

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 NOVEMBER 14, 2019

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, November
5 14, 2019, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: Larry Moore, Chairman
Lewis Jean, Vice Chairman
8 Brian Howard, Director
Terra Knight, Attorney
9 Angela Hardaway
Beverly McEnroe
10 Jay Velotta
Manuel Ball
11 Irvin Rogers
Larry Boswell
12

13 * * * * *

14 CHAIRMAN: I'd like to call the November meeting
15 of the Owensboro Metropolitan Planning Commission to
16 order. Each meeting we start with a prayer and a pledge;
17 and that honor this month goes to me.

18 (Invocation and Pledge of Allegiance.)

19 CHAIRMAN: We have a nice, full house this
20 evening. I'm sure that some of you would like to speak
21 and address this commission or this board. In doing so,
22 we ask that there's certain guidelines that you follow.
23 First of all, if you want to speak on any issue before
24 this commission, please go to one of the podiums, state
25 your name, and be sworn in by the board attorney. We ask

1 that you direct your questions to the chair who in turn
2 will try to find answers for you or get someone to find
3 those answers. We ask that you stay on topic. And,
4 finally, the most important one is we ask that you be
5 respectful. We want everyone to speak that wants to
6 speak, and you'll have your opportunity, but also you need
7 to stay on topic and not continue to repeat perhaps some
8 things that we've already heard. You do that and we'll
9 have a nice, smooth meeting.

10 First thing on the agenda, commissioners, you
11 should have received a copy of the last month's meeting.
12 It goes all the way back to September since we didn't meet
13 last month. Anyone have any changes, adjustments or
14 anything to those minutes?

15 Commissioner Boswell?

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

17 In reviewing the minutes I just noticed a couple
18 of clarification items on the second page. One listed as
19 120 Lyddane Bridge Road. I think that should be 1120,
20 from the last meeting. And the one on the eighth order of
21 business relative to the Settles Road, I believe that also
22 indicated that the address in that application and that
23 part of the agenda was 2898, was an additional number.
24 Those may be confirmed by Mr. Howard.

25 CHAIRMAN: Mr. Howard?

1 MR. HOWARD: We'll certainly check them in the
2 office. I don't have that in front of me.

3 MR. BOSWELL: Other than that, though, Mr.
4 Chairman, that's all I have.

5 CHAIRMAN: With those possible changes, do we
6 have a motion to approve?

7 MR. BOSWELL: Motion to approve.

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

10 MS. HARDAWAY: Second.

11 CHAIRMAN: Second. All those in favor of motion
12 and second, please indicate by raising your right hand.

13 (All board members present responded aye.)

14 CHAIRMAN: All those opposed?

15 (No response.)

16 CHAIRMAN: Motion carries.

17 Mr. Howard?

18 MR. HOWARD: All right. The next group are the
19 rezonings. We will note that the zoning changes heard
20 tonight will become final 21 days after the meeting unless
21 an appeal is filed. If an appeal is filed, we will
22 forward the record of this meeting along with all the
23 applicable materials to the appropriate legislative bodies
24 for them to take final action.

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1 GENERAL BUSINESS

2 ZONING CHANGES

3 ITEM 3

4 3211 Bold Forbes Way, 3655 Highway 54, 4.26 acres
Consider zoning change:

5 From B-4 General Business with conditions to B-4 General
Business without conditions.

6 Applicant: Newcomb Oil, LLC; Thomas N. Thompson & Thompson
Homes, Inc.

7

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

10 MS. EVANS: Melissa Evans.

11 (Melissa Evans sworn by attorney.)

12 MS. EVANS: The planning staff recommends
13 approval subject to the conditions and findings of fact
14 that follow:

15 Conditions:

16 1. Approval of a final development plan;

17 2. Post a bond with the KYTC for potential
18 roadway improvements pertaining to the access point on
19 Bold Forbes Way for a period of one year from the opening
20 of the fuel station.

21 Findings of Fact:

22 1. Staff recommends approval because the
23 proposal is in compliance with the communitys adopted
24 Comprehensive Plan;

25 2. The subject property is located in a

1 Business Plan Area where general business uses are
2 appropriate in limited locations;

3 3. The proposal is a logical expansion of
4 existing B-4 General Business zoning on the subject
5 property as well as to the south, east and west;

6 4. At 4.26 acres, the proposal does not
7 significantly increase the extent of the B-4 zoning in the
8 vicinity since the zoning classification is already
9 existing on the site; and,

10 5. With access limited to a single shared
11 access point to Highway 54 and a single access point to
12 Bold Forbes Way, as shown on the proposed final
13 development plan, as well as the provisions from the KYTC
14 to monitor the performance of the Bold Forbes Way access
15 point, the proposal should not overburden the capacity of
16 roadways and other necessary urban services that are
17 available in the affected area.

18 We'd like to enter the Staff Report into the
19 record as Exhibit A.

20 And, also, as you all are aware from the Staff
21 Report, there is quite a bit of history with this property
22 and this is a little bit of a unique situation that we
23 don't see every day, so I just kind of wanted to go over
24 an outline of what that history has been thus far on the
25 property so everybody is on the same page and we know

1 where we're at and what we're doing going forward.

2 So at a September 11th, 1976 OMPC meeting, there
3 was a request filed by Thompson Homes to rezone
4 approximately 105 acres of property from agricultural to
5 single family, multi family and commercial. This
6 development was for this entire area which includes from
7 the location where the Planet Fitness is located now all
8 the way across the frontage of Highway 54 to the other
9 side where that Waffle House used to be, and then
10 everything north of that that includes the Thorobred East
11 neighborhood which is combined with some single family and
12 multi family zoning. So all of this was done as one
13 project back to 1976. In 1976, there was about 10 acres
14 of that land that was zoned for commercial purposes at
15 that time. And at that meeting under oath the developer
16 agreed to some self-imposed conditions that he suggested
17 for the property, particularly pertaining to the
18 commercial side of it. He said that there would be low
19 key commercial type of uses in line with a convenience
20 store, drug store, barber shop, and that there would not
21 be liquor sales here at this location but this would be
22 service facilities type of uses. When the motion was
23 made, the developer agreed once again that there would be
24 no liquor sales from this location. That motion was
25 approved with a lot of, you know, talk from the

1 neighborhood like I'm sure we're going to hear again here
2 tonight. But those were, again, self-imposed conditions
3 that the developer had placed on that property. Obviously
4 a lot has changed in that area since 1976, and so at this
5 point they're coming back to the board, asking for those
6 self-imposed conditions that were placed on that rezoning,
7 for those to now be removed and that B-4 zoning to still
8 stand with absolutely no conditions on it.

9 With that, I'll have a seat and see who else has
10 anything to say.

11 CHAIRMAN: Thank you.

12 Is anyone in the audience representing the
13 applicant?

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

16 MR. BOYENS: My name is Stephen Boyens. I live
17 at 3323 Majestic Prince Drive.

18 CHAIRMAN: Excuse me. We're going to talk with
19 the applicant first, if you don't mind.

20 MS. KNIGHT: Go ahead.

21 MR. SULLIVAN: Mike Sullivan, attorney for
22 Newcomb Oil.

23 May it please the Commission, Mr. Chair. My
24 name is Mike Sullivan. I'm an attorney here in Owensboro.
25 I represent Newcomb Oil who is here tonight. Brad Miles

1 is a representative of Newcomb Oil. Of course
2 Mr. Thompson is here as well who's an owner/co-applicant.
3 Of course this application concerns 4.26 acres with the
4 addresses of 3211 Bold Forbes Way and 3655 Highway 54.
5 The 3211 Bold Forbes Way is what would be the Newcomb Oil
6 site. It is the - - it's about 1.9 acres and it's the
7 north - I'm sorry - southeast part of the property. So
8 I'm getting old; I don't know if it's that blue part
9 highlighted on the screen there or not. That's the
10 building? So it's 54 and Bold Forbes Way; that corner is
11 where this 1.9 acres is located. And it is already zoned
12 B-4. It was zoned Business in 1976. They didn't have B-4
13 back then. I think it was called B-1. But when the
14 classifications changed at some point it became B-4. So
15 this property that Newcomb Oil is seeking to rezone along
16 with the rest of the property except for a little sliver
17 back in the southwest corner was zoned Business before a
18 house was built in Thorobred East. So it was Business
19 back then, and all this application is doing is keeping it
20 in the same classification as it has been for over 50
21 years. The one issue are these voluntary conditions. I
22 don't want to spend a lot of time on that issue. I don't
23 think that when - - you know, Mr. Thompson actually said
24 when he was here in 1976, one of the proposed uses could
25 be a convenience store. And that's what Newcomb Oil is

1 proposing to build there, is a convenience store.
2 Mr. Thompson was specifically asked about a liquor store
3 and said that there would not be a - - that he would not
4 place a liquor store here. That's the words used right
5 before the application was approved. When the commission
6 voted, they didn't place any conditions on the rezoning.
7 When it went up to Daviess County Fiscal Court, which back
8 then the process was that OMPC made a recommendation and
9 then the fiscal court actually took the official action,
10 there's no conditions placed on the rezoning by the fiscal
11 court.

12 And I would just, again, I don't want to spend a
13 lot of time on this issue, but I would like to file in the
14 record the transcript of the September 11, '76 OMPC
15 hearing and the Fiscal Court Order approving the rezoning.
16 I'm not sure who I would tender this to.

17 So Newcomb Oil operates the Five Star
18 convenience stores. So if you've been on New Hartford
19 Road, you've seen one of their stores. If you've been on
20 East Parrish Avenue, you've seen one of their stores.
21 It's a high-quality development. That's a grounding
22 philosophy of this company, and they intend for this to be
23 a high-quality development.

24 So, as a staff mentioned, the proposed rezoning
25 complies with the comprehensive plan and we ask that the

1 commission approve the application. I'm sure you're going
2 to hear a lot of things. There may be questions. I'll
3 come back up here or we'll have people answer questions as
4 they arise. But it's in compliance with the comprehensive
5 plan. There have been changes in this area since 1976
6 that justify removal of the conditions. From a legal
7 position, we don't think there are any conditions you need
8 to remove; but if you remove those conditions, it makes
9 the issue moot, and so we ask you to do that. We're here
10 to answer questions. Thank you.

11 CHAIRMAN: Anyone else like to speak to that or
12 just wait for questions?

13 (No response.)

14 CHAIRMAN: Okay. Anyone from the audience like
15 to speak on the issue?

16 Yes, sir.

17 MS. KNIGHT: Go ahead. State your name again
18 for the record.

19 MR. BOYENS: Sorry about that, Mr. Chairman. I
20 thought you were talking about the neighborhood. My name
21 is Steven Boyens. I live at 3323 Majestic Prince Drive.

22 (Steven Boyens sworn by attorney.)

23 MR. BOYENS: We are here, we have a petition
24 that we started in the neighborhood we would like to
25 present to the board. And as well, we want to - - we're

1 here to appeal the zoning change. We currently have
2 conditions, and I guess their proposal is to change the
3 B-4 General Business without conditions. Is that correct?

4 CHAIRMAN: Yes, sir.

5 MR. BOYENS: So I just want to put that up
6 front, that that's why all the - - everybody that lives in
7 Thorobred East, please raise your hand.

8 (Audience members comply.)

9 MR. BOYENS: So we've got quite a good crowd
10 here tonight. I would like for everybody that wants to
11 talk about the conditions, why we want to keep this B-4
12 zone with conditions in force. We don't want to waive the
13 B-4 General Business without conditions.

14 CHAIRMAN: Thank you.

15 MR. BOYENS: Can I ask a couple questions about
16 the Five Star?

17 CHAIRMAN: Certainly.

18 MR. BOYENS: As far as the planning and zoning,
19 you guys are presenting your summary report, right, or the
20 staff report?

21 CHAIRMAN: Yes.

22 MR. BOYENS: When was the planning and zoning
23 done and when were the plans presented to the board for
24 approval?

25 CHAIRMAN: Mr. Howard?

1 MR. HOWARD: So I guess I just want some
2 clarification on what your terminology means. So, are you
3 asking when the application was submitted?

4 MR. BOYENS: Yes.

5 MR. HOWARD: Okay. The application was
6 submitted on October 24th, 2019.

7 MR. BOYENS: And you guys did not have a board
8 or a meeting in October, correct?

9 MR. HOWARD: That's correct.

10 MR. BOYENS: And we were just notified. When
11 was it put in the newspaper about the zoning change?

12 MR. HOWARD: The newspaper ad was published on
13 November 11th. I'm sorry. November 1st of 2019.

14 MR. BOYENS: Can I also ask, when were the signs
15 put in the land effective in the zoning change?

16 MR. HOWARD: That would have been the day
17 before, so that would have been on Halloween.

18 MR. BOYENS: So would you agree that's a pretty
19 short time frame to notify the public of the zoning
20 change?

21 MR. HOWARD: I would tell you that we met all
22 the requirements that the State statutes require for
23 notification. They have minimum and maximum time frames
24 in which people have to be notified, and we certainly met
25 all of them.

1 MR. BOYENS: Another question is, has anyone
2 looked at the current capacity traffic flow coming in and
3 out of Thorobred East, the staff, your staff, or Newcomb
4 Oil?

5 MR. HOWARD: We don't have traffic data or
6 traffic counting capabilities, but they may have. We can
7 get answers on that.

8 MR. BOYENS: Because the representative stated
9 that, Item 6, limited to a single shared access to Highway
10 54 and single access to Bold Forbes Way as shown in the
11 final development plan; but nobody here has seen but you
12 guys, correct? I mean, we haven't seen the plans.

13 MR. HOWARD: It's in our office. It's a public
14 record. Anybody is - -

15 MR. BOYENS: But the short time frame is what
16 I'm saying. Okay? But they're stating that it's not
17 going to overburden the entrance and exits of our
18 neighborhood with those two entrances and exits. I'm just
19 trying to find out if anybody has done a traffic flow
20 capacity in and out of Thorobred East, either your staff
21 or Newcomb Oil, to give us that data?

22 MR. HOWARD: Since this Highway 54 is a State
23 highway, we rely on input and feedback from them. We
24 contacted the Madisonville office to get feedback. They
25 knew what the proposal was. Based on that information,

1 they were okay with a shared drive on Highway 54 that
2 would be shared by this property and the Planet Fitness.
3 And they did have a potential concern about stacking on
4 Bold Forbes Way at the access point location. That's why
5 there is language in there that if it does become a
6 problem, they reserve the right within a year of opening
7 to require that it be reconfigured.

