

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JUNE 14, 2018

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, June
5 14, 2018, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Larry Boswell, Chairman
9 Larry Moore, Vice Chairman
10 Lewis Jean, Secretary
11 Brian Howard, Director
12 Terra Knight, Attorney
13 Beverly McEnroe
Fred Reeves
Mike Edge
Angela Hardaway
* * * * *

14 CHAIRMAN: Let me call the June 14, 2018
15 Metropolitan Planning Commission to order. We always
16 start our meetings with a prayer and pledge.
17 Commissioner Jean will lead us in those two tonight.
18 Please stand with us and pray.

19 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

20 CHAIRMAN: I would like to welcome everyone to
21 our meeting tonight. Before we get started we have a
22 couple of housekeeping rules that we always explain
23 before each meeting.

24 If you wish to speak, please approach the
25 podium and clearly state your name and be sworn in by

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1 our counsel. It's very important that our commission
2 hears everything that is being said tonight for
3 decision making.

4 Direct all the questions to the Chair,
5 especially if there are multiple speakers at the
6 podium. Be respectful of the time to allow others to
7 speak. Please stay on topic with all discussions,
8 comments and questions keeping them specific to the
9 agenda item being discussed. Your cooperation in
10 those matters will be greatly appreciated.

11 Before the commission tonight are the minutes
12 from our last meeting of May 3rd. Hopefully all the
13 commissioners have had a chance to review those. Are
14 there any questions?

15 Yes, Commissioner Edge.

16 MR. EDGE: There's one minor change on the
17 back. I believe it says, third order of business,
18 second dot there, the applicant's attorney I believe
19 was Jeff Foreman. Not Boarman.

20 CHAIRMAN: Okay. So corrected.

21 MR. EDGE: Other than that, I make a motion to
22 approve the minutes with that change.

23 CHAIRMAN: Is there a second to that?

24 MS. HARDAWAY: Second.

25 CHAIRMAN: Second by Ms. Hardaway. Any

1 discussion about that motion to make the correction?

2 (NO RESPONSE)

3 CHAIRMAN: Any discussion about the motion or
4 the second?

5 (NO RESPONSE)

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries.

10 Thank you, Commissioner Edge.

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

17 -----

18 GENERAL BUSINESS

19 ZONING CHANGES

20 ITEM 3
21 606 Center Street, 0.253 acres
22 Consider zoning change: From R-4DT Inner City
23 Residential to P-1 Professional/Service
24 Applicant: Wendell Foster Campus for Development
25 Disabilities, Inc

24 MS. KNIGHT: Please state your name for the
25 record.

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1 MR. PEDLEY: Trey Pedley

2 (TREY PEDLEY SWORN BY ATTORNEY.)

3 PLANNING STAFF RECOMMENDATION

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

6 CONDITION

7 Approval of an amended development plan.

8 FINDINGS OF FACT

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

12 2. The subject property is located in a
13 Central Residential Plan Area, where
14 professional/service uses are appropriate in limited
15 locations;

16 3. The proposed use will be nonresidential in
17 nature;

18 4. The proposed P-1 zoning is a logical
19 expansion of the existing P-1 zoning to the immediate
20 south; and

21 5. At 0.243 acres, the expansion should not
22 overburden the capacity of roadways and other
23 necessary urban services that are available in the
24 affected area.

25 MR. PEDLEY: We would like to enter the Staff

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1 Report into the record as Exhibit A.

2 CHAIRMAN: Is there anyone here representing
3 the applicant?

4 MR. SCHARF: Yes.

5 CHAIRMAN: Would you like to speak on behalf
6 of the applicant? Please come forward and be sworn
7 in.

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

10 MR. SCHARF: Eric Scharf.

11 (ERIC SCHARF SWORN BY ATTORNEY.)

12 MR. SCHARF: I am CEO of Wendell Foster. On
13 6th and Center what our proposal is is to advance.
14 It's a little archaic. Our maintenance, our laundry,
15 our inventory, so we'll be reviewing all those needs.
16 What we want to do on 6th and Center is to bring on
17 the maintenance department more in line to what is
18 going on currently, which is bring them closer to the
19 campus. That's our proposal.

20 Chad Underhill is our vice president of
21 facility maintenance. I'll allow him to discuss.

22 MS. KNIGHT: Please state your name for the
23 record, please.

24 MR. UNDERHILL: Chad Underhill.

25 (CHAD UNDERHILL SWORN BY ATTORNEY.)

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1 MR. UNDERHILL: As Eric mentioned, what we're
2 trying to do here is to better our facilities. You
3 know, we spend a lot of time with the way our facility
4 is laid out utilizing our employees to go all the way
5 across campus. As many of you all probably know what
6 we do at Wendell Foster, you know, our future goal is
7 to better align our employees with our residents and
8 what better serves and suits them. We appreciate your
9 time.

10 CHAIRMAN: Does the commissioners have any
11 questions for the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: Just one clarification question.
14 The maintenance you're talking about would be
15 maintenance that would be utilized for the entire
16 facility?

17 MR. UNDERHILL: That's correct.

18 CHAIRMAN: It could be a little bit of
19 anything; fencing, yard, plumbing, heating, whatever
20 the case may be?

21 MR. UNDERHILL: Yes, sir.

22 CHAIRMAN: So it's general maintenance?

23 MR. UNDERHILL: It's the general maintenance
24 for Wendell Foster. It's our maintenance guys
25 themselves.

1 CHAIRMAN: Thank you.

2 Does anyone in the audience have any questions
3 concerning this application of the applicant?

4 (NO RESPONSE)

5 CHAIRMAN: There being none then the Chair is
6 ready for a motion.

7 Mr. Jean.

8 MR. JEAN: I make a motion that we approve
9 with Condition 1 and based on the Staff Report and
10 Findings of Facts 1 through 5.

11 CHAIRMAN: Motion has been made for approval
12 based on the approval with Condition Number 1 and
13 Findings of Facts 1 through 5. Is there a second to
14 that motion?

15 MS. McENROE: Second.

16 CHAIRMAN: Second by Ms. McEnroe. Any
17 discussion or comment about the motion or the second?

18 (NO RESPONSE)

19 CHAIRMAN: There being none all those in favor
20 raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries.

23 MR. SCHARF: Thank you, Mr. Chairman.

24 ITEM 4
25 Portion of 3301 Old Hartford Road, 17.438 acres
Consider zoning change: From I-1 Light Industrial to

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1 B-4 General Business
Applicant: Owensboro Warehouse Leasing, LLC

2

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

5 MS. EVANS: Melissa Evans.

6 (MELISSA EVANS SWORN BY ATTORNEY.)

7 PLANNING STAFF RECOMMENDATION

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

10 CONDITIONS

11 1. Access to Old Hartford Road shall be in
12 compliance with the access management manual, as shown
13 on the conceptual plan submitted with the Traffic
14 Impact Study, and shall be approved by KYTC;

15 2. All roadway improvements recommended by
16 the Traffic Impact Study and agreed upon by the KYTC,
17 City Engineer and OMPC staff shall be met; and,

18 3. Any changes to the land use as identified
19 in the Traffic Impact Study shall require it to be
20 updated and reviewed by the KYTC, City Engineer and
21 OMPC Staff and will be required at the time of any
22 future rezonings, preliminary plats or final
23 development plans as applicable.

24 FINDINGS OF FACT

25 1. Staff recommends approval because the

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

3 2. The subject property is located in an
4 Industrial Plan Area, where general business uses are
5 appropriate in very-limited locations;

6 3. The proposed use of the subject property
7 as general business use will be non-residential in
8 nature; and

9 4. Although this appears to be an increase in
10 the B-4 zoning in the vicinity, the Traffic Impact
11 Study submitted by the applicant demonstrates that it
12 should not overburden the capacity of roadways and
13 other necessary urban services that are available, or
14 are planned to be improved, in the affected area based
15 on the recommended improvements.

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

18 CHAIRMAN: Thank you, Melissa.

19 Is there anyone here representing the
20 applicant?

21 APPLICANT REP: Yes.

22 CHAIRMAN: Would you like to speak?

23 APPLICANT REP: No.

24 CHAIRMAN: Any commissioners have any
25 questions concerning this application?

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1 (NO RESPONSE)

2 CHAIRMAN: Is there anyone in the audience
3 that would have any questions concerning this
4 application?

5 (NO RESPONSE)

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

8 Mr. Moore.

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

10 I move for approval based on Staff
11 Recommendations with Conditions 1 through 3 and
12 Findings of Fact 1 through 4.

