

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 NOVEMBER 13, 2014

3 The Owensboro Metropolitan Planning Commission  
4 met in regular session at 5:30 p.m. on Thursday,  
5 November 13, 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 Brian Howard, Director  
12 Terra Knight, Attorney  
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 the Owensboro Metropolitan  
22 Planning Commission November 13, 2014 meeting to  
23 order. We will begin our meeting with a prayer and  
24 pledge of allegiance to the flag. Mr. Boswell will  
25 lead us.

26 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

27 CHAIRMAN: I would like to welcome everyone.  
28 Anyone wishing to speak we ask that you come to one of  
29 the podiums and state your name and be sworn in. We  
30 welcome your comments and questions.

1           Commissioners, if you will, speak into the  
2           microphone. We have people at home that like to watch  
3           these commission meetings. So if everyone will speak  
4           into the microphone, they can hear better at home.

5           The first item on the agenda is to consider  
6           the minutes of the September 11, 2014 meeting.

7           Commissioners, you have a copy of the minutes  
8           in your packet. Are there any additions or  
9           corrections?

10          (NO RESPONSE)

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

13          MR. APPLEBY: Motion for approval.

14          CHAIRMAN: We have a motion for approval by  
15          Mr. Appleby.

16          MR. FREY: Second.

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

19          (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20          CHAIRMAN: The minutes are approved.

21          The commission did not have a meeting in  
22          October so there were no minutes.

23          First item on the agenda.

24          MR. HOWARD: I'll note that all rezoning  
25          changes heard tonight will become final 21 days after

1 the meeting, unless an appeal is filed. If an appeal  
2 is filed, then we will forward a copy of the record of  
3 the meeting along with the information on the rezoning  
4 to the appropriate legislative body for them to take  
5 final action. The appeal forms are available in our  
6 office, on our website and on the back table.

7 -----

8 GENERAL BUSINESS

9 ZONING CHANGES

10 ITEM 3

11 518 Elm Street, 0.100 acres (rescheduled from the  
12 October 9, 2014 meeting)  
13 Consider zoning change: From R-1T Townhouse to B-4  
General Business  
14 Applicant: Audubon Area Community Services

15 MS. KNIGHT: Will you state your name for the  
16 record?

17 MS. EVANS: Melissa Evans.

18 (MELISSA EVANS SWORN BY ATTORNEY.)

19 MS. EVANS: I would like to point out that the  
20 screens on the podium up there for you all and the  
21 ones out here, apparently City Hall has been having  
some malfunctions.

22 CHAIRMAN: I was informed they're not working.

23 MS. EVANS: We have it on the computer down  
24 here if anybody wants to see, you can come over and  
25 look at the computer, but they're not on the big

1 screens for you to actually see the maps.

2 PLANNING STAFF RECOMMENDATIONS

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

5 FINDINGS OF FACT:

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

9 2. The subject property is located in a  
10 Central Residential Plan Area where general business  
11 uses are appropriate in limited locations;

12 3. The proposed use as a parking lot conforms  
13 to the criteria for nonresidential development;

14 4. The proposal is a logical expansion of  
15 existing B-4 General Business zoning to the north;  
16 and,

17 5. At 0.100 acres, the proposal does not  
18 significantly increase the extent of general business  
19 zoning in the vicinity and should not overburden the  
20 capacity of roadways and other necessary urban  
21 services that are available in the affected area.

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

24 CHAIRMAN: Is anyone here representing the  
25 applicant?

1 MS. SMITH: Michelle Smith, service  
2 coordinator for Audubon Area.

3 CHAIRMAN: Let's find out if we have any  
4 questions from the audience. We will bring you back,  
5 if we have any comments or questions.

6 Is anyone here that would like to speak in  
7 opposition or have any comments or questions on this  
8 application?

9 (NO RESPONSE)

10 CHAIRMAN: Any commission members, do you have  
11 any comments or questions?

12 (NO RESPONSE)

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

15 MR. ROGERS: Motion for approval based on  
16 Planning Staff Recommendation and Findings of Fact 1  
17 through 5.

18 CHAIRMAN: We have a motion for approval by  
19 Mr. Rogers.

20 MR. APPLEBY: Second.

21 CHAIRMAN: Second by Mr. Appleby. Any  
22 comments or questions on the motion?

23 (NO RESPONSE)

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimous.

3 Next item, please.

4 ITEM 4

5 316, 324 Hill Avenue, 0.42 acres (rescheduled from the  
6 October 9, 2014 meeting)

7 Consider zoning change: From R-1B Single Family  
8 Residential to R-3MF Multi-Family Residential  
9 Applicant: Professional Properties & Construction;  
10 Mike & Marilyn Wells

11 MS. EVANS: The Staff's recommendation on this  
12 item is for denial. So with a denial recommendation  
13 we do read the entire Staff Report into the record.

14 PROPOSED ZONE & LAND USE PLAN

15 The applicant is seeking an R-3MF Multi-Family  
16 Residential zone. The subject property is located in  
17 an Urban Residential Plan Area where Urban Mid-Density  
18 Residential uses are appropriate in limited locations.

19 SPECIFIC LAND USE CRITERIA

20 (a) Building and lot patterns - Building and lot  
21 patterns should conform to the criteria for "Urban  
22 Residential Development" (D6).

23 (b) Existing, expanded or new sanitary sewers - Urban  
24 Mid-Density Residential uses should occur only where  
25 sanitary sewer systems exist or may be expanded, or  
where new systems may be properly established.

(c) Logical expansions - Existing areas of Urban

1 Mid-Density Residential uses may be expanded onto  
2 contiguous land. An expansion of this use should not  
3 overburden the capacity of roadways and other  
4 necessary urban services that are available in the  
5 affected area.

6 (D) New locations near major streets - In Urban  
7 Residential, Professional/Service, Business, and Rural  
8 Community plan areas, new locations of Urban  
9 Mid-Density Residential uses should be  
10 "major-street-oriented" (D2).

11 PLANNING STAFF REVIEW

12 GENERAL LAND USE CRITERIA

13 Environment

14 \* It appears that the subject property is not  
15 located in a wetlands area per the US Department of  
16 Agriculture Soil Conservation Service dated March 6,  
17 1990.

18 \* The subject property is not located in a  
19 special flood hazard area per FIRM Map 21059C0138 D.

20 \* It appears that the subject property is not  
21 within the Owensboro Wellhead Protection area per the  
22 GRADD map dated March 1999.

23 \* The developer is responsible for obtaining  
24 permits from the Division of Water, The Army Corp of  
25 Engineers, FEMA or other state and federal agencies as

1       may be applicable.

2       URBAN SERVICES

3               All urban services, including sanitary sewer,  
4       are available to the site.

5       DEVELOPMENT PATTERNS

6               The subject properties are currently vacant.  
7       Walgreen's and Jimmy John's, which is under  
8       construction, just recently completed, are located  
9       across the alley to the east of the subject  
10      properties. There is also one property located across  
11      the alley to the south zoned B-4 General Business.  
12      The other uses surrounding the subject properties are  
13      single-family residential. The applicant proposes to  
14      construct a 2-story 4-plex on the subject properties.  
15      The subject properties are located along Hill Avenue,  
16      a local street.

