

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 DECEMBER 8, 2016

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 December 8, 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 Angela Hardaway
16 Manuel Ball
17 Larry Moore
18 Irvin Rogers

14 * * * * *

15 CHAIRMAN: I call the December 2016 meeting of
16 the Owensboro Metropolitan Planning Commission to
17 order. We start each of our meetings with a prayer
18 and pledge to the flag. That will be given by
19 Commissioner Irvin Rogers tonight.

20 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

21 CHAIRMAN: First item on our agenda this
22 evening is the approval of the minutes of the November
23 10, 2016 meeting.

24 Commissioners, all of you should have received
25 a copy of these in the mail and have had a chance to

1 review them. Are there any additions or corrections
2 on these minutes?

3 (NO RESPONSE)

4 CHAIRMAN: If not, then the Chair would
5 entertain a motion for approval.

6 MR. KAZLAUSKAS: Motion to be approved.

7 CHAIRMAN: Motion by Mr. Kazlauskas.

8 MR. FREY: Second.

9 CHAIRMAN: We have a second by Mr. Frey. Any
10 questions about the motion?

11 (NO RESPONSE)

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: It looks like we have a number of
16 folks in the audience tonight. We are pleased to have
17 you here. Let me give you a couple of procedural
18 items so you'll be able to participate.

19 First of all, we're very pleased to have you
20 here. Anyone that comes to these meetings is welcome
21 to speak on any issue that they choose to. If you
22 want to speak on an issue, please come to the podium
23 closest to you. Unless you're an attorney, you'll be
24 sworn in because this is a quasi judicial hearing
25 where we're hearing facts about various items on the

1 agenda. Then we make a decision based upon the facts
2 we hear both from our reports and from the statements
3 that are made during the meeting. If you would like
4 to speak, we invite you to do that. Please come to
5 the podium and speak directly into the mike because
6 our hearings are also recorded. We're making a
7 verbatim recording of our hearing.

8 Commissioners, I remind you also to please
9 speak into the mike so that we get a good clear
10 recording of the meeting.

11 Having said that, Mr. Brian.

12 MR. HOWARD: I will note that all zoning
13 changes heard tonight will become final in 21 days
14 after the meeting, unless an appeal is filed. If an
15 appeal is filed, we will forward the record of the
16 meeting proceedings and all applicable materials to
17 the appropriate legislative body for their final
18 action.

19 -----

20 GENERAL BUSINESS

21 ZONING CHANGES

22 ITEM 3

23 3130 Burlew Boulevard, 1.64 acres
24 Consider zoning change: From B-4 General Business to
25 R-3MF Multi-Family Residential
Applicant: Stone Street Properties, LLC

1 MS. KNIGHT: Please state your name for the
2 record.

3 MS. EVANS: Melissa Evans.

4 (MELISSA EVANS SWORN BY ATTORNEY.)

5 PLANNING STAFF RECOMMENDATIONS

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

8 CONDITION

9 Access shall be in alignment with the existing
10 access for the apartment complex across Burlew
11 Boulevard. No additional access to Burlew Boulevard
12 shall be permitted.

13 FINDINGS OF FACT

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

17 2. The subject property is located in a
18 Business Plan Area, where urban mid-density
19 residential uses are appropriate in limited locations;

20 3. Sanitary sewer service is available for
21 extension to the site;

22 4. The proposal is a logical expansion of
23 existing R-3MF Multi-Family Residential zoning located
24 immediately north and across Burlew Boulevard to the
25 east of the subject property; and,

1 5. With a single access to Burlew Boulevard
2 in alignment with the access to the apartment complex
3 across Burlew Boulevard, the proposal should not
4 overburden the capacity of roadways and other
5 necessary urban services available in the affected
6 area.

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

9 CHAIRMAN: Thank you.
10 Is anyone here representing the applicant?

11 APPLICANT REP: Yes.

12 CHAIRMAN: Would you like to make any
13 statements?

14 APPLICANT REP: No.

15 CHAIRMAN: Commissioners, do any of you have
16 any questions of the applicant at this point in time?

17 (NO RESPONSE)

18 CHAIRMAN: Sir, come forward.

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

21 MR. WATHEN: Joe Wathen.

22 (JOE WATHEN SWORN BY ATTORNEY.)

23 MR. WATHEN: My name is Joe Wathen. I own
24 some of the Peppertree Apartments that's adjoining the
25 property. I have no problem with the zoning. I have

1 a couple of questions.

2 One, is there a developmental plan at this
3 point; do you know?

4 CHAIRMAN: Mr. Howard.

5 MR. HOWARD: There's not one submitted at this
6 point. One will be required, but it's not required at
7 the zoning stage.

8 MR. WATHEN: I don't know the exact process
9 you go through with a development plan. I want to
10 raise a couple of questions.

11 One, I'm concerned with the drainage when they
12 do have a developmental plan because the adjoining
13 property that I own, we have a significant drainage
14 problem now. The water drains down to Burlew
15 Boulevard or supposed to, but it doesn't drain good.
16 In fact, all summer, of course, we had a significant
17 rainfall, but all summer the lawn service had to wear
18 boots and weed eaters to cut the lawns back in there.
19 The water was up in the parking lots and up to the
20 sidewalks.

21 I have talked to the city engineer regarding
22 this. I want to be sure when a developmental plan is
23 submitted the consideration be given to the drainage.

24 CHAIRMAN: Yes. You can certainly come back
25 to this meeting once a development plan comes before

1 us for consideration for approval and you'll have a
2 chance to look at the development plan at that point
3 in time.

4 MR. WATHEN: There will be notification then?

5 MR. HOWARD: No. A development plan, actually
6 if it meets all the requirements, it can be approved
7 at Staff level. It wouldn't have to come back before
8 this commission.

9 But to answer your question about the city
10 engineer, the city engineer's office will have to
11 approve drainage calculations and all of that before
12 the plan can be approved. Of course, the applicant's
13 engineer is here tonight too and may be able to
14 provide some insight to that as well tonight, if
15 possible.

16 MR. WATHEN: In addition to the drainage,
17 would be the appearance of what they are going to
18 build in there and how that would fit in and access.
19 That's the only concern I had. Not with the zoning.

20 CHAIRMAN: We're simply approving the zoning
21 so what the appearance will be is not within our
22 purview.

23 MR. WATHEN: But it will be in the development
24 plan?

25 CHAIRMAN: Not appearance.

1 MR. HOWARD: There are no design guidelines in
2 our ordinance, outside of the downtown area. The
3 Downtown Overlay District where appearance matters.
4 Outside of the downtown area there are no design
5 guidelines. Nothing that says that the brick
6 buildings have to be all brick or whatever. That's
7 based upon what the applicant chooses to construct the
8 building.

9 As far as access goes, there was a condition
10 that we proposed on the application that says access
11 shall be in alignment with the existing access points
12 for the apartment complex across the street. So they
13 will be limited to a single access point in alignment
14 with the one across the street.

15 MR. WATHEN: Thank you.

16 CHAIRMAN: Thank you, Mr. Wathen.

17 Any other questions? Anyone else?

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

20 MR. DAVIS: Kevin Davis.

21 (KEVIN DAVIS SWORN BY ATTORNEY.)

22 MR. DAVIS: I represent my mother who lives on
23 925 Parkway Drive which backs up to this property. I
24 understand about the zoning and that type of thing.
25 You answered a lot our questions when you answered

1 Mr. Wathen's questions.

2 You say the development plan does not come
3 before this board. What about things in the
4 development plan like screening, the easement, in
5 addition to the drainage and that type of thing? My
6 mother lives her house backs up. Basically, I mean
7 there's been a time or two when she's gotten really
8 some shows on some of your apartments down Peppertree
9 because there's no screening. One guy comes out in
10 his underwear and sits on the back of a little stoop.
11 He can't be seen from the street, but he can be seen from
12 the houses.

13 My question is: Where with can we find out
14 about that type of thing and when can we talk about
15 it?

16 MR. HOWARD: As far as the ordinance goes,
17 there is no screening requirement between the
18 multi-family residential zoning and a single-family
19 residential zone. So they would not by ordinance be
20 required to put up a 6-foot tall fence along the
21 boundary or anything like that. They would in a B-4
22 zone. So the current zoning of the property, if they
23 put a commercial business on there, they would have to
24 provide screening to buffer those uses, but
25 residential to residential would not require any type

1 of a buffer.

