

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JUNE 8, 2017

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, June
5 8, 2017, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

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

13 * * * * *

14 CHAIRMAN: I would like to call the June 8,
15 2017 Planning Commission meeting to order. We start
16 our meetings off with a prayer and the pledge.
17 Commissioner Jean does both tonight. Would you pray
18 with us, please.

19 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

20 CHAIRMAN: Before we get started tonight, we
21 have our minutes from our May 11th meeting to review
22 and discuss. Assuming all the commissioners have
23 received the minutes of the last meeting, are there
24 any questions or discussion about the minutes?

25 (NO RESPONSE)

1 CHAIRMAN: There being none the Chair is ready
2 for a motion.

3 Commissioner Frey.

4 MR. FREY: Motion to approve.

5 CHAIRMAN: Motion to approve has been rendered
6 by Commissioner Frey. Do we have a second?

7 MS. McENROE: Second.

8 CHAIRMAN: Second by Ms. McEnroe. All those
9 in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: The minutes are approved.

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

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20 GENERAL BUSINESS

21 ZONING CHANGES

22 ITEM 3

23 110 & 234 Carlton Drive, 7.46 acres
24 Consider zoning change: From B-4 General Business to
25 B-5 Business/Industrial
 Applicant: Mary Roby SPOA Trust c/o Mary Sky Fortune

1 MS. KNIGHT: Would you please state your name
2 for the record.

3 MR. HILL: Mike Hill.

4 (MIKE HILL SWORN BY ATTORNEY.)

5 PLANNING STAFF RECOMMENDATIONS

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

8 CONDITIONS

9 1. Approval of a site plan or final
10 development plan.

11 2. No access to JR Miller Boulevard shall be
12 allowed. Access to Carlton Drive and Best Way shall
13 comply with the zoning ordinance.

14 FINDINGS OF FACT

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

18 2. The subject properties are located within
19 a Business/Industrial Plan Area, where general
20 business and light industrial uses are appropriate in
21 general locations;

22 3. The subject properties lie within an
23 existing area of mixed general business and light
24 industrial uses;

25 4. The Comprehensive Plan provides for the

1 continuanance of mixed use areas; and

2 5. The proposed land use for the subject
3 properties is in compliance with the criteria for a
4 Business/Industrial Plan Area and a B-5
5 Business/Industrial zoning classification.

6 MR. HILL: Staff request that the Staff Report
7 be entered into the record as Exhibit A.

8 CHAIRMAN: Thank you, Mr. Hill.

9 Is there anyone here representing the
10 applicant?

11 (NO RESPONSE)

12 CHAIRMAN: Is there anyone in the audience
13 that would like to speak on the application?

14 Step forward and state your name to be sworn
15 in.

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

18 MR. EBELHAR: My name is Jeff Ebelhar.

19 (JEFF EBELHAR SWORN BY ATTORNEY.)

20 MR. EBELHAR: I'm Jeff Ebelhar, as I've
21 already stated. I'm trustee for the James C. Roby
22 SPOA Trust. We own property just across Carlton
23 Drive, across the street from this location. We're
24 unsure exactly what this zoning change means, how it's
25 going to impact us. When we looked through the list

1 of different uses that are available, some were very
2 attractive to us and some not so attractive to us.
3 For example, one of the uses could be a jail. That
4 would not be attractive to us. Would have a
5 detrimental affect to our real estate, to our
6 ownership. Is there any indication of what their
7 planned use of this property is?

8 CHAIRMAN: Is there anyone here representing
9 the applicant that could address that question?

10 (NO RESPONSE)

11 CHAIRMAN: Apparently not.

12 MR. EBELHAR: That being the case, I'll just
13 state that's my concern.

14 CHAIRMAN: So noted. Thank you.

15 MR. HOWARD: In their application, they have
16 as their proposed land use business buildings. That's
17 all the information they provided in that regard.

18 CHAIRMAN: Thank you, Mr. Howard.

19 Yes, please step forward.

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

22 MR. ALLGOOD: David Allgood.

23 (DAVID ALLGOOD SWORN BY ATTORNEY.)

24 MR. ALLGOOD: I'm David Allgood, owner of
25 Diamond Lane South that joins 234 Carlton Drive up

1 there. I'm basically like Mr. Ebelhar; I have great
2 concerns over what will be there because some things
3 could be very detrimental to my property. Looking
4 through this from B-4 to B-5 I see some, a little
5 difference. Like jail or truck terminals. There was
6 another one, a quarry, I don't think they'll put a
7 quarry there, that are permitted. I'm just concerned
8 what's going to be there. The reason that I am, I
9 already own a piece of property in a place that went
10 to the dogs. Not necessarily from the Planning
11 Commission. It just happens over time. Things get
12 worse and they get worse. Once it starts, it
13 snowballs and the thing has been all right out there
14 and we already have a parking problem from a place
15 that's been built that doesn't have near the parking
16 they take up on the street parking. So I probably may
17 not be against some things that are there. I just
18 would like to have an idea. Seems like the cart
19 before the horse to me.

20 CHAIRMAN: Thank you for your concerns.

21 Do any of the commissioners have questions
22 concerning this application?

23 Commissioner Reeves.

24 MR. REEVES: Given that these two gentlemen
25 have shown up tonight to express concern and the

1 applicant is not here to address their concerns or
2 even to answer questions from the commission, I would
3 make a suggestion that we postpone this item until the
4 next meeting and relay to the applicant that there was
5 concerns expressed and the commissioners probably have
6 some questions of the applicant.

7 CHAIRMAN: Is that in the form of a motion?

8 MR. REEVES: No. I wondered what the other
9 commissioners think, I suppose.

10 MR. BALL: I guess my concern is, does that
11 resolve anything if the applicant still doesn't know
12 what he's going to place on the property? That would
13 be my concern. Do we have any indication at all,
14 Brian?

15 MR. HOWARD: No, I don't believe so.

16 MR. MOORE: I believe if we were to table
17 this, then we would have the opportunity to ask
18 whoever what the plans would be. If he says, I'm not
19 sure, then these gentlemen would know he's not sure
20 what's going to go there, or if he says I'm going to
21 put X, Y, Z, they would know what X, Y, Z would be.
22 We would have an opportunity to ask him. I guess I
23 agree with Mr. Reeves.

24 CHAIRMAN: Is it necessary that we
25 specifically know what goes in there for this

1 particular rezoning, in the form of a question? If
2 it's going to B-5, which gives him a lot of latitude
3 for different things to go in there, then the concerns
4 that the audience has would certainly be something
5 that they would want to know about.

6 MS. KNIGHT: Essentially anything that fits
7 under the B-5 category ordinance could go there. So
8 whether he knows what that is now or not, as long as
9 it's one of those varying uses, I would think it would
10 be subject to approval regardless.

11 MR. HOWARD: The B-5 zone allows you to
12 basically anything you can do with a B-4 general
13 business zone, but it expands and allows you to do the
14 uses in the I-1 Light Industrial zone. So it does
15 broaden the range of things that could take place.
16 There's nothing there now. If I were to guess, I
17 would think that they're trying to have the zoning
18 that's the most marketable in the long-term, but who
19 knows. I mean we don't know.

20 CHAIRMAN: Go ahead, Mr. Reeves.

21 MR. REEVES: I still have concerns. He
22 doesn't have to tell us and he has every right to
23 change his mind and whatever. As long as it's allowed
24 under that zoning, then his presence may or may not
25 have any impact on what finally happens on this

1 property.

2 CHAIRMAN: Would it be a fair assumption that
3 he doesn't really know right now what he's going to be
4 doing?

5 MR. HOWARD: I can't speak.

6 CHAIRMAN: Even if he were here, he may not
7 have any idea.

8 Any of the commissioners like to make a motion
9 concerning a direction on this one?

10 MR. ROGERS: Mr. Chairman, I would like to
11 make a motion for postponement until next months so we
12 can have him here so these people can address
13 questions and him answer them.

14 CHAIRMAN: Commissioner Rogers has made a
15 motion to postpone so more information can be found
16 out. Is there a second?

17 MR. FREY: I'll second the motion.

18 CHAIRMAN: Second by Commissioner Frey. Any
19 discussions about the motion?

20 (NO RESPONSE)

21 CHAIRMAN: The chair is ready for a vote. All
22 those in favor raise your right hand.

23 (BOARD MEMBERS IRVIN ROGERS, BEVERLY McENROE,
24 LARRY BOSWELL, FRED REEVES, STEVE FREY, ANGELA
25 HARDAWAY, LEWIS JEAN AND LARRY MOORE RESPONDED AYE.)

1 CHAIRMAN: All opposed.

2 (MANUEL BALL RESPONDED NAY.)

3 CHAIRMAN: The vote carries.

4 ITEM 4

5 901, 933, 1001, 1003, 1005, 1007 & 1015 Leitchfield
6 Road; 1619-1625 & 1642 East 10th Street; 1621, 1631 &
7 1661 East 11th Street, 4.798 acres
8 Consider zoning change: From I-1 Light Industrial &
9 I-2 Heavy Industrial to I-1 Light Industrial
10 Applicant: Clark Properties, LLC

11 CHAIRMAN: I before we get into this I think
12 Commissioner Frey is to recuse himself on this one.

13 PLANNING STAFF RECOMMENDATIONS

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

16 CONDITION

17 1. No access to Leitchfield Road shall be
18 allowed. Access to East 10th Street and East 11th
19 Street shall comply with the zoning ordinance.

20 FINDINGS OF FACT

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

24 2. The subject property is located in a
25 Business/Industrial Plan Area where light industrial
uses are appropriate in general locations;

3. The proposed light industrial use conforms

1 to the criteria for nonresidential development;

2 4. The proposal is an expansion of existing
3 I-1 Light Industrial zoning to the southeast; and

4 5. At 4.798 acres, the proposal should not
5 overburden the capacity of roadways and other
6 necessary urban services that are available in the
7 affected area.

8 MR. HILL: Staff request that the Staff Report
9 be entered into the record as Exhibit B.

10 CHAIRMAN: Is there anyone representing the
11 applicant?

12 MR. WEIKEL: Yes.

13 CHAIRMAN: Would you like to say something
14 concerning this application?

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

17 MR. WEIKEL: Bill Weikel.

18 (BILL WEIKEL SWORN BY ATTORNEY.)

19 MR. WEIKEL: Just a clarification on the
20 condition, that no access to Leitchfield Road be
21 allowed. East 10th Street there's been a possibility
22 that it will be closed. In the case that it is, the
23 owner has asked that be used for a drive. Would there
24 be any problem with that?

25 MR. HOWARD: No. I think the intent was that

1 the only place you could get on Leitchfield Road was
2 through the East 10th Street right-of-way. If it's
3 closed, then as a driveway we would not have an intent
4 in closing that. I guess in theory the city
5 engineer's office could. We would defer to them, if
6 they chose to, but from our perspective access there
7 will be fine.

8 CHAIRMAN: Any other questions from the
9 commission?

10 (NO RESPONSE)

11 CHAIRMAN: Thank you.

12 Is there anyone else in the audience that
13 would like to speak on this application?

14 (NO RESPONSE)

15 CHAIRMAN: Any commissioners have any
16 questions concerning this application?

17 Commissioner Moore.

18 MR. MOORE: In the Staff Report, it mentions
19 the possibility of groundwater protection plan. Who
20 is responsible to see that it's done? Is it ours or
21 OMU's?

22 MR. HOWARD: That's the issue that we've
23 discussed in the past. We have notified all of the
24 applicable agencies. It's OMU's responsibility to
25 follow up on those and require them. They have been

1 notified that this is in the groundwater protection
2 area.

3 MR. MOORE: Thank you.

4 CHAIRMAN: Any other commissioners have any
5 questions concerning this application?

6 (NO RESPONSE)

7 CHAIRMAN: There being none the Chair is ready
8 for a motion.

9 Commissioner Jean.

10 MR. JEAN: I make a motion we approve this
11 application based on the Staff Report with Condition 1
12 and Findings of Facts 1 through 5.

13 CHAIRMAN: Commissioner Jean has made a motion
14 to approve based on Condition 1 and Findings of Fact 1
15 through 5. Is there a second?

16 MR. BALL: Second.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
20 WITH COMMISSIONER FREY RECUSING HIMSELF.)

21 CHAIRMAN: Motion carries.

22 ITEM 5

23 Portion of 10031 Walnut Street, Whitesville,
0.498 acres
24 Consider zoning change: From R-1C Single-Family
Residential to R-3MF Multi-Family Residential
25 Applicant: Roger Coomes and Michael Coomes

1 MR. ROGERS: Mr. Chairman, I need to recuse
2 myself on this one.

3 MR. HILL: This is a recommendation for denial
4 so I will read a portion of the Staff Report into the
5 record.

6 DEVELOPMENT PATTERNS

7 The subject property is a 0.498 acre portion
8 of a larger R-1C zoned parcel located at 10031 Walnut
9 Street within the City of Whitesville. The applicant
10 proposes to rezone a 0.498 acre portion of the
11 property to R-3MF Multi-Family Residential, which
12 would leave two small portions of the property as R-1C
13 Single-Family Residential. The area proposed for
14 rezoning includes a detached garage, which would
15 likely be removed if the property is ever redeveloped.
16 A single-family residence is located on a portion of
17 the property that will remain R-1C.