17      SPECIFIC LAND USE CRITERIA

18              The applicant's proposal is not in compliance  
19      with the Comprehensive Plan. The proposed use as  
20      multi-family residential conforms to the criteria for  
21      urban residential development. However, the proposed  
22      R-3MF Multi-Family Residential zoning is not a logical  
23      expansion of R-3MF Multi-Family Residential zoning, as  
24      there is no other Multi-Family Residential zoning in  
25      the vicinity. With the exception of the B-4 General



1 Business zoning that fronts along Frederica Street all  
2 properties in the block are zoned R-1B Single-Family  
3 Residential. The nearest multi-family zoning on the  
4 west side of Frederica Street is located nearly a half  
5 mile away. As a proposed 4-plex, the use could  
6 overburden the capacity of roadways and other  
7 necessary urban services that are available in the  
8 affected area as this is a single-family residential  
9 area. The subject properties are located on Hill  
10 Avenue, a local street, and are not  
11 major-street-oriented.

12 PLANNING STAFF RECOMMENDATIONS

13 The Planning Staff recommends denial subject  
14 to the findings of fact that follow:

15 FINDINGS OF FACT:

- 16 1. Staff recommends denial because the  
17 proposal is not in compliance with the community's  
18 adopted Comprehensive Plan;
- 19 2. The subject properties are located in an  
20 Urban Residential Plan Area where Urban Mid-Density  
21 Residential uses are appropriate in limited locations;
- 22 3. The proposal is not a logical expansion of  
23 existing R-3MF Multi-Family Residential zoning;
- 24 4. The proposed use as a 4-plex could  
25 overburden the capacity of the roadways and other

1 necessary urban services that are available in the  
2 affected area; and,

3 5. The subject properties are not  
4 major-street-oriented.

5 MS. EVANS: We would like to enter the Staff  
6 Report into the record as Exhibit B.

7 CHAIRMAN: Anyone here representing the  
8 applicant?

9 MR. SULLIVAN: Yes.

10 MS. KNIGHT: Mr. Sullivan, state your name for  
11 the record, please.

12 MR. SULLIVAN: I'm Mike Sullivan. I'm a local  
13 attorney.

14 MS. KNIGHT: You're sworn as an attorney.

15 MS. SULLIVAN: Good evening. I represent  
16 Professional Properties & Construction, the applicant,  
17 who is here tonight, via Gary Cecil and Mike Wells.  
18 The property owner at the time is also here.

19 Does everybody have our proposed Findings of  
20 Fact that we tendered with our application?

21 CHAIRMAN: Yes.

22 MR. SULLIVAN: A couple of things I wanted to  
23 address about the Staff's Report. They mention that  
24 there was no other B-4 in the block, but I'm not sure  
25 what the block is. Just so you know, and it's on our

1 property drawing that was submitted with our  
2 application, there is a building behind the subject  
3 property, I call it behind, to the south of the  
4 subject property that faces on Booth Avenue that is  
5 zoned B-4. That is the Burton Realty house that some  
6 of you all may be familiar with. Also across Hill  
7 Avenue, right across Hill Avenue just to the east is  
8 that building that used to be Condo Accents that now,  
9 I think, it has a yoga studio in it and may have an  
10 embroidery shop in it that is zoned B-4.

11 In addition to Jimmie John's, which is right  
12 across the alley from it and in addition to  
13 Walgreen's, which is essentially adjacent to it as  
14 well, this property is you could say surrounded by  
15 people on almost every side. I think it's significant  
16 that that be recognized.

17 Another thing about this property that  
18 actually I didn't know until five or ten minutes ago  
19 is that the structures on, these are vacant lots right  
20 now. The structures that used to be on these  
21 properties were duplexes. So while it might have been  
22 zoned single-family residential, there were duplexes  
23 on these two lots that we're trying to rezone at this  
24 current time.

25 Another thing I would like you to have

1       available, I think it was tendered to the staff. I  
2       don't know if you've seen it. I don't know if we've  
3       got copies for everybody, but we wanted you to see the  
4       proposed 4-plex that my client wants to construct on  
5       this site. You'll see it's, I don't hesitate to say,  
6       topnotch is what they plan to do.

7               MS. EVANS: All the planning commissioners  
8       were mailed a copy of the elevation drawing. They  
9       were not mailed a copy of the actual floor plan, the  
10      interior, but there were a copy of the elevation  
11      drawing to see what the outside of the building would  
12      look like.

13             MR. SULLIVAN: This one is colored and it does  
14      have the floor plan on the back. I've got copies. If  
15      you don't care, I'll pass them up here.

16             We know what the zoning ordinance says. We  
17      know that there are four criterias that have to be  
18      looked at in the comprehensive plan to determine  
19      whether or not our application is in compliance with  
20      the comprehensive plan. I think that really what  
21      we're talking about here is why is it not in  
22      compliance with the comprehensive plan. It's not  
23      because there isn't a contiguous multi-family use. If  
24      we had a duplex located right next-door, we would have  
25      a contiguous multi-family use, and I dare to say that

1 the Staff may be up here recommending rezoning.

2 Where do we go from there? We can't change  
3 what the adjoining properties are. Where does my  
4 client go from here, and why do we think you ought to  
5 approve this application?

6 You can approve this application and you're  
7 given discretion to approve this application, even  
8 though it's not in compliance with the plan, and you  
9 know this, if certain circumstances exist, and they  
10 exist here. That is the facts related to this  
11 rezoning show that the existing zoning classification  
12 is inappropriate and there have been major changes of  
13 an economic or of a social nature within the involved  
14 area not anticipated by the comprehensive plan that  
15 substantially alter the basic character of the  
16 involved area.

17 Also, I think if you look at it what you see  
18 is you've now got Walgreen's here. That's happened in  
19 the last few years. Jimmy John's just happened right  
20 next to it. You've got B-4 behind it. You've got B-4  
21 across the street. Having a single-family residential  
22 structure located right next to all of this B-4 use, I  
23 dare say isn't appropriate at this time. If having a  
24 multi-family use in this location right next to all of  
25 this business use, would actually be a good buffer use

1       between the existing single-family residential and  
2       this more intent B-4 that's all on Frederica Street  
3       and behind this property and across the street from  
4       this property. It would actually serve as a good  
5       mid-intensity use to blend from the B-4 to the  
6       single-family residential.

7               We put in detail and explain why we think we  
8       satisfy from evidentiary standpoint a finding that  
9       although it's not in compliance with the Comprehensive  
10      Plan you ought to approve this rezoning. You've got  
11      that discretion. I think our proposed findings are in  
12      the record. I'm not going to reread them. I think  
13      you've seen them.

14             We're here to answer any questions that you  
15      have, but we'd ask you to approve the application.  
16      Thank you.

17             CHAIRMAN: Anyone in the audience have any  
18      comments or questions of Mr. Sullivan while he's up  
19      there?

20             Would you step up, sir.

21             MR. SPALDING: My name is Randy Spalding.

22             (RANDY SPALDING SWORN BY ATTORNEY.)

23             MR. SPALDING: My concern is the traffic on  
24      the street. There's at least two residents, myself  
25      and one other, that all have small children. With the

1 added traffic with Jimmy John's, whether it's their  
2 employees don't have parking, and then additional four  
3 units. You've got to figure one or two cars apiece.  
4 That's an additional eight cars on that street every  
5 day living there.

6 The two properties, Jimmy John's and the  
7 Walgreen's, all have their back to the property.  
8 They're facing Frederica. There's an alley in-between  
9 them which is also being used as a drive-thru for  
10 Jimmy John's. I don't know where there's parking or  
11 where they're going to park.

12 MR. SULLIVAN: Again, these are two lots. The  
13 parking will be off street for these 4-plexes, and  
14 they will access via the alley that is in-between  
15 Jimmy John's and the property.

16 MR. SPALDING: The one that the restaurant  
17 uses for their drive-thru.

18 CHAIRMAN: Sir, when you need to speak, would  
19 you speak into the mike so the recorder can get what  
20 you're saying.

