

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 FEBRUARY 10, 2011

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday,
5 February 10, 2011, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

- 8 MEMBERS PRESENT: Drew Kirkland, Chairman
- 9 Ward Pedley, Vice Chairman
- 10 David Appleby, Secretary
- 11 Gary Noffsinger, Director
- 12 Madison Silvert, Attorney
- 13 Rev. Larry Hostetter
- 14 Tim Allen
- 15 Wally Taylor
- 16 Keith Evans
- 17 Martin Hayden
- 18 Rita Moorman

19 * * * * *

20 CHAIRMAN: Please rise for our invocation.

21 I would like to welcome everybody to our
22 February 10 meeting of the Owensboro Metropolitan
23 Planning Commission.

24 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

25 CHAIRMAN: Our first order of business tonight
is to consider the minutes of the January 13, 2011
meeting. Are there any additions, corrections,
questions?

(NO RESPONSE)

CHAIRMAN: If not, the Chair is ready for a
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1 motion.

2 MR. PEDLEY: Motion for approval, Mr.
3 Chairman.

4 CHAIRMAN: Motion for approval by Mr. Pedley.

5 MR. ALLEN: Second.

6 CHAIRMAN: Second by Mr. Allen. All in favor
7 raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item, Mr. Noffsinger.

11 -----

12 ZONING CHANGES

13 ITEM 2

14 Portion of 3300 Highland Pointe Drive, 2.30 acres
15 Consider zoning change: From B-4 General Business to
16 I-1 Light Industrial
17 Applicant: Highland Pointe, LLC

18 MR. SILVERT: Would you state your name
19 please?

20 MR. HOWARD: Brian Howard.

21 (BRIAN HOWARD SWORN BY ATTORNEY.)

22 MR. HOWARD: I will note that the rezonings
23 heard tonight will become final in 21 days after the
24 meeting date, unless an appeal is filed. Those appeal
25 forms are available on the back table, in our office
and on line. If an appeal is filed and made, the

1 rezoning will go through the appropriate legislative
2 body for their final consideration.

3 PLANNING STAFF RECOMMENDATIONS

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

6 CONDITION:

7 Submission and approval of amended preliminary
8 and final plats.

9 FINDINGS OF FACT:

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

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

16 3. The proposed use as an automobile body
17 shop will be nonresidential in nature;

18 4. The proposal is a logical expansion of
19 existing I-1 Light Industrial zoning located north of
20 the subject property; and,

21 5. At 2.30 acres, the expansion should not
22 significantly increase the extent of industrial uses
23 that are located in the vicinity and outside of
24 Industrial Parks and should not overburden the
25 capacity of roadways and other necessary urban

1 services that are available in the affected area.

2 MR. HOWARD: We would like to enter the Staff
3 Report into the record as Exhibit A.

4 CHAIRMAN: Is there anybody here representing
5 the applicant?

6 APPLICANT REP: Yes.

7 CHAIRMAN: Does anybody have any questions of
8 the applicant?

9 (NO RESPONSE)

10 CHAIRMAN: If not, the Chair is ready for a
11 motion.

12 MR. HAYDEN: I'll make a motion for approval
13 with Staff Recommendations with the Condition and
14 Findings of Fact 1 through 5.

15 CHAIRMAN: We have a motion for approval by
16 Mr. Hayden.

17 MR. APPLEBY: Second.

18 CHAIRMAN: We've got a second by Mr. Appleby.
19 All in favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 ITEM 3

24 2404, 2412 East Parrish Avenue, 66.708 acres

Consider zoning change: From R-1C Single-Family

25 Residential, R-3MF Multi-Family Residential and B-4

General Business with conditions to B-4 General

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1 Business

Applicant: Heartland Crossing, LLC; Phil Riney

2

3 MR. HOWARD: I'll start with our Staff Report
4 under Specific Land Use Criteria.

5 SPECIFIC LAND USE CRITERIA

6 The applicant's proposal is in compliance with
7 the Comprehensive Plan. The overwhelming majority of
8 the subject property is currently zoned B-4 General
9 Business with a limited expansion of the zoning
10 proposed in the northwest corner. Conditions were
11 placed upon the previously approved zoning change to
12 B-4 based on the finding presented in a Traffic Impact
13 Study. Since the site did not develop quickly, the
14 Kentucky Transportation Cabinet asked the developer to
15 update the Traffic Impact Study in conjunction with
16 analysis the state gathered from their own research.
17 The result is a plan that both the Kentucky
18 Transportation Cabinet and the city engineering office
19 encouraged the developer to explore as a means to
20 accomplish mitigation of traffic generated by the
21 proposed development and to improve traffic flow and
22 safety along the KY 54/East Parrish Avenue corridor.

23 The KYTC has the authority to alter the KY 54
24 corridor without the need for any form of rezoning.
25 The City of Owensboro can alter local roadway traffic

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1 patterns without a rezoning hearing. In this
2 instance, the need for change along the corridor has
3 coincided with the proposed development. The original
4 traffic impact study submitted for the subject
5 property at the time of initial zoning in April 2007,
6 provided for an internal street network, access to KY
7 54 at a signalized intersection with the by-pass ramp,
8 and the signal at E Byers Avenue to remain. According
9 to the original TIS, capacity analysis for the
10 southbound by-pass ramp/site access intersection on KY
11 54 was projected to operate at Level of Service (LOS)
12 C during both the AM and PM peak. The E Byers
13 Avenue/Ragu Drive intersection on KY 54 was projected
14 to operate at LOS B during the AM peak and LOS D
15 during the PM peak. The LOS calculations were based
16 on 2012 future traffic projections with roadway
17 improvements as required in the TIS. The Planning
18 Commission Staff was involved in the review of the
19 original TIS and the roadway network proposed as part
20 of the development. However, Staff was not involved
21 at all in the negotiations for the proposal as
22 presented and cannot endorse the proposal. Planning
23 Staff understands that discussion took place regarding
24 the realignment of Byers Avenue to align with the
25 Wendell Ford Expressway ramp which would seem to be a

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1 more logical alignment from a planning land use
2 perspective. While Planning Staff defers to the
3 design professionals and review engineers in regards
4 to the proposed transportation network, we are
5 concerned that the proposed design may present
6 obstacles to traffic movement in the vicinity. A
7 complete realignment of East Byers Avenue would
8 eliminate extra turns and potential confusion for
9 motorists. As Byers Avenue is extended west, traffic
10 is anticipated to increase along the corridor which
11 will be diverted through this site. The potential for
12 an increase in cut-through traffic in the Springs
13 development seems likely, especially for motorists
14 heading west into the city since a signal has been
15 installed at the development access on KY 54. The
16 internal drive design within the Springs development
17 was not designed to public street standards and may
18 not be able to accommodate increased traffic.
19 Motorists will also have to be educated on the new
20 traffic patterns since the roundabout will be the
21 first of its kind in the community and the roadway
22 between KY 54 and the roundabout is multi-lane in each
23 direction.

24 Based on the proposal submitted and the
25 Traffic Impact Study, many roadway improvements are

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1 stipulated in order to mitigate traffic generated by
2 the development. Engineering review by both the
3 Kentucky Transportation Cabinet and the City of
4 Owensboro has tied this development to the relocation
5 of a traffic signal on the KY 54 corridor to the
6 by-pass ramps in alignment with the proposed site
7 entrance and other corridor improvements. An
8 alternative to the proposed recommendations of the TIS
9 is the elimination of the connection between needed
10 changes on the KY 54 corridor and the developer's
11 proposal in the form of conditions to the rezoning.
12 By requiring a median to be installed on KY 54,
13 channelized islands be installed on East Byers Avenue
14 and Ragu Drive at KY 54, and the relocation of the
15 traffic signal from the East Byers Avenue and KY 54
16 intersection, the developer, the state and the city
17 all lose flexibility in the event that future changes
18 are needed that are not addressed in the current
19 Traffic Impact Study.

20 The current Traffic Impact Study points out
21 that some of the roadway improvements are not required
22 until a certain threshold of traffic is achieved
23 on-site. Menard's is currently in discussion with the
24 applicant to locate on the subject property, but that
25 is the only known use at this time. Since the

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1 ultimate build-out for the development may not be for
2 10 or 20 years, and the traffic increase on KY 54 will
3 not be instantaneous, a possibility is to leave the
4 existing signal at East Byers Avenue/Ragu Drive and KY
5 54 and install the new signal at the proposed site
6 access/by-pass ramp intersection which currently meets
7 signal warrants. As the site develops over time and
8 traffic on KY 54 increases, the ultimate plan of
9 eliminating signals, installing medians and
10 channelized islands along the KY 54 corridor can be
11 evaluated at a future time. At that point, the city
12 or state can alter roadway patterns and install
13 improvements as needed. If traffic conditions do
14 warrant the installation of a median on KY 54, the
15 option of installing a median to prevent left-turns
16 from KY 54 to East Byers Avenue may be feasible while
17 keeping the signal in place and allowing left turns
18 from KY 54 to Ragu Drive and from the minor approaches
19 onto KY 54. The residents of the Heartlands
20 subdivision would then be required to turn left at the
21 signal at the by-pass ramp/development access while
22 maintaining the current signal at the East Byers
23 Avenue and KY 54 intersection.

24 The intent of the Traffic Impact Study is to
25 mitigate traffic generated by the development on the

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1 existing roadway network. While the current proposal
2 does indeed mitigate site traffic, it is done so, to
3 the detriment of the general motoring public. The
4 entire roadway system in the vicinity should not be
5 bent towards a single development in total disregard
6 for the existing development and traffic. With the
7 intent of the TIS still intact in regards to
8 mitigating traffic, the Planning Commission Staff
9 recommends approval of the zoning change with some
10 alterations to the conditions as set forth in the
11 Traffic Impact Study. The recommended conditions
12 include all improvements necessary to mitigate traffic
13 generated by the site. However; the recommendation
14 does not include conditions regarding corridor
15 improvements to KY 54. It is the feeling of the
16 Planning Commission Staff that a new signal should be
17 installed at the intersection of the proposed
18 development access/by-pass ramp while the existing
19 signal at East Byers Avenue and KY 54 remains until
20 such time that traffic counts and flow dictate the
21 need to install traffic control devices. The city and
22 state, at that time, can evaluate the needs and
23 install what is required without tying the
24 improvements to the developer and the proposed
25 rezoning. If left-turn queues conflict for eastbound

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1 traffic turning left onto the by-pass and westbound
2 traffic turning left onto East Byers Avenue, the
3 possibility of installing a median to prevent
4 westbound left turns to East Byers Avenue should be
5 explored. Traffic entering the Heartlands Subdivision
6 would have to turn one signal earlier and route
7 through the proposed development, but the remaining
8 left turn movements at the East Byers Avenue and KY 54
9 intersection would still be possible while not
10 compromising traffic turning left onto the by-pass.

11 PLANNING STAFF RECOMMENDATIONS

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

14 CONDITIONS:

15 1. Access to KY 54 shall be limited to a
16 single access in alignment with the Wendell Ford
17 Expressway ramps and access to East Byers Avenue shall
18 be limited to a maximum of three access points as
19 shown on the preliminary development plan;

20 2. On KY 54/East Parrish Avenue an eastbound
21 right-turn lane and dual westbound left-turn lanes
22 shall be installed at Access #3 to accommodate traffic
23 entering the site built to KYTC specifications;

24 3. Road #3 shall include separate left, thru
25 and right-turn lanes for traffic entering the site to

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1 KY 54/East Parrish Avenue built to KYTC and/or City of
2 Owensboro specifications;

3 4. Road #3 shall include two receiving lanes
4 for the westbound dual left turn lanes and one
5 receiving lane for the eastbound right-turn lane built
6 to KYTC and/or City of Owensboro specifications;

7 5. The southbound ramp approach from the
8 Wendell Ford Expressway shall be restriped per KYTC
9 specifications;

10 6. Install a roundabout at the intersection
11 of Road #1 and Road #3 in the development per KYTC
12 and/or City of Owensboro specifications;

13 7. A southbound left turn lane shall be
14 installed on Road #3 at access Road #2 to alleviate
15 traffic utilizing the roundabout;

16 8. A proposed access point on Road #3 to
17 serve Lots 1 & 2 shall be a minimum of 250 feet from
18 the KY 54/E Parrish Avenue intersection and shall be
19 channelized to allow right-in/right-out traffic
20 movements only; and,

21 9. The internal sidewalk/pedestrian network
22 shall connect to the existing sidewalks/greenbelt
23 trail along East Byers Avenue.

