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OWENSBORO METROPOLITAN PLANNING COMMISSION

MAY 11, 2011

The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, May 12, 2011, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Drew Kirkland, Chairman
- Ward Pedley, Vice Chairman
- David Appleby, Secretary
- Gary Noffsinger, Director
- Madison Silvert, Attorney
- Tim Allen
- Irvin Rogers
- John Kazlauskas
- Martin Hayden
- Rita Moorman

* * * * *

CHAIRMAN: I want to welcome everyone to our Owensboro Metropolitan Planning Commission meeting. Will you please stand while our invocation will be given by Mr. Ward Pedley.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes of the April 14th meeting. Are there any questions, corrections?

(NO RESPONSE)

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

1 MR. PEDLEY: Motion for approval.

2 CHAIRMAN: Mr. Pedley has a motion for
3 approval.

4 MR. ALLEN: Second.

5 CHAIRMAN: I have a second down there by Mr.
6 Allen. All in favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Mr. Noffsinger.

10 -----

11 ZONING CHANGES

12 ITEM 2

13 820 Pleasant Valley Road, 5.570 acres

14 Consider zoning change: From I-1 Light Industrial to
I-2 Heavy Industrial

15 Applicant: TransMontaigne Operation Co. LP

16 MR. SILVERT: State your name, please.

17 MR. HOWARD: Brian Howard.

18 (BRIAN HOWARD SWORN BY ATTORNEY.)

19 MR. HOWARD: I will note the rezoning heard
20 tonight will become final 21 days after the meeting
21 unless an appeal is filed. If an appeal is filed, the
22 rezoning will be forwarded to the appropriate
23 legislative body for their final consideration. The
24 appeal forms are available on the back table, on line
25 and in our office. So within 21 days the rezoning

1 could be appealed.

2 PLANNING STAFF RECOMMENDATIONS

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

5 CONDITIONS:

6 1. Access to Pleasant Valley Road shall be
7 limited to the existing access points with no
8 additional access to Pleasant Valley Road permitted;
9 and

10 2. Submission and approval of a Conditional
11 Use Permit and Variance prior to the issuance of
12 permits for building construction.

13 FINDINGS OF FACT:

14 1. Staff recommends approval because the
15 proposed zoning is more appropriate than the existing
16 zoning;

17 2. The subject property is located in an
18 Industrial Plan Area, where heavy industrial uses are
19 appropriate in limited locations;

20 3. The use of the subject property predates
21 the adoption of the zoning ordinance;

22 4. Petroleum storage tanks require an I-2
23 Heavy Industrial zone with a Conditional Use Permit;
24 and,

25 5. The site has been in operation for many

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1 years and has not overburden the capacity of roadways
2 and other necessary urban services available in the
3 affected area.

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

6 CHAIRMAN: Is there anybody representing the
7 applicant?

8 (NO RESPONSE)

9 CHAIRMAN: Do we have any questions?

10 (NO RESPONSE)

11 CHAIRMAN: If there are no questions, the
12 Chair is ready for a motion.

13 MR. APPLEBY: Motion for approval based on
14 Staff's Recommendations with Conditions 1 and 2, and
15 Findings of Fact 1 through 5.

16 CHAIRMAN: Motion for approval by Mr. Appleby.

17 MR. HAYDEN: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 -----

24 MAJOR SUBDIVISIONS

25

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1 ITEM 3

2 Heartland Crossing, 66.708 acres

3 Consider approval of major subdivision preliminary
4 plat.

5 Applicant: Heartland Crossing, LLC

6

7 MR. NOFFSINGER: Mr. Chairman, this plan has
8 been reviewed by the Planning Staff and Engineering
9 Staff. It's found to be in order. Its use of which
10 is found to be consistent with the underlying zoning.
11 It does meet with the minimum requirements of the
12 zoning ordinance and subdivision regulations.

13 Mr. Howard is here tonight to give you a brief
14 overview of where we are with this plan, perhaps a
15 little bit of where we've been and where we are to
16 date.

17 MR. HOWARD: At the time of the rezoning
18 conditions were made that required the plan to be
19 reviewed by the Kentucky Transportation Cabinet and
20 city engineer in regard to the traffic issues that
21 have been brought up.

22 Since the rezoning hearing, the Kentucky
23 Transportation Department held a public hearing where
24 they unveiled a plan that will help eliminate the
25 traffic issues.