21 MR. SPALDING: Yes.

22 MR. SULLIVAN: The people who live, who would  
23 live at these 4-plexes would come in the alley located  
24 to the east of this property to access their  
25 off-street parking. I understand this gentleman's

1 concern about Jimmy John's and about Walgreen's and  
2 about all the traffic that is running through there,  
3 but I don't think when you look at how these two lots  
4 are proposed to be used and how they could be used as  
5 is, that you would see a significant and how they're  
6 going to have the off-street parking developed on this  
7 property. I don't think that you will see a  
8 substantial increase in traffic because of this  
9 proposed use.

10 MR. APPLEBY: Is the off-street parking in the  
11 rear?

12 MR. SULLIVAN: Yes, sir.

13 CHAIRMAN: Commissioners, will Mr. Sullivan is  
14 up, do you have any additional questions or comments?

15 Yes, Mr. Reeves.

16 MR. REEVES: I have really struggled with this  
17 one because I have a great sensitivity to this  
18 property, right to do with this property, but that  
19 extends also to the neighbors.

20 I called Mr. Howard about a week ago and asked  
21 him a question. I normally don't go to a site, but  
22 because I was struggling with this paperwork I went to  
23 look at the site. I grew up in this community at that  
24 time that neighborhood was evolving. I generally  
25 think of that, and you may or may not disagrees, that



1 neighborhood typically evolved from Frederica on the  
2 east to Lewis Lane on the west bounded by Ford on the  
3 north and Booth on the south. I drove that  
4 neighborhood to see if there are other multi-family  
5 homes in that area. I believe I found one that's  
6 bounded in that area for sure. One is right on the  
7 border of it. I asked Mr. Howard to let me know, did  
8 those, were those multi-family units put in there  
9 prior to zoning impacting the development of the land.  
10 One of them is an apartment complex right next to the  
11 Lutheran Church on Ford. Then there is a 4-plex right  
12 close to Sutton School on Lewis Lane down there. I  
13 remember when those were built specifically.

14 Mr. Howard, did you find out about that?

15 MR. HOWARD: I looked through our records and  
16 talked to Jim Mischel in our office. We have find no  
17 evidence that those were approved through the Planning  
18 process. They appear to all predate zoning  
19 regulations.

20 MR. REEVES: The other question I asked  
21 Mr. Howard was: If the lot next to the Episcopal  
22 church, Trinity Episcopal, if that were a vacant lot  
23 now, and I'm not sure you can answer this, but if that  
24 were a vacant lot, would the Staff be making the same  
25 recommendation if somebody wanted to do multi-family

1 on that lot?

2 MR. HOWARD: This was a good question because  
3 it is kind of an apples-to-apples comparison. As Mr.  
4 Sullivan stated tonight, surrounding this property is  
5 commercial zoning and things like that. Right  
6 next-door to the apartments is Trinity Episcopal  
7 Church that's zoned P-1. The one difference is that  
8 Hill Avenue is classified as a local street. One of  
9 the criteria for a new location is supposed to be  
10 major-street-oriented. Ford, which is where those  
11 apartments are located, is classified as a major  
12 collector roadway. Under the hierarchy of street  
13 classifications, that would count as  
14 major-street-oriented. So based on that, we could  
15 apply that criteria D and likely been able to  
16 recommend approval of it because of the classification  
17 of that roadway.

18 MR. REEVES: I guess the struggle I'm having  
19 is knowing that once we open the door to multi-family  
20 rezoning west of Frederica in that neighborhood, then  
21 it could have a multiplying effect down the road.  
22 There's some very nice, all very nice homes in that  
23 area that I'm not sure that those folks want to have  
24 an apartment complex scattered here and there in that  
25 neighborhood impacting their way of life. I haven't

1       made my mind up on this one yet. I'm anxious to hear  
2       what others have to say and the applicant and this  
3       gentleman right here. That's my big concern is, this  
4       is the door opener right here.

5               MR. SULLIVAN: Now, I'm going to say something  
6       and these guys up here who know the zoning ordinance  
7       like the back of their hand are going to probably tell  
8       me I'm wrong. Speak up if I am.

9               I don't know if the door is already open  
10       because you've already got B-4 crawling into this  
11       neighborhood. I mean there's a B-4 behind them.  
12       Could we have rezoned this B-4? Is that in compliance  
13       with the plan? Is it a logical expansion because  
14       you've got B-4 on a couple of sides of it already?

15              MR. HOWARD: Mr. Cecil and I looked at various  
16       options over time. Based on our discussions, no, I  
17       don't think we would not have been able to recommend  
18       B-4 because of the way the language is in the  
19       comprehensive plan for that. In that block front on  
20       this side of Hill Avenue, there's no B-4 past the  
21       alley in the criteria they're talking about if you go  
22       across an alley that you have to meet certain  
23       parameters. So we wouldn't have been able to do that;  
24       however, we could have been able to recommend, I  
25       believe, based on the Comprehensive Plan, a rezoning

1 to P-1, which would allow them to have done office  
2 space on the main level and apartments upstairs  
3 because the language in there. As you all know, the  
4 Comprehensive Plan is very flexible in what it allows.  
5 The P-1 zoning we could have supported because the  
6 language in there, one of the criteria is a buffer  
7 use. That's one of the things that you discussed  
8 tonight. That this multi-family residential could  
9 potentially serve as a buffer. That's one of the  
10 criteria for P-1; unfortunately or depending on which  
11 side you are here. It's not in there for multi-family  
12 so we couldn't apply that.

13 MR. SULLIVAN: Fred, the only reason I bring  
14 that up is, the door is already open. You're  
15 concerned that, oh, there might be a creep into the  
16 single-family residential. It can already happen via  
17 P-1. That's the only reason I brought that up.

18 CHAIRMAN: Mr. Sullivan, if you could stay, I  
19 want to ask other commissioners member.

20 Mr. Kazlauskas.

21 MR. KAZLAUSKAS: Mike, I'm somewhat confused  
22 and I want you and the staff to help me out here.

23 You said that these residences were duplexes.  
24 When I was a young police officer, I made several  
25 calls to these houses and I knew them as

1       single-dwellings, single-family dwellings. What I  
2       understand that these were duplexes in violation of  
3       the zoning ordinances.

4               MR. HOWARD: Maybe. If they were duplexes,  
5       Mr. Reeves asked about some of these other properties.  
6       They predated zoning. If they predate the late  
7       1970's, as construction and use as a duplex, they  
8       would not be illegal. They would be what we would  
9       call an existing nonconforming use. But tonight is  
10      the first I've heard about them being duplexes. I  
11      don't know that they were or were not.

12             MR. KAZLAUSKAS: I know the times that I made  
13      some calls there were single-family dwelling living  
14      there.

15             My other concern, I think we're all concerned  
16      about this, is the building, let me say to you that  
17      this is a very attractive building. It certainly  
18      would look very good on those two places, on those two  
19      lots, but I'm concerned about the parking also. If  
20      you built this building, is there criteria about how  
21      much parking has to be made available, and is that  
22      room there for parking to be available?

23             MR. HOWARD: Sure. Yes, there is a parking  
24      requirement. If they are two or three bedroom units,  
25      which I believe these would be, the minimum parking is

1 two spaces per unit. So at four units you're looking  
2 at eight parking spaces required. Then there would be  
3 about maybe, I guess, an additional three spaces for  
4 spillover. So you're probably looking at about 10 or  
5 11 parking spaces that would be required. We haven't  
6 seen a site plan. They may be able to better answer,  
7 can you actually physically put all of that on the  
8 property. We haven't seen a site plan.

