

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 NOVEMBER 10, 2016

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

20 * * * * *

21 CHAIRMAN: I would like to call the November
22 meeting of the Owensboro Metropolitan Planning
23 Commission to order. We start each of our meetings
24 with a prayer and then pledge to the flag. Larry
25 Boswell will lead us this evening.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: First, let me say that we are very
pleased to have many folks in attendance this evening.
I welcome you to the meeting.

I'm going to ask you to do a couple of things,

1 if you would. Most of you have probably not been here
2 before. Let me tell you how we would like for you to
3 do. Anyone is welcome to speak. If you wish to
4 speak, please come to the nearest podium. Unless
5 you're an attorney you'll be sworn in. This is kind
6 of a judicial process we use here. We take
7 information, we take facts, and then evaluate the fact
8 in making the decision. Also, if you would please,
9 make sure you speak into the microphone because our
10 meeting is being recorded.

11 Commissioners, I remind you of the same thing.

12 With that the first item on the agenda is to
13 consider the minutes of the October 6th board meeting.
14 All of you received these in the mail and have had a
15 chance to review them. Are there any corrections or
16 comments to those minutes?

17 (NO RESPONSE)

18 CHAIRMAN: If not, the Chair will enter a
19 motion.

20 MR. BALL: Motion to approve.

21 CHAIRMAN: Motion to approve by Mr. Ball. Do
22 we have a second?

23 MS. McENROE: Second.

24 CHAIRMAN: Second by Ms. McEnroe. Any
25 questions about the motion?

1 (NO RESPONSE)

2 CHAIRMAN: All in favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: The minutes are approved.

5 Mr. Howard.

6 -----

7 GENERAL BUSINESS

8 CELLULAR TELECOMMUNICATIONS FACILITIES PER KRS 100.987

9 ITEM 3

10 4021 Old Hartford Road
11 Consider approval of an extension to an existing
12 wireless telecommunications tower.
Applicant: Verizon; Crown Castle South, LLC

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

15 MR. HILL: Mike Hill.

16 (MIKE HILL SWORN BY ATTORNEY.)

17 MR. HILL: The applicant is seeking to extend
18 the height of an existing lattice tower located at
19 4021 Old Hartford Road. The 10-foot height extension
20 will allow an additional provider to co-locate on the
21 tower. The current tower is 160-feet tall with a
22 15-foot lightning rod, giving a total height of 175
23 feet. The proposed extension 10-foot tower extension
24 will increase the height of the tower to 170-feet with
25 reducing the height of the lightning rod to 5-feet.

1 So the total height of the whole structure, tower and
2 lightning rod, is still 175-feet.

3 Staff believes that all material deemed
4 necessary for a complete application have been
5 submitted, and the Staff recommends approval with the
6 following findings:

- 7 1. The application is complete with all
8 materials in accordance with the Owensboro
9 Metropolitan Zoning Ordinance.
- 10 2. The site is in compliance with all design
11 criteria of the Owensboro Metropolitan Zoning
12 Ordinance.
- 13 3. The permanent tower will improve service
14 for users within the community; and,
- 15 4. By providing the opportunity for multiple
16 service providers on this tower, we are promoting the
17 goal of the Comprehensive Plan to encourage
18 co-location in order to minimize the number of
19 telecommunication towers.

20 Staff request that the Staff Report be entered
21 into the record as Exhibit A.

22 CHAIRMAN: Is there anyone here representing
23 the applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Typically not. We can still act on

1 it anyway.

2 Commissioners, any of you have questions of
3 Staff about the application?

4 (NO RESPONSE)

5 CHAIRMAN: Does anyone in the audience have
6 questions about the application or comments you would
7 like to make about the application?

8 (NO RESPONSE)

9 CHAIRMAN: Then the Chair would entertain a
10 motion.

11 MR. JEAN: Motion to approve based on the
12 Staff Report with Findings 1 through 4.

13 CHAIRMAN: I have a motion by Mr. Jean. Do we
14 have a second?

15 MR. FREY: Second.

16 CHAIRMAN: Second by Mr. Frey. Question or
17 concerns about the motion?

18 (NO RESPONSE)

19 CHAIRMAN: All in favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: The application is approved.

22 MR. HOWARD: I will note that all the zoning
23 changes heard tonight will become final 21 days after
24 the meeting, unless an appeal is filed. If an appeal
25 is filed, we will forward the record of the meeting

1 along with the Staff Report, all the applicable
2 materials to the appropriate legislative body for
3 their consideration.

4 ZONING CHANGES

5 ITEM 4

6 911, 1003 & 1009 Allen Street; 100 & 116 East Nine
7 Street, 1.631 acres
8 Consider zoning changes: From B-4 General Business,
9 I-1 Light Industrial & R-4DT Inner City Residential to
10 B-4 General Business
11 Applicant: City of Owensboro; Daviess County Fiscal
12 Court

13 PLANNING STAFF RECOMMENDATIONS

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

16 CONDITIONS

17 1. Access to the property shall be limited to
18 Allen Street and Daviess Street only. The existing
19 access easement on East Ninth Street may remain only
20 to grant access to the adjacent property located at
21 126/128 East Ninth Street. No additional access to
22 East Ninth Street. No additional access to East Ninth
23 Street from the subject property shall be permitted.

24 2. Obtain approval of a site plan or
25 development plan by the Downtown Design Administrator
and OMPC.

26 FINDINGS OF FACT

27 1. Staff recommends approval because the

1 proposal is in compliance with the community's adopted
2 Comprehensive Plan;

3 2. A portion of the subject property is
4 located in a Business Plan Area where General Business
5 uses are appropriate in limited locations and a
6 portion of the subject property is located in an
7 Industrial Plan Area where General Business uses are
8 appropriate in very limited locations;

9 3. The proposed use as general business
10 conforms to the criteria for nonresidential
11 development;

12 4. The proposal is a logical expansion of
13 existing B-4 General Business zoning to the north
14 south and east; and

15 5. At 1.631 acre, the proposal does not
16 significantly increase the extent of general business
17 zoning in the vicinity and should not overburden the
18 capacity of roadways and other necessary urban
19 services that are available in the affected area.

20 MR. HILL: Staff request that the report be
21 entered into the record as Exhibit B.

22 CHAIRMAN: Anyone here representing the
23 applicant?

24 MR. LAND: Steve Land on behalf of the City of
25 Owensboro.

1 CHAIRMAN: Mr. Land, do you wish to make any
2 remarks?

3 MR. LAND: I do not. I'll be glad to try to
4 answers that you may have.

5 CHAIRMAN: I have just one brief question. Do
6 you understand the conditions and are those acceptable
7 to the City?

8 MR. LAND: Yes.

9 CHAIRMAN: Does anyone in the audience have
10 any questions or concerns about the application?

11 (NO RESPONSE)

12 CHAIRMAN: Any commissioners have any concerns
13 or questions?

14 (NO RESPONSE)

15 CHAIRMAN: Then the Chair would entertain a
16 motion.

17 Mr. Moore.

18 MR. MOORE: Mr. Chairman, I move for approval
19 based on the Staff's Findings of Fact 1 through 5 and
20 Conditions 1 and 2.

21 CHAIRMAN: We have a motion by Mr. Moore. Do
22 we have a second?

23 MR. BOSWELL: Second.

24 CHAIRMAN: Second by Mr. Boswell. Any
25 questions or concerns about the motion?

1 (NO RESPONSE)

2 CHAIRMAN: All of those in favor of the motion
3 raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: The application has passed.

6 ITEM 5

7 4716 Free Silver Road, 1.58 acres
8 Consider zoning change: From EX-1 Coal Mining to A-R
9 Rural Agriculture
Applicant: Brandon & Cecile Lanham

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 Rural
22 Maintenance Plan Area, where rural large-lot
23 residential uses are appropriate in limited locations;

24 3. The subject property is a large tract at
25 1.58 acres;

1 4. The subject property has access to Free
2 Silver Road with no new roads proposed;

3 5. Strip-mining activity on the property has
4 ceased; and,

5 6. The Owensboro Metropolitan Zoning
6 Ordinance Article 12a.31 requires that property shall
7 revert to its original zoning classification after
8 mining.

9 MS. EVANS: The Staff would like to enter the
10 Staff Report into the record as Exhibit C.

11 CHAIRMAN: Anyone here representing the
12 applicant?

13 APPLICANT REP: Yes.

14 CHAIRMAN: Do you wish to make any comments?

15 APPLICANT REP: No, sir.

16 CHAIRMAN: For those of you in the audience,
17 what happens with these is once coal mining has been
18 completed on a tract of land, it goes back to its
19 original zoning. So these are fairly routine. It's
20 just a matter of getting the land back in use again
21 once the coal has been extracted.

22 Any questions by anyone in the audience or
23 concerns by anyone in the audience?

24 (NO RESPONSE)

25 CHAIRMAN: Commissioner, any of you have a

1 question or concerns?

2 (NO RESPONSE)

3 CHAIRMAN: If not, then the Chair will
4 entertain a motion.

5 MR. KAZLAUSKAS: Make a motion for approval
6 based on Planning Staff Recommendations and Findings
7 of Fact 1 through 6.

8 CHAIRMAN: We have a motion by Mr. Kazlauskas.
9 Do we have a second?

10 MR. BALL: Second.

11 CHAIRMAN: We have a second by Mr. Manuel
12 Ball. Any questions or concerns about the motion?

13 (NO RESPONSE)

14 CHAIRMAN: All in favor of the motion raise
15 your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: The application is approved.

18 ITEM 6

19 4751 Free Silver Road, 6.66 acres
20 Consider zoning change: From EX-1 Coal Mining to A-R
21 Rural Agriculture
22 Applicant: Anthony V. Lanham; Western Kentucky
23 Leasing

24 PLANNING STAFF RECOMMENDATION

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

FINDINGS OF FACT:

1 1. Staff recommends approval because the
2 proposal is in compliance with the community's adopted
3 Comprehensive Plan;

4 2. The subject property is located in a Rural
5 Maintenance Plan Area, where rural large-lot
6 residential uses are appropriate in limited locations;

7 3. The subject property is a large tract at
8 6.66 acres;

9 4. The subject property has access to Free
10 Silver Road with no new roads proposed;

11 5. Strip-mining activity on the property has
12 ceased; and,

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

17 MS. EVANS: Staff would like to enter the
18 Staff Report into the record as Exhibit D.

19 CHAIRMAN: Is anyone here representing the
20 applicant?

21 APPLICANT REP: Yes, sir.

22 CHAIRMAN: I assume you have no comments to
23 make?

24 APPLICANT REP: No comments.

25 CHAIRMAN: Anyone in the audience have any

1 questions or comments?

2 (NO RESPONSE)

3 CHAIRMAN: Any commissioners have any
4 questions or comments?

5 (NO RESPONSE)

6 CHAIRMAN: Then the Chair would entertain a
7 motion.

8 Mr. Kazlauskas.

9 MR. KAZLAUSKAS: Make a motion for approval
10 based on Planning Staff Recommendations and Findings
11 of Fact 1 through 6.

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

14 MS. McENROE: Second.

15 CHAIRMAN: Second by Ms. 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 application is passed.

21 ITEM 7

22 2315 Mayfair Avenue & 1101 Hill Avenue, 3.09 acres
23 Consider zoning change: From P-1 Professional/Service
24 to R-3MF Multi-Family Residential
Applicant: Professional Properties & Construction,
LLC

25 MR. HILL: This is recommendation for denial

1 so I will read the Staff Report into the record.

2 PROPOSED ZONE & LAND USE PLAN

3 The applicant is seeking an R-3MF Multi-Family
4 Residential zone. The subject property is located in
5 a Professional/Service Plan Area where urban
6 mid-density residential uses are appropriate in
7 limited locations.