26 It involves realigning the existing ramp,
27 moving it further away from the East Byers

1 intersection which will allow two traffic signals to
2 be maintained along the roadway. It also involves,
3 which is maybe the biggest issue, the installation of
4 a slip ramp that will allow traffic entering the
5 bypass to do so from the right lane instead of
6 requiring a left turn maneuver.

7 Once the plan was unveiled, the developer and
8 their engineers started working on a plan. The plan
9 that was worked up is what's been presented and
10 submitted tonight for your consideration and approval.

11 It has one main access point off of Kentucky
12 54 which is in alignment with the bypass ramp. It
13 also shows one main access to East Byers Avenue. East
14 Byers Avenue is a major collective roadway. There
15 could be potential for another access point or two.
16 They do show maybe a secondary access point in
17 alignment with Friendship Drive, but at this time
18 there's one principle access point shown to East Byers
19 Avenue.

20 As far as the internal design, they have
21 accommodated the traffic that will be generated by the
22 site. The Kentucky Transportation Cabinet, which the
23 representative is here, have signed off on the plan
24 stating that the traffic study that was prepared as
25 part of this plan has been approved. That the intent

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1 of that plan is represented in this preliminary plat.

2 That's my basic overview. I'll be happy to
3 answer any questions you might have from the planning
4 perspective. I know the applicants are here as well.

5 CHAIRMAN: Thank you.

6 Do we have anybody representing the applicant?

7 MR. RINEY: Yes.

8 MR. SILVERT: Would you state your name,
9 please.

10 MR. RINEY: Phil Riney.

11 (PHIL RINEY SWORN BY ATTORNEY.)

12 MR. RINEY: My name is Phil Riney. I'm the
13 project manager of Heartland Crossings. I'm here to
14 answer any questions you might have, as well as Jason
15 Baker with Bryant Engineering who put the plan
16 together.

17 As Brian alluded to, we've been working with
18 the state and the city and various agencies with
19 respect to the traffic issues. I think a lot of the
20 existing conditions have been addressed through their
21 re-evaluation and what will be done in the corridor.
22 We as the developer have come to the table and have
23 been willing to donate some property with respect to
24 the slip ramp. State has agreed to do those
25 improvements in front of the development as well as a

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1 decel lane off of Highway 54 onto Byers Avenue as
2 well, I believe, which is in agreement with the
3 Heartland residential development as well. That's
4 warranted today as the traffic is today.

5 We're here to answer any questions that you
6 might have with respect to what is proposed in front
7 of you.

8 CHAIRMAN: Thank you.

9 Are there any questions?

10 Yes, sir.

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

13 MR. ONLEY: My name is Bill Onley. I reside
14 at 2701 Highpast Pointe. My property will be adjacent
15 to where they're making the development at.

16 MR. SILVERT: Let me swear you in first, sir,
17 before you continue.

18 (BILL ONLEY SWORN BY ATTORNEY.)

19 MR. ONLEY: I just want to get a little
20 updated on this because I guess when you all met in
21 February Mr. Noffsinger said that not one shovel of
22 dirt would be turned before this got approved.

23 In the past week, you know, I've seen a lot of
24 dirt moving equipment come in and start clearing the
25 land. When my property ends, you know, there's about

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1 a 6 foot drop off where they're working on moving the
2 dirt. That may change. At one time it was said there
3 would be a 100 foot berm, trees and a fence put up.
4 I'm just kind of concerned. I haven't heard any
5 updates.

6 What kind of barriers are going between, you
7 know, the residents at Heartland? Especially people
8 like me that have the property that adjoin it. And a
9 lumberyard such as that is going to be put in my
10 backyard or adjacent to the backyard.

11 CHAIRMAN: Mr. Riney.

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

14 MR. BAKER: Jason Baker.

15 (JASON BAKER SWORN BY ATTORNEY.)

16 MR. BAKER: The current plan adjacent to all
17 of the residential areas in Heartland includes a
18 buffer. A 100 foot buffer is not 100 foot wide berm.
19 It's merely a restricted area that will be used for
20 professional uses.

21 The screening within that boundary is
22 consistent with the zoning ordinance in that we will
23 have a 6 foot tall continuous element all along that
24 boundary line. That will likely be a combination of
25 plannings, berms and possibly some fencing. The

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1 specific locations of those are to be determined.