18 The applicant's desired lot configuration, as
19 shown on the property notification map, will not meet
20 the zoning ordinance requirements for road frontage.
21 Each of the R-1C lots requires 50 feet of road
22 frontage while the proposed R-3MF portion requires 70
23 feet of road frontage. 170 feet of road frontage is
24 needed to be compliant, while the applicant's property
25 only has 161.36 feet of road frontage.

1 This area includes a mixture of residential
2 and commercial properties. To the north is the rear
3 of a bank property, zoned B-2. To the west are
4 single-family residential properties, zoned R-1C. To
5 the east are single-family residential properties,
6 zoned R-1C. To the south across Walnut Street are
7 single-family residential properties, zoned R-1B.

8 Walnut Street in this location is classified
9 as a local street which has a 25 foot building setback
10 requirement. Access to the site must be compliant
11 with applicable sections of the zoning ordinance.
12 The Access Management Manual does not apply to this
13 site since it is located outside the urban service
14 area.

15 If the rezoning is approved, the applicant
16 will be required to provide vehicular use area
17 screening compliant with Article 17 of the zoning
18 ordinance around the perimeter of any proposed parking
19 area that faces any residential property or Walnut
20 Street right-of-way.

21 If approved, prior to occupancy of the
22 property, the applicant must obtain approval of a
23 final development plan to demonstrate compliance with
24 zoning ordinance requirements including, but not
25 limited to, parking, landscaping, building setbacks,

1 access management and signage.

2 SPECIFIC LAND USE CRITERIA

3 The applicant's proposal is not in compliance
4 with the Comprehensive Plan. The proposed use as
5 multi-family residential conforms to the criteria for
6 urban residential development and the subject
7 properties are in an area served by sanitary sewers.
8 However, the proposal is not a logical expansion of
9 existing R-3MF zoning in the area. The proposal is
10 not major-street-oriented. Furthermore, the proposed
11 lot configuration will not be compliant with the
12 zoning ordinance road frontage requirements.

13 PLANNING STAFF RECOMMENDATION

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

16 FINDINGS OF FACT

17 1. Staff recommends denial because the
18 proposal is not in compliance with the community's
19 adopted Comprehensive Plan;

20 2. The subject property is located in an
21 Urban Residential Plan Area where urban mid-density
22 residential uses are appropriate in limited
23 locations;

24 3. The proposed use as multi-family
25 residential conforms to the criteria for urban

1 residential development;

2 4. The proposal is not a logical expansion of
3 existing R-3MF Multi-Family Residential zoning in the
4 area;

5 5. The proposal is not major street oriented;
6 and

7 6. Furthermore, the proposed lot
8 configuration will not be compliant with the zoning
9 ordinance road frontage requirements.

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

12 CHAIRMAN: Thank you, Mr. Mill. Is anyone
13 here representing the applicant?

14 Please step forward.

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

17 MR. COOMES: Roger Coomes.

18 (ROGER COOMES SWORN BY ATTORNEY.)

19 CHAIRMAN: Is there anything that you would
20 like to say in support of your application yourself?

21 MR. COOMES: Yes, if I may. Thank you for
22 allowing me.

23 Depending on how you want to count the block,
24 because there's really two Walnut Streets. To the
25 east of the property there is residential, rental

1 residential, and there's a small street that runs
2 between there and coming out on 54, but in the whole
3 picture that's one great big block. There's already
4 two multi-family dwellings in that block. To the
5 south of there one of the listings on B-2 is really a
6 St. Vincent dePaul store. It takes up probably about
7 a third of the block there, about fourth of it anyway.
8 That property overlaps mine across the street so many
9 feet. Thank you.

10 CHAIRMAN: Is there any commissioners that
11 have any questions for Mr. Coomes?

12 (NO RESPONSE)

13 CHAIRMAN: Mr. Coomes, I do have myself a
14 couple of questions.

15 I noticed in your findings that you have a
16 statement that there's a need for multi-family
17 residence in the City of Whitesville due to the
18 changes in economic conditions. Can you elaborate on
19 what support documents you have that would drive those
20 economic conditions that would allow you to make that
21 statement?

22 MR. COOMES: Yes, but I've got to go back a
23 little bit.

24 There was apartment complex built a little bit
25 to the east of Whitesville. It's still in the city

1 limits. I forget what the name of that street is.
2 Almost across from our park. That was rented before
3 it was even built. My nephew owns the two in the same
4 block that I was talking about. He just completed one
5 a year, year and half ago. They were all rented
6 before they were built. So apparently there's several
7 people looking for other than single-family dwelling.

8 CHAIRMAN: The other question that I have is
9 one of the other statements, that it would serve as a
10 buffer between B-2 to the north and existing
11 residential. Could it not be argued that what is
12 already there would be considered a buffer without
13 having a rezoning?

14 MR. COOMES: The only thing that adjoins the
15 back of the bank and the back of that service station
16 is yard, yes, sir.

17 CHAIRMAN: Thank you.

18 MR. HOWARD: That language is often used, and
19 I believe the reason he did it is there's a hierarchy
20 of land uses and single-family residential would be at
21 the low end as far as intensity goes. Commercial
22 would be towards the higher end. Not to the
23 industrial, but to the higher end. Then R-3MF
24 Multi-Family zoning would kind of fall in the middle.
25 So that language is in the top plan and other places

1 to provide that a buffer could take place between
2 single-family residential and a more intense
3 commercial use and that R-3MF would kind of be the
4 buffering in-between.

5 CHAIRMAN: Thank you, Mr. Howard.

6 Any commissioners have any questions?

7 (NO RESPONSE)

8 CHAIRMAN: Is there anyone in the audience
9 that would like to speak on this application either
10 for or against?

11 (NO RESPONSE)

12 CHAIRMAN: Then the Chair is ready for a
13 motion.

14 Commissioner Moore.

15 MR. MOORE: Mr. Chairman, I would like to make
16 a motion for denial based on the Staff Report and
17 Findings of Fact 1 through 6.

18 CHAIRMAN: Commissioner Moore has made a
19 recommendation for denial based on the Staff
20 Recommendations and Findings of Fact 1 through 6. Is
21 there a second?

22 MR. REEVES: Second.

23 CHAIRMAN: Second by Commissioner Reeves. Any
24 discussion on the motion and the second?

25 (NO RESPONSE)

1 CHAIRMAN: There being none the Chair is ready
2 for a vote. All those in favor raise your right hand.

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
4 WITH IRVIN ROGERS RECUSING HIMSELF.)

5 CHAIRMAN: Motion carries for denial.

6 ITEM 6

7 1308 West Ninth Street, 0.488 acres
8 Consider zoning change: From B-4 General Business to
9 B-5 Business/Industrial
Applicant: Douglas B. Webster, II

10 PLANNING STAFF RECOMMENDATIONS

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

13 CONDITIONS

14 1. Approval of a site plan or final
15 development plan.

16 FINDINGS OF FACT

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

20 2. The subject property is located within a
21 Business/Industrial Plan Area, where general business
22 and light industrial uses are appropriate in general
23 locations;

24 3. The subject property lies within an
25 existing area of mixed general business and light

1 industrial uses;

2 4. The Comprehensive Plan provides for the
3 continuance of mixed use areas; and

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

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

10 CHAIRMAN: Thank you, Mr. Hill.

11 Is anyone here representing the applicant that
12 would like to speak?

13 Yes, sir.

14 MS. KNIGHT: Please state your name.

15 MR. WEBSTER: Doug Webster, II.

16 (DOUG WEBSTER, II SWORN BY ATTORNEY.)

17 MR. WEBSTER: I have nothing, I can't say any
18 better than the Staff did. Unless you have any
19 questions, I have no further comments unless you have
20 questions.

21 CHAIRMAN: Thank you.

22 Any commissioners have any questions of the
23 applicant?

24 (NO RESPONSE)

25 CHAIRMAN: Anyone in the audience that may

1 have questions?

2 (NO RESPONSE)

3 CHAIRMAN: Thank you.

4 Anyone in the audience would like to speak in

5 opposition of this application?

6 (NO RESPONSE)

7 CHAIRMAN: There being none the Chair is ready

8 for a motion.

9 Commissioner Reeves.

10 MR. REEVES: Motion to approve this

11 application based on Staff Findings of Fact 1 through

12 5 with Condition 1.

13 CHAIRMAN: A motion has been made by

14 Commissioner Reeves for approval based on Condition 1

15 and Findings of Fact 1 through 5. Do we have a

16 second?

17 MR. MOORE: Second.

18 CHAIRMAN: Second by Commissioners Moore. Any

19 discussion about the motion and the second?

20 (NO RESPONSE)

21 CHAIRMAN: There being none all those in favor

22 raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries.

25 ITEM 7

1 7101 & A Portion of 7071 Highway 81, 1.17 acres
2 Consider zoning change: From R-1A Single-Family
3 Residential & A-U Urban Agricultural to B-4 General
4 Business
5 Applicant: Susan Cox Development, LLC; Kuegel & Kamuf
6 Land Company, LLC

7 MR. HILL: This is a recommendation for denial
8 so I will read a portion of the Staff Report into the
9 record.

10 DEVELOPMENT PATTERNS

11 The subject property is a 0.649 acre parcel
12 known as 7101 Highway 81 and a 0.521 acre portion of a
13 large parcel known as 7071 Highway 81. Once
14 consolidated these parcels, located near the
15 Mosleyville area, total 1.17 acres. While both
16 parcels are currently vacant, 7101 Highway 81 was
17 previously used residentially and 7071 Highway 81 has
18 been used agriculturally. The applicant wishes to
19 rezone the properties to B-4 General Business to allow
20 the construction of a retail business.

21 This area includes a mixture of residential,
22 commercial, industrial and agricultural properties.
23 Property to the north is a large agricultural parcel,
24 zoned A-U and R-1A. Property to the east is a large
25 agricultural parcel, zoned A-U. Property to the south
26 is a single-family residence, zoned R-1A & A-U. A
27 salvage yard, zoned I-2 is located across Highway 81

1 from the subject property. A single family
2 residential parcel, zoned R1A, is also located
3 directly across Highway 81 from the site. The nearest
4 B-4 zoned property is located approximately 325 feet
5 to the south on the opposite side of Highway 81. The
6 nearest B-4 zoning on the same side of Highway 81 is
7 located approximately 475 feet to the south.

8 If the rezoning is approved, the applicant
9 will be required to provide landscape buffer screening
10 in compliance with Article 17 of the zoning ordinance
11 along the southern property boundary where adjacent to
12 residential property. Vehicular use area screening
13 will also be required where adjacent to residential
14 properties or public street rights-of-way.

15 Highway 81 in this location is classified as a
16 major collector street with a 60 foot building setback
17 line and a 30 foot roadway buffer. Access to the site
18 must be compliant with applicable sections of the
19 zoning ordinance and will require Kentucky
20 Transportation Cabinet approval. The Access
21 Management Manual does not apply to this site since it
22 is located outside the urban service area.

23 Due to the proximity to existing residential
24 zones, all lighting for the subject property shall be
25 directed away from the residential property to reduce

1 the glare and impact of the lighting on the
2 residential uses.

3 If approved, prior to occupancy of the
4 property the applicant must obtain approval of a site
5 plan to demonstrate compliance with zoning ordinance
6 requirements including, but not limited to, parking,
7 landscaping, building setbacks, access management and
8 signage.

9 SPECIFIC LAND USE CRITERIA

10 The applicant's proposal is not in compliance
11 with the Comprehensive Plan. The proposed use as
12 general business conforms to the criteria for
13 nonresidential development. However, the proposed B-4
14 General Business zoning is not a logical expansion of
15 B-4 General Business zoning in the vicinity.
16 Furthermore, at 1.17 acres, the proposal may be
17 considered a significant increase in general business
18 zoning in the vicinity and the traffic generated by
19 the proposed retail use has the potential to
20 overburden the capacity of roadways and other
21 necessary urban services that are available in the
22 affected area. Finally, while the property is
23 considered major-street-oriented, it is not sited at
24 the corners of intersecting streets, which are the
25 main criteria required to create a new location of

1 general business zoning in a Rural Community Plan
2 Area.

3 PLANNING STAFF RECOMMENDATIONS

4 The Planning Staff recommends denial subject
5 to the findings of fact that follow:

6 FINDINGS OF FACT

- 7 1. Staff recommends denial because the
8 proposal is not in compliance with the community's
9 adopted Comprehensive Plan;
- 10 2. The subject property is located in a Rural
11 Community Plan Area where general business uses are
12 appropriate in limited locations;
- 13 3. The proposed use as general business
14 conforms to the criteria for nonresidential
15 development;
- 16 4. The proposal is not a logical expansion of
17 existing B-4 General Business zoning in the vicinity;
- 18 5. At 1.17 acres, the proposal may be
19 considered a significant increase in general business
20 zoning in the vicinity and the traffic generated by
21 the proposed retail use has the potential to
22 overburden the capacity of roadways and other
23 necessary urban services that are available in the
24 affected area; and
- 25 6. While the property is considered

1 major-street-oriented, it is not sited at the corners
2 of intersecting streets, which are the main criteria
3 required to create a new location of general business
4 zoning in a Rural Community Plan Area.

5 MR. HILL: Staff request that the Staff Report
6 be entered into the record as Exhibit E.

7 CHAIRMAN: Any and all here representing the
8 applicant?

9 MR. KAMUF: Mr. Chairman, Charles Kamuf.

10 MS. KNIGHT: Mr. Kamuf, you're sworn as an
11 attorney.

12 MR. KAMUF: I represent Susan Cox Development,
13 LLC, which has built numerous Dollar General stores in
14 the Owensboro area. She is here. She owns
15 approximately 200 of these stores. She's a preferred
16 developer for Dollar General and she'll tell you, one
17 of the things, very little traffic will be generated
18 from this area.