9 MR. KAZLAUSKAS: Is there a footprint that  
10 would -- I mean that's a big concern.

11 Coming to the meeting tonight I drove down  
12 there and, of course, Jimmy John's was open, their  
13 first night open, and traffic was unbelievable, you  
14 know. So I can understand why people would be  
15 concerned about the traffic problem on that corner.

16 The addition to traffic, and I'm concerned  
17 about the footprint with all these parking spaces in  
18 the back also. So I don't know if that's appropriate.

19 CHAIRMAN: Mr. Sullivan, you want to respond?

20 MR. SULLIVAN: I would like Mr. Cecil to  
21 describe the circumstances with you and the footprint  
22 and the lot size and how the parking spaces could fit.

23 MS. KNIGHT: Mr. Cecil, would you state your  
24 name for the record, please.

25 MR. CECIL: Gary Cecil.

1 (GARY CECIL SWORN BY ATTORNEY.)

2 MR. CECIL: I think if you look at that floor  
3 plan, it's going to show that the building itself is  
4 about 50 feet wide. When you combine these two lots,  
5 you end up with 100 foot wide lot. So there's  
6 essentially 25 feet on each side of this from the lot  
7 lines.

8 I've given you my copy, and I don't remember  
9 if it's on there or not, but the depth of the lot is  
10 close to 150 feet. The building itself can't be more  
11 than 70 feet, if I'm not mistaken. While we have not  
12 generated a site plan, we do not have that available.  
13 Had I realized that would have been a concern, we  
14 would have done it. To fit ten parking spots on this  
15 property with that building is going to be pretty  
16 easily done.

17 MR. HOWARD: I'll just add, on the property  
18 identification it looks like the lots are about 180  
19 feet in depth.

20 MR. KAZLAUSKAS: I guess my next question  
21 would be to Staff then.

22 If you've got to have 10 to 12 parking spaces,  
23 do we have to have a buffer zone, trees, hedges and  
24 additional spots/space?

25 MR. HOWARD: Depending on where it's located,

1 and depending on where the adjoining residences are,  
2 and depending on where the allies are. There are  
3 several factors that go into this. The only buffering  
4 that could potentially be required would be a three  
5 foot tall continuous element, which is typically  
6 achieved by a row of bushes with a tree every 40 feet.  
7 So there certainly could be a requirement, but it's  
8 not the ten foot wide buffer that would be required if  
9 say between residential and industrial or commercial.

10 MR. KAZLAUSKAS: Without a footprint this is  
11 difficult for me to grasp in my mind; although, I like  
12 the looks of the building.

13 CHAIRMAN: Mr. Boswell, you have a question?

14 MR. BOSWELL: Yes, I do.

15 The concern that I have, I also share the  
16 concern everybody else does about traffic patterns,  
17 but the neighborhood itself as far as how it would  
18 impact the neighborhood for the future.

19 You've got 4 units and let's say you've got 12  
20 parking spots. Based on what I'm reading so far, and  
21 Staff may be able to help me with this, that  
22 particular R-3MF zone is principally permitted,  
23 according to our zone information and our laws. I'm  
24 trying to understand if it's principally permitted  
25 based on the scheduled zones. Is the reason that



1 we're not, we're wanting to deny it is because of the  
2 concern about the traffic patterns as well as the  
3 neighborhood itself, the streets and so forth? That's  
4 part of what is being stated as far as why it's to be  
5 denied.

6 MR. HOWARD: If I could maybe clarify that in  
7 some capacity.

8 Right now the property is this zoned R-1B  
9 Single-Family Residential. In that zone multi-family  
10 uses are not a permitted use. So they're required, if  
11 they want to do a multi-family project, to rezone to  
12 R-4DT or R-2MF or R-3MF. Those are zones which allow  
13 multi-family residential. So they're proposing to go  
14 R-3MF. If they were successful in R-3MF zoning, then  
15 their project would be a principally permitted use in  
16 that zone.

17 The biggest hang up, as far as why Staff  
18 couldn't recommend approval of it, is because it  
19 doesn't meet the specific criteria of the  
20 Comprehensive Plan because it's not a logical  
21 expansion and it's not major-street-oriented on Hill,  
22 which is a local street.

23 MR. BOSWELL: But the land use criteria, what  
24 concerned me about what I read here was that it says  
25 that it could overburden the capacity of roadways.

1 Well, could and will are two different issues. How do  
2 we know that it could and could overburden the  
3 capacity of roadways? It's mentioned two or three  
4 different places. It just seemed to me that, do we  
5 have any facts based on information that says that  
6 that is a possibility?

7 MR. HOWARD: I think it all has to do with  
8 scope, the scope of the project. If you were asked my  
9 opinion, do I think that a 4-plex in general would  
10 overburden the capacity of roadways, I would say, no.  
11 But at four-tenths of an acre, they can probably  
12 squeeze more units on that property and then that  
13 could potentially overburden the capacity of roadway.  
14 A lot of it is based on the scope of what's being  
15 proposed and the scope of what's built. That's why we  
16 put that statement in there that way. Just because  
17 you all, whether you -- say you recommend approval of  
18 this. You all as a Planning Commission cannot  
19 stipulate that it's limited to one specific use. So  
20 that's why we have to put a statement in there and  
21 phrase it that way, because we can't say what's only  
22 limited to a two-story 4-plex.

23 MR. BOSWELL: I guess this question will be  
24 directed to maybe Mr. Sullivan or Mr. Wells.

25 Is there any anticipation that you could add

1 on to this 4-plex at some point in time?

2 MR. CECIL: I think we probably maxed out our  
3 budget with this one. I don't see us having any  
4 extra. I think for that matter you run out of land  
5 use for more parking if the footprint grows much  
6 bigger.

7 You know, when we were looking at this and we  
8 considered rezoning P-1 and doing professional space  
9 on the main level and then two/three bedroom, two bath  
10 units on the upper level, we were going to be required  
11 to have 13 parking spots to make that happen. So  
12 either way whether you approve this multi-family  
13 rezoning or we come back and, okay, maybe we do P-1,  
14 we're going to have the same number of parking spots  
15 for either building.

16 Are you more likely in a P-1 to have more  
17 traffic and in and out on a daily basis use?  
18 Mr. Sullivan, I'm not sure how many people in and out  
19 of the your parking lot on a daily basis, but I would  
20 think that a P-1 would actually burden the property  
21 even more.

22 CHAIRMAN: Mr. Reeves.

23 MR. REEVES: I want to go back to  
24 Mr. Boswell's question.

25 The concern I have with that is, as I

1 mentioned earlier, if we rezone this one, then every  
2 likelihood -- there's a number of deteriorated  
3 properties around there that could be taken down. We  
4 could just as easily instead of having one 4-plex  
5 there now, ten years from now have ten 4-plexes there.  
6 That would probably overburden the road. That's my  
7 concern is that threshold. I realize those B-4's are  
8 there. They may also predate zoning. I'm not sure.  
9 They're classified as B-4 right now.

10 My concern is how many of these can you get  
11 into a neighborhood before you begin to overburden  
12 streets, adding traffic in there and so forth, and  
13 impact the value of those homes that are in what is  
14 now a very nice contained residential neighborhood.

15 MR. APPLEBY: I think you've got to realize  
16 too, as he was saying, more than likely, according to  
17 Brian, they could recommend a professional use on  
18 that. You could have a dental office, which you have  
19 a tremendous turnover. You could have a beauty shop  
20 that could go in under professional use, and I can  
21 tell you they have a lot of traffic. At what point do  
22 we cross that threshold?

