

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 MARCH 10, 2016

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, March
5 10, 2016, 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 Brian Howard, Director
11 Terra Knight, Attorney
12 John Kazlauskas
13 Lewis Jean
14 Beverly McEnroe
15 Manuel Ball
16 Larry Moore
17 Angela Hardaway

18 * * * * *

19 CHAIRMAN: I want to call the May 10, 2016
20 meeting of the Owensboro Metropolitan Planning
21 Commission to order. I welcome all of you this
22 evening to come be with us. We start every meeting
23 with a prayer and pledge to the flag. That will be
24 lead by Mr. Larry Boswell.

25 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Want to welcome all of you to our
meeting this evening. Before we get started I want to
welcome a new member to the Planning Commission.
Judge Al Mattingly has done us the honor of appointing

1 Angela Hardaway to the Commission.

2 Angela, we're very pleased to have you here.

3 I'm going to tell you what my wife told me. Did I not
4 have enough enemies already, when I served on this
5 commission. We make half the people happy and half
6 the people mad.

7 MS. HARDAWAY: Thank you.

8 CHAIRMAN: First of all, all of you received a
9 copy of the minutes in your packet. Are there any
10 corrections or additions to the minutes this evening?

11 (NO RESPONSE)

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

14 MR. MOORE: Make a motion to approve, please.

15 CHAIRMAN: Motion by Mr. Moore.

16 MR. KAZLAUSKAS: Second.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries.

21 -----

22 GENERAL BUSINESS

23 PUBLIC HEARINGS

24 ITEM 3

25 Consider adoption of proposed text amendments to
Article 21 of the Zoning Ordinance related to the

1 process of appointing the Downtown Design
2 Administrator.

3 MR. HOWARD: You all received a copy of the
4 changes proposed in Article 21. It's one change. It
5 basically is a change from the Downtown Design
6 Administrator who oversees the Downtown Overlay
7 District. That person is currently appointed by the
8 City manager. This proposed change would transition
9 that to it being appointed by the Planning Director.

10 Where that came from, we had discussions with
11 the City probably starting a couple of months ago, two
12 or three months ago. Ed Ray, the City Attorney, and
13 the Assistant City Manager approached us and asked if
14 we would be interested in potentially taking that
15 over. It was one of the recommendations from the
16 Mayor's Business Committee that was done a couple of
17 years ago. That position at some point transitioned
18 to the Planning office. We said, sure, whatever works
19 for you guys we'll be glad to take that into account
20 and work that into what we do.

21 We're excited about it. We think there's some
22 opportunity with the Downtown Design Administrator
23 being actually a contract position under our office
24 that we would have not only basically the Zoning
25 Administrator for Downtown, but also the Zoning

1 Administrator for the County all in one office. We
2 think that certainly is a benefit.

3 We met with the Historic Preservation Board
4 last week. Went over the process with them. Really
5 the role of the Historic Preservation Board does not
6 change. That Board is appointed by the City. The
7 Board would remain the same. Their function would
8 remain the same. The only thing that would be
9 different really is who appoints that Downtown Design
10 Administrator.

11 I see Nathan Nunley who is the current
12 Downtown Design Administrator is here tonight. After
13 doing this for several years now, Nathan is the first
14 one, he's decided to retire here probably at the end
15 of June. I think the City felt that this would be the
16 time to make that transition as he is leaving and we
17 bring somebody new on board.

18 Right now that position is a contract
19 position. It's part-time. We would foresee that that
20 would be the same.

21 Gary Adams is also here tonight. He's on the
22 Historic Preservation Board. At the Historic
23 Preservation Board meeting there was discussion that
24 he would like to participate as a representative of
25 the Historic Preservation Board. Also the fact that

1 he was also on the Planning Staff for 30 years. He
2 was on there forever. Gary understands planning.
3 He's got an architectural background. He understands
4 urban design. I think he would be great to do that as
5 well.

6 That's where we are. That's why this change
7 has come about. That's why we propose this text
8 amendment. It will have to be forwarded to the City
9 for them to take final action. That's what it is.

10 I'll be glad to answer any questions and,
11 gentlemen, if you all have any questions or comments
12 or anybody else for that matter.

13 CHAIRMAN: This is anticipated that this would
14 take place in time.

15 For those of you on the Board that doesn't
16 understand, the role that the Historic Preservation
17 Board serves for downtown is essentially Board of
18 Adjustments. The Board of Adjustment does not hear
19 those issues for the Downtown District. The
20 Preservation Board does. We felt like that was more
21 appropriate.

22 MR. HOWARD: Unless there's an additional
23 variance, and then the Board of Adjustment does still
24 hear it. They can allow those exceptions through the
25 design guidelines. Just wanted to clarify.

1 CHAIRMAN: Gary, would you like to make any
2 comments?

3 MS. KNIGHT: State your name, please.

4 MR. ADAMS: Gary Adams.

5 (GARY ADAMS SWORN BY ATTORNEY.)

6 MR. ADAMS: Thank you, Mr. Chairman.

7 The Historic Preservation Board is excited
8 about having potentially a closer relationship with
9 the Planning Staff regarding Downtown Design review.
10 Nathan has been a great administrator working through
11 the community development department office. Just for
12 information, community development will still be
13 serving as staff for the Historic Preservation Board
14 on matters other than being supervisor of the Downtown
15 Design Administrator. So everything should be
16 copacetic and we're looking forward to this new
17 arrangement.

18 CHAIRMAN: Thank you, Gary.

19 I must say, early on I was one of the folks
20 that enticed Nathan in to doing this job early on.

21 We can't even think about filling your shoes,
22 Nathan. You've done a tremendous job the past few
23 years and set a precedence that really made sure that
24 what we did to the downtown was done right. The
25 community owes you great deal of gratitude. Thank you

1 for your service. We appreciate it very, very much.

2 Any of the commissioners have any questions
3 about this?

4 Mr. Kazlauskas.

5 MR. KAZLAUSKAS: Just a housekeeping question.

6 Brian, is this going to be included in our
7 budget? Was the City paying that contract labor? Are
8 we going to have to pick that up?

9 MR. HOWARD: At this point, no, we will not
10 pick that up. We have an agreement that the City will
11 transfer additional funds to our office to pay for
12 this position for at least the next couple of years.
13 Potentially moving forward that was one of the things
14 discussed at the Historic Preservation Board meeting
15 the other day. We anticipate that that will be funded
16 by the City. It will be incorporated into our budget,
17 but it will be reflected in moneys that are sent to us
18 from the City.

19 MR. KAZLAUSKAS: That's good. Thank you.

20 CHAIRMAN: Thank you, Mr. Kazlauskas.

21 Any other questions?

22 (NO RESPONSE)

23 CHAIRMAN: Any members of the audience have a
24 question or concern about this item?

25 (NO RESPONSE)

1 CHAIRMAN: If not I assume we need to make a
2 motion to approve.

3 MR. HOWARD: Yes, we do.

4 MR. BOSWELL: Motion to approve.

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

6 MS. McENROE: Second.

7 CHAIRMAN: Second by Ms. McEnroe. Questions
8 or concerns about the motion?

9 (NO RESPONSE)

10 CHAIRMAN: All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion passes.

13 ITEM 4

14 Consider adoption of proposed text amendments for a
15 new Article 22 of the Zoning Ordinance related to
Overlay Districts

16 MR. HOWARD: Mike Hill is here and will have
17 some background information on this.

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

19 MR. HILL: Mike Hill.

20 (MIKE HILL SWORN BY ATTORNEY.)

21 MR. HILL: This is a new proposed Article 22
22 of the Zoning Ordinance. Its intent in general is to
23 be a location to house any future contemplated Overlay
24 Districts that the powers that be may feel are
25 necessary.

1 At this point in time there's one Overlay
2 District that's being proposed. It's titled Arena
3 Overlay District. It is specifically targeted to
4 address the it's Owensboro Sportscenter property and
5 potential development and/or future redevelopment.