13 CHAIRMAN: A motion has been made for approval
14 based on Conditions 1 through 3 and Findings of Fact 1
15 through 4. Is there a second?

16 MS. HARDAWAY: Second.

17 CHAIRMAN: Second by Ms. Hardaway. Any
18 discussion about the motion or the second?

19 (NO RESPONSE)

20 CHAIRMAN: There being none all those in favor
21 raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries.

24 ITEM 5
25 1816 Pleasant Valley Road, 3.502 acres
Consider zoning change: From A-U Urban Agriculture to

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1 B-4 General Business
Applicant: Angus Hills Farms, LLC
2

3 PLANNING STAFF RECOMMENDATION

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

6 CONDITIONS

7 1. Access shall be in compliance with the
8 requirements of the access management manual and
9 subject to KYTC approval; and,

10 2. Approval of a final development plan or
11 site plan.

12 FINDINGS OF FACT

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

16 2. The subject property is located in a
17 Business Plan Area where general business uses are
18 appropriate in limited locations;

19 3. The proposed use as commercial conforms to
20 the criteria for nonresidential development;

21 4. The proposal is a logical expansion of
22 approximately 33 acres of B-4 zoning to the north; and

23 5. At 3.502 acres, the proposed expansion
24 should not overburden the capacity of roadways and
25 other necessary urban services that are available in

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1 the affected area.

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

4 CHAIRMAN: Thank you, Melissa.

5 Is there anyone representing the applicant?

6 APPLICANT REP: Yes.

7 CHAIRMAN: Would you like to speak on its
8 behalf?

9 APPLICANT REP: No.

10 CHAIRMAN: Any commissioners have any
11 questions for the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: Anyone in the audience that would
14 have any questions for the applicant?

15 (NO RESPONSE)

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

18 Mr. Reeves.

19 MR. REEVES: Motion for approval based on
20 Planning Staff Recommendation with Conditions 1 and 2
21 and Findings of Fact 1 through 5.

22 CHAIRMAN: A motion has been made for approval
23 based on Conditions 1 and 2, Findings of Fact 1
24 through 5. Is there a second?

25 MS. McENROE: Second.

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1 CHAIRMAN: Second by Ms. McEnroe. Is there
2 any discussion about the motion or the second?

3 (NO RESPONSE)

4 CHAIRMAN: There being none all those in favor
5 raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries.

8 ITEM 6

9 Portion of 1930 Ragu Drive, 1.380 acres
10 Consider zoning change: From I-1 Light Industrial to
11 B-4 General Business
Applicant: SYF Properties, LLC c/o Kent Johnson;
Buskill Properties

12 PLANNING STAFF RECOMMENDATION

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

15 CONDITIONS

16 Approval of a minor subdivision plat
17 consolidating this portion of 1930 Ragu Drive with
18 2065 East Parrish Avenue.

19 FINDINGS OF FACT

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

23 2. The subject property is located in an
24 Industrial Plan Area where general business uses are
25 appropriate in very limited locations;

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1 3. The proposed use as a strip mall conforms
2 to the criteria for nonresidential development;

3 4. The proposed B-4 zoning is a logical
4 expansion of existing B-4 zoning to the southwest; and

5 5. With the conditions in place for the
6 rezoning at 2065 East Parrish Avenue and this
7 expansion being only 1.380 additional acres, the
8 proposal should not overburden the capacity of
9 roadways and other necessary urban services that are
10 available in the affected area.

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

13 CHAIRMAN: Thank you, Melissa.

14 Anyone here representing the applicant?

15 APPLICANT REP: Yes.

16 CHAIRMAN: Would you like to speak on its
17 behalf?

18 APPLICANT REP: No.

19 CHAIRMAN: Would the commissioners have any
20 questions for the applicant?

21 (NO RESPONSE)

22 CHAIRMAN: Is there anyone in the audience
23 that would have any questions concerning this
24 application?

25 (NO RESPONSE)

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1 CHAIRMAN: Mr. Howard, I do have just one
2 clarification question. In the Amended Staff Report,
3 there was mention and listed the conditions that were
4 placed in the March meeting when it was rezoned. My,
5 I guess, assumption or clarification is that these
6 would be, will continue to be part of this particular
7 application as well?

8 MR. HOWARD: We referenced them in the
9 condition that was placed on zoning change. They
10 apply to the Traffic Impact Study and analysis that
11 was done for the larger portion of the property that
12 was rezoned back then. They're still in effect and
13 still applicable. This portion being a rear
14 landlocked portion that will be consolidated, you
15 know, it will be incorporated into that site with
16 these conditions included.

17 CHAIRMAN: Thank you, Mr. Howard.

18 That's the only question I have. Any
19 questions from the commissioners?

20 (NO RESPONSE)

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

23 Mr. Jean.

24 MR. JEAN: Motion for approval based on the
25 Staff Report with Condition 1 and based on Findings of

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1 Facts 1 through 5.

2 CHAIRMAN: Motion for approval has been
3 brought forth by Mr. Jean based on Condition 1 and
4 Findings of Fact 1 through 5. Is there a second?

5 MR. EDGE: Second.

6 CHAIRMAN: Second by Mr. Edge. Any discussion
7 about the motion or the second?

8 (NO RESPONSE)

9 CHAIRMAN: There being none all those in favor
10 raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries.

13 ITEM 7

14 217 West 24th Street, 0.330 acres
15 Consider zoning change: From R-4DT Inner City
16 Residential to P-1 Professional/Service
Applicant: Buena Vista Baptist Church

17 PLANNING STAFF RECOMMENDATION

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

20 CONDITIONS

21 1. Access shall be limited to the alleys
22 only, with no direct access to West 24th Street; and

23 2. Approval of a site plan or a final
24 development plan.

25 FINDINGS OF FACT

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

4 2. The subject property is located in a
5 Central Residential Plan Area, where
6 professional/service uses are appropriate in limited
7 locations;

8 3. The proposed use will be nonresidential in
9 nature;

10 4. The proposed P-1 zoning is a logical
11 expansion of the existing P-1 zoning to the immediate
12 north, east, and south; and

13 5. With access limited to the alleys only,
14 the proposal should not overburden the capacity of
15 roadways and other necessary urban services that are
16 available in the affected area.

17 MR. PEDLEY: We would like to enter the Staff
18 Report into the record as Exhibit E.

19 CHAIRMAN: Thank you, Trey.

20 Is there anyone here representing the
21 applicant?

22 APPLICANT REP: Yes.

23 CHAIRMAN: Would you like to say anything on
24 its behalf?

25 APPLICANT REP: No.

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1 CHAIRMAN: Do the commissioners have any
2 questions concerning this application?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone in the audience that would
5 have a question concerning this application?

6 (NO RESPONSE)

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

9 Mr. Moore.

10 MR. MOORE: Thank you, Mr. Chairman.

11 I move for approval based on Staff
12 Recommendation with Conditions 1 and 2 and Findings of
13 Fact 1, 2, 3, 4 and 5.

14 CHAIRMAN: A motion has been made by Mr. Moore
15 for approval based on Conditions 1 and 2 and Findings
16 of Fact 1 through 5.

17 MS. McENROE: Second.

18 CHAIRMAN: Second by Ms. McEnroe. Any
19 discussion about the motion or 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 8

1 806 Highway 279 North, 10.017 acres
2 Consider zoning change: From A-R Rural Agriculture to
3 I-1 Light Industrial
4 Applicant: The Fruit Company, Inc.; Cabbage
5 Properties Kentucky, LLC

6 MS. EVANS: This Staff Report is for a
7 recommendation of denial and as customary with our
8 recommendations for denial on Staff Reports, we will
9 read a portion of the Staff Report. I'm going to
10 start at the headline of Development Patterns, if
11 you're following along.

12 DEVELOPMENT PATTERNS

13 The subject property is a 10.017 acre tract
14 with a large industrial type warehouse on the
15 property. Originally, the property was used by the
16 Western Kentucky Growers Cooperative to process the
17 produce grown directly around the facility. At some
18 point, the facility transitioned into a privately
19 owned cabbage processing plant which was not an
20 approved use. The warehouse has been vacant for
21 several years at this point. The applicant proposes
22 to rezone the subject property to I-1 Light Industrial
23 for the use of a fruit packaging facility.

24 All of the surrounding properties in this area
25 are zoned A-R Rural Agriculture and are being used for
26 cropland and single-family residential homes.

27 It appears that the subject property is

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1 designated as prime agricultural farmland according to
2 the "Important Farmlands" map created by the US
3 Department of Agriculture Soil Conservation Service
4 dated March 1980. However, the Comprehensive Plan
5 does anticipate the conversion of some prime
6 agricultural farmland for development.

