

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JULY 10, 2014

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, July
5 10, 2014, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Ward Pedley, Chairman
9 Fred Reeves, Vice Chairman
10 David Appleby, Secretary
11 Terra Knight, Attorney
12 Brian Howard
13 Steve Frey
14 Wally Taylor
15 John Kazlauskas
16 Larry Boswell
17 Beverly McEnroe
18 Irvin Rogers
19 Larry Moore

20 * * * * *

21 CHAIRMAN: Call to order the Owensboro
22 Metropolitan Planning Commission July 10, 2014 meeting
23 to order. We'll begin our meeting with a prayer and
24 pledge of allegiance to the flag. Mr. John Kazlauskas
25 will lead us. Will you stand, please.

26 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

27 CHAIRMAN: I would like to welcome everyone.
28 Anyone wishing to speak on any item may do so. We ask
29 you to come to one of the podiums and state your name
30 and be sworn in. We welcome your comments and

1 questions.

2 With that the first item on the agenda is to
3 consider the minutes of the June 12, 2014 meeting.

4 Commissioners, you have a copy of the minutes
5 in your packet. Are there any additions or
6 corrections?

7 (NO RESPONSE)

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

10 MR. KAZLAUSKAS: So move.

11 CHAIRMAN: We have a motion by Mr. John
12 Kazlauskas for approval.

13 MR. FREY: Second.

14 CHAIRMAN: Second by Mr. Frey. All in favor
15 of the motion raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimous.

18 Commissioners, tonight we have another minutes
19 of the OMPC Minutes of the Director Search Committee
20 meeting of July 3, 2014. That committee won't be
21 meeting again so we need to approve those minutes
22 tonight.

23 If there are not any comments or questions on
24 that, the chair is ready for a motion.

25 MR. APPLEBY: Motion for approval.

1 MR. REEVES: Second.

2 CHAIRMAN: We have a motion for approval by
3 Mr. Appleby and a second by Mr. Reeves. All in favor
4 of the motion raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carry unanimous.

7 Next item.

8 -----

9 GENERAL BUSINESS

10 ZONING CHANGES

11 ITEM 3

12 5601-5801 Block Graham Lane, 20.177 acres (Postponed
13 at the June 12, 2014 meeting)
14 Consider zoning change: From A-U Urban Agriculture
15 and R-1A Single-Family Residential to R-1A
16 Single-Family Residential
17 Applicant: Bill Saalwaechter

18 MS. KNIGHT: State your name, please.

19 MS. EVANS: Medical Evans.

20 (MELISSA EVANS SWORN BY ATTORNEY.)

21 MS. EVANS: First of all, I would like to
22 state that all rezonings heard here tonight will
23 become final 21 days after tonight's meeting unless an
24 appeal is filed. If an appeal is filed, those minutes
25 and all the records will be forwarded to the
appropriate legislative body for final action. The
appeal forms are located on our website, on the back

1 table and in our office.

2 PLANNING STAFF RECOMMENDATIONS

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

5 CONDITION:

6 Access to the subject property shall be
7 limited to the single access point on the north end of
8 the property as shown on the Combined Final
9 Development Plan/Major Subdivision Preliminary Plat.
10 Individual lots shall not have direct access to Graham
11 Lane.

12 FINDINGS OF FACT:

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

16 2. The subject property is located in an
17 Urban Residential Plan Area where Urban Low-density
18 Residential uses are appropriate in limited locations;

19 3. The proposal is a logical expansion of
20 existing R-1A Single Family Residential zoning to the
21 north and east;

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

24 5. With only one access to Graham Lane, the
25 subject property should not overburden the capacity of

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

3 MS. EVANS: We would like to enter the Staff
4 Report into the record as Exhibit A.

5 CHAIRMAN: Is there anyone here representing
6 the applicant?

7 MR. STAINBACK: Yes.

8 MS. KNIGHT: State your name, please.

9 MR. STAINBACK: Frank Stainback.

10 MR. KNIGHT: Mr. Stainback, you're sworn as an
11 attorney.

12 MR. STAINBACK: May it please the commission,
13 my name is Frank Stainback. I'm here tonight on
14 behalf of KSB, LLC, which is the limited liability
15 company that actually holds title to the real estate
16 that we are seeking to rezone.

17 KSB is owned by Bill Saalwaechter, who is a
18 local business person, and his wife Andi.

19 The proposal that's been made tonight, as
20 summarized by a member of the Staff, is to rezone a
21 portion of 20.177 acre tract that lies on Graham Lane
22 near Owensboro, Kentucky. That tract has frontage on
23 what would be the east side along Graham Lane. It's
24 bound on the north by residential and properties zoned
25 agriculture. It's bounded on the west by Yellow Creek

1 Park. It's bounded on the south by property which
2 currently is used for farming, but is zoned R-1A. The
3 properties across Graham Lane or street from the
4 subject property, the properties there are zoned R-1A
5 as well.

6 With respect to the subject property, the
7 3.177 acres or so that front along Graham Lane on that
8 property as shown on the plat that's on the TV screen
9 or the monitors here already is zoned R-1A. The depth
10 of the zoning there is about 150 or 160 feet. So it's
11 the balance of the tract of about 17 acres or so that
12 we seek to rezone this evening.