8 MR. BOYENS: The stacking was already there just
9 with the Planet Fitness and the daycare, businesses that
10 are there now. And Mr. Thompson, in '76, and all that
11 development, he never - - I don't think he ever got the
12 approval for a 24-hour convenience store or service
13 facility. I don't think that language is in there for a
14 24-hour convenience store. Just want to put that on the
15 record.

16 And I've got several people that would like to
17 stand, state their name and address and share their
18 concerns about how it's going to affect Thorobred East.

19 CHAIRMAN: Let me ask Mr. Sullivan. Any answer
20 or any questions about the traffic study?

21 MR. SULLIVAN: No. I was going to point out,
22 what Mr. Howard said is that the State has already weighed
23 in and is okay with this so long as they're monitoring
24 Bold Forbes Way for about a year. They're going to
25 require Newcomb Oil to post a bond; and if there's a need

1 to do a left turn lane or something on Bold Forbes Way
2 after a year of studying it, they'll require it.

3 I will say that when Mr. Thompson comes before
4 you or the OMPC in 1976 and it's rezoned Business, there's
5 no restriction on it being a 24-hour convenience store or
6 not. That's not a restriction placed on the property at
7 that time. I think, if I recall correctly, I'm a westside
8 boy, but I think I recall there was a Waffle House located
9 right in front of the subdivision that was open 24 hours a
10 day that would be across Bold Forbes Way from this lot.

11 CHAIRMAN: Has that answered your question about
12 the traffic?

13 MR. BOYENS: It helps, but it doesn't answer the
14 question. But I can get with Madisonville myself. That's
15 fine. Thank you.

16 CHAIRMAN: Thank you very much.

17 Next.

18 MS. CASEBIER: I am Sharon Casebier. I live on
19 Majestic Prince also. And my neighbors and myself got
20 together and - -

21 MS. KNIGHT: Ms. Casebier?

22 MS. CASEBIER: C-a-s-e-b-i-e-r.

23 (Sharon Casebier sworn by attorney.)

24 MS. CASEBIER: And when we got together we come
25 up with some interesting combinations. Number one, I live

1 really close to the daycare center across the street on
2 Bold Forbes. I've seen traffic getting into there to drop
3 their kiddos off stacked up onto Bold Forbes. Then they
4 have to drop off their kiddos and hustle their heinies to
5 get to work. Well, when you've got somebody else stopping
6 and starting and going into the mini-mart, well, there
7 goes more cluster on 54. And believe you me, it's there
8 now. To go anywhere from my house to into the downtown
9 area, I start out 45 minutes early and I do well to make
10 it on time. That's how bad the traffic is, going and
11 coming. As far as a mini-mart, within a mile and a half
12 there's already four. I don't know why we need another
13 one. But I'm not doing this job. 24/7 lighting, we've
14 already got it. We don't need it worse. We're elderly
15 people that live in the cottage area right there on
16 Majestic Prince; and looking at a back end of a concrete
17 or brick building, whatever is chosen, that's not pretty.
18 There's deer that go through there which we enjoy since
19 we're all elderly people. We get out and we look. I've
20 seen kids playing over in that field. That's a good place
21 for them to play whiffle ball. That won't happen anymore.
22 But I can tell you what is going to be there.
23 Drug dealers, felons, because it's rampant here in this
24 town. And that's where they like to sell. Why? What
25 goes there? Young kiddos. Easy target. It's a good

1 place to stake out when you want to do a break-in. Check
2 that out too. That happens. And as we all know, that's
3 rampant in Owensboro too. Not only in the city but in the
4 county. And then there's - - we've been told, well, we'll
5 put up some trees. Well, at 72, I don't want to be raking
6 somebody else's leaves. I do it now from the guy in the
7 back, but I do it. I don't want to rake it in the front
8 too. Big fence; who wants to look at a big fence? Now, I
9 realize my house is not a \$200,000 home, but it's my home.
10 I take care of it and I maintain it by myself and I'm
11 proud of it. I'm proud of my neighbors because they are
12 conscientious too, and we pay a nice amount of taxes. I
13 don't want to see my property values go down; and that's
14 going to happen. That's all I have to say.

15 CHAIRMAN: Thank you.

16 Next.

17 MS. LEOHR: My name is Melissa Leohr, L-e-o-h-r.

18 (Melissa Leohr sworn by attorney.)

19 MS. LEOHR: And I also live on Majestic Prince
20 Drive. So I came here tonight as a mom to share my
21 concern for the potential rezoning of this property. We
22 have lived in our home for 17 years. My children have
23 grown up in the home. If this property is rezoned, it
24 will change our neighborhood completely and permanently.
25 Our neighborhood is currently peaceful and calm. That's

1 why we bought our house there. If this happens, I foresee
2 bright lights shining directly into my children's bedrooms
3 which face this property, and that's the truth. We have
4 it already. I don't want more. I foresee constant
5 traffic, constant noise. I work right beside a Five Star.
6 I know what this is like. There may be additional traffic
7 on the street, depending on the needs with the driveway
8 situation.

9 In addition to these concerns we have to
10 consider the effect that this will certainly have on our
11 property value. Nobody wants to buy a house that faces
12 the gas station. I realize that this rezoning has no
13 impact on any of you all directly, but I want you to think
14 about for a minute if it was your neighborhood,
15 grandchildren's neighborhood. Just think about that. So,
16 thank you.

17 CHAIRMAN: Thank you.

18 Anyone else?

19 Yes, sir.

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

21 MR. TAYLOR: William Taylor. I also live on
22 Majestic Prince Drive.

23 (William Taylor sworn by attorney.)

24 MR. TAYLOR: First of all, thank you all for
25 allowing us the opportunity to speak tonight. I, along

1 with the other neighborhood individuals here, we all have
2 families. I brought my three-year-old daughter and my
3 six-year-old son along with my wife with me tonight.
4 Maybe even more, because I don't have the opportunity to
5 bring my 14-year-old tonight. This summer she was allowed
6 to ride her bike through the neighborhood for the first
7 time and gave her a lot of freedom, gave her a sense of
8 teenhood or near adulthood, which she's far from, but she
9 absolutely loves doing that pretty much at her will. And
10 this unfortunately could be the cease, the end of that in
11 the near future.

12 The major thing that - - and I know what we're
13 discussing tonight is not about the rezoning. It's the
14 stipulations along with that. As Thompson stated in 1976,
15 a low-key convenience store does not look like a
16 convenience store today. Quite different. Although I
17 wasn't around in '76, I can imagine it wasn't a Five Star.
18 For a variety of reasons - - I'm going to state some facts
19 here. For a variety of reasons convenience stores are
20 often popular targets for a variety of crimes. The main
21 dangers are that almost all convenience stores only have
22 one person working night shift, and most of the
23 transactions are in cash. Sold merchandise such as
24 alcohol, lottery tickets and cigarettes on site.

25 Dr. Fellow Pamela Trainstein from Johns Hopkins

1 says that the type of outlet that it is makes a
2 difference, with results showing that a greater access to
3 off-site outlets, meaning - - on-site outlets would be
4 restaurants selling alcohol and partaking on site. Off
5 site is where you buy, take off site. Off-site outlets
6 was associated with a 4.4 increase in violent crime,
7 compared to (inaudible) on-site. This convenience store
8 would be an example of an off-site outlet. Research
9 repeatedly shows that greater access to outlets is
10 associated with violent crime, Pamela says.

11 Reverend Eric Lee of Park Heights said the
12 academics documented that he and his neighbors witnessed
13 daily. People are just loitering and hanging around,
14 engaging in criminal activities, he said. If you have
15 children who have to walk through that, ride their bikes
16 through that, not only is there a probability of them
17 being offered drugs or alcohol, that element becomes
18 normalized in a child's mind. The normalization of
19 criminal activities should not be the standard that our
20 children must see every day.

21 And I know that holds very much true to
22 Owensboro and this community.

23 Crime data between 2012 and 2015 covering
24 offenses reported within 1500 feet of off-site outlets
25 report that in an area around the business there was an

1 increase in the number of assaults, drug offenses, number
2 of public intoxication arrests, and an increase in
3 vandalism in the first year of allowing alcohol sales.

4 Wrapping up, community interest should be - -
5 I'm sorry. Excuse me. Community interest should dictate
6 local policy and the potential benefit of reduced violence
7 outweigh any potential harm that the banning or limitation
8 of such sales would create.

9 Thank you for your time and I ask that you
10 please take our children, our neighborhood and community
11 in consideration when voting on this matter.

12 CHAIRMAN: Anyone else?

13 Yes, sir.

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

16 MR. HENDERSON: I'm Earl Henderson and I live on
17 Strike The Gold Court.

18 (Earl Henderson sworn by attorney.)

19 MR. HENDERSON: I'm not an accomplished speaker
20 like some of these folks. I'm just an ole country boy
21 that had a house built out there 28 years ago and I moved
22 in and it was just a quiet little country road then. We
23 had a Shell gas station. Had a grocery store. But how
24 it's boomed. You can't get up and down that road now.
25 But anyhow, let me - -

1 You're going to find out right quick that I'm a
2 teetotaler. I don't believe in none of that stuff. I've
3 seen what it can do. I've seen what it has done to my
4 family. When I was a young man back in the fifties,
5 Owensboro had a Blue Law that nothing, nothing was sold on
6 Sunday. If you wanted a gallon of gas, you had to go to
7 Gipes down on the corner of Fourth and Locust to get your
8 gas. If you wanted a loaf of bread you had to go to
9 Sikes' Market out on Triplett Street that had a tree
10 growing up through the middle of it. Owensboro was a
11 quiet, peaceful, happy town. But then we started changing
12 and we got some people in office that I don't know if it
13 was their belief, the way they was raised at home, their
14 faith, I don't know what it was, but they started getting
15 control of Owensboro. Commissioners, mayors, judge
16 executives, big people, big people. And they started
17 changing Owensboro quick. And before you know it, we had
18 change coming to Owensboro. Restaurants started coming to
19 Owensboro; and any of them that's any good wanted a bar.
20 They got it. Hotels, motels wanted a bar. They got it.
21 We built a Riverpark Center with taxpayers' money; and the
22 first thing they done, socked a bar in there. We had our
23 Bar-B-Q Festival. We put up a tent for drinking beer. We
24 built a Civic Center. Got a bar in there. Built a
25 Bluegrass Museum Hall of Fame. Got a bar in there. Our

1 town has gone to a drinking town. And you can't even go
2 into a decent restaurant in this town to eat without
3 passing a bar. You can't walk into a decent - - I can't
4 even go to church where I want to go to church without
5 walking past a bar to go back to where we have church.

6 Times has changed. Times has changed. We've
7 gone to a city that used to be quiet. Kids could ride
8 their bicycles at night out on the sidewalk, play in their
9 yard, camp out in the backyard underneath the picnic table
10 to now you don't let them out of your sight. You'd better
11 watch them every second.

12 And the biggest part of that, I think, is
13 alcohol. Yes, drugs has a lot to do with that, but
14 alcohol has killed more people than wars, car wrecks,
15 cancer put together. It's a killer. And you can't sit
16 there and tell me we need another outlet for alcohol in
17 this town. We don't, and you know we don't. You can't go
18 into a grocery store without passing by the alcohol part.
19 You can't go to Wal-Mart, anywhere without the alcohol
20 part. And it's just gone rampant. Back in the fifties
21 there was 12, so I was told, outlets for getting alcohol
22 in Owensboro. And they had an alcoholic commissioner
23 named Waylon Givens that controlled all of it. And to get
24 a license to sell alcohol, buddy, you had to be ready to
25 spend some money and buy one out that's already in

1 existence and then move it where you wanted it. But not
2 anymore. All you got to do is ask for it. You got it.
3 You got it.

4 So what's this for? To make the rich man's
5 dollar bill stretch into two regardless of how many it
6 kills, how many it hurts, how many it maims, how many
7 homes is broken up.

8 You know, out there on Bold Forbes Way and 54
9 where they're wanting to build this, right across the
10 highway is a little Baptist church over there that's been
11 there for years. I'm sure they don't want that place in
12 their face. And it will be right in their face.

13 You swing around just a little bit, at the
14 intersection of Bold Forbes Way and 54, people, if you
15 make that the main entrance in and out of this place,
16 you're going to kill a bunch of people. I've almost got
17 killed twice there myself. Go out there and stop in the
18 middle of 54 like you're going to turn in, and let these
19 cars go zooming past you running 60 and 70 mile an hour.
20 They ain't that far from you. I mean your heart will come
21 up in your mouth. If you don't get a stoplight in there
22 or do something, if you do this, some people is going to
23 get killed. Take my word for it.

24 You swing right on around a little bit further,
25 there's a daycare for children right in the face of this

1 place. Right in the face of it. You swing around just a
2 little bit further, there's Majestic Prince with these
3 people up on a ridge going to have to look straight down
4 in that place and hear the noise and hear the motors and
5 hear the screeching of tires and hear probably the
6 fighting outside. And you swing right on around a little
7 bit further, there's going to be a few more acres around
8 there. Is it going to be zoned to where a restaurant can
9 come in there with more alcohol or is there going to be
10 alcohol come into that?

11 No, I'll sit down. I've said enough. But I'm
12 opposed to it. It ain't right. And there's not one of
13 you all can tell me that the people out there will be
14 better off by having a gas station, grocery store, beer
15 joint out there. And what happens down the road if
16 Kentucky does like some of these other states, legalizes
17 marijuana? Are they going to get a little marijuana in
18 there? Then people can go in there and get their booze,
19 get their marijuana, go out and sit in the car and get
20 high, get drunk with these people all just looking
21 straight down on them and putting up with that.

22 I've had my say. Thank you. But there's one
23 more thing I'd like to ask you. Who is Hercules Oil
24 Company? Does Mr. Thompson own any of that or all of it?

25 CHAIRMAN: Hercules?

1 MR. HENDERSON: Uh-huh.

2 CHAIRMAN: Mr. Sullivan, any idea?

3 MR. SULLIVAN: I'm too young to remember. I
4 don't know who owns Hercules. Newcomb Oil is the
5 applicant for the Five Star station that we're talking
6 about tonight. I don't know anything about Hercules.

