

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 AUGUST 13, 2015

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 August 13, 2015, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

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

20 * * * * *

21 CHAIRMAN: Call the August 13, 2015 meeting of
22 the Owensboro Metropolitan Planning Commission to
23 order. We start each of our meetings with a prayer
24 and pledge to the flag. Mr. Steve Frey will lead us
25 in that this evening.

26 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

27 CHAIRMAN: Welcome all of you here to the
28 meeting tonight. It's open night to have citizens
29 show up and help us make decisions.

30 I want to remind you to do a couple of things.

1 If you're in the audience, we'll ask you to always go
2 to the microphone to speak. Address your comments and
3 questions to the chair. It's important to use the
4 microphone because of our stenographer, but we have a
5 great word by word record of our meeting. It's
6 important we do that.

7 Commissioners, I remind you when you speak to
8 speak in your microphones. Sometimes we do forget and
9 our TV audience doesn't hear it. Just please do that
10 and I appreciate it very, very much.

11 All of you had a copy of the minutes mail to
12 you of our last meeting. You've had a chance to
13 review them. If there's any questions or comments,
14 we'll take those; otherwise, we'll entertain a motion
15 to approve those minutes.

16 MR. JEAN: Motion to approve.

17 CHAIRMAN: Motion by Mr. Jean.

18 MS. McENROE: Second.

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

21 (NO RESPONSE)

22 CHAIRMAN: All in favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: The minutes are approved.

25 Mr. Howard.

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2 GENERAL BUSINESS

3 ZONING CHANGES

4 ITEM 3

5 6188 Aull Road, 81.75 acres
6 Consider zoning change: From A-R Rural Agriculture to
7 EX-1 Coal Mining
Applicant: Western Kentucky Minerals, Inc. & Joseph
B. Coomes Estate c/o William E. Coomes

8 MS. KNIGHT: Please state your name for the
9 record.

10 MS. EVANS: Melissa Evans.

11 (MELISSA EVANS SWORN BY ATTORNEY.)

12 PLANNING STAFF RECOMMENDATIONS

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

15 FINDINGS OF FACT:

16 1. The subject property is located in a Rural
17 Maintenance Plan Area where coal mining uses are
18 appropriate in general locations;

19 2. The subject property is located in the
20 Rural Service Area outside of a Rural Community Plan
21 Area;

22 3. The subject property adjoins existing
23 areas of EX-1 Coal Mining zoning and activity.

24 4. The Philpot-Maceo Quadrangle Map indicates
25 the presence of coal deposits on the site; and,

1 5. State and county roads proposed to be used
2 for the transportation of coal have been approved
3 by the appropriate officials.

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

6 CHAIRMAN: Thank you very much.

7 Is there anyone here representing the
8 applicant?

9 MR. LANHAM: Yes.

10 CHAIRMAN: Would you like to make any comments
11 at this point in time?

12 MR. LANHAM: No, sir.

13 CHAIRMAN: Thank you very much.

14 Commissioners, do any of you have any
15 questions about this application?

16 (NO RESPONSE)

17 CHAIRMAN: Anyone in the audience have
18 questions on this application?

19 (NO RESPONSE)

20 CHAIRMAN: If not the chair will entertain a
21 motion.

22 MR. PEDLEY: Mr. Chairman, I make a motion for
23 approval based on Planning Staff Recommendations and
24 Findings of Fact 1 through 5.

25 CHAIRMAN: Motion by Mr. Pedley.

1 MS. McENROE: Second.

2 CHAIRMAN: Second by Ms. McEnroe. Questions
3 or comments?

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: The application is approved.

9 RELATED ITEM:

10 ITEM 3A

11 6188 Aull Road, proposed EX-1
12 Consider a request for a Variance in order to
13 eliminate the required 100 foot buffer from the public
14 right-of-way along a portion of Aull Road.

15 Reference: Zoning Ordinance, Article 12,
16 Section 12a.52

17 Applicant: Western Kentucky Minerals, Inc. & Joseph
18 B. Coomes Estate c/o William C. Coomes

19 MS. EVANS: This is the same property that we
20 just approved, recommended approval for the EX-1 coal
21 mining on.

22 In this case they're asking for the 100 foot
23 buffer from the road right-of-way be eliminated. They
24 are intending to construct the earth berm in that
25 buffer area that will essentially serve the same
26 purpose as that buffer. It will protect traveling
27 vehicles on Aull Road from the actual mining area.

28 The county has requested a couple of

1 conditions on this application. Their request is that
2 the top of the highwall of the berm shall be no closer
3 than 60 feet from the near edge of the pavement of
4 Aull Road, and that the bottom of the highwall of the
5 berm shall be no closer than 80 feet from the near
6 edge of the pavement of Aull Road.

7 Granting this Variance with the conditions set
8 forth by the county will not adversely affect the
9 public health, safety or welfare because the berm
10 located within the 100 foot buffer will serve to
11 protect the vehicles traveling along Aull Road from
12 the open coal pits; it will not cause a hazard or
13 nuisance to the public because the actual roadway will
14 not be disturbed; it will not be an unreasonable
15 circumvention of the requirements of the zoning
16 regulations because there will still be a buffer
17 between the road and the open coal pits serving the
18 intent of the ordinance.

19 Staff would recommend approval of this
20 variance with the conditions outlined by the county
21 engineer.

22 We would like to enter the Staff Report into
23 the record as Exhibit B.

24 The county engineer is here if there are any
25 questions of him.

1 CHAIRMAN: Thank you, Ms. Evans.

2 Would the applicant come to the mike, please,
3 if you don't mind.

4 MS. KNIGHT: Would you state your name,
5 please.

6 MR. LANHAM: Brandon Lanham.

7 (BRANDON LANHAM SWORN BY ATTORNEY.)

8 CHAIRMAN: Mr. Lanham, just one question. Are
9 you all in agreement with these conditions the county
10 has asked for?

11 MR. LANHAM: Yes.

12 CHAIRMAN: You will comply with those?

13 MR. LANHAM: Yes. No objection.

14 CHAIRMAN: Thank you very much. Any other
15 comments you would like to make, Mr. Lanham, with
16 regard to this application?

17 MR. LANHAM: No, sir, if there's no opposition
18 here.

19 CHAIRMAN: Any commissioners have any
20 questions or comments regarding this application?

21 (NO RESPONSE)

22 CHAIRMAN: Anyone in the audience have any
23 questions or comments regarding this application?

24 (NO RESPONSE)

25 CHAIRMAN: If not then the chair will

1 entertain a motion.

2 MR. ROGERS: Motion for approval for the
3 granting of the variance with the four Findings and
4 Conditions 1 and 2.

5 CHAIRMAN: We have a motion by Mr. Rogers.

6 MR. FREY: Second.

7 CHAIRMAN: Second by Mr. Frey. Questions or
8 comments on the motion?

9 (NO RESPONSE)

10 CHAIRMAN: All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion pass unanimously.

13 ITEM 4

14 4741 Medley Road, 30.21 acres
15 Consider zoning change: From P-1 Professional/Service
16 to A-R Rural Agriculture
Applicant: Bon Harbor Hills, LLC

17 PLANNING STAFF RECOMMENDATIONS:

18 The Planning Staff recommends approval subject
19 to the findings of fact that follow:

20 FINDINGS OF FACT:

21 1. Staff recommends approval because the
22 current zoning is inappropriate and the proposed
23 zoning is more appropriate;

24 2. The intended Professional/Service use has
25 never developed on the subject property;

1 3. The subject property lies within an
2 existing area of mixed rural agricultural and
3 residential uses; and

4 4. The subject property has been used as
5 farmland/woodland since the applicant purchased the
6 property in 2006.

7 MS. EVANS: We would like to enter the Staff
8 Report into the record as Exhibit C.

9 CHAIRMAN: Is anyone here representing the
10 applicant?

11 APPLICANT REP: Yes.

12 CHAIRMAN: Do you wish to make any comments?

13 APPLICANT REP: No, sir.

14 CHAIRMAN: Any commissioners have any
15 questions or comments?

16 (NO RESPONSE)

17 CHAIRMAN: Anyone in the audience have any
18 questions or comments regarding this application?

19 (NO RESPONSE)

20 CHAIRMAN: If not then the chair will
21 entertain a motion.

22 MR. BOSWELL: Motion to approve based on the
23 Planning Staff Recommendations and Findings of Fact 1
24 through 4.

25 CHAIRMAN: Is there a second?

1 MR. MOORE: Second.

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

4 (NO RESPONSE)

5 CHAIRMAN: All in favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion passes unanimously.

8 ITEM 5

9 2127 East Parrish Avenue, 3.04 acres
10 Consider zoning change: From I-1 Light Industrial to
11 B-4 General Business
Applicant: YESS & J Properties, LLC

12 MS. KNIGHT: Would you state your name for the
13 record?

14 MR. HILL: Mike Hill.

15 (MIKE HILL SWORN BY ATTORNEY.)

16 MR. HILL: It's customary for Staff to read
17 the read the entire Staff Report on recommendations
18 for denial. This is such an example so I will read
19 the Staff Report.

20 PROPOSED ZONE & LAND USE PLAN

21 The applicant is seeking a B-4 General
22 Business zone. The subject property is located in an
23 Industrial Plan Area where General Business uses are
24 appropriate in very limited locations.

25 SPECIFIC LAND USE CRITERIA

1 (A) Building and lot patterns; outdoor storage
2 yards - Building and lot patterns should conform to
3 the criteria for "Nonresidential Development" (D7),
4 and outdoor storage yards, with "Buffers for Outdoor
5 Storage Yards" (D1).

6 (B) Logical zoning expansions of proportional
7 scope - Existing General Business zones may be
8 expanded onto contiguous land that generally abuts the
9 same street(s). The expansion of a General Business
10 zone should not significantly increase the extent of
11 the zone in the vicinity of the expansion and should
12 not overburden the capacity of roadways and other
13 necessary urban services that are available in the
14 affected area.

15 PLANNING STAFF REVIEW

16 GENERAL LAND USE CRITERIA

17 Environment

18 It appears that the subject property is not
19 located in a wetlands area per the US Department of
20 Agriculture Soil Conservation Service dated March 6,
21 1990.

22 The subject property is not located in a
23 special flood hazard area per FIRM Maps 21059C0139 D.

24 It appears that the subject property is not
25 within the Owensboro Wellhead Protection area per the

1 GRADD map dated March 1999.

2 The developer is responsible for obtaining
3 permits from the Division of Water, The Army Corp of
4 Engineers, FEMA or other state and federal agencies as
5 may be applicable.

6 Urban Services

7 Electricity, water, sewer and gas are
8 available to the subject property.

9 Development Patterns

10 The subject property in this rezoning
11 application is a vacant 3.04 acre parcel known as 2127
12 East Parrish Avenue. The applicant proposes to rezone
13 the parcel to the B-4 General Business zoning
14 classification for restaurant and retail purposes.