13 When Mr. Saalwaechter filed the plat or the
14 application in this action, he stated in the
15 application that the proposed zoning amendment was in
16 conformity with the Comprehensive Plan. As you heard
17 from the Staff, the Staff agreed with that particular
18 conclusion. In addition, the Staff has submitted and
19 put into the record just moments ago findings of fact
20 supporting that conclusion.

21 So with that in mind, we are here tonight to
22 answer any questions that the commission may have of
23 us with respect to the amendment, which is the item on
24 the agenda now, or to answer any questions for the
25 public generally.

1 With me is Mr. Saalwaechter, which is to my
2 right, and Mr. Jason Baker who is with Bryant
3 Engineering, the engineering firm that has done the
4 workup of this particular submission. Thank you very
5 much.

6 CHAIRMAN: Mr. Stainback, let us find out if
7 we have any comments or questions from the audience or
8 from the adjoining property owners.

9 Anyone like to speak on that step to the
10 podium, please.

11 MR. DUGGAR: My name is Leumel Duggar. I live
12 at 5804 Graham Lane which is across from this piece of
13 property that they're asking to rezone.

14 (LEMUEL DUGGAR SWORN BY ATTORNEY.)

15 MR. DUGGAR: I'm not here to ask for the
16 rezoning to be denied, but I do have some concern.
17 Because they've arranged this subdivision so all the
18 backyards of this subdivision are facing our front
19 yards on Graham Lane. Also these backyards are facing
20 Yellow Creek Park, all the way down the entrance of
21 Yellow Creek Park.

22 I would like to ask this commission to look
23 into giving us some kind of buffer zone that he is
24 required to do to shield us from looking across the
25 road into these people's backyards.

1 Right now we all live out in the country.
2 We've been looking at open fields for 20 years and now
3 we're going to be looking in people's garages,
4 swimming pools or whatever they put in their
5 backyards.

6 There's Greenbelt around it or a buffer around
7 it. They could be required to plant trees or shrubs
8 so we would not have to look at this.

9 I guess the only other question I have is
10 about one entrance on Graham Lane. That's 82 homes.
11 You figure three or four cars a day coming in and out,
12 you're looking at around 600 cars a day coming in and
13 out of Graham Lane on that one access road. I don't
14 know. They act like that's not overbearing, but it
15 will be a lot of traffic at that intersection. You
16 might ask them to look into putting a second exit to
17 the subdivision.

18 CHAIRMAN: We'll get you some answers.

19 Anyone else would like to speak in opposition
20 or any comments on this before we go to the
21 commissioners or Mr. Stainback. Anyone else?

22 (NO RESPONSE)

23 CHAIRMAN: Commissioners, do you have any
24 comments or questions on this issue?

25 MR. REEVES: I have one, and I think it

1 relates to this gentleman's concern here. I guess
2 question of Staff.

3 The one entrance way into Graham Lane, is that
4 because what we feel like is necessary in terms of
5 transportation safety or is it the way the homes are
6 going to be laid out?

7 MR. HOWARD: It's mainly due to the
8 transportation issues. Graham Lane is a major road so
9 there is access spacing standard.

10 Before we prepared this Staff Report, I had a
11 conversation with the county engineer and he reviewed
12 the plan just to make sure from a transportation
13 perspective, since Graham Lane is a county road, that
14 he will be in charge of maintaining and looking after.
15 I asked him to look into the 82 lots. Did he feel
16 that say a second access point or a right turn lane or
17 a left turn lane would be needed, and at this time
18 with the number of lots proposed his opinion was that
19 there are no transportation improvements, no changes
20 that need to be made at this time.

21 MR. APPLEBY: What is the spacing requirement
22 on Graham Lane?

23 MR. HOWARD: Graham Lane is a major collector
24 with a 250 foot spacing standard.

25 CHAIRMAN: Any other commissioners have any

1 questions or comments?

2 (NO RESPONSE)

3 CHAIRMAN: Mr. Stainback or Mr. Baker, you
4 want to address the issue of these backyards backing
5 up to Graham Lane? That's one of the questions this
6 gentleman had. From their side of the Graham Lane
7 they're looking at the backyards and the back of the
8 houses.

9 I'll ask Mr. Howard a question in a few
10 minutes.

11 Mr. Baker might need to answer this. Why he
12 designed this for the rear of those houses to be to
13 Graham Lane. That's the gentleman's question. I
14 think it's in the application and Staff findings that
15 there would be no access to Graham Lane except the one
16 street. With that, you know, the rear yard would have
17 to back up to Graham Lane because you can't face
18 Graham Lane and have a driveway. That's my take on
19 that. Mr. Baker or Mr. Stainback, either one like to
20 comment on that.

21 MR. STAINBACK: I will attempt to comment on
22 it, Commissioner. If I'm insufficient in my remarks,
23 I'll turn it over to Mr. Baker who is much more
24 familiar with this project than I am.

25 I will say this with respect to the buffer

1 requirement. Right now there is in effect a building
2 limit which is in essence 60 feet from the center line
3 of the existing lane, Graham Lane. What that does is
4 prevent anyone from building homes any closer than X
5 feet to the right-of- way. That's the first point.

6 The second point to make is that buffers and
7 building limits are different concepts, as I
8 understand the zoning ordinance and rules and
9 regulations. Buffers are used when you have
10 incompatible zoning uses.