6 The proposed text is attached to your Staff
7 Report. There's two pages of text that will be, as of
8 now, proposed to be Article 22. It was written by
9 OMPC Staff. Also reviewed by representatives of the
10 City of Owensboro. It touches on issues such as
11 permitted land uses, signage, parking, landscaping
12 requirements. It outlines a required development plan
13 review process. Requires master parking study that is
14 associated with the project in the Overlay District.
15 The Overlay District itself is defined as the entire
16 city block including the rights-of-way bounded by
17 Hickman Avenue, West 12th Street, Parkview Drive and
18 West Parrish Avenue. As I mentioned, the text is
19 included in your report.

20 FINDINGS OF FACT

21 The Staff recommends approval of the proposed
22 text amendments to Article 22 because the proposal is
23 in compliance with the community's Comprehensive Plan.
24 The findings supporting the recommendations follow:

25 1. Proposed Article 22 will encourage the

1 concentration of recreational, entertainment and
2 cultural uses to compliment the Owensboro
3 Sportscenter;

4 2. Proposed Article 22 will provide
5 additional recreational, entertainment and cultural
6 activities within the City of Owensboro and Daviess
7 County for the use and benefit of the citizens of the
8 City, County and region;

9 3. Proposed Article 22 will help maintain
10 Daviess County as a viable economic unit;

11 4. Proposed Article 22 assists in using the
12 fixed amount of land in Daviess County as wisely and
13 sparingly as possible;

14 5. Proposed Article 22 supports the
15 concentration of Daviess County's urban development
16 inside the Urban Service Area by reducing urban
17 sprawl;

18 6. Proposed Article 22 aids in the
19 coordination of urban development by providing well
20 thought-out plans and programs to properly maintain
21 existing, and to guide development of new buildings,
22 transportation, utility, supply, and waste disposal
23 facilities;

24 7. Proposed Article 22 encourages new urban
25 development near existing urban built-up areas through

1 public-private partnerships;

2 8. Proposed Article 22 helps to maintain and
3 improve the quality of existing urban neighborhoods
4 through building maintenance, rehabilitation, and
5 compatible replacement, and through improvement of
6 community facilities and services;

7 9. Proposed Article 22 encourages in-fill
8 development that maximizes the efficiency of existing
9 infrastructure and is designed to be compatible with
10 adjoining land uses;

11 10. Proposed Article 22 assures that
12 nonresidential uses in the neighborhood have adequate
13 space for future expansion and are designed so that
14 their traffic, parking, noise, odors, etcetera do not
15 conflict with residential uses;

16 11. Proposed Article 22 is an example of
17 flexible zoning criteria for existing redeveloping
18 neighborhoods as encouraged by the Comprehensive Plan;

19 12. Proposed Article 22 is supported by the
20 Comprehensive Plan statement regarding development
21 strategies and promoting the development of a
22 convention center/sports complex in the downtown area;
23 and,

24 13. Proposed Article 22 is an innovative
25 approach intended to improve an existing community

1 facility to benefit the citizens of the City, County
2 and region.

3 Staff requests that the Staff Report be
4 entered into the record as Exhibit A.

5 CHAIRMAN: Thank you, Mr. Hill. I have one
6 question.

7 The traffic area is included because?

8 MR. HILL: Traffic area meaning the
9 rights-of-way?

10 CHAIRMAN: Yes, rights-of-way.

11 MR. HILL: We added that to the area for the
12 potential use of on-street parking to be included in
13 the required master parking plan.

14 CHAIRMAN: Thank you.

15 Commissioners, any of you have any questions?

16 (NO RESPONSE)

17 CHAIRMAN: Anyone in the audience have any
18 questions?

19 (NO RESPONSE)

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

22 MR. BALL: Ready to make a motion, I believe.

23 CHAIRMAN: Mr. Ball.

24 MR. BALL: Make a motion to approve based on
25 Staff's Recommendations and Findings of Fact 1 through

1 13.

2 CHAIRMAN: We have a motion by Mr. Ball. Do
3 we have a second?

4 MR. JEAN: Second.

5 CHAIRMAN: Second by Mr. Jean. Questions or
6 concerns about the motion?

7 (NO RESPONSE)

8 CHAIRMAN: All in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: The motion passes. Thank you.

11 ITEM 5

12 Consider adoption of revisions to Chapter 5 of the
13 Public Improvement Specifications related to updated
sanitary sewer exhibits.

14 MR. HOWARD: Commissioners, you all received a
15 copy of some standard drawings that were prepared by
16 RWRA that have been updated to reflect what is
17 currently happening out in the field and that type of
18 thing. These were presented to the Public Improvement
19 Specification Committee when we last met. It was
20 unanimous amongst that group that they be considered
21 for approval. Once they're approved, we would
22 incorporate those into the existing PI Spec document
23 and these would effectively replace the existing
24 drawings that are in the PI specs.

25 CHAIRMAN: This one is beyond my ability to

1 understand when I looked at it.

2 Do any of the commissioners have any
3 questions?

4 Mr. Ball.

5 MR. BALL: Am I reading this right, Brian,
6 that basically what we're doing here is cleaning up
7 language in the existing ordinance to do exactly what
8 we originally intended to do, not allow anything but a
9 six inch --

10 MR. HOWARD: That's the next one.

11 MR. BALL: I'm a step ahead?

12 MR. HOWARD: RWRA drawing.

13 MR. BALL: Sorry. I'll ask it next.

14 CHAIRMAN: He withdraws that question.

15 Yes, Mr. Boswell.

16 MR. BOSWELL: More of a curious question. On
17 the revised Item 5, I'm assuming that that's really
18 just updating the communications network from what it
19 originally listed on the earlier drawing that we had
20 in our files. In the process with the wireless
21 service, is there any issue around with that being
22 below ground that that communication could be
23 interrupted in some way as well with it being below
24 ground?

25 MR. HOWARD: As Mr. Reeves said, that is

1 beyond. I mean this is what RWRA proposed and it's
2 their standard practice. It apparently works well for
3 them. We certainly would rely on them to prepare
4 information. Like I said, it was presented to the PI
5 Spec Committee. They all seem to agree that this was
6 an appropriate means to achieve the end goal.

7 CHAIRMAN: Was Mr. Pedley at that meeting, I
8 hope?

9 MR. HOWARD: He was.

10 CHAIRMAN: I feel better.

11 MR. HOWARD: Since you asked, I won't be able
12 to pull everybody off the top of my head, but Ward
13 Pedley was there. Mike O'Bryan was there. George
14 Ballard was there. Manuel Ball was there. Jim Riney
15 was there. Various utilities were there. I'm sure
16 I'm probably missing some others. I'm looking at Jim
17 Riney because he was at the meeting. RWRA, all the
18 different various utilities were there. City and
19 county engineer.

20 It's a group that they meet every year. We
21 always talk about the surety cost adjustments for
22 posting surety either in December or January of each
23 year. This was discussed amongst that same group of
24 experts and people in the field that do this type of
25 thing.

1 MR. BOSWELL: With that wealth of vast
2 knowledge I understand that this is a good decision.

3 CHAIRMAN: Any other questions?

4 (NO RESPONSE)

5 CHAIRMAN: Anyone in the audience have a
6 question or concern?

7 (NO RESPONSE)

8 CHAIRMAN: If not, then the chair will
9 entertain a motion.

10 MR. KAZLAUSKAS: Move that it be approved.

11 CHAIRMAN: We have a motion by Mr. Kazlauskas.
12 Do we have a second?

13 MR. BALL: Second.

14 CHAIRMAN: Second from Mr. Ball. Any
15 questions or concerns about the motion?

16 (NO RESPONSE)

17 CHAIRMAN: If not all in favor raise your
18 right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: That motion has passed.

21 ITEM 6

22 Consider adoption of revisions to Chapter 6 of the
23 Public Improvement Specifications related to fire
protection requirements.

24 MR. HOWARD: You all were given a copy of this
25 as well. This was another item that was addressed at

1 the meeting that we had. Harvey Henderson with the
2 fire department, he's here tonight to answer any
3 questions that you all may have. I'll try to give a
4 brief synopsis of where this came from.