15 The property is located directly across East
16 Parrish Avenue from The Springs Medical Center, which
17 is zoned B-1 Neighborhood Business Center and P-1
18 Professional/Service. The property to the east of the
19 site is the Temple Adath Israel Cemetery, zoned A-U
20 Urban Agriculture. To the west along East Parrish
21 Avenue is a three acre residential property, zoned A-U
22 Urban Agriculture. To the rear of the subject
23 property is a 27 acre industrial property owned by
24 Buskill Properties (Buskill's Automotive Repair) that
25 only has access via Ragu Drive, zoned I-1 Light

1 Industrial.

2 In 1994 this property was successfully rezoned
3 from A-U to I-1 and intended to be consolidated with
4 the Buskill property to the rear. A condition of the
5 rezoning was to close an existing access to Parrish
6 Avenue on the western side of the property, only
7 allowing a single future access point to Parrish
8 Avenue on the eastern side of the property. The
9 property was never used industrially nor consolidated
10 with the Buskill property; however, in 1997 a minor
11 subdivision plat was approved that reaffirmed that the
12 western access point was to be removed. Also in 1997,
13 a final development plan for a new animal hospital on
14 the subject site was approved. The approved final
15 development plan required the existing entrance
16 turnouts on the western side of the property to be
17 closed. The animal hospital was never built and the
18 final development plan was revoked by OMPC on
19 4/13/2000.

20 Access to the subject parcel must comply with
21 the Access Management Manual. East Parrish Avenue in
22 this location is classified as a principal arterial
23 which requires minimum driveway spacing at 500 foot
24 intervals. The subject property does not have
25 sufficient road frontage to meet this standard and

1 have two access points, as their conceptual site
2 layout included in the traffic impact study
3 illustrates. The applicant proposes a full access
4 point on the eastern side of the property to be
5 aligned with the existing signalized intersection
6 across from The Springs Medical Center. The applicant
7 also proposes a right turn/exit only access point on
8 the western edge of the property. Kenny Potts,
9 Kentucky Transportation Cabinet, in an email
10 dated 7/21/15 states that KYTC does not recommend
11 installation of the western entrance and that there
12 appears to be adequate room within the internal
13 parking lot for delivery truck movements and adequate
14 access to the site can be provided via the eastern
15 proposed entrance across from The Springs. OMPC Staff
16 agrees with KYTC's assessment of the proposed western
17 access.

18 Properties in this area contain a variety of
19 zoning classifications including agricultural,
20 residential, office, commercial and industrial. Where
21 adjacent to the residential property to the west, the
22 proposed B-4 development, if approved, will be
23 required to install a 10 foot landscape easement with
24 one tree per 40 feet of linear boundary plus
25 continuous 6 feet high planting, hedge, fence, wall or

1 earth mound. The required minimum front building
2 setback for the subject property shall be 75 feet from
3 the street centerline, or 25 feet from the lot line,
4 whichever is greater. A 60 foot roadway buffer from
5 street centerline will also be required.

6 If the rezoning is successfully approved,
7 zoning ordinance requirements related to landscaping,
8 parking, signage, setbacks, buffers and access will be
9 reviewed by OMPC staff during the required development
10 plan review process prior to any permits being issued
11 for construction.

12 SPECIFIC LAND USE CRITERIA

13 There are three potential findings the
14 Planning Commission can make on a zoning change
15 request based on KRS 100.213, included below:

16 KRS 100.213

17 (1) Before any map amendment is granted, the
18 planning commission or the legislative body or fiscal
19 court must find that the map amendment is in agreement
20 with the adopted comprehensive plan, or, in the
21 absence of such a finding, that one (1) or more of the
22 following apply and such finding shall be recorded in
23 the minutes and records of the planning commission
24 or the legislative body or fiscal court:

25 (A) That the existing zoning classification

1 given to the property is inappropriate and that the
2 proposed zoning classification is appropriate;

3 (B) That there have been major changes of an
4 economic, physical, or social nature within the area
5 involved which were not anticipated in the adopted
6 comprehensive plan and which have substantially
7 altered the basic character of such area.

8 The applicant's proposal, which is in an
9 Industrial Plan Area, is not in compliance with the
10 Comprehensive Plan. The proposed use does not conform
11 to the criteria for non-residential development. This
12 proposal is not a logical expansion of existing
13 adjacent B-4 zoning. Since the property directly
14 across Parrish Avenue is zoned B-1, which is the least
15 intense commercial zoning classification, proposing a
16 higher intensity commercial zoning classification such
17 as B-4 on the subject property cannot be considered a
18 logical expansion of an adjacent similar commercial
19 zoning classification based on the current
20 comprehensive plan land use plan and applicable
21 Criteria. The current comprehensive plan and its
22 associated land use plan, which were most recently
23 updated and adopted in 2013, shows the subject
24 property in an Industrial Plan Area. Therefore, Staff
25 feels that the proposal does not meet the potential

1 Type 2 findings stating that there have been major
2 changes in the vicinity that were not anticipated in
3 the latest Comprehensive Plan. Lastly, Staff cannot
4 find sufficient evidence to support finding that the
5 proposed zoning is more appropriate than the existing
6 zoning with the amount of industrial zoned property
7 adjacent to the subject property.

8 PLANNING STAFF RECOMMENDATIONS

9 The Planning Staff recommends denial subject
10 to the findings of fact that follow:

11 FINDINGS OF FACT

12 1. Staff recommends denial because the
13 proposal is not in compliance with the community's
14 adopted Comprehensive Plan;

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

18 3. The proposed use does not conform to the
19 criteria for nonresidential development;

20 4. This proposal is not a logical expansion
21 of existing adjacent B-4 zoning. Since the property
22 directly across Parrish Avenue is zoned B-1, which is
23 the least intense commercial zoning classification,
24 proposing a higher intensity commercial zoning
25 classification such as B-4 on the subject property

1 cannot be considered a logical expansion of an
2 adjacent similar commercial zoning classification
3 based on the current Comprehensive Plan land use plan
4 and applicable criteria;

5 5. The current Comprehensive plan and its
6 associated land use plan, which were most recently
7 updated and adopted in 2013, shows the subject
8 property in an Industrial Plan Area. Therefore, the
9 proposal does not meet the potential Type 2 findings
10 stating that there have been major changes in the
11 vicinity that were not anticipated in the latest
12 Comprehensive Plan; and

13 6. Staff cannot find sufficient evidence to
14 support finding that the proposed zoning is more
15 appropriate than the existing zoning with the amount
16 of industrial zoned property adjacent to the subject
17 property.

18 MR. HILL: Staff request that the Staff Report
19 be entered into the record as Exhibit D.

20 CHAIRMAN: Mr. Kamuf, I think you're
21 representing the applicant.

22 MR. KAMUF: Yes, sir.

23 MS. KNIGHT: Mr. Kamuf, you're sworn as an
24 attorney.

25 MR. KAMUF: Mrs. McEnroe, Mr. Chairman and

1 Board Members, I represent YESS & J Properties, LLC of
2 Bowling Green, Kentucky. One of the members of that
3 group is the former lady's basketball coach for the
4 University of Western Kentucky. He is here to explain
5 exactly what they intend to do.

6 You know we're getting a lot of people from
7 Bowling Green investing in the Highway 54 corridor in
8 Owensboro, Kentucky. Two years ago I presented a case
9 before this board for Chandler Properties, and they
10 built a \$24 million project here in Owensboro.

11 One of the main reasons that all of these
12 people are invested in Owensboro is that according to
13 the Department of Highway's report the growth of
14 commercial development along the 54 corridor is the
15 fastest growing area in Western Kentucky.

16 The subject property is vacant lot consist of
17 about three acres, and the property all around it is
18 of mixed use. It has agriculture, residential,
19 office, commercial and industrial. But most of the
20 property, we will show you different plats, most of
21 the property in the area is commercial.

22 The property is bounded on the north by
23 warehousing, and you heard the report of what happened
24 in 1994 and 1998. On the east side is the cemetery.
25 On the south is a B-1 rezoning which includes a

1 high-scale restaurant known as Niko's. On the west of
2 the property is residential and industrial. It is
3 owned by Mr. Welch and Tony Clark, one of the
4 realtors, who has that property for sale is here to
5 testify in favor of it. Mr. Welch is in favor of it,
6 of the rezoning. Because if you deny this rezoning
7 tonight, you automatically have to deny his rezoning
8 because it's right next to it.

9 To my knowledge there is no objection from any
10 of the neighbors. The owner, Mr. Sanderford and his
11 group, they plan to build about 6 to 8,000 square foot
12 Japanese restaurant known as Shogun's. Shogun's is
13 going to move from out from South Frederica onto this
14 property. Phase 2 will be a small retail shopping
15 center. The investment immediately will include about
16 20 to 30 jobs. The immediate Phase 1 will be about \$4
17 million.

18 The planning project that we will go along
19 with the letter from the Highway Department,
20 Mr. Potts. We received that letter too. We'll
21 withdraw our request for a second entrance to the
22 north of the property, but we would like to put in the
23 record this: We would like to retain the right in the
24 event that there's a barrier placed along the highway,
25 we would like to reserve the right before the Kentucky

1 Department of Highways for a right turn in/right turn
2 out access permit down the road in the event that
3 there's a barrier placed in the middle of the road.

4 Now, we take issues with KRS 100.213 is the
5 gist of all planning and zoning. The Planning Staff
6 says that the proposed rezoning is not in compliance
7 with the Comprehensive Plan. We take great, great
8 issue with that. We say that it is in compliance and
9 we'll start this way.

10 The subject property is located in an I-1
11 Industrial Plan area, but businesses such as ours are
12 appropriate in very limited locations, and the
13 proposed use of B-4 does conform with the criteria of
14 the nonresidential development. The subject property
15 is zoned I-1; however, most of the property in the
16 area is zoned B-4.

17 I have some handouts that I would like to pass
18 out, please.

19 Let me point out, if I may. I'll use the map
20 up here as to what we have in front of us.

21 This is the subject property. Directly across
22 the road from this property, in The Springs complex,
23 there is located, many of you have been there, Niko's
24 restaurant, which is very affluent restaurant in the
25 Owensboro area. The exhibits that I show you, I took

1 copies. You have these in front of you. All we want
2 to put in this strip center is just what's across the
3 street. It is a B-1 zone, but it is commercial. So
4 what we're talking about is that that's a mere
5 technicality. I think the Staff will tell you that
6 they're not strongly against this project. It's just
7 a matter of a mere technicality. Over on the side
8 street that you see here, directly to the south of
9 this property is Huck's. So we have The Springs
10 directly across the street, which has a restaurant and
11 a Convenient Care Center. Directly north is the
12 property owned by Mr. Welch and Tony Clark. We'll
13 talk about that. That's that right there. Then we're
14 going to talk later, this is the Gateway Common
15 rezoning which you can just about, what, half a block
16 away which was zoned in June of this year. We'll go
17 over that. Then the zone of B-4 here is Phase 1 of
18 Gateway. This was done and used -- all of this, all
19 of this happened after the update of the Comprehensive
20 Plan.

21 What we're saying and also where would you put
22 a restaurant or a B-4? You would put it right near
23 the stoplight. You have The Springs complex right
24 there. There is also already a stoplight there. If
25 you read the Staff Report, they go into that, but this

1 is a logical place for a B-4 restaurant because you
2 already have a stoplight. Stoplights out there,
3 there's a lot of them out there and they're really
4 hard to get.