24 FINDINGS OF FACT:

25 1. Staff recommends approval because the

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

3 2. The subject property is partially located
4 in a Business Plan Area, where general business uses
5 are appropriate in limited locations and partially
6 located in an Urban Residential Plan Area where
7 general business uses are appropriate in very-limited
8 locations;

9 3. The majority of the subject property is
10 currently zoned B-4 General Business and the proposed
11 expansion in the northwest corner of the subject
12 property is a logical expansion; and,

13 4. With the roadway improvement conditions to
14 the rezoning, the development should not overburden
15 the capacity of roadways and other necessary urban
16 services that are available in the affected area while
17 allowing flexibility for future changes to the KY 54
18 corridor if deemed necessary by the KYTC and the City
19 of Owensboro.

20 MR. HOWARD: We would like to enter the Staff
21 Report into the record as Exhibit B.

22 CHAIRMAN: Before we get started, I noticed we
23 have quite a few people standing. We have plenty of
24 seats in here if you all would like to sit down before
25 we get started and make yourself comfortable. You all

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1 can move on in and find yourself a seat and that way
2 you won't have to stand. More than adequate seats to
3 seat all of you.

4 We'll start. Is anybody here representing the
5 applicant?

6 MR. SILVERT: Would you state your name,
7 please?

8 MR. MEYER: I'm Tom Meyer. I'm an attorney
9 here in Owensboro and I represent Heartland Crossings.

10 MR. SILVERT: Mr. Meyer, you're duly sworn as
11 an attorney.

12 MR. MEYER: Thank you.

13 As you know, I just read through the
14 application, the application for rezoning to B-4
15 General Business. This may seem somewhat familiar to
16 some of you all who were on the Commission back in
17 2007 because indeed it should. Ninety-nine percent of
18 this property is already rezoned B-4 per that rezoning
19 that was done in 2007 for this commercial project. My
20 client is Heartland Crossings. Phil Riney is here who
21 is a represented member of Heartland Crossings.

22 They acquired two additional pieces of
23 property; slivers, if you will. One of them will be
24 referred to as the Old Barley Road which is a sliver
25 that ran alongside of Byers Avenue. The other was a

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1 remaining portion of a christian church lot that would
2 basically cut off Byers Avenue, and my clients
3 acquired that. So that was the purpose for seeking
4 this broader application of rezoning, to pick up that
5 additional very small acreage. As I said, all but 99
6 percent of it is already rezoned B-4 as was done in
7 April of 2007.

8 During the course of the process, my client
9 was approached to seek, as was mentioned in the
10 report, additional information in conjunction with the
11 Department of Transportation, the Kentucky
12 Transportation Cabinet and the city engineers to
13 revisit the traffic flow problems out there with the
14 thought that perhaps some things would change that
15 wasn't addressed.

16 With that in mind my client conducted with the
17 city and with the state engineers and what have you as
18 far back as I think August, approximately six months
19 ago, to try to address those situations. Additional
20 studies were compiled with regard to current traffic
21 flow as they exist.

22 I think everybody in this room, particularly
23 these people sitting here because they live nearby,
24 know that there's already a problem out there because
25 of the way the bypass exits and keys in to Highway 54

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1 and the difficulties that people have in turning in
2 various positions there.

3 With or without this development there's no
4 question that there is an additional traffic light
5 that is needed at that intersection. Anybody who has
6 ever been out there, and I think there's some of the
7 people in our meeting with the homeowners last night
8 referred to, they're tired of playing chicken as they
9 cut across Highway 54. There's too many combative
10 things going on. All of those things we attempted to
11 address in doing these existing problems as we met
12 with the state officials and met with the city
13 engineers in collaboration with that.

14 In connection with that, we came up with a
15 plan that satisfies those requirements. That plan I
16 think we've submitted as an exhibit, a recent
17 development plan.

18 If you'll bring that up on the overhead
19 screen.

20 When we made the original projection and
21 everything else, in consultation with those people
22 that I just mentioned, with the city and the state,
23 there were a couple of requirements that were placed
24 in there by not us, the developer, but with the
25 Department of Transportation and the city engineers.

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1 That this would best be addressed by the
2 implementation of a system that we presented to the
3 homeowners last night that had some turn lanes and
4 median requirements that were going to interfere with
5 the passage of traffic, I guess, at Ragu Drive and
6 East Byers Avenue as it addressed or adjoined Highway
7 54 there.

8 That is what I think brought -- I don't think
9 anybody was objecting in the meeting that we had,
10 anybody that was objecting to this rezoning or
11 whatever.

12 There was concerns about the traffic flow and
13 how that would take place and the removal of a traffic
14 light there at Ragu Drive and Highway 54 and the
15 implementation of a single light there where the
16 bypass joins Highway 54 to where our new entrance
17 would be.

18 That was not a specific requirement for our
19 rezoning. As a result we amended the development plan
20 and removed those as criteria, the satisfaction of the
21 Planning & Zoning Staff at their suggestion.

22 The system, as you would see up there, it's
23 better on this easel over here, entails a rather
24 developed interchanged system within our development
25 for the flow of traffic. To take traffic off of

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1 Highway 54 turning into the development or those who
2 choose to turn in there in order to access Byers
3 Avenue in a westerly direction. With the removal of
4 the left turn restriction on the median up there, the
5 people do not have a choice of going on down like they
6 are doing today and turning left and going into Byers
7 Avenue.

8 Similarly with the elimination of the median
9 and the turn island restriction onto Ragu Drive,
10 somebody who is headed out Highway 54 away from the
11 city, that impediment has also been removed from the
12 development plan. That's not a requirement for what's
13 before the Planning & Zoning Commission today. It
14 certainly has never been a requirement, as far as we
15 were concerned, with regard to development of our
16 property for it's intended commercial purpose.

17 Consequently, the preliminary development
18 plan, which you can see there on your screens and
19 overhead, those provisions and features have been
20 removed from that plan.

21 We believe, as the Staff has noted, that this
22 application for rezoning, because 99 percent of the
23 property is already rezoned, is already currently
24 zoned as B-4 General Business, that the application
25 should be approved subject to the conditions as

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1 imposed or suggested by the Staff. That we're
2 prepared to move forward with our development at this
3 time with those existing conditions.

4 I have several people here to answer any
5 questions that anybody may have with regards to it.
6 From that standpoint, that's what we would
7 respectfully request.

8 CHAIRMAN: Thank you, Mr. Meyer.

9 Are there any questions from the audience?

10 Yes, sir. Please step to the microphone.

11 MR. SILVERT: Would you state your name,
12 please?

13 MR. COOPER: Yes, sir. My name is Greg
14 Cooper. I reside at 2710 High Pass Pointe.

15 (GREG COOPER SWORN BY ATTORNEY.)

16 MR. COOPER: I'm not an official spokesman for
17 the Homeowners Association. I moved there
18 approximately nine months.

19 I am taking exception not so much to the small
20 amount of zoning that's getting ready to be moved into
21 B-4. I'm taking an exception to the already planned,
22 enlarged box item which is Menard's. That the
23 classification given at Planning & Zoning is not
24 direct. Many of us believe it is a lumberyard. It
25 falls under Light Industrial 1 and 2. So therefore

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1 B-4 would not be appropriate for this development.

2 I would like to make an appeal and ask the
3 Planning & Zoning Commission to reconsider. I realize
4 that Planning & Zoning is considering that it is a big
5 box store like Home Depot or Lowe's, but I believe
6 that the operations is consistent with a lumberyard
7 and is a separate --

8 CHAIRMAN: Mr. Cooper, we'll go ahead and have
9 Mr. Noffsinger address that immediately.

10 MR. COOPER: I would just like one other thing
11 just to share with you, if I may, and then I'll sit
12 down.

13 CHAIRMAN: Okay.

14 MR. COOPER: Be very brief, sir.

15 A lumberyard --

16 CHAIRMAN: Wait a minute. Get to the mike
17 before you speak.

18 MR. COOPER: I will. I just don't want this
19 to be too abusive to everybody.

20 A lumberyard will consist of this type of
21 activity. Keep in mind what it's backed up to, is
22 homes worth hundreds of thousands of dollars.

23 (WITNESS SO INDICATING NOISE WITH RECORDER.)

24 MR. COOPER: I want everybody to realize
25 that's what you're going to be hearing within several

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1 yards of Menard's, 10, 12, 14 hours a day. This is a
2 back-up alarm of a fork truck. This is consistent
3 with their mode of operation. The mode of operation
4 requires that they go in and you pay for your product.
5 You go through a gate. You go to the back. There is
6 a huge foot print for storage for lumber, large lumber
7 and so forth. There will be trucks, tractor-trailers
8 and fork trucking moving about with back-up alarms.
9 The residents along that perimeter within several
10 yards, maybe 100, 150 yards, will be hearing this all
11 the time. Thank you, sir.

12 CHAIRMAN: Thank you.

13 Mr. Noffsinger.

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

15 The zoning administrator, Mr. Jim Mischel, has
16 reviewed the application in terms of a Menard's going
17 on this property and being located in a B-4 zone. It
18 is his opinion, and I certainly agree with that
19 opinion, that this type of use that Menard's has is a
20 use that's allowed in a B-4 zone.

21 In July of last year, in an effort to make
22 this community more business friendly, and as the
23 candidates heard on the election campaign that this
24 community is not business friendly. There was an
25 attempt to change some rules and regulations to make

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1 us a more business friendly community. That was one
2 of the changes. Okay.

3 Up until July of last year a Menard's could
4 not have located in this zone. However, as of July of
5 last year, a Menard's is certainly allowed to locate
6 in the zone. So it's very important when you hear
7 changes to the zoning ordinance, business friendly,
8 that you become educated as to what that means.
9 Because this is an example of businesses wanting this
10 community to be more business friendly, but as a
11 neighbor you have issues that are certainly legitimate
12 that could be addressed.

13 However, if you disagree with that
14 interpretation, tonight is not the time to have that
15 debate. You may file an appeal with the Owensboro
16 Metropolitan Board of Adjustment and they can
17 certainly hear your appeal. We can certainly, the
18 Staff could help you with that in terms of the
19 information you need to file the appeal, but it is not
20 an issue that this board can hear tonight.

21 CHAIRMAN: Thank you.

22 Are there any other questions?

23 MR. SILVERT: Would you state your name,
24 please?

25 MR. GLENN: Bob Glenn.

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1 (BOB GLENN SWORN BY ATTORNEY.)

2 MR. GLENN: I have some questions so I don't
3 know what trouble I'll get into, but we'll see. I
4 just have two very quick ones, but I believe they're
5 important ones.

6 The first is 54 is a state highway, is it not?
7 Parrish Avenue connecting 54 is a state highway, is it
8 not? That's correct. So the decision to move the
9 traffic light is a state decision or is it a city
10 decision in concert with the state?

11 MR. NOFFSINGER: Ultimately this is a state
12 decision; however, they do communicate and cooperate
13 and work with the city engineer as well as county
14 engineer.

15 MR. GLENN: Because one of the issues I've
16 dealt with as a Chair of our Alliance over the years,
17 and maybe some other people in the room have too, is
18 when you go to attempt to ever get a traffic light or
19 a stop sign, it's like moving heaven and earth. It
20 takes a miracle. They want traffic studies and all of
21 that. I'm well aware of that.

22 Unfortunately, they also want for a body count
23 as they did at Owensboro Community College back in the
24 early '90s, that intersection. They waited until
25 several students were killed and then they finally

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1 acted.

2 I really would highly recommend that the
3 removal of the light be something that the commission
4 seriously look at because I think it's a serious
5 potential safety issue. I don't see any reason to
6 move the light. I'm not disagreeing you could use a
7 light further down or some sort of better traffic
8 design coming off the bypass. I'll grant you that.
9 The other thing could be to shut off turn traffic as
10 well going left and that my might improve the safety
11 situation. But removing a light in an area where not
12 only do we all of these residences, but we also are
13 going to have a lot more. There's a lot of building
14 going on back there. That area is going to quadruple
15 in size over the next five to ten years. That's a
16 concern.

17 The only other one is in terms of when people
18 turn right, if you have this triangular thing and
19 they're forced to turn right to go toward the main
20 development on 54, do they have to heel to oncoming
21 traffic? Imagine, that light is now gone. I'm
22 forced, if I understand the plan correctly, to turn
23 right towards, you know, going south. Do I have to
24 wait for oncoming traffic? I presume I do, but I'm
25 just asking. Would they have to? Is that how it's

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1 designed?