5 Mr. Henderson approached us sometime last
6 year. This has been a periodic concern that's popped
7 up when you have new developments, road frontage lots
8 being cut off along existing county roads, they can do
9 a major/minor subdivision. The only requirement is to
10 post surety for fire hydrants. We believe the intent
11 was when the regulation was written that if you didn't
12 have a 6 inch line that you had to extend the 6 inch
13 line and put the fire hydrant on a 6 inch line. That
14 is what's needed to provide adequate fire protection,
15 water pressure for hydrants. It seems as though
16 there's been a loophole discovered where instead of
17 extending 6 inch line and replacing line so that it's
18 adequate in size, the way that the regulation is
19 currently written, in theory you could go in and
20 replace a very short portion of the existing 4 inch
21 line with a 6 inch line and you're technically putting
22 your fire hydrant on a 6 inch line, but it doesn't
23 meet the intent of what the subdivision regulation was
24 in order to provide adequate fire protection, water
25 pressure, flows out to these fire hydrants within the

1 county. That's where this came from.

2 Again, this was presented at the committee.

3 At that time there was discussion on it. No one there
4 objected to the change. Again, we feel like it's
5 cleaning up what the original intent was.

6 As I said, Mr. Henderson is here. He can
7 answer questions. Feel free to get up and correct me
8 or provide clarification if need be.

9 CHAIRMAN: Mr. Henderson, do we need further
10 clarification?

11 MR. HENDERSON: No, sir. He explained it very
12 well.

13 CHAIRMAN: Any commissioners have any
14 questions on this item?

15 Mr. Ball.

16 MR. BALL: I think Brian answered my first
17 question, but I do have another question. I guess
18 this may be for Harvey.

19 Is there any possibility that a 4 inch main
20 will work in this particular scenario? We want to be
21 careful that we don't at least ask that question as
22 far as flow.

23 CHAIRMAN: Mr. Henderson, if you don't mind to
24 address that question for us, please.

25 MS. KNIGHT: Sir, would you please state your

1 name for the record.

2 MR. HENDERSON: Harvey Henderson.

3 (HARVEY HENDERSON SWORN BY ATTORNEY.)

4 MR. HENDERSON: To answer your question,
5 Manuel, as far as the way the ordinance read, you
6 could expand, with what Brian said, you could expand
7 from 4 inch to a 6 six inch and put that hydrant on a
8 6 inch. You could put a 20 foot section running
9 parallel with a 4 inch main and actually replace that
10 hydrant. Minimum requirements in a rural area is 250
11 gallons a minute. You say that's a lot of water, but
12 it's really not a lot of water when you're in the
13 midst of fighting a structural fire. Plus depends on
14 what time of day it is, how much water is being used,
15 things like that.

16 To answer your question about the 4 inch.
17 Yes, it's possible. However, I think we're moving
18 forward in Daviess County. We've got great fire
19 trucks and we've got great fire service. But if we
20 don't have the water to supply water to fight those
21 structure fires, and also too you've got to figure
22 your insurance rating and things like that.

23 We think that going away from that loop hole,
24 and that's what I called it when I met with Brian
25 talking about that. That loop hole, going away from

1 that, I think we can, if we allow this to keep going,
2 you know, future projects down the road we're still
3 going to be stuck with that 4 inch water main going
4 there and it's not going to be adequate water supply
5 to those subdivisions in that area. So I don't want
6 to cause any undue hardship on any developer, as far
7 as putting new water lines in, but then again we're
8 still thinking about the emergency situation as far as
9 water supply and future development.

10 MR. BALL: Thank you.

11 CHAIRMAN: Does that address your question?

12 MR. BALL: Yes, it does.

13 CHAIRMAN: Any other commissioners have any
14 questions of Mr. Henderson?

15 (NO RESPONSE)

16 CHAIRMAN: Anyone in the audience have any
17 questions?

18 (NO RESPONSE)

19 CHAIRMAN: Or do any of the commissioners have
20 any questions on any other issue with regard to this
21 revision?

22 (NO RESPONSE)

23 CHAIRMAN: If not, then the chair will
24 entertain a motion.

25 Mr. Jean.

1 MR. JEAN: I'd like to make a motion it be
2 approved.

3 CHAIRMAN: We have a motion by Mr. Jean.

4 MS. McENROE: Second.

5 CHAIRMAN: Second by Ms. McEnroe. Questions
6 or concerns about the motion?

7 (NO RESPONSE)

8 CHAIRMAN: All in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Thank you, Mr. Henderson, very,
11 very much.

12 MR. HOWARD: I will note that the zoning
13 changes heard tonight will become final 21 days after
14 the meeting unless an appeal is filed. If an appeal
15 is filed, we will forward the record of the meeting
16 along with all the appropriate materials to the
17 appropriate legislative body for them to take final
18 action. The appeal forms are located on the back
19 table here, they're in our office and on our website.

20 ZONING CHANGES

21 ITEM 7

22 1830 Alexander Avenue & A Portion of 1715 East 19th
23 Street, 0.139 acres
24 (POSTPONED FROM FEBRUARY 11, 2016 MEETING)
25 Consider zoning change: From B-4 General Business to
R-4DT Inner City Residential
Applicant: Bobby Roberts

1 PLANNING STAFF RECOMMENDATIONS

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

4 CONDITIONS

5 1. Approval of a minor subdivision plat
6 dividing the residential zoned portions of the subject
7 property from the commercial zoned portions. The
8 residential zoned areas shall be consolidated into a
9 single parcel and the commercial zoned areas shall be
10 consolidated into a single parcel.

11 2. Approval of a variance eliminating the
12 required landscaping and buffering and approval of a
13 variance to reduce the side yard building setback
14 requirement from 5' to 1' from the property line.

15 FINDINGS OF FACT

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

19 2. The subject property is partially located
20 in a Central Residential Plan Area, where
21 single-family residential uses are appropriate in
22 general locations, and partially located in a
23 Business/Industrial Plan Area, where single-family
24 residential uses are generally not recommended;

25 3. The proposed use meets the requirements

1 for urban residential development; and,

2 4. The residential structure on the subject
3 property has been used as a residence since it was
4 constructed in 1943.

5 MR. HILL: Staff recommends approval. We
6 would ask the Staff Report be entered into the record
7 as Exhibit B.

8 CHAIRMAN: Anyone here representing the
9 applicant?

10 (NO RESPONSE)

11 CHAIRMAN: Who dealt with the applicant?

12 MR. HILL: I did.

13 CHAIRMAN: I have a question for you, Mr.
14 Hill.

15 Did the applicant understand the requirements
16 of the conditions that were in your report?

17 MR. HILL: They received the report. We did
18 not hear any negative response from them.

19 CHAIRMAN: Very good.

20 Any commissioners have any questions on this
21 item?

22 (NO RESPONSE)

23 CHAIRMAN: Anyone in the audience have any
24 questions on this item?

25 (NO RESPONSE)

1 CHAIRMAN: If not the chair will entertain a
2 motion.

3 MR. MOORE: Mr. Chairman, I move for approval
4 with the Conditions 1 and 2 and Findings of Fact 1
5 through 4.

6 CHAIRMAN: We have a motion by Mr. Moore. Do
7 we have a second?

8 MR. BOSWELL: Second.

9 CHAIRMAN: Second by Mr. Boswell. Any
10 questions or concerns about the motion?

11 (NO RESPONSE)

12 CHAIRMAN: If not all in favor raise your
13 right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: It is approved.

16 RELATED ITEM

17 ITEM 7A

18 1830 Alexander Avenue & 1715 East 19th Street, B-4 and
19 proposed R-4DT

20 Consider a request for a Variance to eliminate
21 required landscaping and buffering and a Variance to
22 reduce a side yard building setback line from 5' to 1'
23 from the property line

21 Reference: Zoning Ordinance, Article 17,
22 Section 17.3111(b)

22 Reference: Zoning Ordinance, Article 8,
23 Section 8.5.16(d)

23 Applicant: Bobby Roberts

24 MR. HILL: This application obviously is
25 related to the rezoning request we just considered.

1 The applicant's intent and the whole idea was to
2 separate the residential used portions of the property
3 from the commercially used portions.

4 Previously zoned B-4, there's a residence on
5 the property that was constructed in 1943 according to
6 PVA records. There were three commercially used
7 structures on the property as well. Built all since
8 1982.