23 CHAIRMAN: Mr. Frey, you have your hand up.

24 MR. FREY: For either Mr. Sullivan or Mr.  
25 Cecil.

1           Are these going to be for sale or for rent?

2           MR. CECIL: We haven't looked at any type of  
3           condo association so we're going to keep these as  
4           rentals.

5           MR. FREY: As far as the price ranges will go,  
6           are you looking high-end?

7           MR. CECIL: There will not be any Section 8.  
8           We expect, you know, 1,200 to \$1,500 a month. We're  
9           not talking about a low-end rental by any means.

10          MR. FREY: If I voted to approve this and the  
11          commission did, somebody comes further down the  
12          street, it would come up and it would be grandfathered  
13          in since we approved this one, because it is a buffer  
14          between business and residential. We could then vote  
15          to potentially not approve another one on the other  
16          block?

17          MR. HOWARD: That's a question without a lot  
18          of information. If it was right next-door to it, it's  
19          going to meet the criteria of a logical expansion. If  
20          it's three houses down and you've got three  
21          single-family lots in-between, then probably not  
22          because that really isn't a logical expansion. You're  
23          leapfrogging over three single-families. There's a  
24          lot of what ifs there that we would have to look at.

25          MR. FREY: Thank you.

1           MR. BOSWELL: If that happened though, if that  
2           occurred, then that would set a precedence that would  
3           be hard to turn down another approval at some point in  
4           time?

5           MR. HOWARD: It's possible, yes. Again,  
6           depending on where it is and the scope and several  
7           things that you all would look at.

8           MR. KAZLAUSKAS: If it was right next-door, we  
9           would be mandated?

10          MR. HOWARD: That's right.

11          CHAIRMAN: Mr. Moore.

12          MR. MOORE: You mentioned the fact that these  
13          lots did have duplexes.

14          MR. SULLIVAN: That's based on what Mike Wells  
15          told me. I want you to be clear of that.

16          MR. MOORE: What kind of time frame is that  
17          occurring? Here recently or years?

18          MR. WELLS: I'm Mike Wells, the owner of the  
19          property.

20          MS. KNIGHT: Sir, let me swear you in please.

21          (MIKE WELLS SWORN BY ATTORNEY.)

22          MR. WELLS: I don't know exactly how many  
23          years. I've owned the property probably seven or  
24          eight years. There were two buildings on, there's two  
25          lots involved in this. On each lot they were both, I

1 don't know if they were pre-approved before the  
2 zoning, etcetera, but they were marginal properties.  
3 I tore them both down and the property has been vacant  
4 ever since. I never rented them as apartments.

5 In both of the residences, they were separate  
6 apartments. One of them was a very large structure.  
7 One had a single-family residence, but it had an  
8 apartment upstairs. The other was a true duplex.

9 CHAIRMAN: Mr. Wells, is your business located  
10 on Hill Avenue?

11 MR. WELLS: It's on Booth.

12 CHAIRMAN: It's on Booth?

13 MR. WELLS: Yes.

14 CHAIRMAN: Your residence, where is your  
15 residence?

16 MR. WELLS: I live on Griffith Place West, in  
17 that neighborhood.

18 CHAIRMAN: Thank you.

19 MR. WELLS: I own two buildings on Booth  
20 Avenue, both of which are zoned commercial. I've  
21 always admired these lots and thought they had a lot  
22 of potential.

23 CHAIRMAN: Commissioners, anyone have any more  
24 questions of Mr. Wells or Mr. Sullivan?

25 Mr. Moore.

1 MR. MOORE: Let me ask Mr. Howard.

2 Does that make a difference then if they were  
3 duplexes at one time?

4 MR. HOWARD: I think if it was documented that  
5 they were duplexes, if it were documented that they  
6 were duplexes that were either approved appropriately  
7 through planning or predated zoning, and they hadn't  
8 discontinued that use for more than 18 months, you  
9 could certainly argue that there is an existing  
10 nonconforming use of multi-family on that property.  
11 We did not have that information. We could not  
12 document that. We didn't in our office. Plus, if  
13 there's been a discontinuance of that for certainly  
14 longer than the 18 month grandfather period.

15 Could it have? Potentially. Would it in this  
16 instance? I would say, no, because it doesn't meet  
17 those criterias.

18 MR. MOORE: Thank you.

19 MR. SULLIVAN: There was one thing I just  
20 wanted to add again. I always, Terra and Brian, if  
21 I'm wrong, correct me.

22 This fear of the slippery slope, you cited two  
23 reasons that this may not fit, that multi-family may  
24 not fit here in a single-family lot. One was the  
25 logical expansion issue. The other was the street



1 orientation issue.

2 If somebody ten years from now wanted to  
3 rezone the lot right next to ours multi-family, while  
4 he might have a logical expansion ground, there still  
5 might be a street orientation issue; is that right?

6 MR. HOWARD: The way it reads you have to  
7 satisfy the criteria that are applicable. So in this  
8 instance it would either be that it's a logical  
9 expansion. If it's not a logical expansion, then you  
10 jump to, is it a new location? The new location is  
11 the major-street-orientation. We would look and say,  
12 it's a logical expansion because it's right next-door  
13 to it. The new location wouldn't apply because it is  
14 a logical expansion already.

15 MR. SULLIVAN: I think this is a unique  
16 situation because you do have those alleys adjacent to  
17 it that the other lots don't. They've got an alley  
18 behind them, but not one right next to them like this  
19 one does.

20 CHAIRMAN: Anyone in the audience that would  
21 like to ask questions?

22 Yes, ma'am.

23 MS. KNIGHT: Ma'am, would you state your name  
24 for the record, please.

25 MS. McDANIEL: Cindy McDaniel. I live at 339

1 Hill Avenue.

2 (CINDY McDANIEL SWORN BY ATTORNEY.)

3 MS. McDANIEL: I just would like to know what  
4 is your target demographic? Are you looking at young  
5 families with children? Are you looking at middle  
6 age, elderly or what?

7 MR. CECIL: I actually live right here in this  
8 same area. I have young kids. Our target is  
9 obviously people who want to be in town. Sutton is a  
10 great school, and this is in the Sutton district. Am  
11 I going to say you can't live there because you don't  
12 have three kids? Of course not.

13 You know, I think our target is people who can  
14 afford a nicer rental or maybe a professional that's  
15 in town for a shorter period of time. Not necessarily  
16 looking for a specific family. For that matter, we  
17 can't discriminate. If they can pay the rent, we  
18 would have to rent to them.

19 MS. McDANIEL: You also said you're maxed out  
20 on your budget. You don't plan on doing any more  
21 expansion. Okay. What if it is sold to another  
22 corporation, company, an individual, ten years from  
23 now, he can expand it if he's got some land to put  
24 four more units? Now, what's that going to do to our  
25 sewer system and roadways and the congestion? You

1       couldn't have gotten emergency vehicles down that  
2       street the past few days. There's no way. And  
3       they're wanting to add more? If we had gone with a  
4       professional building, maybe it would have been  
5       different.

6               If any of you all have been on those street, I  
7       know you said you had been, there's no way could an  
8       emergency vehicle gotten down that street. I almost  
9       didn't get out to go to work. My driveway was  
10      blocked. Once I got out it was a fight to go in  
11      either direction.

12             So we don't need any more traffic. The street  
13      is not in that good of a shape as it is. Will our  
14      sewers handle? Because with three bedrooms, so you're  
15      talking four people max in an apartment. Will the  
16      sewers handle that much more? Not the way it exist  
17      now I don't believe it would.