8 SPECIFIC LAND USE CRITERIA

9 (a) Building and lot patterns Building and lot
10 patterns should conform to the criteria for "Urban
11 Residential Development" (D6).

12 (b) Existing, expanded or new sanitary sewers Urban
13 Mid-density Residential uses should occur only where
14 sanitary sewer systems exist or may be expanded, or
15 where new systems may be properly established.

16 (c) Logical Expansions Existing areas of Urban
17 Mid-density Residential uses may be expanded onto
18 contiguous land. An expansion of this use should not
19 overburden the capacity of roadways and other
20 necessary urban services that are available in the
21 affected area.

22 (d) New locations near major streets In Urban
23 Residential, Professional/Service, Business, and Rural
24 Community Plan Areas, new locations of Urban
25 Mid-density Residential use should be

1 "major-street-oriented" (D2).

2 (e) New locations adjoining nonresidential uses If new
3 locations of Urban Mid-density residential uses are
4 located in Professional/Service or Business Plan
5 Areas, they should be sited on the fringes of such
6 areas where they would serve as "buffer uses" (D1).

7 PLANNING STAFF REVIEW

8 GENERAL LAND USE CRITERIA

9 Environment

10 * It appears that the subject property is not
11 located in a wetlands area per the US Department of
12 Agriculture Soil Conservation Service dated March 6,
13 1990.

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

16 * It appears that the subject property is not
17 within the Owensboro Wellhead Protection area per the
18 OMU map dated 2015.

19 * The developer is responsible for obtaining
20 permits from the Division of Water, The Army Corp of
21 Engineers, FEMA, the EPA, the OMPC
22 building/electrical/HVAC division or other state and
23 federal agencies as may be applicable.

24 Urban Services

25 All urban services, including sanitary sewers,

1 are available to the site.

2 Development Patterns

3 The subject property is two parcels totaling
4 3.09 acres in size and has been previously used as a
5 pharmacy and medical offices. The applicant proposes
6 to rezone the properties to R-3MF Multi-Family
7 Residential in order to develop a multi-family
8 residential community.

9 The subject property is located in an area
10 that includes mostly single-family residential and
11 professional/service land uses. The Owensboro Health
12 Park, zoned P-1, is directly north of the subject
13 properties. Adjacent properties to the west, east and
14 south are developed as single-family residential and
15 are zoned R-1A and R-1B.

16 Mayfair Avenue, Hill Avenue and Robin Road are
17 all classified as local streets and the subject
18 property is thereby required to have a 25' front
19 building setback line along all street rights-of-way.
20 A 20' project boundary buffer, which applies to
21 planned residential developments according to Article
22 10 in the zoning ordinance, will be required along the
23 northern property line. Access to the site must be
24 compliant with applicable sections of the zoning
25 ordinance. The Access Management Manual does not

1 apply to this site since the adjacent streets are
2 classified as local streets.

3 Parking spaces must be provided on site and
4 the exact number required is determined by the size of
5 the dwelling units. An efficiency or one-bedroom unit
6 requires 1.5 parking spaces per unit while any unit
7 with two or more bedrooms requires two parking spaces
8 per unit. The size of the proposed dwelling units
9 will also determine the number of additional spillover
10 parking spaces required to be included in the parking
11 lot design. All vehicular use areas must be paved and
12 vehicular use area screening shall be installed where
13 adjoining road right-of-way.

14 If the rezoning is approved the applicant must
15 obtain approval of a final development plan to
16 demonstrate compliance with zoning ordinance
17 requirements including, but not limited to, parking,
18 landscaping, building setbacks, access management and
19 signage. Jim Mischel with the OMPC Building,
20 Electrical & HVAC department shall be contacted before
21 any construction activity takes place on the property.

22 SPECIFIC LAND USE CRITERIA

23 There are three potential findings the
24 Planning Commission can make on a zoning change
25 request based on KRS 100.213, included below:

1 KRS 100.213

2 (1) Before any map amendment is granted, the planning
3 commission or the legislative body or fiscal court
4 must find that the map amendment is in agreement with
5 the adopted comprehensive plan, or, in the absence of
6 such a finding, that one (1) or more of the following
7 apply and such finding shall be recorded in the
8 minutes and records of the planning commission or the
9 legislative body or fiscal court:

10 (a) That the existing zoning classification given to
11 the property is inappropriate and that the proposed
12 zoning classification is appropriate;

13 (b) That there have been major changes of an economic,
14 physical, or social nature within the area involved
15 which were not anticipated in the adopted
16 comprehensive plan and which have substantially
17 altered the basic character of such area.

18 The applicant's proposal is not in compliance
19 with the Comprehensive Plan. The use of the property
20 as multi-family residential conforms to the criteria
21 for Urban Residential development. Sanitary sewer
22 service is available to the subject property.
23 However, this proposal is not a logical expansion of
24 existing R-3MF zoning. At 3.09 acres, the proposal
25 would be a significant increase in R-3MF zoning in the

1 vicinity and may overburden the capacity of roadways
2 and other necessary urban services that are available
3 in the affected area. Although this property is
4 located on the fringe of this particular
5 Professional/Service Plan Area it is debatable whether
6 this use would serve as an appropriate buffer between
7 the Owensboro Health Park and the adjacent
8 single-family residential neighborhood. This site is
9 not considered major-street-oriented which is one of
10 the requirements necessary to create a new location of
11 urban mid-density residential uses. The current
12 comprehensive plan and its associated land use plan,
13 which were most recently updated and adopted in 2013,
14 shows the subject property in a Professional/Service
15 Plan Area. Therefore, Staff feels that the proposal
16 does not meet the potential Type 2 findings stating
17 there have been major changes in the vicinity that
18 were not anticipated in the latest Comprehensive Plan.
19 Lastly, Staff cannot find sufficient evidence to
20 support finding that the proposed zoning is more
21 appropriate than the existing zoning considering the
22 site's close proximity to the professional/service
23 activity of the Owensboro Health Park coupled with the
24 lack of any existing multi-family residential zoning
25 in the vicinity.

1 PLANNING STAFF RECOMMENDATIONS

2 The Planning Staff recommends denial subject
3 to the findings of fact that follow:

4 FINDINGS OF FACT:

5 1. Staff recommends denial because the
6 proposal is not in compliance with the community's
7 adopted Comprehensive Plan;

8 2. The subject property is located in a
9 Professional/Service Plan Area where urban mid-density
10 residential uses are appropriate in limited locations;

11 3. The use of the property as multi-family
12 residential conforms to the criteria for Urban
13 Residential development;

14 4. Sanitary sewer service is available to the
15 subject property;

16 5. This proposal is not a logical expansion
17 of existing R-3MF zoning;

18 6. At 3.09 acres, the proposal would be a
19 significant increase in R-3MF zoning in the vicinity
20 and may overburden the capacity of roadways and other
21 necessary urban services that are available in the
22 affected area;

23 7. Although this property is located on the
24 fringe of this particular Professional/Service Plan
25 Area it is debatable whether this use would serve as

1 an appropriate buffer between the Owensboro Health
2 Park and the adjacent single-family residential
3 neighborhood;

4 8. This site is not considered
5 major-street-oriented which is one of the requirements
6 necessary to create a new location of urban
7 mid-density residential uses;

8 9. The current comprehensive plan and its
9 associated land use plan, which were most recently
10 updated and adopted in 2013, shows the subject
11 property in a Professional/Service Plan Area.
12 Therefore, Staff feels that the proposal does not meet
13 the potential Type 2 findings stating there have been
14 major changes in the vicinity that were not
15 anticipated in the latest Comprehensive Plan; and

16 10. Staff cannot find sufficient evidence to
17 support finding that the proposed zoning is more
18 appropriate than the existing zoning considering the
19 site's close proximity to the professional/service
20 activity of the Owensboro Health Park coupled with the
21 lack of any existing multi-family residential zoning
22 in the vicinity.

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

25 CHAIRMAN: Before we start hearing testimony,

1 and I'm sure we'll have some, I want to remind you
2 that if you want to make a statement, ask a question,
3 please come to the podium and be sworn in to make your
4 statement be close to the mike. Also, if anyone here
5 that wants to represent the applicant, I think there
6 is someone here representing the applicant, we don't
7 go back and forth between people in the audience. All
8 questions are addressed to me and I will give the
9 applicant a chance to either address that question or
10 not address that question, whatever the choice may be.

11 At this point is there anyone representing the
12 applicant?

13 Mr. Sullivan.

14 MS. KNIGHT: Mr. Sullivan, you're sworn as an
15 attorney.

16 MR. SULLIVAN: Thank you, Counsel.

17 Good evening. My name is Mike Sullivan. I'm
18 an attorney from here in Owensboro, Kentucky. I
19 represent Professional Properties & Construction, the
20 applicant, Gary Cecil, with Professional Properties &
21 Construction is also here and, of course, we're here
22 to answer any questions that may come after we offer
23 our evidence.

24 We believe that the evidence shows the
25 proposed rezoning from P-1 to R-3MF is the appropriate

1 zoning for this property that you should approve
2 tonight.

3 The Staff rightly stated that this proposed
4 rezoning does not comply with the Comprehensive Plan
5 because it's not a logical expansion of multi-family
6 zoning, because there's no multi-family zoning right
7 next to this property. We can't satisfy that
8 requirement. Okay. Most of what Staff has said in
9 this report involves whether this is in compliance
10 with the Comprehensive Plan for this type of use. All
11 you've got to look at is it's not being a logical
12 expansion, and then you need to move on to whether
13 it's one of these exceptions for you to find whether
14 or not you can rezone this even though it's not in
15 compliance with the plan.

16 I would like to make couple of comments about
17 our respectful disagreement with some of those
18 findings.

19 The Staff said the proposed rezoning may
20 overburden the capacity roadway and other necessary
21 urban services, and I don't think that's the case
22 here. This is a P-1 property that was Mayfair Square.
23 Everybody knows the property we're talking about. I
24 got my first tooth pulled there when I was about
25 6-years old by Don Newsome down in the basement. It's

1 got 128 parking spaces. People were going in and out
2 of that place for years. I don't think that rezoning
3 it to this multi-family use is going to overburden the
4 roadways any more than it has been. It's not going to
5 be an additional task on those. So we would
6 respectfully disagree with that finding.

7 Again, what we have to do is look at and what
8 we have to convince you of tonight is whether the
9 existing zoning classification, given the property, is
10 inappropriate, and that the proposed zoning
11 classification is appropriate. We think the evidence
12 supports that; or that there have been major changes
13 of economic fiscal or social nature within the area
14 involved that were not anticipated in the adopted
15 Comprehensive Plan. I would say in this case, the
16 changes were taking place before, during and after the
17 2013 plan. I just don't know if anybody really looked
18 at them when they adopted that plan. I think we can
19 just look at Number 1, which is the existing zoning
20 classification given the property is inappropriate,
21 and the proposed zoning classification is appropriate.
22 So that's what I want to talk about.

23 The major change in this area is that there is
24 no professional service demand in this area, and I'll
25 tell you why. I'll tell the evidence that supports

1 that.

2 You look around this block, and there it is up
3 on the screen. You see the property up there. The
4 real change that happened here in this block was when
5 Mercy Hospital was bought by the public hospital and
6 then eventually, well, they merged, and then
7 eventually the hospital moved off site and they
8 decided to put the Health Park here. That's what
9 happened. A hospital left and the Health Park came.
10 Everybody loves, well, most people love the Health
11 Park. I like the Health Park. I go there. It's a
12 great asset to the community. There's a lot of
13 traffic in and out of there. But the Health Park
14 doesn't generate the business or use to help the local
15 neighboring P-1. All you've got to do is look at what
16 has happened. We've got the medical office building
17 that is on the northwest corner where Convenient Care
18 is. I've got a photograph that I want to introduce
19 into evidence and show you.