9 In order to achieve the results, a rezoning
10 was required. Number two, he needed to reconfigure
11 how the two parcels were shaped. Currently are kind
12 of north/south oriented, two side-by-side parcels as
13 you can see on the screen.

14 The proposed reconfiguration will kind of
15 change that to an east/west orientation of the two
16 lots.

17 The new rezoning line that also will be the
18 new parcel line traversing the property along where
19 you see the green highlighted area. It triggers some
20 new requirements that didn't exist before when the
21 entire property was zoned B-4.

22 The green area is a newly required 10 foot
23 landscape buffer area. The applicant is requesting a
24 variance of that area and the required plantings and
25 screenings that would be placed in it.

1 The orange highlighted area is the building
2 setback variance that now is triggered once the new
3 property line is inserted in that location and is
4 differing boundaries with classification on each side.
5 So the orange you see, the first 4 feet of that
6 building that's an existing two-story commercial
7 building is within the 5 foot required side yard
8 setback. That is a new setback.

9 The building, this is the area between, on the
10 left in the picture you see the residential structure.
11 Then there's a void. On the right is the commercial
12 building that's been there since the '80s. It's a
13 two-story solid concrete wall block building. That is
14 the area where the required screening is requested to
15 be removed or eliminated.

16 The Staff does not feel there is a hardship in
17 this case; however, if the rezoning and the variances
18 were not requested they still could proceed to use the
19 residential property as they have for many, many
20 years, but the desire by the applicant is to sever the
21 residential structure from the commercial used
22 portions of the property.

23 Staff does recommend approval of the variances
24 mentioned. The findings of fact are as follows:

25 FINDINGS OF FACT

1 1. Granting the variance will not adversely
2 affect the public health, safety or welfare because
3 the requested variances will not alter the existing
4 pattern of development in this area that citizens have
5 long since become accustomed to;

6 2. Granting the variance will not alter the
7 essential character of the general vicinity since
8 these properties have already been used in this manner
9 for many years and the adjacent residents should not
10 notice any visible changes in the activities occurring
11 on the property;

12 3. Granting the variance will not cause a
13 hazard or a nuisance to the public as there will still
14 be adequate space for pedestrian movement around the
15 property perimeter for access to and maintenance of
16 the structures;

17 4. Granting these variances will not allow an
18 unreasonable circumvention of the requirements of the
19 zoning regulations and furthermore the associated
20 rezoning request will eliminate a long established
21 nonconforming use.

22 MR. HILL: Staff recommends approval. We
23 request the Staff Report be entered into the record as
24 Exhibit C.

25 CHAIRMAN: Thank you, Mr. Hill.

1 As many of you on the Board know, we don't
2 very often hear a variance because these are typically
3 heard by the Board of Adjustments, but in cases where
4 a rezoning and a variance are connected, it's
5 appropriate to help the developer if we do hear the
6 variance. I will remind the board members this does
7 require a finding of fact. You will get some help on
8 the findings of fact on the back of the first page, if
9 you need to make a motion.

10 Any questions from the board on this?

11 (NO RESPONSE)

12 CHAIRMAN: Any questions or concerns from the
13 audience?

14 (NO RESPONSE)

15 CHAIRMAN: Then the chair will entertain a
16 motion.

17 Mr. Boswell.

18 MR. BOSWELL: Make a motion for approval based
19 on the variance Staff Review to inclusive of the
20 considerations listed in the review and the Findings
21 of Fact 1 through 4.

22 CHAIRMAN: We have a motion from Mr. Boswell.
23 Do we have a second?

24 MR. KAZLAUSKAS: Second.

25 CHAIRMAN: Second by Mr. Kazlauskas. Concerns

1 or questions about the motion?

2 (NO RESPONSE)

3 CHAIRMAN: All in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: It does pass unanimously.

6 ITEM 8

7 301 Breckenridge Street, 0.22 acres
Consider zoning change: From B-4 General Business to
8 I-1 Light Industrial
Applicant: Owensboro Grain Company, LLC

9

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

12 MS. EVANS: Melissa Evans.

13 (MELISSA EVANS SWORN BY ATTORNEY.)

14 PLANNING STAFF RECOMMENDATIONS

15 The Planning Staff recommends approval subject
16 to the findings of fact that follow:

17 FINDINGS OF FACT

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

21 2. The subject property is located in a
22 Business/Industrial Plan Area where Light Industrial
23 uses are appropriate in general locations;

24 3. The proposed use conforms to the criteria
25 for nonresidential development; and,

1 4. With a 6 foot tall solid wall or fence
2 installed around the perimeter of any outdoor storage,
3 the site will comply with the buffers for outdoor
4 storage yards.

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

7 CHAIRMAN: Anyone here representing the
8 applicant?

9 MR. MATTINGLY: Yes.

10 CHAIRMAN: Do you have any comments you would
11 like to make, sir?

12 MR. MATTINGLY: I do not.

13 CHAIRMAN: Thank you very much.

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

16 CHAIRMAN: Yes, Mr. Boswell.

17 MR. BOSWELL: Just a couple of questions.
18 Maybe you're not at liberty to even provide the
19 information at this point.

20 In the report, application we have says that
21 "The subject property is located within the 5 year
22 estimated time travel area of the Owensboro Wellhead
23 Protection area, and according to OMU, if the property
24 will have or produce anything that can contaminate the
25 soil they must have a Wellhead Protection Plan."

1 Do you have any sense at this point on what
2 would go in that location if it were rezoned?

3 CHAIRMAN: Sir, would you mind to step to the
4 podium, if you don't mind, so we can swear you in.

5 Let me just say, we would appreciate you
6 answering questions, but you certainly are not
7 required to answer questions if you chose not to.

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

10 MR. MATTINGLY: Bill Mattingly.

11 (BILL MATTINGLY SWORN BY ATTORNEY.)

12 MR. MATTINGLY: Could you repeat the question?

13 MR. BOSWELL: Yes. I was just curious, it
14 says proposed use grain bins and warehouse storage.
15 It makes mention to the possibility of producing
16 something. Is there anything other than grain or
17 what's going to be stored in those?

18 MR. MATTINGLY: Actually there will be nothing
19 -- we're just going to use it for additional storage.
20 There will be no processing.

21 MR. BOSWELL: Associated to that, will there
22 be any type of drying capacity there for grain or
23 anything such as fans?

24 MR. MATTINGLY: It's possible.

25 MR. BOSWELL: Would there will be any issue as

1 far as the amount of noise that that would produce
2 with the residential areas that are close by?

3 MR. MATTINGLY: I'm not sure how to answer
4 that question. Whatever goes in will be reviewed by
5 the Division of Air Quality. There is a certain noise
6 standard you have to meet.

7 MR. BOSWELL: Thank you.

8 CHAIRMAN: Any other questions?

9 (NO RESPONSE)

10 CHAIRMAN: Thank you very much. Appreciate
11 those responses.

12 Any other questions from the audience?

13 Mr. Adams.

14 MR. ADAMS: Mr. Chairman, I was wondering if
15 you could ask, there is a building that used to be an
16 office building or has been an office building there.
17 Is that incorporated in this rezoning change?

18 CHAIRMAN: Mr. Howard.

19 MR. HOWARD: Are you asking if they're going
20 to keep the existing structure that is there or is it
21 coming down?

22 MR. ADAMS: Yes. In the application does it
23 identify if there are any plans for that building?

24 MR. HOWARD: I do not know.

25 CHAIRMAN: Sir, do you want to respond to

1 that? I hate to ask you to step up. We have
2 everything on record so I feel like I have to ask you.

3 Did you understand Mr. Adams' question?

4 MR. MATTINGLY: His question I believe was
5 what might happen to the old Owensboro Wagon Factory
6 building. We're not sure that the Wagon Factory
7 building will have to go, but that's certainly a
8 possibility. We've had a couple of engineers look at
9 it over the years and it's not in very good shape.