18             CHAIRMAN: Anyone like to comment on that  
19      question, about the traffic issue and it growing?  
20      Anyone?

21             Mr. Sullivan, I think you've already addressed  
22      that. You've pretty well said everything on the  
23      traffic issue.

24             This gentleman over here, you were up earlier.  
25      Do you have any additional questions of Mr. Sullivan

1 or Mr. Cecil?

2 MR. SPALDING: No, sir.

3 CHAIRMAN: Thank you.

4 Anyone else in the audience have any more  
5 questions or comments?

6 (NO RESPONSE)

7 CHAIRMAN: Mr. Sullivan, do you have any more?

8 MR. SULLIVAN: I can't answer the sewer  
9 question. I think somebody else up there could.  
10 Addressing this lady questions about sewer capacity,  
11 I'm not aware of there being an inability of the sewer  
12 system to handle these houses. I'm not an expert on  
13 that. Well, actually your all's finding said that  
14 sewer capacity would be okay.

15 MR. REEVES: I have question.

16 CHAIRMAN: Yes.

17 MR. REEVES: For this lady right, if you don't  
18 mind please, could I ask you a question?

19 MS. McDANIEL: Sure.

20 CHAIRMAN: Mr. Howard, I believe you said if  
21 they had applied for P-1, it would have been  
22 recommended for approval. So if they were to develop  
23 this with professional on the first floor and  
24 residential on the second floor, would you be less or  
25 more concerned about the traffic and the

1 infrastructure with the sewer?

2 MS. McDANIEL: Probably just about equally  
3 concerned. If it was professional only and you don't  
4 have apartments on top of it, maybe it wouldn't be  
5 quite so bad.

6 MR. REEVES: We've already established they  
7 could have an apartment on top. So they could have a  
8 beauty shop and a dentist. Which concerns you more as  
9 a resident on that street? For families living in  
10 that building or two families living in that building  
11 with two professional businesses on the first floor.

12 MS. McDANIEL: Probably the four families  
13 because you're going to have much more traffic with  
14 kids and we watch traffic, and I think Randy can  
15 attest to it also. They don't know what the speed  
16 limit is on that road. You really have to watch your  
17 kids. If you've got kids in those buildings, sooner  
18 or later something is going to happen. Yes, I'm  
19 concerned about families. I'm concerned about noise,  
20 congestion, what it's going to do to our property  
21 value.

22 MR. REEVES: Thank you for your participation.  
23 Thank you.

24 CHAIRMAN: Anyone else have comments,  
25 Commissioners?

1 Yes, Mr. Kazlauskas.

2 MR. KAZLAUSKAS: On Findings of Fact Number 4,  
3 to address what this lady was talking about. It says,  
4 "The proposed use of a 4-plex could overburden the  
5 capacity of the roadways and other necessary urban  
6 services that are available in the affected areas."  
7 To me that means it could affect that sewer system. I  
8 know for a fact that that is part of the old combined  
9 sewer system out in that area that is centrally  
10 located. RWRA is contingent to alleviate the  
11 flooding. They've done a good job, but I do know for  
12 a fact that if you have a hard rain, it's better than  
13 it was ten years ago, but those sewers have not been  
14 improved since they were laid, what, 100 years ago.  
15 So the capacity has not been improved. They might  
16 have done some work on the lining of them, but the  
17 capacity of those sewers have not been improved. Hill  
18 Avenue is a very narrow street.

19 CHAIRMAN: Anyone else?

20 MR. APPLEBY: Just one comment. I think we  
21 don't want to lose sight of the fact that some form of  
22 development is going to take place on these lots. Be  
23 it multi-family, single-family or, in my opinion, the  
24 worse application would be professional based on the  
25 amount of traffic that professional generates. You've

1 got to realize that there is some development that's  
2 going to take place on those two lots.

3 CHAIRMAN: Commissioners, anyone else have any  
4 comments?

5 (NO RESPONSE)

6 CHAIRMAN: Mr. Sullivan, any additional  
7 comments?

8 MR. SULLIVAN: No.

9 CHAIRMAN: Mr. Cecil?

10 MR. CECIL: No.

11 CHAIRMAN: Mr. Wells?

12 MR. WELLS: No.

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

15 MR. APPLEBY: Mr. Chairman, I'm going to make  
16 a motion for approval based on the applicant's  
17 findings that the proposed rezoning conforms to the  
18 criteria for Urban Residential Development; that the  
19 existing, expanded or new sanitary sewers, the  
20 proposed rezoning will occur where sanitary sewers  
21 exist; that it will not overburden the capacity of  
22 roadways and other necessary urban services in the  
23 affected area; and that the existing zoning is  
24 inappropriate and that there have been significant  
25 changes in the area that has changed the character of

1 the neighborhood; that this proposed use is more  
2 appropriate and provides a buffer between existing  
3 commercial and residential properties.

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

6 MR. ROGERS: Second.

7 CHAIRMAN: We have a second by Mr. Rogers.  
8 Comments or questions on the motion?

9 (NO RESPONSE)

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

12 (BOARD MEMBERS IRVIN ROGERS, LARRY MOORE,  
13 BEVERLY McENROE, DAVE APPLEBY, WARD PEDLEY, WALLY  
14 TAYLOR, LARRY BOSWELL AND STEVE FREY RESPONDED AYE.)

15 CHAIRMAN: All opposed.

16 (BOARD MEMBERS JOHN KAZLAUSKAS AND FRED REEVES  
17 RESPONDED NAY.)

18 CHAIRMAN: Eight to two. The motion carries  
19 eight to two.

20 Next item, please.

21 ITEM 5

22 1121 Moseley Street, 1.538 acres  
23 Consider zoning change: From I-1 Light Industrial to  
24 B-4 General Business  
Applicant: Hayden Development

25 CHAIRMAN: State your name for the record?



1 MR. HILL: Mike Hill.

2 (MIKE HILL SWORN BY ATTORNEY.)

3 PLANNING STAFF RECOMMENDATION

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 an  
11 Industrial Plan Area where general business uses are  
12 appropriate in very limited locations;

13 3. The proposed use as a commercial  
14 development conforms to the criteria for  
15 nonresidential development;

16 4. The proposal is a logical expansion of  
17 existing B-4 General Business zoning in the vicinity  
18 to the east and south of the subject property, as well  
19 as the existing B-5 Business/Industrial zoning to the  
20 southwest; and,

21 5. At 1.538 acres, the proposal does not  
22 significantly increase the extent of general business  
23 zoning in the vicinity and should not overburden the  
24 capacity of roadways and other necessary urban  
25 services that are available in the affected area.

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

3           CHAIRMAN: Anyone here representing the  
4 applicant?

5           MR. MASON: Yes.

6           MS. KNIGHT: State your name for the record.

7           MR. MASON: James L. Mason, commercial real  
8 estate broker.

9           (JAMES MASON SWORN BY ATTORNEY.)

10          MR. MASON: I represent the owner, current  
11 owner of the property, as well as the co-applicant.  
12 His name is William T. Cottrell. He is co-applicant  
13 on this.

14          MS. KNIGHT: Sir, did you say you were the  
15 applicant?

16          MR. MASON: No. I represent the applicant,  
17 co-applicant.

18          MS. KNIGHT: Are you an attorney?

19          MR. MASON: No. I'm a real estate broker.

20          MS. KNIGHT: I'm required to give you the  
21 provision about representing a third-party when you  
22 are not an attorney.