7 If the rezoning is approved, the applicant
8 will be required to provide vehicular use area
9 screening compliant with Article 17 of the zoning
10 ordinance around the perimeter of any proposed parking
11 area that faces the Highway 279 North right-of-way.
12 Any outdoor storage areas shall also be screened with
13 a six foot high continuous solid wall or fence.

14 If approved, prior to occupancy of the
15 property, the applicant must obtain approval of a
16 final development plan or a site plan to demonstrate
17 compliance with zoning ordinance requirements
18 including, but not limited to, parking, landscaping,
19 building setbacks, access management and signage.

20 SPECIFIC LAND USE CRITERIA

21 The applicant's proposal is not in compliance
22 with the Comprehensive Plan. The proposed use as a
23 fresh fruit packaging facility does conform to the
24 criteria for nonresidential development, however there
25 is no other industrial zoning in the area; all

1 surrounding properties are zoned A-R Rural
2 Agriculture. At 10.017 acres the subject property
3 does not meet the minimum size of 500 acres for a
4 large industrial reserve nor is this an expansion of
5 an existing large industrial reserve.

6 PLANNING STAFF RECOMMENDATIONS

7 The Planning Staff recommends denial subject
8 to the findings of fact that follow:

9 FINDINGS OF FACT

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

13 2. The subject property is located in a Rural
14 Maintenance Plan Area, where light industrial uses are
15 appropriate in limited locations;

16 3. The proposed use as a fresh fruit
17 packaging facility would be nonresidential in nature;

18 4. There is no other industrial zoning in the
19 area; all surrounding properties are zoned A-R Rural
20 Agriculture; and,

21 5. At 10.017 acres the subject property does
22 not meet the minimum size of 500 acres for a large
23 industrial reserve nor is this an expansion of an
24 existing large industrial reserve.

25 MS. EVANS: We would like to enter the Staff

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1 Report into the record as Exhibit F.

2 CHAIRMAN: Thank you, Melissa.

3 Is anyone here representing the applicant?

4 Yes, please step forward.

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

7 MR. MEYER: J.D. Meyer.

8 MS. KNIGHT: Mr. Meyer, you're sworn as an
9 attorney.

10 MR. MEYER: Thank you.

11 Mr. Boswell, Ladies and Gentlemen of the
12 Commission, my name is J.D. Meyer. I represent the
13 Fruit Company, Inc., and also Agricultural Fulfillment
14 Services who purchased the property. I also have
15 Mr. Scott Webster who is the president of Fruit
16 Company here with me tonight.

17 We understand that the Planning Staff has
18 recommended denial based upon the fact that this
19 application doesn't meet the Comprehensive Plan.
20 However, the Staff does have or the commission does
21 have the ability to rezone this property from the A-R
22 Rural Agricultural to the I-1 Light Industrial.

23 If it finds that the requirement in the I-1
24 zone is not, you know, doesn't currently meet the
25 zoning, but would have back long ago and if the

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1 current zoning is not proper. Currently the property
2 used as a distribution facility for fruits and
3 vegetables is the property's highest and best use.

4 Also, there have been changes. The commission
5 can find and approve this zoning change if there have
6 been changes in the economic, physical and social
7 nature in the area, which we believe that those have
8 all been met. Most importantly I think that the
9 commission should note that the property has been used
10 at least since 2002, and we believe even before that
11 when it was owned by the Ellis Estate, as a
12 distribution facility for agricultural products.

13 You have in front of you all a packet of
14 information that I'm going to at this time kind of go
15 through with you all to give you an idea of what the
16 property is intended to be utilized for by the Fruit
17 Company.

18 First, a little background information about
19 the Fruit Company. It was established in 1942. This
20 is a multi-generational family business.
21 Mr. Webster's father began the business. It's based
22 in Hood River, Oregon. They have over 650 acres of
23 orchards growing pears, cherries, blueberries and
24 other types of fruit.

25 You have in the packet a sample catalog that

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1 recently went out to show the types of product that
2 the Fruit Company sells throughout the whole entire
3 United States. There are samples of their baskets and
4 things that they will put together. It's these
5 baskets, there won't be any product grown there on the
6 property. Fruit will be shipped in and the baskets
7 will be assembled and they will be shipped out from
8 the facility.

9 Turning specifically to the property. You
10 have in your application a copy of the map, which was
11 part of the zoning application. The property is
12 located on Highway 279 North. This property is
13 approximately one mile north off of Highway 60 West in
14 Stanley, Kentucky. As I said before, it's been
15 utilized most recently by the Cabbage, Inc. as part of
16 its food and vegetable processing facility.

17 The next page shows an aerial photograph of
18 the property from the west. Just wanted to provide
19 the commission an opportunity to see and kind of put
20 their eyes to what the site looks like. There's
21 another photograph of the property from the east.
22 Then another grounds photograph of the western side of
23 building. You can see that this facility is there.
24 It's an existing facility. It's been utilized for the
25 exact purpose that we intend to use it for. The only

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1 problem is, obviously, that it has been used in such a
2 manner that it's not permissible in the agricultural
3 zone. And that's why we're here, to request tonight
4 an actual zoning change to the light industrial.

5 Certainly the property's use meets exactly the
6 light industrial classification that's being requested
7 as part of this zoning change.

8 You can see the interior of the building in
9 the next photograph. The building is 46,014 square
10 feet. There are already refrigeration units located
11 in the building. West Kentucky Growers Co-op did
12 improve the interior of the property greatly for use
13 in its facility and for its purpose in connection with
14 its vegetable distribution facility.

15 So there's been a great deal of investment
16 into this particular property, and to rebuild those
17 refrigeration units at any other type of plant would
18 be very difficult and more importantly be very, very
19 expensive. So we believe that helps to justify the
20 basis for the rezoning and the fact that the current
21 use is more appropriate as an industrial use.

22 Now, there's 12,000 additional square feet.
23 If you go back to the prior picture or two pictures
24 before, in-between there's kind of an open area. I
25 know part of the Staff recommendation is if it is

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1 approved that any outdoor storage facilities would be
2 screened. Given the size of the property and the
3 nature of the operation, we can certainly comply with
4 that requirement as well as all the other screening
5 requirements.

6 The other thing to point out about the
7 property is that it's located in a special flood
8 hazard area. I've also provided you all, it wouldn't
9 quite fit in the packet, an overall map of the area.
10 All of that property is located within the special
11 flood area which does put some limits not only on the
12 ability to expand this facility, but also the ability
13 to develop the other areas around it. We believe this
14 will be just a special select unique type use for
15 zoning classification because of the fact that this
16 special flood hazard area will kind of limit
17 additional growth or expansion into other industrial
18 use properties.

19 Again, as I stated before, the property has
20 been used as a distribution facility. Originally the
21 buildings were built in 1992 and 1995. West Kentucky
22 Growers Co-op utilized the property from March 1, 2002
23 until April 1, 2006. Cabbage Properties Kentucky,
24 Inc., or Cabbage, Inc., was the operating facility
25 purchased and utilized the property in December of

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1 2009.

2 What is the Fruit Company's intent with
3 respect to its use? We plan to utilize this as a
4 distribution fulfillment center. It clearly is going
5 to be a light industrial use. There will not be a lot
6 of heavy traffic. The peak season for the Fruit
7 Company runs from October to the end of December.
8 Obviously, during the holiday season these types of
9 gift baskets are in great demand. At that time, at
10 least our projections for this year is that they would
11 employ 24 people.

12 Again, in 2019 the property and facility would
13 be utilized just during those peak season hours or
14 peak season times, from October to the end of
15 December. Our projections then are that we may employ
16 as many as 50 people.

17 After that, long-range plans obviously are to
18 continue to use potentially the property year-round;
19 however, during the non-peak season, which runs from
20 January until September 30th, the number of people
21 employed in the facility are close to nine or ten
22 people.

23 So you'll have during those non-peak seasons
24 there won't be a lot of traffic in and out, as far as
25 employees go, but obviously during the peak season

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1 you'll have a little more. The advantage of that, we
2 think none of that will overburden the traffic in the
3 area mainly because during the peak season for the
4 Fruit Company it's sort of a non-peak season for the
5 agricultural community, as most of their crops have
6 been taken in and obviously it's in the wintertime.

7 We do have, kind of the next page is a
8 projection regarding the employees and more
9 importantly the employees there will obviously be
10 compensated very well for their time ranging anywhere
11 from 10 to \$12 per hour or 13 to \$19 per hour. So we
12 believe that it will provide a good economic impact
13 for our community, provide additional jobs, especially
14 to those who may work in the farming industry out in
15 the fields once the, obviously, crops are taken in and
16 starts the peak season for the Fruit Company and are
17 able to employ those people in the facility during the
18 peak season.