2 MR. NOFFSINGER: I think at this point we need
3 to hear from the traffic engineer from the State of
4 Kentucky. They are represented here, as well as the
5 city engineer. They really need to answer those
6 questions.

7 Now, keep in mind tonight Planning Staff and
8 this Commission, we're hearing a proposal that does
9 not consider moving any lights, okay, at Byers Avenue.
10 They're not proposing with this development at this
11 time to eliminate the left turns, but I want to make
12 it very clear that at any point in time the State of
13 Kentucky can come in -- I'm not saying they can't be
14 challenged, but they can come in and put a median to
15 block left turn movements to and from Ragu Drive and
16 remove that signal. That is an action the State of
17 Kentucky can take tomorrow, a year from now, six years
18 from now. But at this point in time, we're not
19 considering that. The Planning Staff is not
20 recommending that that light be removed or the left
21 turn moves be prevented.

22 MR. GLENN: A number of people here tonight,
23 that's one of the reasons they're here. This is a
24 massive change in the traffic flow coming off Byers
25 Avenue. That's why there's so much concern.

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1 MR. NOFFSINGER: Exactly. And we share that
2 concern. That's why I stated you need to be aware
3 that regardless of what happens here tonight, the
4 State of Kentucky can make that happen. So it's a
5 real issue.

6 MR. GLENN: It's an issue and you've got
7 somebody that can answer our questions from the state?

8 MR. NOFFSINGER: They are here tonight.

9 MR. GLENN: Let's hear them.

10 CHAIRMAN: Are you representing the state?
11 Would you please step to the podium, please.

12 MR. SILVERT: Would you state your name,
13 please?

14 MR. McCLEARN: Kevin McClearn.

15 (KEVIN McCLEARN SWORN BY ATTORNEY.)

16 MR. McCLEARN: I'm Kevin McClearn and I work
17 for the Kentucky Transportation Cabinet out of
18 Madisonville. I'm the chief district engineer for
19 District 2. There are 12 districts in Kentucky.
20 District 2, of course, is located in Madisonville. We
21 oversee 11 counties.

22 When there's changes on a roadway system that
23 is a state route, then a permit is required and our
24 input is required and our approval is required.

25 In a situation like this, we certainly have

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1 changes to state route. Kentucky 54 is a state route.
2 If it's a city street, county road, those things we do
3 not have jurisdiction over and we do not comment on.
4 Of course, this is a very major player here so we've
5 been involved for a number of months.

6 I think, from what I'm understanding, that the
7 purpose of tonight may not deal completely with those
8 changes on 54. From what I'm understanding, the vote
9 is as Mr. Howard read it is a little bit separate from
10 the changes on it that are proposed on 54. I think
11 there's a lot of concern here and I'll just touch on
12 it, on some things that I can maybe help with.

13 A Traffic Impact Study has been completed.
14 It's in our office for review. We've been given some
15 latest copies tonight. It's still under way, still
16 under review. Those things that are recommended are
17 what I think that everyone here is aware of. I
18 believe there was a meeting last night where the state
19 was not at. Our stance is safety.

20 When an explosion of traffic happens and it
21 impacts the state route, then we ask professionals to
22 get involved. The transportation engineers to do a
23 study. To develop a model to input the traffic, to
24 understand what kind of traffic comes in and out.

25 Then what we do is comment on that and approve

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1 it. That may include changes to a route. Those
2 changes are predicated on safety and getting traffic
3 through. What we look for is the developer to fund
4 those many times. This is not what we call a six year
5 plan project. This is a development. So as a permit
6 comes through, we either deny it or we approve it.

7 So to get approval a lot of times the
8 developer has to pay for some of that or all of that.
9 I don't think that's what we're here about tonight.

10 What is being discussed is not up for too much
11 comment tonight, from what I understand, from this
12 meeting that you'll be voting on as Mr. Noffsinger has
13 stated. Some of the changes are, will the signal be
14 moved? Will a signal be added?

15 What we've got, and I'll try to be general, is
16 315 feet separating two areas that need a signal. We
17 don't have a location in District 2 that has two
18 signals that are 315 feet apart. It is not
19 recommended. It is unsafe, depending on the traffic
20 that you've got coming in. There may be signals that
21 are fairly close in downtown Owensboro that is a
22 one-way street. This is not one-way streets that
23 we're talking about here. So when we immediately look
24 at something about two signals, immediately we have
25 concerns.

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1 So the proposal that was submitted that I
2 believe is the latest calls for the removal of a
3 signal at Ragu Drive and an additional one at the
4 ramps.

5 In reference to what was just stated with the
6 question that was just asked, we're not arbitrary on
7 where we put a signal. We don't discuss it and give
8 it an opinion and decide to put one up or not put one
9 up. We don't weigh the status of the person asking or
10 the company asking and put a signal up or not put it
11 up.

12 So there's recognized standards across the
13 nation. If it meets the standards, we put it up. If
14 it does not, we don't. When we put it up, when we
15 don't, that kind of answers that question.

16 Here they're too close. That's the problem.
17 It's a problem that all of us, all of you in this room
18 would have to put up with if it happened in that way.
19 You've got left turners. You've got conflicts,
20 etcetera, that would have to be managed.

21 What we want is a win/win for everybody.
22 We're still reviewing it. I understand from meeting
23 with Huck's, from hearing about this meeting, from
24 reading the newspaper articles, discussions with the
25 city, county, Gary Noffsinger, that there are

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1 concerns. We want to take those into consideration as
2 we review this, and we will.

3 I can state that we're bravely concerned about
4 two signals being that far apart; thus the
5 recommendation for no signal at Ragu.

6 If there's no signal at Ragu, what happens to
7 the trucks? That was covered in the newspaper article
8 in the meeting last night, but what we have asked is
9 for the city to come up with a solution to that
10 question. Ragu Drive is not a state route. It's not
11 ours. So what's going to happen with the trucks needs
12 to be answered. So we feel like that needs to be
13 answered before we approve the permit, and it will be
14 or we won't approve it. We can't have trucks at that
15 intersection wanting to turn left and then when they
16 can't where are they going to go? That's all got to
17 be worked out. We believe that there's some solutions
18 out there, but that there's going to be some
19 reworkings that will be required. That will be one of
20 the big things that we have to consider.

21 Also, you know, we've got the bypass going
22 through there. The ramps where you get on and get off
23 meet warrants for a signal.

24 Now, this is a way to manage the great volume
25 of traffic and get a signal at that location and

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1 manage the best we can over here. Again, we can't
2 look at it and with our experience or with Kenny
3 Potts' experience or Joe Schepers' experience we can
4 have a guesstimate, but it takes traffic engineers to
5 get involved and do computer models and input the
6 traffic to look at situations when they talk about
7 level of service that you might put a one-way here and
8 it's a certain level of service and change a few
9 things and get a better level of service. We've got
10 to look at future traffic. Whatever is built out
11 there now, whenever it's done, you want to make sure
12 that 20 years from now it's still going to be
13 operating. You don't want to make major investments
14 now and then have to redo the whole, tear them out and
15 redo them again later.

16 Those things are what's being considered and
17 is still being considered. Safety, of course, is
18 paramount. Our national standards are designed around
19 safety and that's what we'll be overlaying on these
20 designs.

21 With that I've kind of rambled, but I'm trying
22 to cover the gambit of what some of the questions
23 might be.

24 We've got experts also in the central office.
25 They'll be involved in this as we look at it. We

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1 understand Huck's. We understand that there's some
2 concern obviously about possibly removing a light.
3 We're going to take those into further consideration.
4 Our approval of that hasn't been granted just yet, but
5 we will make a decision based on standards, safety and
6 then try to work in desires of groups such as
7 yourself.

8 CHAIRMAN: To sum it, his question was: When
9 you come off the bypass, will you yield to the traffic
10 or would you stop?

11 MR. McCLEARN: When you come off the bypass?

12 CHAIRMAN: Will he yield? What will the car
13 do there?

14 MR. McCLEARN: Without the signal? Without
15 the signal?

16 CHAIRMAN: Correct.

17 MR. McCLEARN: I think what the Planning
18 Commission is doing is asking for two signals, right?

19 MR. NOFFSINGER: Yes. The Planning Staff is
20 basing their recommendation tonight on not including a
21 condition that says, if a light is to be removed and
22 the median installed and those channels. We removed
23 that condition from the original Staff Report so that
24 that is not a condition to the rezoning, if this
25 rezoning is approved. However, as I stated earlier,

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1 it's a very real issue and is likely to happen at some
2 point in time if this plan is approved. So it's still
3 an issue, but it's not a condition to the rezoning.
4 So I'm not saying you can't talk about it or shouldn't
5 talk about it. I think you should. It's just not a
6 condition.

7 I've been asked, Mr. McClearn, if you would
8 commit on the record that should the traffic light be
9 removed at Byers Avenue at some point in the future,
10 it would not be removed until such time as you make
11 provisions for truck traffic exiting Ragu Drive to
12 exit at an alternate location? I think you said that
13 earlier. I just need to get a commitment on the
14 record that that will not occur until you have an
15 alternate route.

16 MR. McCLEARN: We'll commit to that.

17 MR. NOFFSINGER: Thank you.

18 MR. McCLEARN: Let me just answer both
19 scenarios on Byers.

20 If I'm coming up 54 on Byers with a signal,
21 obviously you do what the signal says. If the signal
22 is gone, then there's a barrier median down the
23 center, so you can only go right. When you pull up,
24 you will yield. If it's clear, you go. If it's not,
25 you'll wait.

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1 MR. MCGUSS: I think the question was --

2 CHAIRMAN: Hold it, sir. Sir, just a moment,
3 please. We'll let him finish and then if you have a
4 question we'll bring you to the podium.

5 MR. McCLEARN: I'm finished for right now.

6 MR. NOFFSINGER: The reason we're doing this,
7 we need to get everyone to speak into that microphone
8 and state your name for the record so this lady right
9 here that's taking down word for word what is said
10 tonight, she will get all of it. We can't get that if
11 you're speaking from your seat.

12 MR. SILVERT: Just state your name, please.

13 MR. MCGUSS: My name is Tom McGuss.

14 (MR. MCGUSS SWORN BY ATTORNEY.)

15 MR. MCGUSS: I live at 2807 Sumner Pointe
16 Court and we have three places in Heartland, and I'm
17 concerned about this.

18 Actually all I wanted to do was call to the
19 gentleman's attention that I didn't think he had
20 answered Bob Glenn's question and ask him to do that.
21 I think Bob Glenn asked the question if you were
22 coming out of Byers Avenue meaning to turn right,
23 which is the only way you can turn, would you have to
24 defer to the traffic going east on 54? I think he was
25 thinking the way traffic often backs up there. I want

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1 an answer to that question.

2 While I'm here though, since I didn't intend
3 to address that, let me ask a different question
4 because I like a lot of these other people exercise,
5 about the possibility of that island going in there
6 that blocks a left turn all together off Byers. I do
7 not see why coordinated traffic lights possibly
8 alternated by a second left turn lane if necessary for
9 traffic flow might not accomplish that. I heard the
10 gentleman say that he didn't like to put traffic
11 lights that close together.

12 The traffic light at 60 and the bypass is
13 almost that close to the one that enters the Rural
14 King entrance down there. I haven't stepped it off,
15 but he may be off by a foot, but not by much. Not
16 much of a difference. So it can be done. The fact
17 that it can be done makes me want to get you folks to
18 look at the possibility of finding a way to do that
19 before you inconvenience 800 voters in the Heartland.

20 CHAIRMAN: Mr. McClearn.

21 MR. McCLEARN: Yes, you'll have to defer
22 traffic if you're turning right. Yield and, yes,
23 you'll have to defer.

24 Secondly, you cited an example. I think where
25 we're headed here possibly is perhaps another public

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1 meeting where that we get a little bit more specific
2 and answer some questions like that one on why it
3 won't work. What's the problem? Why don't you add
4 more storage by adding another left turn lane? That
5 sort of thing. We are willing in coordination with
6 the city and the city engineer, we're willing to do
7 that. That's not a problem.

8 I don't know. Do we need to get any other
9 facts together? We're flexible. We can do that, and
10 we would advertise it.

11 CHAIRMAN: Mr. Noffsinger, is this a two-part
12 project that we have here, the traffic and the zoning?
13 We're going to have to have the traffic with the
14 zoning, correct?