10 CHAIRMAN: Mr. Adams, does that answer your
11 question?

12 MR. ADAMS: Yes.

13 CHAIRMAN: Thank you, sir.

14 Did you want to make any other comments,
15 Mr. Adams?

16 MR. ADAMS: If I may, sir.

17 CHAIRMAN: Absolutely.

18 MR. ADAMS: I'm just wanting to have it on
19 record that even though that building was built about
20 1900, I think it's probably the last remaining
21 historic structure that related to Owensboro Wagon
22 Factory in that entire complex. I know that the
23 historic Preservation Board has not really taken any
24 look at it. It's not, as far as I know, it's not
25 recognized as a historic building formally for any

1 reason. We would certainly, I think, encourage
2 Owensboro Grain to preserve it if possible for the
3 future because of its significance historically with
4 Owensboro Wagon Company. Thank you.

5 CHAIRMAN: Thank you for your comments. We
6 appreciate it very much.

7 Anyone else have any questions or concerns
8 about this application?

9 (NO RESPONSE)

10 CHAIRMAN: If not the chair will entertain a
11 motion.

12 MR. BALL: Mr. Chairman, I'd like to make a
13 motion.

14 CHAIRMAN: Mr. Ball.

15 MR. BALL: I'd like to make a motion to
16 approve based on Staff's recommendations and Findings
17 of Fact 1 through 4.

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

20 MS. McENROE: Second.

21 CHAIRMAN: We have a second by Ms. McEnroe.
22 Any questions or concerns about the application?

23 (NO RESPONSE)

24 CHAIRMAN: If not all in favor raise your
25 right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: The application is approved. Thank
3 you.

4 ITEM 9

5 2107 Frederica Street, 0.196 acres
6 Consider zoning change: From R-4DT Inner City
7 Residential to B-4 General Business
8 Applicant: Crab Properties, LLC; Alice Durand Estate
9 c/o Mary Mattingly

10 PLANNING STAFF RECOMMENDATIONS

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

13 CONDITIONS

14 1. The existing access to Frederica Street
15 shall be closed with the curb and gutter removed and
16 the grass strip and sidewalk restored.

17 2. Access to the subject property shall be
18 limited to the alley to the rear of the property.

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 in a
24 Professional/Service Plan Area where General Business
25 uses are appropriate in very limited locations;

3. The proposed use conforms to the criteria
for nonresidential development;

1 4. This proposal is a logical expansion of
2 B-4 zoning to the north;

3 5. At 0.196 acre the proposal is not a
4 significant increase in B-4 zoning in the vicinity;
5 and,

6 6. With access limited to the alley to the
7 rear of the property the proposal will not overburden
8 the capacity of roadways and other necessary urban
9 services that are available in the affected area.

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

12 CHAIRMAN: Thank you very much.

13 Is anyone here representing the applicant?

14 MR. RUTMAN: Yes.

15 CHAIRMAN: I have one question for you, if you
16 don't mind.

17 MS. KNIGHT: Please state your name for the
18 record.

19 MR. RUTMAN: Ryan Rutman.

20 (RYAN RUTMAN SWORN BY ATTORNEY.)

21 CHAIRMAN: Do you understand Conditions 1 and
22 2 and are prepared to do those?

23 MR. RUTMAN: Yes, sir.

24 CHAIRMAN: That's my question.

25 Any other commissioners have any questions of

1 the applicant?

2 MR. BOSWELL: Yes.

3 CHAIRMAN: Mr. Boswell.

4 MR. BOSWELL: Also in our report, it makes
5 mention to the applicant being required to provide the
6 property perimeter screening along the southern
7 property boundary where it's adjoining residential
8 properties. Any issue with that?

9 MR. RUTMAN: No, sir.

10 MR. BOSWELL: Thank you.

11 CHAIRMAN: Sir, we'll recognize you in just
12 one moment.

13 Anybody else have any questions of the
14 applicant?

15 (NO RESPONSE)

16 CHAIRMAN: Anyone else like to speak?

17 Yes, I believe you wanted to make a comment.
18 Come to the podium please if you do. Sorry to ask you
19 to do that, but we have to get it recorded.

20 MS. KNIGHT: State your name, please.

21 MR. WOOLFOLK: Bill Woolfolk.

22 (BILL WOOLFOLK SWORN BY ATTORNEY.)

23 MR. WOOLFOLK: I am the owner of the original
24 1920, 1930 properties, Number 3, 4 and 5 in the 2100
25 block of Frederica Street now designated as one lot,

1 2119 Frederica Street. I have several questions in
2 regards to all of this usage.

3 Has the sale of the property been closed? Do
4 we know that the closing sale of this property has
5 been realized and that at this time we are discussing
6 what use of the Durand Estate may be allowed by this
7 board?

8 CHAIRMAN: Mr. Howard, I defer to you on that.

9 MR. HOWARD: We're not aware of whether or not
10 the property is closed or not.

11 CHAIRMAN: Sir, do you mind to respond to
12 that.

13 MR. RUTMAN: The sale is closed, yes.

14 CHAIRMAN: Your second question was, sir?

15 MR. WOOLFOLK: I have several more here.

16 Do you have a list of B-4 businesses --

17 CHAIRMAN: Sir, what was your second question
18 you asked?

19 MR. WOOLFOLK: Has the sale of this property
20 been closed? Do we know the closing property has been
21 realized and at this time we are discussing what use
22 of the Durand Estate property may be allowed by this
23 board.

24 CHAIRMAN: I think, Mr. Howard, you can
25 address that, can't you?

1 MR. HOWARD: I guess that parlays into I guess
2 the third question you asked, list of uses that would
3 be potential in that B-4 zone.

4 MR. WOOLFOLK: Yes. What businesses may be
5 considered for use on the Durand Estate property? I
6 had acquired that information at an earlier time, but
7 in my old age and my tendency to misplace things and
8 not find them again, I seem to have lost this
9 information.

10 MR. HOWARD: In Article 8 of the Zoning
11 Ordinance, Article 8 is the Land Use section of the
12 Zoning Ordinance and there's a chart that has various
13 land uses and what land uses are permitted
14 principally, which would mean by right. Conditionally
15 permitted, which would mean that it could potentially
16 happen, but it goes before the Board of Adjustments to
17 make sure that that use could properly integrate into
18 the neighborhood. The ordinance has a list of what is
19 permitted in a B-4 zone.

20 MR. WOOLFOLK: Am I too late to peruse that
21 and ask questions about what businesses can be used on
22 that property? I understand it's probably about 500
23 feet from Senior High so nothing like a liquor store
24 or a Triple X sex shop or something like that will be
25 able to be put in there, but I do not know. Mr.

1 Rutman has been talking to me. He has said that he
2 wanted to put realty in there. I had seen that piece
3 of paper you're talking about before and there is
4 everything from God knows whatever to whatever. I
5 wanted to be sure.

6 This is my question here: Not knowing if I
7 may do so, I am here to question what sort of business
8 can be allowed on the Durand Estate property both now
9 and in the future?

10 CHAIRMAN: Mr. Woolfolk, let us address that
11 one, if you don't mind.

12 Why don't you come up here. We'll let you
13 borrow this mike where you can hear us better.

14 MR. WOOLFOLK: Can you hear me?

15 CHAIRMAN: Yes. You come up here where we can
16 hear you. You come up here and use her mike and that
17 way you can hear us better.

18 MR. WOOLFOLK: I've made a list of things that
19 I thought about in regards to going to B-4. I do not
20 know -- actually first this had been considered as B-4
21 what would it be? Like an accountant or a lawyer or a
22 doctor or something like that. What would that be?

23 CHAIRMAN: Mr. Woolfolk, I think here is the
24 answer to your question essentially. Anything that is
25 allowed in B-4 under that ordinance would be allowed

1 should the applicant choose to do it, to put on that
2 property. Anything that is not allowed, he would have
3 to come before the Owensboro Metropolitan Board of
4 Adjustment and ask for a conditional use permit. The
5 Board of Adjustment might or might not grant that,
6 depending on whether or not they thought it fits the
7 neighborhood and also at that time any neighbors would
8 have an opportunity to oppose that being put in there.