23          MR. MASON: Okay.

24          CHAIRMAN: Does anyone in the audience have  
25 any comments or questions on the application?

1 (NO RESPONSE)

2 CHAIRMAN: Commissioners, do you have any  
3 comments or questions?

4 MR. MOORE: Yes, sir.

5 CHAIRMAN: Yes, sir, Mr. Moore.

6 MR. MOORE: I drove by this lot, this area.  
7 There is a building being constructed on this site at  
8 this particular time. If it is being built and this  
9 zoning doesn't change, does it make any difference  
10 what's going to go in there?

11 MR. HOWARD: The lots where the building is  
12 being constructed is actually the lot to the east. On  
13 the corner of Sweeney Street. That's basically a  
14 wholesaler I believe is going in on that site. This  
15 lot is vacant at this point.

16 MR. MOORE: All right.

17 CHAIRMAN: Any other questions, Commissioners?

18 (NO RESPONSE)

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

21 MR. BOSWELL: I make a motion, Mr. Chairman,  
22 for approval based on the Planning Staff  
23 Recommendation and Findings of Fact 1 through 5.

24 CHAIRMAN: We have a motion for approval by  
25 Mr. Boswell.

1 MR. FREY: Second.

2 CHAIRMAN: Second by Mr. Frey. Any comments  
3 or questions on the motion?

4 (NO RESPONSE)

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimous.

9 Next item, please.

10 ITEM 6

11 301 East 9th Street, 0.397 acres  
12 Consider zoning change: From I-1 Light Industrial to  
13 R-3MF Multi-Family Residential  
14 Applicant: Cohen-Esrey Affordable Partners, LLC;  
15 MPD, Inc.

16 PLANNING STAFF RECOMMENDATION

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

19 CONDITION:

20 Approval of a Development Plan prior to any  
21 construction activity to address all site development  
22 requirements.

23 FINDINGS OF FACT:

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

27 2. The subject property is located in a

1 Central Residential Plan Area where Urban High-Density  
2 Residential uses are appropriate in general locations;

3 3. The proposal meets the goals of the  
4 Germantown Redevelopment Plan to revitalize the area;  
5 and

6 4. The proposed use as an apartment building  
7 meets the goals of the Comprehensive Plan to provide a  
8 provide a wide variety of types of housing suitable to  
9 a wide range of people.

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

12 CHAIRMAN: Anyone here representing the  
13 applicant?

14 MR. JAYNE: My name is Clint Jayne.

15 (CLINT JAYNE SWORN BY ATTORNEY.)

16 MR. JAYNE: My name is Clint Jayne. I'm the  
17 developer/partner with Cohen-Esrey Affordable  
18 Partners. I'm here to answer any questions that Staff  
19 may have or board members may have.

20 CHAIRMAN: Anyone in the audience have any  
21 comments or questions on the application?

22 (NO RESPONSE)

23 CHAIRMAN: Commissioners do you have any?

24 Yes, Mr. Boswell.

25 MR. BOSWELL: Just curious. This may be a

1       premature question. In the Staff Report, there is  
2       mention about off-street parking at some point in  
3       time. Do we have any sense at this point where that  
4       off-street parking may be?

5               MR. JAYNE: Absolutely. I don't know that  
6       there was a parking plan included in this site. We  
7       are having a municipal ordinance signed by the mayor  
8       that will convey a portion, the green space  
9       immediately to the east of that building and up to  
10      what is I believe the southern walking trail border.  
11      There is an existing parking lot currently in that  
12      area. The city is going to convey additional property  
13      that would develop really that parking, existing  
14      parking lot, that will provide us with enough area to  
15      meet the parking ordinance based on the 28 unit count.

16             MR. BOSWELL: Thank you.

17             CHAIRMAN: Mr. Reeves.

18             MR. REEVES: I just want to say this is a very  
19      exciting project. It's going to be a great use of a  
20      historical building downtown. I know a number of  
21      developers have looked at it over the years. I'm glad  
22      to see that somebody is finally going to do something.  
23      Thank you very much.

24             MR. JAYNE: Thank you. I appreciate that. We  
25      are really, I have to be honest with you, emotionally

1       invested in it. I think it's a great building. It's  
2       been a delight working with Brian, as well as MPD.  
3       He's been very cooperative. He's made the Staff  
4       completely available. We are in the process of having  
5       the building listed on the National Register of  
6       Historical Places. They've already been there for a  
7       site visit. Our general contractor has been there for  
8       a site visit. Today an architect was there walking  
9       the floor. We're very excited about it and look  
10      forward to a successful project. Thank you.

11             CHAIRMAN: Anyone else?

12             Commissioners, anyone else?

13             (NO RESPONSE)

14             MR. APPLEBY: Is chair ready for a motion?

15             CHAIRMAN: Chair is ready for a motion.

16             MR. APPLEBY: Make a motion to approve based  
17      on the Staff's Recommendation with the single  
18      condition and Findings of Fact 1 through 4.

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

21             MR. REEVES: Second.

22             CHAIRMAN: Second by Mr. Reeves. Comments or  
23      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 RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimous.

4 MR. JAYNE: I would like to say, thank you so  
5 much. I would like to also express my gratitude to  
6 Mr. Howard and his Staff during the zoning  
7 application. Thank you.

8 CHAIRMAN: Thank you, sir.

9 MINOR SUBDIVISION PLATS

10 ITEM 7

11 11250, 11285 Indian Hill Road, 9.129 acres  
12 Consider approval of minor subdivision plat.  
13 Applicant: Lucia M. & Roger L. Cunningham

14 MR. HOWARD: Mr. Chairman, this plat comes  
15 before you as an exception. You've got a 9.1 acre  
16 parcel right now and they're proposing to split off  
17 the one acre road frontage lot on Indian Hill Road.  
18 That leaves the remainder, which is already under 10  
19 acres, out of compliance with the three to one  
20 requirement, but it is a large parcel. They have  
21 added a notation to the plat the this property cannot  
22 be further subdivided without meeting the regulations  
23 of the subdivision ordinance and zoning ordinance.  
24 With that since they're only gaining one additional  
25 lot, and really the lot won't be able to be further  
divided unless they were to put in a public or private



1 street meeting public improvement specification, which  
2 means a paved street with curb and gutter, there's  
3 really little chance that this property will be  
4 further divided, we would recommend you consider it  
5 for approval.

6 CHAIRMAN: In commissioners have any questions  
7 or comments?

8 (NO RESPONSE)

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

11 MR. KAZLAUSKAS: Motion to approve.

12 MR. BOSWELL: Second.

13 CHAIRMAN: We have a motion for approval by  
14 Mr. Kazlauskas and a second by Mr. Boswell. Comments  
15 or questions on the motion?

16 (NO RESPONSE)

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimous.

21 Next item, please.

22 ITEM 8

23 2886 Newbolt Road, 1.431 acres  
24 Consider approval of minor subdivision plat.  
Applicant: Marvin E. & Mary L. Bittel

25 MR. HOWARD: Mr. Chairman, this plat comes

1 before you as an exception to the 3 to 1 requirement  
2 of the subdivision regulation and zoning ordinance  
3 requirements. They're creating what's known as your  
4 typical flag lot.

5 In conversations with the application, the  
6 reason that this parcel is being proposed to split in  
7 this manner is because of some topography issues  
8 there. Basically I think there are two locations on  
9 this site which would be good home sites. They  
10 requested that this be created for that purpose.  
11 We've added a note on there that the property won't be  
12 further subdivided without meeting the subdivision  
13 regulations. They've gone with a narrow frontage  
14 because the property is farm and they don't want to  
15 encumber the farming area, the tillable acreage, any  
16 more than necessary.

17 So with the notations on there and the  
18 understanding that it won't be further, this and the  
19 parent parcel won't be further subdivided without  
20 meeting those subdivision regulation, we would  
21 recommend that you consider it for approval.