20 I can either hand these out to you all or I
21 can put it on the Elmo or whatever is easiest.

22 What is this a photograph of? What this
23 photograph is of is the directory that's on the first
24 floor of that medical office where Convenient Care,
25 well, I call it Convenient Care, is located. What you

1 see there is on the first floor is hospital
2 operations. Operations of, what do they call it, One
3 Health or Owensboro Health. All of that is hospital
4 functions.

5 Then when you go to the second floor, there's
6 something called Infusion, and as you can see "OHRH
7 Department." There's only one office on the second
8 floor being used. Again, it's by the hospital.

9 The second, third and fourth floor and what
10 you see on the signs up there is "Staff Only. Staff
11 Only. Staff Only." There's nothing up there. If you
12 go to the third floor, you've got, again, One Health,
13 is the hospital, Maternal Fetal Medicine. There's one
14 office being occupied on the third floor. Then you go
15 to the fourth floor and there's offices being occupied
16 up there, but again, it's all hospital business.

17 David Russell is a urologist and he may have
18 an office there, but the hospital website lists his
19 office out at Pleasant Valley Road. I don't know.
20 Maybe some of you all have been to see him. I don't
21 know. He's got an office there, but I don't know if
22 he's there full-time.

23 The point I'm making here is that that's all
24 hospital business. That's hospital overflow business.
25 There's no professional service business that is there

1 any more and we all know why. It's because there's
2 been an exodus to the east side of town by all the
3 health care professionals. They want to be near the
4 hospital or they wanted to be over at 812 East Parrish
5 Avenue before that or 811 East Parrish Avenue. They
6 built a bunch of new office buildings for doctors over
7 there. My doctor moved over there. A bunch of doctor
8 moved over there. Now they're moving further east
9 with the new hospital.

10 Then you turn to the Mayfair Square building,
11 if you look at the Mayfair Square building, it's
12 currently about 55 percent occupied. So it's
13 almost -- and that's about what it's been for the last
14 couple of years. Actually they lost a couple of
15 tenants in the last year or so. You've got that
16 problem with it being about half occupied. Also, it's
17 been on the market for about three years. They've
18 been trying to sell that professional service building
19 for three years and haven't been able to find a buyer.

20 All of this leans toward, what I'm telling
21 you, there's not a professional service demand in this
22 area any more.

23 If there's not a demand for the use, then we
24 need to look at what kind of demand for use is there
25 in this area? There's no demand for professional

1 service. It shouldn't be zoned that any more. It
2 ought to be zoned something else. What is the zoning
3 that makes sense? Residential. And that's what the
4 Health Park did. People -- I know you've talked to
5 them. Maybe some of you up there like it. I want to
6 live near the Health Park. I want to buy a house near
7 the Health Park.

8 I used to live on Clinton Place West, which is
9 right next to the Health Park. Mr. and Mrs. Fort, an
10 older couple, bought my house. They bought my house
11 and they said, I want to be next to the Health Park.
12 That's why we're buying it.

13 So what the Health Park has done is drive up
14 residential use in this area. People want to live
15 there. They want to be able to walk there. That's
16 the use that should be replacing this professional
17 service use that nobody apparently wants any more.

18 So that's why I think you ought to find that
19 the current zoning is inappropriate and residential is
20 appropriate.

21 Now, what kind of residential? That's where I
22 want to talk about buffer.

23 The multi-family residential use is a good
24 buffer use for this property. This is -- I know that
25 they're not major-street-oriented. These streets

1 around here are not major-street-oriented, but you've
2 got this Health Park there. This Health Park has
3 probably got at least 1,000 visitors a day, and that
4 doesn't count the employees there.

5 The reason that I bring that up is that you've
6 got a lot -- and you've got an intense use there, use
7 the word intensity. You've got intense use at the
8 Health Park. Single-family residential right next to
9 the Health Park doesn't work because who wants their
10 house right up next to the Health Park with all that
11 use and traffic and people driving in and out. The
12 multi-family use is a good buffer between the Health
13 Park and the single-family residential and
14 neighborhood. Again, it's because of the activity. I
15 dare say that this type of multi-family use is less
16 intense than you would have at professional service
17 use at this property. It currently has 128 parking
18 spaces. If it's multi-family, I think they might be
19 required to have 75. So there's less in and out.
20 Brian can correct me if I'm wrong. There's less in
21 and out if it's rezoned to multi-family than if it's
22 professional service.

23 I would say that, you know, of course, the
24 other issue is cost. It would be very difficult to
25 cost efficiently push single-family on this lot

1 because of the use it currently has. That's a serious
2 concern as well.

3 I think Gary will get up here. He'll be here
4 to answer questions and he can share any thoughts he
5 has.

6 For these reasons we would ask you to find
7 that because of the decrease in demand for
8 professional service use in this area and the existing
9 or increase demand for residential use in this area,
10 that you make a finding that the existing zoning
11 classification, given the property is inappropriate,
12 and that the proposal zoning classification is
13 appropriate. I will say that, you know, Professional
14 Properties & Construction, and Gary will tell you
15 this, you can look at what he's done. He put those
16 townhouses down at Hill Avenue right down from Jimmy
17 John's. They do good work. They do quality work and
18 they will put -- I know the residents here will be
19 concerned about this. They're going to put quality
20 development up there that will entice people to come
21 there and will enhance the neighborhood.

22 We'd appreciate you approving the application.
23 Thank you.

24 CHAIRMAN: Mr. Sullivan, would you mind to
25 remain there.

1 Mr. Cecil, would you mind to be sworn, in case
2 we have questions of you.

3 MS. KNIGHT: If you could please state your
4 name for the record.

5 MR. CECIL: Gary Cecil.

6 (GARY CECIL SWORN BY ATTORNEY.)

7 CHAIRMAN: Before we take any comments or
8 questions from the audience, I'm going to ask the
9 commissioners, any of you have any questions for
10 Mr. Sullivan or Mr. Cecil?

11 Mr. Ball.

12 MR. BALL: How many dwelling units are planned
13 for this particular development currently?

14 MR. CECIL: Right now we plan 48. There's 12
15 in each building.

16 Mike referenced the parking. I think we have
17 75 spillover spots. We're putting attached garages so
18 that's going to hold another 48 spots that will be
19 interior of the building.

20 Yes, Mr. Boswell.

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

22 Just a couple of questions. I notice with the
23 conceptual rendition it looks like this is going to be
24 four stories.

25 MR. CECIL: Yes, sir.

1 MR. BOSWELL: How many bedroom units? Are you
2 going to have one, two, a combination?

3 MR. CECIL: They're all two bedroom/two bath
4 units.

5 MR. BOSWELL: Was this reviewed or looked to
6 be built associated with seniors? What age group are
7 you going to be --

8 MR. CECIL: Ideally we're going to target the
9 50 and older group.

10 CHAIRMAN: Anyone else have any questions
11 right now?

12 (NO RESPONSE)

13 CHAIRMAN: We may call you back.

14 Now, do we have any comments or questions from
15 anyone in the audience? If so, feel free to step to
16 the mike.

17 Yes, ma'am, if you'll come to the mike.

18 MS. EARLY: You said --

19 CHAIRMAN: Ma'am, you need to come to the mike
20 and bet sworn in.

21 MS. KNIGHT: Please state your name for the
22 record.

23 MS. EARLY: Marjorie Early. I live directly
24 across from this.

25 (MARJORIE EARLY SWORN BY ATTORNEY.)

1 MS. EARLY: This is four stories. We've all
2 got level houses and then you put this monstrosity in
3 front of us.

4 CHAIRMAN: What street do you live on, ma'am?

5 MS. EARLY: On Hill Avenue, directly across
6 from what all of this is going to be built.

7 I don't know where -- he told me last night,
8 he came by the house and we talked. He's very nice.
9 I don't know where this building is going to face.
10 But what I understand he said east, which would be
11 Robin Road. So that means what I'm going to see is
12 just the side, you know, just have a great big
13 building with nothing but bricks facing me. I've
14 lived there 18 years. It's been a nice neighborhood.
15 Enough traffic, but not too bad. Under control. Our
16 neighbors, none of them want to move or have all of
17 that commotion. Ten months building. You know, 49
18 units, that's a lot for that quiet neighborhood.

19 CHAIRMAN: Thank you.

20 Mr. Cecil, I have a question for you, if you
21 don't mind.

22 How are these going to be oriented, as far as
23 what is being considered front? Will they be
24 different fronts?

25 MR. CECIL: I guess, do I need to put these on

1 this?

2 CHAIRMAN: No. If you'll tell us with what's
3 on there now.

4 MR. CECIL: What you're seeing is Hill Avenue
5 would actually be the garage facing direction. There
6 won't be any elevation on the building that's entirely
7 just brick. We have windows. We have doors. We have
8 balconies that will go on every side of the building.

9 CHAIRMAN: Is that basically the picture that
10 we have here, Mr. Cecil?

11 MR. CECIL: Yes, sir. The side that will be
12 on your left is the garage doors.

13 CHAIRMAN: And those garage doors there are
14 facing Mayfair?

15 MR. CECIL: Facing Hill Avenue, yes. Then
16 you've got three stories above that looks like what's
17 on the computer monitor now.

18 CHAIRMAN: Where is this facing?

19 MR. CECIL: So we have four of these building.
20 There's a court yard between each one. They're
21 actually facing each other.

22 CHAIRMAN: Mr. Rogers, you had a question?

23 MR. ROGERS: I was just wanting to know if
24 what we have was the front and the back?

25 MR. CECIL: It's got an entrance on both front

1 and back. They're mirror images on the front and back
2 side. East and west elevations are exactly the same.
3 North and south elevations are exactly the same.

4 MR. ROGERS: So this view here is facing Robin
5 Road?

6 MR. CECIL: That would be facing Robin Road
7 and the courtyard on the opposite side.

8 MR. ROGERS: And this garage here will be
9 facing Hill?

10 MR. CECIL: Will be facing Hill Avenue and the
11 Health Park.

12 MR. ROGERS: Stager one right after the other?

13 MR. CECIL: Yes, sir.

14 CHAIRMAN: So you're saying the back of this,
15 if I'm looking at this, this side on the back will
16 look exactly like this does?

17 MR. CECIL: Yes, sir.

18 CHAIRMAN: Anybody else?

19 MR. JEAN: Is 48 dwellings, is that the
20 initial development or the completed development?

21 MR. CECIL: We do have -- if you look at the
22 site plan, there is a vacant area due to drainage
23 requirements, due to overflow parking. I don't know
24 think we can fit a fifth building on there. So right
25 now we're basing this on doing four buildings.

1 CHAIRMAN: Anyone else in the audience like to
2 make a comment?

3 If you would, please come to the podium and be
4 sworn in.

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

6 MS. DURAND: Renee Durand.

7 (RENEE DURAND SWORN BY ATTORNEY.)

8 MS. DURAND: I live right across from the
9 Mayfair Square on Hill Avenue. My concern is are you
10 going to have a drive from Hill Avenue going in?

11 CHAIRMAN: We will ask that question of you.
12 You want to know if there's going to be an entrance
13 into the complex from Hill Avenue; is that correct?

14 MS. DURAND: Yes.

15 CHAIRMAN: Mr. Howard, do you have that
16 answer?

17 MR. HOWARD: No. This is all we see. They
18 may have a better idea about where they're planning
19 access from.

20 CHAIRMAN: Mr. Cecil, do you have an intent?

21 MR. CECIL: Yes, there will be access from
22 Hill Avenue.

23 MS. DURAND: Can I say something else?

24 CHAIRMAN: Absolutely. You can say anything
25 you would like.

1 MS. DURAND: I have a real concern about that
2 because it's a very nice quiet neighborhood, but down
3 towards Frederica you cannot go down Hill. There is
4 so much traffic, especially since Jimmy John's has
5 come. I would hate to see something like that happen
6 on our end.