9 MR. WOOLFOLK: Okay. The future uses is what
10 I would consider. I have no quarrel with the realty.

11 CHAIRMAN: I understand. The future uses,
12 this board has no authority over whatsoever. Anything
13 that would be allowed in B-4, if this gentleman
14 decided to sell it, if it was allowed in B-4, the next
15 owner could put it there or they could come and apply
16 again for a conditional use permit, but they can only
17 put in there what is allowed. He would have no
18 control over what a subsequent purchaser put in there
19 unless he made that a condition of the sale. The only
20 thing we can do is tell you if it's approved he can
21 put any business in there that's allowed under the
22 ordinance and would have to come for a conditional use
23 permit if it's not allowed under the ordinance.

24 MR. WOOLFOLK: The major thing here is I would
25 like to address some possible improvements I would

1 favor in regard to the Durand Estate property at this
2 time.

3 CHAIRMAN: Such as?

4 MR. WOOLFOLK: Can I do that? I don't want to
5 take up everybody's time.

6 CHAIRMAN: You're not taking up our time. We
7 just want to make sure that it's something we can
8 appropriately look at.

9 MR. WOOLFOLK: Basically it's about fencing
10 and signs.

11 CHAIRMAN: Mr. Howard, I think that would be
12 addressed under the ordinance already, isn't it,
13 what's required?

14 MR. HOWARD: Right. The ordinance will
15 require between the subject property and your property
16 a 6 foot tall solid fence.

17 MR. WOOLFOLK: That's required?

18 MR. HOWARD: That is required by the
19 ordinance, yes, with one tree every 40 linear feet on
20 average.

21 MR. WOOLFOLK: Is that on his side of the
22 property?

23 MR. HOWARD: It would. With that being said,
24 just so you know, the trees don't have to be 40 foot,
25 40 foot, 40 foot. They could cluster two or three in

1 the back and two or three in the front. If you had
2 200 feet there, they have to have five total trees.
3 They could have three in the back and two in the
4 front, as long as they're along that boundary and you
5 have a total number that would work.

6 That would be what the screening requirement
7 would be, would be that 6 foot solid element and a
8 tree every 40 feet.

9 MR. WOOLFOLK: Now, could he put a sign on
10 that screen? He had come to me talking about a wall.
11 He wanted a high wall. Okay. Is he planning on
12 putting up a sign on that south wall? Look, my
13 bedroom is on the north side of my property, which is
14 the south side, faces his south side where that wall
15 would be. Is he going to put or can he put up a sign
16 saying this is so and so realty company? In other
17 words, I do not want, I would prefer not to have
18 anything that is going to delineate what that property
19 is except maybe he could have something that shows
20 toward Frederica Street.

21 Secondly, because my bedroom is there I do not
22 want to have, talking about not only signs but
23 lighting. I don't want to have anything on that wall
24 where it's going to bother my sleep at night.

25 MR. HOWARD: As far as signs, in a commercial

1 zone you're allowed to have signage. Whether or not
2 he would place -- in theory you could have signage on
3 that fence.

4 MR. WOOLFOLK: He could have signage.

5 MR. HOWARD: But he's here tonight and that's
6 certainly something that --

7 CHAIRMAN: We could ask him if he plans to put
8 signage on that. Let me ask him.

9 Have you figured out whether you want to put
10 signage on the south side of your fence?

11 MR. RUTMAN: Anything I did for myself or
12 anyone it would be, it would fit with every other
13 business in the area as far as signage. Sign in the
14 yard and that's it. It wouldn't be anything beyond
15 that.

16 CHAIRMAN: Thank you.

17 MR. WOOLFOLK: That would be on the north side
18 of this property also. They have a sign out front.
19 That's basically what you're talking about?

20 MR. RUTMAN: Yes.

21 MR. HOWARD: I guess the follow up would be,
22 would you be willing to be commit to not have any
23 lighting that would be on the fencing that would be
24 shining to the south towards the adjoining property?
25 Direct any lighting away from the adjoining

1 residential?

2 MR. RUTMAN: The only thing I think of with
3 lighting would be if we have a landscape buffer, I
4 sell real estate, something to kind of show off the
5 landscaping maybe. That would be about it.

6 CHAIRMAN: Kind of up lighting to show off.

7 MR. RUTMAN: Exactly. I'm just saying that
8 would be the only thing.

9 CHAIRMAN: Okay.

10 MR. WOOLFOLK: I looked at several realty
11 companies in the area and other businesses in the 2000
12 block and they had very nice looking signs, low. They
13 all could have been lit at night. I see no reason why
14 they wouldn't want to have a lit sign at night anyway.

15 Going back to what you said about 5 trees and
16 200 feet or something, three in the back, two in the
17 front, vice versa. You have that whole house which is
18 100 feet deep. You would have no trees between it and
19 my property; is that correct?

20 MR. HOWARD: They can be clustered. It would
21 be up to the property owner to determine where they
22 would be put.

23 MR. RUTMAN: I have no way to answer that
24 question right now.

25 CHAIRMAN: I'm assuming, for him, he wants to

1 place those trees so they enhance the value of his
2 property and make it look nice.

3 MR. WOOLFOLK: Yes, and I agree with that.

4 CHAIRMAN: Do you have any other questions,
5 Mr. Woolfolk?

6 MR. WOOLFOLK: I have a bunch of them, but
7 that's all right.

8 CHAIRMAN: If there's something else that you
9 have that we need to hear, we'll certainly be happy to
10 do that.

11 MR. WOOLFOLK: If anybody wanted to read what
12 I have here, that would explain everything that I have
13 any questions about.

14 CHAIRMAN: Thank you, sir.

15 May I say, we all fondly remember your father
16 very, very much.

17 MR. WOOLFOLK: Thank you very much.

18 CHAIRMAN: He was a wonderful physician and a
19 wonderful citizen of this community.

20 MR. WOOLFOLK: Both he and I appreciate what
21 you just said. Thank you very much.

22 CHAIRMAN: Thank you.

23 MR. RUTMAN: I would like to say, I do sell
24 real estate. I plan to for a long time. Yes, that
25 property could be my office at some point. Whether

1 that's immediate or five years from now or ten years
2 from now, I don't know that. I just wanted to clarify
3 that for Mr. Woolfolk and you guys.

4 CHAIRMAN: Thank you.

5 Commissioners, do we have any other questions?

6 (NO RESPONSE)

7 CHAIRMAN: Are there any other questions?

8 (NO RESPONSE)

9 CHAIRMAN: Any other questions from anyone in
10 the audience?

11 Yes, sir.

12 MS. KNIGHT: State your name for the record,
13 please.

14 MR. PICKRELL: Scott Pickrell.

15 (SCOTT PICKRELL SWORN BY ATTORNEY.)

16 MR. PICKRELL: I don't have any notes with me
17 so I'm going to do it right off the top of my head.
18 I've got some comments and I'll try to make it brief.
19 I'm fighting a head cold so I apologize for that.

20 This house here, I've been looking at it for a
21 while. It's been on the market for a while, and I've
22 been looking at it for a while to live there. I
23 currently live in Utica. I've recently retired and
24 looking to move back to Owensboro, to town, and I
25 found this house. I really liked it. So I've been

1 kind of pursuing it, but I have looked at some other
2 houses as well, and I keep coming back to this
3 particular one.