5 The size of the property, 3.04 acres, will
6 only allow for a minimal development which could be
7 used as screening from this industrial property to the
8 rear. If you see those, all of this is industrial,
9 and this was all developed several, what, in '94 when
10 there was industrial property out there. Many of
11 these buildings back here were used for Kimberly-Clark
12 to store goods for Kimberly-Clark, but once the road
13 came through, it changed everything out there.

14 Now, if you think that the rezoning is not in
15 accord with the Comprehensive Plan, which I strongly
16 urge you to, was read, what, 100.213 has two separate
17 other parts.

18 One, is the original zoning classification
19 given to property appropriate?

20 Two, have there been major changes of a social
21 economic and physical nature in the area which changed
22 everything? We say there have.

23 My second argument is we say the zoning
24 classification originally given to the property is
25 inappropriate and that a B-4 rezone is more

1 appropriate.

2 What do I base that on? There's sufficient
3 evidence to support the proposed rezoning of B-4.
4 It's more appropriate than the existing zoning of I-1.
5 The subject property is located directly across from a
6 restaurant. That's what we want to build.

7 Second, the subject property will never, never
8 be developed as an industrial. The particular
9 property has no direct access to any road that serves
10 the rest of the industrial property to the rear. The
11 subject property is effectively cut off from the
12 industrial property to the rear. So it's never going
13 to be developed if we don't develop it as B-4.

14 Development of the property in an industrial
15 zone would increase industrial traffic. There's going
16 to be more trucks, more semis in the area. You don't
17 want that. Development of the property would set a
18 buffer between this property and the industrial
19 property to the rear.

20 Five, development of the property as
21 industrial would increase the mixed use in the area,
22 and that would be in conflict with good planning
23 practices.

24 Look at this little map that you have. This
25 is this one here. If you look at the top where it has

1 the green, all the green now is red too. You tell me
2 what is in the immediate area of that property?
3 Nearly all of it is B-4. If you look directly to the
4 left is Meijer's property, and on the far side here is
5 the other zoning of the big commercial area out there.
6 To say that this property that an I-1 zone is more
7 appropriate than a B-4 is a long stretch.

8 Now, let's talk about the main thing. We're
9 saying there have been major changes of an economic,
10 physical or social nature within the area that were
11 not anticipated, not anticipated, and the update of
12 the Comprehensive Plan, which was done when? We agree
13 on that. 2013. Well, let's see what happened out
14 there.

15 First of all, you have this in front of you.
16 This is the plat. Is there B-4 commercial in that
17 area? Now, this is a different plat that I gave you.
18 It's the large one.

19 When I told you earlier, it's the most active
20 commercial area in Western Kentucky. It proves it.
21 Here is where you have Huck's. You see Huck's in the
22 left corner. Right where I have that marker is the
23 subject property. You have Menard's. We'll go over
24 these in just a second. Look, if you use that little
25 plat, how much commercial property is in the area? It

1 nearly all is commercial. Very little is industrial,
2 and the industrial goes back to 1994 when they were
3 building those warehouses for Kimberly-Clark.

4 If you recall, in the June meeting we had the
5 Gateway Commons rezoning. This is the Gateway Commons
6 rezoning that we have. It was 150 acres that we zoned
7 B-4. We have another one. This tract here was zoned
8 21 acres to M-F, and zoning this tract, 9 acres, to
9 A-U.

10 According to Mayor Ron Payne stated in the
11 Sunday edition of the Owensboro Messenger-Inquirer,
12 June 17, 2015, all of this is, what, a year and half
13 after the Comprehensive Plan was updated, that Gateway
14 Commons will be the largest private development center
15 ever undertaken in Owensboro, 3.1 billion. That's a
16 lot of money and a lot of jobs. As stated in the last
17 rezoning, the Gateway Shopping Center will be a
18 regional shopping center just like Evansville is to
19 Owensboro.

20 I was at a store in Evansville right after
21 this came out in the paper and the lady, she said, if
22 you all develop that in Owensboro, we're going to lose
23 half of our customers because half of the customers we
24 have are from Owensboro. You remember I think one of
25 you asked the question. How are you going to get to

1 this property? Remember we talked about 603 was
2 cutting into Pleasant Valley. I believe the engineer,
3 Mr. Hays from down in Nashville, made the statement,
4 it's going to be a regional shopping center and
5 they're going to come in through the new east/west
6 expressway.

7 Now, certainly, in other words, they're saying
8 that this was anticipated in the Comprehensive Plan.
9 Nobody, nobody in 2013 would have considered this
10 phenomena taking place in Owensboro, Kentucky.

11 So I'm saying strongly, nobody anticipated
12 anything like we're having out on Highway 54 in 2013
13 with this TIF project because it wasn't approved.

14 Here is the other rezoning that took place out
15 there. We'll go over this. But to say that there's
16 no changes in the area, this property here was
17 approved, the rezoning was approved in 2014. This was
18 Phase 1, if you recall this. It is where the Aldi's
19 store is out on 54. All of this was done after 2013.

20 In June 2014, a year later, Meijer's store
21 limited partnership purchased property of 20 acres at
22 the intersection of 54. Right here you see on the
23 map. They purchased that property for \$4,800,000 and
24 they began the work on the project in 2015, after the
25 update of the Comprehensive Plan.

1 In 2014, Menard's opened their retail center
2 on the 17 acre tract and the value of the property
3 according to PVA records is \$7,862,000. Since the
4 Comprehensive Plan was updated, if you remember the
5 June meeting where we had the Gateway Commons, the
6 design of Highway 54 is in process. It's going to be
7 widened. You heard the engineer from the highway
8 department down at Madisonville testify that's going
9 to be the new project. It's going to be widen to five
10 lanes and there will be a center line turn.

11 Forget about the other changes. The whole
12 reason that most of this is taking place is on account
13 of Owensboro Medical Center where they have the new
14 complex out there. The other ones that you have,
15 other than the complex, there was the north/east
16 expressway. This is the expressway that comes from
17 here all and the way, and it goes all the way up to
18 Hancock County. That was open after this. It was
19 open in 2014.

20 So we say that there are major changes of the
21 socio, physical, economic background that has
22 substantially altered the basic character of the
23 neighborhood.

24 The current Comprehensive Plan and the
25 Associated Land Use Plan updated shows the subject

1 property in an industrial area. Those changes that we
2 have, and I went over our substantial, and we feel
3 that they are sufficient, that I should win on three
4 issues.

5 Number one, I'm saying it is in accordance
6 with the Comprehensive Plan because businesses uses
7 are allowed in that particular plan area.

8 Number two, certainly I-1 zoning is not
9 appropriate for this area, and a B-4 is more
10 appropriate. I have just given you those changes that
11 we have. I mean you can't deny. All of this took
12 place since 2013 and the update of the Comprehensive
13 Plan.

14 Let me say this: To say that a commercial
15 zone in a B-1 across the street where there is an
16 existing restaurant is not a logical expansion of a
17 commercial use is mere technicality. To say that the
18 original zoning classification of I-1 is appropriate
19 is a long stretch. And to say that there's not been
20 any major changes in the area is misstating the facts.

21 This is where the board comes in. It's
22 important for the board to use common sense in their
23 discretion. If discretion was not allowed, you would
24 get a zoning administrator to come in and say, it's
25 either in compliance or it's not in compliance. We

1 disagree with that.

2 The land use map should be flexible and apply
3 in the light of the actual land use development. It
4 should be a guide. Not a straitjacket. The board has
5 to use common sense, and I quote you this case. I've
6 used this case several times, but it's the case of
7 Nickenberg, Ward versus Nickenberg. Here's what this
8 case says, and I quote, "with respect to the first
9 proposition it seems clear that the zoning agency is
10 not bound to follow every detail of the land use plan,
11 as we understand such a plan is simply a basic scheme
12 generally outlining planning and zoning objectives in
13 an extensive area." Two, it is no sense of a final
14 plan and is continually subject to modifications in
15 light of what? The actual land use development. What
16 is the land use development? I've just gone over it.
17 I went over eight different changes. Also, to show
18 you that it was inappropriate as far as I-1.

19 Then they stop and say the last sentence, "it
20 serves as the guide rather than a straitjacket."

21 So what we're saying is, you don't have to
22 follow the plan in every detail. I don't think the
23 Staff would tell you that. The Staff is not strongly
24 against this proposition, but I'm asking you to do
25 this. I'm asking you to approve for either one of the

1 three different reasons. As far as I remember, I've
2 been handling cases out 54 since about 1989, and I
3 only know of one zoning case on the 54 area that you
4 didn't approve, and that was later approved by Fiscal
5 Court. So I'm saying this is something that I think
6 you have to use your discretion and come up with
7 something that's flexible because this is a phenomena
8 that is taking place in Owensboro. It very seldom
9 happens this way, and certainly in 2013 people didn't
10 think about all of this taking place on 54 corridor.

11 Now, we're here. Mr. Sanderford is here.
12 He's here to tell you just what he intends to do. We
13 have the engineers, I think, from Mr. Hays' office.
14 Mr. Hays is a traffic engineer. He couldn't be here.
15 Arnold Engineering from over in Bowling Green is here
16 to answer any questions that you have. We're here to
17 answer questions if we have to.

18 CHAIRMAN: Mr. Kamuf, would Mr. Sanderford
19 like to make any comments before we have our
20 questions?

21 MR. KAMUF: I think he would.

22 CHAIRMAN: Mr. Sanderford, please come to the
23 podium.

24 MS. KNIGHT: Would you please state your name
25 for the record.

1 MR. SANDERFORD: Paul Sanderford.

2 (PAUL SANDERFORD SWORN BY ATTORNEY.)

3 MR. SANDERFORD: I appreciate the opportunity
4 to be in Owensboro tonight. You know, a lot of my
5 friends have done business here. In fact, opened my
6 eyes to 54 and what was happening on Highway 54.
7 David Chandler and I have been involved in some other
8 business issues around Bowling Green. I rode over one
9 day just to look at his apartment complex. We rode by
10 the medical center, and I see the restaurant over
11 there, and I see this empty space. You know, a couple
12 of weeks later Jim Wets from Huck's was sitting in my
13 office in Bowling Green telling me about the new
14 Huck's he was putting out on Highway 54. I just saw
15 it tonight for the second time when we drove in out
16 there.

17 The development out there is, you know, it's
18 there. Meijer's is there. We've talked to those
19 folks from Meijer's on some out parcels early in their
20 discussion, but we found this property. We think it's
21 an excellent property. To be quite honest, I'm a
22 little bit surprised that I'm here tonight because I
23 looked around and all I saw was commercial. I did
24 walk back in the back of that property and saw the
25 warehouses. As the counselor mentioned, there were no

1 streets, there's no way to get out back there. So I
2 just assumed, and I know what assume means, I just
3 assumed that this must be commercial property and not
4 industrial property, until I found that out from
5 Planning & Zoning.

6 We feel like Shogun's wants a new location.
7 They're going to do a bistro which is very similar to
8 the one that's in Bowling Green. It's 6800 foot
9 Japanese Steakhouse. They want to be close to, of
10 course, the medical center. That's an idea location
11 for them.

12 We foresee, we've had several calls about
13 office space. It will be mixed use. We've talked to
14 a pharmacy about space out there.

15 So should this be approved we're planning to
16 spend \$5 million. Probably add 20 to 30 new jobs for
17 Owensboro. It will be a first class situation, first
18 class strip center. I was impressed with everything
19 that's been done on 54, and we would certainly along
20 those same lines. In fact, we've talked and probably
21 will end up using Owensboro builders in this project.