19 I think more importantly what the Fruit
20 Company intends to offer by having and placing this
21 distribution facility here is an added value ag
22 product.

23 Mr. Webster, even though he's coming into the
24 community, he's already communicated with the leaders.
25 He's identified those people who are growing

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1 alternative crops. For those of you have all
2 recognized and realized that there are farmers in our
3 community who are looking to grow additional different
4 types of crops, not just your standard corn and wheat.
5 We have obviously Mr. Reid and his facility, Reid's
6 Orchard. We have the blueberry company out on Hill
7 Bridge Road. We have various wineries. Not wineries,
8 but we have various individuals in farms growing
9 grapes. Those are people who the Fruit Company
10 intends to contract with to help supply their needs
11 for their business, which obviously adds and has and
12 will have a great economic impact upon our community.
13 We have also talked to regional distributing companies
14 about purchasing product from them. Obviously,
15 they'll ship product from Oregon in. That may not
16 satisfy all their needs. We'll also buy locally from
17 local distributors as well.

18 As I mentioned before, we do not believe that
19 there will be a negative impact upon the
20 infrastructure and the roadways and the other
21 facilities that are provided in the neighboring
22 community.

23 During the non-peak season, I have a picture
24 of the UPS truck. Typically there will be one UPS
25 truck delivery per day. Actually it's a pick-up which

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1 is no different than probably what's already on the
2 roads out there. UPS actually prefers and likes
3 companies, likes the Fruit Company in this location.
4 It's advantageous to them because they can be
5 delivering goods out in the Stanley/Western Daviess
6 County or Henderson area and as they're coming back
7 they can backfill and backhaul and pick up product
8 here to be shipped out to their other distribution
9 channels.

10 During the non-peak season running from
11 January until the end of September you're only looking
12 at probably one box-truck, regular UPS truck per day.

13 During the peak season, running from the
14 beginning of October to the end of December, you'll
15 probably average one or two small trailers, UPS
16 trailers that will be on site. It will be delivered
17 during the workday, and they'll be picked up later in
18 the evening by UPS. Those are depicted on the next
19 page.

20 Finally, during the heaviest time in the peak
21 season that lasts probably five to seven days you
22 might have as many as three tractor-trailers full of
23 product. Again, those are dropped off by UPS the
24 night before. They're filled up during the day as the
25 employees work, and then those are picked up at night

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1 in the later hours. Typically that's when traffic
2 would be a little lighter.

3 We have contacted, in preparation for this
4 meeting today, we contacted the Kentucky Department of
5 Transportation. You have in front of you an e-mail
6 that was sent to Mr. Weaver with Bryant Engineering
7 who assisted us with our application. As he
8 questioned and provided this information that I just
9 gave to you to the Kentucky Department of
10 Transportation, and it was based -- there's a copy of
11 their e-mail and response, and it was based upon their
12 assessment that this proposed use wouldn't overburden
13 the property.

14 So as I said, we don't believe that there will
15 be any negative impact on the traffic or the other
16 infrastructure located in that area. Again, the
17 majority of this property, as you can see on the map
18 that's on the screen, is agricultural. There's
19 several large farms surrounding it. So by adding this
20 we don't believe it's going to overburden them. I
21 think the fact that there has been in the past this
22 exact type of facility in there, there's been no
23 complaints filed or any issues raised by any of the
24 neighbors. That just demonstrates that a
25 light-industrial zoning of this property is not going

1 to harm the surrounding properties or provide any
2 negative impact.

3 The Fruit Company plans and will be, they're
4 going to make a commitment to Owensboro and also to
5 this facility. They know it needs improvements. They
6 plan to make those; again, meeting any of the
7 buffering requirements as required by the Staff. If
8 this were approved, it's not an issue or a problem.
9 We'll be glad and happy to make those.

10 The company is here for the long term.
11 Actually, Owensboro is a crucial business location for
12 them. Not only is this facility ready for them to
13 utilize, because it already has the refrigeration
14 units there and existing in the facility, but their
15 distribution points, as I alluded to earlier, are
16 mainly through UPS, which obviously we all know has
17 local hubs, which are a short drive distance, which in
18 realty allows them to meet their customer demand and
19 deliver their products to their customers in a quicker
20 time or quicker time period.

21 I know I've kind of rambled on at this point
22 in time. We feel that while it doesn't fit, the
23 zoning change doesn't fit within the Comprehensive
24 Plan, the Commission can still find that the zoning
25 change is appropriate.

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1 I have proposed findings there on the last
2 page based on what I believe to be appropriate. As I
3 said before in the beginning of my presentation, there
4 have been changes in the economic, physical and social
5 nature of the area that were not anticipated at the
6 time of the adoption of the Comprehensive Plan which
7 altered the character of the area. You know,
8 obviously the area is agricultural in nature. We have
9 a rise of alternative crops. There's a need for
10 processing and distribution facilities such as these
11 to provide a market to our local farmers. Obviously,
12 this will be a big business impact in our community in
13 providing jobs and opportunities for farmers who are
14 growing those alternative products, which obviously
15 helps with the public welfare.

16 The proposed zoning change will not adversely
17 affect the neighboring property. That's evidenced by
18 the fact that it's been used for several years in that
19 capacity without any issues. As I mentioned, there
20 will not be any negative traffic patterns that will be
21 impacted in any way.

22 You know, this type of use actually we believe
23 and feel compliments an agricultural zone.

24 The original zoning classification that was
25 given to the property is another ground upon which you

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1 all can approve the zoning change. The original
2 zoning classification was improper at the time given
3 the current use of the property. You know, there's no
4 opportunity for distribution facilities under our
5 existing Comprehensive Plan to be conditionally
6 permitted in an agricultural zone, but we feel and
7 believe that it should be. Again, this has been
8 utilized for at least 16 years as a light industrial
9 purpose, and it's been done without any negative
10 impact upon the area.

11 So based upon those two provisions we believe
12 and request that the commission approve the zoning
13 change.

14 CHAIRMAN: Thank you, Mr. Meyer. You may want
15 to stay there for questioning. I'm sure there may be
16 some.

17 MR. MEYER: Sure.

18 CHAIRMAN: Any commissioners have questions
19 for Mr. Meyer?

20 MR. EDGE: I don't have any questions, but I
21 do think it make sense, if I can inject my opinion
22 here.

23 I made a couple of notes here in regards to
24 what Mr. Meyer was saying. Distribution is a strength
25 of our community, based on where we're located here in

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1 Owensboro and in Kentucky. Agriculture obviously is
2 fundamental to our economic base, and then obviously
3 it does bring jobs. One of the compelling arguments
4 he makes is the building has been utilized in the same
5 function. They're asking it be utilized for just, in
6 my opinion, cleaning up the paperwork.

7 CHAIRMAN: I think essentially that's what I
8 heard him say. Their intention is to improve the
9 facility if this were being rezoned, correct?

10 MR. MEYER: Correct.

11 CHAIRMAN: That being, you know, cleaned up,
12 you know, new paint, whatever the case may be at some
13 point.

14 MR. MEYER: Mr. Webster was out today making a
15 list of to-do things.

16 CHAIRMAN: I'm very familiar with that
17 facility. I've been in it a number of times over the
18 years. I live about five miles from it. I don't go
19 by it all the time, but I know where it's at.

20 One of the questions that I have in trying to
21 understand what your presentation has been and what
22 the Planning Commission has, the Planning Department
23 has come up with as a denial, the original rezoning,
24 and Mr. Howard may be better to answer this one. The
25 original rezoning, you're proclaiming that it was

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1 incorrect. Can you elaborate a little bit on why you
2 say it was incorrect?

3 MR. MEYER: Mr. Ellis actually bought this
4 property in 1935. I think the zoning, the original
5 zoning is really more incorrect based upon the changes
6 and use of the facility to what we have today. I
7 think it just becomes by nature, by the way that it
8 was de facto changed, and de facto became what it did.
9 It makes the original zoning improper and
10 inappropriate.

11 My opinion personally is that the zoning
12 ordinance didn't provide any opportunity to develop a
13 facility like this in an agricultural zone, which
14 benefits an agricultural business. You know, you have
15 issues with transportation. This is close to the
16 market. This is in an agricultural area. You know,
17 it would be something that should have been or could
18 have been under the original zoning application or
19 zoning ordinance could have been, you know, put in as
20 a conditionally permitted property. It was not. I
21 think from the standpoint of the original zoning, and
22 is it improper. It's improper now based upon the
23 change in use which has occurred over a 16-year
24 period. That's the basic basis for that.