15 MR. NOFFSINGER: Yes. The traffic is an
16 integral part of the zoning because that's why we're
17 here tonight. We're changing from the approved
18 transportation plan of this development to a proposed
19 transportation plan which has a real affect on Byers
20 Avenue. So they are integral and need to be
21 considered together. If it weren't, we wouldn't be
22 here tonight, except we would be rezoning this little
23 sliver of property and probably no one would show up.

24 CHAIRMAN: But this body has no real control
25 over the traffic on Highway 54.

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1 MR. NOFFSINGER: This body has control over
2 the transportation that work internal to this
3 development. The proposal affects Byers Avenue and
4 it's all integral. Directly you can't tell the state
5 what to do, but you can have an impact on the zoning
6 of this property here tonight because the
7 transportation is part of the proposal.

8 CHAIRMAN: Have we reached a point where
9 without a complete plan from the state that we can go
10 further with the meeting before we have the facts that
11 we have?

12 MR. NOFFSINGER: Well, I think that's a
13 decision this build will have to make. I mean what --
14 we haven't heard everything I think you're going to
15 need to hear tonight. We haven't heard from the
16 person that prepared the Traffic Impact Study.
17 There's a lot that I heard last night at the
18 neighborhood meeting that has not been brought up here
19 tonight. I think these folks are definitely wanting
20 answers to some of their questions that they couldn't
21 get last night.

22 CHAIRMAN: I think the gentleman right here,
23 yes, sir.

24 MR. SILVERT: Would you state your name,
25 please?

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1 MR. GORDON: My name is Greg Gordon.

2 (GREG GORDON SWORN BY ATTORNEY.)

3 MR. GORDON: A few things has changed since
4 yesterday. Obviously the Planning Board is seeing a
5 few things that are a little more in what we're
6 thinking as far as some of my neighbors here.

7 Mr. Kirkland, you have just brought up what
8 the point is. This is the point now, now that things
9 have changed. If you guys approve this development
10 today and you say, okay, that's good. We're going to
11 go ahead and accept this development today and then
12 the state comes in six months from now and they finish
13 their study and say, you know, we need to take that
14 light out. So now what we've done is we're right back
15 to where we was yesterday.

16 So what needs to be done now is we need to
17 re-evaluate the route and all of this. You're right.
18 It needs to be decided to incorporate what we're going
19 to do now if the light is going to be removed. Not
20 after the fact. Not later. This is something that
21 needs to be done at the same time. You're talking the
22 state highway and the city has got one thing going on,
23 and you can't have two different shows there. It's
24 got to be put together. They need to have some kind
25 of form where we can have some input as neighbors and

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1 for the neighborhood, the Heartland, the business
2 owners that are in the area, the city, the Planning
3 Board and the state. They all need to come together
4 and do it at one time. If you all approve that today
5 and he can build it just like is on that picture, when
6 they pull that light, that's it. There's nothing we
7 can do at that time. I can tell you, we talked about
8 it last night. When you go down in there and you take
9 that left into our neighborhood and you go around that
10 little roundabout and you go right and you go to that
11 Byers Avenue, you're going to be at a stop sign. So
12 now you're going to have to turn left there. That
13 traffic is all going to back up at that stop sign. So
14 basically you're taking all the highway traffic that
15 turns left down into our neighborhood and you're
16 putting it at a stop sign. So you have just totally
17 impeded all the flow. You're going to have all this
18 back up.

19 So there's a lot to be thought about in the
20 plan there before they approve this plan and say, yes,
21 that's okay. Because if the state does come back at a
22 later time and say, well, we're getting too much
23 traffic here. We need to pull this light. We are
24 going to have a real problem then and they're not
25 going to go in there and rip that plaza up and say,

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1 well, let's look at it and make us an S-curve. I'm
2 not going to speak for Bill Jagoe, but that was
3 something he was talking to me about. Just another
4 suggestion.

5 If you put an put S-curve in there, you're
6 bringing the Byers Avenue right out into the
7 intersection there. You've got a road there. You're
8 talking about taking 800 families in the Heartland and
9 all of the people that go into Trinity Hills and
10 you're basically, if you're coming from Wal-Mart at
11 the end of day, you're running everyone through that
12 parking lot and through that plaza. That's not any --
13 that doesn't make any sense for any neighborhood in
14 any situation. That's my biggest thing. I think we
15 need to back up. They need to sit down and
16 re-evaluate this whole situation before somebody puts
17 a stamp on it because once it's done, it's over. I
18 mean it's over. You can't come back. If the state
19 says, hey, we're doing it, it's too late then. Then
20 what happens when we've got all of that traffic and
21 all of them issues, what's the city going to do then?
22 They're going to say, we should have thought about it
23 then or we should have figured it out then. So we
24 need to really get a lot of people together and lot of
25 different entities and come together and work on this

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1 together.

2 CHAIRMAN: That was my question, and you see
3 the position of this board. Being able to make these
4 decisions based on pieces that are not totally before
5 us. Obviously we've got the tax payers and the
6 citizens, and we're a board of the citizens of Daviess
7 County, Whitesville and the City of Owensboro. We
8 want to do what's best for the whole community.
9 Obviously creating a traffic situation in that area is
10 something this board does not want to do, but we have
11 to have the help of professionals that are trained to
12 do this. So that's where probably at this point in
13 time we'll go ahead and hear from the other traffic
14 studies and from the other people from the developers
15 and see if there's something there that could help
16 this board. We're very attune to what your all's
17 situation is and what the best of Owensboro and
18 Daviess County will be. I appreciate you
19 understanding that part about the Board and what we're
20 faced with.

21 MR. GORDON: I'll admit it's a mental task,
22 but I do believe that the people from -- everybody
23 needs to come together and do it together. I'd just
24 be afraid that you all vote on something tonight that
25 is going to -- if you try to get this group together

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1 later, it does no good because you've already set it
2 in motion over here. So that's something that you
3 need to consider.

4 I know that as far as the developer he's ready
5 to go. He's ready to move. He's ready to open
6 stores. He's ready to start plowing fields. But the
7 thing is if you make the wrong decision now, it's
8 going to affect all of us as long as we live in this
9 neighborhood, and some of us will live there the rest
10 of our life.

11 CHAIRMAN: A wrong decision not only affects
12 you and the neighbors of the neighborhood, but it will
13 also affect the developer.

14 MR. GORDON: Sure it does.

15 CHAIRMAN: So we're wanting to protect all
16 members. I think at this point in time that we'll
17 just move forward and hear some of the developer's
18 traffic plans and their studies and move forward with
19 that and see what we can get in that information.
20 Obviously this board is an open forum. There's no
21 decision been made. There's no direction been made.
22 So we want to hear, gather all the information we can.

23 I think we'll pursue that avenue at this point
24 right now.

25 MR. McCLEARN: I suggest that Mr. Bill Hayes,

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1 an engineer with Barge Waggoner Sumner & Cannon that
2 prepared the Traffic Impact Study discuss a little bit
3 of the specifics.

4 CHAIRMAN: Mr. Hayes.

5 Sir, do you have a question?

6 GENTLEMAN IN AUDIENCE: I did, but that's
7 okay. I see how this place runs.

8 CHAIRMAN: No, sir. This gentleman here will
9 present information and then you'll have your
10 opportunity to ask a question.

11 MR. SILVERT: Would you state your name,
12 please?

13 MR. HAYES: William Hayes.

14 (WILLIAM HAYES SWORN BY ATTORNEY.)

15 MR. HAYES: I was not at the meeting last
16 night. I got some idea of some of the questions.

17 I'll just very quickly mention a couple that I
18 thought top button things to try to hopefully --

19 One of the questions that came up relates to
20 where the road from the site at the roundabout would
21 go into Byers. I believe there was a misunderstanding
22 that there would be just a single stop sign there and
23 that the existing Byers Avenue would continue to have
24 A right-of-way and then we would have alternate
25 several hundred cars an hour trying to wait for a gap

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1 to turn left there. That was not my intention at all.

2 My anticipation by ten years after the opening
3 of this facility, which is basically the year 2022,
4 would be that by that time the traffic volume on the
5 three approaches would meet warrants for a multi-way
6 stop, which would be the most advantageous way, at
7 least the labor people. In the interim before that
8 happens, if you're going to route the traffic through
9 the two left turns --

10 CHAIRMAN: Excuse me, Mr. Hayes. I'm having a
11 little problem myself. A multi-way?

12 MR. HAYES: In other words, a four-way stop.
13 We've got three legs. I'm sorry, three-way stop. If
14 you notice on the plaques, they will often say
15 multi-way or they will say four-way. Different
16 jurisdictions have different says. In other words,
17 all three approaches would stop and just by the rules
18 of the road would you see.

19 The other way to handle it in the interim is
20 not the most desirable way, but it certainly can be
21 done, is to give the right-of-way to what in effect is
22 the side street. In other words, people would turn
23 left on 54 or people in the site itself who are going
24 to turn left onto Byers, that they would have the free
25 flow condition and then the existing Byers of both

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1 directions would have to stop and yield for those
2 people.

3 That is a workable situation up to a certain
4 volume. There's a certain point though in which
5 having anyone stop is the safest most desirable way.

6 That's the ultimate decision of the city
7 traffic engineer. We ran a few different ways. We
8 certainly agree that just putting up a stop sign, it
9 does back up a pretty good distance. We went from
10 there to another form of traffic control there.

11 In terms of a couple of questions that come
12 up. When we do a traffic study in Kentucky, it
13 doesn't matter whether we do it in Owensboro, Bowling
14 Green. I've done them all over the state. We are
15 under the guidelines of the Kentucky Transportation
16 Cabinet on anything that involves the state road.
17 There's a very defined method.

18 One of the things you do is to project the
19 opening day of the site, which in this case we pick
20 2012. We could have picked 2013, but a short range
21 something will be open. Not the full development.
22 About 85 percent will be open. Then we project 10
23 years from now, which is how we got the year 2022. We
24 take into account the traffic growth on KY 54, the
25 traffic growth on Byers with new houses being built

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1 and subdivision, that type of thing. We put all of
2 that will together plus the site and make evaluations.

3 CHAIRMAN: Let's stop at that point there and
4 let's ask you if you would sit down and let's ask
5 specific questions asked by the neighbors and the
6 developers and whoever like that.

7 MR. HAYES: Sure.

8 CHAIRMAN: You were next up on the agenda if
9 you'd like.

10 MR. CRAFTON: David Crafton.

11 MR. SILVERT: Could you state your name,
12 please?

13 MR. CRAFTON: David Crafton.

14 (DAVID CRAFTON SWORN BY ATTORNEY.)

15 MR. CRAFTON: I am a resident of Heartland
16 Subdivision. I have more of a comment than a
17 question.

18 It's my understanding that the traffic issue
19 is not going to be resolved in this room tonight; is
20 that correct?

21 MR. NOFFSINGER: I don't know that it --
22 ultimately it will not be totally addressed here
23 tonight.

24 MR. CRAFTON: Then why are we spending all
25 this time when we've got another meeting promised by

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1 the state to discuss traffic?

2 MR. NOFFSINGER: Because, as I stated earlier,
3 ultimately the State of Kentucky has the right to make
4 improvements on 54 as they deem necessary when they
5 deem necessary for safety.

6 MR. CRAFTON: Then that's beyond the scope of
7 this meeting. That's beyond the scope of you or
8 anybody else. So what are we doing here? You're here
9 to approve a planning change, aren't you? Zoning
10 change. That's your purpose tonight, isn't it? Do a
11 zoning change; am I correct?

12 MR. NOFFSINGER: That is not the sole purpose
13 of what we are here tonight. That is one purpose that
14 we are here tonight. The next purpose we are here
15 tonight is to consider the transportation network
16 internal to this development. What we are not here
17 tonight to do is dictate to the State of Kentucky what
18 they will do in the future. That's why I'm trying to
19 make clear that regardless of what happens here
20 tonight, the State of Kentucky can do something
21 different on 54. Now, I just want you to be aware of
22 that because I don't want you to leave here tonight
23 thinking you got something or maybe you didn't get
24 something and it's different in the future. That is
25 for another meeting. We're not going to be able to

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1 address that here tonight, but what's approved here
2 tonight does have an impact on the State of Kentucky
3 and the future.

4 MR. CRAFTON: My recommendation to the board
5 is you do not approve the zoning change until the
6 traffic problem is resolved and this man right over
7 here does nothing more to further improve that piece
8 of property.

9 MR. APPLEBY: Let me make an observation.
10 Right now they have an approved plan and the property
11 is zoned commercial today.