22 Any questions?

23 CHAIRMAN: Thank you, Mr. Sanderford.

24 Mr. Kamuf, you want to come up, if you don't
25 mind.

1 MR. KAMUF: Yes, sir.

2 CHAIRMAN: Anyone in the audience will have a
3 chance to comment or ask questions on this issue
4 tonight, but Mr. Kamuf made a rather lengthy
5 presentation, it was a very informative presentation,
6 and I want the board members to be able to ask
7 questions of Mr. Kamuf before we open it up to the
8 audience to ask questions. We'll have everybody that
9 wants will have a chance to comment, ask questions,
10 whatever this evening.

11 Any of the board members that have comments
12 for Mr. Kamuf or questions, please let's do that at
13 this time. He may want to defer to one of his
14 engineers or to Mr. Sanderford. Let's let the board
15 have their questions first, please.

16 Mr. Kazlauskas.

17 MR. KAZLAUSKAS: Mr. Kamuf, over on concept 2,
18 this drawing right here, as I look down through there
19 I see two entrances and ingresses coming from that
20 property onto Highway 54; is that correct?

21 MR. KAMUF: That's the way we proposed. We
22 withdrew it. We withdrew it. In other words, we
23 withdrew the second access point because the
24 department of highway didn't like it. In the event
25 that there's a barrier placed there, we might go back

1 to the highway department and ask them for a right
2 turn in/right turn out. As of now, we're not asking
3 for that.

4 MR. KAZLAUSKAS: So what you're proposing is
5 this one entrance lined up with that stoplight right
6 across from The Springs?

7 MR. KAMUF: That's correct. I don't think
8 there's any question, that's not an issue as far as
9 the zoning issue.

10 MR. KAZLAUSKAS: Okay. Turn lanes, additional
11 turn lanes going in and out of that property out onto
12 54 so it's not to impede traffic.

13 MR. KAMUF: I think, Mr. Kazlauskas, if you're
14 reading what was in there about the second access
15 point, which we withdrew.

16 MR. KAZLAUSKAS: Okay.

17 MR. KAMUF: I do have the traffic engineer who
18 is here to answer any questions if you feel like I
19 haven't answered them.

20 MR. KAZLAUSKAS: You know how concerned I am
21 about traffic out there. I think I was the one that
22 brought up that.

23 MR. KAMUF: I well recall.

24 MR. KAZLAUSKAS: I think I made the mention
25 about New Circle Road and how traffic gets backed up

1 on that. Certainly as this continues to develop out
2 there, we want traffic to flow freely where people
3 don't have to wait, you know, two or three --

4 MR. KAMUF: It shouldn't be a problem with the
5 stoplight.

6 MR. KAZLAUSKAS: I haven't sat here and
7 counted them, but how many parking places are you
8 proposing to put in here?

9 MR. KAMUF: I can't answer that. I have
10 another gentleman you might want to ask.

11 MS. KNIGHT: Please state your name for the
12 record.

13 MR. SHIRLEY: Brian Shirley for Arnold
14 Engineering.

15 (BRIAN SHIRLEY SWORN BY ATTORNEY.)

16 MR. SHIRLEY: We're going to be complying with
17 the ordinance requirements for parking. Right now I
18 believe there may be between 100, 150 parking spaces
19 shown on the concept plan. We're going to have to
20 provide at least the minimum that's provided by the
21 Zoning Ordinance. The site, the configuration of the
22 site kind of limits how much building and parking we
23 can put on there. So the parking is actually going to
24 limit the square footage of the development, but
25 probably right now it's probably 100, 150 spaces.

1 MR. KAZLAUSKAS: What you're proposing right
2 now is to build at least one building with parking,
3 but the proposed Phase 2 we don't know whether that
4 can be built on there or not, right?

5 MR. SHIRLEY: It's going to depend on the
6 ultimate uses of the first phase and with parking
7 requirements would be. The parking requirements for
8 the first phase are higher, then the second phase may
9 have to shrink in size.

10 MR. KAMUF: Kaz, may I answer a question?

11 MR. KAZLAUSKAS: Yes.

12 MR. KAMUF: That came up to me. The only
13 reason that development, proposed development plan was
14 filed is to show the access point. That is not a
15 development plan that's been approved or we are
16 submitting. That will have to be amended because of
17 the access point, the second access point.

18 MR. KAZLAUSKAS: Yes. All of this is the
19 concept?

20 MR. KAMUF: That's right. It's a concept.
21 That exactly right.

22 MR. KAZLAUSKAS: Thank you.

23 CHAIRMAN: Thank you, Mr. Kazlauskas.

24 Any other commissioners have any questions?

25 MR. BOSWELL: I have a couple.

1 CHAIRMAN: Mr. Boswell.

2 MR. BOSWELL: Thank you, Mr. Chairman.

3 I'm curious about finding out some more
4 information on Findings of Fact item Number 2 and it's
5 mentioned in your submittal as well, about how was it
6 determined or what facts were used to support that
7 it's appropriate in very limited locations?

8 MR. KAMUF: My argument on this?

9 MR. BOSWELL: Yes.

10 MR. KAMUF: The issue is, I think I'm saying
11 what the Staff said in the report. That a B-1
12 rezoning is less higher density than a B-4. All I'm
13 saying is that the land use plan shows that you can
14 have businesses in a limited location. I'm saying,
15 that's a long stretch to say if you've got a
16 commercial across the street and it's a restaurant and
17 we're going to put in a restaurant over here, that
18 that's in a higher density and that it's a mere
19 technicality. I understand why the Staff did it. In
20 other words, technically in following the land use
21 plan they probably have to say that.

22 When we met with the Planning Staff it said, I
23 think, "it will be unlikely that we'll approve." It's
24 a close call on that one issue. If you don't buy that
25 on issue, I think I got it on the second issue about

1 the property, the I-1 being inappropriate. I don't
2 think you can draw that I-1 zone on this property is
3 appropriate at the present time or that it was
4 appropriate in 2013. If not, I think I've showed you
5 the major changes. So I think I can win on either one
6 of the second two. If you don't buy that it's in
7 accord with the Comprehensive Plan because of the
8 commercial activity, directly across the street.
9 That's what we intend to do. To put in a restaurant.
10 That's the reason I went out there and took that
11 picture. I wondered when I got into this case exactly
12 where two things were. Where is that stoplight? Then
13 I also had issues myself with the second entrance. I
14 knew that would be an issue before I got the letter
15 from the highway department. That's why we went
16 through it. Hopefully to cooperate with the Staff and
17 get this thing done.

18 MR. BOSWELL: That leads in to my second
19 question. On the Traffic Impact Study, and that's a
20 concern I have too, about additional traffic. As it
21 develops into five lanes, it's going to be
22 significantly more traffic in and out of that area.
23 There's a statement made in the Executive Summary that
24 says, "An analysis of existing and projected traffic
25 at nearby intersections." What method was used for

1 that Traffic Study?

2 MR. KAMUF: Let me say this: Do you
3 understand why the Traffic Impact Study was made? It
4 was so we would get the second entrance. We paid
5 \$8,000 to get that Traffic Impact Study made. We got
6 through we get the letter from the highway department,
7 we backed off. Did that answer your question?

8 MR. BOSWELL: But still yet there had to be a
9 study associated to just the one entrance as well.

10 MR. KAMUF: That's not my game.

11 CHAIRMAN: Be sworn, please.

12 MS. KNIGHT: Please state your name for the
13 record.

14 MR. SPANN: Daniel Spann.

15 (DANIEL SPANN SWORN BY ATTORNEY.)

16 MR. SPANN: Your question about what kind of
17 methodology was used. Standard methodology for
18 traffic study that you go out and gather existing
19 traffic data, existing counts. Then you'll grow that
20 traffic at the certain intersections and you'll add
21 the projected traffic for the site or whatever land
22 use you're expecting to be. You apply that to the
23 intersections. Then you'll analyze the intersections
24 using the industry standard methodology, which is a
25 capacity analysis from the Highway Capacity Manual,

1 which is a publication of the Institute of
2 Transportation Engineers. You're probably familiar
3 hearing the term "level service." That generates the
4 term level service for either in a signalized
5 intersection and overall intersection level service
6 and unsignalized intersections at critical turning
7 movements.

8 So generally what you do is you'll evaluate
9 what is under existing conditions and evaluate under
10 projected conditions to see what that tells you. From
11 that it's just generally a tool to determine what kind
12 of lanes you want to provide, what kind of traffic
13 control, and control that you want to apply to the
14 intersection and access points.

15 MR. BOSWELL: How forward looking is that?

16 MR. SPANN: This one looks at 2027.

17 MR. BOSWELL: Thank you.

18 CHAIRMAN: I have a couple of questions, and
19 maybe some clarification.

20 Mr. Kamuf, to your issue. Does Mr. Sanderford
21 own the property now?

22 MR. KAMUF: Yes. They thought it was pretty
23 much a lock to get that done. They bought the
24 property and it's not zoned.

25 CHAIRMAN: Who owned the property prior to

1 Mr. Sanderford buying it?

2 MR. SANDERFORD: A doctor, and I'm not sure of
3 his name.

4 CHAIRMAN: Okay. So it wasn't Buskill?

5 MR. SANDERFORD: No.

6 CHAIRMAN: Here is my question, and this is
7 going to be for Staff.

8 MR. SANDERFORD: I understand. It was a
9 doctor, and we bought it from him. We had an option
10 on it for quite a while and were concerned with some
11 other people coming in and being interested so we went
12 ahead and purchased it.

13 CHAIRMAN: Thank you. Question for Staff.

14 Theoretically if Buskill had purchased this
15 property, could they have put an entrance here on 54,
16 this stoplight, to get into their property?

17 MR. HOWARD: Yes, they could. I think Buskill
18 owned it when it was rezoned back in the '90s.

19 CHAIRMAN: So theoretically we could then be
20 looking at if Buskill had bought it, if it stands up,
21 someone could be pulling 18-wheelers in and out of
22 there at the stoplight as opposed to automobiles; am I
23 correct?

24 MR. KAMUF: I think so.

25 CHAIRMAN: The other question I have is, this

1 is my ignorance, across the street is B-1. Is that
2 primary because it's mostly medical, professional
3 offices?

4 MR. HOWARD: A B-1 zone is neighborhood
5 business zone. It's uses that you might find
6 typically in lower intensity that would integrate into
7 a neighborhood. So B-1 really doesn't allow many of
8 the commercial uses that you would find in a B-4 zone
9 including office and that type of thing. That's why
10 you have B-1 zoning in The Springs complex for the
11 restaurant, and then some of the parking is zoned B-1,
12 but the rest of it where the doctors offices and the
13 Urgent Care Center, all of that is zoned P-1 because
14 those are medical and offices uses which are permitted
15 in the P-1 zones, but not all those in the B-1 zone.

16 CHAIRMAN: So that zoning be considered less
17 intense than what Mr. Kamuf is asking for?

18 MR. HOWARD: In the hierarchy of zoning, yes.
19 The B-1 is the less intense. So then B-2, which is
20 the downtown zoning. B-3 highway business. B-4
21 general business. Then B-5 would be the highest
22 intensity commercial zone, which is basically a mix of
23 the B-4 and then I-1 light understand industrial zone.