25 CHAIRMAN: Originally it was more localized

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1 farmers that used it for cabbage and the process many
2 years ago.

3 MR. MEYER: Correct. Then Cabbage, Inc. kind
4 of did the same thing. Now obviously it is what it
5 is.

6 CHAIRMAN: Which, I guess, in a sense would
7 have been not necessarily a long-term utilization of
8 it. Periodic utilization, but not necessarily
9 long-term. What you all are proposing is more
10 long-term utilization and economic development of that
11 particular building is how I understand it. This is
12 what you're proposing?

13 MR. MEYER: Not just development, but also
14 just use in general. You have a 46,000 square foot
15 building there that really, you know, has no
16 economic -- could have a great economic impact, but it
17 can't because of the way it's currently zoned.

18 CHAIRMAN: What happens if the zoning is
19 denied? What happens with all of that?

20 MR. MEYER: In my opinion the property could
21 just sit there and rot, which is not to benefit
22 anybody.

23 CHAIRMAN: Okay. Thank you.

24 Yes, Mr. Moore.

25 MR. MOORE: Mr. Chairman, let me ask

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1 Mr. Howard a question.

2 As I read through that, when Western Kentucky
3 Growers Co-op had it, it was A-R. Then the Cabbage
4 processing plant took over and it was still A-R, but
5 that was not the right use or the right zone?

6 MR. HOWARD: So when the co-op, that
7 originally started using this facility, they were
8 using it to process the stuff that they grew here
9 locally only. So that was deemed to fall under the
10 agricultural use.

11 As Mr. Meyer has stated, over time it
12 transitioned from just doing what, just processing
13 what was grown locally to bringing in shipments of
14 other things and processing and then redistributing
15 out from there.

16 So it fits ultimately today and what they're
17 proposing, as he has stated, fits the classic
18 definition of a light-industrial use that is a
19 distribution processing packaging facility for
20 product. In this instance, it is for agricultural
21 purposes, but if it were -- that type of activity
22 could go on for, you know, any number of businesses
23 and that type of thing. So it is an agricultural use.
24 It started in an agricultural zone. Over time it has
25 transitioned. We certainly don't have the staff, you

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1 know, that goes out and looks for these kind of
2 things. It just happened.

3 You know, Trey is our zoning enforcement guy
4 right now. He's doing foot inspections in the morning
5 and reviewing stuff. You know, we don't have a
6 full-time staff person that can go out and look for
7 those kind of things. We've never received a
8 complaint about it in the office. That's how we
9 follow up on zoning violations. So it's fallen under
10 the radar and it's been there forever. Well, not
11 forever, but it's been there for 16 years doing this.
12 Certainly we could not make findings that it was in
13 compliance with the Comprehensive Plan nor since it
14 transitioned, you know, more or less in a nonlegal
15 fashion over time, we can't make, you know, we as
16 Staff do not feel comfortable making a finding that
17 their proposed zoning is more appropriate. Certainly
18 that's your all's purview based on the evidence that
19 was entered tonight by the applicant's attorney.

20 MR. MOORE: Thank you.

21 CHAIRMAN: Any commissioners?

22 Yes, Commissioner Reeves.

23 MR. REEVES: Mr. Meyer, I assume that the
24 ingress/egress that you have there currently would be
25 satisfactory if this rezoning were approved?

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1 MR. MEYER: Yes, sir. As you can see in the
2 picture, actually there's a semi truck coming in.

3 CHAIRMAN: Mr. Howard, I guess the question
4 becomes, to even anticipate approval of this the
5 motion would have to have a completely different
6 findings of fact that would support the approval of
7 this application as opposed to what's been presented?

8 MR. HOWARD: That's correct. There are three
9 different types of findings of fact that can be made
10 on a zoning change.

11 One is, is it in compliance with the
12 Comprehensive Plan.

13 The second is, and this is part of the case
14 that Mr. Meyer made, have there been changes of a
15 social or economic nature in the area that weren't
16 anticipated in the Comp Plan.

17 And the third is, is the proposed zone more
18 appropriate than the current zoning.

19 You know, he has provided you all with some
20 sample findings of fact that could be used certainly
21 to make findings upon those two alternative means
22 instead of it being in compliance with the
23 Comprehensive Plan.

24 CHAIRMAN: Thank you, Mr. Howard.

25 Any other commissioners have any questions

1 concerning this application?

2 (NO RESPONSE)

3 CHAIRMAN: Is there anyone in the audience
4 that would like to speak concerning this application?

5 Yes, please.

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

8 MR. REYNOLDS: David Reynolds.

9 MS. KNIGHT: Mr. Reynolds, you're sworn as an
10 attorney.

11 MR. REYNOLDS: Thank you.

12 Mr. Chairman and Commissioners, I represent
13 CTC Investments, LLC.

14 If you look at the map on the screen there,
15 CTC owns essentially all three sides that surround the
16 rectangle there that's in question, the 10 acres.
17 They also own across the road a large tract and, of
18 course, a lot of other large farmland in the community
19 of Stanley.

20 I want to take an opportunity to express to
21 you my disagreement with certain things that have been
22 said, but before I do that I want to address the
23 questions that the commissioners raise.

24 Mr. Reeves asked about ingress and egress.
25 Based upon the plats that are recorded of record, we

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1 do have a surveyor here that may be able to testify.
2 It's my understanding that ingress and egress of this
3 piece of property right here actually is a gravel road
4 for which it leaves 279, crosses over the Case
5 Drilling property, which is a pie-shape little
6 triangle there that goes to a point, and then either
7 partially or wholly is on my client's property, and
8 then you see it veering off to the northeast. If you
9 look there on what I'm talking about on the screen,
10 you will see how the, as you leave the facility there
11 how it arks down onto the solid blue line and then
12 connects to Highway 279. That is what I'm talking
13 about. It appears to be right there on at least
14 partially. It's my understanding the Case Drilling
15 property actually, that last 10 or 15 feet of that
16 little pie-shape, the entrance crosses over that.

17 In any event, I think if you looked at what is
18 attached to the application, what they chart or
19 survey, you'll see that it comes to an abrupt point
20 right there at 279.

21 As you look on the screen you can tell that
22 the entrance road, again, follows that blue line. I
23 think ingress and egress is a very important question
24 here because we're talking about a gravel road.
25 There's a question about whether or not it crosses one

1 or two other neighbors' properties that adjoin this
2 property. So that's a very important point.

3 I also want to comment that in regard to what
4 West Kentucky Growers Co-op did. In a full
5 disclosure, I'll tell you, I represented the State
6 when West Kentucky Growers Co-op went in default.
7 Their business went under. They went in default on
8 their loan and they at that point executed a
9 foreclosure on the property. Giving it back to their
10 financing company. This was financed by Kentucky
11 Agricultural Department. I was part of that process
12 in 2006. I'm familiar with that.

13 What I want to point out here is for starters,
14 West Kentucky Growers Co-op was not a successful
15 entity operating this business. They went under. A
16 lot of talk has been about how this has been used for
17 16 or more years. There's been of lot using the term
18 "the current use." The current use of the building is
19 it's a vacant dormant building. There's no current
20 use that is packaging cabbage. Another company that
21 went under. Cabbage Properties, they went under.
22 They're no longer in business. The most recent use of
23 this business was leasing it out to the local farmers
24 to let them come and strip their tobacco in it. It
25 hasn't packaged vegetables for some time.

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1 So if you want to break down the window of
2 time for 2002 when West Kentucky Growers Co-op got it,
3 how long did they use it? How long was it back in the
4 hands of the state sitting there waiting to find
5 somebody to buy it? Then how long did Cabbage use it
6 before they defaulted and shut down? And now they've
7 conveyed it out. Actual usage time is not nearly as
8 much as you might think, and it's been used by two
9 companies that failed. For all the talk about the
10 Fruit Company is going to be successful, I'm sure that
11 Cabbage Properties and West Kentucky Growers Co-op
12 thought they were going to be successful too. We all
13 do going into that, but what we've seen is they didn't
14 work.

15 Again, the talk has been "the current use,"
16 "the existing use."

17 Staff's recommendations pointed out, it's not
18 being used right now. Current use is a vacant
19 building. They even refer to this as, for some time
20 or several months or years was their language.