7 MR. HENDERSON: Thank you. I'm sorry I took up
8 your time.

9 CHAIRMAN: Thank you, sir.

10 MR. SULLIVAN: That's that fellow who used to
11 own Diamond Lake that owned Hercules.

12 CHAIRMAN: Anyone else like to speak to the
13 matter?

14 Yes, sir.

15 MS. KNIGHT: Sir, can you please state your name
16 for the record?

17 MR. MATTINGLY: My name is Charles Mattingly. I
18 live at 3300 Majestic Prince Drive.

19 (Charles Mattingly sworn by attorney.)

20 MR. MATTINGLY: I'd like to qualify my opening
21 statement by saying that I am the oldest landlord in
22 Thorobred East. I was the second person to buy property
23 there, in 1976, when the subdivision was developed by
24 Tommy Thompson. So I've got a lot of history about that.
25 I've seen a lot of good things happening there over these

1 years, been very pleased to live in Thorobred East. We've
2 had one or two bumps in the road in trying to get along
3 with the developer in regard to activities that were
4 initially promised when they were starting to develop that
5 subdivision. I know there have been several references
6 made to what it was intended to be. And all I have is a
7 picture that was in the paper. I can present that to the
8 commission if you would like, but I want to retain this.
9 It shows a very nice looking little village, so to speak,
10 in the front where the commercial area was. Somebody has
11 already mentioned some of the statements that were made
12 about a full-service grocery store and hardware store,
13 dryclean store. That was started with the original store
14 that was, I think, called Larry's Little Giant. Over time
15 that went away; and for many, many years that building sat
16 there empty. And now, we've got a very nice-looking
17 fitness center that is well-maintained in that area. So I
18 personally look at that as being a positive improvement,
19 not negative.

20 But I want to remind this commission of a - -
21 this is the second time that I've had to speak before the
22 commission. There was another time back in 1996, I think
23 it was, '97 maybe, where there was an effort to put a
24 Burger King on this same property. And at that point in
25 time the commission listened to the property owners like

1 you're doing now and a decision was made by them denying
2 the Burger King property or the Burger King business to be
3 placed on the same property that we're talking about
4 today. And I've got several excerpts in there. This is
5 from an attorney that was hired by a group of people there
6 at Thorobred East to fight that Burger King development,
7 and this is one statement that I want to read and I want
8 to - - I want to present the question to the commission,
9 what has changed? One thing has changed, you all are not
10 the same commission that was here in 1996. I've looked
11 through the names and I've compared the names with people
12 that were here in '96, and none of you were here. I was.
13 And many of the people in the audience were also here. So
14 we know what decision was made by the Planning and Zoning
15 Commission at that date regarding a commercial business
16 called Burger King.

17 I'm going to read this one sentence here. The
18 decision - - okay. All the way to "development plan may
19 otherwise comply with requirements of the zoning
20 ordinance. If it is found by the OMPC that there are
21 potential substantial traffic problems relating to the
22 development of the subject property, the plan may be
23 disapproved. The decision of the OMPC on March 13, 1997
24 to disapprove the final development plan of applicants was
25 based upon evidence that a fast food restaurant is a high

1 traffic generator, that there is existing bad traffic flow
2 at the intersection of Bold Forbes Way and Kentucky 54."

3 I don't think there's anybody in this room that
4 would disagree that a large gas station is going to be an
5 equally high traffic generator. That's why I, once again,
6 pose the question, what has changed? Today - - before I
7 do that, let me read one more sentence here.

8 This goes on to say that "to approve the
9 development plan would have an adverse effect on existing
10 traffic and would further potentially create a future
11 dangerous situation."

12 Now, the dangerous situation that they're
13 talking about, the traffic, which this gentleman just made
14 reference to. One of my objectives in talking or speaking
15 with you tonight would be to try to get you all to
16 encourage the State. And I know it's not your decision.
17 It's the State's decision. The State has not done a good
18 job for the residents of Thorobred East since 1976. It
19 never has been a safe intersection. People are coming off
20 the top of that hill - - the speed limit, by the way, is
21 55 miles an hour. Nobody goes 55 miles an hour coming
22 down that hill. They're all going 65 to 70. When you get
23 to the area right directly in front of Ole South Bar-B-Q,
24 the speed limit is reduced to 45 miles an hour. That is
25 nothing but a high traffic area through there, and 45

1 miles an hour is too fast. We desperately need a traffic
2 light at that intersection. And we tried years and years
3 ago, back in the '90s, to get it. The State never would
4 agree that there was sufficient traffic flow there to
5 require a traffic light. Again, I pose the question, what
6 has changed? Particularly in regard to traffic and the
7 safety of the people that live in Thorobred East, their
8 children, the school buses that drive in and out through
9 that intersection every day, as well as the people that
10 are going to and from work that are having to pass that
11 intersection of Thorobred East and Highway 54. What has
12 changed?

13 Today I drove down that little two-mile stretch
14 that starts with the development of The Springs there on
15 54, right as you start to leave the main city limits, all
16 the way out to Franey's store there at the Thruston
17 Dermont Road intersection. That's just about two miles.
18 Back when the subdivision was started, back in '76, I know
19 Wal-Mart was not there at that time. I think Wal-Mart was
20 put in around 2005. Not sure of that date, but it's
21 somewhere near that. I'm not sure when some of these new
22 subdivisions were built, but I know they've all came after
23 Thorobred East. Thorobred East was the first major
24 subdivision on Highway 54 just outside the city limits.
25 We were the only subdivision and are today the only

1 subdivision out there that does not have a neighborhood
2 association. We didn't have a need for that. That
3 neighborhood association was developed by this commission
4 after Thorobred East was started. So there were maybe - -
5 I can't think of a single restaurant that was out there at
6 that time. And I go back even to 1996 when this
7 commission determined that it was not proper to have that
8 type of business at that intersection due to the
9 potentially unsafe conditions that existed at that
10 intersection.

11 Today, I counted the number of restaurants that
12 are in that two-mile stretch right on 54. I counted 14
13 restaurants that serve alcohol. I bring alcohol up
14 because it's already been discussed at this meeting.
15 There are 24 restaurants in that two-mile section that do
16 not serve alcohol. Typical McDonald's, Arby's, Taco Bell,
17 places like that. There are four package liquor stores in
18 that two-mile stretch. There's one bar. I think the name
19 of it is Legends. That one bar is half a mile away from
20 me, and in the summertime it irritates me at night because
21 of the music they're playing. And I live a half a mile
22 away.

23 There are currently three gas stations similar
24 to the Five Star station that is proposed that currently
25 serve alcohol. They don't serve alcohol. They sell malt

1 beverages. So it's not the hard liquor, but it's beer and
2 wine. There are two that do not have any alcohol products
3 at all.

4 So I get back to my point: What has changed?
5 That's a large number of businesses, a large number of
6 traffic, a large number of people that are in Lake Forest,
7 that is in Woodlands, that's in Woodland Crossings, that's
8 in Countryside, as well as the increased population that
9 has developed around Whitesville and Fordsville that's
10 using that access into the city limits every single day.
11 What has changed is the traffic conditions in 1976 that
12 was discussed in 1996 by this commission has multiplied
13 probably tenfold. And the discussion earlier about
14 traffic, at 5:00, it takes you 30 minutes to go those two
15 miles. That's due to traffic lights and congestion.

16 So, back to my original point: What has
17 changed? The safety and the concern of safety of
18 everybody using that has changed dramatically due to the
19 increased population, the increased business. And all
20 this would do would be further aggravate that condition
21 with more and more people using that single intersection
22 to access this new business. Thank you.

23 CHAIRMAN: Thank you, Mr. Mattingly.

24 Mr. Sullivan, if you would. Question, please.

25 MR. SULLIVAN: Yes, sir.

1 CHAIRMAN: In the report it mentioned that the
2 Kentucky Transportation Cabinet has reviewed this and said
3 it's okay. They're going to study it for a year, and if
4 there's a problem with traffic or increased traffic
5 they're going to make that intersection right in, right
6 out? Is that correct?

7 MR. SULLIVAN: That's what it says. And not
8 only that, Newcomb Oil has to post a bond to guarantee
9 that if there's work that needs to be done they've already
10 posted the money to do the work. I don't know if you want
11 me to address anything more at this point.

12 CHAIRMAN: Just whether or not that may help
13 with the traffic getting in and out?

14 MR. SULLIVAN: And I've got some more things to
15 say, but Mr. Miles, Brad Miles from Newcomb Oil may have
16 some light to shed on it.

17 CHAIR: Mr. Miles?

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

19 MR. MILES: I'm Brad Miles with Newcomb Oil
20 Company.

21 (Brad Miles sworn by attorney.)

22 MR. MILES: The KYTC, they recommended that our
23 entrance onto Bold Forbes becomes a right in, right out,
24 not Bold Forbes Way itself. So what they would do is,
25 they're going to inspect it for a year and then after that

1 year or within that year if there's a problem then
2 they'll - - we got to pay to have that median, that
3 concrete median that's next to the sign there, we'll pull
4 that median back to 54 so that cars can't make a left turn
5 into our entrance there. So that will keep people from -
6 - if there is a problem, that will keep people from, you
7 know, traveling into our gas canopy there from Bold Forbes
8 Way. It would be impossible to.

9 So I just wanted to clarify that because I'm not
10 for sure everybody understands that.

11 CHAIRMAN: Thank you.

12 Yes, sir?

13 MR. QUISENBERRY: I've got a question
14 concerning - -

15 CHAIRMAN: Sir, if you would - -

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

18 MR. QUISENBERRY: Carroll Quisenberry; and it's
19 Carroll with two R's and two L's.

20 (Carroll Quisenberry sworn by attorney.)

21 MR. QUISENBERRY: Mr. Miles, the question I
22 wanted to ask you was, you're talking about after a period
23 of time the island in the middle would be maybe extended
24 on out to 54 so people coming in from the east side of 54
25 couldn't turn in Thorobred East and then turn into Five

1 Star, correct?

2 MR. MILES: Yes.

3 MR. QUISENBERRY: I'm the one that talked to
4 you.

5 MR. MILES: Are you talking to me? Who are you
6 talking to?

7 MR. QUISENBERRY: No. The gentleman in the blue
8 shirt that just spoke.

9 MR. SULLIVAN: Jim Riney is the engineer doing
10 the work on the project, and he might be best able to
11 answer your questions. So Jim is going to come up and
12 answer.

13 MR. QUISENBERRY: Okay. Well, I've spoken
14 with - - I think I talked with you last week.

15 MR. RINEY: Yes, sir.

16 MR. QUISENBERRY: Okay.

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

19 MR. RINEY: Jim Riney.

20 (Jim Riney sworn by attorney.)

21 MR. RINEY: Just to paint a better mental
22 picture for you, because there was a little confusion when
23 the Highway Department was trying to describe. A picture
24 is worth a thousand words. Visualize as you come in off
25 of 54 there's a median there with a sign. Then there's a

1 curb cut or an entrance where you turn into the drive that
2 goes back to Planet Fitness. And then north of that is a
3 little bulldozed median that branches out into more of an
4 island with trees. That bulldozed median that's north of
5 the entrance into Planet Fitness, what you see today, will
6 be extended toward 54. There's nothing going into 54.
7 And the function of that is, the Highway Department sees
8 that, is it cuts off that entrance so traffic coming in,
9 moving north on Bold Forbes Way off of 54 cannot turn into
10 that drive that's been there for years. Back to Ace
11 Hardware, whatever it was. They would have to come on up
12 into the subdivision and come in the back entrance. So
13 that's what they're talking about doing so that you
14 couldn't turn left and come into where Five Star would be.
15 I don't think that's in the best interest of the public
16 and the traffic count may not warrant it.

17 But let me go ahead and add to that, the
18 entrance, from an engineering perspective, the primary
19 entrance is going to be off Highway 54. There's an
20 entrance there now that goes into Planet Fitness. It's
21 going to be relocated as a shared entrance between Planet
22 Fitness and the Five Star. It will be wide enough for
23 traffic to come in, have a turn lane, so forth. That will
24 be the primary entrance. Just like - I'm a west county
25 boy - on West Parrish Avenue, there's the entrance people

1 use off of West Parrish Avenue. The secondary entrance is
2 the side road out there, whatever it is. I can't
3 remember. Parrish Plaza Drive, much like Bold Forbes.
4 And then there's another entrance in the rear that would
5 help the subdivision get in and out to minimize traffic
6 there. My point is that that median that would be
7 extended is the north side of that driveway, just so
8 everybody has the right mental picture, because it was
9 confusing when the Highway Department first started
10 talking about it. So I don't know if I've helped you, but
11 I've tried to make a mental picture for you.

12 CHAIRMAN: Actually, to get into this facility
13 you actually have two ways or three ways?

14 MR. RINEY: Three, sir.

15 CHAIRMAN: Off of 54, there's two off of 54, and
16 there's one in the back?

17 MR. RINEY: Well, Bold Forbes, I guess, is off
18 54, yes; the main entrance which is shared with Planet
19 Fitness and Five Star; and then there's a Majestic Prince
20 entrance.

21 CHAIRMAN: Did that answer any questions that
22 you may have had?

23 MR. QUISENBERRY: Not really. I mean, I heard
24 what he said, but I didn't realize there was an entrance
25 off of Majestic Prince into the thing. They're saying

1 there's not. And I own property on Plaudit Place which
2 backs up to the property that's being sold. And I've gone
3 around the back of the apartment that we own there. I
4 live in Thorobred East. And I've gone around the back of
5 that, those apartments there, and come back around on
6 Plaudit Place. I don't remember seeing an entrance in
7 there to Planet Fitness. There is none. Now, the part
8 you was talking about bringing the extension from where
9 the trees are in the median out, well, back out to Bold
10 Forbes, unless there was an entrance back over toward
11 Majestic Prince, the people coming that go out to 54,
12 there's a lot of people in Thorobred East use Planet
13 Fitness and they go in there off of Bold Forbes, right
14 straight in. And the gentleman I talked to in Bardstown
15 last week when I called him - - you're the gentleman,
16 right?

17 MR. MILES: Yes, sir.

18 MR. QUISENBERRY: He said they're going to move
19 the entryway - the gentleman just spoke - on 54 east up to
20 near the end of the parking lot on the east side of Planet
21 Fitness and bring that entrance there; and then people
22 from Bold Forbes, if they wanted to go to Planet Fitness,
23 they could go through their property. But if they closed
24 that off for people turning, say they come down 54 east
25 into that, they're not able to turn into Planet Fitness.