11 The best example that I think of that is close
12 to where I live in town is at the Red Lobster. At the
13 Red Lobster we have commercial type use, a restaurant,
14 and then it is immediately adjacent to residential use
15 which are homes, and there is a buffer there,
16 landscape buffering, and that's required in that
17 situation.

18 However, landscape buffering is not required
19 between compatible zones. The Graham Lane folks, the
20 folks that live on the east side of Graham Lane, are
21 zoned residential right now. The property across the
22 street from them is zoned residential right now. So
23 there's no portion of the ordinance with the rules and
24 regulations of which I am aware require the developer
25 in that instance to plant or otherwise design or build

1 into the project buffering along the frontage that
2 exist on Graham Lane. I think that's the principal
3 point to make about that.

4 I think another principal point to make about
5 it in terms of planning, at least as I think about the
6 way zoning operates. What zoning has required here is
7 probably a good thing because if it weren't for the
8 zoning you would have additional homes along Graham
9 Lane or could have with driveways every so many feet.
10 I forget how many that is. There's a number of
11 driveways that could be on the other side of the road
12 thus with direct access onto or from Graham Lane;
13 whereas the 20 acres we're talking about at this point
14 has only one entrance. So the traffic within the
15 subdivision is protected and buffered from the traffic
16 otherwise on Graham Lane. So I actually think the
17 single entrance is good planning.

18 I think Mr. Howard has addressed the other
19 portion of the question from the audience about the
20 location of the one entrance into the proposed
21 subdivision.

22 Jason, do you have anything to add to that?

23 MS. KNIGHT: Would you state your name,
24 please?

25 MR. BAKER: Jason Baker with Bryant

1 Engineering.

2 (JASON BAKER SWORN BY ATTORNEY.)

3 MR. BAKER: I just say with what Ward was
4 saying is very true. In this particular case,
5 developing along that roadway are R-1A lots. They
6 would be typically 60 feet wide. It's impractical and
7 impossible to provide even shared access into the lots
8 and still meet the access spacing standard of 250
9 feet, in addition to the safety concerns of having
10 multiple access points onto that road. We evaluated
11 both and the proposal we have was found to be better
12 for the developer.

13 CHAIRMAN: Thank you, Mr. Baker.

14 Mr. Howard, is there any requirement of
15 buffering to back into Graham Lane?

16 MR. HOWARD: No, sir, there is not.

17 CHAIRMAN: Nor requirement.

18 Commissioners, do you have any other
19 questions?

20 MR. BOSWELL: I have a question.

21 CHAIRMAN: Yes, sir, Mr. Boswell.

22 MR. BOSWELL: This is a question about the
23 entrance to the proposed development.

24 I notice in the aerial photo there's a
25 residence that has a driveway that's fairly close to

1 it appears where the entrance to this development
2 would be. Do you have any sense of how far that is
3 from the nearest house that would be north of that
4 development?

5 MR. BAKER: It's going to be on the order of
6 100 feet in either direction. The access point we set
7 at that access point and look straight ahead, it's
8 almost right in-between the houses across the road.

9 MR. BOSWELL: Thank you.

10 CHAIRMAN: Commissioners, any questions?

11 Sir, if you have another question or comment
12 come forward.

13 MR. DUGGAR: The access road is coming right
14 in-between my property and my neighbor's property. It
15 would be lucky if it was 100 feet from our driveway.
16 Our lots are only 100 feet wide. This road is wider
17 than that. So to me it's a little closer than 100
18 feet.

19 I kind of look at this like any other
20 business. If you have somebody coming to Owensboro
21 and he's opening up a business, you all require him to
22 put landscaping down, you require him to do something
23 for that business. I don't think it's asking too much
24 to ask him to put a buffer zone where that will
25 protect our property values where we won't have to

1 look at these people's backyards. I don't think
2 that's asking a whole lot. A buffer would not cost
3 that much money to come down there and plant some pine
4 trees or something so we don't have to look at their
5 backyard.

6 CHAIRMAN: Thank you. But that's something
7 that's not required.

8 MR. DUGGAR: Yes, I understand that.

9 CHAIRMAN: Any other comments or questions?

10 (NO RESPONSE)

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

13 MR. APPLEBY: Mr. Chairman, I'm going to make
14 a motion for approval based on the Staff's
15 Recommendations with the Condition of access and on
16 the Staff's Findings of Fact 1 through 5.

17 CHAIRMAN: We have a motion for approval by
18 Mr. Appleby.

19 MR. ROGERS: Second.

20 CHAIRMAN: Second by Mr. Rogers. Any comments
21 or questions on the motion?

22 (NO RESPONSE)

23 CHAIRMAN: All in favor of the motion raise
24 your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimous.

2 Next item, please.

3 Related Item:

4 ITEM 3A

5 5601-5801 Block Graham Lane (Postponed at the June 12,
2014 meeting)

6 Consider a request for a Variance in conjunction with
7 an application for zoning change to reduce the project
8 boundary buffer from 20 feet to 10 feet along the
9 northern property line and to eliminate the project
boundary buffer along the south property line as shown
on the submitted site plan.