19 I also represent Rod Kuegel and Bill Kuegel
20 and myself who own Kuegel & Kamuf Land Company.

21 As you can see, the plat that you have in
22 front you, Kuegel & Kamuf Land Company own all the
23 property surrounding this area except two spots. They
24 own the property to the north and the property to the
25 east. There's a 53 acre tract in that particular

1 area. Kuegel and Kamuf purchased the property
2 approximately 25 years ago. The one acre tract that
3 you see, we purchased it about three years ago, and we
4 purchase it specifically for the purpose of selling
5 the property to Dollar General.

6 I'll have a plat for you in just a second.
7 All of the surrounding property owners agree to this
8 rezoning.

9 To the west of the property is owned by Byron
10 Lane. Byron Lane owns four or five acres there that's
11 a salvage yard.

12 Next to the property and to the west of the
13 property is owned by Peter Crowe. I would like to, if
14 I could, give you a handout.

15 The first exhibit is this letter to the
16 Planning and Zoning Board by Peter Crowe. He state,
17 and this is the property directly west of the
18 property. We'll have a plat in just a second.

19 "My name is Peter Crowe. I live at 7115
20 Highway 81 in Mosleyville. I have lived at this
21 address since 1958.

22 "I live next to the property 7101 Highway 81
23 which is where they're going to build a Dollar General
24 store.

25 "Since Kuegel & Kamuf have purchased the

1 property at 7101 Highway 81, they have tore down the
2 old house and have improved the property.

3 "I fully support the rezoning of the property
4 at 7101 Highway 81 to build a Dollar General store. I
5 support the rezoning from agriculture to commercial.

6 "I think the Dollar General store is needed in
7 the Mosleyville area.

8 "I have talked with all my neighbors and
9 everybody wants the Dollar General store so they will
10 not have to go to Owensboro to get their every day
11 supplies.

12 "If you have any questions, here is my phone
13 number, (270) 485-6592."

14 Let's turn over to the next exhibit, if we
15 can. The next exhibit you have is this one right
16 here. This is the large aerial that we have, but it's
17 identical.

18 So if you look at the exhibit you have in
19 front of you, it shows where the subject property is.
20 That's in red. Directly south of that was the
21 property that we just talked about, Mr. Crowe.
22 Directly across from this property is a four or five
23 acre salvage yard which is zoned heavy industrial.
24 Down from that you will see a B-4 rezoning which is a
25 Dairy Cream or something like a Big Dipper. Then

1 directly across from that you'll find, this is a
2 convenient store that's been there for years. Now the
3 other area that you see is B-4, and that property is a
4 beer joint.

5 The first photograph that you have behind that
6 one is a picture of the dilapidated house that we tore
7 down that Mr. Crowe referred to that he was happy that
8 it was torn down and we improved the property.

9 The next exhibit that you see is a photograph
10 of the salvage yard across the street. This is this
11 one that we see. It's probably the third one. It's a
12 salvage yard that's been there for years. We have
13 talked to Mr. Byron Lane. He wants the Dollar General
14 store in the area. This property has been there for
15 years, this salvage yard. It's the heaviest
16 industrial type of property that you can get in
17 Daviess County.

18 Next you see the Dairy Cream that I talked to
19 you about. This property is zoned B-4. It's been
20 there for years.

21 If you notice two points; the Dollar General
22 store that we have will have one access point to
23 Highway 81. If you look here, there are two or three
24 access points which is not necessarily a safe
25 entrance.

1 The next exhibit that you see is the Roam Inn.
2 It also has a large entrance off onto Highway 81.

3 The last one I show you is a convenient store
4 that is located directly south. It's about let's say
5 350, 400 feet directly south as you see right here on
6 the big plat. This is where the convenience store is
7 located.

8 If you look at this convenience store, we
9 don't think we have a traffic issue. We have
10 engineers from Bowling Green that will testify. We
11 have Susan Cox that will testify there's no traffic.
12 We're also going to have the former owner of a piece
13 of property at Utica that was zoned where the same
14 issues were raised, and he'll tell you that he drives
15 by it everyday. It's twice as big as this rezoning
16 and that there's never been a traffic problem.

17 If you look at this exhibit that we show here,
18 at the rear of it you have storage trucks. If you see
19 at the far end of it, it has storage buildings,
20 storage trucks, and I would say that a distance half
21 of a football field you can get in and out. We will
22 not have that situation in the Dollar General store.

23 Now, the property is located in the rural
24 service area. That is important. It's important to
25 Dollar General to be in a rural service area. If it

1 was not in a rural service area, we couldn't be here
2 because the Planning Staff wouldn't even let us file
3 an application.

4 The whole purpose of a rural service area is
5 to concentrate in a rural area all the commercial
6 activity so they can supply the infrastructure
7 necessary from the government.

8 There's one under construction right now in
9 Sorgho. Last month I represented Ms. Cox in a zoning
10 that was up here on Highway 54 at the intersection of
11 Wing Avenue. So she's not new here in Daviess County,
12 as far as -- you can inquire about her uses and why
13 she's involved and want in the county.

14 The purpose of a rural service area is to
15 provide in the county in a rural area in a
16 concentrated area the every day needs of rural
17 citizens. This will indicate to you why the Dollar
18 General store is so popular in all of the United
19 States; because they take care of these needs.

20 Presently, I think I'm telling you right,
21 there are maybe 12 or 13 Dollar General stores in
22 Daviess County. There's one at Masonville. There's
23 one at Thruston. There's one at Whitesville and one
24 Utica that's she's involved in.

25 The success of the Dollar General store in

1 other areas of Daviess County prove that the
2 commercial businesses are needed in the area.

3 Now, the real need, I didn't point to you, but
4 if you look at this particular area where you see the
5 pink, that pink area that you see is called Friendly
6 Park. Right next to it is one in just a little
7 lighter color, and that's a mobile home park. The
8 reason that's important is there are 72 houses in
9 Friendly Park. There are 22 mobile homes.

10 The real issue, Fred, you've been on that RWRA
11 board.

12 If you've been reading in the paper lately, at
13 the present time they're extending to this exact
14 subdivision a sewer line from the Air Park to
15 Mosleyville to take care of this particular area in
16 Friendly Park where you have those 72 houses and
17 mobile homes. So that is a big issue in this case, to
18 have right in that particular area right across the
19 street a subdivision of that nature.

20 Let me just say this: You can tell by the way
21 that the Staff Report is written that they do not
22 strongly object to this. But here are the three
23 issues that they raise, and I might say this: The
24 Board has approved, and I'll get into each one of
25 those. The Board in the past has approved identical

1 situations where the Staff have raised the same issues
2 and have approved the rezoning. Here is what the
3 staff says.

4 There are three issues basically. They say,
5 there's no logical expansion. What we have here,
6 right across the street we have I-2, we have B-4.
7 They say that 1.17 acres may be a significant increase
8 in the business zoning and may, what, cause a
9 potential to overburden the roadways.

10 In my opinion, the Staff findings were a very
11 strict interpretation of the zoning law. In the past,
12 this Board on numerous occasions have been more
13 liberal in their interpretation of the zoning law. In
14 the past this Board has disagreed with the Staff on
15 several occasions.

16 In compliance we're saying that the proposed
17 rezoning is in compliance. The first issue that they
18 raised we'll talk about, is that 1) the new locations
19 should be located at corners of intersecting streets
20 if located in close proximity to existing dwellings.
21 There's no question we meet the first one. What we do
22 meet, we're in a rural area and we're
23 major-street-oriented because, what, right there is
24 Highway 81.

25 First of all let's talk about the intersecting

1 street issue that the Staff has raised.

2 According to the rural community criteria, new
3 location should be located at corners of intersecting
4 streets, if the new location is in close proximity to
5 existing dwellings. The criteria clearly states that
6 what? That new location should be sited. It does not
7 state that it shall be sited. Each case would have
8 different circumstances and would stand on its own.
9 All new location are not required to be sited at
10 intersecting streets. You have previously ruled that
11 all new locations are not required to be an
12 intersecting street.

13 Let's go over this: The criteria concerning
14 proximity to existing buildings. Let's point this
15 out.

16 As we have here, if you look at the plat
17 that's in front of you, there's really just three
18 existing buildings on here.

19 One is Mr. Crowe's. Mr. Crowe's property, it
20 really needs some repair. I'll leave it that way. In
21 other words, when you get down to the issues, nobody
22 is going to build a new house across from a salvage
23 yard or down from a beer joint.

24 The applicant submits that the intersecting
25 street requirement for a new location should not be a

1 concern here tonight. In this case, there's no
2 intersecting street. So how could it apply?

3 There's only one street. If you look,
4 according to the plat, your plat is a better than this
5 big blow up. There is only one street that you see
6 anywhere in Mosleyville. I would say the next
7 intersecting street that you would have would be six
8 miles down the road at Highway 140 and 81. So if you
9 use the Planning Staff Requirement, there's no way
10 that you could build a Dollar General store in
11 Mosleyville. You see, it's called Park Drive. Park
12 Drive goes back into the back. It goes to the mobile
13 home park that we talked about, and it goes to the
14 family park subdivision.

15 The traffic issue. Directly across from the
16 entrance is this salvage yard, and the salvage yard
17 would not, in other words, very little traffic in and
18 out of the salvage yard. So that would not create a
19 problem.

20 Another one. There will be only one entrance
21 to the Dollar General store, and contrary to the ones
22 that you see at the convenient store, that you see at
23 the beer joint, and that you see at the Dairy Cream
24 there.

25 Let's talk just a little bit about the next

1 issue. I think I tried to clear that first one up on
2 the intersecting street.

3 The land use states that existing general
4 businesses may be expanded onto contiguous land that
5 generally abuts the same street. What's the
6 definition of contiguous? I looked it up in the
7 statute at the Comprehensive Plan at Page 56. Here is
8 what it says: "That an expansion of a use occurs when
9 a particular category of land use is established on
10 land that is contiguous." What does it say after the
11 word "contiguous?" In close proximity. In close
12 proximity to an existing site or the same category of
13 use. The keyword is what? Close proximity. The
14 board has previously ruled that contiguous does not
15 mean next to or across the street directly from
16 another rezoning.

17 On the south side you can see what my argument
18 is. On the south side, go down to the convenient
19 store B-4. Across the street B-4. The beer joint
20 B-4. So I'm saying as far as that issue, I think I
21 qualify for close proximity. Close proximity, that's
22 what the statute says.

23 When it says, what does contiguous means? My
24 argument is this: I'll attack those two issues that
25 intersecting streets and also on the issue of logical

1 expansion.

2 On April 10, 2008, in the exact situation,
3 same people, Ms. Cox was here and also Mr. Grimsley
4 was here. You had the same situation. The Staff
5 raised these three issues, and I'll review each one of
6 them for you. They raised the same three issues and
7 this Board voted 10 to 0 and disagreed with the Staff.

8 Mr. Grimsley is here. Why is Mr. Grimsley
9 important? Because they raised the same issue as far
10 as a potential. I'm not getting on the Staff. I'm
11 just saying I disagree with their interpretation.

12 Mr. Grimsley's here for two reasons. One,
13 that was him involved in the Utica case, and we'll go
14 over that in just a second. He drive by that property
15 every day. He lives right down the road from it. He
16 owned the property. The Utica case was the same case
17 that we have here.

18 There's another case. At 144, as you recall,
19 you all approved the rezoning, some of you were on the
20 board, at Thruston, and I handled the case several
21 years ago. You approved one at Thruston. Right
22 before that there was a zoning case there and the same
23 issue was raised. What is a logical expansion? This
24 board voted 9 to 0 and disagreed with the staff.
25 Let's look at Utica.

1 Rod, would you come up here for just a second.

2 This exhibit that I show you. The Utica case
3 is a 2.24 acre tract of ground. What we have is a
4 smaller area, 1.17 acre tract of ground.

5 The Staff Report in this case -- look at them.
6 If you look at what you have in front of you, these
7 are close enough to be sisters. You understand? It's
8 as close as you'll ever get to a precedence in this
9 case.

10 If you look at that, you see the highway there
11 at Utica. There's 140 and then to the north of that
12 is the building site. If you notice in that
13 particular case, there is an intervening street, but
14 it's not anywhere near this property. 400 feet to the
15 south.

16 Here is what the Staff said, and this is in
17 the Utica case. As you know, Utica case, the new
18 zoning was not located at intersecting street. 140
19 was approximately 400 feet away. It was not next to a
20 commercial zoning. The issue that the Staff raised
21 were: 1) the subject is not contiguous to existing
22 zone. That's the one Rod has up here. It's not
23 contiguous to existing B-4 zone or use and therefore
24 is not a logical expansion. The subject property is
25 situated in close proximity to existing dwelling. The

1 existing dwelling that we have in our situation, that
2 issue goes away with the letter from Mr. Peter Crowe.
3 It has no affect on the existing because he is the
4 only house next to the proposed rezoning.

5 The other issue that we have here is that the
6 subject property is close proximity to the existing
7 dwelling with residence to the north, south and west
8 of the property. The subject property is not located
9 at intersecting streets. This is what the Staff says.