1 They'd have to go down. So people, if they block that
2 off, people that go from Thorobred East out to 54 in
3 there, instead of coming right back out to Bold Forbes the
4 way they do now, they'd have to cross two lanes of
5 westbound traffic to go 100 yards to turn back into their
6 subdivision which makes it even more dangerous.

7 CHAIRMAN: Thank you.

8 MR. QUISENBERRY: Like I say, your people, any
9 of you all live out 54, Thorobred East, Lake Forest area?
10 I don't see any members of the commission.

11 You do?

12 MR. BALL: I do.

13 MR. QUISENBERRY: Raise your hand. Thank you.

14 But it's a mess. One of the big problems is, we
15 have - - the more traffic lights you put in, the more you
16 congest traffic. And there's no control over the traffic
17 lights out there except the State, from Leitchfield Road
18 all the way out, except the one at The Springs. That's
19 the only traffic light that was not controlled by the
20 State. I talked to them a few months ago. And I know
21 traffic can be done a lot better if somebody would look at
22 it and see. It would save a lot of headaches for a lot of
23 people. Save a lot of congestion. It'd save a lot of
24 anger. If people, somebody - - you've got these monitors
25 up here. If somebody was monitoring the traffic in

1 Owensboro - - you know how bad it used to be out Frederica
2 Street. Take you 15 to 20 minutes going from the old
3 Texas Gas building out to Ritzy's one day. Traffic
4 lights, traffic lights, traffic lights. Nobody can move.

5 It's amazing how bad 54 is, even at lunch hour.
6 I don't know where everybody comes from, but they're there
7 because I live out there. Sometimes I go home for dinner
8 when I have an opportunity. But it's a mess out there the
9 way things are now. And the more we have out there, the
10 more congestion there is, the more trouble you have for
11 accidents.

12 I just want to say one other thing. I'm with
13 you about alcohol. I wish they'd do alcohol like they
14 done tobacco because it kills so many people. And I know
15 the word liquor was brought up. I know liquor is
16 considered different than beer. What do people usually
17 start on? They start on beer. Just like small drugs and
18 then go to the powerful drugs and it kills so many people.

19 My wife and I got married on Friday the 13th,
20 1971. Been 48 years. Anita Huff was our flower girl.
21 July of 1976, on Highway 69 - - her dad lived behind me my
22 whole life, a place in Hancock County. I knew their whole
23 family. Went to school with my buddy's wife. She was in
24 my brother's class. But they was going to a ballgame at
25 Vastwood. Her husband's buddy worked at NSA. He was

1 going to get off work and meet them there. Going around
2 the corner where Highway 69 goes in toward Hawesville,
3 they have what they call - - well, 65 now. A guy come
4 around there in a truck. Dorothy, the mother, four kids,
5 buddy's sister Virginia, and one little girl by the name
6 of Edge. There was five kids in the car. All of them was
7 killed but the little girl, Edge girl, sitting in the
8 back. Alcohol was involved. I mean alcohol is a bad drug
9 and we don't need more of it in our community. Thank you.

10 CHAIRMAN: Thank you.

11 Mr. Riney, if you would, I notice, I can see two
12 entrances. I don't see an entrance off of Majestic Prince
13 Court.

14 MR. RINEY: If whoever is operating the A/V, if
15 you could look, this is the proposed plan. Is that on
16 your all's screen?

17 CHAIRMAN: It is now.

18 MR. RINEY: It's a little unusual, but if the
19 chairman would allow me the privilege of walking up to the
20 monitor so I can help the neighborhood folks understand.

21 The primary entrance that I'm speaking of - - of
22 course I think everybody recognizes that this is Highway
23 54, towards the bottom. The existing entrance is over
24 here to the left, but the proposed entrance is outlined in
25 red and that's going to be the shared entrance to Planet

1 Fitness and Five Star. Then of course the entrance we're
2 talking about on Bold Forbes would stay the same, where it
3 goes back. The other proposed entrance is outlined in red
4 off of Majestic Prince. So you don't see that today, I
5 understand, but that's the proposed entrance for the
6 traffic flow to go in the neighborhood so they can come
7 in. This is the main entrance, the secondary entrance.
8 So hopefully, Mr. Chairman, that makes a little bit more
9 sense. It's not there today; we can't see it today. But
10 in Jim's mind, I can see it.

11 CHAIRMAN: Anyone else?

12 Yes?

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

15 MR. GRAY: Jordan Gray.

16 (Jordan Gray sworn by attorney.)

17 MR. GRAY: I live on Man O War Loop. Just to
18 paint what I would call a better picture, there's already
19 four entrances to Planet Fitness and it's a nightmare, so
20 I don't have a lot of faith in whoever is about to develop
21 whatever.

22 And for Newcomb Oil, I am kind of just curious,
23 do you plan on selling diesel fuel?

24 MR. MILES: We don't plan on having an isolated
25 diesel canopy like we do at our West Parrish store here in

1 Owensboro and our New Hartford store in Owensboro. You
2 know, we have just a gas, we call it a gas canopy. We're
3 showing, I think, eight gas pumps; and we haven't decided
4 yet whether one or two of those will be diesel, but
5 they're mostly for, you know, diesel trucks like duallys
6 and RVs and stuff like that. It won't have an isolated
7 truck canopy basically.

8 MR. GRAY: So you don't plan on having any
9 revenue from tractor-trailers?

10 MR. MILES: That's not our goal at this site.
11 It's just - - the site is not big enough, basically.

12 MR. GRAY: Okay. Also, has Newcomb Oil ever
13 developed a fueling station in a front yard before?

14 MR. MILES: We've developed them in lots very
15 similar to this one before, yes, that's zoned properly and
16 that's on a main highway. Yes, we have, on a site just
17 like this.

18 MR. GRAY: And the residents, were they very
19 welcoming to that?

20 MR. MILES: To be honest - -

21 MR. GRAY: Because I can't think of anywhere in
22 Owensboro where someone has to walk out their front door
23 and look at a fueling station.

24 MR. MILES: I mean we're here today to get it
25 rezoned. And it's zoned B-4 right now, and it's on the

1 road. It's on the main travel fare. And that's our
2 intentions.

3 MR. GRAY: Okay. Well, I got another general
4 statement. I don't think in the '70s, the way that the
5 development of the neighborhood went, there was a plan to
6 have homes facing a commercial property where you walk out
7 your front door and face a commercial property. I'd like
8 to think that whoever started Thompson Homes, started
9 their development, that wasn't in sight, where you
10 wouldn't have homes facing what I would call a future
11 commercial development.

12 CHAIRMAN: Thank you, sir.

13 Next?

14 Yes, step up.

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

17 MR. MORRIS: Lance Morris.

18 (Lance Morris sworn by attorney.)

19 MR. MORRIS: Actually, I have a couple
20 questions. Forgive me, I'm a little bit nervous. I don't
21 do this very much.

22 CHAIRMAN: That's two of us.

23 MR. MORRIS: What was the date of the last
24 traffic study that was specific to Thorobred East or the
25 area directly related?

1 CHAIRMAN: Do we have, Brian, do we have
2 information along those lines?

3 MR. HOWARD: I don't know.

4 CHAIRMAN: Can't answer the question.

5 MR. MORRIS: Does the gentleman, call him a
6 lawyer, do you have that?

7 CHAIRMAN: Mr. Sullivan, do you have an answer
8 for that?

9 MR. SULLIVAN: No.

10 CHAIRMAN: We don't have an answer for you.

11 MR. MORRIS: My second question: Has this
12 change already been decided/voted on; and if not, what
13 would it take to stop this change as stated?

14 CHAIRMAN: To answer, it hasn't been voted it.
15 It will be voted on tonight. To get it to not pass, these
16 commissioners would have to vote it down.

17 MR. MORRIS: A majority of the commissioners?

18 CHAIRMAN: Yes.

19 MR. MORRIS: Okay. Thank you.

20 CHAIRMAN: Next?

21 MR. THOMPSON: My name is Andy Thompson.

22 (Andy Thompson sworn by attorney.)

23 MR. THOMPSON: I've lived in Thorobred East, on
24 Buchanan Court, for 22 years. I've raised or still are
25 raising two kids there. I'd like to say that whenever you

1 drive through our neighborhood there's not a time that you
2 can't see a person walking with their family, walking
3 pets, kids riding bicycles. This proposed change with
4 your entrances is not really going to slow down anything
5 in Thorobred East. I think people have failed to remember
6 that we still have Normandy Heights entrance also which
7 also directs traffic through Thorobred East at the Bold
8 Forbes entrance and exit. So I would like to bring that
9 up, that this is not just going to slow down that but it's
10 also going to bring in added traffic off of Thruston
11 Dermont Road that people haven't thought about. There's
12 also it's not very well lit back there, there's low crime.
13 There's no need for street lights right now, but that's
14 all I got to say.

15 CHAIRMAN: Thank you.

16 Next?

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

19 MS. BIRKETT: Rebecca Gayle Birkett.

20 MS. KNIGHT: Can you spell the last name?

21 MS. BIRKETT: Birkett, B-i-r-k-e-t-t.

22 MS. KNIGHT: Thank you.

23 (Rebecca Birkett sworn by attorney.)

24 MS. BIRKETT: This is kind of new to me. I
25 never really took debate in school. And basically I

1 actually live in the back of the neighborhood. I live in
2 Hillgail Court. I am in probably the most secluded area.
3 I live next to a field, have a couple of neighbors next to
4 me. We all get along great. I've loved that
5 neighborhood. I've actually lived in that neighborhood
6 since I was three years old. I rode my bike there. I
7 walked through back yards at night by myself and I never
8 was afraid. Never. My parents never had any fear that I
9 wasn't going to make it home. My friends and I went far
10 away from our houses. We'd ride our bikes from Normandy
11 Heights all the way to Thorobred East and all the way
12 back.

13 I've delivered mail there. I've delivered mail
14 all over the east side of Owensboro. I've seen traffic
15 change just by the 54 development. I delivered mail for
16 four years; actually, right before Planet Fitness came in
17 and then right as it came in as well. Just from that,
18 people have started taking our neighborhood as a shortcut
19 to get from 54 to Thruston Dermont Road. It's gotten
20 worse because people have realized that they can go
21 through the neighborhood. That has also caused people to
22 ignore the 25-mile-an-hour signs, to almost hit children.
23 I've witnessed it in my little mail truck. They almost
24 hit the mail truck which parked on the side of the road,
25 blinking lights. People don't pay attention when they go

1 through there. They don't think these are people's homes.
2 They think this is the fastest way for me to get where I
3 need to go. That's all people are concerned about
4 anymore, is how can I get there fast.

5 Actually, just from the children's, the little
6 daycare center there, I've seen people come from 54 and
7 they flip around and they drive through the wrong way to
8 get back out. That's almost caused several accidents
9 there. I don't want more people going in there and doing
10 the exact same thing to try to get out or some parent who
11 just dropped their child off to be headed out that way and
12 somebody who just got gas and is looking down at a receipt
13 or something to turn off and hit somebody else.

14 Accidents have happened at Planet Fitness too.
15 There have been a lot of accidents just coming out of
16 Planet Fitness onto 54. That shows you how little people
17 are paying attention, even when you're hyped up on
18 adrenaline and you're supposed to be able to see things
19 more because you're in fight or flight.

20 In 1977, I was only six years old, so I had - -
21 or in 1997, I was only six years old, so I had nothing to
22 do with any of the fight on Burger King. But what I will
23 say is that I still agree with the foundations that were
24 set then. I still agree with the foundations that were
25 set at the beginning because what is to say that if we

1 take the bans away for the alcohol that somebody doesn't
2 go out of business and then, oh, somebody moves in; oh,
3 there's no ban on liquor; let's go ahead and start selling
4 liquor here. Even if we lift that now and they don't sell
5 liquor, what's to stop somebody else from coming in there
6 and doing that?

7 Our neighborhood is a family neighborhood. I
8 personally have had a goal of raising children in that
9 neighborhood since I was, what, eight. I said I was going
10 to buy our old house and I was going to live there.

11 I have delivered mail in The Downs. And I know
12 this sounds like this has nothing to do with anything, but
13 since the development on 54 The Downs has also become a
14 shortcut to get places. The people that I have talked to
15 there while I was delivering my mail have also spoken of
16 how they loved their neighborhood and then all of the
17 sudden it was taken over by people just driving through;
18 45, 55, 60, trying to get where they want to go. They
19 don't care.

20 I'm a bus driver now, so I'm concerned about the
21 children. I've seen people blow stop signs and it's not
22 necessarily been the people in the neighborhoods. It's
23 been the people driving through the neighborhoods to get
24 where they want to go because they don't see that as their
25 children. They see that as, okay, the bus stopped. Some

1 kid is going to get out. Not my kid. Not my problem.

2 My mother actually had an experience of trying
3 to get from our house to The Springs, and it took her 20
4 minutes. That is uncalled for. For me, in the morning
5 when I get up at 4:45, I can get from our house all the
6 way to the bus garage in 12 minutes. That is without
7 traffic. In the afternoon, I have to leave 25 minutes
8 before I start and I'm still lucky if I get there on time.

9 I'm proud of my big small town. I cannot agree
10 with turning one of our best neighborhoods into a gas
11 station just with some homes behind it. What I would like
12 to suggest is that, if this is forced through, all
13 entrances to our neighborhood be closed off and no traffic
14 be allowed to go through because once one person finds out
15 that there is a way to get to Thruston Dermont that
16 doesn't already know it, 25 people will go through. And
17 when those 25 people tell those other 25 people, it will
18 just explode. We will not be safe. I can't - - I don't
19 even want my nephew and my niece to be walking down Bold
20 Forbes for fear that someone will come over that curve
21 going too fast up that hill or down that hill.

22 Thank you for listening. And I know we may not
23 have much sway here, but thank you.

24 CHAIRMAN: Thank you.

25 Anyone else?

1 Yes?

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

4 MR. HIGH: My name is Derek High. I live on
5 Shut Out Court in Thorobred East.

6 (Derek High sworn by attorney.)