2 As part of the original rezoning, the
3 developer agreed to work with Jagoe's plan development
4 to come up with a plan for that. The developer agreed
5 to do that back with the original zoning.

6 The intent is to address that screening with
7 the combination of plannings, berms and fences.

8 CHAIRMAN: I think his immediate concern right
9 now is the amount of dirt that's piled up behind his
10 house and how the development move from that situation
11 right now to the future.

12 MR. BAKER: I'm not exactly sure specifically
13 where his property is at relative to the boundary,
14 relative to the site.

15 MR. ONLEY: It's directly behind where the
16 lumberyard storage building will be.

17 MR. APPLEBY: What street do you live on?

18 MR. ONLEY: 2701 Highpast Pointe.

19 What you're saying it will be 100 foot from
20 the existing property line?

21 MR. BAKER: Yes. The treatment right in that
22 specific area there will be a berm placed right along
23 the boundary line. That berm will have these
24 plannings and/or fence placed on them.

25 MR. ONLEY: Can I ask how high the berm will

1 be?

2 CHAIRMAN: Sir, direct the question to the
3 chair. Then we go back because we don't want to end
4 up going crossways.

5 MR. ONLEY: I understand. Sorry.

6 CHAIRMAN: Okay.

7 MR. ONLEY: I would like to know how high the
8 berm will be.

9 CHAIRMAN: The height of the berm.

10 MR. BAKER: The height of the berm is six
11 feet, right in that area.

12 CHAIRMAN: All right.

13 MR. ONLEY: Once again, 100 foot barrier
14 between existing property line and the fence for the
15 Menard's?

16 MR. BAKER: Yes. The Menard's fence will be
17 no closer to the boundary than 100 feet. It's
18 actually just more than 100 feet.

19 MR. APPLEBY: But that's 100 foot buffer area.
20 That doesn't mean it's going to be just grass. That's
21 for professional use, if I understand that.

22 MR. BAKER: Yes.

23 MR. ONLEY: Can I ask for a definition of
24 professional use?

25 MR. APPLEBY: It could be, professional is

1 medical office. Could be --

2 CHAIRMAN: Mr. Noffsinger.

3 MR. NOFFSINGER: Professional service uses are
4 uses that you're not going to find retail sales.
5 You're not going to be manufacturing the product.
6 You're going to be selling. Your product for sale is
7 a service.

8 However, in this particular case, given the
9 fact that this is only 100 feet wide and it's very
10 long and narrow, I suspect it's going to be vacant,
11 undeveloped land. Now, I can't guarantee that, but I
12 don't know too many professional services that might
13 fit into that area. Could be a building extension,
14 but generally it would not allow for retail sales.

15 MR. ONLEY: I'm still not understanding. The
16 original plan showed a shaded in area that noted that.
17 Mr. Riney did come over one Sunday and try to explain
18 what was going on, but he wasn't sure exactly what it
19 was going to be. Thought and mentioned that. All of
20 it is a little bit uneasy.

21 CHAIRMAN: Do you all have any idea exactly
22 how that 100 foot buffer is going to be used now?

23 MR. BAKER: It's not known. The only specific
24 plans that we have in progress are related to the
25 Menard's site which will come later. Other than that,

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1 you know, we're marketing to various retailers, but I
2 don't think we know any specific.

3 CHAIRMAN: Mr. Riney, do you know what this
4 100 foot buffer, what is going to take place in that
5 area at this present time?

6 MR. RINEY: No, sir, not at this time. As
7 Jason alluded to, we're talking to various retailers
8 to be in line with Menard's location. We thought --
9 this began with discussions with Bill Jagoe when we
10 acquired our piece of property. We had meetings with
11 him just being an adjacent neighbor. He asked that we
12 take it from a 10 foot, I think it required a setback
13 of 10. Asked us to do ten times that and go to 100
14 feet. So we agreed to do that. That could only be
15 used for professional use if we were to invade inside
16 the 100 feet.

17 So we feel like as a developer we've gone,
18 we're stepping out of the bounds and we want to be a
19 good neighbor to the residents. Originally we were
20 supposed to actually have access, a tie-in point on
21 the back side directly into the neighborhood. Along
22 with Planning & Zoning and the Neighborhood
23 Association, we have worked through that issue.
24 Actually ended up not having that tie-in on the back
25 end, to the likes of the Jagoe Development group as

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1 well.