24 CHAIRMAN: I understand theoretically. I
25 cannot imagine, I have to go three doctors in The

1 Springs, anything be more intense than the traffic in
2 and out of The Springs. That's worse than going to
3 the mall in Evansville.

4 That clarifies that.

5 MR. KAMUF: Mr. Chairman, in line with what
6 you're saying. B-5 is a little more liberal. So you
7 get in the question of degree. We're saying we're in
8 the B-1 zone and it's a restaurant. We're within the
9 range.

10 CHAIRMAN: Any other commissioners have
11 question of Mr. Kamuf?

12 Yes, sir.

13 MR. BALL: Can I play off of that just a
14 little bit there.

15 Correct me if I am wrong. I would like to ask
16 Brian something here. A restaurant is actually
17 allowed inside a B-1 and potentially mercantile shops;
18 however, office space would not be allowed inside a
19 B-1?

20 MR. HOWARD: That is correct.

21 MR. BALL: That's one of the items that you
22 all are looking for, correct, is the office, which I
23 assume is why you are looking for the B-4?

24 MR. KAMUF: When you say "office," we're
25 talking about probably more retail than office. We're

1 talking about a pharmacy, something in that range. I
2 don't know what zone that takes, but a pharmacy or
3 something in that.

4 MR. SANDERFORD: And there could be some
5 offices.

6 MR. KAMUF: And offices.

7 MR. BALL: So you're looking for a little bit
8 more flexibility than what you would have inside a
9 B-1?

10 MR. KAMUF: That's correct.

11 MR. BALL: Thank you.

12 MR. KAMUF: When you get ready to start
13 leasing that property, the first thing you're going to
14 have is, can we do it, and you'll find somebody, why
15 not go for the B-4 and that will qualify for nearly
16 everything; however, the B-5 is a little more. So it
17 will cover any tenant, proposed tenant that you've got
18 coming in. I hope I answered it.

19 MR. BALL: Yes. Thank you.

20 CHAIRMAN: Other commissioners?

21 Mr. Kazlauskas, you have another question?

22 MR. KAZLAUSKAS: Maybe Staff can help me.

23 Give me a history lesson here.

24 This B-1 that Niko's located in now, when was
25 that changed? Was that done when the other property

1 went to P-1 or was that changed at a later date?

2 MR. HOWARD: I don't have the information in
3 front of me, but I seem to recall that basically The
4 Springs was developed more or less as a mixed use type
5 development and those zonings would have -- I don't
6 know that they happened simultaneously, but they would
7 have happened close to each other.

8 MR. KAZLAUSKAS: Pharmacy would fit in a P-1,
9 right?

10 MR. HOWARD: Yes. A pharmacy would be a P-1.

11 MR. KAZLAUSKAS: Or a B-1, any one?

12 MR. HOWARD: I'll have to look that up.

13 MR. KAMUF: I think you can put a pharmacy in
14 a B-1 or a B-4.

15 MR. KAZLAUSKAS: Maybe we can go down this
16 chart to see when CVS was.

17 MR. HOWARD: CVS is a B-4 zone.

18 MR. KAZLAUSKAS: What I'm trying to do,
19 Mr. Chairman, is try to determine in my own mind if
20 this was changed to B-1 to allow Niko's to be
21 constructed in there.

22 MR. HOWARD: It certainly was. If that whole
23 thing was zoned P-1, a restaurant is not a permitted
24 use. That property had to be rezoned to a commercial
25 use to allow the restaurant.

1 MR. KAZLAUSKAS: If I'm thinking correctly,
2 there was not a stoplight there to begin with, was
3 there?

4 MR. HOWARD: No, there wasn't. It came in as
5 a result of that zone.

6 MR. KAZLAUSKAS: Thank you.

7 CHAIRMAN: Other questions from the
8 commission?

9 (NO RESPONSE)

10 CHAIRMAN: Questions from anyone in the
11 audience?

12 (NO RESPONSE)

13 MR. KAMUF: I think Tony is here.

14 CHAIRMAN: Mr. Clark, did you want to make
15 some comments?

16 MR. KAZLAUSKAS: State your name for the
17 record, please.

18 MR. CLARK: My name is Tony Clark.

19 (TONY CLARK SWORN BY ATTORNEY).

20 MR. CLARK: Let me state by saying that Denny
21 Welch is right beside me. He is the executor of his
22 father's estate, The Ed Welch Estate.

23 Many years the widening of the new road went
24 through the farm. So now Dad passed on last year. So
25 we are selling the property that is immediately to the

1 west of this particular property. We also have the
2 property across the street, Dr. Blocks' new building
3 that has just been put in.

4 For us we have been getting activities and
5 calls on it. A lot of them are just inquiries so you
6 really don't know what their total intent is. We have
7 from day one been convinced that it would be a
8 commercial use. The zoning has been left in place as
9 agricultural at this particular point until there is a
10 bona fide purchaser or bona fide user.

11 We will go on the record as supporting that
12 zoning to B-4 as Mr. Kamuf has requested and his
13 client has requested. We go in support of it.

14 I'll be glad to answer any questions for you.

15 CHAIRMAN: Any questions of Mr. Clark?

16 (NO RESPONSE)

17 CHAIRMAN: Anybody in the audience have any
18 questions of Mr. Clark?

19 (NO RESPONSE)

20 MR. CLARK: Thank you very much.

21 CHAIRMAN: Thank you, Mr. Clark.

22 MS. KNIGHT: State your name.

23 MR. WELCH: Denny Welch.

24 (DENNY WELCH SWORN BY ATTORNEY.)

25 MR. WELCH: I want to echo Tony's comments,

1 but also I remember when Buskill bought that property
2 over there. He intended to put a drive through there.
3 It was his warehouse business just grew and grew and
4 grew. At some point he sold his trucking business to
5 a gentleman, a gentleman that lives around Newburgh,
6 but the guy that lives down the street from me runs it
7 right now. That's been, I guess, ten years ago.
8 That's the reason I think it was never developed as
9 industrial. He didn't use it because when he sold it
10 he didn't want to make that land available to people
11 he sold it to, I think. He sold his property to the
12 trucking company.

13 CHAIRMAN: Thank you.

14 Anyone have any questions of Mr. Welch?

15 (NO RESPONSE)

16 CHAIRMAN: Thank you, Mr. Welch.

17 Mr. Kamuf, do you have any concluding comments
18 or anything else you would like to add before we begin
19 to collect a motion?

20 MR. KAMUF: No, sir. I hope I didn't bore
21 you.

22 CHAIRMAN: Very enlighten. Very helpful.

23 There being no further discussion the chair is
24 ready for a motion.

25 If anyone needs help in preparing a motion, I

1 will certainly say we'll let you gather with
2 Mr. Howard or counsel if you feel uncomfortable making
3 a motion you may want to make.

4 MR. PEDLEY: Are you ready for a motion,
5 Mr. Chairman?

6 CHAIRMAN: Yes, sir, I'm ready for a motion.

7 MR. PEDLEY: Mr. Chairman, I make a motion for
8 approval based on findings that the existing zoning
9 classification given the property is inappropriate,
10 that the proposed zoning classification is appropriate
11 because there have been major changes of economic and
12 fiscal in the area within the area which were not
13 anticipated in the adopted Comprehensive Plan, which
14 substantially altered the basic character of such an
15 area, and it also buffer from the industrial activity.
16 With the conditions put on that that the required
17 landscape buffer easement with one tree per 40 linear
18 feet boundary, plus continuous 6 foot high planting
19 hedge, fence or wall along the residential property.
20 The required minimum setbacks on the highway frontage
21 and the buffer be required, and all zoning ordinance
22 requirements related to landscaping, parking, signage,
23 setbacks, buffers, access will be reviewed by OMPC
24 Staff during the required development plan review
25 process prior to any permits being issued for

1 construction.

2 CHAIRMAN: We have a motion by Mr. Pedley. Do
3 we have a second to that motion?

4 MR. BOSWELL: Second.

5 CHAIRMAN: We have a second by Mr. Boswell.

6 MR. HOWARD: Would you all consider the -- I
7 know that they've agreed on record to eliminating the
8 second access point, but I think you should address
9 that in some capacity as far as the conditions go.
10 Then, second, I think KYTC mentioned in their
11 language, that we would like to see it too since we
12 have this other property right next-door that may
13 potentially rezone. The state says the next logical
14 location for an access point would be in alignment
15 with Leitchfield Road. Would you consider requiring
16 some type of cross access easement so that both of
17 these properties could then potentially get to the
18 other access points and have multiple points of
19 ingress and egress in and out of the property.

20 I'd just like for you all to consider that as
21 part of your conditions before we get too far down the
22 road.

23 CHAIRMAN: Mr. Sanderford, I see you nodding
24 your head.

25 MR. SANDERFORD: I haven't discussed this with

1 my partner, but I understand exactly what you're
2 talking about. I think that's an excellent point.
3 Would be one that I will endorse. I don't know about
4 other owners, but at the same time we are planning a
5 secondary road in front of the property after the
6 landscaping buffer.

7 CHAIRMAN: Mr. Pedley, would you like to
8 include that in your motion?

9 MR. PEDLEY: Yes.

10 CHAIRMAN: I guess, Mr. Boswell, would you
11 withdraw your second?

12 MR. BOSWELL: I withdraw my second.

13 CHAIRMAN: Mr. Boswell withdrawing his second.

14 Now, I'm sorry, Mr. Pedley.

15 MR. PEDLEY: I would like to include
16 Mr. Howard's suggestions in my motion. I believe they
17 have accepted that. So that is included, his
18 suggestion is included in my motion as a condition,
19 yes.

20 MR. KAMUF: Just so we'll understand. In
21 other words, we've got the landscaping, which you put
22 in there. We understand about that.

23 Let me be sure what you just said, Brian.
24 You're talking about a frontage road that would come
25 from the Welch property across here or are you talking

1 about a joint access with the Welch property? What
2 are we talking about.

3 MR. HOWARD: What I'm saying, what I'm
4 proposing or what I would like to see, what I think
5 would make the most sense, would be this property
6 limited to a single access point at the signal. Then
7 there will be connectivity provided to the property
8 to, you know, the northwest, whatever direction you
9 want to say that is. That way those parking lots
10 could connect. I'm not saying you have to go to a
11 frontage road per se, but at least you could have
12 cross access connectivity.

13 MR. KAMUF: Cross access. Okay.

14 CHAIRMAN: Similar to the Home Depot issue we
15 had with the mall, Mr. Kamuf. Remember when we had
16 that issue with Home Depot and the mall that didn't
17 connect for so long, but there was an access point
18 there. We would like to have that access point there.

19 MR. KAMUF: Yes. We have no problem with
20 that. What was second thing that you said, I'm sorry

21 MR. HOWARD: That was it. One access point
22 and then the cross connectivity.

23 MR. KAMUF: Cross access, not a problem. We
24 agree.

25 CHAIRMAN: Now entertain --

1 MR. BALL: I have a question still.

2 MR. WELCH: I just want to say there's already
3 an access point build into the road right directly
4 across from Old Leithfield Road which you're talking
5 about. So at some point it can be very plausible that
6 both uses with no problem.