7 MR. HIGH: I appreciate the opportunity to
8 address the commission. I'm mainly just here to kind of
9 come forth and express my opinion of the whole matter.
10 I'm not really well prepared. You'll have to forgive me.
11 I didn't bring any pre-prepared speeches or anything like
12 that. I'm just going to kind of speak my mind.

13 I've only lived in Thorobred East for slightly
14 over a year now. My wife and I bought our first home in
15 September or August of last year sometime. And, you know,
16 this was after we had moved back to Owensboro after a
17 couple of years living in Bowling Green. One of the
18 reasons that we left Bowling Green was actually traffic
19 related. It was almost impossible to get anywhere around
20 town in less than 30 minutes because, well, you couldn't
21 drive 10 yards without hitting a red light. And I'm
22 seeing a similar progression on Highway 54 for the future.
23 I originally had moved to Owensboro in 2011, so I've been
24 in this area for quite some time.

25 In regards to the development of that particular

1 parcel of land, I'm not going to stand up here and say
2 that it should never be developed. I'm fairly in support
3 of urban development. I have no problem with that.
4 However, we're talking specifically about conditions to
5 the zoning, you know, in terms of allowing sale of alcohol
6 and I think that is rather significant. You know, we
7 should be considering the implications of that. My
8 opinion of that matter is that, you know, we shouldn't be
9 removing those conditions but perhaps even strengthening
10 them. Because, like I said, one of the reasons we moved
11 into Thorobred East was because it was a neighborhood
12 that, driving by it every day for many years, always
13 caught my eye. It was very attractive. It was excellent
14 appeal from Highway 54. And I think that's one of, you
15 know, it's a first impression a lot of people have of
16 Thorobred East when passing by. You know, take myself and
17 my wife as an example. We decided to move into the
18 neighborhood based off of that first impression. So to
19 sour that image to the public by covering up the front of
20 it with - - you know, I'm going to say it. Gas stations
21 are unattractive. I don't care how nice they are.
22 They're unattractive. So covering up the face of our
23 neighborhood with a fueling station I think would result
24 in maybe not huge but some reduction in property value
25 over time, and that would - - that could be made much

1 worse of course if the conditions resulting from this
2 particular development were to worsen with regards to
3 traffic. Yes, I know that a lot of people try to turn
4 left out of Bold Forbes Way on to 54 in the mornings.
5 That's not an easy feat.

6 So I don't know if it's proposed - - I haven't
7 looked into this too much. I've only known about this for
8 a few days. I don't know if it's proposed to put in a
9 traffic light at that intersection. I'm guessing that's
10 what the year-long monitoring would entail. But how about
11 the entrance to Planet Fitness? I'm assuming that's going
12 to be made larger; or is that going to stay the same?

13 MR. SULLIVAN: I think, according to the plan,
14 it's actually off 54 there will be a joint access and it
15 will actually be moved east up 54. So this, what you see
16 up here - -

17 MR. HIGH: Is that the current?

18 MR. SULLIVAN: No. That's the - -

19 MR. MILES: Here's the current entrance and
20 here's the proposed entrance. So we're going to - -
21 they're going to remove that one and move it to here.

22 MR. HIGH: So I'm assuming that the exit from
23 that particular entrance is going to be a stop sign; or is
24 it going to be a traffic light?

25 MR. MILES: At that entrance?

1 MR. HIGH: Yes.

2 MR. SULLIVAN: It's like any entrance out of a
3 private business; only a stop sign there, but there won't
4 be a light. They'll have to yield to the 54 traffic.

5 MR. HIGH: Okay. And as difficult as that is to
6 take a left turn onto Highway 54 across the minimum of two
7 lanes of traffic going into the eastbound closest lane,
8 that would probably drive a lot of people to exit that
9 parking lot from the proposed rear entrance onto Majestic
10 Prince Drive. I'm sure that fellow neighbors on Majestic
11 Prince aren't too thrilled about that one.

12 So not only will we have congestion behind this
13 property as well as on the side of it if there's a problem
14 and that median has to be extended. You know, the traffic
15 could make that stretch of road from 54 on up to Majestic
16 Prince rather dangerous in general due to the increase in
17 vehicles that have to sit and wait just to make a turn.

18 A few of us here have discussed the stipulation
19 on alcohol sales. And my opinion on the alcohol sales is
20 that this establishment is right in front of a residential
21 neighborhood and this residential neighborhood, a lot of
22 younger couples moving into it, you know, myself and my
23 wife included. There are going to be children in this
24 neighborhood for the foreseeable future, indefinite amount
25 of time, as well as there being a daycare center right

1 there. I don't think it is appropriate to allow the sale
2 of alcohol so close to a residential neighborhood and a
3 daycare center. That's just my opinion. I don't agree
4 with that. I think that if this land were to be developed
5 - - which, again, I'm going to say again, I agree with
6 development. I have no problem with that. However,
7 whatever goes there I feel needs to be friendly to a
8 residential neighborhood because, again, it's right there
9 in front. It has to be attractive and it has to meet
10 certain requirements that we are not going to have a
11 problem with.

12 I plan on staying in the neighborhood as long as
13 I can. You know, I bought my home there with the
14 intention of not leaving. You know, this isn't a starter
15 home for me. I plan on staying a resident of Thorobred
16 East for the rest of my life hopefully. And I think it
17 would be a shame to see it take a turn, especially if some
18 of these scenarios play out where the convenience store
19 becomes a site for drug dealing and all of that. Nobody
20 likes that. And I understand those concerns. I have them
21 myself. I do worry about that. So, with that, I just
22 want to say, I appreciate you hearing me out.

23 CHAIRMAN: Thank you. Let me preface the next
24 one. If you want to speak on this subject, if you can,
25 perhaps something different that hasn't already been

1 addressed. I think we know enough about alcohol, traffic.

2 So, yes, sir.

3 MR. KELLY: Kenneth Kelly.

4 (Kenneth Kelly sworn by attorney.)

5 MR. KELLY: When you're talking about the

6 traffic, the safety, I live right on Majestic Prince.

7 Now, if you bring a street there, an outlet, you're going

8 to take it right back to Bold Forbes, it's got no place to

9 go. I mean, you don't have an outlet down the other way.

10 So when you come, what they're talking about, that outlet,

11 you can't come in off of Bold Forbes, you're going to have

12 to come in off of 54 and you're going to have to exit off

13 of Majestic Prince. And in the mornings these Five Stars

14 or any convenience store is packed with customers. And

15 you're going to back - - I mean, I've driven the school

16 bus out there and gone into this daycare.

17 And another thing that you haven't talked about

18 is they just broke ground for Daviess County Middle School

19 to go on Commonwealth. Now, what do you think that's

20 going to do with traffic? I mean, I don't have an

21 objection about - - I don't drink, but I don't have an

22 objection about alcohol because you can get alcohol

23 anywhere. But my thing is the safety with the traffic.

24 If you would just, people would just look at that. That

25 one entrance, real quick, off of 54, when you're going to

1 go to Ralph Avenue, there ain't no telling how many
2 head-on collisions people getting in this turning lane and
3 people getting to come to Planet Fitness. Now, if you're
4 going to start putting people going to Five Star, you're
5 going to have traffic backed up to Wal-Mart. And that's
6 just my concern, is the safety of it. And with the new
7 school going in, that's going to even triple the traffic
8 out there. And that's all I got to say. Thank you.

9 CHAIRMAN: Thank you.

10 Anyone else?

11 Yes, sir?

12 MR. MORRIS: My name is Lance Morris, and I do.

13 MS. KNIGHT: You've been previously sworn.

14 MR. MORRIS: Thank you for answering the
15 questions earlier. It is not my intention to embarrass
16 anybody in this at all. I do have two questions and a
17 statement.

18 How many - - and you choose whether or not you
19 want to raise your hand. How many of you all have come
20 out to east 54 and watched the traffic early in the
21 morning? I come out every morning a little bit before
22 7:00 or so and I watch the traffic coming from the east
23 end on 54. Reasonably high rate of speed. Yes, that can
24 be taken care of. However, I notice there's a lot of
25 traffic that comes in there and as it gets down to Wimsatt

1 Court, it backs up. Backed up bad enough that they
2 actually had to put a sign on the road, literally painted
3 on the road, "Don't block Wimsatt Court."

4 Okay. So, came from Lexington. I think I know
5 what bad traffic looks like. One of the things, no one
6 knows when the date of the last traffic study was done.
7 Should a vote be taken without knowing how old the last
8 study was done since so very much change has occurred
9 shall we say in the recent past? Might it seem more than
10 a little hurried, possibly a little careless, if you pass
11 this without knowing how old that study is? Without
12 knowing, it may well be 10 years or more old. That's it.

13 CHAIRMAN: Thank you. Thank you very much.

14 Time for another one?

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

17 MR. BURKLOW: Jimmy Burklow.

18 (Jimmy Burklow sworn by attorney.)

19 MR. BURKLOW: Well, I was talking about this.
20 They're going to bring that exit out and it's going to be
21 right in front of my house when they come over on Majestic
22 Prince there. And also, nobody has ever mentioned
23 anything about the safety on 54. We sit there at night
24 and ambulances fly up and down 54 all night long. We've
25 had high as four and five ambulances go by; and nobody has

1 ever said anything about there's one person already got
2 killed right there going in to Planet Fitness. They tried
3 to miss traffic, went down in that ditch, and killed him
4 right there. I mean, nobody has ever mentioned all that.
5 And we also have animals going across. There's deer that
6 goes across there. There's been three been hit since
7 September, just this year. And the fire trucks are always
8 going up and down through there too, and they have to
9 dodge all this traffic. It's getting worse. And police,
10 they're having to dodge all this traffic and everything.
11 I mean, it's terrible out there. That's all I've got to
12 say.

13 CHAIRMAN: Appreciate it.

14 Any new information that we need to hear?

15 We've got one right here. Go ahead.

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

18 MS. FARREN: My name is Doris Farren.

19 (Doris Farren sworn by attorney.)

20 MS. FARREN: I haven't lived in Thorobred East
21 as long as Mr. Henderson and Mr. Mattingly have, but I
22 have been there 32 years. I've enjoyed it. It's a nice
23 subdivision. It's a clean subdivision. It's a family
24 subdivision.

25 I look at your maps, and thing that disturbs me

1 the most - and maybe I am wrong, which we all have been
2 before - are you closing the entrance there on Bold
3 Forbes? So, in other words, you're going to have one
4 there going into your business and then there's also you
5 can turn and go into Thorobred East on Bold Forbes from
6 54; or is that being closed?

7 MR. SULLIVAN: Bold Forbes is not being closed.
8 I don't know if that's your question.

9 MS. FARREN: That is.

10 MR. SULLIVAN: Bold Forbes remains open.

11 MS. FARREN: It will remain open to 54 or will
12 remain open to - -

13 MR. SULLIVAN: You will be able to - - Bold
14 Forbes is going to remain open. You can go from 54 down
15 Bold Forbes to Thorobred East.

16 MS. FARREN: Because if you look at your little
17 map up there, it actually looks like that Bold Forbes on
18 the right and this entrance here is for your service
19 station.

20 MR. MILES: Off 54, yes, ma'am.

21 MS. FARRON: Off 54. And then over there is
22 Bold Forbes coming onto 54. And it will continue to come
23 off of there, so you're going to have two places really
24 close together.

25 CHAIRMAN: Excuse me. If you would, speak into

1 the mic so we can record it.

2 MS. FARREN: I'm sorry.

3 CHAIRMAN: That's okay.

4 MS. FARREN: I'm trying to look at this thing
5 too.

6 So what I'm trying to say, Mr. Moore, is it
7 looks - - the way that looks, it looks like you can go in
8 off of 54 and to their business. That's one entrance.
9 Okay?

10 CHAIRMAN: Okay.

11 MS. FARREN: Then it also looks like you have to
12 go around there to get to Bold Forbes to get back into the
13 rest of our subdivision. I might be wrong. Now then,
14 they say Bold Forbes will stay open.

15 CHAIRMAN: It will stay open. You can go back
16 to the subdivision. You can turn left into the
17 convenience store or into Planet Fitness.

18 MS. FARREN: Okay. Like there's a street there
19 now?

20 CHAIRMAN: Uh-huh.

21 MS. FARREN: The thing about it is, they're
22 right about the traffic. When I went there, there was
23 only a two-lane drive out through there. I am for
24 business. I am for development. I always have been. And
25 Mr. Thompson knows that for a fact because he knows me

1 personally. But the thing that bothers me the most is no
2 one - - like these gentlemen have already said, there
3 hasn't been a study for a long time. When I went there,
4 there was no Wal-Mart. There was no anything else. No
5 Kohl's. Nothing. Absolutely nothing. It was two lanes.
6 It's now four lanes and a turning signal. You're lucky if
7 the traffic is not backed up all the way to Ole South and
8 Planet Fitness half of the time. It's bad. It really is.

9 And I enjoy getting out and going behind my
10 subdivision, seeing things, but I'm scared to death. I am
11 truly scared to death because I - - there was a kid killed
12 right over there at Planet Fitness with all this traffic.
13 Big accident over there. There's more than anyone can
14 really believe until you live there. I bet you that if
15 the people from down the road there, from Lake Forest was
16 going to have all this in their front door, this place
17 would be packed. We are a small subdivision, but we are a
18 family subdivision. We look after each other. We look
19 after you on this board, which I know you from Owensboro
20 High School. I know him.

21 How are you, Manuel?

22 MR. BALL: Good.

23 MS. FARREN: But it don't take away the
24 smallness and inconsistency of a good subdivision that was
25 developed many years ago probably not by Tommy but by

1 Bill, his dad, who I respected more than anyone will ever
2 know. But don't take away that for something so large
3 that it's going to have such an impact on so many people
4 that it's going to be dangerous. And I thank you for
5 letting me speak.

6 CHAIRMAN: Thank you.

7 MR. HENDERSON: Earl Henderson.

8 CHAIRMAN: Mr. Henderson?

9 MR. HENDERSON: There's one other quick thing.
10 We've all addressed everything on this side of 54. Let's
11 go over on the other side. You go out Bold Forbes and
12 stop at 54. Right straight across 54, there's a big, nice
13 brick home up there on the hill and there's probably three
14 to five hundred foot of road frontage on 54 that goes with
15 that home. And I think there's a big farm right behind it
16 that goes with that home. There's a big cornfield back
17 there. Some day, somebody is going to want to develop
18 that and they're going to buy it. Then, what on Earth are
19 you going to do? They're going to bulldoze that hill
20 down. They're going to put a subdivision back there.
21 They're going to put a shopping mall back in there.
22 They're going to put no-telling-what directly across the
23 street, across 54, from us. Bold Forbes. Think about
24 that. If a gas station is already built, what are you
25 going to do then? Thank you.