10 What the Board said in the Utica case, the
11 Utica case this Board ruled that the OMPC zoning
12 regulation, which required certain rezoning to be
13 sited at intersecting corners, is not applicable in
14 every case. It's a question for this Board. The
15 intersecting street requirement that's pointed out
16 that new locations should be sited at intersecting
17 corners. It does not say shall. The word is not
18 mandatory and it's not mandatory that it be there.

19 It also stated that all new locations are
20 required to be sited at intersecting streets. In this
21 case that Rod shows up here, you can see, from this
22 particular area down to 140 is approximately 400 feet.

23 The key in this case is that the OMPC Board
24 stated that the Board should use discretion and do
25 what? The keyword, as it will be in this 144 case

1 that I'll talk about, is what? The keyword is the --
2 excuse me. I lost my train of thought. Is that you
3 look at the entire area. You don't look at just one
4 area and say -- it's not of like going to the bank.
5 You've got a loan officer there and he's supposed to
6 do A, B, C and D. If you don't have any part of D,
7 well, you don't get the loan. That's not the way this
8 works because this board has discretion to do this in
9 this case.

10 The logical expansion issue in that case was
11 raised and the Board ruled that you do not have to be
12 adjacent to or directly across the road to allow for a
13 contiguous rezoning. Here is what it said, and I
14 cited this before. That an expansion of use occurs
15 when a category of land use is established on the land
16 that is situated contiguous (in close proximity to an
17 existing site or area of the same category.)

18 So what happened in this case? The Board
19 interpreted in a very flexible and reasonable way. On
20 April 10, 2008 at a public hearing, the Board
21 disagreed with the staff and voted 10 to nothing to
22 approve the rezoning.

23 There is one other case, and this is known as
24 the Highway 144 case. That was a rezoning for Martin
25 Hayden who used to be on this board for 20 years.

1 That's at Thruston. That's in the same area that you
2 just got through. I think it was three years ago
3 where you approved a Dollar General store at Thruston.
4 There was no commercial zone across the street or
5 adjacent to or contiguous.

6 The Staff Report set out the following
7 findings. Here is what they say: The same issues
8 that we had in the Utica case and the same issues that
9 we have in the case at hand. 1) The subject property
10 does not adjoin existing general business zone and
11 therefor cannot be considered a logical expansion. 2)
12 Because across the street of 144 is not zoned general
13 business, the applicant's proposal does not qualify as
14 an expansion of a general business. Then the
15 applicant's proposal would create a new location, like
16 we're talking about here, of general business of
17 properties presently zoned and developed for
18 residential purposes. What happened? I'm going to
19 submit to you in just a few minute a finding of fact
20 that disagrees with the Staff. Here is where I base
21 my findings on.

22 The 144 case, that's up in Thruston. It says
23 this: Remember what you we said the issue were. The
24 staff for the three reasons did not want to approve
25 it, but here is what this Board said in a vote nine to

1 nothing. The area involved is an older residential
2 area that is ready for an expansion into a general
3 business. The property across the highway to the
4 northwest and the east is presently zoned general
5 business. By that I mean it didn't touch. It wasn't
6 contiguous. The rezoning of the subject property to
7 general business is compatible to the uses in the area
8 and a commercial use more specifically. The subject
9 property is ready for a change.

10 The next issue they said: The land use
11 recognizes the need for existing sites to be able to
12 expand their current operations which have existed for
13 many years. Since the land surrounding the subject
14 property is of a mixed use and is shown on the land
15 use plan even though they have some residential use
16 continuing.

17 In one of these cases tonight we talked -- I
18 don't remember which one it was, but they talked about
19 mixed uses. The comprehensive plan that you all have
20 encourages expansion of mixed uses.

21 I think Brian will agree to that. That came
22 out in one of the cases tonight about mixed uses.

23 Here is your key. Considering the use of the
24 entire property, the requested rezoning would be a
25 logical expansion of the business areas adjacent to

1 the property. This was a nine to zip vote with this
2 board.

3 So basically I'm pointing out, look, these are
4 only two cases that I've handled. I didn't go through
5 all the other cases, but basically this: On two
6 occasions you disagreed with the Staff. The Board
7 ruled in that one case that we talked about at Utica
8 that -- you understand, the rule that you all have on
9 intersecting street says it should. It doesn't say it
10 has to. So it's not applicable. That rule is not
11 applicable to every situation. That's why we have
12 you.

13 If this was this easy, and you had A, B, C, D,
14 we just have a zoning administrator. We wouldn't need
15 your Board.

16 So what the Staff, they come up with that.
17 They do their job. Then it's your responsibility to
18 look at the entire area and come up with your opinion.

19 The logical expansion issue. The rezoning in
20 this case is just like the Utica case. In a court of
21 law, if I have a case and it's identical to another
22 case, and I asked the judge to rule, I say, Judge,
23 rule on the precedence. I'm asking you to rule on the
24 Utica case and 144 case and say that this zone is in
25 accord with the comprehensive plan.

1 Now, if we look at this, on this issue that we
2 have. There's an issue always -- we opened a
3 subdivision up that we had 40 years ago. The issue
4 that they raised at every zoning case that you have,
5 if you want to defend it, is traffic. So we called it
6 the traffic and drainage subdivision, but the traffic
7 will always be an issue.

8 Let's look at what happened at Utica. At
9 Utica we had, what, 2.4 acres on a major highway, 431.
10 In this case, we've got half that amount on a county
11 road. It's our position, and I think if you hear
12 Grimsley talking in just a few minutes, you'll come to
13 the conclusion that, hey, we're right.

14 What happens if you don't approve this
15 rezoning? The county has spent \$2 million. It's in
16 construction right now. I do the work for RWRA and at
17 the present time the design has been done. I think
18 its contract has gone out. For the last four months
19 you've read in the paper about building this sewer
20 line from the airport directly to this subdivision.
21 What happens there is they're upgrading the
22 subdivision, in other words, they've got new sewer
23 lines, but they have no place to go for their
24 immediate needs.

25 Another key point is that the traffic, and

1 Ms. Cox is going to tell you. These new Dollar
2 General stores don't generate new traffic. They catch
3 traffic that's coming around. The traffic that you
4 see here, a lot of it will be coming from this
5 Friendly Park subdivision and from those mobile home
6 parks. That is an area of the lower income people and
7 they have as right as much as anybody else to have a
8 Dollar General store just like they do at Sorgho,
9 Masonville. The one at Sorgho is under construction
10 at the present time.

11 I just saw one other gentleman in the hall. I
12 asked him why he was here. He said, we want the
13 Dollar General store. If anybody is going to object
14 to this rezoning, it will be the convenience store
15 because you can buy a candy bar at the Dollar General
16 for 90 cents and if you go to the convenience store
17 you pay \$1.37. That just answers why they're so
18 popular.

19 Let me just say this: I hope I have made a
20 case and I would now give you a Findings of Fact that
21 I would like for you all to see.

22 Here is my proposed finding of fact, here is
23 what I will ask you to do:

24 Finding of Fact in support of 7101 Highway 81
25 and a portion of 7071 Highway 81 zone change:

1 1. We agree with Staff on this one. The
2 subject property is located in a rural community plan
3 area where general business uses are appropriate in
4 limited locations.

5 2. The proposed use as a general business
6 conforms to the criteria for nonresidential
7 development. We agree with that.

8 We agree with Number 3.

9 3. The area involved includes a mixture of
10 residential, commercial, industrial and agricultural
11 properties.

12 I forgot to tell you. There is another, when
13 we're talking about mixed uses, Billy Joe Miles has a
14 farm that adjoins us, over 100 acres, adjoins us right
15 to the north here that's zoned I-1 industrial. So
16 you're talking about all kinds of zoning out there.
17 Heavy industrial, light industrial, B-4, residential.

18 4. The area involved is an older residential
19 area that is ready for an expansion into a General
20 Business zone. The property south of the highway,
21 south of the subject property is zoned B-4 General
22 Business and the property across the highway is zoned
23 B-4 General Business.

24 The rezoning of the subject property to
25 General Business is compatible to the uses in the area

1 and a commercial use more specifically, the subject
2 property, is ready for a change.

3 Now, all of that, it came out of another case
4 that you all made a specific finding. I took some of
5 that wording out of a case that was at 144 at
6 Thruston. Right verbatim.

7 5. The Land Use Plan recognizes the need for
8 existing sites to be able to expand their current
9 operations where they have existed for many years.

10 6. Considering the use of the entire area,
11 the requested rezoning would satisfy the specific land
12 use criteria for logical expansion and new locations
13 in the rural communities.

14 7. The proposed rezoning would not
15 significantly increase in general business zoning in
16 the vicinity and the traffic generated by the proposed
17 retail use would not overburdens the capacity of
18 roadways and other necessary urban services that are
19 available in the area.

20 I think that beats what we've talked about.
21 We have a couple of witnesses.

22 The first witness will be Susan Cox. She owns
23 the development company. She's a preferred developer
24 for Dollar General and she will have some words.

25 Then the next one we have an engineer here

1 from Arnold Engineering over in Bowling Green. She
2 will be here to answer any questions. There's been
3 traffic studies out there. They never build one of
4 these until they make a complete traffic study.

5 Then we also have Mr. Grimsley here. He will
6 tell you about the highway, the Utica issue.

7 I can understand the Staff. The easy way to
8 do that is just say, it doesn't meet these
9 requirements; intersecting streets, logical expansion
10 and overburden street. It's up to us. So we're
11 presenting that evidence.

12 The first witness will be Susan Cox.

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

15 MS. COX: Susan Cox.

16 (SUSAN COX SWORN BY ATTORNEY.)

17 MS. COX: Do you have any questions for me to
18 start? It's hard to follow Mr. Kamuf.

19 CHAIRMAN: Commissioners, have any questions
20 for Ms. Cox?

21 (NO RESPONSE)

22 CHAIRMAN: Is there any particular statement
23 that you would like to make at this time?

24 MS. COX: I will say, as far as the community,
25 this is more of a convenience for the community and

1 retail for them there. As far as generating traffic
2 and that kind of thing, basically going there because
3 of the traffic count that is already there and the
4 households. I can't really go into how Dollar General
5 basis, where they want to go, but it's not a traffic
6 generator. They pick their sites on existing traffic
7 and households that are there.

8 CHAIRMAN: Yes, commissioner Reeves.

9 MR. REEVES: I'm going to make an assumption
10 that the store you would build would be similar to
11 others that we have in the area with the same kind of
12 park layout and access to the highway?

13 MS. COX: Yes, sir. It will be the standard
14 9,100 square foot with 31 parking spaces.

15 MR. KAMUF: Forty-three.

16 MR. REEVES: Thank you.

17 MR. KAMUF: I have a proposed development
18 plan. You know, we have to file pursuant to the
19 statutory development plan. I have one. It's very
20 similar to all of them, but I could show you one if
21 you request it.

22 MR. REEVES: Not requested.

23 MR. KAMUF: I can understand.

24 CHAIRMAN: Any other commissioners have any
25 questions for Ms. Cox?

1 (NO RESPONSE)

2 CHAIRMAN: Anyone in the audience have any
3 questions for Ms. Cox?

4 (NO RESPONSE)

5 CHAIRMAN: Thank you.

6 MS. COX: Thank you.

7 MR. KAMUF: Mr. Grimsley, wake up.

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

10 MR. GRIMSLEY: Bob Grimsley.

11 (BOB GRIMSLEY SWORN BY ATTORNEY.)

12 MR. GRIMSLEY: I wanted to take exception with
13 the beer joint and the junk yard. That sounds like
14 fun.

15 A lot of the issues that have been raised on
16 this particular case are just identical to what we had
17 going on in Utica when we tried to get the store
18 through, and we finally prevailed with that, with the
19 Board's incite in recommending against the Staff on
20 the Staff denial.

21 I drive by the store at least twice a day.
22 There are no traffic issues. It is not at an
23 intersecting intersection. There was residential
24 properties on both side. Like Mr. Kamuf said, there
25 are a lot of particulars in this case that mirror

1 exactly what our store was in Utica.

2 With that I'll take any questions you might
3 have.

4 CHAIRMAN: Commissioners have any questions?

5 (NO RESPONSE)

6 CHAIRMAN: Anyone in the audience have any
7 questions?

8 (NO RESPONSE)

9 CHAIRMAN: I just have one, and I'm not sure
10 if, Ms. Cox, you're able to answer the question.

11 Orientation of the store as it's being
12 proposed, how would the traffic means of egress and
13 ingress be, as far as getting in and out of there? Is
14 the store going to be situated so that the parking
15 would be on the north side or would be the parking be
16 on essentially the west side?

17 MR. GRIMSLEY: I'm going to refer that to the
18 engineer.

19 MR. KAMUF: If it's okay, let me refer it to
20 Brandy Zackery. She's handled at least five or six
21 we've handled together of Dollar General stores in the
22 area. She's with an engineering firm and she can tell
23 you everything about it. We do have a development
24 plan that shows it, but she's here to answer any
25 questions along that line.

1 CHAIRMAN: Thank you.

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

4 MS. ZACKERY: Brandy Zackery.

5 (BRANDY ZACKERY SWORN BY ATTORNEY.)

6 MS. ZACKERY: Just to answer your question,
7 it's a general layout. So there's one entrance onto
8 the main road. It's a 36 foot wide entrance that has
9 an entrance lane and then a left turn lane out and a
10 right turn lane out of the entrance. The entrance is
11 more on the north end of the property. The reason we
12 do that is so that the general parking is kind of in
13 front of the store, but the loading area where a truck
14 would maybe come in and be parked as they unloaded
15 weekly deliveries to the store would be on the side
16 opposite of the one residential home. That just
17 provides a little bit of buffering between the store
18 and where any of the actual activity may go on.