2 MR. DAVIS: The other thing is you mentioned
3 sewer availability. Basically the sewer runs through
4 my mother's backyard. There's a manhole in my
5 mother's backyard for sewer, and they've had to do
6 several things with that. That's another concern.
7 Maybe on paper it can handle it, but I know that
8 they've to raise it because of the fall a couple of
9 times. Wasn't great enough. We have a neighborhood
10 two doors down that's has issues with that and the
11 storm water. It's not just on Mr. Wathen's property,
12 but on that property itself it looks like a lake with
13 storm water. Just some concerns there.

14 MR. HOWARD: Sure. And I'll add that not only
15 would the city engineer's office have to sign off on
16 it for the drainage, but all the utilities sign off on
17 the development plan. So that would include RWRA,
18 gas, water. All of those would have to sign off on
19 the plan before it could be approved. We can
20 certainly, you know, relay the concerns to the
21 appropriate agencies. Again, I know the applicant's
22 engineer is here tonight and is hearing your concerns.
23 So that's certainly something we'll keep in mind.

24 MR. DAVIS: Thank you.

25 CHAIRMAN: Thank you, sir.

1 Anyone else wish to make a comment?

2 Come to the podium, please.

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

5 MR. TOWERY: My name is Ron Towery.

6 (RON TOWERY SWORN BY ATTORNEY.)

7 MR. TOWERY: My name is Ron Towery. I live at
8 941 Parkway Drive, which is -- I own two lots on the
9 very end of the Parkway that backs up to 3130 Burlew,
10 which is in question for the rezoning.

11 I've lived there since 1970 and I've seen
12 snakes. I've seen about everything come out of there
13 that you can't believe. They've still got a water
14 issue. RWRA has come out several times to cut a hole
15 in a curb over there to sort of let some of the water
16 drain out of the field, but all of the water from
17 Meadowland up west end of the field drains towards
18 Burlew Boulevard. It's nothing but a swamp down
19 there. Since RWRA has come out there and cut a hole
20 in the curb to let some of the water drain out of the
21 field, Parkway Drive and Burlew Boulevard, the corner
22 down here floods every time it rains.

23 My drain system, my sewer won't handle it all,
24 but it still holds water. It's flooded all the time.
25 Now I'm having a problem because they've got a culvert

1 that goes underneath Burlew right down at the end of
2 my corner of my lot. That culvert doesn't serve any
3 purpose whatsoever. It's just a culvert. The water,
4 it can't go down to Horse Creek Park because there's
5 nothing to adjoin the culvert that's underneath the
6 street. Why they ever put it there I have no idea.
7 All of that water draining right -- it don't have
8 nowhere to go. So when it rains it comes back up,
9 comes up about three feet of my fence in my backyard.
10 So we've got a real issue.

11 My question is: Before we do some rezoning,
12 we need to address the issue of the water, watershed,
13 what's going to happen when they put stuff on this
14 field, where is the watershed going to go? Are we
15 going to have storm sewers, street storm sewers or
16 where is it going to go? Is it going to flood us or
17 are they going to put storm sewers in to handle the
18 situation? We're talking about 1.6 acres of water
19 shed. We've got the problem now. When you put
20 buildings on it, it's just going to create more
21 problems. Right now Burlew Boulevard when it rains
22 real hard, even up around Peppertree the streets
23 flood. We never had that problem until here four or
24 five years ago.

25 My question is -- I've got no problem with the

1 rezoning. I'm like these other neighbors. I want to
2 know about the watershed because I I've been there
3 since 1970 and wasn't nothing but corn fields there.
4 It didn't flood then, but ever since they built all
5 around it, our watershed doesn't go anywhere because
6 the culverts and the things that were to service that
7 water hasn't been put in the proper way it should be
8 to handle the water situation.

9 I would like to know who and where and when am
10 I going to be notified so that I can publicize some of
11 the issues I've seen since 1970? That we're going to
12 have a flood problem if we don't put storm drains in,
13 and things like this. Or are we going to rezone it
14 and the neighbors are going to be saying, well, I wish
15 I had been notified. You're telling us that other
16 people is going to handle it. All you're doing is
17 rezoning. All I'm interested in is knowing what's
18 going on so that I don't have the problem two or three
19 years from now, my house getting flooded because of
20 somebody not doing what they should have been doing
21 when they redid this.

22 CHAIRMAN: We have no authority for anything
23 other than rezoning.

24 MR. TOWERY: I understand that.

25 CHAIRMAN: My suggestion to you would be this:

1 RWRA meetings are open public meetings. My suggestion
2 is before this process, if it were to be rezoned,
3 before things move forward I would be going to an RWRA
4 meeting and expressing my concerns there to them. You
5 can check the City Action Line and they can give you
6 the times and dates of the meeting of RWRA Board, and
7 I'm sure they would like to hear your concerns. Like
8 anybody else, they want to do what's best for the
9 public. They may not be aware as this, as they should
10 be. That's my suggestion.

11 MR. TOWERY: That's the reason I'm here. I
12 would like to make a public record that there is a
13 drainage problem. It's a serious problem and it's
14 been a problem for a long time, but there's never been
15 anything put on it. It's kind of one of these
16 situations that's has been tolerated by the neighbors.

17 CHAIRMAN: I understand completely. As Mr.
18 Howard said, the engineer for this project is here. I
19 would also encourage, if it were to be rezoned, I
20 would encourage you to go to a RWRA Board meeting and
21 express your concerns there.

22 MR. TOWERY: I would appreciate, whoever is
23 listening, give the neighbors a chance to express
24 themselves with the plans and things like that so we
25 might be able to help the situation rather than, you

1 know, if not be addressed properly down the road where
2 there is more problems.

3 CHAIRMAN: The gentleman sitting right behind
4 you is shaking his head, I'm sure that he's listening
5 to what you're saying and will be very happy to talk
6 with you about it after we move this item.

7 MR. TOWERY: I just wish they'd give the
8 neighbors a chance to express themselves. Thank you
9 for your time.

10 CHAIRMAN: Mr. Kazlauskas.

11 MR. KAZLAUSKAS: Mr. Chairman, I wonder if we
12 could ask Staff to contact RWRA and make them aware of
13 what people have testified here tonight to see how
14 this fits into the city storm water plan?

15 MR. HOWARD: We have a training in the
16 morning. It may be Monday, but we'll get in touch
17 with both RWRA and the city engineer's office.

18 MR. KAZLAUSKAS: Because there might be some
19 plans in the future of when the city's master storm
20 water plan that might be addressed in the future. If
21 Staff would do that, I appreciate it.

22 CHAIRMAN: Regardless, whether or not it's
23 rezoned the issue will still be there.

24 Anyone else wish to make a comment?

25 (NO RESPONSE)

1 CHAIRMAN: Any commissioners have any question
2 of Staff or the applicant?

3 (NO RESPONSE)

4 CHAIRMAN: The Chair would entertain a motion.
5 Mr. Ball.

6 MR. BALL: I would like to make a motion to
7 approve based on Staff Recommendations and Condition
8 Number 1 and Findings of Fact 1 through 5.

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

11 MR. JEAN: Second.

12 CHAIRMAN: We have a second by Mr. Jean. Do
13 we have any questions or concerns about the motion?

14 (NO RESPONSE)

15 CHAIRMAN: If not, all in favor raise your
16 right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: The application is approved.

19 Thank you.

20 ITEM 4

21 9433 Morgantown Road & 9866 Highway 764, 7.288 acres
22 Consider zoning change: From R-1A Single-Family
23 Residential & A-R Rural Agriculture to A-R Rural
24 Agriculture
25 Applicant: Jason W. Brant & Eric K. Aud

26 PLANNING STAFF RECOMMENDATIONS

27 The Planning Staff recommends approval subject

1 to the condition and findings of fact that follow:

2 CONDITION

3 Approval of a minor subdivision plat
4 reconfiguring the size of the subject properties to
5 meet the minimum lot size in an A-R zone.