Applicant: Bill Saalwaechter, KSB, LLC

10 MS. EVANS: As just discussed, this property
11 was just recommended for rezoning to R-1A
12 Single-Family residential. It is currently farmland.
13 They are proposing approximately 82 lots with 3 new
14 streets proposed and through streets that are stubbed
15 to the property line in two different locations to
16 allow for future connectivity should adjoining
17 property develop.

18 The applicant has proposed to eliminate the
19 project boundary buffer along the south property
20 boundary stating that the property to the south is
21 also zoned R-1A Single-Family residential and will
22 likely develop in the same manner. However, the
23 applicant has no control over the property to the
24 south and it is not part of this proposed development;
25 therefore, the property to the south should be

1 protected and buffered from the proposed development.

2 The applicant has also proposed that a 10 foot
3 project boundary buffer along the north boundary where
4 the subject property adjoins existing single-family
5 residential lots. One of the properties fronts on
6 Graham Lane and the other lots have frontage on
7 Highway 144. The properties along Highway 144 are
8 long and narrow lots with the residences situated
9 closer to Highway 144. These properties along Highway
10 144 are zoned A-U Urban Agriculture and their existing
11 character should also be protected from this proposed
12 development.

13 Granting these variance requests will
14 adversely affect the public health, safety or welfare
15 because this property to the south is undeveloped
16 property and there is no way to know exactly how it
17 will develop in the future, and the properties to the
18 north are existing with all but one being zoned
19 differently from the proposed development. It will
20 alter the essential character of the general vicinity
21 because the character of the property to the south is
22 currently agricultural even though it is zoned for
23 single-family residential and the majority of the
24 adjoining properties to the north are zoned A-U and
25 have much larger lot sizes than the proposed

1 development. It will cause a hazard or a nuisance to
2 the public because it is unclear what will develop to
3 the south at this time and the reduction to the north
4 will allow the properties in this proposed development
5 to construct structures much closer to the property
6 lines than the existing properties are allowed. It
7 will be an unreasonable circumvention of the
8 requirements of the zoning regulations because by
9 choosing to do a Planned Residential Development, the
10 applicant is already receiving benefits of smaller lot
11 sizes and reduced setbacks; this development should
12 adhere to the requirements of Article 10 in order to
13 receive the benefits.

14 Staff would recommend denial of this variance
15 application.

16 We would like to enter the Staff Report into
17 the record as Exhibit B.

18 CHAIRMAN: First, Mr. Stainback, I'll ask the
19 audience.

20 Anyone in the audience have any comments or
21 questions on this?

22 (NO RESPONSE)

23 CHAIRMAN: Commissioners, do you have any
24 comments or questions on this?

25 (NO RESPONSE)

1 CHAIRMAN: Anyone?

2 (NO RESPONSE)

3 CHAIRMAN: The applicant, do you have any
4 comments?

5 MR. STAINBACK: Yes, Mr. Chairman.

6 MR. REEVES: I do have one question. If you
7 don't mind, Mr. Pedley, let me ask one question.

8 This is for Staff. Should this variance be
9 denied, can the applicant come back with a request for
10 a different variance that might be less harsh, for
11 lack of a better word?

12 MR. HOWARD: I think you have a couple of
13 options there. Yes, if the variance was denied, they
14 could certainly come back or if the board were to
15 recommend denial and they were agreeable to some
16 alternative that was less restricted than what we
17 advertised for or I guess requesting less of a
18 variance than what we advertised before, you could
19 also consider that for tonight at this meeting instead
20 of having them come back.

21 MR. REEVES: Thank you. Appreciate it.

22 MR. STAINBACK: As I listened to the
23 recommendation of the Staff, I decided that what I
24 would do in order to make a point on behalf of the
25 developer is to pass out a copy of the Comprehensive

1 Plan that's got the zoning on it, it also shows the
2 layout of the lots, so that I can address the concerns
3 raised by the Staff. May I do that?

4 CHAIRMAN: Yes.

5 MR. STAINBACK: In thinking about what the
6 Staff has said, that Staff has recommended, I think
7 what I would like to do is point to where the
8 situation is out there.

9 We have asked for a variance of reduction from
10 20 feet to 10 feet along the north boundary of the
11 property. The north boundary, the boundary of the
12 property is hash marked in red with the red curly-cues
13 is a 20.177 acres as shown as part of this yellow
14 that's already been zoned residential and the bulk of
15 it is green, agriculture urban at this time. The
16 property to the south is R-1A.

17 In looking at the lots along Reid Road, those
18 are long narrow lots. I'm not going to estimate the
19 depth of those lots, but they're pretty deep. I was
20 struck by the notion that the idea about the buffer is
21 to protect the property of the landowner who is
22 already there. We've already talked about that in
23 connection with the zoning. In this case the question
24 becomes whether or not protection is needed over and
25 above the 12 foot public utility easement that will

1 already be along the north boundary line. The lots on
2 Reid Road are very deep. It seems to me that the
3 imposition of a 20 foot buffer in addition to the
4 depth, the protection already provided by the lots
5 themselves is sufficient to satisfy the intent of the
6 zoning ordinance with respect to this notion of buffer
7 zones. That's on the north side.