2 This buffer currently, yes, we don't know
3 exactly what's going to be in there. It is limited to
4 professional use. It's our intention in there to work
5 with the homeowners as well as with the Jagoe group.
6 That's who I have my agreement with, is the Jagoe
7 group, the developer, what would be done within that
8 100 feet with respect to the buffer. We can guarantee
9 we'll do the minimum of what is required by the
10 ordinance. It's our intentions to go well beyond that
11 with our agreement with the Jagoe Development group
12 and do more than that.

13 CHAIRMAN: Let me ask Mr. Noffsinger, and I
14 think we can clear this problem with a definition.

15 When he's talking about what specific
16 buildings could be put in there, businesses could be
17 put in there, just give us an example of several
18 things that could fall in that line.

19 MR. NOFFSINGER: An attorney's office, a
20 medical facility, a library, a school, a day care
21 center. No retail sales. Bed Bath & Beyond, K-Mart
22 or Wal-Mart couldn't locate within that area.

23 MR. APPLEBY: Frankly just 100 feet limits it
24 even further.

25 MR. NOFFSINGER: That's right. Nor could

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1 their associated parking. You have to be very -- this
2 buffer is an area that we have to be very careful with
3 because it goes beyond the requirements of the zoning
4 ordinance in terms of 100 foot buffer. So we've got
5 to be very careful in terms of how it's treated and
6 what goes in there.

7 At this point in time since this plan includes
8 no buildings, it's very difficult to determine.
9 However, I will remind everyone, including the
10 developer, that before the Menard's can be constructed
11 on this site they will have to come back before this
12 board with a development plan. There will be another
13 public hearing to discuss the development of that site
14 specific piece of property.

15 So there are unknowns related to building
16 development on the property at this time, but what we
17 do know would be the infrastructure network that will
18 develop on the property. The streets, sewer lines,
19 water lines, transportation improvements.

20 CHAIRMAN: Thank you.

21 Thank you, Mr. Riney.

22 Yes, sir.

23 MR. ONLEY: Further comment. Me buying my
24 property from Jagoe and they lead us to believe that
25 nothing would be developed there for quite a few

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1 years, but so be it. I mean something is going to
2 happen there. Just consideration, we just want to
3 make sure the value of our property is not going to be
4 diminished from the Menard's being developed.

5 CHAIRMAN: I don't think anybody could
6 determine that or give you an answer on that. That's
7 just something. When you look at the investments
8 being made next-door to you, I think I read in the
9 paper it's somewhere in excess of \$40 million, I think
10 that's quite an investment.

11 MR. ONLEY: I would like to comment on that.
12 It's great it's \$43 million and it's advertised as a
13 big box, and it is big box with a lumberyard which is
14 light industrial, which in a sense makes it out of
15 compliance, but I'd like to further add about --

16 CHAIRMAN: I'm sorry, what did you say?

17 MR. ONLEY: It's called a big box store, but
18 it's actually a big box with a lumberyard. A
19 lumberyard is supposed to be zoned light industrial.
20 It's my understanding, limited understanding, that it
21 shouldn't be allowed, a lumberyard in that area.

22 CHAIRMAN: We'll have Mr. Noffsinger address
23 that immediately.

24 Mr. Noffsinger.

25 MR. NOFFSINGER: Well, we've addressed this at

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1 previous meetings. On February 10th of 2011, I
2 addressed the location of Menard's on this site. It
3 was questioned at that point.

4 I stated at that point that the zoning
5 ordinance was amended in August of 2010 to allow for
6 a big box retailer, such as a Lowe's, Home Depot,
7 Menard's, with a showroom area of I believe it's at
8 least 75,000 square feet to be considered as a big box
9 retailer and for that to locate in the B-4 zone. That
10 was prior to the meeting in February of 2011. There
11 is a definition for a big box retailer. Menard's in
12 the zoning administrator's opinion meets that
13 definition. So that was not challenged. It was not
14 appealed and it was not challenged. It is my belief
15 that that type of use is certainly a use that should
16 be allowed in a B-4 zone such as it is in other
17 communities.