6 FINDINGS OF FACT

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

10 2. The subject properties are located in a
11 Rural Maintenance Plan Area, where rural large-lot
12 residential uses are appropriate in limited locations;

13 3. The subject properties are proposed to be
14 two large tracts at 3.331 and 3.977 acres
15 respectively;

16 4. The applicants propose to continue the
17 residential uses of the properties; and,

18 5. The subject properties have access to
19 Morgantown Road and Highway 764 with no new roads
20 proposed.

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

23 CHAIRMAN: Anyone here representing the
24 applicant?

25 APPLICANT REP: Yes.

1 CHAIRMAN: Would you like to make any
2 comments, sir?

3 APPLICANT REP: Not at this time.

4 CHAIRMAN: We may have some questions for you.
5 Anyone in the audience like to comment on this
6 application?

7 Please come to the podium, if you don't mind.

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

10 MR. HAHN: My name is Larry Hahn. I live at
11 9878 State Route 764 adjacent to this property.

12 (LARRY HAHN SWORN BY ATTORNEY.)

13 MR. HAHN: My only concern is being, I'm on
14 the long end of the property and it's going to be
15 zoned agricultural, but yet he wants to continue to
16 live there. I have concerns on that. Also, I'm
17 afraid of infringement on my property with messing
18 with the tree line that separates the two properties.

19 CHAIRMAN: Mr. Howard.

20 MR. HOWARD: As far as the zoning change goes,
21 the applicant -- well, the two applicants propose to
22 do a division and consolidation of the property.
23 Right now they're not zoned the same. So in order to
24 be able to do this division and consolidation, they
25 have to be zoned the same and that's why they're

1 rezoning the property tonight.

2 Single-family residential use is permitted in
3 an agricultural zone. In either zone, the residential
4 or agricultural zone they could have a house in both
5 parcels which is under the related item that's next.
6 Both parcels will have a home on it, and they won't be
7 able to build any additional homes on these properties
8 without further subdividing it at some point.

9 MR. HAHN: There's two houses on the property.

10 MR. HOWARD: Right.

11 MR. HAHN: So one of the houses is going to be
12 torn down and the other is going to stay? There's a
13 house that's shown here. There's a house that's
14 Jason's house that's adjacent to mine. I own the one
15 property there, but on the other side of that property
16 on Morgantown Road there's another house.

17 MR. HOWARD: That's right. There are two
18 houses. They are two parcels now. There are still
19 going to be two parcels and each parcel will only have
20 one house on it.

21 As far as the tree line goes, I can't answer
22 that. Of course, the applicant is here and they may
23 be able to address that, whether they have -- I don't
24 believe this is for any type of development. It's
25 just to cleanup the zoning and swap some property. As

1 far as the trees go, we can't answer that.

2 CHAIRMAN: Would you like to respond? It's
3 your choice.

4 MR. HAHN: Those are my only concerns. I
5 don't want my property line messed with or
6 infringement on my property.

7 CHAIRMAN: Thank you, sir.

8 Anyone else have a comment?

9 (NO RESPONSE)

10 CHAIRMAN: Commissioners, any of you have a
11 questions or concern?

12 Mr. Boswell.

13 MR. BOSWELL: Thank you, Mr. Chairman. Yes, I
14 do have a question of the applicant.

15 There's a statement made on our information
16 here, "that subject properties have access to
17 Morgantown Road and Highway 764 with no new roads
18 proposed."

19 I wasn't able to really determine exactly
20 where the access on either one of those highways was
21 at based on what we have here. Can you give us an
22 idea of where those accesses would be?

23 CHAIRMAN: Sir, you'll need to come and be
24 sworn in, if you don't mind.

25 MS. KNIGHT: Please state your name for the

1 record.

2 MR. WEIKEL: Bill Weikel.

3 (BILL WEIKEL SWORN BY ATTORNEY.)

4 MR. WEIKEL: Is there a copy of the
5 subdivision plat?

6 MR. HOWARD: Yes. They've got a copy of that.
7 I don't know if you can see it, but they've got an
8 aerial photo up right now too, it may be some benefit
9 to you.

10 MR. WEIKEL: The aerial photo that's shown on
11 the screen right now pretty much shows what the
12 division consolidation will be. 764, the lot here
13 already has road frontage on 764. This is bare lot as
14 it stands right now, has road frontage on Morgantown
15 Road. With this division there will be no change in
16 access.

17 MR. BOSWELL: I see where it's at on this.
18 Thank you.

19 CHAIRMAN: Did that answer your question?

20 MR. BOSWELL: Yes.

21 CHAIRMAN: Any other commissioners have any
22 questions?

23 (NO RESPONSE)

24 CHAIRMAN: Anyone else in the audience?

25 (NO RESPONSE)

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

3 Mr. Jean.

4 MR. JEAN: I would like to make a motion to
5 approve this change with the one condition and based
6 on the Staff Report and the Findings of Fact 1 through
7 5.

8 CHAIRMAN: I have a motion by Mr. Jean. Do we
9 have a second?

10 MR. ROGERS: Second.

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

13 (NO RESPONSE)

14 CHAIRMAN: All in favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: The application is approved
17 unanimously.

18 Related Item

19 ITEM 4A

20 9433 Morgantown Road & 9866 Highway 764, 7.288 acres
21 Consider approval of a minor subdivision plat.
21 Applicant: Jason W. Brant & Eric K. Aud

22 MR. HOWARD: As I just described, based on the
23 rezoning that was just approved, it clears up the
24 split zoning that was on the property. It does allow
25 for the division and consolidation of the property

1 line. The property that has frontage on Highway 764
2 will take on additional acreage in the back and the
3 one that has the larger frontage on Morgantown Road is
4 smaller. It's smaller in size.

5 We can't approve it at Staff level because the
6 lot on 764 will now violate the 3 to 1 requirement.
7 Meaning that the lot can be no deeper than three times
8 the amount of road frontage that it has; however,
9 there is an existing home on that property. There's
10 an existing home on the other property. There is a
11 note that no further subdivision. They can't build
12 any other houses the way it's presented. So we would
13 recommend that you consider it for approval.

14 CHAIRMAN: The applicant wish to speak to
15 this?

16 MR. WEIKEL: Not right now.

17 CHAIRMAN: Anybody in the audience have a
18 question of this?

19 (NO RESPONSE)

20 CHAIRMAN: Any commissioners have a question
21 on this?

22 (NO RESPONSE)

23 CHAIRMAN: Then the Chair will entertain a
24 motion.

25 Mr. Boswell.

1 MR. BOSWELL: Mr. Chairman, motion for
2 approval.

3 CHAIRMAN: We have a motion by Mr. Boswell.
4 Do we have a second?

5 MR. MOORE: Second.

6 CHAIRMAN: Second by Mr. Moore. Questions
7 about the motion?

8 (NO RESPONSE)

9 CHAIRMAN: All in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: This motion is approved
12 unanimously.

13 ITEM 5

14 5043, 5059, 5091 Old Hartford Road & 4900 Block
15 Jessica Lane, 30.656 acres
16 Consider zoning change: From A-U Urban Agriculture to
17 R-1B Single-Family Residential
18 Applicant: J.R. Acquisitions, LLC & Martin G. Wilson

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

21 MR. HILL: Mike Hill.

22 (MIKE HILL SWORN BY ATTORNEY.)

23 PLANNING STAFF RECOMMENDATIONS

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

CONDITIONS

Access to Old Hartford Road shall be limited

1 to a single access point (Stone Crest Lane) as shown
2 on the Major Subdivision Preliminary Plat.

3 FINDINGS OF FACT

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

7 2. The subject property is located in an
8 Urban Residential Plan Area where Urban Low-Density
9 Residential uses are appropriate in limited locations;

10 3. The proposal complies with the criteria
11 for urban residential development; and

12 4. Sanitary sewer service is available to be
13 extended to the subject property.

14 MR. HILL: Staff request that the Staff Report
15 be entered into the record as Exhibit C.

16 CHAIRMAN: Anyone here representing the
17 applicant?

18 Do you wish to make any statements?

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

21 MR. FAULKENBERG: Makala Faulkenberg.

22 (MAKALA FAULKENBERG SWORN BY ATTORNEY.)

23 MS. FAULKENBERG: My concern is the property
24 beside me is a coal mine underneath of it. Is it safe
25 for them to build on. It's been a field for 20 plus

1 years. I've owned it for two. The traffic, he said
2 that -- where I'm at right now are they going to
3 add -- are they going to add to the street?