7 CHAIRMAN: Mr. Howard, if they put an entrance
8 in off Hill, would that have to come back before us as
9 part of the site plan for approval?

10 MR. HOWARD: If would have to be shown on
11 their development plan. That also require approval
12 from the city engineer's office for cut permits in
13 order to put access to Hill Avenue or any of these
14 streets. They would have to be approved through the
15 city engineer's office as well.

16 CHAIRMAN: Given the fact there are no
17 entrance cuts, is there any reason to assume that that
18 would not be allowed?

19 MR. HOWARD: Hill Avenue is not classified as
20 a major road so there's not an access basing standard
21 that would limit that, but again, that would be part
22 of the review process and input from the city
23 engineer's office would be factored in on that.

24 CHAIRMAN: There could well be an entrance
25 there, ma'am. There may not be. Depending on city

1 engineer's evaluating look into the site.

2 Anyone else in the audience have any
3 questions?

4 Yes, sir, please come to the podium.

5 MS. KNIGHT: Please state your name for the
6 record.

7 MR. DUKER: Chris Duker.

8 (CHRIS DUKER SWORN BY ATTORNEY.)

9 MR. DUKER: My concern they're talking 48
10 units, 2-bedroom/2-bath units. Probably minimum two
11 people per unit. More than likely four on average. I
12 assume single-car garage is attached to the unit with
13 an additional 75 parking spaces. Where is overflow
14 parking going to go? There's going to be probably up
15 to 200 people there at any given time in the building.
16 There's not adequate parking on the street.

17 Currently right now traffic flow in that area
18 is an issue. I actually just sold property last month
19 adjoining this. One of the biggest complaints I had
20 consistently with buyers was too much traffic. So if
21 we add another 48-units, what's that going to do to
22 the traffic in the area for people who live there, you
23 know, trying to sell their property; especially people
24 with children. That was the biggest issue I ran into.

25 CHAIRMAN: Mr. Howard, what would be the

1 parking requirements?

2 MR. HOWARD: For a two-bedroom unit it's two
3 spaces per unit. Then as Mike Hill said in our Staff
4 Report, there's a requirement for overflow parking as
5 well.

6 Now, the garage space can certainly count as
7 one of the required spaces, but then others would have
8 to be in arranged parking spaces and parking lots and
9 things like that. Of course, again, we haven't really
10 seen a full site plan yet so we don't know where
11 that's going to be. That would all -- if the rezoning
12 were approved, that would all have to be reviewed. It
13 would have to meet the minimum requirements of the
14 zoning ordinance as part of the development plan
15 approval process.

16 CHAIRMAN: Thank you.

17 Mr. Cecil, any comments?

18 MR. CECIL: Yes. I'd like to add that if
19 you're going after 50 and over crowd, the chances that
20 there's going to be four people living in a unit are
21 slim. I don't think you can classify it at any point
22 that there would be 200 cars on the site. That's not
23 really our goal. Obviously, we're not going to tell a
24 family of four that they can't live there, but either
25 way a family of four does not have four cars. They

1 have young children that can't drive.

2 CHAIRMAN: But you do understand that you have
3 to meet parking requirements on the area that you own?

4 MR. CECIL: Sure. If you look at the site
5 plan that's on the screen now, you'll see the angle
6 lines at the back of the site. On the Health Park
7 side, you'll see the angle lines to the east side.
8 Those are angle parking. There is one-way traffic
9 that comes from Mayfair, wraps around the building and
10 heads back out to Hill Avenue. I think, I don't
11 remember the numbers off the top of head. I should
12 have, I guess, checked those site statistics. There
13 is a spot for parking a car directly in front of the
14 garage. There's a spot to park a car inside the
15 garage, and then the overflow parking is single spots.

16 CHAIRMAN: Mr. Howard, I have a question.

17 Would there be any landscape buffering
18 required between those units and Hill and also
19 Mayfair?

20 MR. HOWARD: The zoning ordinance would
21 require, the only buffering that would be required
22 would be vehicular use area buffering along road
23 rights of way. There would not be say a 6-foot tall
24 continuous element requirement which you often discuss
25 on rezoning changes because this is a residential

1 zoning against either a professional zoning or roads
2 right-of-way. So that would not be required. You're
3 looking at a three foot element with a tree every 40
4 linear feet along the right-of-way where parking and
5 vehicular use area is located.

6 MR. ROGERS: Mr. Howard, on Hill Avenue, is
7 on-street parking allowed?

8 MR. HOWARD: I do not know.

9 MR. ROGERS: Because you could potentially
10 have both sides in front of residential and these
11 apartments with people parking on the road.

12 CHAIRMAN: Mr. Cecil, do you know if parking
13 is allowed on Hill Avenue or any of the residents know
14 that?

15 MR. CECIL: You'll have to I guess defer to
16 OMPC on that.

17 CHAIRMAN: Sir, do you have an answer to that
18 question?

19 Please come to the mike.

20 MS. KNIGHT: Please state your name for the
21 record.

22 MR. DECKER: Graham Decker.

23 (GRAHAM DECKER SWORN BY ATTORNEY.)

24 MR. DECKER: Parking is a must for homeowners
25 on Hill Avenue. I'm right off the screen on here. If

1 we didn't have the street parking houses down by me,
2 do not have driveways to park in. They have to park
3 on the street.

4 CHAIRMAN: We're talking parking on the --
5 with regard to this one block between Robin Road and
6 Mayfair, parking is available on both the north and
7 the south side of the street?

8 MR. DECKER: And it has taken up pretty
9 much -- well, on this one, currently you get parking
10 on the south side of the street all the time. On the
11 north side, nobody parks there because --

12 CHAIRMAN: But it is allowed?

13 MR. DECKER: Yes. Right outside of that area,
14 parking on both sides.

15 MR. ROGERS: So once the parking is built they
16 can park on that side.

17 MR. DECKER: The school buses park there every
18 morning as well. They park there and wait in-between
19 pick ups and get their schedule.

20 CHAIRMAN: Mr. Rogers, my assumption is,
21 unless there was a request made by the City, that
22 there would not be parking. You are accurate, there
23 be parking there on both sides. And this gentleman
24 seems to imply that the parking is needed on both
25 sides.

1 MR. DECKER: I also have a question. Are
2 these for-rent units or for-sale units?

3 CHAIRMAN: Mr. Cecil.

4 MR. CECIL: They will be both. Available for
5 sale or lease.

6 CHAIRMAN: Sir.

7 MR. DECKER: I was just asking, the same as
8 the ones that are closer to Jimmy John's?

9 MR. CECIL: That is correct.

10 CHAIRMAN: So they are going to be for lease
11 or for sale. That is correct, right, Mr. Cecil?

12 MR. CECIL: Yes.

13 CHAIRMAN: Do you have anything else you would
14 like to say?

15 MR. DECKER: I'm also going to just mention,
16 there is a lot of children, including my children,
17 that use this area to get to school every morning and
18 they walk to school. There's also buses. Buses will
19 pick up right past this area, but on the block that
20 this is in, that is within a mile from Sutton, buses
21 do not run in that mile area from Sutton. So those
22 children, their parents either bring them or they walk
23 or ride their bicycle. This is in the area where lots
24 of children are walking or riding their bicycle, and
25 also parents are up and down Hill Avenue every morning

1 trying to get their children to school as well.

2 CHAIRMAN: We understand.

3 Yes, Mr. Boswell.

4 MR. BOSWELL: I've been by there many, many
5 times. There was a mention made, you know, access off
6 of Hill Avenue.

7 MR. CECIL: Yes, that is correct.

8 MR. BOSWELL: I guess I'm wondering why that
9 would even be needed? Right now you have access off
10 of Mayfair as well as Robin Road as you normally would
11 in the medical building. Would that no longer be
12 available?

13 MR. CECIL: It's still available. We have to
14 get to the backside of those garages. You're also
15 going to have to have access to the garages there on
16 the Hill Avenue side. You've got to access from Hill
17 to get there.

18 MR. BOSWELL: So there's no ability to drive
19 around the building to get to the garage?

20 MR. CECIL: There is ability to drive around,
21 but there are garages on both sides. There are 12
22 garages in total. You obviously have to get to both
23 sides of the building to pull in those garages.

24 MR. BOSWELL: Thank you.

25 MR. CECIL: And for that matter, I have kids

1 too and I live less than a block from this site. You
2 know, I'm not sure how that has a bearing on whether
3 or not this is can be approved. Traffic is moving in
4 and out of there all the time now at a much higher
5 rate than it will be if it was residential. My kids
6 go to Sutton. They make it safely now. I would like
7 to think that if this were residential that traffic is
8 less than it is now.

9 MR. BOSWELL: I have another question.

10 CHAIRMAN: Mr. Boswell.

11 MR. BOSWELL: I notice, and I've been down
12 there a number times and I've seen just traffic going
13 from Mayfair over to Robin just to get across. I'm
14 not sure how much of a problem that is, but how would
15 you deal with that in that situation? How would
16 you --

17 MR. CECIL: You're talking about using the
18 access now there?

19 MR. BOSWELL: Yes.

20 MR. CECIL: We are going to make it one-way
21 traffic where you have to come from Mayfair. We're
22 going to narrow it up where you're forced to go just
23 one direction. We're hoping that, I guess, all we can
24 do is put up signs that tell people they cannot cut
25 through. The access, there's also an access on the

1 back side of the Health Park that's used the same way.
2 That's not on my property. I cannot control that.

3 MR. BOSWELL: Thank you.

4 CHAIRMAN: Mr. Ball.

5 MR. BALL: I've got a few questions.

6 As it relates to the access along Hill Avenue,
7 are you planning a single access point or multiple
8 access points?

9 MR. CECIL: It will be multiple access points
10 along Hill.

11 MR. BALL: Are you looking at an access point
12 to each individual garage or just multiple access
13 points to access?

14 MR. CECIL: We will be looking for each
15 individual garage on that side.

16 MR. BALL: Is that even a possibility?

17 CHAIRMAN: So you're saying you'd be looking
18 for eight access points, on Hill Avenue?

19 MR. CECIL: Really be looking for 16 access
20 points, 16 driveways.

21 MR. BALL: Another question I've got. I guess
22 part of this is for Staff and part of it is for the
23 applicant as well. You both make a case in your
24 findings of fact that the -- let me back up here where
25 I saw it. You talk about the overburden capacity of

1 roadways. You know, Staff kind of talks about it
2 being a negative and how it will overburden the
3 roadways and the applicant basically says the
4 opposite. Can we dig a little bit more into what your
5 thought process is on that?

6 MR. HOWARD: Yes. A lot of depends on what's
7 there, as far as how much traffic will be generated.
8 I did the numbers real quick.

9 For apartment buildings based on the IE trip
10 generation manual it would range somewhere between
11 about 290 and 380 trips per day when you plug the
12 numbers in the formula and whatnot. That can range
13 from about 6.1 to 8 trips a day per unit.

14 By comparison a single-family resident would
15 generate about 10 trips per day. So single-family
16 residential per unit actually generates more trips
17 than an apartment does, a single apartment unit.

18 For medical office it generates about 75 trips
19 per day per 1,000 square feet of office space.

20 How big the office building is.

21 MR. CECIL: It's 20,000 square feet.

22 MR. HOWARD: Based on that --

23 MR. CECIL: You're talking 1500 trips.

24 MR. HOWARD: It could, yes. It could be up to
25 1500 trips.

1 A lot of it depends on occupancy of those
2 buildings and how much they're used. As they were
3 stating right now, they're not used heavily. If you
4 look at the parking that's out there, it's not used
5 that much. If it were as it was back in the day, a
6 full functioning office, medical office building, it
7 would generate more traffic than it does right now.

8 MR. BALL: Sure.

9 MR. HOWARD: If that adjoining parcel were
10 developed as office space, it would generate more
11 traffic than it does now. A lot of it depends on
12 intensity of use and occupancy, as how far how much
13 traffic could be generated on that site.