18 I think there was one shown in the Evansville
19 area that immediately backed up to an adjoining
20 residential neighborhood. So it's not like we're
21 doing something here that hasn't been done in other
22 areas of the country. It certainly has. By the
23 ordinance being amended at one time, a lumberyard,
24 you're correct, was not allowed in a B-4 zone. If you
25 take this strict interpretation that this is a

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1 lumberyard, then at that time it would not have been
2 allowed, but the zoning ordinance was specifically
3 amended for big box retailers that meet that
4 definition of 75,000 square feet for a Lowe's, a Home
5 Depot, Menard's or any other type of business that
6 meets that definition.

7 CHAIRMAN: Now, you may continue.

8 MR. ONLEY: As a resident and property
9 adjoining that, I'm okay with that if the buffer they
10 talk about, the 100 foot and the trees and all of that
11 is done tastefully to isolate individual residents
12 from the big box.

13 I would like to further comment, just further
14 as a community, we would welcome Menard's coming in,
15 but it's ying and yang. Displacement. You know,
16 there will be an empty big box called Home Depot after
17 Menard's comes in. There will be another empty big
18 box from Kight Lumber Supply. Let's think of all the
19 smaller little empty boxes around the community.
20 Nothing is going to change. I think there's zero
21 growth as far as the population of Owensboro
22 currently. Maybe one or two percent in the county.
23 It's just moving the chess pieces around. It's not
24 adding anything except to the developers at the time.
25 That's just a personal comment. I thank you.

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1 CHAIRMAN: Thank you.

2 I think maybe possibly we've heard the same
3 story when Home Depot came to town. You know, we have
4 Home Depot, Lowe's, Kight's. You know, we still have
5 Thriftway. These places still seem to be doing very
6 well. I make a comment to that fact. I must say on
7 their behalf I've been in all of those stores that I
8 have just mentioned and I've bought items in all of
9 those stores and they're doing well. I don't feel
10 like these other stores will be threatened. I think
11 the marketing and they stand on their own abilities
12 and I think they will be fine.

13 Yes, sir, is there any other comments?

14 MR. BAKER: One point of clarity.

15 It's our understanding, again, this agreement
16 that was drawn up was between the developer and
17 Jagoe's. There's a legal agreement that associate
18 with that.

19 Mr. Noffsinger referenced that no drive lanes
20 or parking could be within that 100 foot area. I'm
21 not sure that was the intent of that legal agreement
22 that backs up to that 100 foot buffer. The agreement
23 that we have made with Mr. Jagoe I believe is to
24 construct the buffer in accordance with the ordinance.
25 He had specific fence that he wanted to --

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1 MR. SILVERT: I do want to caution you, sir,
2 not to be making legal arguments. Just as a caution.

3 MR. BAKER: Do we need to clarify that?

4 MR. NOFFSINGER: I'd be glad to clarify that.
5 I did not say it could not be used for drive lanes,
6 parking or whatnot.

7 What I did say was it would be questionable as
8 to whether or not you could use that area for parking
9 areas associated with retail uses. So we've got to be
10 very careful when we say that this area is to be used
11 for only professional service uses or offices, however
12 it's worded. That it's associated with professional
13 service uses.

14 I can't answer that tonight. All I can give
15 you is what ifs, but we do have to be very cautious
16 because your agreement was outside this commission,
17 but your agreement has weight on the zoning change as
18 well as the plans that will be approved here tonight.
19 It's also on your document. I just want to throw that
20 out because I don't want any surprises and I know you
21 don't either. We have to be very careful.

22 MR. BAKER: Yes.

23 MR. NOFFSINGER: Mr. Chairman, if I could.
24 I'd just like to thank three folks for their work and
25 dedication to this plan.

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1 First of all, certainly Kevin McClearn that's
2 here tonight. He and his staff worked diligently from
3 that first Planning Commission on to see that this
4 plan, this development had a good outcome for not only
5 the development, not only for the neighborhood, but
6 for this community. I'd like to thank he and his
7 staff for doing their job in taking a second look.

8 I'd also like to thank Barbara Ingram who is
9 the president of the Homeowner's Association for the
10 Heartlands. I know she spent a lot of time and effort
11 in working with folks to facilitate what's going on in
12 her neighborhood. I certainly appreciate the
13 opportunity to have worked with her. I think because
14 of her work I think we have a very positive outcome as
15 well.