4 CHAIRMAN: I'm sorry, where do you live.

5 MS. FAULKENBERG: I live on Jessica Lane. Are
6 they going to add to it if they put houses on it.
7 Right now there are two houses on it. If they build
8 on it, are they going to add to the street. I was
9 told when I moved there that it's supposed to stay a
10 dead end. That's my main concern. If they build
11 houses there, are they going to add to the street.

12 CHAIRMAN: I thought you represented the
13 applicant.

14 Is the applicant here?

15 MR. BAKER: Yes.

16 CHAIRMAN: Can you address that issue?

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

19 MR. BAKER: Jason Baker.

20 (JASON BAKER SWORN BY ATTORNEY.)

21 MR. BAKER: I'm here to address any technical
22 issues. Mike Martin is the developer associated with
23 this project. He was not able to make it. Had a last
24 minute conflict and could not make it. I can address
25 any technical issues.

1 Related to the questions on Jessica Lane,
2 Jessica Lane was stubbed into this property as a
3 future extension and that will be extended as part of
4 this project.

5 Ma'am, I'm not sure if you are at the end of
6 the stub or the other direction. This drawing up here
7 indicates the lower right-hand corner I think is where
8 you're saying you live. This would be the extension.

9 MS. FAULKENBERG: I'm --

10 CHAIRMAN: Ma'am, all of this is being
11 recorded and we can't get the recording if you're not
12 at the mike. Just listen to him and then we'll let
13 you ask all the questions. Just be very comfortable
14 and don't worry about it because we know this is not
15 fun for you. We'll make sure every concern you have
16 is addressed as best as possible.

17 MR. BAKER: Maybe I can explain the parkway or
18 the Natcher Parkway is on the right-hand side of the
19 drawing. I believe you back up to the Natcher. The
20 intent would be that there would be a road kind of
21 parallel and be a cul-de-sac at the end as shown up
22 there, that kind of parallels. The answer to that is,
23 yes, the road would be extended as was planned many,
24 many years ago.

25 CHAIRMAN: I think Ms. Evans is helping her

1 understand where she is in located with regard to the
2 location so we can make sure she understands.

3 Does that help you, ma'am? If you have you
4 other questions, please come back and ask.

5 MR. BAKER: She mentioned something about
6 mining. There has been extensive study on that and
7 the developer has it.

8 CHAIRMAN: Was is a surface mine?

9 MR. BAKER: No. None. None found on the
10 site.

11 CHAIRMAN: Ma'am, if you have any other
12 questions. We invite you to certainly ask them.

13 MS. FAULKENBERG: There are actually coal
14 mines under there. I looked it up myself.

15 I'm concerned about the traffic because if
16 they put a street through it's going to make a big
17 circle all the way through the neighborhood. I can
18 sit on my back porch and listen to the owls. I can
19 listen to the animals. There's deer. It's going to
20 completely tear up my neighborhood. There's three
21 houses, four. It's very, very quiet. That's the
22 reason I moved in where I live. I have epilepsy. I
23 have PTSD. I don't want the subdivision. I've talked
24 to the neighbors, they don't want it either. I don't
25 want the traffic. I don't want it. Definitely don't

1 want it if it's going to look like that. I don't want
2 it. I'm sorry.

3 CHAIRMAN: That's fine. We appreciate your
4 opinion. That's fine. Thank you for expressing them
5 to us very, very much.

6 Anyone else in the audience have any
7 questions?

8 (NO RESPONSE)

9 CHAIRMAN: Any commissioners have any
10 questions you would like to express?

11 (NO RESPONSE)

12 CHAIRMAN: If not, then the Chair will
13 entertain a motion.

14 Mr. Rogers.

15 MR. ROGERS: Mr. Chairman, make a motion for
16 approval based on Planning Staff recommendations with
17 the one condition and the Findings of Facts 1 through
18 4.

19 CHAIRMAN: We have a motion by Mr. Rogers. Do
20 we have a second?

21 MR. BALL: Second.

22 CHAIRMAN: We have a second by Mr. Ball.
23 Questions or concerns about the motion?

24 (NO RESPONSE)

25 CHAIRMAN: If not, all in favor raise your

1 right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: The application is approved

4 unanimously.

5 Related Item

6 ITEM 5A

7 Stone Crest, 30.656 acres
8 Consider approval of a major subdivision preliminary
9 plat
Applicant: J.R. Acquisitions, LLC

10 MR. HOWARD: Mr. Chairman and Planning
11 Commissioners, this plat has been reviewed by the
12 Planning Staff and Engineering Staff. It's found to
13 be in order. It's consistent with the requirements of
14 the comprehensive plan and subdivision zoning
15 ordinance requirements and it is ready for your
16 consideration.

17 CHAIRMAN: Does the applicant wish to make any
18 comments about it?

19 MR. BAKER: No.

20 CHAIRMAN: Anyone in the audience have any
21 questions about the plat?

22 (NO RESPONSE)

23 CHAIRMAN: Commissioners, do you have any
24 concerns about it?

25 (NO RESPONSE)

1 CHAIRMAN: The Chair will entertain a motion.

2 MR. BALL: I'd like to make a motion to
3 approve, please.

4 CHAIRMAN: We have a motion by Mr. Ball.

5 MR. MOORE: Second.

6 CHAIRMAN: We have a second by Mr. Moore.

7 Questions or concerns about the motion?

8 (NO RESPONSE)

9 CHAIRMAN: All in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: The motion is approved.

12 ITEM 6

13 5270 Highway 54, 5.845 acres
14 Consider zoning change: From A-R Rural Agricultural
15 to I-1 Light Industrial
Applicant: Floyd G. Tapp

16 PROPOSED ZONE & LAND USE PLAN

17 The applicant is seeking an I-1 Light
18 Industrial zone. The subject property is located in a
19 Rural Community Plan Area where Light Industrial uses
20 are appropriate in limited locations.

21 SPECIFIC LAND USE CRITERIA

22 (a) Building and lot patterns; outdoor storage
23 areas - Building and lot patterns should conform to
24 the criteria for "Nonresidential Development" (D7),
25 and outdoor storage yards, with "Buffers for Outdoor

1 Storage Yards" (D1).

2 (b) Logical expansions outside of Industrial
3 Parks - Existing areas of Light Industrial use that
4 are located outside of planned Industrial Parks may be
5 expanded onto contiguous land that generally abuts the
6 same street(s). Such an expansion should not
7 significantly increase the extent of industrial uses
8 that are located in the vicinity and outside of
9 Industrial Parks. Also, such an expansion should not
10 overburden the capacity of roadways and other
11 necessary urban services that are available in the
12 affected area.

13 (e) New locations in Rural Communities - In
14 Rural Community plan areas, new locations of Light
15 Industrial use should be "major street oriented" (D2)
16 and should be sited at corners of intersecting streets
17 if located in close proximity to existing dwellings.

18 PLANNING STAFF REVIEW

19 GENERAL LAND USE CRITERIA

20 Environment

21 It appears that the subject property is not
22 located in a wetlands area per the US Department of
23 Agriculture Soil Conservation Service map dated March
24 6, 1990.

25 The subject property is located in a special

1 flood hazard area per FIRM Maps 21059C0285 D.

2 It appears that the property is designated as
3 prime agricultural farmland per the US Department of
4 Agriculture Soil Conservation Service map dated March
5 1980.

6 The developer is responsible for obtaining
7 permits from the Division of Water, The Army Corp of
8 Engineers, FEMA, the EPA, the OMPC building/electrical
9 HVAC division or other state and federal agencies as
10 may be applicable.

11 Urban Services

12 Electricity, water and gas are available to
13 the subject property. Sanitary sewage disposal will
14 be accomplished by either a new on-site private septic
15 system or the extension of sewer to the site.

16 Development Patterns

17 The subject property in this rezoning
18 application is a vacant 5.845 acre A-R zoned parcel.
19 The applicant proposes to rezone the property to I-1
20 Light Industrial in order to construct a storage
21 building facility.

22 The subject property is located in an area
23 that is primarily zoned and used agriculturally with
24 the nearest industrial zoning located more than 600
25 feet to the east and on the north side of Highway 54.