8 On the south side, again, heard the comments
9 from the Staff. My reaction to that was that while it
10 may be true that this landowner does not control the
11 property to the south, it is also true that property
12 already is zoned as R-1A. That means it most likely
13 will develop into some type of subdivision that will
14 be similar to what Mr. Saalwaechter plans to develop.
15 When you have adjoining subdivisions like that, I do
16 not believe that the intent of the regulations and
17 ordinance is to require that Mr. Saalwaechter's
18 property be saddled with a 20 foot buffer zone on that
19 side of his property. On the R-1A side, the farming
20 side, there's nothing there at this point to protect.
21 It seems to me that the idea about the buffer zone is
22 to protect something that the existing landowner has.
23 We heard the Staff say that that particular property
24 is currently used for farming purposes. A buffer zone
25 imposed on the Saalwaechter property or the KSB

1 property is going to do nothing to protect that use.
2 Nothing at all. It's not going to adversely affect
3 the productivity of the property. It's not going to
4 adversely affect the development of the property.

5 So I would suggest that there is no harm to
6 the public or to the adjoining property by reason of
7 the variances that we request. Thank you.

8 MR. APPLEBY: My issue with that is that by
9 electing to do a plan residential development you
10 already are receiving some benefits of the ability to
11 do smaller lots, achieve more lots on that property,
12 and reduce setbacks, and some other advantages, and
13 all planned residential developments require, that's
14 one of the requirements of a planned residential
15 development is a 20 foot buffer in order to derive
16 these other benefits. You could have gone for a
17 different zoning. Could have gone an R-1C or you
18 could have gone just a typical development which would
19 not have required that 20 foot buffer, but then again
20 you wouldn't have gotten as many lots in there.

21 MR. STAINBACK: That's true. The developer
22 has produced a plan for you which most efficiently
23 utilizes all the land that he thinks that he has
24 available, hence the request for the variance.

25 MR. BOSWELL: Question I have is around the 10

1 foot versus the 20. Am I correct in my assumption
2 that you wanted the 10 foot to allow for the deeper
3 lots on that side?

4 MR. STAINBACK: Deeper lots on the other side?

5 MR. BOSWELL: On the north side.

6 MR. STAINBACK: Yes.

7 MR. BOSWELL: The intent was to allow for
8 deeper lots?

9 MS. EVANS: No.

10 MR. STAINBACK: It doesn't relate to our
11 property. It relates to the depth of the lots on Reid
12 Road, as I understand it.

13 MR. BAKER: The primary reason that we
14 requested the variance along the north side is related
15 to typical complications we had later on when, you
16 know, if you have some landowner wants to come back
17 and build a pool in their back yard, sometimes those
18 will get into encroaching. It's been an issue. I
19 think along the north side it's lesser of an issue.
20 On the southern side, we actually have, based on the
21 way the lots are configured, they're facing the side
22 lot. So from an important standpoint, the variance on
23 the south boundary are important. The north boundary,
24 again, the sole purpose in doing that was to avoid
25 future complications.

1 When you have to go back through that process
2 everyone in the subdivision has to sign off and it's a
3 long drawn out process. We typically try to avoid
4 that. In other subdivisions recently requested the
5 same thing, those types of variances along the outer
6 boundary of the project.

7 CHAIRMAN: Mr. Baker, on your south side of
8 your variance along the side yards, you have four lots
9 in your variances along those. Over half that side
10 yard is retention basin and utility easements. So you
11 actually have four lots. Those lots look like about
12 70 feet wide.

13 Mr. Howard, in this plan development you have
14 5 foot side yard?

15 MR. HOWARD: As Mr. Appleby stated, that's one
16 of the benefits of a planned residential development.
17 R-1A the standard setback site would be 10 feet, but
18 in a planned residential development they can
19 establish their own. So a 5 foot minimum can be
20 established in an R-1A zone.

21 CHAIRMAN: Actually you're speaking of rear
22 yard. If someone else developed that piece of
23 property, south of that their rear yard could actually
24 back up to those lots. If that happened, that 20 foot
25 buffer would be very important. I'm having trouble

1 understanding why you really need that extra 10 feet
2 on that side yard. You only have four lots and over
3 half of that side yard is detention basin and utility
4 easements.

5 MR. BAKER: As far as the variance along the
6 south boundary, we already have, through the process
7 of doing the design there was established an utility
8 easement down through there. If that project boundary
9 buffer were reduced to the 10 or 12 feet along that
10 boundary, I don't think that would have a negative
11 impact.

12 If the 20 foot project boundary buffer on the
13 other hand is maintained along the south boundary,
14 effectively narrow those lots by 12 feet.

15 CHAIRMAN: Our position is if there's a need
16 to do it, we try to accommodate. If we really can't
17 find a need, it doesn't create a hardship for the
18 development, that's something we have to look at. It
19 has to really be a hardship, and then we have to look
20 at the circumvention of the zoning ordinance. Allow
21 that, then anyone wants to do it, it just happens over
22 and over. That's our situation and stand on that, as
23 far as I consider. Thank you.

24 Commissioners, anyone else?

25 (NO RESPONSE)

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

3 MS. KNIGHT: I would ask we consider these
4 separately. They're actually asking for a variances
5 on two different lines. So if we can do separately.