4 Try to cut this thing as short as possible,
5 but I made an offer on the house because I wanted to
6 live there. I'm by myself and I just wanted to live
7 there. I was told at some point there was already an
8 offer on the house. I know maybe the committee
9 doesn't hear some of this is not relevant maybe, but
10 just trying to give you a little background of where I
11 am. Was told there was already a contract on it
12 contingent that it was rezoned. I went ahead and made
13 my offer. About two days later another realtor, I
14 know Mr. Rutman works for a realtor, another realtor
15 that I was working with came back said that the seller
16 had counter offered my offer. I made an offer. They
17 countered back. She said there's a time limit, you
18 know, and so forth. I don't understand realty deals
19 anyway. At the last minute I assume Mr. Rutman got a
20 signature that he needed so this could be, you know,
21 so rezoning could go forward. I was told -- well, up
22 to that point I was told I got it. You know, he's not
23 going to get it done. Time is going to run out on
24 him. He's not going to get it rezoned, but he got
25 this signature he needed at the 11th hour. Then I was

1 told you didn't get it. Well, I raised a big fuss
2 about it because I thought I was getting thrown under
3 the bus. I found out more information and I'm not, I
4 don't mean to be talking bad about Mr. Rutman because
5 I'm sure he's a fine gentleman, but he works for
6 another realtor and there was something there. There
7 was blood in the water there somewhere. I just feel
8 like there's some politics there because the seller
9 had countered back to me and it looks like to me under
10 my, you know, I don't have much knowledge in this
11 respect, like I said, but it looks like to me if she
12 countered back to me that she liked my offer, the
13 Durand party, the estate party countered back to me.
14 That once she did that, the game was over. It's my
15 house, but I was told that, no. At the same time I
16 went in the office of the realtor I was working with
17 and they told me that, well, Mr. Rutman has dropped
18 his contingency and he's going to buy the house
19 outright. Which maybe is what he did, but the way I
20 look at it if that is the case, it was originally
21 contingent that he got it rezoned. Then all of a
22 sudden he changed the rules in the middle of the game.
23 To me it looked like it was two realtors, there was
24 some politics involved here and I was in the middle of
25 it.

1 I'm going to try to pair this down as much as
2 I can. Just so you'll know, and I don't know if this
3 holds any bearing as far as this committee goes or
4 not, but I thought, what can I do? I want this house,
5 you know. I wanted it. I wanted to live there. It
6 was just what I had in mind. I thought, let's go talk
7 to some neighbors. I don't know if this is relevant
8 or not. I don't know if you can take hearsay here.

9 CHAIRMAN: No, we can't. Let me just say
10 this, Mr. Pickrell, and I don't want to cut you short.
11 I understand your frustration.

12 This board would have no authority, and quite
13 honestly no interest in what is taking place among
14 realtors. If you have a concern with that, you need
15 to address that to the Realtor Association or the
16 State Board of Realtors. We're hearing this on the
17 merits of the property and not with regard to any
18 possible sales or whatever. You're welcome to speak
19 if you want to, but I will tell you what you're saying
20 really doesn't impact our decision whatsoever.

21 MR. PICKRELL: I understand. I understand.

22 As far as the hearsay, what the neighbors said
23 --

24 CHAIRMAN: We don't want to hear the hearsay.
25 We can't hear it.

1 MR. PICKRELL: At what point can I get their
2 documentation?

3 CHAIRMAN: Mr. Pickrell, it wouldn't make any
4 difference to us anyway regardless of what the
5 neighbors say.

6 MR. PICKRELL: As far as what they think about
7 it going residential?

8 CHAIRMAN: No, sir. They had the right to
9 come here this evening. They were notified and they
10 chose not to come forward. We're simply here to hear
11 the issue for the rezoning.

12 MR. PICKRELL: One gentleman is here. He may
13 have left.

14 CHAIRMAN: Mr. Woolfolk made his concerns
15 known. We listened to Mr. Woolfolk. His concerns
16 will be considered. We haven't approved this yet.
17 Okay. We're still waiting for a vote. Any issues
18 among realtors and possible buyers is not an issue
19 that this board can or would get involved in. That
20 would be inappropriate for us do that. I know it's
21 frustrating to you, but we simply can't do that.

22 MR. PICKRELL: Are you allowed to give me
23 advice on --

24 CHAIRMAN: No, sir.

25 MR. PICKRELL: -- what would be my next move

1 here? There is a 21 day waiting period afterwards?

2 CHAIRMAN: That's right.

3 MR. PICKRELL: And I can file a complaint?

4 CHAIRMAN: Understand now when you file that
5 complaint you're going to have to have reason that
6 relates to this rezoning for that filing and not your
7 concern with realtors working back and forth. You
8 certainly can file. If this board were to approve the
9 application, you can certainly file a request it be
10 heard by, in this case, the City Commissioners.

11 MR. PICKRELL: To go back on one of my
12 original questions. You're telling me that what the
13 neighbors' opinions don't mean anything?

14 CHAIRMAN: The neighbors' opinions would have
15 counted had they chose to come to this meeting tonight
16 of which they were notified.

17 MR. PICKRELL: They were notified?

18 CHAIRMAN: Yes.

19 MR. PICKRELL: All of them told me that they
20 got a letter. They told me that they got a letter and
21 they told me they could not be here.

22 CHAIRMAN: That's their issue. Not our issue.

23 MR. PICKRELL: Two of them were not able to
24 make it. They told me I could talk on their behalf.

25 CHAIRMAN: We're not allowed to hear you talk

1 on their behalf because that's hearsay. You can only
2 represent yourself. We've listened to you, but you're
3 not a neighbor, but you certainly have a concern and
4 we've listened to you. What I'm telling you is any
5 issue relating to issues between realtors and you or
6 realtors and realtors, that is not our business. We
7 can't get involved in that. Will not get involved in
8 that. We only look at this application on the merits
9 as it was presented to us. If this is approved, you
10 would have a right to file an appeal. If it were
11 approved, the staff folks, you can see those folks and
12 they can tell you how to go through the appeal, if
13 this were to be approved. We haven't voted yet.
14 Okay, Mr. Pickrell?

15 MR. PICKRELL: Yes.

16 CHAIRMAN: I appreciate your concerns, but we
17 have to stay involved in those areas where we have
18 authority to stay involved. Issues among realtors, we
19 have no authority.

20 MR. PICKRELL: I understand that. I just
21 wanted to fill you in on some facts.

22 CHAIRMAN: I appreciate that.

23 MR. PICKRELL: I think the facts about the
24 neighbors, their opinions would be very vital should
25 you take those.

1 CHAIRMAN: Had they shown up.

2 MR. PICKRELL: I understand.

3 CHAIRMAN: Had they shown up.

4 MR. PICKRELL: Thank you very much.

5 CHAIRMAN: Thank you, Mr. Pickrell. I
6 appreciate you coming. I didn't want to cut you off
7 short, but we're getting into areas where we have no
8 authority and we can't hear those. Thank you.

9 Anybody else in the audience?

10 Yes, sir.

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

13 MR. CAIN: Kenneth Cain.

14 (KENNETH CAIN SWORN BY ATTORNEY.)

15 MR. CAIN: I own the property next-door to
16 this commercial currently. It's a photography studio.
17 My concern was parking. He was talking about the
18 neighbors, and we had discussed it with him. The
19 alley behind the residence right now is about 310 feet
20 long. Currently there are 12 places that you can pull
21 off of that and park. You can see on the screen
22 there's another alley that t-bones into that. It's
23 about 360 feet long and there's another 16 parking
24 spaces that pull off of that. It is a very used
25 alley.

1 The concern that I have, I don't know where
2 the parking is going on his property first or what his
3 requirements are to have parking. I know they've
4 taken the driveway out. I'm assuming there would have
5 to be parking in the back. There's a garage there
6 now. If that has to be removed. I don't know where
7 the parking is going. I assume it's not going out
8 front.

9 The residence right behind us that he spoke
10 about, there's six kids that she has there and they're
11 on my property a lot of times. They're playing
12 basketball. They're always in and out of the alley.
13 I'm always hearing cars screeching because somebody is
14 about to get hit. There is a garage that the last
15 gentleman that spoke, it's actually behind his house,
16 it's right on the corner. It's a concrete garage.
17 There is no easement at all. It's right on the corner
18 where the two alleys t-bone. You can see it on there.
19 It's kind of dangerous too. My concerns were about
20 that. Where the parking is going? How much traffic
21 this is going to add to that alley?

22 The other concern I had, and you can ask him,
23 if he doesn't plan on possibly being in there for
24 maybe three to five years, what's going in there now?

25 CHAIRMAN: Let me address the second question

1 first.

2 If he doesn't plan to occupy it for his
3 office, if it were approved, then he can rent it out
4 to any business that would be available under the B-4
5 zoning. So it could be -- give us some examples, Mr.
6 Howard.

7 MR. HOWARD: It could be any type of office
8 use. It could be, it could be anything. It could be
9 a restaurant. It could be various different things.
10 The limiting factor is going to be parking. That's
11 one of the issues that you certainly bring up.