19 CHAIRMAN: Thank you.

20 Any commissioners have any questions of
21 Mr. Zackery?

22 (NO RESPONSE)

23 CHAIRMAN: Thank you.

24 MR. KAMUF: I have one more witness, but
25 before I have him come up, the only new traffic that

1 will be generated in the area, according to the
2 picture, you'll have some from Friendly Park
3 subdivision and from the mobile home, but the only
4 really basically additional traffic that you will have
5 will be trucks such as Coca-Cola and chips and things
6 and they generally just make one run a week. It
7 should handle the traffic issue, I think.

8 We're here to answer any of those questions
9 that you have about traffic because she has a detailed
10 plan that they run according to all traffic engineers
11 and traffic studies on these places, on new locations
12 before they do it.

13 CHAIRMAN: Mr. Kamuf, you may want to stand
14 there at the podium. I'm sure we may have some
15 commissioners that may want to work you over on some
16 questions.

17 MR. KAMUF: I have one more witness, and
18 that's Rod Kuegel. He's one of the owners. Let him
19 take the heat for a while.

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

22 MR. KUEGEL: Rod Kuegel.

23 (ROD KUEGEL SWORN BY ATTORNEY.)

24 MR. KUEGEL: You make a farmer swear and you
25 let a lawyer talk.

1 I think the Staff has done their job. They
2 have parameters to work within. Those parameters are
3 not always concrete. Some of them are subjective or
4 we wouldn't need a commission. It's your job to look
5 at it subjectively. The property has three businesses
6 within 500 feet of it and lighter, heavy industrial
7 across the road.

8 The traffic issue is probably going to relieve
9 some traffic from 81 to Owensboro rather than cause
10 traffic problem because those people rather than
11 having to go that far to get some substance or
12 groceries or whatever they're looking for to drive
13 across the street to the subdivision.

14 When we go into an area we like to improve,
15 like to be part of the community. I tried for three
16 years to buy this dilapidated house. It was an eye
17 sore to the community. When we tore it down, there
18 was drug paraphernalia in there and people had been
19 staying in it some. Finally got the thing bought and
20 cleaned up and we wanted to improve the area. I think
21 this is another step in improving the area. It's an
22 opportunity for the people that live in that area to
23 have a store where they can get groceries and other
24 items without having to drive to Owensboro. Gives you
25 an opportunity to provide them with the service

1 without any cost to the government, and at the same
2 time enhance their quality of life. That's how we see
3 it. Thank you.

4 CHAIRMAN: Thank you, Mr. Kuegel.

5 Any commissioners have any questions of Mr.
6 Kuegel?

7 (NO RESPONSE)

8 CHAIRMAN: Thank you.

9 Mr. Kamuf, would you like to call another
10 witness?

11 MR. KAMUF: I'm done.

12 Seriously, we've got the people that can
13 answer the questions here, if you all have some.

14 CHAIRMAN: Do any of the commissioners have
15 any questions for Mr. Kamuf?

16 MR. MOORE: Yes, sir.

17 CHAIRMAN: Commissioner Moore.

18 MR. MOORE: Mr. Kamuf, you mentioned several
19 traffic studies to us. Can you explain how that
20 works?

21 MS. ZACKERY: One clarification, what we have
22 done is the trip generation studies, because there was
23 concern of just the facility itself creating a lot
24 more traffic. So not the full blown traffic study
25 that you sometimes think of that's maybe 100 pages.

1 We did a trip generation study, which is based
2 off of the Institute of Transportation Engineers.
3 They go through and do studies across the country and
4 their based on uses.

5 The use for the Dollar General store is based
6 off of a freestanding discount store. They have
7 charts that tell you for a weekday for the a.m. peak
8 hours and the p.m. peak hours, what that additional
9 traffic would be just in and out of that entrance.
10 Like how many trips into the entrance and how many
11 trips out of entrance.

12 For this type of facility it's usually 50/50.
13 The p.m. peak hours actually was 50/50. Fifty percent
14 of the trips were in, 50 percent of the trips were
15 out.

16 It came down to about they're saying that the
17 peak time of the morning or the peak time of the
18 evening in one hour period approximately 20 cars.
19 That's what would come. So 20 trips in and 20 trips
20 out of the entrance. I have some reports if you all
21 want to see. I did bring these. It's got the
22 exhibits from the transportation book that was used.

23 So the first page of that report is just kind
24 of a summary. It breaks down, it breaks down -- the
25 book we used was the Eighth Edition of the Trip

1 Generation Manual. Then it's got a table there, the
2 density. The density number comes from the square
3 footage of the retail space.

4 Then you have, if you look at Exhibit 1 and
5 Exhibit 2, that gives you the freestanding discount
6 store page out of the book. Exhibit 1 is for the a.m.
7 peak hours. Exhibit 2 is for the p.m. peak hours.
8 Then if you look about mid-page on there it's going to
9 tell you that the average was 5.48 per 1,000 square
10 feet of the retail space. So you take basically the
11 7.4 and you multiply it by 5.48.

12 It ranged as low at some locations as 2.9. So
13 we're pretty good in the middle there with that
14 average.

15 Then it breaks down to the a.m. peak hours was
16 right at 21 trips into the store and 20 trips out of
17 the entrance. Then the p.m. peak hours was just under
18 21 trips in and 20 trips out.

19 I will point out, like they said previously,
20 that a lot of the traffic due to where Dollar General
21 usually locates the stores it's not necessarily
22 additional traffic. That is counting the traffic in
23 and out of that entrance, but a lot of that traffic
24 are just cars that are passing; either they're already
25 in that area going home. They're not going to drive

1 from across the county just to go to that store, which
2 is what you would really think of usually generating
3 additional traffic.

4 CHAIRMAN: Mr. Moore, does that answer your
5 question?

6 MR. MOORE: Thank you.

7 CHAIRMAN: Thank you.

8 MR. HOWARD: I just have a quick question.

9 Mr. Kamuf indicate that the store would be
10 9100 square feet, but you used a factor of 7.389,
11 which indicated a 7,400 square foot. Is that
12 discounting storage space in the building?

13 MS. ZACKERY: Yes. That's the full retail
14 space and doesn't include the storage space in the
15 back part of the building.

16 CHAIRMAN: Thank you.

17 Any other commissioners have any questions?

18 (NO RESPONSE)

19 CHAIRMAN: Mr. Kamuf, would you approach the
20 podium again in case there's any questions from the
21 commissioners.

22 Any commissioners have any questions for
23 Mr. Kamuf?

24 (NO RESPONSE)

25 CHAIRMAN: Anyone in the audience have any

1 questions?

2 Yes, step forward.

3 MS. KNIGHT: Please state your name for the

4 record.

5 MR. WELBORN: Troy Welborn.

6 (TROY WELBORN SWORN BY ATTORNEY.)

7 MR. WELBORN: I would like to thank you all

8 for informing the public of the meeting; otherwise, we

9 wouldn't have known about it.

10 I do live in Friendly Village. I recently

11 taken up my community, because I care about my home

12 and my community and the sewer project. I saw the

13 notice and just was curious what it was going to.

14 We're thrilled that we're going to get a Dollar

15 General out there. We shop at Dollar General in town.

16 It would be great for our community. I think it would

17 help our economic and growth out there too. Thank

18 you.

19 CHAIRMAN: Thank you.

20 Anyone else in the audience that would like to

21 speak concerning this application?

22 (NO RESPONSE)

23 CHAIRMAN: The chair is ready for a motion.

24 Mr. Reeves.

25 MR. REEVES: Just one quick comment before I

1 make my motion.

2 I do want to acknowledge what Mr. Kamuf said
3 awhile ago about the Staff makes their recommendation
4 based on information that's submitted to them prior to
5 this hearing. It is in accordance with the
6 Comprehensive Plan and various regulations. But when
7 the Board hears and the Staff hears testimony and
8 facts are brought into consideration that help us make
9 a decision. So therefore I want to make sure
10 everybody knows that the Staff does their job and we
11 try to do our job based on what they've done prior to
12 this and then the testimony.

13 MR. KAMUF: I didn't intend to --

14 MR. REEVES: I know you didn't. I know you
15 didn't.

16 MR. KAMUF: The Staff has got a job to do and
17 you all have got a job to do and I've got a job to do.

18 MR. REEVES: You've said that, Charlie.

19 I'm going to move that this application be
20 approved. I have my own findings.

21 1. The subject property is located in a rural
22 community plan area where general business uses are
23 appropriate in limited locations.

24 2. The proposed use as a general business
25 conforms to the criteria for nonresidential

1 development.

2 3. The area involves includes a mixture of
3 residential, commercial, industrial and agricultural
4 properties.

5 4. The road orientation will be consistent
6 with other B-4 operations in the area except access
7 will be much more restricted.

8 5. The adjacent neighbors agree to the
9 rezoning.

10 6. The rural service area tries to
11 concentrate the business activities that support the
12 needs of the residence in a close geographic area.

13 MR. HOWARD: Fred, would you call it a rural
14 community plan area instead of rural service?

15 MR. REEVES: Okay. Rural community plan area.
16 I'll restate number six.

17 6. The rural community plan area supports
18 concentrating business activities that serve the needs
19 of the residents in close geographic area.

20 7. Dollar General stores are in operation in
21 at least two areas with conditions very similar to
22 this one.

23 8. The subject property is in close proximity
24 to three other B-4 properties and is a reasonable
25 expansion of B-4 zoning.

1 Add Condition: The applicant must obtain
2 approval of a site plan to demonstrate compliance with
3 zoning ordinance requirements included but limited to
4 parking, landscaping, building setback, access
5 management and signage.

6 CHAIRMAN: A motion has been made by
7 Commissioner Reeves for approval based on Findings of
8 Fact 1 through 8, and I didn't write all of those down
9 so there's no way to be able to repeat those.

10 Hopefully you've got all of that written down,
11 Mr. Reeves.

12 MR. REEVES: That's what we got Lynnette for.

13 CHAIRMAN: Is there a second?

14 MR. BALL: Second.

15 CHAIRMAN: Second by Commissioner Ball. Any
16 discussion about the motion and the second?

17 (NO RESPONSE)

18 CHAIRMAN: Any questions concerning the
19 Findings of Fact from Mr. Kamuf?

20 MR. KAMUF: No.

21 Fred, you can also include in that motion, if
22 you want to, lighting. We'll take the lighting
23 whichever way the adjoining neighbor wants it to. You
24 don't have to put it in the motion. I'll state that
25 for the record.

1 MR. REEVES: Thank you.

2 CHAIRMAN: Any further discussion concerning
3 the motion and the second?

4 (NO RESPONSE)

5 CHAIRMAN: All those in favor raise your right
6 hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries.

9 ITEM 8

10 10631 Highway 764, Whitesville, 0.539 acres
11 Consider zoning change: From R-1B Single-Family
12 Residential to I-1 Light Industrial
Applicant: Wisconsin Auto Supply, Inc.

13 MR. ROGERS: Mr. Chairman, I need to recuse
14 myself on this item.

15 MR. HILL: This is a recommendation for denial
16 so I will read a portion of the Staff Report.

17 DEVELOPMENT PATTERNS

18 The subject property is a 0.539 acre R-1B
19 zoned parcel located at 10631 Highway 764 within the
20 City of Whitesville. The property, which includes a
21 primary structure and a parking lot, has previously
22 been used as an office. The applicant proposes to
23 rezone the property to I-1 Light Industrial in order
24 to utilize the property as an auto parts wholesale
25 supply business.

1 This area includes a mixture of residential,
2 commercial, professional and agricultural properties.
3 To the north is a residential property, zoned R-1A &
4 R-1B. To the west is a residential property, zoned
5 R-1A. To the south is a residential property, zoned
6 R-1B, and a parking area for an office building, zoned
7 P-1. To the east across Highway 764 is a residential
8 property, zoned R-1A, and a commercial property, zoned
9 B-2.

10 Highway 764 in this location is classified as
11 a local street which has a 25' building setback
12 requirement. Access to the site must be compliant
13 with applicable sections of the zoning ordinance. The
14 Access Management Manual does not apply to this site
15 since it is located outside the urban service area.

16 If the rezoning is approved, the applicant
17 will be required to provide landscape buffer screening
18 in compliance with Article 17 of the zoning ordinance
19 along the perimeter of the property boundary where
20 adjacent to residential zoning districts. Vehicular
21 use area screening will also be required where
22 adjacent to public street rights-of-way.

23 Due to the proximity to existing residential
24 zones, all lighting for the subject property shall be
25 directed away from the residential property to reduce

1 the glare and impact of the lighting on the
2 residential uses.

3 If approved, prior to occupancy of the
4 property the applicant must obtain approval of a site
5 plan or final development plan to demonstrate
6 compliance with zoning ordinance requirements
7 including, but not limited to, parking, landscaping,
8 building setbacks, access management and signage.

9 SPECIFIC LAND USE CRITERIA

10 The applicant's proposal is not in compliance
11 with the Comprehensive Plan. The proposed industrial
12 use conforms to the criteria for nonresidential
13 development. However, the proposal is not a logical
14 expansion of existing I-1 zoning in the area. Since
15 there is no existing industrial zoning in this area
16 this proposal would significantly increase the extent
17 of industrial uses in the vicinity. This proposal may
18 overburden the capacity of roadways and other
19 necessary urban services that are available in the
20 affected area. This proposal is also not a logical
21 expansion of light industrial zoning across an
22 intervening street.