16 I would also like to thank the developers in
17 this situation because they have been very patient.
18 They have shown a willingness to work not only with
19 this commission, but the neighborhood and the
20 community. I think because of their patients I think
21 it's going to pay off for the entire community.

22 I'd just like to thank, there's probably some
23 others, but those are three that really stand out that
24 really made this project move forward and would have a
25 positive outcome.

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1 CHAIRMAN: Thank you. I agree.
2 Are there any other comments or questions?
3 Yes, sir.

4 MR. SILVERT: Would you state your name,
5 please?

6 MR. MARSHALL: My name is Rick Marshall. I'm
7 executive vice president with Christian Care
8 Communities.

9 (RICK MARSHALL SWORN BY ATTORNEY.)

10 MR. MARSHALL: I'm executive vice president of
11 Christian Care Communities. We own or an owner of
12 Garden Grace Maple Brook Village and soon to be
13 developed President's Place. This provides housing
14 for the elderly. We are along the Friendship Drive
15 corridor.

16 First of all, we applaud the changes that have
17 been made thus far, the traffic pattern. That's going
18 to be very beneficial for our residents.

19 We have about 80 elderly residents currently
20 living in the housing that we own and soon will have
21 about 140 after additional housing opens up a little
22 bit later this summer.

23 We just wanted to express a concern and ask
24 for consideration in the future. There is a secondary
25 access I believe that's coming from the development

1 onto East Byers. It will come out right across from
2 Friendship Drive. A number of our residents, our
3 residents are about average age of 75 to 80. About 80
4 percent of them still drive. So we are concerned with
5 the volume of traffic that may come out at that
6 intersection in the future once it is developed.
7 We're not opposed to it, but we would just like to ask
8 for consideration for a stoplight there. That would
9 be helpful to our residents as they enter and exit
10 that intersection in the future.

11 CHAIRMAN: Thank you.

12 Mr. Riney, you might just shed some light on
13 that. Do you have a plan for an access road there or
14 not?

15 MR. RINEY: Well, I think as Brian alluded to,
16 currently our access is shown as on Highway 54 and 300
17 feet off of that intersection and 54 and Byers, on
18 Byers Avenue, but we will be operating under, I guess,
19 the access point ordinance of what would be allowed on
20 that road, which I think is every 250 feet. So we do
21 have, I think it's shown on there a possible cut in
22 there at Friendship Drive. It was included in the
23 traffic study and is shown today obviously it's not
24 warranted for a stoplight and also is not warranted
25 for one, if we were to put an access point at that

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1 location.

2 Are we in support of -- I talked with Mr.
3 Marshall prior to the meeting. We've had some good
4 dealings with the Christian Care Group in the prior
5 years with respect to some adjacent property. Would I
6 be supportive of that as a result of his clientele?
7 If the city felt as if that was warranted, we would
8 not have a problem with that occurring obviously.

9 At this point in time I don't believe it is
10 warranted, at least with respect to traffic flow.

11 Now, as I told Mr. Marshall, with the
12 clientele that is using his services may be a little
13 bit different. The city may want to look at that in
14 the future, I think. We don't have an issue if that
15 was to occur, no.

16 CHAIRMAN: You understand the developer really
17 has no say, other than just input, into whether a
18 traffic light would be put there. That would be, you
19 know, the city would determine that.

20 MR. MARSHALL: Yes, sir.

21 CHAIRMAN: You said that your age group is 75
22 to 80 and the elderly, that sounds more like to me
23 like young adults.

24 Mr. Pedley?

25 MR. MARSHALL: We certainly have a number of

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1 very active older adults on our campus. Fortunately
2 with the services that we provide they can age in
3 place. So we're hoping that very soon they are 90 and
4 95 years old and hopefully still driving as well.

5 CHAIRMAN: I like that term, aging in place.
6 A lot of us are doing that now right before your eyes.

7 MR. MARSHALL: We appreciate your
8 consideration. Thank you.

9 CHAIRMAN: Are there any other questions or
10 comments?

11 MR. KAZLAUSKAS: Mr. Chairman.

12 CHAIRMAN: Yes, sir.

13 MR. KAZLAUSKAS: I'm wondering if we could ask
14 Kevin if there's any estimated time line on the work,
15 when the work might begin out there on 54 so everyone
16 would have a mind set on when construction is going to
17 start and how long it's going to take.