12 MR. CRAFTON: Most of it.

13 MR. APPLEBY: With the exemption of this
14 little sliver. If they have an approved plan, they
15 can start work on it tomorrow if they want. The state
16 can still come in -- right now there's no provision.
17 There are no provisions made. There is no discussion
18 about the moving the light, putting in those medians
19 at the time the other plan was approved. That's come
20 up since that time.

21 The state can come in -- they've got an
22 approved plan today. The state can still come in
23 tomorrow if they felt like it and take that light out
24 at Byers Avenue. That's beyond our control, but they
25 have an approved plan. They can go ahead and go to

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1 work.

2 MR. CRAFTON: Well, I submit to the board
3 history has a tendency to repeat itself. Look at this
4 mess we've got downtown. Yes, we're going to do
5 something. What's the state done? No, we're not
6 going to do something. You know, we're going to build
7 a hotel here. No, we're not going to build a hotel
8 here. Yes, we're going to build a convention center,
9 and were' spending \$80 million for beautification. I
10 don't care where I am, it's still a fact. This town
11 has a history of jumping into water before it's full.
12 That's all I got to say.

13 CHAIRMAN: Yes, sir.

14 MR. SILVERT: State your name, please.

15 MR. BALDWIN: Daniel Baldwin.

16 (DANIEL BALDWIN SWORN BY ATTORNEY.)

17 MR. BALDWIN: I'd just like to say that it
18 feels like we're wasting quite a bit of time on our
19 part. I'm all about the development and going further
20 with the community; although this proposal right here
21 is going to be a disaster.

22 I work at Ragu. By the time I get off at 7
23 a.m. my day is very structured. I have exactly 13
24 minutes to get my daughter picked up for school, which
25 I cut straight across. Then I'm coming back up to the

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1 light to turn right to go to Highland. Then I'm
2 coming all the way back in town to drop my son off.

3 So I would just like everybody to consider
4 that this is going to be a very big nuisance to
5 everybody that lives in the Heartland and that not
6 only -- I've heard talk about the trucks that come in
7 through the development through Ragu Drive. Well, I
8 was shipping a dispatcher for a year and a half. I'm
9 telling you that we do 125 to 155 trucks per day that
10 comes through this exit. If we divert them through
11 town, I believe that's going to be a bigger safety
12 risk than having them come right back out to the
13 light, over the bypass, and that's going to dump them
14 to go to the William Natcher or back to 60 on up
15 through Indiana.

16 I would just like to make that known because
17 that's going to be, I think it's going to take the
18 danger from that intersection and move it elsewhere.
19 Thank you.

20 CHAIRMAN: Thank you.

21 MR. SILVERT: Would you state your name,
22 please?

23 MR. COOPER: Dana Cooper.

24 (DANA COOPER SWORN BY ATTORNEY.)

25 MR. COOPER: Has there been any studies on the

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1 traffic that will increase on 26th Street that dumps
2 out onto Byers? Because 26th Street is already kind
3 of a racetrack sometimes. This is going to be kind of
4 a bigger headache with the cars coming out of, as this
5 gentleman was saying, going to turn left and go down
6 Byers and then turn right on 26th Street and. There's
7 going to be a lot of excess more cars coming 26th
8 Street to turn. I just want to know if there's been
9 any studies on that?

10 CHAIRMAN: Let me get that answer. Do you
11 have another question before you sit down?

12 MR. COOPER: Right now that's all I've got.

13 CHAIRMAN: I'm assuming they did a traffic
14 study.

15 Mr. Hayes, would you return.

16 MR. SILVERT: And if you could just state your
17 name again for the record. You're sworn.

18 MR. HAYES: Bill Hayes.

19 We did perform a traffic count at the
20 intersection of East 26th and East Byers, and we did
21 include that in the report. We did not go into
22 analysis of a lot of diversion of traffic. Most of
23 the traffic involved in that intersection that we were
24 counting at 26th and Byers. The dominant movement,
25 and I think he just accurately describe that. If you

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1 come on 26th toward Byers you're turning left and
2 going 54 and reverse -- if you're coming from 54 on
3 Byers and you're turning right on East 26th. I don't
4 know the history of the town enough to know all the
5 origins of that traffic, but it was a significant
6 amount of the total Byers Avenue traffic was making
7 that movement, which frankly was a little surprising
8 to me.

9 The amount of traffic turning from the
10 residential areas to the south onto East 26th, at
11 least on the day we counted, was pretty small. One of
12 the questions was, you know, are people cutting
13 through now that appear to be going that direction.
14 They may have appropriate and legitimate location to
15 go there.

16 The amount of traffic that takes Byers up to
17 54 and then turns left in the afternoon is quite
18 small. Now, it's a significant amount in the morning,
19 but in the afternoon it's a pretty small amount of 15
20 percent of the traffic at that point approaching 54
21 from Byers in the afternoon peak hour. Fifteen
22 percent is either turning left or going through.
23 Eighty-five percent is turning right and heading out
24 east either to the bypass or out to the commercial
25 areas.

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1 CHAIRMAN: Thank you.

2 Just a moment. We're going to have a switch
3 of court reporters.

4 - - - - (OFF THE RECORD) - - - -

5 CHAIRMAN: We're back on the record.

6 MR. SILVERT: State your name, please.

7 MR. HODSKINS: My name is Ed Hodskins. I've
8 been an attorney here in Owensboro for about 34 years
9 I do promise to tell the truth.

10 I'm here representing Huck's which has a
11 couple of stores that they have constructed here in
12 our county. Huck's is owned by a company named Martin
13 & Bayley.

14 I have with me tonight as a representative,
15 Mr. Mark Bayley who is chairman of Huck's, as well as
16 Jim Whetstone who is vice president of finance and
17 real estate development.

18 I would like to make a few introductory
19 remarks, and I've got a question.

20 First and foremost, I want to clear up a
21 misconception that has been in the newspaper and on
22 the lips of a lot of people, and that is that Huck's
23 was well aware of the traffic proposals that were out
24 there that would involve removal of the traffic light
25 and construction of barrier, medians and concrete

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1 impairments or islands to get to their property. I
2 can state unequivocally that Huck's was unaware of any
3 such barrier, median or concrete barriers that would
4 limit access by their customers to their property.
5 They've made quite an investment. About \$2.3 million
6 at this location on Ragu Drive. They have another
7 location on J.R. Miller Boulevard. They're a company
8 that has about 107 stores in five states. They are
9 good businessmen. They do their job. Believe me, if
10 there had been any information whatsoever of a barrier
11 where people could not turn off of Highway 54 into
12 their property going one way and the other way where
13 even if you did get in you couldn't get back out and
14 go the other way.

15 Basically the proposal that I listened to last
16 night for three hours at Blessed Mother School, and I
17 saw highlighted on the board, that would kill that
18 Huck's store. They basically would not have any
19 business. The \$2.3 million that they invested in that
20 store would have been just about down the drain.

21 Now, they were wined and dined. They were
22 welcomed to this community back in September whenever
23 they came and they got approval and the City welcomed
24 them. Everything was great. No information of any
25 problem like this.

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1 You cannot imagine how much this hits them in
2 the head when they hear that traffic redesign,
3 redevelopment is basically going to say, Owensboro
4 doesn't want you any more. We don't care about you
5 any more. Believe me, we care about safety, but we
6 also care about -- I was so glad to hear Gary
7 Noffsinger talk about we are a welcoming community and
8 we want new business. Prove that to Huck's. Prove
9 that to Huck's.

10 There's a lack of transparency that's gone on
11 in this process. We want government to be open. We
12 want government to not be conducted behind closed
13 doors. We want everyone to be involved, but what I
14 heard last night at Blessed Mother was that the
15 Transportation Cabinet and the city engineer invited
16 the applicant, only the applicant to sit down and have
17 a seat at the table with them to discuss these traffic
18 concerns out on 54 and Ragu Drive.

19 Why wasn't Huck's allowed seat at that table?
20 Why weren't the Homeowners' Association, why did they
21 not have a seat at the table? Why didn't Titan
22 Contracting and Titan Construction not have a seat at
23 that table? And why did Malcom Bryant Corporation not
24 have a seat at that table?

25 CHAIRMAN: Mr. Hodskins, just a moment. Would

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1 you add us to that group also? Mr. Hodskins, you can
2 see our position. We're finding out about it probably
3 after most of the people in this room found out about
4 it.

5 MR. HODSKINS: Then that's all the more reason
6 why we need to have further hearings.

7 The failure to involve citizens, the failure
8 to involve businesses that have a financial say, the
9 failure to involve all of the people in the area, the
10 citizens of this community means that things are being
11 decided behind closed doors. It's kind of like this
12 is a run -- I get the feeling like this is a runaway
13 freight train steaming down a hill and get out of the
14 way because nothing is going to stop it. That's not
15 the way our government should work.

16 You know, the real problem is if we approve
17 this tonight we're not just approving the rezoning.
18 You're giving a final approval to a development plan
19 that could very easily limit or pigeon hole what the
20 State and the City want to do traffic-wise. Once this
21 property is committed to development, they can go in
22 and do whatever they want.

23 You know, one of the prime considerations was
24 an S-curve. Apparently that was discussed a lot.
25 We're kind of hearing about it after the fact, but

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1 apparently it was under discussion.

2 CHAIRMAN: Would you explain it to me, please?

3 MR. HODSKINS: I can tell you who can explain
4 it far better than me and that's Mr. Scott Jagoe
5 because he understands what that is, and I'll defer to
6 him on that.

7 In some ways, I've heard tonight that this is
8 a million dollar meeting because if this gets shoved
9 through it saves a million dollars.

10 I tell you what, that's about money. We're
11 here about safety and the citizens of this community.
12 That ought to be paramount.

13 Now, Toby Keith says, a little less talk and a
14 lot more action. Well, I submit to you I'm going to
15 have to disagree with Toby tonight. We need a lot
16 more talk before there's any action. We need to have
17 meetings and we need to be heard. The state needs to
18 realize that there's more than these standardized
19 things to go by. There's people.

20 Now, I have a question for Mr. Hayes. Mr.
21 Hayes and his company down in Nashville, this
22 engineering company, they got hired by Huck's back in
23 September of last year to do a Traffic Impact Study.
24 Huck's paid them a lot of money. As a part of that
25 study, I've got it right here and you all have it in

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1 your file, he talks about the Heartland Crossing
2 Development on 54 that's coming down the road and
3 improvements that are going to have to be made. He
4 says, that he recommends a signal that's timed and
5 phased and coordinated to develop so as to accommodate
6 a second signal close to the existing signal.

7 In other words, he says there's to be two
8 traffic lights that can be synchronized, that can be
9 coordinated and it can be safe. We paid for that. We
10 trusted that and based on that we put \$2.3 million
11 into this plan.

12 Now, he comes back in December. He gets hired
13 by these applicants. Their footing the bill now.
14 What does he put in the study now three months later,
15 Mr. Hayes? You say, construct a concrete barrier
16 median down the middle of 54. Put concrete
17 channelized islands on the road.

18 There's a conflict of interest. He's saying,
19 put his own client out of business in the second
20 study. How does he -- I would like to hear, how does
21 he purport those two studies?

22 CHAIRMAN: Mr. Hodskins, I would construe that
23 is a question for Mr. Hayes?

24 MR. HODSKINS: It is.

25 CHAIRMAN: Mr. Hayes.

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1 MR. HAYES: Mr. Hodskins, since you're an
2 attorney I'll ask you if I'm ever going to need right
3 of counsel myself before I'm put on trial. Okay.

4 In 2007 our firm was retained to do the
5 original Heartland Crossing Subdivision is what we
6 did. That was a document of record, and is still the
7 document of record for the zoning as it is there
8 today.

9 I was later retained by Huck's market and we
10 performed not a Traffic Impact Study, but a Traffic
11 Access Study. We focused simply on getting in and out
12 and where the entrances would be.

13 We cited the traffic study that was on record
14 for the Heartland Crossing. I was not aware of any
15 other considerations by the Kentucky Transportation or
16 anything else. If so, we would have put that in the
17 study.

18 When I was retained for this particular study,
19 I was advised that this was the State's plan. One of
20 the things we do in Traffic Impact Studies, we do not
21 do site developments. We respond the information
22 given to us and we assess the impact. We do it in
23 consideration of all the public. That's what I'm
24 sworn to as a professional engineer. Okay? That's
25 what this study is looking at given the input we have,

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1 one of the consequences.

2 The study in 2007, under the guidelines at
3 that time, only went five years, to the year 2012.
4 Under the new guidelines from the Kentucky
5 Transportation Cabinet, which has just come into
6 effect, we go ten years after the opening date, as I
7 said before. That puts us considerably further in the
8 future.