21 Trying to tie the current application to the
22 current use I don't think is really appropriate here.
23 I also want to say in regard to -- and all respect to
24 Mr. Edge that made the comment about tying up the
25 paperwork. This commission is not charged with

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1 condoning prior bad acts. If another owner has been
2 in noncompliance of the zoning, that is not a legal
3 basis for this commission to grant a zoning change to
4 the new buyer. There are guidelines we have to
5 follow. There are things that have been stated that
6 have to be met.

7 I want to look at a few of those things and I
8 want to ask the applicant, I want to challenge the
9 applicant to show us what they mean when they say in
10 their application. Of course, the application has
11 magic language in them. We all know those. They do.
12 When they say things like, considering the existing
13 land use has not caused any issues. Again, the
14 existing land use is it's a vacant building. It's
15 dormant. The last two owners have given up on it.

16 They say things like, the applicant contends
17 that there have been major changes of an economic,
18 physical and social nature within the impacted area
19 which were not anticipated in the adoption of the
20 Comprehensive Plan.

21 As the chairman noted having lived out there
22 for a number of years, challenge the applicant to
23 stand here and point to any changes in that vicinity
24 in the Stanley area along Highway 279. Period. Much
25 less some major social, some major economic change in

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1 the area that has occurred.

2 I also want to point out the Comprehensive
3 Plan, when was it adopted? 1991. When did they say
4 that the Ellis Estate started using this property?
5 Early '90s. How do you say the Comprehensive Plan
6 didn't anticipate something that was happening at the
7 time?

8 The commission can't condone prior bad acts by
9 just saying, well, somebody else did it so we're going
10 to let this person do it. You have to find evidence.

11 There's been a statement that there's been a
12 change of economic, physical and social nature.
13 There's been no evidence presented of it. In fact, on
14 the contrary. This property has been farmland for a
15 number of years. There's a picture right up there.
16 It looks like the same farmland picture that was taken
17 50 years ago probably. It hasn't changed. There's no
18 industrial property within miles of this property.
19 What changes have occurred; social, economic, physical
20 have occurred to allow this property to be rezoned? I
21 submit none.

22 They go on to say, said changes, those consist
23 of economic, physical and social without any
24 description, have altered the basic character of the
25 area involved. I ask you commissioners who are

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1 familiar with the area, have seen the character of the
2 Stanley area, specifically around this area, altered
3 in the last 20 years? It's pretty much the same as
4 it's always been. It's not bad, but, again, it's what
5 we're trying to prevent. We don't want it to change.
6 We don't want a light industrial classification
7 because we all know one thing leads to another
8 sometimes. All of the surrounding property and for
9 miles is agricultural, with the exception of you see
10 in the top of your picture there are a couple of
11 houses half a mile down the road on the opposite side
12 of the road. We've got residences in there. That's
13 what this property has been used for for years.
14 That's what it should be used for now.

15 It was mentioned that Mr. Weaver contacted the
16 state about a traffic study. You see in your package
17 the extent of that study. It's about a four-sentence
18 e-mail from Mr. Weaver giving his characterization of
19 the circumstances, and about a one-sentence e-mail
20 saying, well, that ought to be okay based upon what
21 you're telling me. No evidence that anybody did any
22 actual looking into it.

23 And I have concerns with what Mr. Weaver
24 conveyed. Mr. Weaver conveyed in his e-mail that's
25 attached to the application, the property is plus or

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1 minus 10 acres in size and is being used to package
2 vegetables. I guarantee you that was not true at the
3 time this e-mail was sent. It hasn't been used to
4 package vegetables for some time. The present use is
5 not in compliance with the zoning ordinance. Well,
6 the present use, as I said, is a dormant building.
7 It's not being used.

8 They go on to talk about, and Mr. Meyer
9 expressed, the UPS trucks coming in. The prior usage
10 from the Ellis Estate, West Kentucky Growers Co-op,
11 and my understanding the Cabbage Properties, they were
12 right there. The farm goes around it. As Mr. Meyer
13 correctly stated, J.C. Ellis bought the property in
14 1935 with hundreds of acres around it. How is this
15 fruit getting in there? No one has mentioned the
16 trucks coming in to bring the fruit. They just talk
17 about one Fed Ex truck a day. How is the fruit
18 getting in there? Was the state advised of the amount
19 of traffic that the fruit suppliers would do? No,
20 they weren't.

21 There's a lot mentioned about the Fruit
22 Company, an Oregon Company, and their commitment to
23 the community. Well, I want to first point out that
24 the Fruit Company is not registered to do business in
25 the State of Kentucky according to the Secretary of

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1 State's website. Neither is the company that now owns
2 the property, who Mr. Meyer indicated he was
3 representing as well. They're not part of the
4 application, but they took title to the property on
5 June 1st. This other company took title to the
6 property on June 1st of this year from Cabbage
7 Properties, Cabbage Properties is gone, while the
8 zoning application was pending. So they're pretty
9 much stuck, I think. The Cabbage Property is gone.
10 They've gotten their check presumably.

11 So you have two companies. One to benefit and
12 talking about the commitment to the community, but
13 they haven't registered to do business in the State of
14 Kentucky. It is what it is. They haven't. Can they
15 do it tomorrow? Sure, but they haven't.

16 There's been a lot of talk about their
17 business in Oregon, the success, the nationwide. I
18 don't know that that's evidence that gets you through
19 the parameters and the boxes you have to check off to
20 change the zoning though.

21 Does our Comprehensive Plan that was adopted
22 in the '90s and that we have to follow, does that get
23 influenced because an out-of-state company says they
24 are a great company and they want to come in and they
25 want to do business in our area? I don't think that's

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1 the standard. That's a great thing that they want to
2 come to the community, but you know what? Maybe they
3 need to go to a more industrial area within the
4 Comprehensive Plan and do their business within the
5 community. Why? Because we adopted the Comprehensive
6 Plan for the region. Not for somebody that wants to
7 come in and say, hey, that's a spot to do what I want
8 to with it. I don't care how long they've been
9 operating as agricultural for the last 100 years. Do
10 what we want to do.

11 Again, they probably are a good company. I
12 don't have any reason to suggest that they're not, but
13 that's not, as the Staff's findings pointed out
14 procedurally step-by-step, that's not part of the
15 thought process. Good company. Bad company. Is this
16 an extension of an existing light-industrial zone?
17 No. Is this a 500-acre industrial park? No. Do they
18 have social, economic changes in the community that
19 suggest you should make it light industrial? They
20 haven't shown us any.

21 What we have right here is a vacant building.
22 It is unfortunate that it's a vacant building. It
23 might even be unfortunate that zoning wasn't sought
24 before it was built. Apparently, looking at the dates
25 of things, the Comprehensive Plan was in place before

1 the building was built; pretty close to the timeframe.
2 That's the way it looks. I know the Comprehensive
3 Plan was in place 10 or 12 years before West Kentucky
4 Growers Co-op took over. They didn't come and ask for
5 a zoning change. One slight difference though. They
6 were doing it kind of like Ellis Estate, doing it more
7 kind of their own stuff right there in the area.

8 I submit to you that there's no evidence
9 presented by the applicant at this point that
10 justifies the boxes that you have to check to override
11 the Staff's recommendation; which as Staff has pointed
12 out and you're aware, are also overriding the
13 Comprehensive Plan.

14 They put in their application another magic
15 language. The primary change in the vicinity, and
16 talking about those changes out in Stanley, is the
17 successful operation of a light industrial use. The
18 only thing I can think of they're talking about is
19 prior nonconforming use. Which, again, shouldn't be
20 used to justify change. And too, I have a question
21 over the word "successful," since both of them went
22 out of business pretty quickly.

23 Goes on to state in their application, the
24 other change is the need for industrial uses that are
25 agriculturally related in the rural areas.

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1 I don't think they've shown any need other
2 than their on. Their needs are not what this
3 commission is supposed to look at. The needs and the
4 community impacted by the change. Do they need this
5 facility out there? What are they going to do?
6 They're going to pack up fruit and then they'll bring
7 in fruit from wherever. They're going to pack it up
8 and they're going to ship it across the country; mail
9 order type stuff. I see soybean fields. I see corn
10 fields. I don't see anybody in the community
11 benefiting from this.

12 I believe this commission needs to really
13 think seriously about the ingress/egress situation,
14 and also this traffic study. The fact they didn't
15 even mention how the fruit is going to be getting in
16 there, and the fact that the reliance on the response
17 on the traffic study is based upon incorrect
18 information you've been given from the state to start
19 with.

20 The applicant may desire to speak to some of
21 these things. I would ask I be allowed to follow up
22 with the applicant if they choose to speak and refute
23 comments that I've made. That's all I have at the
24 moment.