1 To the west and south of the subject property is a
2 golf driving range facility, zoned A-R. To the east
3 is a large agricultural property, zoned A-U. To the
4 north across Highway 54 is a large agricultural
5 property, zoned A-R and A-U.

6 Highway 54 in this location is classified as a
7 principal arterial with a 75 foot building setback
8 line and a 60 foot roadway buffer. Since this
9 property is outside the urban service area the access
10 spacing standards do not apply. If approved, access
11 to the property should be limited to a single access
12 point.

13 If the rezoning is approved, the applicant
14 will be required to provide vehicle use area screening
15 where any proposed parking areas are adjacent to the
16 street right-of-way. All vehicular use areas are to
17 be paved; any area of the site proposed to be gravel
18 will be required to comply with the outdoor screening
19 requirements of the zoning ordinance including the
20 installation of a 6' tall solid wall or fence around
21 the entire perimeter of the storage yard.

22 If approved, a development plan will be
23 required demonstrating compliance with the zoning
24 ordinance requirements including, but not limited to,
25 parking, landscaping, building setbacks, access

1 management and signage. The plan must be approved
2 before any construction activity can take place on the
3 property.

4 SPECIFIC LAND USE CRITERIA

5 The applicant's proposal is not in compliance
6 with the Comprehensive Plan. The proposed use
7 conforms to the criteria for non-residential
8 development. This proposal is a not a logical
9 expansion of adjacent industrial zoning since the
10 nearest industrial zoning is located more the 600 feet
11 away and on the opposite side of Highway 54. At 5.845
12 acres, the proposal would be a significant increase in
13 I-1 zoning in the vicinity and may overburden the
14 capacity of roadways and other necessary urban
15 services available in the affected area. Although the
16 site is major street oriented it is not located at the
17 corner of intersecting streets.

18 PLANNING STAFF RECOMMENDATIONS

19 The Planning Staff recommends denial subject
20 to the findings of fact that follow:

21 FINDINGS OF FACT

22 1. Staff recommends denial because the
23 proposal is not in compliance with the community's
24 adopted Comprehensive Plan;

25 2. The subject property is located in a Rural

1 Community Plan Area where Light Industrial uses are
2 appropriate in limited locations;

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

5 4. This proposal is a not a logical expansion
6 of adjacent industrial zoning since the nearest
7 industrial zoning is located more the 600 feet away
8 and on the opposite of Highway 54;

9 5. At 5.845 acres, the proposal would be a
10 significant increase in I-1 zoning in the vicinity and
11 may overburden the capacity of roadways and other
12 necessary urban services available in the affected
13 area; and

14 6. Although the site is major street oriented
15 it is not located at the corner of intersecting
16 streets.

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

19 CHAIRMAN: Before we take any testimony, I
20 would like for Mr. Howard to clarify exactly where
21 this site is. Because I went out to look at it, but
22 the site is not where the grave stones are. The
23 cemetery actually goes a little bit further down the
24 road.

25 Would you help us understand, Mr. Howard?

1 MR. HOWARD: Sure.

2 As you can see on the aerial photo, the
3 adjoining parcel to the east, there's a large parcel
4 and they've got about 1600 feet of road frontage
5 between the subject property and the area of the
6 cemetery. If you're familiar with the golf driving
7 range, it's really immediately adjacent to the
8 driveway that goes back to that.

9 CHAIRMAN: I want to make sure because when I
10 went out, I said, I'm not finding it or I thought I
11 found it and I hadn't.

12 Is anyone here representing the applicant?

13 Mr. Meyer, I believe.

14 MR. MEYER: Yes. If I could have my assistant
15 provide some booklets. This might help the
16 commissioners.

17 My name is J.D. Meyer. I'm here representing
18 the applicant, Floyd Tapp.

19 We're requesting a zoning change of the
20 property located at 5270 Highway 54 from A-R Rural
21 Agriculture to an I-1 Light Industrial.

22 We understand that the Planning Staff
23 recommendations; however, we disagree with their
24 findings. We believe that the proposed request does
25 comport with the overall intend of the comprehensive

1 plan, and that in the spirit of a growing society,
2 growing town, growing city, we have to look at
3 different factors and how property is developing.
4 Certainly, this is along the Highway 54 corridor.
5 Obviously, we all know, as you all do as the
6 commission, the expansive commercial aspect of Highway
7 54 has undergone in the last ten years or so.

8 I provided a booklet to you all. I believe
9 that the Chairman had asked some questions of Mr.
10 Howard regarding the exact location of the subject
11 property. As Mr. Howard pointed out, the first page
12 does provide you all with an overall map of the area
13 down Highway 54. You can see the subject property.
14 It is on the kind of northeast corner of what is the
15 old Perfect Swing property. It's labeled subject
16 property. It's roughly, it's a little over 5 acre
17 tract of land. As you're driving down east on Highway
18 54, you go .15 miles and you'll run into an industrial
19 lot which sits on the north side of Highway 54. If
20 you'll back, that's the Danco Trim business there at
21 that location.

22 The proposed use for this property is to
23 construct a storage building for commercial -- excuse
24 me. Commercial use for residential storage. People
25 can store their personal belongings and things like

1 that on the facility, as well as other items. You can
2 see that that I-1 property that's noted on the map is
3 the Danco Trim property, and we've shown some pictures
4 there to depict what that property is actually
5 utilized for. Part of it is an auto sales place, and
6 you can see that also in the subsequent pictures.

7 Going down you've got a B-4 property and then
8 another I-1 property. They're all contiguous there
9 together. You can see on the second page, which is an
10 overall color photograph of the area. The subject
11 location is in that kind of little pod in the center
12 of the page that's noted I-1, B-4, and I-1. The
13 subject property is just a little bit left of that.
14 The main property with the red and the yellow really
15 looks like a storm system. It's the corner of Millers
16 Mill Road and Highway 54 where the GD Ritzy's is
17 located. Mr. Tapp has his car dealership in that
18 area, as well as a lot of development for the Panera
19 Bread and some of those other stores.

20 When we're requesting, as I said, we believe
21 this is in the spirit of the comprehensive plan. We
22 have commercial businesses moving out to the east on
23 Highway 54. So while it's not directly contiguous
24 from the standpoint of this land does not abut and
25 immediately adjacent to an I-1 piece of property. In

1 the general area, we do have other industrial uses.
2 In fact, if you go further east down Highway 54, you
3 will come to the intersection of Highway 54 and 142.
4 You have a major use being, you know, Premium Allied
5 Tool is an industrial zoning classification, but you
6 also have other commercial business uses from the
7 standpoint of Hagan Saw Shop is located there.
8 There's another car dealership located there at the
9 corner of Highway 54 and 142 that's denoted as a B-4
10 designation. Those pictures towards the back of the
11 booklet that provides you pictures of Hagan Saw Shop
12 and also the car dealership.

13 We believe that when you look at the overall
14 general landscape of 54 and the development out at
15 that area, that the I-1 zoning classification does, is
16 a logical expansion and would fit within the
17 comprehensive plan.

18 There was discussion in the Staff Report of an
19 overburdening roadways. The proposed use is for a
20 storage building. That is probably the lightest
21 traffic generator of any type of commercial use that
22 you could find. It does abut the cemetery property.
23 Property does abut. That is all land that's owned by
24 the Diocese of Owensboro and is designated for use as
25 potential expansion of the cemetery through time. So

1 we don't believe that the use alone as a storage
2 building, also given the contiguous land, is going to
3 cause any overburdening of the traffic pattern.

4 We have submitted as the last page an article
5 about the self-storage units and their impact upon
6 vehicular traffic. Then as you can see in that study,
7 they are the least, they have the least impact on
8 traffic in that area. It's not something people come
9 to quite often like a regular type of business or any
10 type of factory or other manufacturing type facility.

11 Lastly, I think it's important to note with
12 respect to traffic that our city planners and our
13 government has recognized the need to expand Highway
14 54. This is in the proposed projects to eventually
15 four lane Highway 54 out past this particular
16 property. So as this area continues to develop, we
17 believe that it's already in the plans to expand the
18 roadway to handle that new and increased traffic.

19 As I said, this is a logical expansion. We
20 also when you look at the changing in the economic and
21 the landscape in that area, we submit that it's
22 appropriate that the commission approve the proposed
23 request.