1 CHAIRMAN: Thank you, Mr. Henderson.

2 Anything else?

3 Yes, ma'am?

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

6 MS. TAYLOR: I'm Kathy Taylor. Live on Strike
7 The Gold Court.

8 (Kathy Taylor sworn by attorney.)

9 MS. TAYLOR: I just have another thing that I
10 wanted to address. If you build this gas station and for
11 some reason it goes out of business, then we're going to
12 have this building there like we do where the Waffle House
13 is; because I live right by that, and it's a nightmare.
14 People congregate. I've had the sheriff's department out
15 there. So then if that happens, I don't want to be
16 negative, but if that was to happen, then we're going to
17 have that building to deal with. And then we have a strip
18 mall left when you turn left. They can't fill it. It's
19 empty buildings up there. So now you want to put another
20 one. So it's just something else to think about because -
21 - and another thing is, how can we appeal this? How can
22 we keep this from happening, all this from happening?

23 CHAIRMAN: Is that a question that you're
24 asking?

25 MS. TAYLOR: That's a question. Because you

1 already got a vote on it, but do we have a vote on it?

2 CHAIRMAN: What we have to do is to consider all
3 the information that we've received from you guys, all the
4 information we've received from the staff, and then make
5 hopefully a wise decision moving forward.

6 MS. TAYLOR: I'd appreciate if you really,
7 really consider our subdivision because it is a nice
8 place.

9 CHAIRMAN: Thank you.

10 Yes, sir?

11 MR. MERKLEY: Yes. My name is Tim Merkley and I
12 live at 3707 Strike The Gold Court.

13 (Tim Merkley sworn by attorney.)

14 MR. MERKLEY: My concern is - - you know, I
15 agree with everybody here about the traffic problems. My
16 main concern is we've got a daycare center that is going
17 to be right across from this. And maybe some people has
18 mentioned this, I don't know. Robberies. Gas stations,
19 convenience stores are robbed every day. You got to think
20 about what's going to happen when someone robs that gas
21 station. You got a daycare center over here. You got
22 little kids from infants to 12 years old at that daycare
23 center. You got to worry about their safety. So I just
24 want you all to consider that, please, because I love my
25 subdivision and I'd hate to see this happen. I really

1 would. Thank you.

2 CHAIRMAN: Thank you.

3 Anyone else with any new information?

4 Yes, sir?

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

7 MR. GOFF: Tim Goff.

8 (Tim Goff sworn by attorney.)

9 MR. GOFF: I'm just going to make the point
10 about the daycare there. Currently some of the families
11 come out of the neighborhood to drop their kids off and
12 they come down, rather than go around the island that's
13 there, they go down the wrong way on the incoming street
14 and turn into the daycare. Now, if the State comes back
15 and puts a wall in there a year from now, and we don't
16 know now, but if they do that, what are the parents going
17 to do? Go all the way up 54 and do a U-turn to come back
18 and drop their kids off? That's going to make it be even
19 more traffic and more of a mess. They'll have no other
20 option because the entrance to the daycare is past
21 Majestic Prince coming into Bold Forbes, so that would
22 block them off there. I think voting on this now, not
23 knowing what the State is going to do - - I think the wall
24 will go in because it's much closer here to 54 than the
25 one down at Fairview Drive. I would think for sure the

1 State is probably going to put a wall in there which will
2 cut off the neighbors coming out of the subdivision and
3 dropping their kids off because they'll have to come all
4 the way to 54 and do a U-turn and come back in. That's
5 just going to clog things up even more.

6 CHAIRMAN: Thank you, sir.

7 Anyone else?

8 Any of the commissioners have any questions or
9 concerns?

10 Commissioner Ball?

11 MR. BALL: So, a couple of questions. One, just
12 to clarify, the zoning of this property today is B-4, and
13 a convenience store can be located at this property
14 currently. The only condition is alcohol sales. Is that
15 correct?

16 CHAIRMAN: Mr. Howard?

17 MR. HOWARD: You're correct. The property is
18 zoned B-4 General Business right now. You know, what we
19 looked at, I mean, it's difficult for us because when the
20 property was rezoned in 1976, we then have to, you know,
21 read the transcript and get in the mind of what happened
22 then. But, you know, Mr. Thompson stated on the record,
23 we were talking about something along the lines of say a
24 convenience store, a drug store, barber shop, this kind of
25 stuff. So, you know, the fact that a convenience store

1 was specifically mentioned would lend us to believe that,
2 yes, a convenience store could be located there. But went
3 on to say, there will be no liquor here. So, you know,
4 that's where the question came in on our part.

5 MR. BALL: Second question. Am I still up? Is
6 that okay, Mr. Moore?

7 CHAIRMAN: Yes, sir.

8 MR. BALL: Just to be clear, I know we've had a
9 lot of concerns about traffic. I mean, that's obviously
10 something that we're all concerned about as well, is
11 traffic; but we do not have any control over traffic,
12 whether it be on Highway 54 or into the community. That
13 is something that is dictated by the State, and we have
14 put a note in the findings of fact that even though it is
15 not a traffic study, in essence the Kentucky State, I
16 think Kentucky Department of Transportation will be
17 studying the traffic in this area to see if it is
18 adequate. Is that correct?

19 MR. HOWARD: That is right. The State did not
20 require a traffic impact study for this. Like I said
21 earlier, this is a state road. If they - - we asked them
22 to review it, to provide comment. They did that; and the
23 information that they provided to us is included in the
24 Staff Report. So, yeah, I mean, but that's what we rely
25 on. You know, the question was asked about when the last

1 time a traffic study was done. So the Highway 54 corridor
2 has been studied immensely over the years as all of these
3 developments out Highway 54 have taken place. But when
4 was the last one done? Probably for the Gateway Commons
5 development that looked at the whole corridor. I know the
6 State looks at those and does analyses, but we don't drive
7 them. We don't tell the State to do a study. They do it,
8 they look at it, they analyze it. So, yeah, I mean, but
9 with the fact that there's a corridor project planned for
10 Highway 54 and things like that, I know the State looks at
11 this rather very carefully.

12 MR. BALL: But the State did not require a
13 traffic impact study?

14 MR. HOWARD: That is correct.

15 MR. BALL: Which if they were concerned, in
16 theory, if they were concerned about this as many other
17 projects we've seen here in the past, they would have
18 required a traffic impact study?

19 MR. HOWARD: Right. That would be our
20 assumption. You know, we rely on them. We had comments
21 from Taylor Franklin with the KYTC District 2 office down
22 in Madisonville.

23 MR. BALL: I guess the third thing I've got is
24 just an observation. We've heard a lot about alcohol
25 sales and how terrible they are. And I'm not here to

1 debate that one way or the other. This is the - - this is
2 the precinct that earlier this year actually was voted
3 wet; is that correct?

4 MR. HOWARD: I believe there was a vote out
5 there, yes. I mean we're not involved in that in any way,
6 shape or form. But, yeah, from my recollection of reading
7 the paper, yes, there was a wet/dry vote out in this area.

8 MR. BALL: I guess, based on my research, it
9 looks like there was about 537 voters in that precinct and
10 66 took part in that vote that actually did - - it
11 actually was voted wet.

12 I think that's all I've got.

13 CHAIRMAN: Thank you, Commissioner.

14 Anybody else?

15 Commissioner Boswell.

16 MR. BOSWELL: Thank you, Mr. Chairman. I've got
17 probably numerous questions, as Commissioner Ball had,
18 probably of the applicant I think at this point. I'm not
19 sure who would like to speak for the applicant.
20 Mr. Sullivan may be able to address some of these.

21 The first thing, I'd like to commend all the
22 folks who came. I think this is what our democracy is all
23 about, and I'm happy to see everyone here expressing their
24 feelings and telling the commissioners what they think and
25 how they feel about this. So thank you very much for

1 showing up.

2 In looking at the information from the 1976
3 meeting and the minutes, it appeared to me that there was
4 a good bit of discussion before the vote was taken around
5 the topography around the areas; the size, the density,
6 things of that nature. I noted there was a voluntary
7 statement made by Mr. Thompson or Mr. Thompson's father
8 I'm sure at that time, about withdrawing the - - making
9 sure there was no alcohol. There was some other
10 discussion that he alluded to as far as the density in the
11 area that was addressed by Director Anderson at that time.
12 A couple different options that the Director Anderson
13 actually presented before the vote. But those were the
14 only two things that I saw that really were part of that
15 original 1976 minutes. It looked like that they were
16 voluntary conditions that were made. I didn't really get
17 a sense of the density side of it. It looked like that
18 was sort of open-ended as far as that meeting was
19 concerned. Not knowing what fiscal court did whenever
20 they reviewed this, I'm not really at a point where I can
21 address that, but to me it looks like if those were the
22 conditions that were part of the vote, which it appeared
23 to be on what I have, when this migrated into a B-4, after
24 it went from B-1 to B-4, years ago, it doesn't seem to me
25 that those conditions would be a stopgap one way or the

1 other, if they were in or not on. I mean, is that what
2 I'm seeing here, that those conditions that I see really
3 didn't make much of a difference as far as what would be
4 put in there?

5 MR. SULLIVAN: Well, maybe Ms. Knight can give
6 you her legal opinion on that.

7 MR. HOWARD: I'm not a hundred percent sure I'm
8 exactly following what you're saying either, though. Can
9 you - -

10 MR. BOSWELL: I'm just trying to get a sense of
11 - - we're looking at B-4 without conditions. That doesn't
12 seem to me those conditions were really all that much of a
13 stopgap about what could be put in there at that point in
14 time. If it's B-4 today, and if that convenience store
15 would be allowed as B-4, I'm not sure where the conditions
16 one way or the other make much of a difference.

17 MS. KNIGHT: I'll take a stab at this if I
18 understand what you're asking. A lot of times in these
19 hearings, due to concerns of the neighbors or whatever the
20 case may be, it's before this commission and the applicant
21 is asked about agreeing to certain conditions on a zone.
22 They're not something that the commission necessarily
23 places themselves but that are agreed to. Once those are
24 agreed to and placed on the property, they stay with the
25 property. I guess your question is, it was B-1 back then.

1 Now it's B-4. Is that where - -

2 MR. BOSWELL: Yeah. B-1 then. It's B-4. If
3 the conditions that were there, unless the fiscal court
4 information shows something different, to me, doesn't seem
5 like it would make much of a difference today versus then.

6 MS. KNIGHT: Well, I think the B-1
7 classification then is the B-4 classification now.

8 MR. BOSWELL: Today, yes. Right. Yeah.

9 MS. KNIGHT: So I don't know that that makes
10 much of a difference as far as - -

11 MR. BOSWELL: Exactly. I guess that's what I'm
12 trying to get - -

13 MR. HOWARD: So the zoning nomenclature changed
14 in 1979, I believe. And you used to have an R-1 and an
15 R-2, and it changed to R-1A and things like that. So the
16 way that the different zones were named changed. But as
17 our legal counsel is saying, though, if there was a
18 condition placed on it at any point, I think her opinion,
19 our opinion would be that that stays with that property
20 even through just a nominal change, the change of the name
21 of the district.

22 MR. BOSWELL: All right. Thank you. That sort
23 of answers, I guess, part of the confusion that I've got.

24 If you could bring up that site map again. I
25 have a question concerning, in looking at this site map,

1 the two areas in blue, one would be the gas pump canopy at
2 first on the entrance; the second one would be the actual
3 building itself, the store, convenience store?

4 MR. SULLIVAN: Yes, sir.

5 MR. BOSWELL: Okay. The entrance off of 54, is
6 that the entrance that's being proposed that's in red,
7 coming off of 54?

8 MR. SULLIVAN: Okay. I'll pull a Mr. Riney.
9 May I approach?

10 MS. KNIGHT: Absolutely.

11 MR. SULLIVAN: That is a new entrance. There's
12 an existing entrance right here that will be closed. This
13 will be shared by Planet Fitness and the Five Star. I
14 will also point out that actually you can get to this, so
15 you know all the access points, you could actually turn
16 into I think it's Commonwealth Court and get over here.
17 And there's actually another entrance kind of to the west
18 of Planet Fitness that somebody could turn into and get to
19 the Five Star and still would be - -

20 MR. BOSWELL: Ole South is the one you're
21 referring to.

22 MR. SULLIVAN: Right. So there's actually three
23 off 54 that you could turn into to get to the Five Star
24 and Bold Forbes.

25 MR. BOSWELL: So theoretically that alleviates

1 some of the problem off of Bold Forbes.

2 MR. SULLIVAN: Those are all access points that
3 could be used, is all I wanted to point out.

4 MR. BOSWELL: Thank you.

5 The other question that I'm curious about is
6 actually around the how far back does that - - does that
7 store, is it going to be near or would it be near the
8 parking lot for Planet Fitness?

9 MR. SULLIVAN: I'll defer to somebody else
10 because I'm not exactly sure. If it would please the
11 commission, after Jim comes up and talks about this, Jim
12 has some information on traffic studies out on Highway 54
13 that I would like him to tell you all about.

14 MR. RINEY: Can the A/V go back to the - - okay.
15 Commissioner Boswell, the blue is the store, you
16 see. Then the green is the grass there, stormwater
17 retention. And then just to the west of that is the
18 parking lot, existing parking lot for Planet Fitness; and
19 it will remain the existing parking lot for Planet
20 Fitness.

21 MR. BOSWELL: Thank you. I couldn't tell. This
22 was so small, I couldn't tell for sure where the Planet
23 Fitness was at and the parking lot was at. Thank you.