23 PLANNING STAFF RECOMMENDATIONS

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

1 FINDINGS OF FACT

2 1. Staff recommends denial because the
3 proposal is not in compliance with the community's
4 adopted Comprehensive Plan;

5 2. The subject property is located in an
6 Urban Residential Plan Area where light industrial
7 uses are appropriate in very limited locations;

8 3. The proposed use as light industrial
9 conforms to the criteria for nonresidential
10 development;

11 4. The proposal is not a logical expansion of
12 existing I-1 Light Industrial zoning in the area;

13 5. Since there is no existing industrial
14 zoning in this area this proposal would significantly
15 increase the extent of industrial uses in the
16 vicinity;

17 6. This proposal may overburden the capacity
18 of roadways and other necessary urban services that
19 are available in the affected area; and

20 7. This proposal is also not a logical
21 expansion of light industrial zoning across an
22 intervening street.

23 MR. HILL: Staff request that this report be
24 entered into the record as Exhibit F.

25 CHAIRMAN: Thank you, Mr. Hill.

1 Is anyone here representing the applicant?

2 MR. LEHECKA: Yes.

3 CHAIRMAN: Would you like to speak on behalf

4 of the application?

5 MR. LEHECKA: Not at this moment.

6 CHAIRMAN: Anyone else in the audience have a

7 question concerning this application?

8 (NO RESPONSE)

9 CHAIRMAN: Do any of the commissioners have

10 any questions concerning this application?

11 Yes, Commissioner Jean.

12 MR. JEAN: I have a question for the applicant

13 and I have a question for Mr. Howard also.

14 CHAIRMAN: Please step forward.

15 MR. JEAN: What would be your hours of

16 operation?

17 MS. KNIGHT: Please state your name for the

18 record.

19 MR. LEHECKA: Paul Lehecka.

20 The question was hours of operation?

21 MR. JEAN: Correct.

22 MR. LEHECKA: We normally work eight to four.

23 It's strictly, we're never open to the public.

24 Everything is strictly online. The employees, it's

25 just to print label and package and ship things to the

1 post office, and UPS, and different things like that.
2 No public access to what we do. It's all on website,
3 eBay, Amazon, things like that. There's very little
4 traffic, if any, right now. We have on average three
5 cars of employees a day there.

6 MR. JEAN: Thank you.

7 The other question I have is for Mr. Howard.
8 What are allowed uses for I-1?

9 MR. HOWARD: Uses in an I-1 Light Industrial
10 zone, there's a variety. That would include your
11 general warehouse manufacturing assembly type
12 industrial uses. It would not allow a junk yard,
13 salvage yard, things like that, the heavier industrial
14 type uses, but it would be your packaging, assembly,
15 light manufacturing. You could have auto repair.
16 Things like that would be permitted in an I-1 zone.

17 MR. JEAN: Thank you.

18 CHAIRMAN: Any other commissioners have any
19 questions concerning the application?

20 (NO RESPONSE)

21 CHAIRMAN: If you wouldn't mind, please
22 approach. I do have a general question.

23 You mentioned maybe three employees. What
24 would you envision, as far as your inventory? Is that
25 going to be by truckload?

1 MR. LEHECKA: It is. Right now we receive I
2 would say three or four, 20 to 40 foot containers a
3 year from overseas. We have a one-hour limit on
4 those. We've never gone over one hour. Being we're
5 catty-corner from IGA, there's shipments and trucks
6 coming in and out, up and down that road of Chestnut,
7 which is directly to the north of the back of IGA.
8 The amount of traffic for deliveries and things like
9 that we're going to be next to nothing in comparison
10 to like what's right across the street from us. Three
11 or four a year. What I order is usually very large
12 quantities that last a long time just because of cost
13 savings for having things shipped by freight. So it's
14 a lot cheaper to order usually a years worth of
15 inventory at a time. So it reduces the amount of
16 shipment back and forth. That's very minimal on that.

17 Did I answer your question on that one?

18 CHAIRMAN: Yes, it does. Thank you.

19 Any commissioners have any further questions?

20 (NO RESPONSE)

21 CHAIRMAN: Anyone in the audience that would
22 have a question?

23 MR. MOORE: I have one.

24 CHAIRMAN: Yes, Commissioner Moore.

25 MR. MOORE: Where were you operating this

1 particular business? The same site or someplace else?

2 MR. LEHECKA: I actually, it actually started
3 from my home, just like people do when they're selling
4 on eBay and Amazon.

5 Me and my brother actually began a company.
6 Was actually currently employed at the time with the
7 Owensboro Fire Department when we started that and I
8 left the fire department in 2008 and moved up to
9 Wisconsin in 2009 and started the company with my
10 brother, which we brought, me and a couple of people,
11 with 40 employees when I left there three years ago.
12 So I just took some of the products that I started and
13 came back to Kentucky. My wife is from here. We're
14 currently operating across from the Philpot Post
15 Office. I rent from Joe and Linda Boarman. They have
16 a truck and trailer building there. Nobody even knows
17 we're in there. There's no foot traffic. Nobody even
18 knows we're in there. There's literally three cars
19 parked in front of it at any given time. We actually
20 load a pickup truck and drive it across to the post
21 office and dump the stuff off. We're like a pretty
22 good portion of what that post office brings in
23 revenue. I'd say we're probably 70 percent if not
24 more of their revenue.

25 As far as being an eyesore of traffic or

1 crowded, we can lay pretty low. As long as we have
2 internet and cable, we're up and running. We don't
3 need to have much exposure at all.

4 Does that answer your question?

5 MR. MOORE: Yes. Thank you.

6 CHAIRMAN: Any other commissioners have any
7 questions concerning the application?

8 (NO RESPONSE)

9 CHAIRMAN: One question that did pop in my
10 mind.

11 You're outbound, that you would ship to your
12 internet customers. Is that going to be primarily UPS
13 type shipment?

14 MR. LEHECKA: It changes regularly. Our
15 shipment are with the post office. It used to be all
16 USPS. With Amazon expanding the way they are, their
17 fulfillment centers, we're doing a lot more. We're
18 actually shipping it UPS to Amazon's fulfillment
19 centers and they actually ship it to the customers
20 individually. Right now a lot of it -- how often do
21 we do UPS?

22 UNKNOWN INDIVIDUAL: We bring it to them.
23 They don't pick up from us.

24 MR. LEHECKA: Every couple of weeks maybe a
25 UPS truck may do a pick up from us, but we actually

1 usually bring it to, actually deliver it. You know, a
2 pickup truck full of boxes.

3 The post office is always going to get a
4 portion of it. They're never going to be eliminated
5 completely from it. I know the Whitesville's post
6 office, they're familiar with what we do in Philpot.
7 Already asking us, when are you guys going to be here
8 because they're going to have to -- we're going to
9 make them busy. They're anticipating that, which is a
10 good thing for them because I know they talk about
11 closing or shutting locations down and things like
12 that. I know what I spend a month alone at the post
13 office. It's probably going to be a bonus if that
14 does happen.

15 As we're actually doing more things with
16 Amazon, the market changes, is shipping a lot more
17 stuff directly to Amazon's fulfillment center. So
18 individual shipping out of my location through the
19 local post office is probably going to decline over
20 time, depending on what happens with the market and
21 different products that I get into. If it's cheap
22 stuff like first class items and things, the post
23 office will get all of that. Even then it's sometimes
24 beneficial to do it from Amazon. That is their
25 fulfillment center. I'm sure everybody in here has

1 bought something and it says, by the next hour and 15
2 minutes you receive it tomorrow. That's why. Because
3 we have to ship it to six or seven different
4 warehouses all over the country. It's close to
5 whoever orders it. So that does decrease the amount
6 of stuff we're actually shipping on a daily basis, but
7 we do ship larger amounts out in one shot to fulfill
8 our inventory.

9 CHAIRMAN: Thank you.

10 Any other questions?

11 Commissioner Frey.

12 MR. FREY: I have a question for Mr. Howard,
13 I guess.

14 I certainly don't have a problem with this
15 particular project, but once we rezone it, they grow
16 too large and move out, then it stays I-1?

17 MR. HOWARD: That's correct.

18 MR. FREY: Then something different could
19 occur?

20 MR. HOWARD: That is correct. Once it's
21 rezoned, it's I-1. This commission cannot do a
22 rezoning stipulated on one specific use. So yes, once
23 it's rezoned it will be I-1. If they do well, there
24 may be land around them that they can acquire and
25 expand. Who knows. It does offer the possibility for

1 adjoining properties to then meet logical expansion
2 criteria for expansions and that type of thing.

3 Yes, your statement is correct. If they got
4 bigger and moved out and went somewhere else, the
5 zoning wouldn't revert back to the current residential
6 zoning.

7 MR. FREY: Thank you.

8 CHAIRMAN: Any other commissioners have any
9 questions?

10 Yes, Commissioner Reeves.

11 MR. REEVES: I'm looking at this overhead
12 shot. Is that a building in the upper right-hand
13 corner that I'm seeing there? It's kind of faded out
14 on mine.

15 MR. LEHECKA: Yes, if you want me do discuss
16 every property surrounding it.

17 MR. REEVES: No. No. I'm just talking about
18 the property you're asking to be rezoned.

19 MR. LEHECKA: Oh, just the one?

20 MR. REEVES: Yes. Is that a building?

21 MR. LEHECKA: There is a current building
22 there. There has been, actually that building, the
23 current one that's there was built I believe in 1954.
24 It was used as the local doctor's office.

25 MR. REEVES: Would you be operating out of

1 that building?

2 MR. LEHECKA: I would be. So that current
3 building actually, it works perfect for me having
4 desks with computers and people answering phone calls
5 and e-mails and printing labels. It's actually a
6 perfect building for what I needed. I would be
7 putting an addition on the back for the warehouse.

8 MR. REEVES: That was my next question.

9 MR. LEHECKA: We would be adding on to it.
10 That current building there was a doctor's office
11 since it was built in the '50s. Most of those -- it's
12 zoned residential. It's never been a residence. The
13 lady I bought it from, a Peggy Devall, she did a
14 speech therapy business out of it, but she couldn't do
15 that anymore due to some rules at the hospital and
16 their regulations and stipulations.

17 The building doesn't even have a shower or a
18 tub in it. Actually the walls are all either two inch
19 plaster or solid concrete walls. So if anybody ever
20 wanted to turn that into a residence or actually use
21 it for a residence, that building would have to be
22 torn down. It's just not plausible to turn that into
23 a residence and it's never been a residence. There's
24 never been a family dwelling in that home or that
25 building.

1 CHAIRMAN: Does that answer your question, Mr.
2 Reeves?

3 MR. REEVES: Yes. I have one for Mr. Howard.

4 If this were to be rezoned, Mr. Howard, what
5 would be the screening restrictions around the
6 property?

7 MR. HOWARD: If the property were rezoned, on
8 all three sides, it wouldn't include the frontage,
9 there would be a 10 foot landscape buffer with a 6
10 foot tall element and one tree every 40 linear feet
11 around the perimeter. It looks like on the front side
12 there's a driveway that exits onto 764, but there
13 might be a little bit of the 3 foot bush element in
14 the front, but very well would not be required there.
15 It's hard to tell by looking at the aerial photo.

16 MR. REEVES: Thank you.

17 CHAIRMAN: Yes, Mr. Ball.

18 MR. BALL: If this were to be rezoned, it
19 sounds like the occupancy of the building is going to
20 change. I assume that all of that would go, does that
21 go through the Whitesville building department?

22 MR. HOWARD: Yes. Whitesville has their own
23 building process and zoning enforcement. It would be
24 routed through them.

25 CHAIRMAN: Any other commissioners have a

1 question?

2 MR. HOWARD: As was mentioned on, I guess, two
3 rezonings ago, if this were to be approved, we would
4 certainly recommend that you discuss lighting as well
5 with residential properties in the vicinity. You
6 certainly -- you know, I don't know what kind of
7 lighting they'll have, but you certainly don't want to
8 create a situation where they would have floodlights
9 on the building that would be shining on the adjoining
10 residential properties or anything like that.

11 MR. LEHECKA: I've also already submitted this
12 or presented this to -- this is in city limits of
13 Whitesville. What I understand they have final say in
14 everything. I do have a letter from the Board of
15 Commissioners and the mayor all saying they will
16 approve the rezoning of it, since they're very
17 familiar with surrounding property and what the use is
18 going to be for. I don't know if anybody has ever
19 actually visited that location, but calling that
20 residential is very deceptive. I've actually got
21 photographs of the surrounding properties if anybody
22 would be interested in seeing any of them.

23 The property directly to the southeast of that
24 you've got the blue, and then directly to the south
25 you can see that's a rental house right there that's

1 probably, you know, a couple of icicles away from
2 being torn down.

3 Then on the corner there are 764 and 54, that
4 is a really nice building there from Diane. I don't
5 know her last name. They built a doctor's office
6 right there. All of the gravel area that you see in
7 the parking area surrounding that rental property
8 between my building and Diane's, that's a lot of
9 traffic right there regularly. I was just there this
10 morning actually and between all the patients and the
11 employees that work at that facility, there's cars in
12 and out right there on that corner. Then you've got
13 IGA on the corner that has trucks in and out
14 constantly.

15 In the bottom, will be the southwest corner,
16 you see it's kind of shaped like a mailbox flag right
17 there. That's actually the City of Whitesville's pump
18 station for their sewer. It's not airtight. So if
19 there is actually a southeast wind, you do not want to
20 have your window down if it was a residence.