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

20 MR. McCLEARN: Kevin McClearn.

21 (KEVIN McCLEARN SWORN BY ATTORNEY.)

22 MR. McCLEARN: As far as a time line, what
23 we're looking at is developing the plans going forward
24 from a few weeks ago. So that will be continuing.

25 What I really believe will work out is perhaps

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1 a year from now in the Spring of 2012 is when we will
2 be getting out there or our contract will be getting
3 out there starting on these improvements. We'll move
4 this as quickly as the process allows, but perhaps
5 interrupting factor is wintertime. We would not want
6 to tear things up in such a manner that they're torn
7 up all winter long waiting for spring. So we'll stage
8 it appropriately, but we'll have to go through the
9 various stages of development.

10 A reasonable guess right now would be to have
11 the plans ready in the winter and then work on the
12 correct paperwork so that the contractor has notice to
13 proceed early spring or late winter of 2012.

14 MR. KAZLAUSKAS: Thank you.

15 CHAIRMAN: Thank you. I will also thank you
16 for the speed at which you moved this program along.
17 It greatly helped the City of Owensboro and our
18 developer. We greatly appreciate your efforts.

19 MR. McCLEARN: Thank you for saying that. I
20 feel very fortunate that it worked out. The stars had
21 to be aligned and they were. We're pleased that we're
22 able to offer a project that everyone is in favor of.

23 I would also commend Ms. Ingram and the
24 neighborhood group. I also want to acknowledge Phil
25 Riney and the development group for their willingness

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1 to work with us, share information and that sort of
2 thing. Communication is the key in what we do. In
3 this case, it has worked out so we thank you.

4 CHAIRMAN: Thank you very much.

5 With that being said, if there are no further
6 comments.

7 Yes, sir.

8 MR. SILVERT: Would you state your name,
9 please?

10 MR. MILLER: My name is Steven Miller.

11 (STEVEN MILLER SWORN BY ATTORNEY.)

12 MR. MILLER: I would like a clarification
13 concerning the location of Menard's and the lumberyard
14 behind it.

15 It's my understanding that that determination
16 hasn't been made at the present time. Mr. Riney was
17 going to try to go back and talk with Menard's and see
18 if he could get that location changed.

19 Is it correct that when that proposed
20 development comes before the court, will the
21 discussion, will there be a discussion determining the
22 location of the lumberyard at that time before you all
23 approve it?

24 CHAIRMAN: Mr. Noffsinger.

25 MR. NOFFSINGER: Yes, sir.

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1 MR. MILLER: There will be notification in the
2 paper and everything like that so we'll know?

3 MR. NOFFSINGER: No, sir. There will be no
4 notification in the paper. However, the developer is
5 on record and required to give notice when that plan
6 comes in as they did with this current plan. That is
7 to notify the adjoining landowners. The similar
8 process of the zoning change. But there will be no
9 newspaper notification.

10 MR. MILLER: Thank you.

11 CHAIRMAN: Are there any other comments?

12 (NO RESPONSE)

13 CHAIRMAN: If not the chair is ready for a
14 motion.

15 MR. APPLEBY: Motion for approval.

16 CHAIRMAN: We have a motion for approval by
17 Mr. Appleby.

18 MS. MOORMAN: Second.

19 CHAIRMAN: We have a second by Ms. Moorman.
20 All in favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 Next item, please.

24 ITEM 4

25 James C. Roby, 12.35 acres

 Consider approval of amended major subdivision

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1 preliminary plat.

Applicant: Danco Construction, Inc.

2 MR. NOFFSINGER: Mr. Chairman, this plan has
3 been reviewed by the Planning Staff and Engineering
4 Staff. It's found to be in order. It is an amended
5 preliminary plat. The only thing this plan does is
6 enlarges a lot and it affects some easements for
7 drainage. And because it pertained to drainage I
8 could not sign the amendment in-house, but it is here
9 and it's ready for your consideration.

10 CHAIRMAN: Do we have anybody representing the
11 applicant?

12 APPLICANT REP: Yes.

13 CHAIRMAN: Do we have any questions of the
14 applicant?

15 (NO RESPONSE)

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

18 MR. ROGERS: Motion for approval.

19 CHAIRMAN: We've got a motion for approval by
20 Mr. Rogers.

21 MR. HAYDEN: Second.

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

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

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1 Next item, please.