22 CHAIRMAN: Commissioners, comments or  
23 questions on the application?

24 (NO RESPONSE)

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

1 MR. MOORE: Move to approve.

2 MR. FREY: Second.

3 CHAIRMAN: Motion for approval by Mr. Moore.  
4 Second by Mr. Frey. All in favor of the motion raise  
5 your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimous.

8 Next item, please.

9 ITEM 9

10 8119, 8135 Highway 456, 26.704 acres  
11 Consider approval of minor subdivision plat.  
12 Applicant: John D. Pruden; David B. Pruden; Gary A.  
13 Pruden

14 MR. HOWARD: Mr. Chairman, this plat comes  
15 before you as an exception. Because of the resulting  
16 2.293 acre parcel is out of compliance with the 3 to 1  
17 requirements; however, you had an existing lot there  
18 that they're putting a division line basically down  
19 the middle. The remainder of what was the say 5 acre  
20 parcel that was there is being consolidated back into  
21 the farm tract, the parent parcel. So they're not  
22 creating any new developable lots with this  
23 subdivision. Since they're really just decreasing the  
24 size of one, but it still meets the minimum road  
25 frontage requirement, minimum acreage requirements, we  
would recommend that you consider it for approval.

1 CHAIRMAN: Commissioners, any comments or  
2 questions?

3 (NO RESPONSE)

4 CHAIRMAN: Chair is ready for a motion.

5 MR. BOSWELL: Motion to approve.

6 CHAIRMAN: Motion for approval by Mr. Boswell.

7 MR. APPLEBY: Second.

8 CHAIRMAN: Second by Mr. Appleby. All in  
9 favor of the motion raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimous.

12 Next item, please.

13 -----

14 NEW BUSINESS

15 ITEM 10

16 Consider approval of August 2014 and September 2014  
17 financial statements.

18 CHAIRMAN: Commissioners, do you have any  
19 comments or questions on the financial statements?

20 (NO RESPONSE)

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

23 MR. KAZLAUSKAS: Move to approve.

24 CHAIRMAN: We have a motion to approve by Mr.  
25 Kazlauskas.

1 MR. TAYLOR: Second.

2 CHAIRMAN: Second by Mr. Taylor. All in favor  
3 of the motion raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimous.

6 ITEM 11

7 Consider approval of 2015 Filing Dates and Deadlines

8 MR. HOWARD: Each member of the commission was  
9 mailed two copies of our filing dates and deadline  
10 sheet. We typically approve those in November. The  
11 reason for two sheets is that one is the typical  
12 filing deadline. The Board of Adjustment meets the  
13 first Thursday and the Planning Commission meets the  
14 second Thursday of every month. We have also included  
15 on there various dates for the quarterly work  
16 session.

17 The other option, the Plan B is for the April  
18 and October meetings, altering the dates so that the  
19 Planning Commission would actually meet the same night  
20 as the Board of Adjustment. It would just meet  
21 immediately after the Board of Adjustment meeting.

22 The reason that we are proposing that as a  
23 potential alternative is during the October meeting,  
24 which is during fall break, we didn't have a quorum at  
25 the Planning Commission. In years past we've looked

1 at spring break and fall break as possible reasons to  
2 double up on the meetings, and we've done it in the  
3 past. We haven't done it for the last few years, but  
4 since we had the quorum issue in October I thought we  
5 would give you a couple of options and see what you  
6 all thought was the best way to serve our public  
7 through Planning Commission and Board of Adjustment  
8 meetings. It's really up to you all as far as when  
9 you would like to meet, but we want to give you the  
10 options.

11 CHAIRMAN: Commissioners, do you have any  
12 questions on the filing dates?

13 (NO RESPONSE)

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

16 MR. APPLEBY: Mr. Chairman, I recommend the  
17 alternate calendar with the meetings combined on the  
18 April and October dates to avoid that conflict with  
19 spring and fall breaks.

20 CHAIRMAN: We have a motion by Mr. Appleby.  
21 Is there a second on that motion?

22 MR. BOSWELL: Second.

23 CHAIRMAN: Second by Mr. Boswell. All in  
24 favor of the motion raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1                   CHAIRMAN: Motion carries unanimous.

2           ITEM 12

3           Comments by the Chairman

4                   CHAIRMAN: Commissioners, November 19th in the  
5           Commerce Center, third floor, the Public Improvement  
6           Specification Meeting, we will be holding a meeting on  
7           updating our bonding amounts and also on the sidewalk  
8           issue. It's a very important meeting. I would  
9           recommend any of you, anyone that can attend to attend  
10          that meeting. That will be November 19th, third floor  
11          of the Commerce Center at 2:00. There will be  
12          information there. I would recommend that you attend  
13          that meeting.

14                  MR. BOSWELL: What is the time of that  
15          meeting, Mr. Chairman?

16                  CHAIRMAN: Two o'clock.

17                  MR. REEVES: Could Mr. Howard send us out a  
18          reminder on that?

19                  MR. HOWARD: I'll be glad to send out an  
20          e-mail in the morning for information about the  
21          meeting.

22                  MR. REEVES: Thank you.

23                  CHAIRMAN: That's all.

24           ITEM 13

25           Comments by the Planning Commissioners

1 CHAIRMAN: Anyone have any comments?

2 (NO RESPONSE)

3 CHAIRMAN: If not next item.

4 ITEM 14

5 Comments by the Director.

6 MR. HOWARD: I'll just make one quick  
7 introduction.

8 I would like to introduce Mike Hill. He was  
9 up earlier tonight and read one of the Staff Reports  
10 into the record. Mike came on board about a month ago  
11 as a new Associate Director of Planning. Certainly  
12 like to introduce him. He comes to us from  
13 Louisville, Kentucky. Originally from Indiana.

14 Then I also would like to recognize that  
15 Melissa is now our Senior Planner as well. We have  
16 had two new promotions or hirers within the Planning  
17 Department since we last met.

18 CHAIRMAN: Thank you, sir.

19 We need a motion for adjournment.

20 MR. APPLEBY: Move to adjourn.

21 CHAIRMAN: We have a motion by Mr. Appleby.

22 MR. TAYLOR: Second.

23 CHAIRMAN: Second by Mr. Taylor. All in favor  
24 of the motion raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)



1 CHAIRMAN: We are adjourned.

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

3               I, LYNNETTE KOLLER FUCHS, Notary Public in and  
4       for the State of Kentucky at Large, do hereby certify  
5       that the foregoing Owensboro Metropolitan Planning  
6       Commission meeting was held at the time and place as  
7       stated in the caption to the foregoing proceedings;  
8       that each person commenting on issues under discussion  
9       were duly sworn before testifying; that the Board  
10      members present were as stated in the caption; that  
11      said proceedings were taken by me in stenotype and  
12      electronically recorded and was thereafter, by me,  
13      accurately and correctly transcribed into the  
14      foregoing 57 typewritten pages; and that no signature  
15      was requested to the foregoing transcript.

16             WITNESS my hand and notary seal on this the  
17      10th day of December, 2014.

18

19

20                                     \_\_\_\_\_  
                                  LYNNETTE KOLLER FUCHS  
21                                   NOTARY ID 433397  
                                  OHIO VALLEY REPORTING SERVICES  
22                                   2200 E. PARRISH AVE., SUITE 106-E  
                                  OWENSBORO, KENTUCKY 42303

23      COMMISSION EXPIRES:    DECEMBER 16, 2014

24      COUNTY OF RESIDENCE:  DAVIESS COUNTY, KY

25

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