21 Then the property directly to the east, I'm
22 sorry, to the west that's behind it, that is actually
23 used for storage. It's pretty much a scrap yard.
24 That's like old mining equipment from the '60s. I've
25 got a photograph if anybody wants to see it of every

1 property around it that I took from the property.
2 Then the building that is due north, that is a
3 residence. It's a house, but that was actually used
4 as a hair salon, a residence with a hair salon in it
5 for a long time up. It was usually Irvin Rogers'
6 parents place and they ran a business out of that.
7 Then on the other side of that residence or that
8 property there's another, there's a barbershop there
9 that's a business, he runs a barbershop out of his
10 home there.

11 So the two properties to the north has always
12 been kind of residential/commercial use. The one has
13 never been commercial use, I'm sorry, residential use.
14 It's really it's been mis-zoned. I don't know what
15 they would had to zone it for a doctor's office. It
16 just never got rezoned, for whatever it should have
17 been zoned at for that use.

18 Does anyone have any questions?

19 CHAIRMAN: Any other commissioners have any
20 questions?

21 MR. LEHECKA: Anybody interested in seeing any
22 of the photographs of what's directly around that?

23 CHAIRMAN: No.

24 Anyone in the audience have any questions?

25 (NO RESPONSE)

1 CHAIRMAN: Chair is ready for a motion.

2 Yes, Commissioner Ball.

3 MR. BALL: Mr. Chairman, I would like to make
4 a motion for denial based on the Planning Staff
5 Recommendations and Findings of Fact 1 through 7.

6 CHAIRMAN: A motion has been made by
7 Commissioner Ball to deny based on Findings of Fact 1
8 through 7. Is there a second?

9 MR. REEVES: Second.

10 CHAIRMAN: Commissioner Reeves has a second.
11 Is there any discussion on the motion and the second?

12 (NO RESPONSE)

13 CHAIRMAN: There being none, the Chair is
14 ready for a vote. All those in favor raise your right
15 hand.

16 (BOARD MEMBERS BEVERLY McENROE, MANUEL BALL,
17 LARRY BOSWELL, FRED REEVES, LEWIS JEAN RESPONDED AYE -
18 WITH IRVIN ROGERS RECUSING HIMSELF.)

19 CHAIRMAN: All opposed.

20 (BOARD MEMBERS STEVE FREY AND ANGELA HARDAWAY
21 RESPONDED NAY.)

22 CHAIRMAN: Motion carries.

23 ITEM 9

24 11316 Highway 951, 105.6 acres
25 Consider zoning change: From EX-1 Coal Mining to A-R
Rural Agricultural
Applicant: TKB Investments, LLC

1

2 PLANNING STAFF RECOMMENDATIONS

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

5 FINDINGS OF FACT

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

9 2. The subject property is located in a Rural
10 Maintenance Plan Area where rural farm residential
11 land uses are appropriate in general locations;

12 3. The subject property is a single tract of
13 105.6 acres;

14 4. The subject property has access to Highway
15 951;

16 5. Mining activity has ceased on the property
17 and it is ready to revert back to its original zoning
18 classification; and

19 6. The Owensboro Metropolitan Zoning
20 Ordinance Article 12a.31 requires that property shall
21 revert to its original zoning classification after
22 mining.

23 MR. HILL: Staff request that this report be
24 entered into the record as Exhibit G.

25 CHAIRMAN: Thank you, Mr. Hill.

1 Is there anyone representing the applicant in
2 the audience?

3 APPLICANT REP: Yes.

4 CHAIRMAN: Would you like to speak on its
5 behalf?

6 APPLICANT REP: No.

7 CHAIRMAN: Thank you.

8 Any commissioners have any questions
9 concerning this application?

10 (NO RESPONSE)

11 CHAIRMAN: Anyone else in the audience like to
12 speak on this application?

13 (NO RESPONSE)

14 CHAIRMAN: There being none the Chair is ready
15 for a motion.

16 Mr. Moore.

17 MR. MOORE: Mr. Chairman, I would like to make
18 a motion for approval based on Staff's Recommendation
19 and Findings of Fact 1 through 6.

20 CHAIRMAN: A motion been made by Mr. Moore for
21 approval based on Findings of Fact 1 through 6. Is
22 there a second?

23 MR. JEAN: Second.

24 CHAIRMAN: Second by Mr. Jean. Any discussion
25 concerning the motion and second?

1 (NO RESPONSE)

2 CHAIRMAN: There being none all those in favor
3 raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries.

6 FINAL DEVELOPMENT PLANS

7 ITEM 10

8 4342 Springhill Drive, 1.074 acres
9 Consider approval of a final development plan.
Applicant: TKB Investments, LLC

10 MR. HOWARD: This plan has been reviewed by
11 the Planning Staff and Engineering Staff. It's found
12 to be in order. It's found to be consistent with the
13 requirements of the zoning ordinance and a rezoning
14 that was approved on.

15 It comes before you all because when the
16 rezoning was approved for this property two or three,
17 a couple of years ago, there were conditions placed
18 upon the rezoning that said at time of final
19 development plan submission that the adjoining
20 property owners would be notified. We posted an ad in
21 the paper, as you would with a rezoning. It required
22 that the development plan come before this commission
23 for approval. So that's why it's on your agenda
24 tonight, but typically these are approved in-house
25 when they meet all the requirements, but it's here for

1 your all's consideration tonight.

2 CHAIRMAN: Anyone representing the applicant
3 here?

4 MR. STARNES: Yes, sir.

5 CHAIRMAN: Would you like to speak?

6 MR. STARNES: I'm Mark Starnes. I'm the
7 attorney for the applicant, TKB Investments.

8 As Mr. Howard said, this property was
9 previously approved for rezoning by the Fiscal Court
10 to be B-4 General Business with five conditions having
11 been satisfied, including the filing of this final
12 development plan. The final development plan
13 demonstrates that those conditions have been
14 satisfied, including one tree per 10 feet on the
15 boundaries of the property. Deed restrictions
16 regarding maintenance of the landscaping going forward
17 and notice to adjoining landowners.

18 I believe, my understanding Planning Staff has
19 approved with regards to the southern end of the
20 property and it's listed on the development plat. The
21 use of an existing fence as the 6 foot common element
22 for that side. I came today prepared to say that the
23 owner would install a fence within the buffer zone on
24 the west end of the property to satisfy that 6 foot
25 element, but I understand that the adjoining property

1 owner, Amy Wilcox, may be agreeable to the utilization
2 of her existing fence for that purpose. I'll, of
3 course, let her speak to that. Irrespective to the
4 final development plan meets the conditions imposed by
5 Fiscal Court, we would ask it be approved.

6 CHAIRMAN: Any questions from the
7 commissioners for Mr. Starnes?

8 (NO RESPONSE)

9 CHAIRMAN: Thank you.

10 Is there anyone else in the audience that
11 would like to speak on this application?

12 Yes, come forward.

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

15 MS. WILCOX: Amy Wilcox. I live at the west
16 side of the property.

17 (AMY WILCOX SWORN BY ATTORNEY.)

18 MS. WILCOX: Thanks again for letting me
19 speak. I know we had a rough go of it three years
20 ago.

21 I just had some questions in reviewing that
22 and then the restrictions from three years ago. I
23 only speak for myself and my family. I can't speak
24 for anybody else in Lake Forest or anything.

25 My primary goal is just to maintain our

1 property value and the quality of life in our backyard
2 and everything.

3 I have some questions. I with Mark just
4 before the meeting to confirm that it's a one-story
5 building, which makes us happy, of course. It being a
6 security company also is not one of the worst things
7 that could be there.

8 I just had some questions about that though.
9 With it being a security building, what are the
10 operational days and hours going to be?

11 MR. STARNES: I cannot speak to what those
12 hours are. They're operating right now on
13 Commonwealth Court. I don't know. I can't speak to
14 the exact hours. It's not like a grocery store or a
15 video store. It's nothing that the public comes to.
16 It's the headquarters of this security business. So I
17 don't know. It's not your typical retail store that
18 would be open from 8 to 8. I can't speak to that.

19 MS. WILCOX: The only reason I bring it up was
20 in the restrictions in the rezoning before we had
21 mentioned, you know, traffic and 24 hour lighting and
22 traffic as being a concern. With it being a security
23 company I understand the only have I'm sure a small
24 limited staff that's actually there because they have
25 people patrolling various areas in town. I was just

1 wondering what kind of load, if there's any kind of
2 way to find out what kind of traffic load or lights
3 and noise burden that might be for that area. If
4 they're going to have people coming in at midnight and
5 2 a.m. or do they come in and get a car at 10 and
6 they're out until 7 a.m. That's something we were
7 concerned with.

8 CHAIRMAN: Are you referring to the lighting,
9 on how the lighting would be directed on the lot?

10 MS. WILCOX: Yes. That's a separate thing I
11 was going to bring up. In general with the days and
12 hours of operation, is it something that's going to be
13 a 24/7, you know, people coming and going, getting
14 cars or what have you, or is it pretty much going to
15 be very little traffic because it's kind of a dispatch
16 center and a few people coming and going. I don't
17 know what the burden is.

18 CHAIRMAN: Mr. Starnes, is that something
19 you're able to address?

20 MR. STARNES: No, it's not. That was not one
21 of the conditions so I didn't see why that would -- I
22 didn't take the effort to find out that kind of
23 information.

24 CHAIRMAN: Thank you.

25 MS. WILCOX: The other thing was about the

1 lighting. They said that it would downward.
2 Previously before the meeting when I spoke with him
3 they said it would be downward facing. My other main
4 concern with that would be downward facing. Before we
5 couldn't put any limits on brightness or anything like
6 that, but I imagine they're going to want to
7 illuminate the parking between the building and the
8 garage. I would just ask to, I guess, put it on
9 record that I'm asking you to keep our backyard in
10 that mind when lighting that space. To not let it say
11 be as bright as the Dollar General that's down the
12 street and the other strip malls down the street
13 because they're all pretty bright from our backyard.

14 That kind brings me to, I have a question
15 about proposed usage of the garage. Is it supposed to
16 be to maintain the fleet, like there's going to be
17 air-wrenches and a lot of noise or is it just kind of
18 for washing and storing? Can you speak to that?

19 MR. STARNES: Again, I don't know exactly. I
20 know they are Night Hawk Security vehicles that
21 employees will use to go to factories and so forth,
22 which this company provides security guards at a lot
23 of larger type of industrial businesses. I don't see
24 that they do any real mechanical work or anything like
25 that. It's more of a storage and cleaning, that type

1 of thing.

2 MS. WILCOX: Just being that uses for vehicles
3 and trucks was prohibited. So I know that wouldn't be
4 the primary usage of that land, but sneaking that in
5 there might be a little sneaky. If it's just going to
6 be storage, that's not a problem.

7 Speaking to the buffer. We have -- on that
8 picture that you guys have there, it's a little better
9 to see than the development plan in a map form that we
10 have in black and white, where my fence is and where
11 my backyard is. It's the one to the top left of that
12 blue plot. I didn't know where the property lines
13 were when you bought the place. Apparently there's
14 like a wedge of property behind their lot that kind of
15 doesn't follow the fence line. So it kind of created
16 an irregularity for them to put up a fence on their
17 property line to create their required buffer. My
18 husband and I don't have a problem using -- there's a
19 berm on my back line. We don't have a problem using
20 that berm and fence as the common divider, just so
21 long as there's definitely the trees. However they
22 plant the trees, whether it be on the berm or if they
23 make a retaining wall on their side and kind of get
24 rid of their half of the berm or however that works,
25 that it doesn't damage our berm or fence.

1 CHAIRMAN: Is there someone here that might be
2 able to address?

3 MS. KNIGHT: Please state your name for the
4 record.

5 MR. WEAVER: David Weaver.

6 (DAVID WEAVER SWORN BY ATTORNEY.)

7 MR. WEAVER: What we would like to propose,
8 based off of Ms. Wilcox's statement, we would like to
9 pose a note similar to what we put on the existing
10 fence line on the south side of the property.
11 Basically it states that the developer has the
12 responsibility for installing a new fence if the
13 existing fence went away. Basically her fence would
14 serve as the buffer to prevent two fences from being
15 close together. Then, of course, our developer would
16 have to build a fence where her fence line stops
17 extending towards Spring Hill. Is that clear enough?
18 So we would add an additional not to our plan, if that
19 would work.

20 MR. HOWARD: Part of that note on the south
21 line was that if that fence were to go away at some
22 point that the developer would be responsible for
23 replacing that. So if Ms. Wilcox's, her fence went
24 away, Mr. Starnes and your applicant would be then
25 required to put the fence up, correct?

1 MR. WEAVER: Yes. So the language would be
2 virtually identical to what we have on the south side
3 to the west side.

4 CHAIRMAN: Does that address your question,
5 Ms. Wilcox?

6 MS. WILCOX: Yes. I guess I didn't really
7 have a question about that one since we've kind of
8 discussed this before the meeting. I just want to let
9 you know that. I'm fine using that fence, as long as
10 it doesn't damage the property by erosion or what have
11 you. I don't know.

12 I was just going to say I guess the main thing
13 is the trees are going to be very optimal and
14 necessary for any kind of light barrier. So I was
15 just wondering when those might go in. And if we
16 could find out some kind of traffic or hours of
17 operation information, that would be helpful. That's
18 it.