24 To aid you all I have submitted in the packet
25 some proposed findings of fact based upon the

1 testimony that I have presented here today and we
2 believe that they would all meet the criteria to
3 satisfy and support the zoning change.

4 With that I will entertain any questions that
5 the commission may have.

6 CHAIRMAN: Before we go to the audience,
7 anybody have any questions of Mr. Meyer? Let's do
8 those first. I have a couple questions for Staff.

9 Mr. Kazlauskas.

10 MR. KAZLAUSKAS: As I went down through here
11 under Urban Services, Mr. Meyer, it says "sewage
12 disposal will be accomplished by either a new on-site
13 private septic system or the extension of sewer to the
14 site." I've got two questions. One to staff and one
15 to Mr. Meyer.

16 How close is the sewer system, sewer line to
17 the site? Does anybody have any idea?

18 MR. BALL: I believe the closest substation or
19 pump station is next to Country Heights Subdivision,
20 but I'm not positive. His engineer is here.

21 MR. HOWARD: Which would be the extreme upper
22 left-hand corner of the aerial.

23 CHAIRMAN: Do we have an approximate distance
24 on that? Does anybody know the approximate distance
25 it would be to that pump station?

1 MR. HOWARD: Four thousand feet.

2 CHAIRMAN: So three-fourths of a mile.

3 MR. KAZLAUSKAS: One of my concerns, as we
4 move out in that direction and things start to develop
5 in that corridor, the county is already having
6 problems with the sewer lines. Once this is zoned
7 industrial, those buildings might be there for a
8 couple of years, but certainly property could morph
9 into something else. I would hate for a septic system
10 to be there when -- I feel more comfortable with a
11 sewer. I know this is a storage building that you're
12 talking about, but I'm looking kind of toward the
13 future. I know it's cost prohibitive, if we're
14 talking about 4,000 feet.

15 MR. MEYER: If I may address that fact.

16 In speaking with Mr. Riney, who is the
17 engineer on the project, there are plans under way we
18 understand with respect to RWRA and expanding sewer
19 service out in that area, especially to the Cedar
20 Hills Subdivision. When you have that, you have the
21 expansion of those sewer lines can easily be
22 accomplished with the expansion of the roadways and
23 the additional development on the land. At the point
24 that there's a required hookup, that's a mandatory
25 obligation, once it's imposed. It's an issue that,

1 yes, we'll always have in that area. But as you can
2 see and over the years, you know, Mr. and Mrs. Tapp
3 have been good community citizens. They've been on
4 the forefront. They've put their car lot, moved from
5 I think near the mall out to Highway 54 or in the
6 middle of nowhere at the time and everything has
7 slowly come out that way. With respect to the sewer
8 lines and things of that nature, that is something
9 that I know is in the works with respect to RWRA and
10 they're expanding and, as Mr. Riney indicated, are
11 looking in that area.

12 MR. KAZLAUSKAS: I guess my question is: If
13 RWRA ran lines through there, we're saying that there
14 would be a mandatory hookup if this was zoned
15 industrial?

16 MR. HOWARD: I believe that if it's in the
17 vicinity, they're going to require to hook on, yes.

18 MR. KAZLAUSKAS: I guess that answers my
19 question.

20 CHAIRMAN: Mr. Riney, you want to comment.

21 MS. KNIGHT: If you could state your name,
22 please.

23 MR. RINEY: Jim Riney.

24 (JIM RINEY SWORN BY ATTORNEY.)

25 MR. RINEY: Mr. Kazlauskas, two things. The

1 focus on the conversation on the pump station. On the
2 screen I see at the upper left-hand corner the
3 intersection of Countryside Drive and Highway 54.
4 There are sewers there to serve the fire department.
5 So the sewers are close. The pump station is further
6 back, but there are sanitary sewers much closer than
7 4,000 feet.

8 RWRA is looking at, we're working with them on
9 another project and they're not sure what's going to
10 be their final analysis. But it's my understanding
11 the federal regulations, because I used to work for
12 the city sewer commission back when we were younger.
13 If you take money from the federal government for
14 improvements, whether it's streets or sewers or
15 whatever, there's strings attached. One of those is
16 that you have ordinances, which this community does
17 have. That if a sewer is reasonably in proximity of
18 the property, then RWRA has a right to mandate that
19 they're connected. I believe that answers your
20 question. It's already in place.

21 CHAIRMAN: Mr. Riney, would it be fair to
22 assume that if they expand that they would expand
23 towards Ceder Hills along 54; would that be a
24 reasonable assumption?

25 MR. RINEY: It's going to go that direction.

1 Mr. Reeves, I'm not sure of the route. Topography has
2 a play in that. RWRA is really good at trying to
3 structure it to pick up all of the existing
4 development that they can. I can't speak for them,
5 but I'm sure they're going to try to maximize the
6 service area. That's what they do.

7 CHAIRMAN: I understand. Any other questions?

8 Yes, Mr. Boswell.

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

10 In comparison to what Mr. Commissioner
11 Kazlauskas was saying. My understanding is, based on
12 what is going on at Cedar Hills and Friendly Park,
13 it's probably three to five years out before they
14 would potentially have that extended that far out to
15 Cedar Hills. There's also a reference made in here to
16 either a new on-site private septic system.

17 I guess my question is, I don't think that
18 would be anticipated since the State is already trying
19 to eliminate these private septic systems anyway, from
20 what I remember a while back. So if it's going to be
21 three to five years before that could potentially be
22 extended out that direction, if this were rezoned and
23 they built something out there, how do they handle
24 that?

25 MR. MEYER: The character of what can and

1 can't be built. First of all, it's an industrial
2 zone. Second of all, the proposed use is for storage
3 units. So you're not going to have -- if you have any
4 type of sewer need or use, it's going to be very
5 minimal. One that would probably a private septic
6 system would be more than adequate to handle.
7 Obviously, that would be something we would have to go
8 through Planning Staff, as part of the final
9 development plan and things of that nature.

10 As the proposed use is solely for storage
11 buildings, there's not going to be a high demand or
12 use for any type of sewer services.

13 MR. BOSWELL: Thank you.

14 CHAIRMAN: In this proposed project you're
15 looking at servicing two bathrooms?

16 MR. MEYER: At the most, yes.

17 CHAIRMAN: I guess my question to Mr. Howard
18 is: If this were to go into another use that's
19 allowed that would require more sanitary sewer
20 service, then who would make sure that they met the
21 necessary requirements?

22 MR. HOWARD: For a development plan for an
23 individual storage facility, they would be required to
24 do a final development plan. If at some point it's no
25 longer an individual storage facility and they want to

1 convert it to some type of a manufacturing facility,
2 they would have to resubmit a final development plan
3 showing the new building, the parking, and all of that
4 stuff. Part of that resubmission process would be the
5 utility sign-offs which would include RWRA would have
6 the opportunity to look at it again.

7 CHAIRMAN: That would even, after it had been
8 zoned and if they decide to just take down the storage
9 facility, they would still have to go through that
10 process?

11 MR. HOWARD: That's right. You bring that up.
12 I will address one comment that Mr. Meyer made.

13 In our Staff Report, we did say that it could
14 potentially, there could be potential for overburden
15 the capacity of roadways. We included that statement.
16 I don't disagree with what he says, as far as this is
17 a low traffic generator, but once it's rezoned
18 industrial, it could be anything. If it were a
19 manufacturing facility with truck traffic coming in
20 and out during the day, there could be impact there
21 that's different than what is proposed. As we talked
22 about here before, you can't do a rezoning contingent
23 upon a specific use. That's why we still include a
24 statement like that even though the proposed use is
25 going to be low traffic.

1 CHAIRMAN: It would be helpful maybe to ask,
2 for the other commissioners, could you give us some
3 examples of what kind of businesses could be in there
4 if Mr. Tapp decided to sell this five or six years
5 down the road and want to convert it? What could
6 possibly be there?

7 MR. HOWARD: Any type of light manufacturing;
8 assembly, a storage facility. Warehouse type things
9 could be located in that zone. Whether you're
10 building -- one of the places down the street they
11 used to build mantles for fireplaces and things like
12 that. One of them, now they've added, part of the
13 property in the back is boat storage and RV storage
14 and things like that. There's a variety of uses.
15 It's not a retail zone so they couldn't put in a
16 McDonald or some type of a restaurant that would
17 generate retail type trips, but it would be some type
18 of manufacturing, assembly, storage, warehousing type
19 use.