6 CHAIRMAN: Two different?

7 MS. KNIGHT: Yes.

8 CHAIRMAN: Which one is stated first on the
9 application?

10 MR. HOWARD: The north property.

11 CHAIRMAN: I need a motion on the north side
12 variance.

13 MR. REEVES: Mr. Chairman, I make a motion
14 that the variance request be denied on the northern
15 boundary where the request from 20 feet to 10 feet
16 because it will allow an unreasonable circumvention of
17 the requirements of the zoning regulation because by
18 choosing to do a Planned Residential Development the
19 applicant is already receiving benefits of smaller lot
20 sizes to reduced setbacks; this development should
21 adhere to the requirements of Article 10 in order to
22 receive the benefits.

23 CHAIRMAN: We have a motion for denial by
24 Mr. Reeves. Do we have a second?

25 MR. BOSWELL: Second.

1 CHAIRMAN: Second by Mr. Boswell. Any
2 comments or questions on the motion?

3 (NO RESPONSE)

4 CHAIRMAN: All in favor of the motion raise
5 your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimous.

8 We need a motion for the variance on the south
9 side.

10 MR. APPLEBY: I have one question before we
11 act on this one.

12 Did I understand the applicant to say that you
13 could live with a reduction from 20 feet to 10?

14 MR. STAINBACK: You understood that correctly.

15 MR. APPLEBY: On the south side.

16 Mr. Chairman, in light of that, I believe this
17 adjoins that farmland over there that I would make a
18 motion to approve granting a variance to reduce the
19 project boundary buffer along the south property line
20 from 20 feet to 10 feet as it will not adversely
21 affect the public health, safety or welfare because
22 the property to the south is an undeveloped property
23 with the same zoning as the subject property and will
24 likely develop in a similar manner as the subject
25 property; it will not alter the essential character of

1 the general vicinity because the property to the south
2 is zoned single-family residential as well with
3 sanitary sewer service available with the streets
4 stubbed as proposed to the subject property. It is
5 reasonable to anticipate the properties will develop
6 similarly; it will not cause a hazard or nuisance to
7 the public because the proposed stubbed street on the
8 subject property offering connectivity to the property
9 to the south with sanitary sewer service available, it
10 is anticipated the property to the south will develop
11 in the same nature as the subject property; and it
12 will not allow an unreasonable circumvention of the
13 requirements of the zoning regulations because similar
14 variance requests have been approved in Whispering
15 Meadows Subdivision between the subdivision and the
16 adjacent farmland that was anticipated to develop in a
17 similar manner to the subdivision as is the case in
18 this situation.

19 CHAIRMAN: We have a motion for approval by
20 Mr. Appleby. Is there a second?

21 MR. FREY: Second.

22 CHAIRMAN: We have a second by Mr. Frey. Any
23 comments or questions on the motion?

24 (NO RESPONSE)

25 CHAIRMAN: All in favor of the motion raise

1 your right hand.

2 (BOARD MEMBERS LARRY MOORE, IRVIN ROGERS,
3 BEVERLY McENROE, DAVE APPLEBY, WARD PEDLEY, FRED
4 REEVES, WALLY TAYLOR, LARRY BOSWELL AND STEVE FREY
5 RESPONDED AYE.)

6 CHAIRMAN: All opposed.

7 (BOARD MEMBER JOHN KAZLAUSKAS RESPONDED NAY.)

8 CHAIRMAN: We have nine to one. Motion
9 carries unanimous.

10 Next item, please.

11 ITEM 3B

12 Park Haven, 20.177 acres (Postponed at the June 12,
13 2014 meeting)
14 Consider approval of combined final development
15 plan/major subdivision preliminary plat.
16 Applicant: Bill Saalwaechter

17 MR. HOWARD: Mr. Chairman, this plat comes
18 before you. It's been reviewed by the Planning Staff
19 and Engineering Staff. It's found to be in order with
20 the exception of both alterations to the Variances
21 that were heard tonight. The plan as submitted shows
22 the 10 foot boundary on the north side which will need
23 to be changed to show a 10 foot property boundary
24 buffer, and it shows a zero foot property boundary
25 buffer on the south side, which that will need to be
amended to show a 10 foot buffer. Otherwise, it's
ready for your consideration. You could certainly

1 consider approval of it subject to Bryant Engineering
2 making those changes to the document and then we could
3 have it signed once those changes have been made.

4 CHAIRMAN: Commissioners, do you have any
5 comments or questions on that?

6 (NO RESPONSE)

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

9 MR. REEVES: Mr. Chairman, I make a motion to
10 approve the development plan subject to the revisions
11 being made per the actions of this board this evening.

12 CHAIRMAN: We have a motion for approval by
13 Mr. Reeves.

14 MR. TAYLOR: Second.

15 CHAIRMAN: Second by Mr. Taylor. Comments or
16 questions on the motion?

17 (NO RESPONSE)

18 CHAIRMAN: All in favor of the motion raise
19 your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimous.

22 Next item, please.

23 ITEM 4

24 8102 Monarch Road, 65.56+/- acres
25 Consider zoning change: From EX-1 Coal Mining to A-R
Rural Agriculture

1 Applicant: Western Kentucky Minerals, Inc.; Cory &
2 Toneya Scarbrough

3 PLANNING STAFF RECOMMENDATIONS

4 The Planning Staff recommends approval subject
5 to the findings of fact that follow:

6 FINDINGS OF FACT:

7 1. Staff recommends approval because the
8 proposal is in compliance with the community's adopted
9 Comprehensive Plan;

10 2. The subject property is located in a Rural
11 Maintenance Plan Area, where rural farm residential
12 uses are appropriate in limited locations;

13 3. The subject property has been mined and is
14 currently being row cropped and used for pastureland
15 and hay land. The property owners are proposing to
16 construct a new dwelling;

17 4. The subject property has access to Monarch
18 Road with no new roads proposed;

19 5. Strip-mining activity ceased on the
20 property in July 2012; and,

21 6. The Owensboro Metropolitan Zoning
22 Ordinance Article 12a.31 requires that property shall
23 revert to its original zoning classification after
24 mining.