12 Just to add some clarification to what you
13 said, Mr. Reeves. He can continue to rent it out as a
14 residence as well. If it's rezoned B-4, it would
15 become an existing nonconforming use, which he
16 wouldn't be allowed to get a building permit to add an
17 addition onto the home, but he could continue to rent
18 it out as a residence as well until such time that
19 maybe he occupies it three or four years down the
20 road.

21 In regards to your first question, parking, we
22 note in our Staff Report that before any
23 nonresidential occupancy takes place, a site plan or
24 development plan, depending on what goes on that site,
25 will be required. At that time they'll have to show

1 the landscaping, show the parking, show all of those
2 things of the site development requirements. So
3 parking, any time you see an existing residence in
4 this type of setting, along Frederica Street, along
5 one of these major corridors, when they redevelop
6 commercially, parking is going to be a limiting
7 factor. You're not going to be able to put a
8 restaurant on that site because you wouldn't be able
9 to meet the parking requirements. Office use is
10 significantly less as far as the requirement goes.
11 That's why you see a lot of these go to office or
12 dental, you know, those type of things where it's not
13 that high a traffic generator.

14 MR. CAIN: Thank you.

15 CHAIRMAN: Did you want to respond to parking,
16 sir? You don't have to.

17 MR. RUTMAN: Just to make him feel better.
18 Before we even applied or even made the offer on the
19 property to purchase it, we had met, I think it was
20 noted in the notes, we met with Matt Warren at the
21 property. He told us everything we would have to do
22 to get it to where it would obtain a certificate of
23 occupancy for office use. So we knew well before
24 making the offer that that garage is going to have to
25 go to create parking. So we're fully aware of that.

1 CHAIRMAN: Are all of your questions answered?

2 MR. CAIN: Yes.

3 CHAIRMAN: We appreciate your concerns and
4 appreciate you answering them. Okay.

5 Does anyone else have any questions or
6 concerns they would like to raise?

7 (NO RESPONSE)

8 CHAIRMAN: If not the chair will entertain a
9 motion.

10 Mr. Kazlauskas.

11 MR. KAZLAUSKAS: Make a motion that the zoning
12 amendment be approved based on Planning Staff
13 Recommendations and Condition 1 and 2 and Findings of
14 Fact 1 through 6.

15 CHAIRMAN: We have a motion by Mr. Kazlauskas.
16 Do I have a second?

17 MR. BALL: Second.

18 CHAIRMAN: I have a second by Mr. Ball.
19 Questions or concerns about the motion?

20 (NO RESPONSE)

21 CHAIRMAN: All in favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: The application is approved.

24 Thanks to everyone for participating.

25 MINOR SUBDIVISION PLATS

1 ITEM 10

2 1315 & 1329 Reid Road, 8.777 acres
3 Consider approval of a minor subdivision plat.
4 Applicant: Daniel & Marian Turley

5 MR. HOWARD: Mr. Chairman and Commissioners,
6 this plat comes before you as an exception. There's
7 an existing parcel on the west side that they're
8 actually adding some additional property to which is
9 wide enough to account for a potential future street
10 right-of-way if and when this property were to develop
11 in the future. It also includes the creation of a new
12 0.75 acre parcel which is the minimum lot size for a
13 new lot that is served by a septic system. That's
14 what they're doing. The end result is it leaves
15 behind an 8.77 acre remainder, which is under 10
16 acres, so it doesn't meet that agriculture exemption
17 requirement of being over ten acres. They do have
18 82.42 feet of frontage, but it exceeds the 3 to 1
19 requirement. With them creating the one new lot, but
20 then providing this future street right-of-way that
21 would allow a street to actually be constructed at
22 some point in the future if it were to develop, we
23 feel that they're not really trying to maximize the
24 number of lots, create undue flag lots and things like
25 that. So we would recommend that you consider it for
 approval.

1 CHAIRMAN: Anyone here representing the
2 applicant?

3 APPLICANT REP: Yes.

4 CHAIRMAN: Do you chose to make any comments?

5 APPLICANT REP: No.

6 CHAIRMAN: Any commissioners have any
7 questions about this application?

8 (NO RESPONSE)

9 CHAIRMAN: Anyone in the audience?

10 (NO RESPONSE)

11 CHAIRMAN: Chair will entertain a motion.

12 MR. JEAN: Motion to approve.

13 CHAIRMAN: Do I have a second?

14 MS. McENROE: Second.

15 CHAIRMAN: Second by Mrs. McEnroe. Questions
16 or concerns about the motion?

17 (NO RESPONSE)

18 CHAIRMAN: All in favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: The plat is approved.

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22 NEW BUSINESS

23 ITEM 11

24 Consider approval of January 2016 financial statements

25 CHAIRMAN: All of you received a copy of the

1 financial statements in your packet tonight. You've
2 had a chance to review them and look at them. Anybody
3 have any questions or concerns about the financial
4 statement?

5 (NO RESPONSE)

6 CHAIRMAN: If not, then the chair will
7 entertain a motion to approve.

8 Mr. Moore.

9 MR. MOORE: Mr. Chairman, I move for approval.

10 MR. BOSWELL: Second.

11 CHAIRMAN: Motion by Mr. Moore and second by
12 Mr. Boswell. Questions or concerns?

13 (NO RESPONSE)

14 CHAIRMAN: All in favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: They are approved.

17 ITEM 12

18 Comments by the Chairman

19 CHAIRMAN: Good meeting this evening. I
20 appreciate everybody's participation and questions.
21 Thank the Staff for your usual quality job to help
22 answer those questions and answer the ones that we
23 can't. We appreciate that very, very much.

24 Once again want to welcome you to the board.
25 You came to kind of a, usually they're not quite like

1 this. You got a good start. I think you'll enjoy it
2 and feel rewarded.

3 MS. HARDAWAY: I learned a lot tonight.

4 CHAIRMAN: Good. As do most of us.

5 ITEM 13

6 Comments by the Planning Commissioners

7 CHAIRMAN: Any comments by any of the
8 commissioners?

9 (NO RESPONSE)

10 ITEM 14

11 Comments by the Director

12 CHAIRMAN: Mr. Howard.

13 MR. HOWARD: I only have one comment. Every
14 year the Kentucky Chapter of the American Planning
15 Association holds a conference, a spring conference.
16 It was in Owensboro last year and we were able to host
17 it at the Convention Center and had a great success, I
18 believe. This year the spring conference will be May
19 18th through the 20th in Bowling Green, Kentucky. So
20 close to where we are. It could be a good opportunity
21 if anyone would like to attend.

22 On the Thursday of that conference during the
23 day they're going to have a day specifically geared
24 towards Planning Commissioners and Board of Adjustment
25 members. Going over things like due process and

1 findings of fact, and there may be a mock Planning
2 Commission or Board of Adjustment type meeting where
3 there will be interaction and role playing and things
4 like that. I just want to make all of you aware of
5 that if you would like to attend. The Thursday
6 session includes breakfast and lunch. That would be
7 provided as part of the registration. If you would
8 like to attend, just let the Staff know and we'll be
9 glad to get you signed up.

10 MR. BOSWELL: What were the dates again?

11 MR. HOWARD: It's May 18th through the 20th.
12 The 18th is a Wednesday. That's a Wednesday, Thursday
13 and Friday. Wednesday really is an evening kind of
14 registration/reception time. Then the sessions
15 actually start on Thursday and Friday.

16 CHAIRMAN: That'd be a great opportunity for
17 any of you that would like to go and need some hours.

18 You'll learn about required hours. When Mr.
19 Howard has time to meet with you and go through that.

20 MR. HOWARD: That's the only thing I have.

21 CHAIRMAN: That being the case I'll entertain
22 one last motion.

23 MR. MOORE: Move to adjourn.

24 CHAIRMAN: Motion by Mr. Moore.

25 MR. BALL: Second.

1 CHAIRMAN: Second by Mr. Ball. All in favor
2 raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: We are adjourned.

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

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 30 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 10th day of April, 2016.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 524564
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KENTUCKY 42303

22

23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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