7 MR. HOWARD: Yes. In our mind, in the state
8 too in their comments, there would be an access point
9 to signalize at this point at The Springs on this
10 property. Then the next one would be in alignment
11 with Leitchfield Road. There would be cross
12 connectivity between these properties. So if someone
13 was exiting this property, they could go out the one
14 at Leitchfield Road or vice versa. On Mr. Welch's
15 property, they could come out to the signal at The
16 Springs.

17 CHAIRMAN: Before we entertain a second, it's
18 important, we're trying to get a really good motion
19 that supports what Mr. Sanderford wants to do.

20 I'm going to entertain Mr. Ball's question.
21 Did Mr. Moore also have one?

22 MR. MOORE: It was answered.

23 MR. BALL: I believe you just answered mine as
24 well. We're not limiting the access on the property
25 to the northwest at this point in time. It will still

1 have access at Leitchfield Road. We're just giving
2 more inner-connectivity between to two sites, correct?

3 MR. HOWARD: Right. You as the Board cannot
4 place a condition on the adjoining property that's not
5 part of this rezoning. All we're asking for is on the
6 one that's rezoned tonight there be a single access
7 point at the signalized intersection, and then
8 connected be provided.

9 MR. BALL: Thank you.

10 CHAIRMAN: Again, the old classic Home Depot
11 access. We'd like for it to happen, but we can't make
12 it happen right now. We'd just like Mr. Sanderford to
13 support that happening.

14 MR. KAZLAUSKAS: Does that connectivity need
15 to be described or just --

16 MR. HOWARD: In the past, it has been
17 difficult to determine exactly where it would be
18 because they don't know. They're the first ones in.
19 They don't know exactly where they're going to do
20 anything really at this point. They have a conceptual
21 plan, but they don't know where that connectivity
22 would be best suited. It's something that we look at
23 as the Staff when we review the plans to make sure.
24 You know, we don't want them to provide it at the very
25 northeast corner of that adjoining property where it

1 might not make connectivity on that adjoining
2 property, but we're also not going to say it has to be
3 at the front of the property. The other property has
4 a limited -- they have a ton of road frontage, but
5 limited depth. We would have to work with that depth
6 and their property and their development to make sure
7 that it's in a location that can work for both. We
8 don't want to handcuff either one, but we do feel the
9 connectivity is a good thing.

10 MR. KAMUF: See, all of that might change a
11 little bit if they put a barrier in front of that
12 property. Do you understand? And they might do that.
13 It's getting ready to get in that curve and they might
14 put a barrier there. We just want to have the right
15 in the record that we go back and try to get a
16 right-in and right-out if there's a barrier. Just a
17 right-in/right-out. Nothing else. Of course, we have
18 to go before the highway department. If they deny it,
19 we don't get it. It's like Brian said, we're talking
20 tonight on a lot of things in the future that we don't
21 know exactly what's going to happen, and depending on
22 Mr. Welch.

23 CHAIRMAN: Now I think we're ready to
24 entertain a second.

25 MR. BOSWELL: Second.

1 CHAIRMAN: Second by Mr. Boswell. Any
2 questions about the motion?

3 (NO RESPONSE)

4 CHAIRMAN: Any questions from the audience
5 about the motion?

6 (NO RESPONSE)

7 CHAIRMAN: All in favor of the motion raise
8 your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: The application is approved.

11 Mr. Sanderford, we appreciate you coming to
12 Owensboro this evening.

13 Let me jut say this: I think you understand
14 that Staff has to look at things according to the
15 technicalities that existing within the law. I think
16 they kind of had to hold their nose to make a
17 recommendation, but this commission will always be
18 open to listening to applicants and their issues and
19 concerns and we're happy that you're coming to town
20 and investing some money. We're happy to approve your
21 application and support you.

22 MR. SANDERFORD: Thank you so much. Again, I
23 understood the technicality involved with the zoning
24 once I saw that. I just was unaware of that.

25 CHAIRMAN: Thank you very much and have a good

1 evening.

2 Mr. Howard, I think we're ready for the next
3 item.

4 ITEM 6

5 601 & 617 Triplett Street, 0.638 acres
6 Consider zoning change: From I-1 Light Industrial to
B-5 Business/Industrial
7 Applicant: OWB Land Management

8 PLANNING STAFF RECOMMENDATIONS

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

11 CONDITIONS:

12 1. No additional access to Triplett Street
13 shall be permitted;

14 2. Where the outdoor storage areas are
15 adjacent to residential zoned property, perimeter
16 screening shall be installed consisting of a 10' wide
17 landscape easement with one tree every 40 linear feet,
18 in addition to the six foot tall solid wall or fence.

19 FINDINGS OF FACT

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

23 2. The subject property is located within a
24 Business/Industrial Plan Area, where general business
25 and light industrial uses are appropriate in general

1 locations;

2 3. The subject property lies within an
3 existing area of mixed general business and light
4 industrial uses;

5 4. The Comprehensive Plan provides for the
6 continuance of mixed use areas; and,

7 5. The proposed land use for the subject
8 property is in compliance with the criteria for a
9 Business/Industrial Plan Area and a B-5
10 Business/Industrial zoning classification.

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

13 CHAIRMAN: Anyone here representing the
14 applicant?

15 APPLICANT REP: Yes.

16 CHAIRMAN: Anyone have any questions of the
17 applicant, any board members?

18 (NO RESPONSE)

19 CHAIRMAN: Anyone in the audience have
20 questions of the applicant?

21 (NO RESPONSE)

22 CHAIRMAN: If not the chair will entertain a
23 motion.

24 MR. JEAN: Make a motion to approve based on
25 the Findings of Fact 1 through 4 with Conditions 1 and

1 2.

2 CHAIRMAN: Motion by Mr. Jean.

3 MR. BALL: Second.

4 CHAIRMAN: Second by Mr. Ball. Any questions
5 about the motion?

6 MR. BOSWELL: One question. I think Mr. Jean
7 said findings of fact 1 through 4 when it's actually 1
8 through 5.

9 MR. JEAN: Excuse me, that's correct, 1
10 through 5.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion is approved.

15 ITEM 7

16 2795, a portion of 2763 & a portion of 2731 West
17 Second Street, 4.404 acres
18 Consider zoning change: From A-U Urban Agriculture &
19 B-4 General Business to B-4 General Business
20 Applicant: Western Kentucky Botanical Gardens, Inc. &
21 RNA Rental Hosplex, LLC

22 PLANNING STAFF RECOMMENDATIONS

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

25 CONDITIONS:

1. Approval of a minor subdivision plat
consolidating portions of three parcels to create the

1 4.404 acre B-4 zoned parcel.

2 2. Access to 2731, 2763 & 2795 West Second
3 Street shall be limited to a single access point
4 established on the plat approved on 2/20/13 and
5 revised on the subsequent plat approved 2/15/15.

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 partially located
11 in a Business Plan Area where general business uses
12 are appropriate in limited locations, and partially
13 located in an Urban Residential Plan Area where
14 general business uses are appropriate in very limited
15 locations;

16 3. The proposed use conforms to the criteria
17 for non-residential development;

18 4. This proposal is a logical expansion of
19 existing B-4 zoning to the west and east; and

20 5. At 1.37 acres of new B-4 zoned area (4.404
21 acres in total), the proposal is not a significant
22 increase in B-4 General Business zoning in the
23 vicinity and should not overburden the capacity of
24 roadways and other necessary urban services that are
25 available in the affected area.

1 MR. HILL: Staff request the Staff Report be
2 entered into the record as Exhibit F.

3 CHAIRMAN: Is anyone here representing the
4 applicant?

5 APPLICANT REP: Yes.

6 CHAIRMAN: Anyone have any questions of the
7 applicant?

8 (NO RESPONSE)

9 CHAIRMAN: Anyone in the audience have
10 questions of the applicant?

11 (NO RESPONSE)

12 CHAIRMAN: If not the chair will entertain a
13 motion.

14 MR. BALL: I'd like to make a motion to
15 approve based on Planning Staff Recommendations,
16 Conditions 1 through 2 and Findings of Fact 1 through
17 5.

18 CHAIRMAN: We have a motion by Mr. Ball. Do
19 we have a second to the motion?

20 MR. FREY: Second.

21 CHAIRMAN: Second by Mr. Frey. Questions
22 about the motion?

23 (NO RESPONSE)

24 CHAIRMAN: All in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: The motion passes. The application
2 is approved.

3 ITEM 8

4 A Portion of 2763 West Second Street, 0.573 acres
5 Consider zoning change: From B-4 General Business to
6 A-U Urban Agriculture
7 Applicant: RNA Rental Hosplex, LLC

7 PLANNING STAFF RECOMMENDATIONS

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

10 CONDITIONS:

11 1. Approval of a minor subdivision plat
12 consolidating 2731 & 2763 West Second Street is
13 required.

14 2. Access to 2731, 2763 & 2795 West Second
15 Street shall be limited to a single access point
16 established on the plat approved on 2/20/13 and
17 revised on the subsequent plat approved 2/15/15.

18 FINDINGS OF FACT

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

22 2. The subject property is partially located
23 in a Business Plan Area where Urban Low-Density
24 Residential uses are appropriate in very limited
25 locations, and partially located in an Urban

1 Residential Plan Area where Urban Low-Density
2 Residential uses are appropriate in limited locations;

3 3. The proposed use conforms to the criteria
4 for urban residential development; and

5 4. This proposal is a logical expansion of
6 existing A-U zoning to the east.

7 MR. HILL: Staff request the Staff Report be
8 entered into the record as Exhibit G.

9 CHAIRMAN: Anyone here representing the
10 applicant?

11 APPLICANT REP: Yes.

12 CHAIRMAN: Any board members have questions
13 for the applicant?

14 (NO RESPONSE)

15 CHAIRMAN: Anyone in the audience have
16 questions for the applicant?

17 (NO RESPONSE)

18 CHAIRMAN: If not the chair will entertain a
19 motion.

20 MR. MOORE: Mr. Chairman, I move for approval
21 based on Staff Recommendations subject to Conditions 1
22 and 2 and Findings of Fact 1 through 4.

23 CHAIRMAN: Motion by Mr. Moore.

24 MS. McENROE: Second.

25 CHAIRMAN: Second by Ms. McEnroe. Questions

1 about the motion?

2 (NO RESPONSE)

3 CHAIRMAN: All in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Application is approved.

6 ITEM 9

7 11351 & 11397 US Highway 431, 2.096 acres
8 Consider zoning change: From A-U Urban Agriculture to
9 B-4 General Business
Applicant: Mark Melloy

10 PLANNING STAFF RECOMMENDATIONS

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

13 CONDITION:

14 1. Access to both subject parcels shall be
15 limited to a single access point, the location of
16 which shall be reviewed and approved by the Kentucky
17 Transportation Cabinet and the County Engineer.

18 FINDINGS OF FACT

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

22 2. The subject property is located in a Rural
23 Community Plan Area where general business uses are
24 appropriate in limited locations;

25 3. The proposed retail use conforms to the

1 criteria for nonresidential development;

2 4. This proposal is a logical expansion of
3 existing B-4 zoning to the north as well as other
4 commercial and industrial zoning in the vicinity; and

5 5. At 2.096 acres, the proposal is not a
6 significant increase in B-4 General Business zoning in
7 the vicinity and should not overburden the capacity of
8 roadways and other necessary urban services that are
9 available in the affected area.