20 CHAIRMAN: Danco, is that type of operation
21 putting accessory on trucks and RV's?

22 MR. HOWARD: Right.

23 CHAIRMAN: That's very helpful to me.

24 Mr. Kazlauskas.

25 MR. KAZLAUSKAS: I'm going out here in right

1 field now.

2 CHAIRMAN: Okay. Just speak in the mike.

3 MR. KAZLAUSKAS: If this were to be approved,
4 could a condition be placed on there that if it were
5 to used for anything else other than the storage
6 facility that they would be mandated to pay the cost
7 to hook into the closest sewer system and would that
8 be acceptable?

9 CHAIRMAN: I think the counsel, you want to
10 respond?

11 MS. KNIGHT: Yes.

12 I don't think that would be something that we
13 would have the ability to do.

14 MR. KAZLAUSKAS: Couldn't put that condition
15 on there?

16 MS. KNIGHT: I don't believe so. Simply
17 because we don't have control over that system.

18 CHAIRMAN: Any other questions?

19 Yes, Mr. Boswell.

20 MR. BOSWELL: Just a clarification for myself,
21 Mr. Chairman, and this would be a question for
22 Mr. Howard.

23 In looking at the rural service area map, it
24 would appear that that particular area is located in
25 what's classified as a rural maintenance area; is that

1 correct?

2 MR. HOWARD: I believe it's a rural community
3 plan area.

4 MR. BOSWELL: That's what I wanted to clarify.

5 CHAIRMAN: What other questions do we have?

6 MR. BALL: In the event that this is rezoned
7 tonight, it also opens up the opportunity for other
8 I-1 that would directly adjacent to that in the future
9 as well; is that correct?

10 MR. HOWARD: Sure.

11 MR. BALL: It would then make those meet those
12 requirements?

13 MR. HOWARD: It would. Either parcel that's
14 on either side, on the south side of 54 would then
15 certainly meet the criteria for a logical expansion.

16 CHAIRMAN: Are you talking like the golf area?

17 MR. BALL: Not necessarily across 54 though?

18 MR. HOWARD: Well, across 54 you could as
19 well. The criteria in a rural community for
20 industrial zoning, logical expansion criteria, it
21 doesn't exclude the expansion across an intervening
22 street. So if you are adjacent across the street,
23 that parcel over there, it could certainly meet that
24 criteria as well.

25 MR. BALL: You potentially open up quite a bit

1 of ground to meet in the criteria for an I-1 zone in
2 the future.

3 MR. HOWARD: Yes, sir.

4 MR. MEYER: If I may address Mr. Ball's
5 concern.

6 You already do have I-1 locations there. Yes,
7 it's a potential. It's already been recognized.
8 Those have already been zoned. This parcel is not
9 directly next to the I-1 property, but it's pretty
10 darn close. When you look at a logical expansion,
11 adjacent is more appropriate word or kind of nearby,
12 but that's what it's developing. You've some I-1, I-2
13 property actually even half a mile down the road.
14 Given that area where we submit that it is
15 appropriate, that you do have those already in
16 existence there anyway.

17 CHAIRMAN: Again, I think I understand what
18 Mr. Ball is saying. I want to plan too far into the
19 future, but is there a size limitation on these sites?

20 MR. HOWARD: No.

21 CHAIRMAN: So theoretically someone could come
22 in with a 300 acre site adjacent to the proposed for
23 the same use?

24 MR. HOWARD: In the criteria, you potentially
25 could and call that the large industrial reserve or

1 something like that. There are separate criteria for
2 parcels that are over 100 acres or over 500 acres.

3 No, you couldn't based on the way the comp
4 plan is drafted. You couldn't say if on this side of
5 the road this property is rezoned and it's 5.8 acres,
6 you couldn't extrapolate that then and say it's a
7 logical expansion to rezone 50 acres to industrial as
8 well. That would, you couldn't make the case then
9 that that's not a significant increase of an
10 industrial zoning. No, you couldn't necessarily do
11 that.

12 Also, if you got into an industrial zoning of
13 that size, certainly a traffic impact study would be
14 required to address traffic and things like that.
15 Which that 5.8 acres, you're typically not going to
16 see that. This is along a US state highway. Any type
17 of access point that they would have would require
18 review by the State; although, it's at their
19 discretion as far as what would be needed for a
20 dry/cut permit. Once you got larger like that, it
21 certainly require a traffic study and more extensive
22 research.

23 CHAIRMAN: Theoretical if someone wanted to
24 buy any adjacent 100 acres and stub in like a number
25 of these sites within that, they would have several

1 hoops to jump?

2 MR. HOWARD: Yes. There would be a rezoning
3 required along with a traffic impact study. Sewer
4 would certainly be a much larger issue at that point
5 because then you have multiple lots, multiple uses.
6 Some could be higher. You know, if you have a use
7 that requires water as part of their processing,
8 you're going to have much greater sewage use as well.
9 Yes, there would be a lot of other things that would
10 go into it once you got into that type of a scenario.

11 CHAIRMAN: I'm just concerned about Highway
12 54. We know that's where things are happening. Be as
13 protective as we should be of development along there.

14 Any others?

15 MR. ROGERS: Brian, I've got a question. This
16 is all real low land. Is it in a flood zone?

17 MR. HOWARD: Yes. The aerial photo that you
18 see in front of you, the colors are a little washed
19 out. There is a blue hatched area, which is the 100
20 year floodplain. On the bottom end of property you
21 can see a 397, which that's flood elevation, that red
22 line that runs across through there. Yes, it is in a
23 floodplain. Anything that they do will have to meet
24 the requirements of the zoning ordinance for building
25 the property up and all that kind of stuff. To get

1 construction permit from the state and whatnot.

2 MR. ROGERS: Not real good place for
3 residential then.

4 CHAIRMAN: Other questions of Mr. Meyer?

5 MR. MOORE: This may be for Mr. Howard.

6 In the findings of fact, you mention the road
7 plan calls expansion to four lanes, which is years and
8 years and years away. Can we make a condition if it
9 were to be approved that you have some type of turning
10 lane where traffic can get off of the main highway
11 down into that?

12 MR. HOWARD: The four laning of this is in
13 what would be called right now the -- I forget what
14 that is. It's been the unscheduled needs administered
15 by unsighted needs. It's been identified, but it's
16 not in the six year highway plan, which is the plan
17 that has money set aside for it, which they're not
18 doing any of it this year.

19 When the widening would be done, that's
20 something that the state would look at, as far as the
21 need for turn lanes. I don't want to speak for them,
22 but I would venture to say for a storage building type
23 use, you're not going to need the traffic generation
24 need for a turn lane. There certainly are warrants
25 that need to be met, traffic volumes and turn

1 movements in order for the state to want one put in.
2 But as they're widening the road, they would look at
3 that type of thing and if it were needed, they would
4 address it at that point.

5 If this were a commercial zoning
6 classification at five acres that would have retail,
7 restaurant, potential things like that, a traffic
8 impact study would likely be required and that's one
9 of the things that would have been addressed.

10 MR. MOORE: Thank you.

11 CHAIRMAN: Any other questions by the
12 commissioners?

13 (NO RESPONSE)

14 CHAIRMAN: Does anyone in the audience have
15 any questions or concerns that you would like to
16 address?

17 (NO RESPONSE)

18 CHAIRMAN: Mr. Meyer, you have any concluded
19 remarks before we entertain a motion?

20 MR. MEYER: I appreciate everyone's comment
21 tonight. As I mentioned, the Tapps have been good
22 citizens and made a lot of investment into this
23 community. They've chosen a project here that they
24 believe will be beneficial, especially in the storage
25 building and storage facility, especially to those

1 residents out on the 54 corridor. As I said, we
2 believe that the proposal meets the intent of the
3 comprehensive plan and that there are other industrial
4 zoning classifications that are within the area. That
5 considering the growth of Highway 54 this makes and is
6 a logical expansion. It's not going to overly impact
7 the traffic in any way given it's intended use, and
8 also based upon potential expansion in the future.
9 While that may be a ways off, it's still something
10 that's clearly been identified as more comes out that
11 way and hopefully speed up and get higher up on the
12 plan.