24 MR. RINEY: If it please the commission, the
25 other comment that I've got, I can't speak for the Highway

1 Department, but I know the planning office is aware, we're
2 aware, the State Highway Department has done an extensive
3 study, traffic study, traffic impact and so forth in
4 preparation for the upgrade of Highway 54. A lot of the
5 concerns you heard from the citizens tonight in the
6 neighborhood were all founded on the basis for this
7 upgrade for Highway 54. Our firm today is working on
8 utility relocation for the upgrade of Highway 54 for water
9 and sewer. The plan that was developed, we received that
10 about sometime in 2018. That was just prior to the State
11 wrapping up their study. They had a public hearing. I
12 know that the planning office staff was aware of that. I
13 didn't bring any of the information tonight, so I cannot
14 quote you a number, but the five-lane improvement that you
15 see out there today has been in the newspaper and so
16 forth. It's designed for a seven- to eight-lane
17 improvement. It got cut by this administration's funding
18 pinch, but the study has been done. The folks on this
19 commission know how the Highway Department does business
20 and that they do a very thorough job. It's a contemporary
21 study. It showed the warrants for the extra lanes. It
22 did not show warrants for traffic lights. I know the
23 neighborhood is concerned about traffic, but the Highway
24 Department has to have warrants in order to justify
25 traffic synchronization. And that's one item they talked

1 about during the public hearing was there weren't enough
2 warrants for this location. But there were enough
3 warrants to design the thoroughfare and the intersecting
4 roads; and the plan that they provided to us to do
5 redesign for relocation of the utilities does not change
6 anything on the Bold Forbes entrance. And they've looked
7 at that in conjunction with this application - - not the
8 application but the plan that the Highway Department
9 reviewed. And as someone stated here, one of the Highway
10 Department personnel suggested an option of posting a
11 bond. And their statement to me last week was they didn't
12 feel that it rose to the level of having a traffic study;
13 this would just be a safeguard. I think, quite candidly,
14 they had the same opinion that I did, that there probably
15 won't need to be that median extended south, but because
16 we're dealing with engineers who try to move traffic, want
17 to make sure they do everything for the public safety,
18 they wanted to have a safeguard. So that's where this
19 bond criteria came from. But they did not require a
20 traffic study for the situation, and I think that was
21 based on the more recent traffic study that was probably
22 wrapped up in 2017, 2018, but I do not have a date on
23 that. I don't know if Brian has any information. It's
24 too much water under the bridge for me. It's a
25 contemporary traffic study and it is the basis for the

1 widening of Highway 54 whenever the funding is available.

2 That's in the pipeline.

3 CHAIRMAN: Thank you.

4 Any other commissioners?

5 MR. ROGERS: I have a question. Kind of a play
6 on words here where Mr. Thompson said that he would not
7 have a liquor store. A convenience store cannot sell
8 liquor, correct? It can sell beer. It's kind of a play
9 on words.

10 MR. SULLIVAN: That's one question I can answer.
11 They are different licenses. You have to - - if you have
12 a liquor store, that is the license that allows you to
13 sell distilled spirits and wine by the package. It's
14 called a quota retail package license. If you are just
15 selling beer, it's a different license called beer/malt
16 beverage package license. So there are different licenses
17 involved.

18 The only thing I want to say about what happened
19 in '76 is that there are pages upon pages. This was not a
20 quick discussion. There are pages upon pages of back and
21 forth and questions and things of that nature that
22 occurred during that hearing. And at the very end the
23 question was, "Are you going to put a liquor store there?"
24 And the answer from Mr. Thompson was, "No." And again, it
25 was specifically referenced liquor store.

1 Now, I will also say, and I think Ms. Knight
2 would tell you all, if you're passing a motion, that if
3 you're going to put conditions on a property that are
4 legally binding on a property, it should be in your
5 motion, and you do that. You do that again and again.
6 That was not done in this instance. And of course it was
7 a recommendation at that time, and when it went up to
8 fiscal court there were no conditions placed on it when
9 fiscal court approved it. But those are just legal
10 arguments for another day that hopefully will never have
11 to be made.

12 CHAIRMAN: Thank you, sir.

13 Commissioner Jean, do you have a - -

14 MR. JEAN: I do. My question is for Director
15 Howard. I think it's kind of been asked before. But if
16 we were to deny this application, the applicant could do
17 everything except sell liquor there; they could do all
18 this under a B-4?

19 MR. HOWARD: That has been our opinion and our
20 stance on it. Of course, as Mr. Sullivan just said, they
21 have a differing opinion on that and that's why this
22 application came. But, yeah, I mean, our feeling was,
23 reading through the pages and pages of the transcript and
24 recognizing that there was a lawsuit on the Burger King
25 and everything else, since they specifically mentioned

1 convenience store, that, yes, I mean, we would - - it's
2 zoned commercial. We would view that that is a potential
3 land use that could go there.

4 CHAIRMAN: Commissioner Boswell?

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

6 I guess my question is, is there any
7 consideration for getting both of those types of licenses
8 if this were to pass or be built?

9 MR. SULLIVAN: No. Nobody is trying to get a
10 quota retail liquor license to sell anything other than
11 beer.

12 MR. MILES: Beer.

13 MR. SULLIVAN: Just beer.

14 MR. BOSWELL: And this would be, you know, like
15 probably any walk-in would be at some of these other - -

16 MR. SULLIVAN: Like Franey's right up the road.
17 Like Franey's. Like Walgreens down the street, yeah.

18 MR. BOSWELL: Okay. And there would be nothing
19 else on this property except for this Five Star?

20 MR. SULLIVAN: Correct. Well, this 1.9 acres.
21 There's another lot that's in the application. The Five
22 Star is proposed on the 1.9 acres, which is on the corner
23 of Bold Forbes.

24 MR. BOSWELL: But the other, is the other also a
25 B-4?

1 MR. HOWARD: Yes.

2 MR. SULLIVAN: Well, technically there is a
3 sliver back in the northwest corner for - - I think up
4 there you can see it's like a rectangle kind of going that
5 way. That is zoned multi family. And so because all the
6 property, even though I think there's a 50-foot-wide
7 drainage or public utility easement back in that strip
8 that probably you can't do any development on anyway, but
9 because it was part of this property, that part is not
10 B-4. But that's just in the very rear northwest corner of
11 the property.

12 MR. BOSWELL: Thank you, Mr. Sullivan.

13 CHAIRMAN: Anything else? Anyone else?

14 Yes, sir?

15 MR. SULLIVAN: I didn't say a whole lot at the
16 beginning and I'm not going to say a whole lot now, but I
17 did want to sum up some of the issues that were presented.
18 Of course we appreciate all the neighbors' concerns and
19 understand them, and they did a very good job of
20 presenting them, but I think the highlights, I think, are
21 that this is a B-4 zone already. The only issue is the
22 conditions and whether or not to lift those conditions.
23 And I think that what was mentioned - - and there's issues
24 about traffic, and you heard about the traffic study and
25 you've heard Kentucky Transportation Cabinet's

1 recommendation on that, so you have that, but I think you
2 also have to appreciate that convenience stores are not -
3 - they don't generate more traffic. They may generate
4 traffic into that area, but people don't come driving down
5 Highway 54 to go to the Five Star out near Thorobred East.
6 It's going to be people who are in the area already. So
7 we don't think that this will drive more traffic to 54,
8 although it certainly will impact people that are pulling
9 into this area.

10 I think that what was mentioned earlier is that,
11 you know, what's changed, and what's changed since '76 and
12 what's changed since '97. Well, that's just it.
13 Everybody has noted how much things have changed on
14 Highway 54. It's the new Frederica Street, you might say.
15 It's almost replacing Frederica Street. That's where all
16 the development is going now. And it's because of those
17 changes of a social and economic character, you know,
18 that's part of the reason that would justify lifting this
19 condition, because it's not the place it was back in '76.
20 Again, this is a convenience store that will sell gas,
21 food, soft drinks and numerous other items. And I do
22 think, this is what Mr. Ball pointed out in regard to sale
23 of beer here, there was a wet/dry vote in this precinct
24 and the vote was to go wet and to actually legally permit
25 this.

1 My client is a responsible corporate citizen.
2 They operate their businesses responsibly. If there is
3 crime on that property then they're not going to tolerate
4 a crime being committed on the property. They're going to
5 abide by their liquor licenses when they sell liquor
6 there. So this is a legal business and they'll stick to
7 the law.

8 And so, in conclusion, we'd ask you to approve
9 the application based on the findings set forth by the
10 staff in its report as well as finding there have been
11 social and economic changes in this area since 1976
12 including the location of restaurants, liquor stores, gas
13 stations that are selling beer all through this area that
14 would support approving the application. Thank you very
15 much.

16 CHAIRMAN: Thank you.

17 Anyone else before we ask for a vote?

18 (No response.)

19 CHAIRMAN: Okay. Seeing none, the Chair is
20 ready for a motion.

21 Commissioner Ball?

22 MR. BALL: I would like to make a motion to
23 approve this application based on the planning staff
24 recommendation, Conditions 1 and 2, and Findings of Fact 1
25 through 5.

1 CHAIRMAN: We have a motion for approval. Do we
2 have a second?

3 Commissioner Boswell?

4 MR. BOSWELL: Second.

5 CHAIRMAN: Second by Commissioner Boswell.

6 Any questions about the motion and/or second?

7 (No response.)

8 CHAIRMAN: Seeing none, Chair is ready for a
9 vote. All those in favor of the motion, please indicate
10 by raising your right hand.

11 (Board members Rogers, McEnroe, Ball, Knight,
12 Howard, Moore, Jean, Velotta, and Boswell responded aye.)

13 CHAIRMAN: All those opposed, like sign.

14 (Board member Hardaway responded nay.)

15 CHAIRMAN: Motion carries.

16 Again, we want to thank everyone for coming
17 tonight. If you want to stay for the rest of it, feel
18 free to do so.

19

20 ITEM 4

21 Portion of 6264 Old Highway 54 & Portion of 6320 Old
Highway 54, 10.835 acres
22 Consider zoning change:
From B-4 General Business & R-1A Single Family Residential
23 to B-4 General Business & A-U Urban Agriculture
Applicant: Michael W. & Marlene Hamilton; Grace Chapel
24

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

1 MR. PEDLEY: Trey Pedley.

2 (Trey Pedley sworn by attorney.)

3 MR. PEDLEY: The planning staff recommends
4 approval subject to the conditions and findings of fact
5 that follow:

6 Conditions:

7 1. Obtain Approval of a Minor Subdivision Plat
8 that will consolidate the entirety of the B-4 General
9 Business Zone to one parcel and will consolidate the
10 entirety of the A-U Urban Agriculture zone to a separate
11 parcel; and

12 2. Obtain Approval of an Amended Final
13 Development Plan for the B-4 General Business operation.

14 Findings of Fact:

15 1. Staff recommends approval of the B-4
16 General Business zone because the proposal is in
17 compliance with the communitys adopted Comprehensive
18 Plan;

19 2. The subject properties are located in a
20 Rural Community Plan Area where General Business Uses are
21 appropriate in limited locations;

22 3. The proposed use in conjunction with the
23 B-4 General Business zoning, a nursery, is non-residential
24 in nature;

25 4. The proposed B-4 General Business zone is a

1 logical expansion of the existing B-4 General Business
2 zoning to the north, including on the subject property;

3 5. The proposal to rezone 0.834 acres to B-4
4 General Business will not significantly increase the
5 extent of general business zoning in the vicinity and
6 should not overburden the capacity of roadways and other
7 necessary urban services that are available in the
8 affected area;

9 6. While the Rural Large-lot Residential use,
10 as classified with the area proposed to be rezoned to A-U
11 Urban Agriculture, is not generally recommended in the
12 Rural Community Plan Area, the proposed zoning is more
13 appropriate than the existing R-1A Single Family
14 Residential zone; and,

15 7. The subject area that is proposed to be
16 zoned A-U Urban Agriculture is a 10-acre, land-locked area
17 that has historically been utilized agriculturally.

18 We'd like to enter the Staff Report into the
19 record as Exhibit B.

20 CHAIRMAN: Thank you.

21 Anyone in the audience representing the
22 applicant?

23 Mr. Riney, would you like to make any
24 statements?

25 (No response.)

1 CHAIRMAN: Thank you.

2 Anyone on the commission have any questions
3 about the application?

4 (No response.)

5 CHAIRMAN: Seeing none, the Chair is ready for a
6 motion.

7 MR. JEAN: I'd like to make a motion to approve
8 this application based on the site visit, Staff Report,
9 Conditions 1 and 2, and Findings of Fact 1 through 7.

10 CHAIRMAN: Thank you, Commissioner Jean.

11 Do we have a second?

12 MS. McENROE: Second.

13 CHAIRMAN: Seconded by Commissioner McEnroe.

14 Any questions about the motion and/or second?

15 (No response.)

16 CHAIRMAN: Seeing none, the Chair is ready for a
17 vote. All those in favor, raise your right hand.

18 (All board members present responded aye.)

19 CHAIRMAN: All those opposed?

20 (No response.)

21 CHAIRMAN: Motion carries.

22

23 ITEM 5

24 3900 West Parrish Avenue, 3.572 acres
Consider zoning change:

25 From I-1 Light Industrial to B-4 General Business
Applicant: Owensboro Recreation Real Estate II, LLC

1

2 MS. EVANS: The planning staff recommends
3 approval subject to the condition and findings of fact
4 that follow:

5 Condition Access to West Parrish Avenue shall
6 be limited to the existing shared access easement as
7 approved in 2011.

8 Findings of Fact:

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

12 2. The subject property is located in a
13 Business Plan Area where general business uses are
14 appropriate in limited locations;

15 3. The proposal is a logical expansion of
16 existing B-4 General Business zoning to the west and east;

17 4. At 3.572 acres, the proposal does not
18 significantly increase the extent of general business
19 zoning in the vicinity; and,

20 5. With access limited to the existing shared
21 access easement, the proposal should not overburden the
22 capacity of roadways and other necessary urban services
23 that are available in the affected area.

24 I'd like to enter the Staff Report into the
25 record as Exhibit C.

1 CHAIRMAN: Thank you.

2 Anyone in the audience representing the
3 applicant?

4 (No response.)

5 CHAIRMAN: Still nothing? Okay.

6 Any commissioners have any questions, concerns?

7 (No response.)

8 CHAIRMAN: Seeing none, the Chair is ready for a
9 motion.

10 Commissioner Rogers?

11 MR. ROGERS: Mr. Chairman, I make a motion for
12 approval based on the planning staff's recommendation with
13 the one condition and the Findings of Fact 1 through 5.

14 CHAIRMAN: We have a motion. Do we have a
15 second?

16 MR. VELOTTA: Second.

17 CHAIRMAN: Seconded by Commissioner Velotta.

18 All those in favor of the motion, please
19 indicate by raising your right hand.

20 (All board members present responded aye.)