14 MR. BALL: Thank you.

15 MR. CECIL: That is my question. Of course,
16 we don't need the board's approval to build something
17 on that site other site. We just need a building
18 permit. So I could potentially maximize that.
19 There's not an architectural review. I could put up a
20 large steel building as long as it's professional use.
21 I could do whatever I wanted to with that property,
22 correct?

23 MR. HOWARD: Yes. As long as you meet all the
24 zoning requirements and drainage, correct.

25 CHAIRMAN: Mr. Sullivan.

1 MR. SULLIVAN: That's something that we did
2 want to make that point. Everybody wants to be a good
3 neighbor. We're trying to be as good as a neighbor as
4 we can with this use. I think you all know that, it
5 could be not rezoned and then they try to maximize the
6 use by adding on the existing building or putting a
7 new P-1 building on there that could be a tall
8 building or something like that and it may not be, it
9 may be less appealing to the neighbors than what we're
10 trying to do.

11 CHAIRMAN: Mr. Cecil, we assume you currently
12 own the property?

13 MR. CECIL: Yes, I currently do.

14 CHAIRMAN: So you currently own it.

15 Anyone else in the audience have a comment?

16 Yes, sir.

17 MS. KNIGHT: If you could please state your
18 name for the record.

19 MR. MARTIN: Jed Martin.

20 (JED MARTIN SWORN BY ATTORNEY.)

21 MR. MARTIN: I live on Mayfair Drive in a
22 house my dad built in 1955 and I now own the house. I
23 guess my main concerns are they might disrupt kind of
24 the character of the existing neighborhood. I have
25 concerns about the traffic.

1 Just to address the gentleman's comment. He
2 was talking about putting up something for the current
3 zoning, but I think he made the case earlier that the
4 zone, the current zone is not appropriate for
5 professional building so it doesn't seem likely that
6 another professional building would be put up there.

7 I guess the only question I have, can any of
8 this be Section 8 housing?

9 CHAIRMAN: I want to talk to counsel.

10 MS. KNIGHT: I mean it certainly could. We
11 don't approve or disapprove of any rezoning
12 application due to the type of housing, type of family
13 units that there might be, the cost that are
14 considered selling on the merit. I think Mr. Cecil
15 hit that on that head. You don't deny someone housing
16 for that reason. I guess anything is possible, yes.

17 MR. CECIL: As an owner, we're not going to
18 accept Section 8 rental for any unit on this property.

19 MR. MARTIN: Is it possible to find out what
20 the price range of the units will sell for to the
21 purchaser?

22 CHAIRMAN: That would be up to Mr. Cecil.

23 MR. CECIL: I would love to be able to tell
24 you right now, but we haven't sorted out all the final
25 numbers yet. They're going to be above the medium

1 value of any house right there in that area.

2 MR. MARTIN: Is it possible to get a range?

3 CHAIRMAN: That's up to Mr. Cecil.

4 MR. CECIL: I'm not ready to give out that
5 information.

6 MR. MARTIN: Well, there again, I guess my
7 main concerns are, I don't know that the property
8 would be, I don't know that the development would be
9 detrimental or an actual improvement to property
10 values around there. That's where I have my concerns.
11 And whether it might be detrimental to the character
12 of the neighborhood, a well established neighborhood
13 like some of my neighbors have said. Then I do have
14 concerns about the traffic.

15 CHAIRMAN: Thank you, sir. Appreciate it very
16 much.

17 Mr. Sullivan.

18 MR. SULLIVAN: There's a lawyer down in
19 Bowling Green that says he's just a country lawyer
20 that doesn't know a whole lot. I'm kind of like that.
21 These folks know more that I know do. I just want to
22 make sure I heard something.

23 Brian, when you did the math on Mr. Cecil's
24 development you said that the traffic would be 290 to
25 380 trips per day. Is that per building or the whole?

1 MR. HOWARD: That's based on 48 total units.

2 MR. SULLIVAN: If Mayfair Square skyrocketed
3 into success and all it's square footage was occupied,
4 according to your expert book or manual it would be
5 1500 trips per day?

6 MR. HOWARD: It could be, yes.

7 MR. SULLIVAN: Under P-1 zoning there's going
8 to be a lot less traffic. I'm sorry. Under
9 multi-family residential use it would be a lot less
10 traffic than P-1 use. Just want to make that clear.
11 Because there's a lot of concerns about traffic.
12 Based on what Planning & Zoning Staff is telling you,
13 you would have a lot more traffic with a vibrant P-1
14 than you would with this R-3MF.

15 MR. HOWARD: To piggyback back on that, if I
16 could, and I guess in follow-up with a question that
17 Manual asked that I didn't get a chance to fully
18 answer because I started talking about the data.

19 The reason that we include that it could
20 overburden the roadway is because as it was stated,
21 right now there is no access to Hill Avenue. We don't
22 know that will do. We didn't know exactly what that
23 would do. So that's why we put that clarification or
24 that qualifying statement in there. Because that does
25 change the neighborhood and how it would function.

1 You also asked, you know, could they have that many
2 access points on Hill Avenue. There are limitations
3 as far as how wide access points can be and the number
4 that you can have. The number is 40 percent the total
5 road frontage, but there's also maximum width for
6 residential driveways. Again, all of that though
7 would be reviewed at the time of the development plan
8 review process.

9 CHAIRMAN: Mr. Cecil, I have a question for
10 you, and then I have question for Mr. Howard.

11 Will your residence have access, is this Maple
12 Avenue here that runs through the back of the Health
13 Park's parking lot right?

14 MR. CECIL: Yes.

15 CHAIRMAN: Would your residence have access to
16 Maple to go in and out, the ones that live on that
17 side of the complex?

18 MR. CECIL: No. No. It would be from
19 Mayfair. Right now there is an access off of Mayfair.
20 We would continue to use that access to get to the
21 backside of the buildings, but not, it does not line
22 up with Maple Avenue.

23 CHAIRMAN: Okay. The other question I guess
24 for Mr. Howard. Being as Mr. Cecil does own this now
25 and it is zoned professional, could he conceivably

1 build additional buildings on the property that he
2 owns, as long as he met all the other requirements of
3 the building codes and parking?

4 MR. HOWARD: Yes.

5 CHAIRMAN: Any other questions?

6 Yes, sir. Please come to the podium.

7 MS. KNIGHT: Please state your name.

8 MR. DURAND: Jim Durand.

9 (JIM DURAND SWORN BY ATTORNEY.)

10 MR. DURAND: I live on Hill Avenue. I would
11 face this four-story. I guess my only comment is
12 which one of you would like to have that right in
13 front of your house? That's all I have to say.

14 CHAIRMAN: I understand that. You understand
15 that we're looking at facts. It's not about how we
16 would feel about it. We have to hear the facts that
17 are presented in the discussion.

18 MR. DURAND: I think there was a comment made
19 earlier about single-family living around the Health
20 Park. I don't remember exactly what was said. I live
21 in a single-family dwelling and I have no problem with
22 the Health Park, but what I would have a problem with
23 is a four-story building right in front of my house.

24 CHAIRMAN: I understand.

25 Anyone else in the audience?

1 MR. MARTIN: I just have another question.
2 Under the current zoning what can be built there under
3 the current P-1 zoning?

4 CHAIRMAN: Could you give us some examples,
5 Mr. Howard?

6 MR. MARTIN: Let me just elaborate on that.
7 Are there height restrictions under the current zoning
8 in P-1? Is it professional services or could it be --
9 would retail be different than P-1?

10 MR. HOWARD: Yes. I'll answer your last
11 question first. Yes, retail would be different than
12 P-1 zone and would not be allowed.

13 A P-1 zone use-wise would be things like
14 medical offices. You could put a bank in there. You
15 could put a barber shop. You could put basically any
16 type of a service business. Tax office, attorneys
17 office. Any type of office space would be permitted
18 in a P-1 zone.

19 There are height requirements in a P-1 zone,
20 which I was getting ready to look that up. Off the
21 top of my head I'm pretty sure it's a 36 foot height
22 maximum in a P-1 zone, but I want to verify that for
23 you.

24 I'm sorry, in P-1 zone it's not 36 feet. It's
25 a three-to-one requirement; meaning that whatever your

1 narrowest side yard dimension is. Let's say your
2 narrowest dimension was 10-feet from your side yard or
3 the wall building to the property line or the side
4 yard, you could go up to 40 feet tall or 30 feet tall.
5 So it's a three-to-one dimension based on however tall
6 that is. So if you have 15 foot separation all the
7 way around the building, you could go up to 45 feet
8 tall, and so on. It's a three-to-one function.

9 MR. MARTIN: Thank you.

10 CHAIRMAN: Yes, Mr. Ball.

11 MR. BALL: While you've got that open, is
12 there a height restriction for the R-3MF?

13 MR. HOWARD: Yes. In R-3MF zone, it's the
14 same thing. It's a three-to-one function for the
15 height to yard ratio.

16 MR. BALL: Thank you.

17 CHAIRMAN: Do we have any other questions from
18 anyone?

19 Yes, ma'am.

20 MS. DURAND: Well, I do have a comment. There
21 are, if I'm correct, eight houses on that block on
22 Hill. That's eight driveways. And they want to put
23 16 driveways onto Hill; is that correct?

24 CHAIRMAN: Now, that would be his request.
25 Whether or not the city engineer would approve that or

1 not would be up to city engineer. I'm not sure.
2 Mr. Howard may have a notion whether or not that could
3 be done.

4 MR. HOWARD: I don't know. The maximum width
5 in a residential zone for a driveway is 30 feet. I
6 don't know. They said 16 driveways, which would be,
7 they have four buildings show that. That would be
8 four per building that you're assuming. Without
9 seeing it I don't really know how that would work. I
10 don't know how -- I don't know. It's something we
11 would all have to look at as far as how they would
12 function and where they would be and how close they
13 would be, and what the separation is, and does that
14 meet the 40 percent requirement. There's a lot of
15 things we would have to look at that we just don't
16 have at this point.

17 CHAIRMAN: We can't say that would not happen.
18 We can't say that it would happen, ma'am. I'm sorry
19 we can't be more definitive than that.

20 MR. FREY: Mr. Chair.

21 CHAIRMAN: Yes, sir.

22 MR. FREY: So tonight all we're voting on,
23 we're not approving -- all we're approving is that he
24 can change the zoning. We are not approving the
25 height and amount of driveways. We're not doing any

1 of that tonight, correct?

2 MR. HOWARD: Right.

3 MR. FREY: That would be another meeting and
4 another group of these issues?

5 MR. HOWARD: If you choose to approve the
6 zoning change, you are saying that you feel that the
7 proposed zoning, with whatever findings you would have
8 to use, meets whatever requirements and that that the
9 use is appropriate. That's it. They would have to do
10 the development plan and all that stuff later on that
11 would demonstrate that they could satisfactorily
12 accomplish parking and landscaping and access and all
13 of those other things.

14 MR. FREY: The same way with Mr. Cecil. I
15 mean he's bought the property. He's going to do
16 something with it at some point. He didn't buy it to
17 leave it vacant. If he then decided to build P-1 back
18 in there, he would not need to come back since it's
19 already --

20 MR. HOWARD: He would not have to go through
21 this rezoning process, but he would still have to do a
22 development plan per whatever. That would be the
23 parking and landscaping and access and all of those
24 requirements. Regardless of what the zoning is, any
25 time a development would take place on that property,

1 a plan would have to be submitted and reviewed and
2 approved.

3 CHAIRMAN: Yes, sir.

4 MR. MARTIN: I just wanted to ask, part of
5 your evaluation do you take possible affect on
6 property values into your consideration?

7 CHAIRMAN: We certainly will hear that.

8 MR. MARTIN: You do?

9 CHAIRMAN: We will hear that. I will tell you
10 that we would evaluate that more in more accuracy if
11 it were someone whose profession is to evaluate
12 property values in these circumstance. We certainly
13 will hear your opinion and consider accordingly.