25 If any one of you have a question for me, I'd

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1 be happy to try to answer it. Again, I've had a
2 little bit of experience on this property because I
3 represent the owner all around it and I represented
4 Kentucky Agricultural Living facility when they took
5 it back from West Kentucky. I've got a little bit of
6 title history on the property there. If there's any
7 questions, I'll try to answer them. If not, I'm sure
8 Mr. Meyer wants the applicant to refute.

9 CHAIRMAN: Do any of the commissioners have
10 any questions for Mr. Reynolds?

11 (NO RESPONSE)

12 CHAIRMAN: Not at this point. Thank you.
13 Mr. Meyer.

14 MR. MEYER: I would kind of like to ask
15 Mr. Weaver to come up to address the issues with
16 respect to the easement and the impact of the traffic
17 of this facility.

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

20 MR. WEAVER: David Weaver.

21 (DAVID WEAVER SWORN BY ATTORNEY.)

22 MR. WEAVER: One of the conditions that Brian
23 had mentioned should this become approved that he
24 recommended was that a condition be placed on the
25 rezoning that a site plan or final development plan be

1 submitted and approved by the Planning Staff, and I
2 believe he said the county engineer. We would think
3 that that condition would hold true to Mr. Meyer's
4 findings as well. The reason why I bring that up is
5 during the process of approval of a site plan such
6 things as ingress/egress are addressed at that time.
7 In addition, you can put a condition on the
8 application that if applicable a permit would be
9 forthcoming from the Kentucky Department of
10 Transportation with regards to access.

11 In part of the site plan process we do a
12 topographic survey and tie the boundaries such that we
13 are able to determine whether or not the existing
14 access does in fact encroach on the neighbor's
15 property. So that's one thing that would be taken
16 care of at that time.

17 In addition, I believe I heard that the
18 existing access is gravel. According to the zoning
19 ordinance, all vehicle use areas have to be paved, and
20 as such that would be taken care of.

21 The highway department would make their own
22 determination as to whether or not a Traffic Impact
23 Study was needed or if there were issues with the
24 traffic volume in that vicinity.

25 CHAIRMAN: So am I understanding you correctly

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1 that once that would be done, it's possible that the
2 entrance could be reallocated or relocated to be
3 within the bounds of the property?

4 MR. WEAVER: Yes. If we do find during the
5 process of preparing the site plan in the field work
6 that we do, that the existing access point does
7 encroach on the adjoining property, that situation
8 would be fixed.

9 At this point in time there has been no
10 Traffic Impact Study. I don't have my original e-mail
11 with the State Highway Department, but I don't think I
12 used the word "Traffic Impact Study." The amount of
13 traffic we're anticipating here wouldn't warrant a
14 Traffic Impact Study.

15 CHAIRMAN: Thank you.

16 I noticed the county engineer is here. Would
17 he like to speak on behalf of anything on the
18 transportation side of it or the road?

19 Just get a flavor for what the county's
20 position may be on it.

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

23 MR. BRASHER: Mark Brasher.

24 (MARK BRASHER SWORN BY ATTORNEY.)

25 MR. BRASHER: Like Mr. Weaver said, once a

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1 site plan is presented in front of the county, I will
2 review the access. We would, since Kentucky 279 is a
3 state highway, we would bring them into the
4 conversation, as far as if a Traffic Impact Study is
5 needed or if there's any issue with the ingress/egress
6 of this property.

7 CHAIRMAN: Thank you.

8 Any commissioners have questions for
9 Mr. Brasher?

10 (NO RESPONSE)

11 CHAIRMAN: Mr. Meyer, would you like to speak
12 concerning some of the comments and questions?

13 MR. MEYER: I would just briefly.

14 I understand that there has been past failures
15 at the site by two prior companies, but that's no
16 indication as to what is going to happen with the
17 Fruit Company.

18 I'll represent to you all that last year the
19 Fruit Company sales were over \$21 million.
20 Mr. Webster has no plans to fail. His family business
21 has no plans to fail. They plan to use this site.
22 It's a perfect spot for them. They were previously up
23 in Chicago. They were looking for an additional
24 facility. Located this site, and it works perfectly
25 within their future growth plans. So \$21 million in

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1 total sales, I don't think you can call that a
2 failure. We shouldn't use past acts of failure of
3 other businesses to address or look at this situation.

4 As far as there was a question posed or asked
5 about how does the fruit get there. Well, it will
6 come in in maybe one or two trucks during the peak
7 season. When the fruit is packed, if it's coming from
8 Oregon, it's very, very tightly packed and compacted.
9 So you're not going to have a large six trucks, eight
10 trucks a day coming in of fruit during the peak season
11 to fill the orders. Like I said, Mr. Webster and his
12 company packs it very tightly. Obviously they need to
13 do that for economic reasons. So there's not going to
14 be a greater burden. You'll see one or two trucks a
15 day.

16 During the non-peak season a lot of the fruit
17 that comes in will maybe be a local truck. Somebody
18 here in the community who they buy fruit from or they
19 may be buying from CRS One Source or another food
20 distributor. In that circumstance and in that
21 situation, you're looking at the same size box truck
22 as a UPS truck. One coming in is their estimate. So
23 it doesn't impact. The incoming fruit is not going to
24 impact the traffic or the infrastructure in the area
25 at all.

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1 You know, in looking at the findings, I think
2 that certainly there was a question asked as to what
3 economic, physical or social changes have occurred in
4 the area. As I stated in my initial presentation, the
5 change has been a change in the way we grow crops and
6 produce agricultural products in this area.

7 In Stanley, the McKay family has a large
8 watermelon farm. That provides an opportunity for the
9 Fruit Company and Mr. Webster to actually expand into
10 an area that they want to get into. So that's the
11 change in the economic. That's the social change in
12 the area. This provides an opportunity for those
13 local farmers to increase their production on all
14 different kinds of levels. So that's the social
15 economic change that we were talking about and
16 providing testimony about, at least during my
17 presentation.

18 As far as the use of the property, well, yes,
19 it was vacant for a while, but it was also being used
20 for a while, and at no point has there been any
21 change. It's like a de facto change in the property;
22 as it slowly progressed, people did more, but to also
23 pigeonhole it and say, well, just because you're
24 growing crops there locally and you're growing your
25 own crops, you're still distributing them. It's no

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1 really different if you think of it in a larger
2 perspective.

3 I know Mr. Howard said and indicated that that
4 fit within the A-R zone, but it's really the same
5 thing. Should it be treated differently because it's
6 your own product versus something else you're bringing
7 in? I submit it shouldn't. I submit that it should
8 not.

9 I think it's important to note too that
10 Mr. Clark actually purchased this property in 2006
11 from West Kentucky Growers Co-op. So all the property
12 and the acreage he acquired on February 24, 2006, at
13 that time West Kentucky Growers Co-op was in
14 operation, I presume. He bought it from them. Even
15 after that you had the facility being utilized by the
16 Cabbage Company.

17 I do want to point out, the property directly
18 across 279, it's hard to see, but I think it's shown
19 in the zoning application, that property is zoned by
20 Sara McNulty. I will represent to the board that I
21 did contact Ms. McNulty prior to this hearing. She
22 had no objections to the proposed zoning change.

23 With that I'll rest. I think that there's
24 clearly enough information upon which the commission
25 can find that there's been some change in the social,

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1 economic, physical and social nature in the area to
2 warrant a change in the zoning to light industrial,
3 and also that the original zoning classification, you
4 know, given its de facto nature of what the property
5 is.

6 If there are any other questions, I'll be glad
7 to answer them.

8 CHAIRMAN: Any commissioners have any
9 additional questions for Mr. Meyer?

10 (NO RESPONSE)

11 CHAIRMAN: Thank you.

12 MR. REYNOLDS: Mr. Chairman, I want to point
13 out first off, CTC purchased what would almost be
14 maybe a larger string horseshoe around that property
15 in 2006 after or concurrently at the same time that
16 the state was taking back from West Kentucky the 10
17 acres. So West Kentucky had already shut down when my
18 client bought the surrounding because that's what
19 happened. My client bought the farmland around it
20 from a company that had shut down and stopped using
21 the farmland and the state took back the 10 acres that
22 they had financed and allowed them funding to acquire.
23 So it was kind of a hand-in-hand transaction. So it's
24 not like he bought this property, as might have been
25 suggested, with an ongoing company doing all this work

1 there. It's not the case.