25 We would like to enter the Staff Report into

1 the record as Exhibit C.

2 CHAIRMAN: Anyone here representing the
3 applicant?

4 APPLICANT REP: Yes.

5 CHAIRMAN: Anyone in the audience have any
6 questions of the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Commissioners have any comments or
9 questions on the application?

10 (NO RESPONSE)

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

13 MR. ROGERS: Mr. Chairman, I make a motion for
14 approval based on the Planning Staff Recommendation
15 with the Findings of Facts 1 through 6.

16 CHAIRMAN: We have a motion for approval by
17 Mr. Rogers.

18 MS. McENROE: Second.

19 CHAIRMAN: Second by Ms. McEnroe. Comments or
20 questions on the motion?

21 (NO RESPONSE)

22 CHAIRMAN: All in favor of the motion raise
23 your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimous.

1 Next item, please.

2 MR. APPLEBY: Mr. Chairman, I need to
3 disqualify myself on this item.

4 CHAIRMAN: So noted, Mr. Appleby.

5 ITEM 5

6 3130 Villa Point, 16.87 acres
7 Consider zoning change: From B-3 Highway Business,
8 I-1 Light Industrial, R-3MF Multi-Family Residential
9 to B-3 Highway Business
10 Applicant: Villa Point Properties, LLC

11 PLANNING STAFF RECOMMENDATIONS

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

14 CONDITION:

15 Approval of a Final Development Plan.

16 FINDINGS OF FACT:

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

20 2. The subject property is located in a
21 Business Plan Area, where highway business uses are
22 appropriate in general locations;

23 3. The proposed use of retail sales is
24 nonresidential in nature; and,

25 4. The proposed B-3 zoning is a logical
26 expansion of existing B-3 zoning on a portion of
27 subject property as well as the properties to the west

1 and south.

2 MS. EVANS: We would like to enter the Staff
3 Report into the record as Exhibit D.

4 CHAIRMAN: Anyone here representing the
5 applicant?

6 (NO RESPONSE)

7 CHAIRMAN: Anyone have any comments or
8 questions on the application?

9 (NO RESPONSE)

10 CHAIRMAN: Commissioners, do you have any
11 comments or questions?

12 (NO RESPONSE)

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

15 MR. BOSWELL: Mr. Chairman, I make a motion we
16 approve the rezoning of this based on the Planning
17 Staff Recommendation for approval and the Conditions
18 and Findings of Fact.

19 CHAIRMAN: We have a motion for approval by
20 Mr. Boswell.

21 MR. REEVES: Second.

22 CHAIRMAN: A second by Mr. Reeves. Any
23 comments or questions on the motion?

24 (NO RESPONSE)

25 CHAIRMAN: All in favor of the motion raise

1 your right hand.

2 (ALL BOARD MEMBERS PRESENT - WITH THE

3 DISQUALIFICATION OF DAVE APPLEBY - RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimous.

5 Next item, please.

6 MINOR SUBDIVISION PLATS:

7 ITEM 6

8 7660, 7728 Iceland Road, 6.519 acres
9 Consider approval of minor subdivision plat.
10 Applicant: Carl Joe Boswell

11 MR. HOWARD: Mr. Chairman, this plat comes
12 before you as an exception to the subdivision
13 regulations and zoning ordinance requirements. It is
14 a relatively large parcel, 6.5 acres.

15 They are requesting that a lot division be
16 created around an existing home which would allow one
17 additional building site on the lot. They have added
18 a note to the plat that would state that no additional
19 subdivision of the property will take place unless it
20 meets the subdivision regulations.

21 With that we would recommend that you all
22 consider it for approval.

23 CHAIRMAN: Anyone have any comments or
24 questions on this?

25 (NO RESPONSE)

26 CHAIRMAN: Commissioners, have any comments or

1 questions?

2 (NO RESPONSE)

3 CHAIRMAN: If not the chair is ready for a

4 motion.

5 MR. APPLEBY: Motion for approval.

6 CHAIRMAN: We have a motion for approval by

7 Mr. Appleby.

8 MR. TAYLOR: Second.

9 CHAIRMAN: Second by Mr. Taylor. All in favor

10 of the motion raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimous.

13 Next item, please.

14 -----

15 NEW BUSINESS

16 ITEM 7

17 Consider approval of May 2014 financial statements

18 MR. HOWARD: Each of you were mailed a copy of

19 the financial statements ahead of the meeting. If you

20 have any questions, but they should be ready for your

21 consideration.

22 CHAIRMAN: Commissioners, do you have any

23 questions on the financial statement?

24 (NO RESPONSE)

25 CHAIRMAN: If not the chair is ready for a

1 motion.