14 MR. DURAND: I was just asking you if that
15 goes into your analysis. I'm not really making, I'm
16 not necessarily making a case one way or the other.

17 CHAIRMAN: We don't consider that at all, do
18 we, Mr. Howard?

19 MR. HOWARD: The Staff does not review
20 property values in a rezoning application, no.

21 MR. MARTIN: I meant the effect like on my
22 house and the neighbors houses is what I was inquiring
23 about.

24 CHAIRMAN: We don't do that in our evaluation
25 process; neither the Staff or this board.

1 MS. KNIGHT: It will clarify. The Staff
2 doesn't do it in their review, but if it were
3 presented like the Chairman said, from someone who was
4 certified or licensed or whatever to do that, and
5 certainly we can use your lay opinion on it as well.
6 So if it wanted to be presented to the Commission,
7 they could consider it, weigh it with every other
8 pieces of evidence that has been presented tonight.

9 CHAIRMAN: Thank you, Counselor.
10 Anyone else have any questions?

11 MR. MOORE: Mr. Chairman, Staff mentions the
12 fact that it's not an expansion, logical expansion.
13 Then the applicant says it could possibly be a logical
14 expansion because of the multi-family uses nearby;
15 911, 913 Hill Avenue. That's nearby. The other ones
16 are three, four, five, six blocks away. How can you
17 use that as --

18 MR. SULLIVAN: I think you're right. The
19 point we were trying to make is there's multi-family
20 in the area, but if -- I think the way the regulations
21 interpret it, if it's not touching, if there is a
22 multi-family property touching our property or across
23 the street touching, then I can't sit up here and tell
24 you this is a logical expansion of existing. So
25 that's why when I got up here right at the beginning I

1 told you, I agree with them. I can't go that route
2 because there's not an R-3MF touching it, which is why
3 I've asked you, and I think the evidence shows, that
4 the P-1 isn't an appropriate zone here and R-3MF would
5 be.

6 CHAIRMAN: Thank you, Mr. Sullivan.

7 Yes, Mr. Ball.

8 MR. BALL: Since this would be a zoning that
9 the Staff does not recommend, is there a way to make
10 sure that it does fit in the surrounding areas?
11 Because as we sit today, if we make the rezoning to
12 R-3MF there really are no guidelines at that point. I
13 apologize. There are guidelines based on the zoning
14 ordinance; however, it can do many things as R-3MF
15 just as they can currently as P-1, both of which like
16 Mr. Cecil demonstrated tonight, both of which may not
17 fit in with the character of the area, P-1 or R-3MF.
18 If we change it to R-3MF, is there a possibility to
19 protect the adjoining property owners? Maybe what he
20 proposes does fit in, but that may or may not be what
21 happens in the future I guess is my question.

22 MR. HOWARD: If I'm following you, and you may
23 have to provide some clarification.

24 No, the Planning Commission could not rezone
25 this property in theory to R-3MF with a stipulation

1 that the plan that is submitted for us and review
2 looks like what they proposed or could you put a
3 condition on it that says that it has to be specific
4 thing. You can't do a stipulated rezoning approval.
5 If there were conditions that you thought would make
6 it work better in regards to say buffering or setbacks
7 or heights or things like that, you could potentially
8 craft that into a motion, but you could not do a
9 rezoning and say, if and only if it is this specific
10 use with this specific number of units and these
11 number of buildings. You can't be that specific.

12 MR. BALL: That answers my question. Thank
13 you.

14 CHAIRMAN: Do we have any other questions or
15 concerns by Staff?

16 Yes, sir.

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

19 MR. MEDLEY: John Medley.

20 (JOHN MEDLEY SWORN BY ATTORNEY.)

21 MR. MEDLEY: How many units were built by
22 Jimmy John's?

23 MR. CECIL: Four units.

24 MR. MEDLEY: There are four units there. I
25 live at 1125 Booth Avenue. There's 17 houses on Hill

1 and on Booth. What's been proposed is we have pretty
2 much three blocks of that area taken up with about the
3 same number of dwellings that are going to be in this
4 one property. My biggest fear is that we're putting
5 too much in this one parcel. Maybe they should shoot
6 for less units and that might be more appropriate for
7 that area.

8 Also, at 1125, I live right at the corner of
9 Booth and Mayfair. Between school hours, which we're
10 only a half block away from the elementary school,
11 excuse me, the middle school, north and south
12 campuses, and within half an hour to, half an hour to
13 an hour before and half an hour after school starts,
14 it's extremely busy at that intersection. We're going
15 to have to deal with that issue.

16 Another fear I have is overnight parking.
17 There are a lot of people -- my next-door neighbor
18 doesn't like it if I park beside my hedge row next to
19 my driveway because she can't see to get out of her
20 drive. I know she's going to complain if people start
21 parking right across the street from her or in front
22 of her house even.

23 Another issue is property values long-term. I
24 know areas like Chuck Gray Court and things like that,
25 some of the places that were rentals have really

1 dwindled in value over the years. So in 20, 30 years
2 what kind of impact is this going to have on the
3 properties in this area?

4 CHAIRMAN: Thank you, sir. We appreciate it,
5 very, very much.

6 Mr. Sullivan.

7 MR. SULLIVAN: And I know John. We went to
8 high school together. Those are all legitimate
9 concerns, but there are legitimate concerns right now.
10 You go down Hill Avenue the other way and look at some
11 of the houses where the windows are busted out, and
12 they've been busted out for years and nobody has fixed
13 them. Everybody has a right to be concerned. You're
14 always worried when somebody moves into your
15 neighborhood with something new. These will be
16 quality construction buildings that we think will
17 enhance the neighborhood for years to come and be an
18 improvement over what's there now which is a building
19 that's 55 percent occupied.

20 Again, these traffic concerns are legitimate
21 fears for everybody. If you rezone it to R-3MF,
22 you'll have less traffic, according to expert reports
23 than Brian cited, than if it was P-1 in full use.

24 CHAIRMAN: Mr. Boswell.

25 MR. BOSWELL: When I saw this announcement in

1 the paper some time back, I guess I was a little bit
2 surprised because of the location and everything that
3 was around it. In your mind, what is the single most
4 reason for this being selected, this area being
5 selected?

6 CHAIRMAN: Mr. Cecil.

7 MR. CECIL: I don't think you can get a much
8 more convenient spot with the Health Park there. When
9 we're shooting for a 50 and older crowd, you look at
10 the Health Park use for that age group is going to be
11 quite a bit higher than most. You're within walking
12 distance to a grocery store. You look at all the
13 stuff that's going on downtown for residential
14 rezoning. There's not a grocery store you can walk
15 to. You have restaurants nearby. It's a great
16 residential area. As I stated, I live about a block
17 and a half from there. I've had numerous type offers
18 to, hey, we want to buy your house, we want to buy
19 your house. So people want to be in the area for
20 residential use. We have an aging population.
21 They're obviously not going to want to take care of a
22 large yard and excess house maintenance. This gives
23 them a way to live in the area they want to live and
24 have the home they want.

25 MR. ROGERS: You're shooting for a 50 and

1 older crowd. It's four-stories. Are there elevators?

2 MR. CECIL: There are elevators. There are
3 elevators in each unit.

4 CHAIRMAN: Thank you.

5 MR. MARTIN: I just have a question and a
6 comment. I'm still a little concerned that -- I
7 forget the gentleman that just spoke. The attorney.
8 That they're representing the high quality of the
9 units, but they don't want to, doesn't seem to be an
10 indication of a price range. Looks like they would be
11 more forthcoming with the price range.

12 Another question for Mr. Howard there. As far
13 as the traffic counts, as far as P-1 versus the
14 residential, I mean after business hours would the P-1
15 generate less traffic than residential? You know, say
16 after the office is closed. That's the question that
17 I had.

18 MR. HOWARD: Sure. The institution of
19 transportation engineers, that trip generation manual,
20 they calculate what the total traffic generation would
21 be over a 24 hour period. So there would be different
22 a.m. and p.m. peaks and different peak volume times
23 depending on every use.

24 MR. MARTIN: Thank you.

25 CHAIRMAN: I want to make sure everybody is

1 heard.

2 Yes, sir.

3 MR. MEDLEY: When I bought my house at 1125,
4 the main reason we bought in that area is because of
5 the excellent schools in that area. The neighbors
6 that bought the house across the street from us bought
7 it for the same reason. Because they love Sutton.
8 It's a great school. They want their kids to go
9 there. So I just want to iterate myself that that's a
10 big selling point and when someone wants to rent or
11 buy, they're likely to not be over 50. I would say
12 personally that my main reason so my kids could be
13 close to school and walk to school here.

14 CHAIRMAN: Thank you, sir.

15 Any commissioners have any additional
16 questions?

17 MR. MOORE: Thank you, Mr. Chairman. Maybe
18 Mr. Howard can answer this. I guess it's appropriate.
19 It may be. It may not be.

20 The units that they built behind Jimmy John's,
21 was that a logical expansion?

22 MR. HOWARD: It was not. Mr. Sullivan
23 actually represented on that case.

24 MR. SULLIVAN: No, it wasn't. But there was
25 this buffer between the Jimmy John's and the Walgreens

1 and the single-family residential, was one of the
2 things we mentioned that night.

3 MR. MOORE: You became the buffer?

4 MR. SULLIVAN: Yes.

5 CHAIRMAN: Any additional questions?

6 Mr. Boswell.

7 MR. BOSWELL: Refresh my memory, Mr. Howard.

8 I think you may have mentioned this or someone
9 mentioned it. There would be some buffering
10 requirements or there would not be buffering
11 requirements?

12 MR. HOWARD: The only screening, there would
13 be a buffer requirement. The screening requirement
14 would be a 3-foot tall element with a tree every
15 40-feet anywhere that there are vehicular use area,
16 which are parking spaces, drive aisles, parking lot.
17 Any of that would adjoin road right-of-way.

18 MR. BOSWELL: Lighting, be any lighting that
19 could be directed away from the residential?

20 MR. HOWARD: There is a general statement in
21 the zoning ordinance to that effect. You could
22 certainly -- if you worked towards an approval on
23 this, you could certainly make that a condition, that
24 the lighting be directed away from residential
25 surrounding properties. That's a common thing that we

1 would typically do on a rezoning change that we would
2 recommend approval on.

3 MR. BOSWELL: Thank you, Mr. Howard.

4 CHAIRMAN: What you just said about the tree
5 requirement, could that perhaps restrict the number of
6 driveways he could build in that block?

7 MR. HOWARD: No, not necessarily. The
8 limiting factor on the number of driveways will be the
9 width of the driveways allowed, how they're spaced,
10 and do they exceed the 40 percent total width allowed
11 by the zoning ordinance.

12 CHAIRMAN: Thank you.

13 Mr. Ball.

14 MR. BALL: I guess my similar question here.
15 In the event that there's 16 driveways though and 16
16 access points, that really almost eliminates the
17 screening requirement because you're only going to be
18 screening against a driveway or a parking area;
19 therefore, there would not really be a screening
20 requirement except for on both corner lots where those
21 driveways would adjoin other streets.

22 MR. HOWARD: It could be. Again, depends on
23 how it's laid out. We haven't seen it. I don't know
24 exactly. That could happen.

25 MR. BALL: You follow what I'm --

1 MR. HOWARD: Yes, I know what you're saying.
2 That could be the case, but it depends on how the
3 driveways. You know, some of these types of uses will
4 have a driveway that will go in and fan out to a
5 larger area and then you would have the potential for
6 screening there. Just depends on how it's laid out.
7 We see a variety of things in multi-family zones.

8 CHAIRMAN: Mr. Boswell.

9 MR. BOSWELL: I'm just curious. The
10 mentioning of 16 access points off of Hill Avenue, are
11 that many needed? Is that really necessary?