2 One of the things I made a note of Mr. Meyer
3 said goes back to something I said. They believe this
4 is a perfect site for them. This commission has the
5 Comprehensive Plan as its guide. It's not the
6 applicant's perfect need that we're talking about
7 here. It's Owensboro. It's our area, Daviess County.
8 That's what this commission is bound to uphold. Not
9 the need of an applicant. This body sees applicants
10 all the time that may very well be a strong company,
11 good company, but if they want to come in, use a piece
12 of property that is not the way we want to use it, I
13 encourage them to move on down the road a little bit.
14 We'd like for them to stay, but move on down the road
15 in an area that's more familiar with what they're
16 doing.

17 The biggest part of this whole process that
18 concerns me is the questions related to, once we get
19 the zoning changed, we have to bring to you this.
20 What do you do if they don't comply? Change the
21 zoning back?

22 CHAIRMAN: I think Mr. Howard would have to
23 answer that.

24 MR. REYNOLDS: But people need to remember
25 that. The zoning change is the first step. I don't

1 believe you make your findings tonight on a zoning
2 change application based upon what Mr. Weaver says
3 we're going to have to do when we bring you our site
4 plan. Whether he will or not, okay. The point is,
5 that's not part of the burden. It's not in compliance
6 with the Comprehensive Plan. They have a burden to
7 meet. Again, what is the social, economic change that
8 they're talking about?

9 You drive by that property, Mr. Chairman.
10 You've been driving by that property for a long time.
11 How many changes have you seen out there?

12 They're talking about all these major changes,
13 and they call them major changes. They're not out
14 there. That picture could have been taken 50 years
15 ago. With regard to the agricultural needs of the
16 community, soybeans, things of that nature grow out
17 there primarily. I don't think the farmers in the
18 community are clambering to have this company in here
19 and they're not lined up here to speak for how it's
20 going to help them.

21 I ask you to deny the application request
22 respectfully and follow the Staff's recommendation.
23 Thank you.

24 CHAIRMAN: Thank you, Mr. Reynolds.

25 Anyone else in the audience would like to

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1 speak or have any comments concerning this
2 application?

3 (NO RESPONSE)

4 CHAIRMAN: Any commissioners have any further
5 questions or comments about this application?

6 (NO RESPONSE)

7 CHAIRMAN: If not chair is ready for a motion.
8 Mr. Reeves.

9 MR. REEVES: I'm always reluctant to use an
10 attorney's motion. They may have something embedded
11 in there that might come back to haunt us later.

12 Counsel, please advise.

13 MS. KNIGHT: Thank you.

14 MR. REEVES: I'm going to have four conditions
15 on this also, just to let you know.

16 Make a motion to approve this application
17 based on these facts:

18 That building has been there for 28 years so
19 it will not alter the essential character of the area.
20 This seems to be an appropriate use for the existing
21 vacant building. It's unlikely that should this
22 application be denied that the building would be torn
23 down and returned to farmland as it's only 10 acres.

24 It may provide an opportunity for local
25 growers to sell their products.

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1 It will not overburden the local highway
2 system.

3 It will not likely impact the surrounding
4 farmland.

5 I'm adding these four conditions:

6 That the screening be applied as outlined in
7 the application and defined by the Planning Staff.
8 That there be no additional ingress/egress beyond the
9 two that are currently on the plan; although, those
10 may need to be relocated. The site plan must be
11 approved by the Planning Commission and the county
12 engineer, and all vehicular use areas must be paved.

13 CHAIRMAN: Let me make sure I'm hearing you.
14 You had a motion for approval based on four
15 conditions?

16 MR. REEVES: And five Findings of Fact.

17 CHAIRMAN: And five Findings of Fact which I
18 hope Lynnette recorded all of those.

19 Yes, Mr. Jean.

20 MR. JEAN: I would like to second that motion.

21 CHAIRMAN: A motion has been seconded by
22 Mr. Jean. Any discussion about the motion from
23 Commissioner Reeves or the second by Mr. Jean?

24 (NO RESPONSE)

25 CHAIRMAN: Any discussion about that at all?

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1 (NO RESPONSE)

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries.

6 MINOR SUBDIVISION PLATS

7 ITEM 9
8 2004 Greenbriar Road, 4.406 acres
9 Consider approval of a minor subdivision plat
Applicant: Rick M. Crabtree

10 MR. HOWARD: This plat comes before you as an
11 exception to a parcel that's 4.4 acres. It's got an
12 existing home on the property. The existing lot is of
13 regular shape. They're creating basically a flag-lot
14 around the existing home and consolidating the
15 remainder back into the farm that surrounds it.
16 They're not trying to maximize the number of homes
17 that could be built on the property. They're actually
18 creating a smaller parcel around an existing home. So
19 we would recommend that you consider it for approval.

20 CHAIRMAN: Thank you, Mr. Howard.

21 Is anyone here representing the applicant?

22 MR. RINEY: Yes.

23 CHAIRMAN: Yes, Mr. Riney. Would you like to
24 speak on its behalf?

25 MR. RINEY: No, sir.

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1 CHAIRMAN: Any questions from the
2 commissioners about this application?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone in the audience would like
5 to speak on this application?

6 (NO RESPONSE)

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

9 Mr. Moore.

10 MR. MOORE: Move for approval.

11 CHAIRMAN: Move for approval by Mr. Moore. Do
12 we have a second?

13 MS. McENROE: Second.

14 CHAIRMAN: Second by Ms. McEnroe. Any
15 discussion or comment about the motion or the second?

16 (NO RESPONSE)

17 CHAIRMAN: All in favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries.

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21 NEW BUSINESS

22 ITEM 10

23 Consider approval of April 2018 financial statements

24 CHAIRMAN: You have before you the financial,
25 April 2018 financial statement. Hopefully the

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1 commissioners have read through this.

2 If there's any questions, do we have any
3 questions or comments concerning this statement?

4 (NO RESPONSE)

5 CHAIRMAN: Chair is ready for a motion.

6 MR. MOORE: Move to approve.

7 CHAIRMAN: Motion to approve. Do we have a
8 second?

9 MS. HARDAWAY: Second.

10 CHAIRMAN: Second by Ms. Hardaway. Any
11 discussion or comment about the motion or the second?

12 (NO RESPONSE)

13 CHAIRMAN: There being none all those in favor
14 raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries.

17 ITEM 15

18 Consider approval of the FY 2019 OMPC budget and
19 salary chart

20 CHAIRMAN: The commissioners have been
21 presented the 2019 OMPC budget and salary chart.
22 Hopefully got a chance to review all of that.

23 Mr. Howard, is there anything you would like
24 to add or state about this particular budget?

25 MR. HOWARD: No. It's a pretty

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1 straightforward budget. In line with what we've done
2 in years past; outlining salaries, benefits, revenues,
3 expenditures, all of that stuff. So if you all have
4 any questions, I'd be glad to answer them; otherwise,
5 I think it's ready for approval.

6 CHAIRMAN: Commissioners have any questions
7 concerning this?

8 (NO RESPONSE)

9 CHAIRMAN: Just one comment, Mr. Howard. I
10 think this is a well put together budget. You've got
11 a lot of good information that really has helped with
12 planning the direction that you're going on and what
13 you're planning for. I commend you on that. It's a
14 very well put together budget.

15 MR. HOWARD: Thank you.

16 CHAIRMAN: Any comments or questions?

17 (NO RESPONSE)

18 CHAIRMAN: Chair is ready for a motion.

19 Ms. Hardaway.

20 MS. HARDAWAY: Motion to approve.

21 CHAIRMAN: A motion has been made to approve.

22 Do we have a second?

23 MS. MCENROE: Second.

24 CHAIRMAN: Second by Ms. McEnroe. Any
25 discussions about the motion or the second?

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1 (NO RESPONSE)

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries.

6 ITEM 16

7 Comments by the Chairman

8 CHAIRMAN: I have none.

9 ITEM 17

10 Comments by the Planning Commissioners

11 (NO RESPONSE)

12 ITEM 18

13 Comments by the Director

14 MR. HOWARD: No thank you.

15 CHAIRMAN: Then we have one final motion.

16 Mr. Edge.

17 MR. EDGE: I make a motion to adjourn.

18 CHAIRMAN: Motion to adjourn.

19 MR. REEVES: Second.

20 CHAIRMAN: Seconded. Any comment or question
21 about that?

22 (NO RESPONSE)

23 CHAIRMAN: There being none all in favor raise
24 your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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1 CHAIRMAN: We are adjourned.

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1 STATE OF KENTUCKY)

)SS: REPORTER'S CERTIFICATE

2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 70 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 10th day of July, 2018.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 524564
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22

23 COMMISSION EXPIRES: DECEMBER 16, 2018

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

25

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