21 CHAIRMAN: All those opposed?

22 (No response.)

23 CHAIRMAN: Motion carries.

24

25

1 ITEM 6

2 1600 Triplett Street, 0.41 acres

Consider zoning change:

3 From I-1 Light Industrial to B-4 General Business

Applicant: A N E D, LLC; Holly Stavis

4

5 MS. EVANS: The planning staff recommends

6 approval subject to the conditions and findings of fact

7 that follow:

8 Conditions:

9 1. Access shall be limited to East 16th Street

10 and the rear alley. No access to Triplett Street shall be

11 permitted; and,

12 2. Parking that backs into the right-of-way

13 along East 16th Street shall be removed.

14 Findings of Fact:

15 1. Staff recommends approval because the

16 proposal is in compliance with the communitys adopted

17 Comprehensive Plan;

18 2. The subject property is located in a

19 Business Plan Area where general business uses are

20 appropriate in limited locations;

21 3. The proposal is a logical expansion of

22 existing B-4 General Business zoning to the east;

23 4. At 0.41 acres, the proposal does not

24 significantly increase the extent of general business

25 zoning in the vicinity; and,

1 5. If parking requirements can be met, the
2 proposal should not overburden the capacity of roadways
3 and other necessary urban services that are available in
4 the affected area.

5 Like to enter the Staff Report into the record
6 as Exhibit D.

7 CHAIRMAN: Thank you.

8 Anyone in the audience representing the
9 applicant?

10 (No response.)

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

13 (No response.)

14 CHAIRMAN: Seeing none, Chair is ready for a
15 motion.

16 Mr. Boswell?

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

18 I make a motion to approve based on the planning
19 staff recommendations and Conditions 1 and 2 and Findings
20 of Fact 1 through 5.

21 CHAIRMAN: We have a motion. Do we have a
22 second for that motion?

23 MR. ROGERS: Second.

24 CHAIRMAN: Commissioner Rogers.

25 All those in favor of the motion and the second,

1 please indicate by raising your right hand.

2 (All board members present responded aye.)

3 CHAIRMAN: All those opposed?

4 (No response.)

5 CHAIRMAN: Motion carries.

6

7 ITEM 7

8 6705 & 6745 Highway 144, 15.84 acres

Consider zoning change:

9 From R-1A Single Family Residential & A-U Urban

Agriculture to A-U Urban Agriculture

10 Applicant: Donald W. Davis; Cheryl Ann Embry

11

12 MR. PEDLEY: The planning staff recommends

13 approval subject to the findings of fact that follow:

14 Findings of Fact:

15 1. Staff recommends approval because the

16 subject properties are located within a Rural Community

17 Plan Area where Rural Small-lot Residential uses, such as

18 the proposal at 6745 Highway 144, are appropriate in

19 general locations and are in compliance with the

20 communitys adopted comprehensive plan;

21 2. While Rural Large-lot Residential Uses, such

22 as the proposal at 6705 Highway 144, are not generally

23 recommended within a Rural Community Plan Area, the

24 proposed A-U Urban Agriculture zoning classification is

25 more appropriate than the existing split-zoning on the

1 subject property;

2 3. Both subject properties front along a public
3 road, Highway 144;

4 4. Both subject properties are large enough in
5 size to assure satisfactory operation of conventional
6 septic systems;

7 5. Both subject properties have historically
8 been utilized residentially and agriculturally, in
9 accordance with the proposed A-U zone; and

10 6. The proposed A-U Urban Agriculture zone is a
11 logical expansion of the A-U zone located on the subject
12 property.

13 We'd like to enter the Staff Report into the
14 record as Exhibit E.

15 CHAIRMAN: Thank you.

16 Anyone in the audience representing the
17 applicant?

18 Do you want to make a comment or statement or
19 answer questions?

20 UNIDENTIFIED SPEAKER: If anybody has any
21 questions.

22 CHAIRMAN: Thank you.

23 Do any commissioners have any questions or
24 concerns?

25 (No response.)

1 CHAIRMAN: Seeing none, Chair is ready for a
2 motion.

3 Commissioner Rogers?

4 MR. ROGERS: Mr. Chairman, I'd make a motion for
5 approval based on the planning staff's recommendation and
6 the Findings of Fact 1 through 6.

7 CHAIRMAN: We have a motion. Do we have a
8 second?

9 MR. BALL: Second.

10 CHAIRMAN: Second by Commissioner Ball.

11 All those in favor of the motion and second,
12 please indicate by raising your right hand.

13 (All board members present responded aye.)

14 CHAIRMAN: All those opposed?

15 (No response.)

16 CHAIRMAN: Motion carries.

17

18 ITEM 8

19 6108 Highway 1389, 1.115 acres
Consider zoning change:
20 From R-1A Single Family Residential to A-U Urban
Agriculture
21 Applicant: James Peters & Deborah Peters

22 MR. PEDLEY: The planning staff recommends
23 approval subject to the findings of fact that follow:

24 Findings of Fact:

25 1. Staff recommends approval because the

1 proposal is in compliance with the communitys adopted
2 Comprehensive Plan;

3 2. The subject property is located in a Rural
4 Community Plan Area where Rural Small-lot Residential Uses
5 are appropriate in general locations;

6 3. The subject property fronts along a public
7 road, Highway 1389;

8 4. The subject property is large enough in size
9 to assure satisfactory operation of a conventional septic
10 system; and

11 5. The proposed A-U Urban Agriculture zone is a
12 logical expansion of the A-U zone to the east.

13 We'd like to enter the Staff Report into the
14 record as Exhibit F.

15 CHAIRMAN: Thank you.

16 Anyone in the audience representing the
17 applicant?

18 (No response.)

19 CHAIRMAN: Any commissioners have any questions
20 or concerns?

21 (No response.)

22 CHAIRMAN: Seeing none, Chair is ready for a
23 motion.

24 Commissioner Ball?

25 MR. BALL: I'd like to make a motion for

1 approval based on the planning staff recommendations and
2 Findings of Fact 1 through 5.

3 CHAIRMAN: We have a motion for approval. Do we
4 have a second?

5 MR. VELOTTA: Second.

6 CHAIRMAN: Seconded by Commissioner Velotta.

7 We have a motion and a second. All those in
8 favor, please indicate by raising your right hand.

9 (All board members present responded aye.)

10 CHAIRMAN: All those opposed?

11 (No response.)

12 CHAIRMAN: Motion carries.

13 -----

14 MAJOR/MINOR SUBDIVISION PLATS

15 ITEM 9

16 7220, 7224, 7276 & 7284 Highway 279 South, 8.931 acres
17 Consider approval of a major/ minor subdivision plat
18 Applicant: J.T. OBryan Estate & William M. OBryan

19 MR. HOWARD: This plat comes before you as an
20 exception, being a major/minor subdivision plat. It's our
21 understanding that the lot configuration is based upon - -
22 the lot configurations around existing homes based on a
23 will, and so they are creating four new parcels that did
24 not exist. They are each, each parcel is around an
25 existing home. So we're not creating any more new
buildable lots with this division. A couple are out of

1 character with the shape and size requirements; but with
2 that, we would recommend that you consider the approval.
3 There is notation on the plat that limits the further
4 division of these parcels to not allow any further
5 division without meeting the requirements of the
6 subdivision regulations.

7 CHAIRMAN: Thank you.

8 Anyone in the audience representing the
9 applicant?

10 (No response.)

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

13 (No response.)

14 CHAIRMAN: Seeing none, the Chair is ready for a
15 motion.

16 Commissioner Jean?

17 MR. JEAN: I'd make a motion that we approve
18 this.

19 CHAIRMAN: We have a motion to approve. Do we
20 have a second?

21 MR. BOSWELL: Second.

22 CHAIRMAN: Second by Commissioner Boswell.

23 We have a motion and a second. All those in
24 favor, please indicate by raising your right hand.

25 (All board members present responded aye.)

1 CHAIRMAN: All those opposed?

2 (No response.)

3 CHAIRMAN: Motion carries.

4 -----

5 MINOR SUBDIVISION PLAT

6 ITEM 10

7 7569, 7575 Crooked Creek Road, 7.064 acres
Consider approval of a minor subdivision plat
8 Applicant: Kimberly Maglinger

9 MR. HOWARD: This plat comes before you as an
10 exception. We are creating a new one-acre parcel out of a
11 seven-and-a-half-acre parcel. It's a good size parcel.
12 This division would allow for one additional home site to
13 be built. However, with the six-acre remainder, there is
14 notation on here that it cannot be further subdivided
15 without meeting the requirements of the subdivision
16 regulations. So both of these parcels will really remain
17 the same without any further division unless they put in a
18 street or something like that. So we would recommend that
19 you consider for approval.

20 CHAIRMAN: Anybody in the audience representing
21 the applicant?

22 (No response.)

23 CHAIRMAN: Any commissioners have any questions
24 or concerns?

25 (No response.)

1 CHAIRMAN: Seeing none, the Chair is ready for a
2 motion.

3 Commissioner Ball?

4 MR. BALL: I'd make a motion to approve this
5 minor subdivision plat.

6 CHAIRMAN: We have a motion to approve. Do we
7 have a second?

8 MS. McENROE: Second.

9 CHAIRMAN: Second by Commissioner McEnroe.

10 All those in favor, please indicate by raising
11 your right hand.

12 (All board members present responded aye.)

13 CHAIRMAN: All those opposed?

14 (No response.)

15 CHAIRMAN: Motion carries.

16 -----

17 ITEM 11

18 7237, 7239 Julia Lane, 0.242 acres
19 Consider approval of a minor subdivision plat
20 Applicant: A. Scott Lewis; Regional Water Resource Agency

21 MR. HOWARD: This plat comes before you as an
22 exception. We are creating a small parcel up along Julia
23 Avenue that will be utilized by RWRA for their facility's
24 infrastructure. There's a note on the plat that says that
25 that's a nonbuildable lot other than for their
infrastructure. So we would recommend that you consider

1 it for approval.

2 CHAIRMAN: Anyone representing the applicant?

3 Have any comments or just ready for questions?

4 Okay. Any commissioners have any questions or
5 concerns?

6 (No response.)

7 CHAIRMAN: Seeing none, Chair is ready for a
8 motion.

9 Commissioner Boswell?

10 MR. BOSWELL: Thank you, Mr. Chairman. Motion
11 to approve.

12 CHAIRMAN: We have a motion to approve. Do we
13 have a second?

14 MS. McENROE: Second.

15 CHAIRMAN: Second by Commissioner McEnroe.

16 All those in favor of the motion and second,
17 please indicate by raising your right hand.

18 (All board members present responded aye.)

19 CHAIRMAN: All those opposed?

20 (No response.)

21 CHAIRMAN: Motion carries.

22 -----

23 NEW BUSINESS

24 CHAIRMAN: All of the commissioners should have
25 received a copy of the financial statement, had an

1 opportunity to look that over. Any questions or concerns
2 about the financial statement?

3 (No response.)

4 CHAIRMAN: Seeing none, the Chair is ready for a
5 motion.

6 MR. ROGERS: Motion for approval.

7 CHAIRMAN: Commissioner Rogers, motion to
8 approve. Do we have a second?

9 MR. BALL: Second.

10 CHAIRMAN: Second by Commissioner Ball.

11 All those in favor of the motion and the second,
12 please indicate by raising your right hand.

13 (All board members present responded aye.)

14 CHAIRMAN: Thank you.

15 Also, you should have received a copy of the
16 meeting dates, 2020 meeting dates and filing deadlines.
17 Anyone have any questions about that? You'll notice some
18 of them have some stars and - -

19 MR. HOWARD: Real quick. In the past, over the
20 past several years we've given you two options. You've
21 gone with the option every year where we double up in
22 April and October to accommodate for spring and fall
23 breaks with the school system. So, since we've done it
24 every year for the last five or six years, we just went
25 ahead and proposed it that way. If you all have a strong

1 feeling and want to not accommodate spring or fall break,
2 we can change it. Just let us know.

3 CHAIRMAN: Anybody have any strong feelings
4 either way?

5 (No response.)

6 CHAIRMAN: Seeing none, the Chairman is ready
7 for a motion.

8 MR. ROGERS: Motion to approve.

9 CHAIRMAN: Motion to approve by Mr. Rogers. Do
10 we have a second?

11 MR. BALL: Second.

12 CHAIRMAN: Commissioner Ball, thank you.

13 We have a motion for approval. Please indicate
14 by raising your right hand.

15 (All board members present responded aye.)

16 CHAIRMAN: Same sign to disapprove.

17 (No response.)

18 CHAIRMAN: Motion carries.

19 Chairman Comments, I have none.

20 Any comments by the planning commissioners?

21 (No response.)

22 CHAIRMAN: Seeing none, any comments by the
23 director?

24 MR. HOWARD: No.

25 CHAIRMAN: None.

1 Last motion.

2 MR. JEAN: Motion to adjourn.

3 CHAIRMAN: Second?

4 MR. BALL: Second.

5 CHAIRMAN: Mr. Ball.

6 All those in favor, please indicate by raising
7 your right hand.

8 (All board members present responded aye.)

9 CHAIRMAN: Motion carries.

10 (The meeting adjourned at 7:53 p.m.)

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

3 I, Jane Belcher, Notary Public in and for the
4 State of Kentucky-at-Large, do hereby certify that the
5 foregoing Owensboro Metropolitan Planning Commission
6 meeting was held at the time and place as stated in the
7 caption to the proceedings; that each person commenting on
8 issues under discussion were duly sworn before testifying;
9 that the board members present were as stated in the
10 caption; that said proceedings were taken by me in
11 stenotype and electronically recorded and was thereafter,
12 by me, accurately and correctly transcribed into the
13 foregoing 103 typewritten pages; and that no signature was
14 requested to the transcript.

15 WITNESS my hand and notary seal on this the 19th
16 day of December 2019.

17

18

19 JANE BELCHER, NOTARY PUBLIC
20 STATE-AT-LARGE
21 NOTARY ID 479570
OHIO VALLEY REPORTING SERVICE
2200 E. PARRISH AVENUE, SUITE 106-E
OWENSBORO, KENTUCKY 42303

22 COMMISSION EXPIRES:
DECEMBER 7, 2020
23 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

24

25