10 MR. HILL: Staff request that the Staff Report
11 be entered into the record as Exhibit H.

12 CHAIRMAN: Anyone here representing the
13 applicant?

14 MARK MELLOY: Yes, sir.

15 CHAIRMAN: Do you wish to make any comments?

16 MR. MELLOY: No, sir.

17 CHAIRMAN: Thank you. You're certainly
18 welcome to.

19 Any members of the board have any questions
20 about this application?

21 MS. HENDERSON: I may have one.

22 CHAIRMAN: Ma'am, please go to the podium so
23 we can hear you.

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

1 MS. HENDERSON: I'm Shirley Henderson.

2 (SHIRLEY HENDERSON SWORN BY ATTORNEY.)

3 CHAIRMAN: Go ahead, Ms. Henderson.

4 MS. HENDERSON: First off, I live adjacent to
5 this property to the north. My concern is traffic.
6 That's number one. Because as people pull out of this
7 area that you're going to zone B-4, that's a heavy
8 traffic area with big trucks, coal trucking, and
9 lumber trucks. Also, it's the only area in about five
10 miles where people can pass. So traffic is going
11 about 60 miles an hour; although, it's supposed to be
12 55. Not very many people follow that restriction.

13 Also, my concern is that there have been
14 numerous accidents in that area. So I'm afraid of
15 that's going to happen again, and it's going to be
16 serious.

17 Another thing that is a concern of mine, B-4
18 could be anything. Including a pharmacy where
19 chemicals could be used to make pharmaceuticals for
20 people. I have a big pond in front of my house where
21 we have some protective wildlife. Namely the
22 copperbelly water snake and -- I can't think of the
23 other. Anyway, there are protected creatures there.
24 So they need to be protected from any kind of
25 chemicals.

1 Also, another problem is sewage. In that area
2 we use septic tank. There is no sewer. Drainage is a
3 huge problem in the low lying area. The first heavy
4 rain that will flood, and that water will flow over
5 into my pond.

6 So for those reasons I think this is an
7 inappropriate place for a business. Thank you very
8 much.

9 CHAIRMAN: Thank you.

10 Would the applicant like to respond to that?
11 If you would come and be sworn, please.

12 MS. KNIGHT: Please state your for the record.

13 MR. MELLOY: Mark Melloy.

14 (MARK MELLOY SWORN BY ATTORNEY.)

15 MR. MELLOY: On the traffic concern, I have
16 received approval from Mr. Gentry at the Madisonville
17 KYTC office for the entrance to the property, and it
18 will be directly across from the entrance to Orick
19 Road. So it has received approval from there as well
20 as the state highway department here in Owensboro.

21 To address the concerns about the type of
22 business. I plan for this to be an outdoor store. It
23 would be a 4,800 square foot facility that would sell
24 hunting and fishing sporting goods, as well as
25 commercial turf, mowing equipment, and handheld power

1 equipment such as tree trimers and chainsaws. As a
2 part of the permit and approval process, I have to
3 have a site plan done which includes a drainage plan
4 where an engineering firm would approve the drainage
5 and runoff for the property. If there were any
6 concerns there, I would have to accommodate the
7 property accordingly so it does not create any runoff
8 problems for the neighbors.

9 CHAIRMAN: Thank you, Mr. Melloy.

10 Sir, do you wish to make a statement?

11 MS. KNIGHT: Please state your name for the
12 record.

13 MR. SHEPHERD: My name is Carl Shepherd.

14 (CARL SHEPHERD SWORN BY ATTORNEY.)

15 MR. SHEPHERD: I too live in the immediate
16 vicinity area, across the street, more of this is
17 potentially going to be located. My primary concern
18 also is traffic. Having it access across from Orick
19 Road doesn't solve that problem in my mind at all
20 because the people turning in and going out of that
21 facility are not coming off Orick Road. They're
22 coming off of 431, which is heavy traffic as has been
23 previously stated.

24 To the best of my knowledge there's been at
25 least one fatality there right in front of that place,

1 in front of my place. The road is very curvy and
2 hilly. I have had my vehicle totally destroyed trying
3 to turn into my place off of that road and barely
4 escape with my life. So I'm very much aware of the
5 danger on that particular stretch of road. If you get
6 another 100 yards down or 200 yards down from where
7 that property is, you're straightened out and it's not
8 so much of a problem, but in that area it's a very
9 dangerous place.

10 We recently have had two exchanges of property
11 behind my place there. I think it's, I can't remember
12 the name of the farm now that owns it, but they have
13 heavy equipment coming in and out of there all the
14 time, farm equipment, and they have had a lot of road
15 work. They've done a lot of timber work coming out of
16 that lane just on the south side of that property out
17 onto that.

18 I own the woods that separates my property
19 from the area there. Those folks that own that land
20 now, I understand that's a private road going just a
21 short distance in to the old Livermore Road that runs
22 behind our property, and that that's a private road
23 there. For these farm equipment and these trucks to
24 get out onto 431 is so bad that they have come and
25 asked me if they could cut down some of my forest so

1 they can see better on that highway even just to get
2 in and out. I know that from my property onto 431 as
3 well is very dangerous. As I said, there's been one
4 fatality to the best of my knowledge there at least.
5 It would be a similar situation from this business
6 coming out onto 431 with the traffic in there.

7 I too am very much opposed to this from a
8 traffic standpoint.

9 I would agree also that the drainage is a
10 problem. If you look at that property, and we've had
11 a lot of rain this summer, it's very wet and drainage
12 will be a serious problem there. I don't know. I'm
13 sure it can be solved. I'm not sure if it's
14 economically feasible to be solved in that specific
15 location, but I too am very much opposed to this from
16 a traffic standpoint.

17 CHAIRMAN: Thank you, sir.

18 Mr. Melloy, do you choose to respond to that?
19 You don't have to. It's just if you'd like to.

20 MR. MELLOY: Basically the same rebuttal, sir.
21 I believe it does have better visibility than other
22 commercial sites like Kidd Fiberglass, south from this
23 area, and the Dollar General Store in Utica. They've
24 both got blind hills right next to them. I believe
25 this property has a better visibility. I can

1 appreciate the concerns, but with Mr. Gentry's
2 approval on the state highway department I think they
3 took that into consideration.

4 CHAIRMAN: Anyone else?

5 Yes, ma'am, if you would come to the mike,
6 please.

7 MS. KNIGHT: Please state your name for the
8 record.

9 MS. CRABTREE: Marie Crabtree.

10 (MARIE CRABTREE SWORN BY ATTORNEY.)

11 MS. CRABTREE: I live in the adjoining
12 property that they're wanting to rezone to B-4. I
13 agree with everyone else. It is a very dangerous
14 spot.

15 When I get to the end of my driveway, there's
16 a hill. You have to go down a hill into a dip, and I
17 have to sit there for a very long time just to watch
18 the traffic to even get out of my own driveway. There
19 have been numerous wrecks there in our field in front
20 of our house. Matter of fact, we used to have a fence
21 when we first moved in. It was wiped out so many
22 times we had to do away with our fence. Also, the
23 drainage is an issue. I don't want it on my property.
24 Not really too keen on looking out my front door and
25 seeing dumpsters and everything else, the back of a

1 store. There are lots of tractors that come up and
2 down that road as well, semi trucks. It's just a very
3 dangerous spot. Also, they've talked several times
4 about widening 431. Numerous times they've talked
5 about widening that highway. If they ever did widen
6 that highway, then this would really cause a big
7 problem. Because it's not a very wide area to begin
8 with where they're wanting to put this store.

9 I'd just like to put those things into
10 consideration. Thank you very much.

11 CHAIRMAN: Thank you, ma'am.

12 Anyone else like to speak? Yes, sir.

13 MS. KNIGHT: Please state your name for the
14 record.

15 MR. LAMPERT: Michael Lampert.

16 (MICHAEL LAMPERT SWORN BY ATTORNEY.)

17 MR. LAMPERT: I live in the property just
18 north of Ms. Henderson. My driveway is right across
19 the street from Mill Road. I've had to put my mailbox
20 up three different times. I now have a post office
21 box. That is a straight away out of Utica. They
22 drive, they're not watching what they're doing. I
23 finally got a post office box. They come in there and
24 they try to pass. I personally clean right-of-way
25 brush down so my daughters and everybody can see in

1 that area. The road is not maintained well enough and
2 that's extremely a dangerous area. They come out of
3 Utica and they're driving too fast, and left turns
4 specifically heading south are extremely dangerous.
5 I've had to repair my own driveway three times. I
6 have very serious concerns on safety right in that
7 area. Thank you.

8 CHAIRMAN: Thank you, sir.

9 Anyone else?

10 (NO RESPONSE)

11 CHAIRMAN: Mr. Melloy, do you have any
12 comments you would like to make?

13 MR. MELLOY: No, sir.

14 CHAIRMAN: Commissioners, do any of you have
15 questions of Mr. Melloy?

16 Mr. Boswell.

17 MR. BOSWELL: Thank you, Mr. Chairman.

18 Just a question that came up. It sounds like
19 that it didn't make any difference where Mr. Melloy
20 would put the entrance to the property. You're
21 opposed to the rezoning in total?

22 MR. SHEPHERD: I didn't understand.

23 MR. BOSWELL: My understanding or my take is
24 that it doesn't make any difference where Mr. Melloy
25 would put an entrance to the property. All of those

1 that have spoken in opposition are opposed to the
2 rezoning in total?

3 MR. SHEPHERD: Yes, that is correct.

4 MR. BOSWELL: Thank you.

5 CHAIRMAN: Nodding heads.

6 Thank you.

7 Any other questions?

8 (NO RESPONSE)

9 CHAIRMAN: Any other questions from the
10 audience?

11 (NO RESPONSE)

12 CHAIRMAN: If not the chair will entertain a
13 motion.

14 MR. ROGERS: Mr. Chairman, I make a motion for
15 approval based on Planning Staff Recommendations with
16 the one condition and the Findings of Fact 1 through
17 5.

18 CHAIRMAN: Motion by Mr. Rogers.

19 MR. BALL: Second.

20 CHAIRMAN: Second by Mr. Ball. Questions
21 about the motion?

22 (NO RESPONSE)

23 CHAIRMAN: All in favor raise your right hand.

24 (BOARD MEMBERS LARRY MOORE, IRVIN ROGERS,
25 BEVERLY McENROE, MANUEL BALL, FRED REEVES, JOHN

1 KAZLAUSKAS, WARD PEDLEY AND LEWIS JEAN RESPONDED AYE.)

2 CHAIRMAN: All opposed.

3 (BOARD MEMBERS STEVE FREY AND LARRY BOSWELL
4 RESPONDED NAY.)

5 CHAIRMAN: The application is approved.

6 Next item, please.

7 MAJOR SUBDIVISION PRELIMINARY PLAT

8 ITEM 10

9 Cornerstone Estates, 9.825 acres
10 Consider approval of a major subdivision preliminary
11 plat.
Applicant: Bobby Woodward

12 MR. HOWARD: We received an e-mail this
13 morning requesting that this application be postponed.
14 They have a couple of things they're still trying to
15 work out and hope to be ready for next month's agenda.
16 So we'd like for you to consider for postponement.

