                  consolidate the entire subject property into a single  
29                  tract.

1 FINDINGS OF FACT:

2 1. The majority of the property is located in  
3 a Professional/Service Plan Area, where  
4 professional/service uses are appropriate in general  
5 locations;

6 2. The majority of the subject property is  
7 currently zoned P-1 Professional/Service and the  
8 remaining portions that are not qualify as logical  
9 expansions of the existing P-1 zoning; and,

10 3. With access as approved on the April 2002  
11 final development plan, the proposed rezoning should  
12 not overburden the capacity or roadways and other  
13 necessary urban services that are available in the  
14 affected area.

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

17 CHAIRMAN: Is there anybody representing the  
18 applicant?

19 MR. KAMUF: Yes.

20 CHAIRMAN: Are there any questions?

21 (NO RESPONSE)

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

24 MS. DIXON: Move for approval based upon  
25 Planning Staff Recommendations, Conditions 1, 2 and 3,

1 and Findings of Fact 1, 2 and 3.

2 CHAIRMAN: Motion for approval by Ms. Dixon.

3 MR. HAYDEN: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9

10 DEVELOPMENT PLANS

11 ITEM 7

12 533 Triplett Street, 1.532 acres  
13 Consider approval of final development plan  
14 Applicant: Jason Ebelhar, Kenneth Boarman

15 MR. NOFFSINGER: Mr. Chairman, this plan has  
16 been reviewed by the Planning Staff and Engineering  
17 Staff. It's found to be consistent with the adopted  
18 zoning ordinance and subdivision regulations and its  
19 use is consistent with the zoning in the area.

20 CHAIRMAN: Somebody representing the  
21 applicant?

22 APPLICANT REP: Yes.

23 CHAIRMAN: Are there any questions?

24 (NO RESPONSE)

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

1 MR. APPLEBY: Motion for approval.

2 CHAIRMAN: Motion for approval by Mr. Appleby.

3 MR. HAYDEN: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 ITEM 8

10 512 West Seventh Street, 0.313 acres  
11 Consider approval of final development plan.  
12 Applicant: Roman Catholic Diocese of Owensboro, KY

13 MR. NOFFSINGER: Mr. Chairman, this  
14 development plan has been reviewed by the Planning  
15 Staff and Engineering Staff. It's found to be in  
16 order. It has been reviewed for consistency with the  
17 adopted zoning ordinance and subdivision regulations.  
18 A conditional use permit was approved on this property  
19 last Thursday by the Owensboro Metropolitan Board of  
20 Adjustment. Therefore, it's use is consistent with  
21 the approved uses for the subject property.

22 CHAIRMAN: Is anybody representing the  
23 applicant?

24 APPLICANT REP: Yes.

25 CHAIRMAN: Does anybody have any questions of  
the applicant?

1 (NO RESPONSE)

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

4 MR. HAYDEN: Motion for approval.

5 CHAIRMAN: Motion for approval by Mr. Hayden.

6 MR. EVANS: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please.

12 -----

13 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

14 ITEM 9

15 Millers Mill Plaza, 10.8 +/- acres  
16 Consider approval of amended major subdivision  
17 preliminary plat/final development plan.  
18 Applicant: Millers Mill Plaza, Lake Forest Community,  
19 LLC

20 MR. NOFFSINGER: Mr. Chairman, this plan has  
21 been reviewed by the County Engineer Staff and  
22 Planning Staff. It's found to be in order. Its use  
23 is consistent with the zoning and the site is in  
24 compliance with adopted zoning ordinance and  
25 subdivision regulations.

26 CHAIRMAN: Is anybody representing the  
27 applicant?

1 APPLICANT REP: Yes.

2 CHAIRMAN: Anyone have any questions of the  
3 applicant?

4 (NO RESPONSE)

5 CHAIRMAN: Chair is ready for a motion.

6 MR. APPLEBY: Motion for approval.

7 CHAIRMAN: Motion for approval by Mr. Appleby.

8 MS. DIXON: Second.

9 CHAIRMAN: Second by Ms. Dixon. All in favor  
10 raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 Related Items:

15 ITEM 9A

16 4431, 4460, 4470, 4471, 4540, 4551 Springhill Drive;  
17 4754 Whaterwheel Way, 34.121 acres  
18 Consider approval of major subdivision final plat.  
19 For development transfer only, no surety required  
20 Applicant: Lake Forest Community, LLC, Melvin Pagan

21 MR. NOFFSINGER: Mr. Chairman, this plat has  
22 been reviewed by Planning Staff and Engineering Staff.  
23 It's found to be in order. It is for property  
24 transfer only for development purposes. With that  
25 it's ready for consideration.

26 CHAIRMAN: Somebody here representing the  
27 applicant?

1 APPLICANT REP: Yes.

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

4 (NO RESPONSE)

5 CHAIRMAN: Chair is ready for a motion.

6 MR. HAYDEN: Motion for approval.

7 CHAIRMAN: Motion for approval by Mr. Hayden.

8 MR. APPLEBY: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item.

14 ITEM 9B

15 Millers Mill Plaza, Unit 1, Lots 1-6, 10.8 +/- acres  
16 Consider approval of major subdivision final plat.  
17 Surety (Certificate of Deposit) posted: \$218,298.50  
18 Applicant: Lake Forest Community, LLC

19 MR. NOFFSINGER: Mr. Chairman, Planning Staff  
20 and Engineering Staff has reviewed this plat. Found  
21 to be in order with the adopted comprehensive plan as  
22 well as the zoning ordinance and subdivision  
23 regulations.