19 CHAIRMAN: Commissioner Reeves.

20 MR. REEVES: My question, Mr. Howard, is I
21 think we're simply looking to approve this plan,
22 right? Any conversations that she's had with
23 Mr. Starnes, who is representing, that's not our
24 responsibility nor should we be held accountable if
25 they choose not to honor those with regard to how the

1 lights are oriented, what's going to take place in
2 that garage?

3 MR. HOWARD: I would say, yes and no. You all
4 as the commission do -- on the rezoning earlier, you
5 know, I made a point to ask that lighting be
6 addressed. We do need to be cognizant of the fact
7 that there are residential properties in vicinity. I
8 think it's well within your purview to say that all
9 lighting shall be downcast and shall not project onto
10 the adjoining property. I think there's a note
11 addressing that on the development plan.

12 In regard to what might happen in the garage,
13 things like that, when Fiscal Court approved the
14 rezoning at their meeting, they limited the types of
15 uses. Although this property was zoned B-4, they
16 limited the uses that could potentially go in there.
17 An office would meet that criteria.

18 So to answer the second part of your question,
19 I do think that in some capacity what they have
20 submitted does meet the requirement of it being an
21 office. In general, the zoning ordinance does not
22 allow for regulation of hours of operation and that
23 type of thing.

24 I would note, you know, the question was
25 brought up if there would be air-wrenches and that

1 type of thing. A mechanic's garage doing automobile
2 work, things like that, would not be a permitted zone
3 in a B-4 zone. I don't have the list of what Fiscal
4 Court allows either. So I don't think that would meet
5 the intent. If it's storage and that type of thing, I
6 think it would. We would have an issue from a zoning
7 enforcement perspective if they're out there putting
8 on, you know, turning rotors and putting in, dropping
9 engines in vehicles and, you know, any type of heavy
10 auto. If they're washing cars, detailing, changing
11 oil, fine. I do want to give her that assurance.
12 That even from a zoning perspective, some of those
13 things, that type of heavier use wouldn't be allowed
14 from an automobile perspective in that garage.

15 MS. WILCOX: And that's why I brought that up,
16 to clarify.

17 CHAIRMAN: This is essentially going to be an
18 office complex?

19 MR. STARNES: Yes, that's correct.

20 My understanding was that we were here to
21 approve of the final development plan and confirmation
22 that the five conditions imposed by Fiscal Court are
23 addressed in that plan and they are, we're certainly
24 going to be cognizant of the neighborhood and Ms.
25 Wilcox. I believe that addresses everything that is

1 in the Fiscal Court requirement of the ordinance.

2 The one reason I do think that it was
3 important with regards to Ms. Wilcox speaking was to
4 confirm the agreement to the use of her existing fence
5 on the western line at the common element.

6 CHAIRMAN: Thank you.

7 Any commissioners have any questions?

8 (NO RESPONSE)

9 CHAIRMAN: Anyone else in the audience have
10 any question or statement they would like to make?

11 (NO RESPONSE)

12 CHAIRMAN: There being none the Chair is ready
13 for a motion.

14 MR. MOORE: Move for approval.

15 CHAIRMAN: Move for approval by Mr. Moore.

16 MR. BALL: Second.

17 CHAIRMAN: Second by Mr. Ball.

18 MR. HOWARD: If I could. Would you add the
19 condition that they stated where they're going to have
20 to take the plan and add another note regarding the
21 fence along the west property line? Would you approve
22 it subject to them adding that language to the plan
23 that we can then distribute and have signed by the
24 Chairman and Secretary as typical, please?

25 MR. MOORE: Yes.

1 MR. BALL: Still good.

2 CHAIRMAN: Any further discussion about the
3 motion and the second and the added note?

4 (NO RESPONSE)

5 CHAIRMAN: The Chair is ready for a vote. All
6 those in favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries.

9 COMBINED DEVELOPMENT PLANS/MAJOR SUBDIVISIONS
10 ITEM 11

11 Deer Valley, Section 4, 43.81 acres
12 Consider approval of a combined final development
13 plan/major subdivision preliminary plat.
Applicant: Deer Valley Subdivision, LLC

14 MR. BALL: I need to recuse myself, please.

15 MR. HOWARD: This plat has been reviewed by
16 the Planning Staff and Engineering Staff. It's found
17 to be in order. It's in compliance with the
18 requirements of the rezoning that was done several
19 years ago. It's in compliance with the subdivision
20 regulations and zoning ordinance requirements and it
21 is ready for your consideration for approval.

22 CHAIRMAN: Anyone here representing applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Would you like to speak on behalf
25 of the applicant?

1 APPLICANT REP: No.

2 CHAIRMAN: Any commissioners have any

3 questions concerning this application?

4 (NO RESPONSE)

5 CHAIRMAN: Anyone else in the audience have

6 any comment concerning this application?

7 (NO RESPONSE)

8 CHAIRMAN: The Chair is ready for a motion.

9 Commissioner Rogers.

10 MR. ROGERS: Mr. Chairman, I make a motion for

11 approval of the plat.

12 CHAIRMAN: A motion been made by Mr. Roger for

13 approval. Do we have a second?

14 MR. FREY: Second.

15 CHAIRMAN: Second by Mr. Frey. Any discussion

16 on the motion and the second?

17 (NO RESPONSE)

18 CHAIRMAN: There being none the Chair is ready

19 for the vote. All those in favor raise your right

20 hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -

22 WITH MANUEL BALL RECUSING HIMSELF.)

23 CHAIRMAN: Motion carries.

24 MINOR SUBDIVISION PLATS

25 ITEM 12

1 9670 & 9700 Highway 662, 5.998 acres
Consider approval of a minor subdivision plat.
2 Applicant: Halley E. & Sharon K. Baize

3 MR. HOWARD: This plat comes before you as an
4 exception to the three to one requirement of the
5 subdivision regulations. There's an existing six acre
6 parcel that was approved back 25, 30 years ago that
7 created this six acre parcel. At that time there was
8 no note on the plat that dictated that it couldn't be
9 further subdivided, event though at that point it was
10 a flag lot. That note has been added, that the
11 property will not be further subdivided without
12 meeting the requirements of the subdivision
13 regulations. It is a rather large parcel. It's six
14 acres. They're going to end up with two sites where a
15 residence could be built, unless they meet the
16 subdivision regulations like putting in a public
17 street, this is really what they're going to have. So
18 we would recommend that you consider it for approval.

19 CHAIRMAN: Thank you, Mr. Howard.

20 Is there anyone representing the applicant?

21 (NO RESPONSE)

22 CHAIRMAN: Anyone from the audience that would
23 have any comments?

24 (NO RESPONSE)

25 CHAIRMAN: Any commissioners have any

1 questions or comments?

2 (NO RESPONSE)

3 CHAIRMAN: There being none the Chair is ready

4 for a motion.

5 Commissioner Frey.

6 MR. FREY: I make a motion to approve.

7 CHAIRMAN: Motion to approve.

8 MS. McENROE: Second.

9 CHAIRMAN: Second by Commissioners McEnroe.

10 Any questions from the discussion about the motion and

11 the second?

12 (NO RESPONSE)

13 CHAIRMAN: There being none the Chair is ready

14 for a vote. All those in favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries.

17 ITEM 13

18 3560 & 3580 New Hartford Road, 7.018 acres

19 Consider approval of a minor subdivision plat.

20 Applicant: OCRC, Inc.

21 MR. HOWARD: This plat comes before you

22 requesting an exception on the access spacing

23 standard. The division itself is fine. It meets all

24 the requirements, but Byers Avenue is a roadway that's

25 classified as an access spacing standard. They're

proposing a full access to east Byers Avenue, before

1 you go around the curve and then a full access point
2 after you go around the curve.

3 They're also requesting a right-in only access
4 point on Byers Avenue that does not then meet the
5 spacing standard. They had a traffic engineer prepare
6 an analysis for the traffic operation. The City
7 engineer's office reviewed that and our office has
8 reviewed it. Based on that review, the City
9 engineer's office is fine moving forward with a
10 notation that can have a potential right-in only
11 access along with the two full access points. There
12 was some language in that, that information we
13 received from the traffic engineer that requested that
14 it be reviewed and they review it. The engineer's
15 office and our office, we'll all look at it to make
16 sure that it's channelized in a way that it will allow
17 right-in only and heavily discourage anybody from
18 trying to turn in the opposite direction to go out the
19 wrong way, that type of a thing, which is the concern
20 that pops up when you have traffic going through an
21 access point that's designated for right-in only or we
22 see the right-in and right-out type things. If
23 they're not channelized properly, they don't function
24 properly. So that will be certainly reviewed at the
25 time of final development plan when that is submitted

1 both by Engineering Staff and our staff.

2 So with that we believe that what is on here
3 is in order. It's in agreement with the traffic
4 analysis that was done and been reviewed by the
5 Engineering Staff and found to be okay, as a concept
6 waiting for the final drawings to actually make the
7 final approve.

8 So it's ready for your consideration for
9 approval this evening.

10 CHAIRMAN: Thank you, Mr. Howard.

11 Mr. Riney, would you like to make any comments
12 concerning this?

13 MR. RINEY: I'm good.

14 CHAIRMAN: Any commissioners have any question
15 or comment concerning this application?

16 (NO RESPONSE)

17 CHAIRMAN: There being none the Chair is ready
18 for a motion.

19 Mr. Jean.

20 MR. JEAN: Motion to approve.

21 CHAIRMAN: Motion to approve by Mr. Jean. Is
22 there a second?

23 MR. REEVES: Second.

24 CHAIRMAN: Second by Mr. Reeves. All those in
25 favor raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries.

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4 NEW BUSINESS

5 ITEM 14

6 Consider approval of April 2017 Financial statements

7 CHAIRMAN: Hopefully the commissioners have
8 all had a chance to review it. Is there any
9 questions, discussion concerning this financial
10 statement?

11 (NO RESPONSE)

12 CHAIRMAN: There being none the Chair is ready
13 for a motion.

14 MR. MOORE: Make a motion for approval.

15 CHAIRMAN: Motion for approval. Is there a
16 second?

17 MS. McENROE: Second.

18 CHAIRMAN: Second by Ms. McEnroe. All those
19 in favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries.

22 ITEM 15

23 Consider approval of the FY 2018 OMPC Budget and
24 salary chart.

25 CHAIRMAN: Hopefully everyone has had a chance

1 to read the informative letter and review all the
2 information. Is there any questions concerning that
3 budget?

4 (NO RESPONSE)

5 MR. HOWARD: I would just like to make a quick
6 statement.

7 You all have had an opportunity to review it.
8 It's very similar to what was reviewed at our work
9 session earlier this year. Both the City of
10 Owensboro, Daviess County Fiscal Court and the City of
11 Whitesville have approved the funding request that we
12 submitted. So we're very thankful to all three of our
13 legislative bodies for that. We plan to do good work
14 in the coming fiscal year.

15 Be glad to answer any questions that you might
16 have pertaining to the budget.

17 CHAIRMAN: Thank you, Mr. Howard.

18 Any further questions from the commissioners?

19 (NO RESPONSE)

20 CHAIRMAN: There being none the Chair is ready
21 for a motion.

22 Mr. Rogers.

23 MR. ROGERS: Motion for approval.

24 CHAIRMAN: Motion for approval by Commissioner
25 Rogers. Do we have a second?

1 MS. McENROE: Second.

2 CHAIRMAN: Second by Ms. McEnroe. All those
3 in favor raise yours right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries.

6 ITEM 16

7 Comments by the Chairman

8 CHAIRMAN: I just have a couple. Wanted to
9 give a shout out and congratulations to the APA 2017
10 President Brian Howard. I received the booklet
11 recently. Didn't realize this thumbing through it.
12 Saw that Brian Howard was elected President and Mike
13 Hill is our Region III representative. So I would
14 like to congratulate you both on doing a fine job in
15 representing our community very well I'm sure. Thank
16 you for your work. That's all the chair has.

17 ITEM 17

18 Comments by the Planning Commissioners

19 MR. REEVES: I know the hour is late. I would
20 be remiss if I didn't say this. I served on RWRA's
21 Board, and Riverport Board, and now OMPC. This is an
22 extremely challenging board to serve on. If not for
23 the Staff we have, it would be more than extremely
24 challenging. So I want to thank them for what they
25 do. We went through a training session tonight. It

1 takes you about a year to learn how to make a motion
2 on this board by the way. If were not for the Staff
3 helping us do that, we would not be functional at all.

4 I want to particularly thank Melissa Evans for
5 the training she did this evening, Melissa. You did a
6 super job on that. I just want to thank all of you
7 for what you do and to let you know you're very, very,
8 much appreciated.

9 CHAIRMAN: Thank you, Commissioners Reeves.
10 Any other commissioners have any comments?

11 MR. FREY: I do.

12 CHAIRMAN: Commissioner Frey.

13 MR. FREY: I want to put on the record I never
14 disagree with Staff; I agree with the applicant.

15 ITEM 18

16 Comments by the Director

17 CHAIRMAN: Any comments by the director?

18 MR. HOWARD: No.

19 CHAIRMAN: There being none Chair is ready for
20 an important motion.

21 MS. HARDAWAY: Motion to adjourn.

22 CHAIRMAN: Do we have a second.

23 MR. FREY: Second.

24 CHAIRMAN: Second by Commissioner Frey. All
25 those in favor raise your right hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries. 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 107 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 2nd day of JULY, 2017.

18

19

20

21

22

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

23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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