2 -----

3 NEW BUSINESS

4 ITEM 5

5 Consider approval of planning department application
6 filing fee increases effective July 1, 2011.

7 MR. NOFFSINGER: Mr. Chairman, the Planning
8 Staff has reviewed our filing fees. The last time we
9 considered a filing fee increase was back in 2005.
10 We're here tonight with somewhat I feel are very
11 modest filing fees increases that are absolutely
12 necessary in order to maintain quality planning
13 department. The planning department is funded, as you
14 all know, by the City of Owensboro, the City of
15 Whitesville and Daviess County. It's also partially
16 funded by our filing fee system, which is paid by
17 developers, it's paid by landowners that want to
18 create new lots. Those fees require bringing in a
19 certain percentage of our budget in order to maintain
20 that budget. Generally we try to keep around 18 to 20
21 percent of our budget funded through those fees.
22 We've dropped down to a point where we're about 12 to
23 13 percent. We have studied other communities such as
24 Bowling Green, Lexington, Louisville and compared our
25 filing fees to theirs and we found that we are

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1 somewhat lower. Very rarely would we be higher than
2 any of those other communities.

3 So we are recommending a filing fee increase
4 that ranges from anywhere to 7 to 11 percent. I will
5 give you an example.

6 For example, if you had a piece of property
7 that was zoned single-family residential and you were
8 to submit a zoning change application, the base fee
9 would be \$200. We're recommending that that go to
10 \$215, which is a 7.5 percent increase.

11 If you were looking to subdivide your property
12 and you're zoned agricultural to single-family
13 residential, the filing fee currently will be \$105.
14 We're recommending an increase to \$110.

15 So we do feel these are very modest, they're
16 very competitive and generally under what they're
17 charging in other communities, but we feel they're
18 very necessary to be increased in order to maintain
19 the program.

20 CHAIRMAN: Are there any questions?

21 (NO RESPONSE)

22 CHAIRMAN: Mr. Pedley, I would assume that you
23 have consulted with the Homebuilders?

24 MR. PEDLEY: Yes. We had our Owensboro
25 Homebuilders Board. I presented this to the board

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1 Tuesday. Explained it to them basically like Mr.
2 Noffsinger did. I had no negative comments on it.
3 They were pleased. We find this very modest increase
4 based on it's been six years.

5 MR. NOFFSINGER: Yes, sir.

6 MR. PEDLEY: I am a major user. I pay a lot
7 of fees, filing fees. I'm very happy with it.

8 So, Mr. Chairman, if you're ready for a
9 motion.

10 CHAIRMAN: Are you the one that's going to
11 make the motion?

12 MR. PEDLEY: I make a motion for approval.

13 CHAIRMAN: Mr. Pedley makes the motion for
14 approval. Is there a second?

15 MR. APPLEBY: Second.

16 CHAIRMAN: Second by Mr. Appleby. All in
17 favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: That motion carries unanimously.

20 Thank you. Next item.

21 ITEM 6

22 Consider approval of the FY 2012 OMPC budget and
23 salary chart.

23

24 MR. NOFFSINGER: Mr. Chairman, each member has
25 been mailed a copy of this budget. Been made

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1 available to answer any questions that you might have
2 and with that it's ready for your consideration.

3 CHAIRMAN: Did anybody on the commission have
4 any questions?

5 (NO RESPONSE)

6 CHAIRMAN: Anybody in the audience have any
7 questions of our budget?

8 (NO RESPONSE)

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

11 MR. KAZLAUSKAS: So move.

12 CHAIRMAN: Motion for approval by Mr.
13 Kazlauskas.

14 MR. ROGERS: Second.

15 CHAIRMAN: Second by Mr. Rogers. All in favor
16 raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: The motion carries unanimously.
19 The chair is ready for one final motion.

20 MR. PEDLEY: Motion to adjourn.

21 CHAIRMAN: Motion to adjourn by Mr. Pedley.

22 MR. ALLEN: Second.

23 CHAIRMAN: Second by Mr. Allen. All in favor
24 raise your right hand.

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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1 CHAIRMAN: The motion carries. We are
2 adjourned.

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1 STATE OF KENTUCKY)

)SS:1REPORTER'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 34 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 30th day of May, 2011.

18

19

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
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23 COMMISSION EXPIRES: DECEMBER 16, 2014

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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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