24 CHAIRMAN: Anybody representing the applicant?

25 APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions?



1 APPLICANT REP: Yes.

2 CHAIRMAN: Do we have questions?

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

5 CHAIRMAN: Mr. Jagoe is disqualifying himself.  
6 Chair is ready for a motion.

7 MS. DIXON: Move to approve.

8 CHAIRMAN: Motion for approval by Ms. Dixon.

9 MR. EVANS: Second.

10 CHAIRMAN: Second by Mr. Evans. All in favor  
11 raise your right hand.

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

14 CHAIRMAN: Motion carries unanimously.

15 Next item.

16 ITEM 11

17 H&I Development, Lots 30-41, 10.0889 acres  
18 Consider approval of major subdivision final plat.  
19 Surety (Performance Bond) posted: \$21,855.50  
20 Applicant: H&I Development

21 MR. NOFFSINGER: Mr. Chairman, this plan has  
22 been reviewed by the Planning Staff and Engineering  
23 Staff. It's found to be consistent with the adopted  
24 preliminary plat or approved preliminary plat and  
25 ready for consideration.

CHAIRMAN: Somebody representing the

1 applicant?

2 (NO RESPONSE)

3 CHAIRMAN: Do we have any questions?

4 (NO RESPONSE)

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

7 MR. APPLEBY: Motion for approval.

8 CHAIRMAN: Motion for approval by Mr. Appleby.

9 MR. HAYDEN: Second.

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

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 ITEM 12

16 Highland Pointe, Unit 2, Lots 3-7, 12A, 12B, 21.396  
17 acres

18 Consider approval of major subdivision final plat.  
19 Surety (Certificate of Deposit) posted: \$44,553.56  
20 Applicant: Highland Pointe Holdings, LLC

21 MR. NOFFSINGER: Mr. Chairman, this plat has  
22 been reviewed by the Engineering Staff and Planning  
23 Staff. It's found to be consistent with the approved  
24 preliminary plat.

25 CHAIRMAN: Any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

1 MS. DIXON: Move to approve.

2 CHAIRMAN: Motion for approval by Ms. Dixon.

3 MR. EVANS: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 ITEM 13

10 Independence Heights, Phase 1, Lots 1-2, 4.07 acres  
11 Consider approval of major subdivision final plat.  
12 Surety (Certified Check) posted \$101,974.11  
13 Applicant: Clayton Watkins Construction Co.

14 MR. NOFFSINGER: Mr. Chairman, this plat has  
15 been reviewed by the Planning Staff and Engineering  
16 Staff. It's found to be in compliance with the  
17 adopted preliminary plat and is ready for  
18 consideration.

19 CHAIRMAN: Any questions?

20 (NO RESPONSE)

21 CHAIRMAN: Chair is ready for a motion.

22 MR. ROGERS: Motion for approval.

23 CHAIRMAN: Motion for approval by Mr. Rogers.

24 MR. EVANS: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Next item, please.

4 ITEM 14

5 Village Run, 0.541 acres  
6 Consider approval of major subdivision final plat.  
7 For development transfer only, no surety required  
8 Applicant: Jagoe Development, LLC

9 MR. NOFFSINGER: Mr. Chairman, this plat has  
10 been reviewed by the Planning Staff and Engineering  
11 Staff. It's found to be consistent with the adopted  
12 development plans, preliminary subdivision plat and  
13 ready for consideration.

14 CHAIRMAN: Mr. Jagoe, you need to disqualify  
15 yourself on this one?

16 MR. JAGOE: Mr. Chairman, I'll submit my final  
17 disqualification.

18 CHAIRMAN: Mr. Jagoe disqualifies himself.

19 Any questions?

20 (NO RESPONSE)

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

23 MS. DIXON: Move to approve.

24 CHAIRMAN: Motion for approval by Ms. Dixon.

25 MR. APPLEBY: Second.

CHAIRMAN: Second by Mr. Appleby. All in

1 favor raise your right hand.

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

4 CHAIRMAN: Motion carries unanimously.

5 Mr. Jagoe, why don't you make our final and  
6 your final motion, please.

7 MR. JAGOE: Move to adjourn.

8 CHAIRMAN: Motion for adjournment by Mr.  
9 Jagoe.

10 MR. EVANS: Second.

11 CHAIRMAN: Second by Mr. Evans.

12 Thank you for your service.

13 All in favor raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: We are adjourned.

16 -----

17

18

19

20

21

22

23

24

25

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

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and  
4 for the State of Kentucky at Large, do hereby certify  
5 that the foregoing Owensboro Metropolitan Planning  
6 Commission meeting was held at the time and place as  
7 stated in the caption to the foregoing proceedings;  
8 that each person commenting on issues under discussion  
9 were duly sworn before testifying; that the Board  
10 members present were as stated in the caption; that  
11 said proceedings were taken by me in stenotype and  
12 electronically recorded and was thereafter, by me,  
13 accurately and correctly transcribed into the  
14 foregoing 77 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the  
17 2nd day of January, 2008.

18

19

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

22

COMMISSION EXPIRES: DECEMBER 19, 2010

23

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

24

25