13 So we believe based upon those that it does
14 fit within the area. It's a mixed residential type
15 atmosphere and that we would request that the
16 commission approve the rezoning.

17 CHAIRMAN: Thank you, Mr. Meyer.

18 One last time. Any further questions by any
19 of the commissioners or anyone in the audience?

20 (NO RESPONSE)

21 CHAIRMAN: Then the Chair would entertain a
22 motion.

23 MR. ROGERS: Mr. Chairman, I make a motion for
24 approval with the Finding of Fact:

25 1. The subject property located in rural plan

1 area where light industrial uses are appropriate in
2 limited locations;

3 2. The site is major-street-oriented.

4 3. There have been major changes in the area
5 that were not anticipated in the comprehensive plan.

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

8 MR. FREY: Second.

9 CHAIRMAN: We have a second by Mr. Frey.
10 Questions or concerns about the motion?

11 (NO RESPONSE)

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

14 (BOARD MEMBERS LARRY MOORE, IRVIN ROGERS, FRED
15 REEVES, LARRY BOSWELL, JOHN KAZLAUSKAS, STEVE FREY,
16 ANGELA HARDAWAY AND LEWIS JEAN RESPONDED AYE.)

17 CHAIRMAN: All opposed.

18 (BOARD MEMBER MANUEL BALL RESPONDED NAY.)

19 CHAIRMAN: We have one negative and eight
20 positive. The application is approved.

21 Thank you.

22 MINOR SUBDIVISION PLATS

23 ITEM 7

24 6357 Foster Road, 5.5 acres
25 Consider approval of a minor subdivision plat
Applicant: Charles A. & Jane M. Johnson

1 MR. HOWARD: Planning Commissioners, this plat
2 comes before you as an exception to the three to one
3 requirement. There's an existing parcel that's larger
4 in size by, I guess, about 20 acres. They're
5 proposing to split that and redivide it, I guess, to a
6 five and a half acre parcel that has road frontage on
7 Foster Road. They only have a 50 foot road frontage
8 to that existing 20 acres parcel right now. So
9 they're maintaining that with the 5.5 acre division.
10 This would allow for an additional home to be built on
11 this property that has road frontage on Foster Road.
12 The remainder is to be consolidated with the parent or
13 the adjacent property. So they aren't creating.
14 Really right now there's one parcel that's larger and
15 one parcel that's smaller. They're not creating any
16 additional lots. We have put a notation on the plat
17 that would not allow any future subdivision of the
18 property without meeting the requirements of the
19 subdivision regulations.

20 So since we're not really maximizing the use
21 of the land, we would recommend that you consider it
22 for approval.

23 CHAIRMAN: Anyone representing the applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Any questions by the commissioners?

1 (NO RESPONSE)

2 CHAIRMAN: Chair will entertain a motion.

3 MR. JEAN: Motion to approve.

4 CHAIRMAN: Motion to approve by Mr. Jean. Do
5 I have a second?

6 MR. BALL: Second.

7 CHAIRMAN: Second by Mr. Ball. Questions or
8 concerns about the motion?

9 (NO RESPONSE)

10 CHAIRMAN: All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: The application is approved.

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14 NEW BUSINESS

15 ITEM 8

16 Consider approval of October 2016 financial statements

17 CHAIRMAN: Commissioners, all of you have
18 received a copy of the financial statements in your
19 packet. Hope you have had a chance to review them and
20 see if there are any questions or concerns you have
21 with regard to them.

22 Are there any questions or concerns about the
23 financial statement?

24 (NO RESPONSE)

25 CHAIRMAN: If not, then the Chair would

1 entertain a motion to approve them.

2 MR. BOSWELL: Motion to approve.

3 CHAIRMAN: Do I have a second.

4 MS. HARDAWAY: Second.

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

7 (NO RESPONSE)

8 CHAIRMAN: All in favor raise your right hand.

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: The financial statements are
11 approved.

12 ITEM 9

13 Comments by the Chairman

14 CHAIRMAN: I want to make just a couple of
15 comments, and primarily for the benefit of our TV
16 audience because we do have a lot of folks that watch
17 our Planning Commission meeting whether you realize it
18 or not.

19 This will be the last meeting that I will
20 chair the Planning Commission. I want to explain why
21 I'm doing that.

22 Several years ago we had some discussion about
23 Planning Commission members about how we were going to
24 do the chair and various thoughts and positions. So a
25 few of us got together. Anybody that's on this

1 Commission should be perfectly capable of chairing the
2 Commission. We didn't want anyone to be a long-term
3 chairman and get so vested in it that they didn't do a
4 good job. We thought it seemed reasonable that maybe
5 we should just serve the Chair for two years and maybe
6 swap that back and forth between the City and County
7 and Whitesville. Some of us made that kind of
8 agreement among ourselves. Some of those are now
9 gone. It's certainly not binding on this Commission
10 or any future Commission. It's only binding on me.
11 Mr. Pedley was the first person to serve for two years
12 under that agreement. Mr. Pedley after two years
13 stepped down as Chair. After two years I'm going to
14 step down as Chair. So next month when we have an
15 election, we'll elect a new Chairman.

16 I just want to tell the Commissioners that
17 it's my great pleasure to work with you and serve with
18 you. It's been a fun job and while sometimes
19 challenging, easier job because of the great
20 dedication you have of this Commission. The fact that
21 you study the issues, you come prepared to discuss
22 them. You come prepared to listen to the folks that
23 are in the audience and make their presentation. It
24 is a wonderful, wonderful commission. The community
25 may not realize it, but you're in very good hands with

1 these folks making these kind of decisions.

2 To the Staff, Staff is beyond phenomenal. I
3 don't know Mr. Howard and his staff do what they do
4 with what they have. This Staff runs on a shoestring
5 compared to most communities of our size. I assure
6 the citizens you get an enormous amount of bang for
7 your buck with them.

8 Mr. Howard, to you and your Staff, I want to
9 thank you for all your support.

10 Terra, the same because I count you among the
11 Staff in this case. We have a wonderful counselor
12 also.

13 I want to thank all of you for the support
14 you've given me for the next two years. I know my
15 successor will enjoy the same kind of support and I
16 look forward to moving down and taking a seat
17 somewhere else and making some motions in the future.
18 Thank you for the two years I've been here and I look
19 forward to continue to serve.

20 ITEM 10

21 Comments by Planning Commissioners

22 CHAIRMAN: Any Commissioners have any
23 comments?

24 Mr. Boswell.

25 MR. BOSWELL: Thank you, Mr. Chairman. I

1 would like to also congratulate you on the last two
2 years. I think you've done an excellent job. I know
3 I've learned a lot from your chairmanship. I think
4 you've educated all of us in a lot of different
5 things, on how to ask questions. So I want to commend
6 you on a job well done.

7 CHAIRMAN: Thank you. I appreciate that.

8 MR. FREY: I would like to second that.

9 CHAIRMAN: Mr. Frey, I appreciate that very,
10 very much.

11 MR. BOSWELL: I do have one question. You
12 made mention of the fact that you were asking the
13 Staff for support for the next two years. I wasn't
14 sure if that meant you were going to reconsider.

15 CHAIRMAN: No. No.

16 Any other commissioners?

17 (NO RESPONSE)

18 ITEM 11

19 Comments by the Director

20 CHAIRMAN: Mr. Howard.

21 MR. HOWARD: Just real brief.

22 I would like to thank Fred for all that you've
23 done over the last couple of years. I think you've
24 done a great job and appreciate that.

25 I want to thank each and every one of the

1 Commissioners as well for supporting the Staff. I
2 think we've had a good year. Thank you for all that
3 you all do out in the community to support what we do
4 as Staff on a daily basis. There's a lot of things
5 that we're responsible for in the community and we
6 take our job seriously and try to be fair and
7 thoughtful in the way that we do our job. Just thank
8 you for your support and look forward to continuing
9 working together as we move forward.

10 CHAIRMAN: Everyone have a happy holiday.

11 I'll entertain the last motion I'm going to
12 enter.

13 Ms. Hardaway, do you want to make it?

14 MS. HARDAWAY: Motion to adjourn.

15 CHAIRMAN: Do we have a second?

16 MR. BALL: Second.

17 CHAIRMAN: Second by Mr. Ball. All in favor
18 raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: The meeting is adjourned.

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