2 MR. KAZLAUSKAS: Make a motion that the
3 financial statement be approved.

4 CHAIRMAN: We have a motion by Mr. John
5 Kazlauskas for approval.

6 MR. FREY: Second.

7 CHAIRMAN: We have a second by Mr. Frey. All
8 in favor of the motion raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimous.

11 Next item.

12 ITEM 8

13 Comments by the Chairman

14 CHAIRMAN: I don't have my comments. We need
15 to move on to something more important.

16 ITEM 9

17 Comments by the Planning Commissioners

18 CHAIRMAN: Anyone?

19 (NO RESPONSE)

20 ITEM 10

21 Comments by the Director

22 MR. HOWARD: I'll make one brief comment.

23 At the meeting last month Mr. Noffsinger noted
24 that a training opportunity would be in Owensboro in
25 August that Mr. Pike would be conducting. Mr. Pike

1 has got a conflict with his schedule. So they have
2 requested that that training be postponed until
3 November 19th. We won't be doing that for quite some
4 time.

5 Again, it will be a good opportunity not only
6 for our commissioners, but the local elected officials
7 or developers. It's a good session that Mr. Pike puts
8 on, but it will be in November.

9 CHAIRMAN: Thank you, sir.

10 Counselor, will you read Item 11 into the
11 record, please.

12 ITEM 11

13 Presentation by the OMPC Director Search Committee -
14 Closed Session pursuant to KRS 61.810(1)(f) as
15 discussion that may lead to the appointment of an
individual employee

16 MS. KNIGHT: So at this point we would ask
17 everyone to clear the room. A motion will be made.
18 At the time the motion is made, everyone will need to
19 leave.

20 CHAIRMAN: We will go into closed section and
21 no action will taken in closed session.

22 MS. KNIGHT: Until we're back in open session.

23 CHAIRMAN: And we will come back out.

24 MS. KNIGHT: That's correct.

25 MR. APPLEBY: I make a motion to enter into

1 closed session under KRS 61.810(1)(f) so the
2 Commission may discuss matters that might lead to the
3 appointment of an individual employee. Specifically
4 the appointment of a new director.

5 MR. FREY: Second.

6 CHAIRMAN: We have a motion and a second to go
7 into closed session. Anyone have any comments on
8 that?

9 (NO RESPONSE)

10 CHAIRMAN: All in favor of the motion raise
11 your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimous. We will
14 go into closed session.

15 - - - - (OFF THE RECORD) - - - -

16 CHAIRMAN: We're back on the record.

17 I think we need a motion to come out of closed
18 session.

19 MR. APPLEBY: Motion to go back into open
20 session.

21 MS. McENROE: Second.

22 CHAIRMAN: All in favor of the motion raise
23 your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimous.

1 The next motion we need is to hire a planning
2 director.

3 MR. REEVES: Mr. Chairman, I move that the
4 Board of Commissioners for the Owensboro Metropolitan
5 Planning Commission offer Mr. Brian Howard the
6 position of director of OMPC, which should he accept
7 become effective September 1, 2014. And further, that
8 the Board of Commissioners authorize Chairman Ward
9 Pedley to negotiate the specific terms and conditions
10 of employment with Mr. Howard within the parameters
11 previously approved and set by the OMPC Director
12 Search Committee.

13 MR. APPLEBY: Second.

14 CHAIRMAN: We have a motion and a second. All
15 in favor of the motion raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimous.

18 Mr. Howard, you're our new director.

19 MR. HOWARD: Thank you very much, Mr.
20 Chairman.

21 CHAIRMAN: Do you have any comments?

22 MR. HOWARD: My only comment would be to say
23 thank you for your trust and I look forward to the
24 opportunity to be the next director of the Planning
25 Commission. My big goal is communication and so I

1 really look forward to the opportunity and I'm
2 excited.

3 My wife is here tonight so I want to thank her
4 too for all the support that she's given me all over
5 the years. My wife Sara Howard is here tonight. I
6 had to say, I guess, that today is also our 15th
7 wedding anniversary. So not only is this a big honor,
8 but the fact that it falls on the day of our 15th
9 wedding anniversary is quite special.

10 I thank you again and look forward to being
11 the next director.

12 CHAIRMAN: Thank you.

13 Commissioners, do you have any comments?

14 MR. REEVES: I would like to make one.

15 I'd just like to say I learned a lesson many,
16 many years ago. Had the great honor to work with
17 David Atkinson when David was mayor here. David and I
18 were members of the chamber together. We would hire
19 employees on occasion. The criteria that Dave always
20 said we need to use, he said, let's not hire someone
21 that we want to employ. He said, let's hire somebody
22 that we're excited about an employ. I'm exited about
23 having Brian with us. Very excited.

24 MR. HOWARD: Thank you.

25 CHAIRMAN: Anyone else?

1 (NO RESPONSE)

2 CHAIRMAN: If not I think we need a motion to
3 adjourn.

4 MR. APPLEBY: Move to adjourn.

5 MR. BOSWELL: Second.

6 CHAIRMAN: We have a motion and a second. All
7 in favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries.

10 We are adjourned.

11 (Meeting ends at 6:45 p.m.)

12 -----

13

14

15

16

17

18

19

20

21

22

23

24

25