17 CHAIRMAN: Do we need a motion on that?

18 MR. HOWARD: Yes.

19 CHAIRMAN: I'd entertain a motion to postpone
20 Item Number 10.

21 MR. KAZLAUSKAS: So move.

22 CHAIRMAN: Motion by Mr. Kazlauskas.

23 MS. MCENROE: Second.

24 CHAIRMAN: Second by Ms. McEnroe. All in
25 favor raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries.

3 MINOR SUBDIVISION PLATS

4 ITEM 11

5 205 Bon Harbor Cove & 181 Boothfield Road,
6 1.654 acres & 0.484 acres
7 Consider approval of a minor subdivision plat.
Applicant: Jason Scott; Clayton Adam & Renee Taylor

8 MR. HOWARD: Mr. Chairman and Commissioners,
9 this item comes before you as an exception. The
10 proposal is to take some property off of 181
11 Boothfield Road and consolidate it with property off
12 of Bon Harbor Cove. The resulting minor subdivision
13 would leave .519 acres along Boothfield Road, which is
14 under the minimum required in the zoning ordinance at
15 present. However, based on the information that we
16 have been able to look at within the vicinity, there
17 are other lots that were created at half an acre, many
18 of them actually, which was the requirement for
19 minimum lot size back years ago before the health
20 department upped that to three-quarters of an acre.

21 We requested that the Health Department
22 provide some kind of a letter or statement that they
23 were okay with the smaller lot size, and they were
24 unwilling to provide anything basically stating that
25 if there was ever a need to relocate the septic system

1 on the property or whatever, that they would like to
2 have the additional acreage; however, in conversations
3 with the applicant, I think he may have some evidence
4 tonight to submit that shows that basically that back
5 portion of the property is down a pretty good rocky
6 ravine and it wouldn't serve as any type of a location
7 for a septic system anyway.

8 So it's something we couldn't sign-in house
9 and it has to come before you guys for consideration.
10 I know the applicant is here. I'm sure you all would
11 like to hear from him.

12 CHAIRMAN: Yes, sir, would you speak to us,
13 please.

14 MS. KNIGHT: Would you state your name for the
15 record.

16 MR. TAYLOR: Clay Taylor.

17 (CLAY TAYLOR SWORN BY ATTORNEY.)

18 MR. TAYLOR: What Brian said is true. I
19 initially spoke with someone at the Health Department
20 that acted like that they would give that letter.
21 That person then recommended a septic installer that
22 they commonly dealt with. I had him come on site. I
23 don't install septic systems, but I knew it was going
24 25 feet down a cliff that it wouldn't be reasonable.
25 He at that point in time said it was. Since then they

1 kind of changed their tune and said under no
2 circumstance will they give a letter.

3 I do have a packet that does show that the .51
4 acres is larger than most of the other lot sizes or
5 many of the other lot sizes in the subdivision. They
6 are all on septic. I also have two pictures. One
7 taken from my existing property now looking up the
8 hill. Another picture taken from the top of that
9 property looking down, and a topography map that shows
10 approximately 25 to 30 feet difference from the back
11 of that property down to my property.

12 CHAIRMAN: You have some for us, please.

13 MR. TAYLOR: Yes.

14 As you look at the pictures, if you're looking
15 down, the roof of my home is approximately I would say
16 probably 25 feet. There's a gazebo that is there.
17 The tip of that is approximate at 12 to 14 feet. You
18 can tell that's only halfway up that hillside. When
19 you're looking at those properties, the grass hill is
20 actually not the property I'm talking about. I'm
21 talking about the property that's heavily wooded. My
22 reason for obtaining it is it was damaged pretty
23 heavily with the ice storm. He did some extensive
24 work and since it was a cliff he dumped a bunch of
25 concrete off of that property and I was just wanting

1 to clean it up and then help with my drainage.

2 CHAIRMAN: Let us take just a moment to look
3 at the pictures. If you'll hang on with us.

4 Commissioners, do you all have any questions
5 of the applicant?

6 MR. MOORE: Yes. If you would, Mr. Taylor,
7 explain to me about the septic. Are you on a septic
8 tank now?

9 MR. TAYLOR: I am. What the problem is 181
10 Boothfield Road, which if you look at the plat,
11 they've got the revised plat as well that I think you
12 might have in your packet. It's actually lot Number
13 34 there. The septic system for that is actually
14 installed on the west side of the home, between the
15 home and Boothfield Road. So in order to redo the
16 septic system, there would have to be a catastrophic
17 event where the septic system would actually have to
18 be removed and placed behind the home. We did alter
19 the lines where a steel beam on the level supplier
20 feed granted more than one-half of one acre.

21 CHAIRMAN: Mr. Moore.

22 MR. MOORE: That's fine.

23 CHAIRMAN: Anyone else have a question?

24 (NO RESPONSE)

25 CHAIRMAN: I know this is kind of difficult to

1 look at. Does anyone else have any questions or any
2 concerns that would prevent you from acting tonight?

3 MR. MOORE: One other question. What am I
4 looking at?

5 MR. TAYLOR: That's a topography map.
6 Mr. Kazlauskas can tell you about that. Those contour
7 lines, the distance, I tried to draw out the area on
8 there. I put a square where his house is. If you
9 look at the cul-de-sac that's on there as well, it's
10 kind of hard to see. I tried to blow it up as good as
11 I could. I'm at the end of that cul-de-sac. Those
12 contour lines indicate ten feet between each line.
13 Actually on that map it shows 35 feet, but it's
14 probably closer to 25 to 30 feet from the edge of his
15 property border going down to mine. I was just doing
16 that to illustrate that if he were to run a septic
17 system, one, he wouldn't have any access to get back
18 to that point; and two, it would have to come off a
19 cliff and then come down 30 feet to get to the
20 reservoir from there.

21 MR. MOORE: Thank you.

22 CHAIRMAN: Any other questions?

23 (NO RESPONSE)

24 CHAIRMAN: Are we ready for a motion? If so,
25 I'll entertain one.

1 MR. MOORE: Mr. Chairman, I would move to
2 approve this minor subdivision plat.

3 CHAIRMAN: Motion by Mr. Moore.

4 MR. KAZLAUSKAS: Second.

5 CHAIRMAN: Second by Mr. Kazlauskas. Any
6 questions about the motion?

7 (NO RESPONSE)

8 CHAIRMAN: All in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion passes unanimously.

11 ITEM 12

12 3311, 3357, 3363 Pleasant Valley Road, 45.482 acres
13 Consider approval of a minor subdivision plat.
14 Applicant: Virginia Sublett Hinton, David A. Sublett,
15 Joseph V. Sublett, Sion O. Sublett, Rebecca Sublett &
16 John W. Sublett

17 MR. HOWARD: Mr. Chairman, this plat comes
18 before you as an exception to the three to one
19 requirement.

20 Basically what we have here is a family farm
21 that has a limited amount of road frontage on Pleasant
22 Valley Road. Their intent is to split the property
23 into various tracts so that brothers and sisters can
24 have properties. Tract 2, which is a very long skinny
25 flag lot, has an existing home on it. So they're
26 creating that parcel around an existing home. Then
27 Tract 3 is a ten acre parcel that will have access

1 through that flag that goes back. We have noted on
2 there that the requirements of the Nash case that was
3 discussed here at the Planning Commission at some
4 point, basically limiting the use of these properties
5 to agricultural use and nothing more. They won't be
6 further subdivided, unless they can meet the
7 subdivision regulations, which Tracts 2 and 3 will not
8 be able to be further subdivided in any capacity based
9 on this design. Tract 1 potentially could have road
10 frontage lots based on acreage and road frontage left
11 on Pleasant Valley Road. With the concessions that
12 they've made and the request for no additional access
13 and no additional division of the property, we would
14 recommend that you consider it approval.

15 CHAIRMAN: Anyone here representing the
16 applicant?

17 (NO RESPONSE)

18 CHAIRMAN: I don't think so. No one else is
19 left.

20 Any questions from the commission?

21 (NO RESPONSE)

22 CHAIRMAN: If not the chair will entertain a
23 motion.

24 MR. FREY: Mr. Chairman, I'd like to make a
25 motion for approval.

1 CHAIRMAN: Motion by Mr. Frey.

2 MR. PEDLEY: Second.

3 CHAIRMAN: Second by Mr. Pedley. Any
4 questions about the motion?

5 (NO RESPONSE)

6 CHAIRMAN: All in favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: The application is approved.

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10 NEW BUSINESS

11 ITEM 12

12 Consider approval of May and June 2015 financial
13 statement

14 CHAIRMAN: I think we need two motions on the
15 financial statement. One for the May statement and
16 then one for the June statement.

17 I'll entertain a motion. You've had a chance
18 to see the statements. Any questions about either
19 one?

20 (NO RESPONSE)

21 CHAIRMAN: I'll entertain a motion for the May
22 2015 financial statement.

23 MR. KAZLAUSKAS: Motion for the report be
24 approved.

25 CHAIRMAN: Motion by Mr. Kazlauskas.

1 MR. FREY: Second.

2 CHAIRMAN: Second by Mr. Frey. All in favor
3 raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: The June 2015 financial statement,
6 entertain a motion on that.

7 MR. BOSWELL: Mr. Chairman, motion for
8 approval.

9 CHAIRMAN: Motion by Mr. Boswell.

10 MR. JEAN: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 ITEM 13

15 Comments by the Chairman.

16 CHAIRMAN: Thank you tonight for such a good
17 meeting. Thank you for really looking at the issues
18 that came before us, particularly the ones we had to
19 study extensively. I think everyone did a good job
20 looking at it and making right decisions for the
21 community. I really appreciate everybody, what you
22 did on that particular agenda item.

23 ITEM 14

24 Comments by the Planning Commissioners

25 CHAIRMAN: Any of the Planning Commissioners

1 have any comments they would like to make?

2 (NO RESPONSE)

3 ITEM 15

4 Comments by the Director

5 MR. HOWARD: I just have one. We are hosting
6 an open house next Wednesday, the 19th, from 1 to 3
7 p.m. at our office at 200 East Third Street. That's
8 the Chase Bank Building, Commerce Center downtown, to
9 be on the third floor in the conference room upstairs.

10 Basically what we are going to provide is a
11 training opportunity to show anyone that would like to
12 learn more about our online GIS system an opportunity
13 to come and see how that works. Our online GIS, which
14 is on our website, allows you to look up things like
15 zoning, floodplain information, some basic property
16 information, things like that. So it's a good tool of
17 resource for people that may be looking at acquiring
18 property or whatever in the community. We encourage
19 the surveyors, and engineers, and appraisers, and
20 realtors, and those types of people to come because
21 they deal with this type of thing on a daily basis.

22 So that's next Wednesday at our office 1 to 3
23 p.m. Feel free to stop by, if anybody would like to.
24 Melissa is going to be doing the training. I think it
25 will be very valuable.

1 That's all I have.

2 CHAIRMAN: Thank you.

3 I too encourage anyone to stop by for that.
4 Some commissioners might have an opportunity to come
5 by. I'm going to try myself just to get more
6 familiarity with it.

7 We have one final motion.

8 MR. PEDLEY: Motion to adjourn.

9 CHAIRMAN: Motion by Mr. Pedley.

10 MR. MOORE: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: We are adjourned.

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