9 One of the things that happens as you go
10 further and you look at growth rate you find a point
11 at which things simply drop off in terms of level of
12 service. Somewhere between 2012 and 2022 there's
13 going to be that point. There's growth rates and
14 everything that occurs. At which point those two
15 signals, which in our 2007 analysis, as you properly
16 said, yes, they could work. They're not ideally, but
17 in terms of the best optimal solution at that time
18 that was it. It could probably work today to have an
19 analyzing detail of today. It's not going to work in
20 2022 with development growth occurring on 54.

21 So in terms of time sequence, that's what we
22 did and why we did it.

23 CHAIRMAN: Let me ask you a question. Then
24 for free what would you recommend that Huck's do?

25 MR. HAYES: I've already talked to Jim

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1 Whetstone and offered to send him, and I have just not
2 had a chance to do it. I plan to do it by Monday.
3 Was to go back to his study. Look at what my
4 assumptions were there. Give those to him. I also
5 offered if -- you know, obviously we have to charge at
6 some point for our time, but I told him anything that
7 I could provide to him.

8 CHAIRMAN: We have you for free right now.

9 MR. HAYES: Again, it's something to stand up
10 here and go through.

11 One of the things I would suggest is and one
12 of the things we looked at in this study was, what are
13 the alternative routes. Let's just say Ragu Drive was
14 shutdown for utility work for two months, what would
15 you do?

16 The two alternatives routes are Grimes Avenue
17 and West Haven Drive. Either of those are right now
18 unsignalized intersections. There has to be an
19 evaluation with the additional traffic. West Haven
20 would either warrant for a signal or there could be a
21 temporary signal put there, that type of thing.
22 Obviously with that amount of truck traffic that would
23 be the reason to consider that.

24 I would also suggest that, and this occurs in
25 different situations. That you can get most of the

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1 traffic in. The problem is getting them out. If
2 they're coming from industrial park and heading back,
3 how would they do that? You do that by way fare
4 signing. Say you're go to the bypass, you'll turn
5 this direction, that type of thing, by the signage
6 there.

7 I don't know about what properties are
8 available around. I understand some of he property
9 around Ragu is a cemetery, which obviously would
10 preclude that, but I would look in the direction. Of
11 course, you want to look for the entire industrial
12 park. You know, one of the alternative routes, if a
13 left turn and through if Ragu are available.

14 What we ask you to assume in the study was
15 that there would be, the majority of them would go to
16 West Haven. A few might go to Grimes if they were to
17 originate down that far, and we incorporated that into
18 the study.

19 CHAIRMAN: Mr. Meyer, could you step to the
20 podium, please.

21 MR. MEYER: Tom Meyer.

22 There's one thing perhaps that I could cleanup
23 for the Commission with regard to comments that Mr.
24 Hodskins made.

25 This matter was very much considered, and it's

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1 on the bottom of this development plan. It states,
2 "The developer fully understands that the
3 transportation network in the area of the subject
4 property may be reworked at or by the Kentucky
5 Department of Transportation, the City of Owensboro
6 and private developers. It is understood the current
7 plans call Ragu Drive to remain open as a public
8 street. However, the traffic signal may be eliminated
9 if traffic volumes fall below warranted amounts."

10 So I think that they were very much aware by
11 that statement. I think that reflects that changes
12 were taking place out there.

13 Mr. Hodskins last night informed us that they
14 were not against the rezoning of the property. That
15 they were just concerned about the traffic
16 considerations. We pointed out to them that the
17 traffic considerations with regard to Highway 54 is a
18 state thing. That's really a state bailiwick. I
19 understand the concerns of the Commission here, but we
20 presented a developable plan that will address those
21 considerations.

22 I think that Bill has explained what the
23 considerations were and how they addressed them. I
24 think it's unfair for him to insinuate that they
25 didn't know because it's stated right on their plan

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1 that there's a possibility that that light may be
2 eliminated. Whether they knew all the ramifications
3 of it. We're not here to address that really.

4 CHAIRMAN: I'm glad that you made your
5 statement, but that isn't the reason I brought you
6 back. Obviously I had a statement of my own.

7 I think you've been up here enough in your
8 experience. The situation we have here, what would
9 you propose to make this plan conducive for all
10 parties involved. Because we've got factions. We've
11 got neighbors. We've got other businesses. We've got
12 community. We've got a real situation right here.
13 I've been around doing this for a while myself and
14 usually there's always something between the
15 commission, the applicant and the neighbors that we
16 walk out of here doing. I mean not everybody is
17 completely happy, but at least everybody has a plan.

18 This situation is extremely difficult from all
19 aspects, and then we've got the factor of the unknown,
20 the aspects that none of us know. With that being
21 said, Mr. Meyer.

22 MR. MEYER: Well, I think with all due respect
23 this is a situation that as you pointed out and
24 insinuated, is a very tough nut to crack in terms of
25 trying to make everybody in this room happy and go

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1 home.

2 I've got a client. Mr. Hodskins refers to a
3 client who's invested \$2.3 million in a convenient
4 store that's located out there. What they knew, what
5 they didn't know is beside the point for this purpose.

6 I've got a client that's got two to three
7 times that invested already and it's going to far
8 exceed that amount in terms of this overall
9 development, as I think you all can well imagine.
10 We're trying to move that project forward.

11 We believe the development plan that we came
12 up with that would provide for a treatment of some
13 existing conditions, that is that mess that's coming
14 off the bypass and what these poor people have to go
15 through every day, if they're transporting through
16 that area, that this significantly addresses that.

17 Apparently the Kentucky Transportation Cabinet
18 and the city engineers believe that as well because of
19 the placement of that light. Obviously that entrance,
20 which is what has been on board since 2007, that
21 entrance is to coincide with the exit ramps and the
22 entrance ramps on the opposite side of the bypass.

23 CHAIRMAN: Our charge is not necessarily to
24 make everybody happy. Our charge is to operate within
25 the statute and to make the area as good of a place as

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1 it was when we passed a zoning ordinance.

2 I mean unfortunately I wish our records showed
3 that every person that walked out of here was happy.
4 I'm sure you've been on the side when you weren't
5 happy when you walked out of here.

6 This situation we've got the statute. We've
7 got the state. We've got unknown situations where
8 this is the most unusual situation that we've ever
9 faced.

10 MR. MEYER: Well, suffice it to say that my
11 client is already bending over backwards with regard
12 to what is being developed within their own property.
13 We have agreed to, you know, before when they were
14 talking about the elimination of the light at Byers
15 Avenue and Ragu Drive, that's not a condition for us.
16 We don't make any requirements with regard to that.
17 We just want the rest of this little sliver, you know,
18 rezoned so we can move forward on the thing.

19 The people in this room aren't going to make
20 the determination of what happens out there on the
21 road. It's going to be the city engineer, the traffic
22 department, the state highway department.

23 What we would propose to do, we didn't put any
24 conditions in there about, you know, these medians and
25 barriers have to be part of the project. We didn't

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1 put any condition in there that that traffic light has
2 to be there. If it can be worked out as Ed hopes it
3 can and we hope it can, for synchronization and
4 everything else and that works fine, that's terrific
5 and that's the route that we suggest that they go.

6 I've dealt with the State of Kentucky before,
7 as I'm sure you all have too. You don't dictate to
8 them what's going to happen. They tell you what's
9 going to happen and that's what we propose to do.

10 If you pass this thing today, tomorrow and on
11 out in the foreseeable future, the light is going to
12 be there at Byers Avenue and Ragu Drive. When this
13 development comes in, perhaps even before, they're
14 going to install a light to take care of that
15 situation on the exit ramp for the bypass. Certainly
16 would be there when our development opens.

17 That's our proposal. We remove these things
18 as any part of any development plan or condition and
19 we're ready to go down the road and that's what we
20 would ask the commission to is to approve this
21 rezoning as you pointed out.

22 We're out there today. We were out there
23 yesterday. We're going to be out there tomorrow
24 moving dirt and taking care of things getting
25 prepared. Rezoning this sliver is what is before us

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1 today.

2 CHAIRMAN: That is correct.

3 Mr. Hodskins, I think you may want to
4 rebuttal.

5 MR. HODSKINS: I would like to give the
6 microphone to the chairman of Huck's.

7 I would say that the people in this room do
8 have a voice. We all voice. We don't need to rush
9 into this. We all have a voice and we don't need to
10 rush into this. There's so many interested and
11 affected parties. As you said, we need a lot more
12 information in order to make this decision.

13 What happens is you approve this tonight and
14 you are limiting, you're limiting the option that our
15 community has going forward in terms of what might
16 work best. You may be taking one of the very best
17 options that we have off the table.

18 I would submit that it would be very
19 reasonable to -- the Kentucky Transportation Cabinet
20 has already made a public offer from this very podium
21 that they think it would be, if I gathered what he
22 said, that it would be beneficial to have a meeting with
23 them and invite the public to attend. I think we
24 ought to take them up on it. I don't think that the
25 Commission should say, we'll just rush head on and do

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1 it.

2 CHAIRMAN: Mr. Hodskins, what the Commission
3 is charged to do tonight is just to rezone a sliver of
4 property that's contiguous with other properties
5 that's already rezoned.

6 MR. HODSKINS: I know. But if you do this
7 final approval, you may be eliminating for this
8 community one option that could go a long way toward
9 resolving the traffic flow out there.

10 I would like Mr. Bayley to take a chance and
11 talk to you. He's come a long way.

12 MR. NOFFSINGER: Before we do that, I just
13 want to correct the record that it's more than just
14 rezoning a sliver of property. The balance of the
15 property contains transportation conditions that the
16 developer cannot meet because the State of Kentucky
17 refuses to approve their access permit. So it's more
18 than that.

19 CHAIRMAN: I'm sorry.

20 MR. APPLEBY: Not refuse.

21 MR. NOFFSINGER: They have not approved it,
22 and I don't believe they're going to approve it. If
23 they were going to approve it, I don't think we'd be
24 here tonight and I would hope they would consider
25 approving it, but I don't think that's the case.

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1 MR. SILVERT: Would you state your name,
2 please?

3 MR. BAYLEY: Mark Bayley.

4 (MARK BAYLEY SWORN BY ATTORNEY.)

5 MR. BAYLEY: Thank you for hearing all the
6 various factions of this issue. As Chairman of Martin
7 & Bayley Huck's Food Stores, we like Owensboro. We
8 really worked a lot of hours in your town and we think
9 it's a nice town and we're proud to be here. We have
10 two stores now. We have a third one with property
11 already bought and we would like to move forward with
12 that.

13 We do business with some of your industries
14 here. Dart Foam, we buy all of our cups from them.
15 Several million dollars. Swedish Match. We're in
16 negotiation with Field as we speak. So not only do we
17 have stores here, but we try to support your work
18 force and we feel like that's important too.

19 As you can guess, we're against the major
20 renovation, the major restructuring of the Ragu/East
21 Byers intersection. That's pretty evident. That's
22 been well stated here tonight. We're not against the
23 progress of Owensboro. We promote your development.
24 We think it's great. I mean who could not want a big
25 box like Menard's or someone else coming to their

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1 town.

2 We have met with the city engineers. We have
3 met with the state, as recently as this week. We
4 asked them, is there any compromise on this? Can we
5 give up part of our frontage? Could there be
6 additional studies done on what happens if the trucks
7 are rerouted? Could the Heartland homeowners be
8 provided a good, safe, efficient route to and from
9 their homes? Safety is important to us too. We don't
10 want any accidents. We don't want anybody to get hurt
11 in any of the locations we have.

12 CHAIRMAN: Let me ask you something. You all
13 have paid your dues. You've done what was asked of
14 you when you all came before us before. You did your
15 other store. You did what was asked of you when you
16 came before us then. I'm just proposing a possible
17 question. Okay?

18 If in somebody's wildest dreams there is
19 another concoction plan that comes up that would
20 involve your store, something that's beyond what's
21 been proposed here that would bring up additional cost
22 to your store to help alleviate this problem, what
23 would your stance be on such a situation?

24 MR. BAYLEY: In my closing, we are readily
25 available for compromise. That's what we want to do.

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1 We want to compromise. Yes, we would entertain that.

2 CHAIRMAN: That's a question from me to you.
3 I don't even know if there is something. I can just
4 see there is so many parameters and so many moving
5 parts in this thing that I don't think, like this
6 board, this Commission of the S-curve and all these,
7 we had no idea of any of this stuff. This is what
8 we're now made aware of.