12 MR. CECIL: The width of these buildings and
13 the depth of the property, there's just not going to
14 be a way to get kind of one-way traffic along Hill
15 Avenue and still have room to turn into the garages.
16 I guess if we start over on our architectural design
17 and change our layouts, yes, anything is possible, but
18 we're pretty excited about this elevation. We don't
19 have landscaping, that type of stuff finalized where I
20 can hand you this plan. We are going to be good
21 neighbors. I do want the property values -- I mean
22 like I have a vested interest to make this a very,
23 very nice property. We're not going to skimp on those
24 area, but that means very little to me saying it here
25 in public until you see it going up.

1 CHAIRMAN: Thank you.

2 MR. HOWARD: If you don't mind, I have a
3 follow up on that.

4 I know we're not designing here tonight, but I
5 am just curious. How wide are the buildings? What's
6 the dimension?

7 MR. CECIL: It is just a little over 100 feet
8 from tip to tip per building.

9 MR. HOWARD: How far back will the buildings
10 sit from the property line?

11 MR. CECIL: I know there's a minimum 25 foot
12 setback. I think if you look on that site plan, the
13 line might be too shallow to see, but it is behind
14 that setback.

15 MR. HOWARD: I didn't see it on here and
16 that's why I was asking.

17 CHAIRMAN: We need to be very careful as a
18 commission. First, this is a rezoning. We're getting
19 into the rezone of what ifs. It would not be fair to
20 the applicant or to the people in the audience. We
21 need to be very, very cautious I think about that.

22 Any other questions?

23 (NO RESPONSE)

24 CHAIRMAN: If not the Chair is ready to
25 entertain a motion.

1 I will say this: If someone needs assistance
2 on preparing a motion, you certainly ask counsel or
3 Staff to help you with that, if you need that, or if
4 you feel prepared to make a motion now, then Chair is
5 where ready to accept a motion.

6 MR. MOORE: I may need help.

7 CHAIRMAN: Mr. Moore, do you wish to make a
8 motion?

9 MR. MOORE: No, sir.

10 CHAIRMAN: Chair is not going to make it.

11 Mr. Frey, do you want to make a motion?

12 MR. FREY: Let me ask one more thing.

13 CHAIRMAN: Mr. Frey, do you choose to make a
14 motion?

15 MR. FREY: I am not at this point in time able
16 to make a motion unfortunately.

17 MS. KNIGHT: Mr. Chairman, take a minute to
18 let commissioners gather their notes themselves and
19 maybe try to craft a motion.

20 CHAIRMAN: Would it be appropriate to take
21 maybe a five minute recess?

22 MS. KNIGHT: I think so.

23 CHAIRMAN: Chair will entertain a motion for a
24 five minute recess.

25 MR. SULLIVAN: Could I say one thing.

1 CHAIRMAN: Yes, sir, you certainly may.

2 MR. SULLIVAN: When I ask for at the end of my
3 initial presentation was for the commission to
4 consider making a finding that because of the decrease
5 in demand for professional service use in this area,
6 that the existing zoning classification, given the
7 property is inappropriate and that the proposed zoning
8 classification, multi-family residential, is
9 appropriate, based on that finding that the zoning map
10 amendment be approved. That was the relief I asked
11 for at the end of my statement.

12 CHAIRMAN: Thank you, Mr. Sullivan.

13 I'll entertain a motion for a five minute
14 recess.

15 MR. BOSWELL: So move.

16 CHAIRMAN: Motion by Mr. Boswell.

17 MR. JEAN: Second.

18 CHAIRMAN: Second by Mr. Jean. All in favor
19 raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: We will only be five minutes so
22 please remain seated.

23 - - - - (OFF THE RECORD) - - - -

24 CHAIRMAN: The Chair will call the meeting to
25 order again.

1 Thank you for your patience. We wanted to
2 make sure we had a motion that was appropriate to make
3 so that everyone can be treated fairly under that
4 motion.

5 The Chair is ready to entertain a motion.

6 MR. KAZLAUSKAS: Mr. Chairman.

7 CHAIRMAN: Mr. Kazlauskas.

8 MR. KAZLAUSKAS: I move that the application
9 be approved for the rezoning. While the proposed
10 rezoning may not be in compliance with the
11 Comprehensive Plan because there is no continuous land
12 zoned multi-family residential and it is not
13 major-street-oriented, the evidence shows that the
14 existing zoning classification is inappropriate.
15 There have been no major changes of an economical,
16 physical and social nature within the area involved
17 which would was not anticipated in the adopted
18 Comprehensive Plan, and those changes have
19 substantially altered the basic character of the area
20 involved for the following reasons:

21 The subject property known as Mayfair Square
22 used to be a driving professional service. Used to be
23 one of the busiest pharmacies in town, and numerous
24 physicians and other health care professional offices.
25 These businesses thrived because they were in close

1 proximity to the Mercy Hospital; however, Mercy
2 Hospital was replaced with the Health Park which is a
3 great community resource, but it did very little to
4 assist in the health care attendance on the subject
5 property. This is further evidence by the decline in
6 the use of medical office building connected to the
7 Health Park and located at the northwest corner of
8 Mayfair Drive and Ford Avenue. Most health
9 care-related businesses have relocated to Highway 54
10 and near the new hospital. Thus the existing Mayfair
11 square establishes that professional service used is
12 now inappropriate and that the proposed multi-family
13 residential use is appropriate.

14 Also, the closing of Mercy Hospital, the
15 migration of health care professionals to location
16 miles away are changes that have substantially altered
17 the basic character of this area so that the
18 professional service use are no longer appropriate and
19 some types of residential use is more appropriate.
20 Rezoning this property to R-3MF will provide a buffer
21 between higher intensity P-1 property to the north,
22 being the Health Park and medical office building, and
23 the lower intensity single-family residential
24 properties to the east/west and south of subject
25 property. Single-family residential use of the

1 subject property is not realistic because of the cost
2 of acquiring the subject property and because it is
3 adjacent to high intensity professional service uses
4 being the Health Park and adjoining medical office
5 building. The proposed multi-family use will be newly
6 constructed condominiums that will serve the demand
7 from any residence to live near the wonderful asset
8 that is the Health Park. This development will
9 enhance and improve the neighborhood. The land will
10 be used wisely in terms of having a multi-family
11 residential use in place of a professional service use
12 that cannot sustain itself. This multi-family
13 residential zoning will provide buildings that are
14 esthetically pleasing. This residential use will also
15 be efficient housing multiple families in one area.

16 I make a motion that be approved, Mr.
17 Chairman.

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

20 MR. MOORE: Second.

21 CHAIRMAN: I have a second by Mr. Moore. Any
22 questions or concerns about the motion?

23 (NO RESPONSE)

24 CHAIRMAN: All in favor raise your right hand.

25 (BOARD MEMBERS LARRY MOORE, IRVIN ROGERS,

1 MANUEL BALL, FRED REEVES, LARRY BOSWELL, JOHN
2 KAZLAUSKAS AND STEVE FREY RESPONDED AYE.)

3 CHAIRMAN: All opposed.

4 (BOARD MEMBERS BEVERLY MCENROE, ANGELA
5 HARDAWAY AND LEWIS JEAN RESPONDED NEY.)

6 CHAIRMAN: Seven to three in favor of so the
7 application is approved.

8 Thank all of you for coming this evening.
9 Everyone doesn't always leave happy, but we appreciate
10 your participation and I trust we did listen
11 carefully.

12 Mr. Howard.

13 MAJOR SUBDIVISION PRELIMINARY PLATS

14 ITEM 8

15 Commercial Warehousing, Inc., 21.2 acres
16 Consider approval of an amended major subdivision
17 preliminary plat
Applicant: Commercial Warehousing, Inc.

18 MR. HOWARD: Mr. Chairman and Commissioners,
19 this plat comes before you as an amended preliminary
20 plat. It's found to be consistent with the
21 requirements of the Comprehensive Plan and Zoning
22 Ordinance and subdivision regulations. There is an
23 existing plat, preliminary plat on file. This one
24 basically divides larger tracts into some smaller
25 tracts and it's consistent with everything that's been

1 reviewed by everybody that needs to review it. So
2 it's ready for your consideration.

3 CHAIRMAN: Any questions or concern about the
4 plat?

5 (NO RESPONSE)

6 CHAIRMAN: Entertain a motion.

7 Mr. Jean.

8 MR. JEAN: Motion to approve.

9 CHAIRMAN: Motion by Mr. Jean. Is there a
10 second?

11 MS. McENROE: Second.

12 CHAIRMAN: Second by Ms. McEnroe. Questions
13 or concerns about the motion?

14 (NO RESPONSE)

15 CHAIRMAN: All in favor raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: The motion is approved.

18 MINOR SUBDIVISION PLATS

19 ITEM 9

20 6375 & 6413 London Pike Spur, 17.554 acres
21 Consider approval of a minor subdivision plat
22 Applicant: William Earl Preston Estate; Kevin Ray &
Leslie Jane Wilson

23 MR. HOWARD: This plat comes before you as an
24 exception to the three to one requirement. You have
25 an existing smaller parcel and a larger adjoining

1 parcel. The existing smaller parcel does not meet the
2 three to one requirement now. They're adding some
3 additional road frontage and additional depth to that
4 property. This is not a case where they're trying to
5 maximum the number of lots that are being created.
6 There are two lots and they're proposing that there
7 still be two lots. It's just the configuration of the
8 one that's a little bit deeper, but it does have some
9 additional road frontage. So we would recommend that
10 you consider it for approval.

11 CHAIRMAN: Any questions or concerns by the
12 commission?

13 (NO RESPONSE)

14 CHAIRMAN: Anybody in the audience?

15 (NO RESPONSE)

16 CHAIRMAN: Chair will entertain a motion.

17 Mr. Boswell.

18 MR. BOSWELL: Mr. Chairman, motion for
19 approval.

20 CHAIRMAN: We have a motion by Mr. Boswell.
21 Do I have a second.

22 MR. FREY: Second.

23 CHAIRMAN: I have a second by Mr. Frey.
24 Concerns or questions about the motion?

25 (NO RESPONSE)

1 CHAIRMAN: All in favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: The motion is approved.

4 ITEM 10

5 2923 & 2929 Highway 142, 5.88 acres
Consider approval of a minor subdivision plat
6 Applicant: Stella Haynes

7 MR. HOWARD: This plat comes before you for
8 multiple exceptions. There is an existing 5.88 acre
9 parcel that does not have road frontage. There is a
10 passway that goes back to this property and serves a
11 few others, but it does not have road frontage. The
12 nearest road is Highway 142.

13 There was a plat done in 2006 that moves some
14 property lines around and did some consolidation,
15 redivisions. Kept the same number of lots basically,
16 but off of this passway the subject property was tract
17 4 of that division. On that plat in 2006 there was a
18 note put on the plat that says the property shall not
19 be further subdivided meeting the requirements of the
20 subdivision regulations. What they're proposing to do
21 now is create a 1 acre parcel with a 4.88 acre
22 addition, you know, left over from the original
23 parcel, which will then two parcels that do not have
24 road frontage on a road. It does not meet the
25 subdivision regulations for road frontage. Of course,

1 it exceeds three to one because it doesn't have any
2 road frontage. We certainly have concerns from
3 emergency access and services standpoint. Today you
4 wouldn't be able to create a lot like this off of
5 passway. We do not recommend that this lot be
6 created. We would recommend that the plat be denied
7 just to eliminate the potential for another land-lock
8 parcel to be created that does not have road frontage.

9 CHAIRMAN: Anyone here representing the
10 applicant?

11 MS. KNIGHT: Please state your name.

12 MS. HAYNES: Stella Haynes.

13 (MS. STELLA HAYNES SWORN BY ATTORNEY.)