9 MR. BAYLEY: And us as well.

10 CHAIRMAN: With that being said I'll let you
11 make your closing comments.

12 MR. BAYLEY: We would definitely entertain any
13 and other compromises. We would work with the
14 development. We want to work with the Homeowners
15 Association. We want to work with Titan and the other
16 business owners on Ragu, but we feel like there needs
17 to be additional work done here, additional studies.
18 We want you guys to be a business friendly city. We
19 want to be a business friendly city in your city.

20 So what I would ask, and I concur with Mr.
21 Gordon, we request the Planning Commission to postpone
22 or deny this request tonight until all parties, the
23 city, the state, the developer, the homeowners, we can
24 all have a voice in this for an amicable solution.
25 That's all we ask.

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1 CHAIRMAN: Let me call upon one of our
2 developers on our board. I think he would be able to
3 shed some light and help us.

4 Mr. Pedley.

5 MR. PEDLEY: I have some concerns. As a
6 resident of this community and also as a Planning
7 Commissioner, I've heard things here tonight that
8 disturbs me. I don't agree with it.

9 You know, you look at other developments in
10 that area. Let's just talk about Heartland a little
11 bit. Mr. Jagoe was required to build East Byers
12 Avenue through the entire at his expense to meet the
13 traffic flow to have highway access point.

14 At that time that was an arterial street, the
15 classification of an arterial street. He was only
16 allowed access to a street that he built. I think the
17 street is about 40 feet wide. His right-of-way is 80
18 feet wide or right on that. He gave up major land and
19 built that street to his expense. He was only allowed
20 access, street access to every 1,000 feet. He was not
21 allowed any lot access to that street after building
22 it.

23 Now this development they reclassify the
24 street to major collector. This development is
25 allowed three access points 250 feet apart.

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1 Also Mr. Jagoe developed East Byers Avenue
2 through that development that doesn't allow him to
3 have lot access, again, for traffic flow. He did
4 everything that was asked of him. Then he had to
5 screen all of that for his homes. He's built berms.
6 He's built fences. He's built walls. He's done major
7 landscaping. He's spent hundreds of thousands of
8 dollars for the residents in that community.

9 Now, this development company is actually
10 tapping into what he did. From my understanding is,
11 they have an issue with certain things. I won't get
12 into that.

13 Then you have the 26th Street access, this is
14 going to draw traffic through 26th Street from the Old
15 Hartford Road area when this development occurs. 26th
16 Street is not designed for any amount of traffic.
17 It's only 24 feet wide. So the city engineer in my
18 opinion has not looked at that issue. There's many
19 things here. They have not looked at that issue.

20 Then the Ragu Drive issue. That's a major
21 industrial park. Those businesses, industrial
22 businesses located there for quick access to the
23 bypass.

24 Now then you've got a proposal here that
25 doesn't say what you're going to do with it. What are

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1 you going to do with those trucks? You must
2 absolutely address all of these issues before, in my
3 opinion, we can act on this.

4 You talk about time is an essence. These
5 meetings occurred, according to what I've read here,
6 last year. Maybe August of 2010. There has been
7 adequate time to involve this community in this
8 decision making. We have always done it on every
9 issue I can remember.

10 Down on Highway 81 just this past year, the
11 roundabout, they had several meetings with the
12 community. The bypass, they had several meetings with
13 the community. I can't see how you can even present
14 this without having meetings with the community. What
15 is even worse, you presented to this Commission on the
16 final hour and we're supposed to sit here and analyze
17 three hours and make a decision on this? No.

18 Finally, I will not vote in favor of this
19 proposal or I will not vote the way the Planning
20 Commission has recommended.

21 I'm recommending -- I'm not sure how long it
22 would take to do this. I'm recommending we postpone
23 this.

24 Mr. Noffsinger, do we postpone this on the
25 basis that they resubmit after the proper meetings and

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1 things or do we have to rehear it at the next meeting?

2 MR. NOFFSINGER: If the item is postponed,
3 it's generally postponed until our next regularly
4 scheduled meeting. Of course, at that point I think
5 you could postpone one more time, but this commission
6 has to act on the zoning change as submitted to them
7 within a certain time limit. I believe that's within,
8 is it 60 days? Staff is telling me that's 60 days
9 from the time it's submitted. So you could postpone
10 it one other time, and then you would have to act on
11 the rezoning, unless it's withdrawn by the applicant.

12 MR. PEDLEY: Mr. Chairman --

13 CHAIRMAN: Mr. Pedley, hold on.

14 MR. NOFFSINGER: Mr. Chairman, you would have
15 to act on it next month because the 60 days would be
16 up at that point. So you could only postpone it once.

17 MR. PEDLEY: I'm through until you're ready
18 for a motion.

19 CHAIRMAN: Mr. McClearn, were you going to
20 step to the podium and clear everything up for us? If
21 you are, I'm sure you will be brief and to the point.

22 MR. MCCLEARN: Clear up everything,
23 unfortunately not.

24 I did have one statement as I ponder and think
25 as we go through this and, yes, we did have many

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1 public meetings on a lot of our larger projects and
2 that's part of what we do.

3 This has come up separately. It's a permit
4 issue. Therefore as the discussions were made, not
5 knowing the amount of public input that would be
6 forthcoming, the public meeting idea didn't come to
7 mind. I think I can speak for the city, as well as
8 the state, on that issue.

9 What I was proposing, that I cannot make the
10 decision on, but I can ask my boss who is the state
11 highway engineer in Frankfort, is perhaps a fresh set
12 of eyes from a consultant to look at the situation and
13 do another traffic, a version of the Traffic Impact
14 Study. That by no way demeans what Barge Waggoner
15 Sumner & Cannon in what they do. But from what I'm
16 understanding today, they've been hired here. They've
17 been hired here. Well, we would pay for this one.
18 What I would recommend to my boss is that we explore
19 that.

20 CHAIRMAN: Excuse me. You realize we've got
21 three elements here. One, we've got an outstanding
22 development that all the neighbors and everybody, I'm
23 sure we'd all like to see move forward. It would be
24 an outstanding development for Owensboro and for the
25 city. Nobody wants to impede that.

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1 We have a business that's located across the
2 street, Huck's, that we do not want to hinder in any
3 way, shape, form or fashion.

4 Then we've got the neighbors who obviously are
5 the support of the whole community anyway. Tax
6 dollars paying. And the usage of the stores in the
7 community and everything else. We've got three
8 elements which all need to go together and I think all
9 three elements are more than willing to work together.

10 Huck's, their chairman there said that he's
11 more than willing to enter in, even though he's
12 already paid his part. He's done his part, but he's
13 more than willing to come back in to to get, as you
14 said, a fresh set of eyes to maybe look at this thing
15 and make it better for all parties. You are on the
16 record for the state.

17 What we need is a very quick movement on the
18 part of the state so this doesn't linger in the back
19 drawer. We owe it to our developers. We owe it the
20 citizens and we owe it to Huck's to have a plan moving
21 forward very quickly. Is that something that you can
22 assure us will happen?

23 MR. McCLEARN: No, I can't. I represent all
24 the travelers on 54 which is millions, if you look at
25 a time span. What we want is the best decision, and

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1 that's what I propose.

2 We have to go through certain channels. Sixty
3 day, thirty days is pretty quick for us. But that's
4 my offer. We'll do the best we can, but that's my
5 offer.

6 CHAIRMAN: What would be a reasonable time
7 frame? I know there are normal channels and then I
8 think this particular situation here with we have a
9 developer here that is going to help the well-being of
10 Owensboro and it's got money invested and time and
11 everything else. We've got another business span that
12 needs to know what his future is going to be, and then
13 we've got neighbors that have got a very, very nice
14 community over there that needs to know.

15 So I mean can we move this into a quicker
16 movement than sometime state time is? Because these
17 are all tax payers of the state.

18 MR. McCLEARN: Oh, absolutely. I agree.

19 Some of the time frames that I'm familiar with
20 that many of you will be familiar with, that we won't
21 get into today, are quite drawn out. We're with the
22 state. We can't go through that and I don't mean for
23 us to even think we would do that.

24 Yes, we would try to fast-track this as
25 quickly as we can; again, with the approval of the

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1 state highway engineer.

2 CHAIRMAN: Could you go in and have a meeting
3 with your boss say tomorrow and tell him of the
4 situation we have?

5 MR. McCLEARN: I could talk to him on the
6 phone tomorrow.

7 CHAIRMAN: That would be very good and keep
8 Mr. Noffsinger abreast of what's going on. Thank you.
9 You've been very helpful.

10 Mr. Meyer, I think you realize the situation
11 we face here.

12 MR. MEYER: Sure. We have no problem with
13 tabling it. My client has graciously agreed to that.

14 I will say this: We've all worked with the
15 State of Kentucky before. I understand what Kevin is
16 saying. Fast-track for them and fast-track for what
17 these people believe are two different things. Mr.
18 Pedley is very much aware of how that works.

19 CHAIRMAN: We will make sure that the state's
20 move, and we will encourage them in all ways that we
21 can, and I'm sure you all will use any means that you
22 can to encourage them also.

23 Mr. Silvert, I would not want the state's
24 situation to conflict with our rules to where, you
25 know, that would put our developer in a bad light. Do

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1 you understand what I'm saying?

2 MR. SILVERT: And I'm look at KRS 100.211 to
3 see if the developer could acquiesce to a longer time.

4 MR. APPLEBY: But we don't know what that time
5 is going to be.

6 MR. SILVERT: No, we don't. That may be up to
7 them. So I'm looking at that issue right now.

8 MR. MEYER: That's also occurred to me because
9 it may be something that we could waive for a period
10 of time. Mr. Silvert and I can take that up as you
11 all put your head on the pillow tonight.

12 CHAIRMAN: That would be fine.

13 I think at this point in time I want to first
14 personally thank each and every one of you in the
15 neighborhood for your outstanding participation, your
16 courteous behavior, and your intent patience because I
17 know that's your house, your family, and your ways of
18 getting back and forth to work. Thank you all very
19 much. You have to realize what the situation is we're
20 in also.

21 MR. MEYER: Before we adjourn, I think Mr.
22 Riney would like to say a few words to the commission.

23 CHAIRMAN: Mr. Riney.

24 MR. SILVERT: Could you state your name,
25 please?

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1 MR. RINEY: Phil Riney.

2 (PHIL RINEY SWORN BY ATTORNEY.)

3 MR. RINEY: I'm a resident of 4133 Wood Chase.

4 I am part of Heartland Crossings. It's a
5 development company. We have met and went through a
6 lot of this on a short meeting last night.

7 A lot of questions being raised tonight at
8 which some of the issues I wasn't sure really the
9 state road being tied to our zoning. I know there's a
10 lot of unanswered questions regarding the traffic
11 impact and things of that nature, which I guess a
12 couple of questions. If what the states comes back
13 with is what we'll be mandated to? I assume that
14 we'll approve what the state comes back with? I'm not
15 sure what the process will be after the state comes
16 back. I'm not sure that's been laid out to me.

17 The reason I ask, yes, I do have contractual
18 obligations. Actually it's a March deadline. I'm not
19 going to meet that contractual obligation obviously.
20 Because after this there's obviously other scenarios
21 that have to be approved through the process.

22 So there's issues that I have as a developer
23 obviously as a result of the delay. We agreed to the
24 delay. I do have a significant financial impact.

25 With the scenario that we talked about, Mr.

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1 Pedley, we actually sacrificed as well. We're giving
2 up at least over an acreage of property with this
3 concept. I think you know, you're in the business.
4 You know what an acre of property on the front of
5 Highway 54 is worth, which we are giving up free and
6 clear to provide for additional lanes of traffic flow
7 through the community.

8 There are various things of which during the
9 time that the state came to us and knew that they had
10 been evaluating this intersection obviously prior to
11 us developing the intersection. They knew at the end
12 of the day they felt as if, I can't speak for them,
13 but we've had the discussions that they knew for
14 there to be a true improvement of the existing
15 conditions that are there today that to some degree
16 they needed us to be involved in that. We obviously
17 graciously agreed to sit down and look at those
18 alternatives and look at reasonable alternatives for
19 all parties. We attempted to put that together
20 through various scenarios that work for the state as
21 well as us.

22 Again, at the end of the day did the
23 development go forward? I don't know if it does or
24 not today. So when the state comes back and has to
25 determine how to remedy the existing issues and we're

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1 not there to participate we'll see how that works, as
2 a result of not possibly having a development. We
3 hope that that's not case. We hope to be able to
4 continue with the development going forward.

5 I do, as I told the Heartland's development
6 last night, I appreciate their concern. I understand
7 their concerns. We want to be a friendly neighbor to
8 them, as well as to all the community. I think that
9 we had many discussions actually with the
10 representatives of Huck's prior to their development
11 over there. They actually looked at a piece of
12 property. At least a broker inquired about a piece of
13 property on our side. We want them to succeed. I'm
14 fine with both stoplights being there, if it works.
15 I'm thrilled with that if that will work with both
16 stoplights and no medians there. We never had a
17 problem with that. As a result of the traffic study
18 and the warrants that were being met from a state
19 requirement, those things came about in our original
20 plan. It's not what we wanted. It's not what we were
21 mandating as a development. It was what was being
22 mandated supposedly from the professionals and the
23 traffic engineers who have much more intellect in that
24 area than I do and probably everyone else, the
25 majority of us on this commission.

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1 Those were not my recommendations as a
2 developer. Those were the recommendations of a
3 professional.

4 Again, we came back and what we ended up
5 doing, as the Planning Commission came back and had
6 their conditions as a result of their review and their
7 analysis and technical analysis and whatever they may
8 have done with the development, we came back and
9 actually agreed and took away the stoplight as well as
10 the medians as a result of last night's meeting and
11 the request of the Planning Commission.

12 So I felt as if coming into this that we had
13 done, we have spent the dollars to analyze the current
14 existing conditions that are there. We all know it
15 doesn't work today and we were trying to participate
16 with the community to improve on those developments.

17 I live in the area. I understand that we're
18 not here to capitalize on someone else's back. We're
19 trying to improve the situation as well. If it's not
20 what you think it is, then I encourage their remarks.
21 I just hope it's in a timely fashion to where we've
22 already delayed for six months as a result of the city
23 and state coming to us and asking us to work with them
24 from August. Now you're asking me to be delayed
25 another probably at least a month or two.

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1 So I just ask that we do attempt to do it in a
2 timely fashion. Once those recommendations come back,
3 I'm assuming that those will be mandated and we'll
4 approve those. Whatever they are and whatever the
5 impact is to me or to any neighbor. I'm not sure what
6 the process is after that. So I wouldn't mind having
7 some clarity as to what that will be after that.

8 CHAIRMAN: Let me ask Mr. Silvert and Mr.
9 Noffsinger a question, which would come to mind if I
10 was in your shoes at the present time.

11 What can Mr. Riney and his developers do at
12 this point in time with the situation that they have
13 now with their own property?

14 MR. SILVERT: As far as timing of the decision
15 from this body?

16 CHAIRMAN: I mean how much more. Can they
17 develop? What can they do? Is that something that
18 would be on your mind? I mean what can they do, Mr.
19 Noffsinger?

20 MR. NOFFSINGER: Well, at this point in time
21 their zoning has been approved, but they only have a
22 preliminary development plan so they cannot turn a
23 spade of dirt on that property as to the development
24 until they have a preliminary subdivision plat or
25 final development plan approved.

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1 Now, they can go out there and do some
2 clearing of the land in terms of brush. I think
3 they've been having some burning, some trees cut and
4 burning and whatnot. That's certainly allowed, but in
5 terms of moving dirt for the development, they cannot
6 do that until the final plan is approved.

7 CHAIRMAN: Mr. Riney, I was in limbo myself.
8 I thought you might be interested in that also.

9 MR. RINEY: A question that was asked by our
10 engineer. Can we submit a preliminary subdivision
11 plat, Gary, based on the previous -- can we submit a
12 preliminary division plat soon based on our original
13 zoning?

14 MR. NOFFSINGER: If that was a preliminary
15 subdivision plat you can, but not a preliminary
16 development plan.

17 MR. RINEY: We cannot submit a preliminary
18 development plan based on the prior?

19 MR. NOFFSINGER: I'm sorry. I've got the
20 commissioner over here asking me one thing and I'm
21 trying to focus on that. I'm sorry, I was not paying
22 attention to your question.

23 CHAIRMAN: Wait just a moment. If you're
24 going to ask a question, let's have you sworn in.

25 MR. SILVERT: State your name, please.

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1 MR. BAKER: Jason Baker.

2 (JASON BAKER SWORN BY ATTORNEY.)

3 MR. BAKER: We had a previously approved plan
4 based on the 2007 plan that was submitted and the
5 rezoning for the subject property. At the request of
6 the Planning Staff we included rezoning, both rezoning
7 of the larger tract and zoning of the two smaller
8 tracts. We could proceed if we evaluate and find out
9 that we need to go back to what we had previously
10 approved, could we not submit a preliminary
11 subdivision plat based on those original plans that
12 were approved? And if so, would we then be able to
13 submit a separate rezoning just for the smaller two
14 tracts? Again, we believe that that might be a way
15 that we can get Mr. Riney and the developments back on
16 tract?

17 MR. NOFFSINGER: Yes, you can do that.
18 Realize you do have a preliminary development plan
19 which does not allow you to move dirt. A preliminary
20 subdivision plat would allow you to move some, but you
21 don't have that. Certainly you can submit documents
22 based upon the zoning that's been approved and is in
23 existence today.

24 MR. BAKER: We would then be able to submit
25 just a rezoning for the two separate tracts?

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1 MR. NOFFSINGER: Separate rezoning, yes, sir.

2 MR. BAKER: We'll have to evaluate that. Mr.
3 Riney will have to -- we'll have to get with the state
4 and city and see how we want to proceed.

5 Again, there has been a lot of work that's
6 gone on over the past six months. The assertion that
7 no one was involved is probably not fair. Mr. Riney
8 has done his work trying to satisfy the needs of both
9 the city and county and fix problems out in front of
10 what will be his development.

11 I just want to confirm, we do have the
12 opportunity to go back to that original plan, and if
13 so we might choose to do that.

14 MR. NOFFSINGER: Yes.

15 CHAIRMAN: Thank you.

16 Now, the Chair with no further comment --

17 Mr. Riney, would you like to step to the
18 podium?

19 MR. SILVERT: State your name, please.

20 MR. RINEY: Jim Riney.

21 (JIM RINEY SWORN BY ATTORNEY.)

22 MR. RINEY: I'm here representing Jagoe
23 Development tonight. Bill Jagoe, III, Bill, Sr. as
24 you know him, he had asked us to be here. I've heard
25 comments tonight about change. We've heard some

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1 changes here. We've heard comments about compromise,
2 and I've heard comments from the Chairman about
3 brevity.

4 I want to present something. A picture is
5 worth a thousand words. This is something that we
6 prepared, finished up today. It deals with an
7 internal street traffic pattern as the same connection
8 point with Highway 54 is what everybody has been
9 talking about tonight. The thing that it does do it
10 eliminates the East Byers Avenue connection to 54 that
11 we've been talking about all night and that issue of
12 the right turn/left turn traffic.

13 It also gives the developer, if he'll take the
14 time to look at this, the younger Mr. Riney. It may
15 give him some options on lot size that they may or may
16 not have looked at. As you all know, we do land
17 development consulting all the time. This is a type
18 of plan, the type of opportunity that we look for to
19 take a sow's ear and make a silk purse out of it. If
20 we're going to be looking at this change and this
21 compromise, I think Mr. Jagoe would be happy if we put
22 this into the mix and see if there's something that
23 might help the development, as well as the city and
24 the state.

25 CHAIRMAN: Mr. Noffsinger, including Mr.

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1 Riney, we'll refer to him, the engineer, in the mix
2 also will be a good idea of the meeting.

3 MR. BAKER: I just have a brief statement. We
4 have a plan similar to that in our office that we've
5 already looked at.

6 MR. NOFFSINGER: I'd just like to make sure
7 that this plan is submitted into the record and that
8 we have a copy of it. Mr. Baker has stated they also
9 have a similar plan in their office that could be
10 considered.

11 CHAIRMAN: Would you have one final comment?

12 MR. COOPER: Yes, sir, I do.

13 MR. SILVERT: Could you just state your name
14 again since we changed court reporters.

15 MR. COOPER: Greg Cooper, 2710 High Past
16 Pointe.

17 Many of the residents at the Heartlands and
18 the homes were not developed when the approval process
19 went through in 2007. Since then and especially in
20 the last year, it has not been a transparent process.
21 We have not been allowed nor given the ability to
22 object to what's going on. I'm just asking: Is there
23 any avenue at this point for the residents of
24 Heartland to have input in what they're going to have
25 to deal with?

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1 CHAIRMAN: I think Mr. McClearn said he was
2 going to have some meetings, but he was also going to
3 get some more proposals from the state together to try
4 to make it better for all people involved. I think in
5 his statement he said there would be more meetings
6 conducted by the state.

7 MR. COOPER: I understand, sir. It's a little
8 bit bigger than just traffic flow.

9 CHAIRMAN: We understand that. All right.

10 MR. SILVERT: Would you state your name,
11 please.

12 MR. REYNOLDS: David Reynolds.

13 MR. SILVERT: You're duly sworn.

14 MR. REYNOLDS: Thank you.

15 I'm here for Malcom Bryant Corporation and the
16 Springs Center. Just want to ask that we are also
17 included in those meetings referenced by the state.
18 That we've not been included for some time obviously
19 and we're just finding out about this, the affects. I
20 think anyone that looks at what was on the application
21 will see that a large percentage of this traffic is
22 going to be funneled, under the existing plan will be
23 funneled through The Springs Center. Of course,
24 that's a private road. That's not set up for that. I
25 want to expound on that at this point. I would ask

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1 that we be included in those meetings as well.

2 CHAIRMAN: Mr. Reynolds, the Planning
3 Commission itself will not be conducting the meetings.
4 The state will be so why don't you leave your card
5 with Mr. McClearn.

6 MR. REYNOLDS: I understand. I have a letter
7 for Mr. McClearn if I can see him at the end.

8 CHAIRMAN: Okay. Thank you very much.

9 At this point in time the Chair is ready for
10 a motion.

11 Mr. Pedley, I think you were headed in that
12 direction.

13 MR. PEDLEY: Yes. First I'd like to say that
14 I absolutely am not opposed to this development. I
15 think it's great. I think it's going to be good for
16 the community. One thing we must do is have
17 harmonious integration into that neighborhood and this
18 community.

19 With that I'm going to make a motion to
20 postpone until the March meeting on this item.

21 CHAIRMAN: We have a motion for postponement.

22 MR. ALLEN: Second.

23 CHAIRMAN: We have a second by Mr. Allen. All
24 in favor raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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1 CHAIRMAN: The motion carries unanimously.

2 Next item.

3 RELATED ITEM:

4 ITEM 3A

5 Heartland Crossing, 66.708 acres

Consider approval of preliminary development plan.

6 Applicant: Heartland Crossing, LLC

7 MR. NOFFSINGER: Mr. Chairman, the Planning
8 Staff and Engineering Staff reviewed this plan. In
9 light of your postponement of the rezoning of this
10 property, we recommend that you also postpone this
11 development plan to the March meeting.

12 CHAIRMAN: Mr. Pedley.

13 MR. PEDLEY: Mr. Chairman, I make a motion to
14 postpone the related item.

15 CHAIRMAN: We have a motion for postponement
16 of the related item on Item 3A of Heartland Crossing.

17 MR. TAYLOR: Second.

18 CHAIRMAN: We've got a second by Mr. Taylor.
19 All in favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 -----

23 NEW BUSINESS

24 ITEM 4

25 Amend Fiscal Year 2011 budget to include revenue
generated by the new HVAC Program.

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MR. NOFFSINGER: Mr. Chairman, each Planning Commissioner has been mailed a copy of this revision. The HVAC Program was started by the State of Kentucky. They ask us to operate that beginning January 1. We've added an additional \$2,400 into the budget to cover the revenue from that operation and we would recommend that you approve.

CHAIRMAN: Do We need a motion on that, Mr. Noffsinger?

MR. NOFFSINGER: Yes, sir.

CHAIRMAN: Chair is ready for a motion on the amendment.

MR. PEDLEY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. HAYDEN: Second.

CHAIRMAN: Second by Mr. Hayden. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

We've got one final motion.

MR. ALLEN: Motion to adjourn.

CHAIRMAN: Motion to adjourn by Mr. Allen.

MS. MOORMAN: Second.

CHAIRMAN: We've got a second by Ms. Moorman.

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1 All in favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: We're adjourned.

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1 STATE OF KENTUCKY)

)SS: REPORTER'S CERTIFICATE

2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 96 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 8th day of March, 2011.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

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23 COMMISSION EXPIRES: DECEMBER 16, 2014

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

25

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