14 MS. HAYNES: I would like to say that I really
15 would like for you to consider approving this
16 application. This land has been in our family for 60
17 years just like it's laid out up there. At this time
18 my nieces is here as a buyer wanting to buy this land.
19 I would sincerely hope that you would reconsider and
20 approve this.

21 CHAIRMAN: You wish to make a comment?

22 MS. DOUGLAS: Yes.

23 MS. KNIGHT: State your name for the record,
24 please.

25 MS. DOUGLAS: Amy Douglas.

1 (AMY DOUGLAS SWORN BY ATTORNEY.)

2 MS. DOUGLAS: With the division of this we
3 would still have access to the road. There are a
4 couple of lots down the road a little further that do
5 not have as close to road frontage as we would have,
6 but being able to buy this and keep the land and the
7 home in our family is very important.

8 CHAIRMAN: Commissioners, any of you have any
9 questions of the applicant?

10 Yes, Mr. Ball.

11 MR. BALL: The conditions that were put on
12 this last, is this the same applicant that the
13 conditions were originally put on?

14 MR. HOWARD: Yes. The current applicant did
15 sign that plan in 2006.

16 MR. BALL: So they were aware at that point in
17 time of those conditions?

18 MR. HOWARD: It was a condition on that plat
19 that was approved October 19, 2006.

20 MR. BALL: Thank you.

21 CHAIRMAN: Any other commissioners have any
22 questions?

23 (NO RESPONSE)

24 CHAIRMAN: Anyone in the audience have any
25 comments or questions?

1 MS. DOUGLAS: The other thing is my family and
2 I currently, it's my husband and myself and two small
3 children. We are living in a very small home right
4 now. So having being able to sell the property that
5 we're in now, moving out to having all that extra
6 land, an acre and along with the house is very
7 important too.

8 CHAIRMAN: Thank you very much.

9 MS. HAYNES: There are several landowners in
10 this area, and they have no objection to this sale of
11 this property.

12 CHAIRMAN: Thank you.

13 Mr. Boswell.

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

15 Mr. Howard, can you go back through the
16 reasons that were recommend for denial again, please?

17 MR. HOWARD: Yes. The main reason is there
18 are several tracts back there back in the day, if you
19 will, however you want to describe that. It wasn't
20 necessarily uncommon to create lots off of a passway
21 or a driveway basically, which is what this is.

22 Today the lot is being created, multiple lots
23 being created off of the passway, which is not public
24 right-of-way. It's not a public road. It's not
25 allowed based on the subdivision regulations or the

1 zoning ordinance.

2 So the reasons are, one, the plat that was
3 approved in October of 2006, there was clearly a note
4 on the plat that said the property can't be further
5 subdivided without meeting the subdivision
6 regulations. This proposal is a division that does
7 not meet the subdivision regulations. It does not
8 have any road frontage on a public road. There is a
9 passway again that runs back there, which is a
10 driveway basically that serves the property, but there
11 is no frontage on the public road.

12 Those rules were put in place to, one of the
13 biggest reason was concern from the emergency services
14 community. Whether it be an ambulance, police, fire,
15 all of that, to try and find where these things are
16 located. If you have a lot with road frontage on a
17 road and a mailbox on the road, it's clear where that
18 is. If you have a passway that goes back and there's
19 lots off of it, it's more difficult when trying to
20 find that location to get there. So that's why these
21 rules, one of the main reasons why these rules were
22 put in place in the first place.

23 CHAIRMAN: Any other questions?

24 (NO RESPONSE)

25 CHAIRMAN: Chair will entertain a motion.

1 MR. BALL: I'd like to make a motion to deny
2 this plat.

3 CHAIRMAN: Motion by Mr. Ball. Do we have a
4 second?

5 MS. HARDAWAY: Second.

6 CHAIRMAN: Second by Ms. Hardaway. Questions
7 or concerns about the motion?

8 (NO RESPONSE)

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: The application is not approved.

13 ITEM 11

14 5410 & 5420 Highway 554, 10.032 acres
15 Consider approval of a minor subdivision
16 Applicant: Robert L. & Saundra M. Glycer

17 MR. HOWARD: This plat comes before you as an
18 exception to the three to one requirements. There is
19 an existing parcel with 10 acres that has road
20 frontage on 554. They're proposing to create a lot
21 around an existing lake and I believe there's an
22 existing residence on that property which would leave
23 a remainder there on the county line that there is
24 potential another house to be built. It does have
25 road frontage on Highway 554. We have requested and
have the note put on here that this property cannot be

1 further subdivided without meeting the requirements of
2 the subdivision regulations, but being that there is
3 an existing there and that there is the potential for
4 no further subdivision, the lots do have road
5 frontage; although, they do exceed the three to one
6 requirement, we would recommend that you consider this
7 this for approval.

8 CHAIRMAN: Anyone here representing the
9 applicant?

10 (NO RESPONSE)

11 CHAIRMAN: Any questions from the board?

12 (NO RESPONSE)

13 CHAIRMAN: Are you the applicant?

14 APPLICANT: Yes.

15 CHAIRMAN: Do you care to make any comments?

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

18 MS. GLYER: Sandra Glycer.

19 (SAUNDRA GLYER SWORN BY ATTORNEY.)

20 MS. GLYER: I'm just curious, you're going to
21 approve it or not approve it?

22 CHAIRMAN: The Staff's recommendation is to
23 approve it.

24 MS. GLYER: Sorry, I missed that part. Thank
25 you.

1 CHAIRMAN: You're very, very welcome. Thank
2 you for making sure you understood what we were doing.

3 Mr. Rogers.

4 MR. ROGERS: Mr. Chairman, I make a motion for
5 approval.

6 CHAIRMAN: Motion by Mr. Rogers. Do we have a
7 second?

8 MS. MCENROE: Second.

9 CHAIRMAN: Second by Ms. McEnroe. Questions
10 or concerns about the motion?

11 (NO RESPONSE)

12 CHAIRMAN: All in favor raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: The application is approved.

15 ITEM 12

16 3450 Free Silver Road & 8998 Winkler-Mount Zion Road,
17 10.004 acres

18 Consider approval of a minor subdivision plat
Applicant: Gary D. & Deborah M. Woods

19 MR. HOWARD: This plat comes before you as an
20 exception to the three to one requirement. There is a
21 larger parcel that you see on the plat and then a
22 smaller parcel. The smaller parcel is what is being
23 proposed to be created. It does have road frontage on
24 a public road, and it does meet the minimum
25 requirements for road frontage; however, it's deeper

1 than that three to one requirement. We have the note
2 placed on the plat that states that the property shall
3 not be further subdivided, not meeting the
4 requirements of the subdivision regulations, being
5 that all lots have road frontage, and this is just an
6 exception on a three to one for one lot, there won't
7 be any further subdivision without meeting the
8 requirement. We would recommend that you consider it
9 for approval.

10 CHAIRMAN: Anyone here representing the
11 applicant?

12 MR. RINEY: Yes.

13 CHAIRMAN: Mr. Riney, do you have any
14 comments?

15 MR. RINEY: No.

16 CHAIRMAN: Any commissioners have any
17 questions with regard to this application?

18 (NO RESPONSE)

19 CHAIRMAN: If not the Chair will entertain a
20 motion.

21 MR. MOORE: Move for approval.

22 CHAIRMAN: Motion by Mr. Moore. Do we have a
23 second?

24 MS. McENROE: Second.

25 CHAIRMAN: Second by McEnroe. Questions or

1 concerns about the motion?

2 (NO RESPONSE)

3 CHAIRMAN: All in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: The application is approved. Thank
6 you.

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8 NEW BUSINESS

9 ITEM 13

10 Consider approval of September 2016 financial
11 statements

12 CHAIRMAN: All of you received a copy of the
13 September financial statements in your packet that
14 came to you electronically. I assume you've had an
15 opportunity to review those financial statements. Are
16 there any questions or concerns about anything in the
17 financial statement?

18 (NO RESPONSE)

19 CHAIRMAN: If not Chair then would entertain a
20 motion to approve.

21 Mr. Frey.

22 MR. FREY: Motion to approve.

23 CHAIRMAN: Do we have a second?

24 MR. BALL: Second.

25 CHAIRMAN: Second by Mr. Ball. All in favor

1 raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: They are approved.

4 ITEM 14

5 Consider approval of 2017 Filing Dates and Deadlines

6 CHAIRMAN: Mr. Howard.

7 MR. HOWARD: You all have in your packets the
8 2017 Filing Dates and Deadlines. As in year's past,
9 we've provided you with two copies. We'll call
10 Version A, that's the standard meeting dates and
11 deadlines. Version B is the one that we've actually
12 used the last couple of years. Where we double up on
13 the Planning Commission and OMBA meetings in April and
14 October to accommodate school system spring and fall
15 breaks. We've had conflicts with those in the past
16 having enough people present.

17 So you have two options. One to approve the
18 standard schedule or option B, which would be to use
19 the alternative schedule which would allow to
20 accommodate for spring and fall break.

21 CHAIRMAN: Anybody have any questions about
22 either of the options that we have?

23 (NO RESPONSE)

24 CHAIRMAN: Anybody want to advocate for either
25 of the options that we have?

1 Mr. Boswell.

2 MR. BOSWELL: I would make a motion that we
3 approve the Version B, which is the one that we've
4 been using for the last few years.

5 CHAIRMAN: That's the one where we have the
6 double meetings?

7 MR. BOSWELL: Yes.

8 CHAIRMAN: Motion by Mr. Boswell. Do I have a
9 second?

10 MS. HARDAWAY: Second.

11 CHAIRMAN: Second by Ms. Hardaway. Questions
12 or concerns about the application?

13 (NO RESPONSE)

14 CHAIRMAN: All in favors raise your right
15 hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: We will go with Version B, which is
18 the double meetings during fall and spring breaks.

19 ITEM 15

20 Comments by the Chairman

21 CHAIRMAN: Thank all of you for your judicious
22 participation this evening. There is never anything
23 wrong with a split vote. It shows everybody was
24 considering facts as they saw them in trying to make
25 the best decision they could to the applicant and for

1 the community. I applaud you for doing that and
2 making time to consider it very, very carefully. I
3 think it was a good session in that regard

4 ITEM 16

5 Comments by the Planning Commissioners

6 CHAIRMAN: Any of the commissioners have any
7 comments?

8 (NO RESPONSE)

9 ITEM 17

10 Comments by the Director

11 CHAIRMAN: Mr. Howard.

12 MR. HOWARD: The only thing I have is that
13 Mike Hill with our office has been coordinating with
14 the GRADD office to post a regional planning seminar
15 in December. Looking at a date of December 9th.
16 Should begin around 8:30 a.m. at the GRADD office.
17 It's an opportunity for any elected officials,
18 planning commissioners, planning staff, interested
19 citizens to attend a half day session where planning
20 topics will be discussed. It does allow for
21 conditioning education credits for planners and
22 planning commissioners. This is a regional event. We
23 hosted a similar event last year and had 65 to 70
24 people show up. So if anybody would like to attend,
25 you can get in touch with Mike Hill at our office to

1 confirm a reservation. It's a free event. We do
2 provide a lunch as well during that. We do need to
3 know an approximate number of how many people will
4 attend. If anybody would like to attend, just let us
5 know.

6 CHAIRMAN: If anyone does have a need to get
7 in your required hours, you may want to look at that.

8 I don't know, Mr. Howard, if you want to check
9 and see if somebody is cutting it close.

10 MR. HOWARD: Sure.

11 CHAIRMAN: Otherwise, I'll entertain one last
12 motion.

13 MR. BALL: Motion to adjourn.

14 CHAIRMAN: Motion to adjourn by Mr. Ball.

15 MR. FREY: Second.

16 CHAIRMAN: Second by Mr. Frey. All in favor
17 raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 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 93 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 6th day of December, 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

25