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1 OWENSBORO METROPOLITAN PLANNING COMMISSION  
2 AUGUST 11, 2011

3 The Owensboro Metropolitan Planning Commission  
4 met in regular session at 5:30 p.m. on Thursday,  
5 August 11, 2011, at City Hall, Commission Chambers,  
6 Owensboro, Kentucky, and the proceedings were as  
7 follows:

8 MEMBERS PRESENT: Drew Kirkland, Chairman  
Ward Pedley, Vice Chairman  
9 David Appleby, Secretary  
Gary Noffsinger, Director  
10 Madison Silvert, Attorney  
Rev. Larry Hostetter  
11 Tim Allen  
Irvin Rogers  
12 Wally Taylor  
John Kazlauskas  
13 Martin Hayden  
Rita Moorman

14 \* \* \* \* \*

15  
16 CHAIRMAN: I would like to welcome everybody  
17 to the August 11th meeting of the Owensboro  
18 Metropolitan Planning Commission. Will you please  
19 rise for Madison Silvert will lead us in our  
20 invocation and pledge of allegiance.

21 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

22 CHAIRMAN: Our first order of business is to  
23 consider the minutes of the July 14, 2011 meeting.  
24 Are there any corrections, additions, any questions?

25 (NO RESPONSE)

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1 CHAIRMAN: If not the chair is ready for a  
2 motion.

3 MR. PEDLEY: Motion for approval.

4 CHAIRMAN: Motion for approval by Mr. Pedley.

5 FATHER HOSTETTER: Second.

6 CHAIRMAN: Second by Father Larry. All in  
7 favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item please, Mr. Noffsinger.

11 ITEM 2

12 Executive Director Report: OMPC Fiscal Year 2011  
Activity Report and Survey Responses

13

14 MR. NOFFSINGER: Mr. Chairman, each member has  
15 been mailed a packet that contains a result of a  
16 survey we sent out for the past fiscal year. We have  
17 been doing this for a number of years. Last year I  
18 reported a similar information to what I will report  
19 tonight.

20 Any time an electrical certificate is issued  
21 or a building certificate of occupancy is issued, we  
22 send out a survey that we hope our customers will send  
23 back to us.

24 On those surveys we ask two questions. The  
25 first question would be: Were you treated in a

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1 professional manner while in our office and/or out in  
2 the field? Unfortunately this year we only received  
3 13 surveys back. We send out many more than that. We  
4 send out several hundred to 1,000 of these. I only  
5 got 13 back, but the 13 we did receive back we  
6 received a "yes" on all of those surveys.

7 The second question: Were all issues  
8 explained in a satisfactory manner? In all 13 surveys  
9 returned the answer was "yes."

10 I've also included comments on those surveys.  
11 There's an area where a customer can give their  
12 comments that goes to me, and then if necessary I will  
13 react forward response or adjust as necessary.

14 So the commissioners do have a copy of those  
15 comments. I do not share those publically, but it is  
16 for their benefit as well as mine so that we can make  
17 sure our customers are being treated in a fair and  
18 consistent manner.

19 The second survey we send out is an exit  
20 survey that the Staff hands out to each customer.  
21 It's optional if they want to drop it in the box. I  
22 check that box and the results I do record. I'm happy  
23 to say we did 111 exit surveys turned in.

24 On the first question: Were you treated in a  
25 professional manner while in our office and/or out in

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1 the field? On all 111 of those surveys, we received a  
2 "yes, they were."

3 Same with the second question. Were all  
4 issues explained in a satisfactory manner? In all 111  
5 of those surveys, the answer was "yes."

6 They do have an opportunity to provide  
7 comments. Each commissioner has received a copy of  
8 each of the comments that were registered.

9 In terms of activity for our last fiscal year  
10 in Planning & Zoning change applications, we had a  
11 total of 37 applications submitted and heard by the  
12 Planning Commission. Twenty-four of these were in the  
13 City of Owensboro, 13 outside of the city limits of  
14 Owensboro. All of those applications were approved  
15 with the exception of one which was withdrawn. So we  
16 had no denials.

17 I'm not going to go through each and every  
18 item here. Just to give you an idea of the activity  
19 that we do have. In office we had 161 minor  
20 subdivisions approved. Out of those 161, we had one  
21 denied.

22 We had variance applications that go before  
23 the Board of Adjustment. We had 17 Variance  
24 applications of people wish to build closer to the  
25 property line than what the ordinance allows. They

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1 have the right to go to the Board of Adjustment. Out  
2 of those 17 applications, there was only one  
3 application denied.

4 In terms of the building department, I will  
5 say before I move in the building department, our  
6 activity in the planning department actually increased  
7 this last fiscal year with a number of zoning changes  
8 and other activities in the office.

9 In the building department, our activity was  
10 somewhat off from the previous fiscal year. However,  
11 it's pretty close. We issued 246 building permits for  
12 new residential single-family units. For a  
13 residential additions, garages, we issued 468 permits.  
14 The total number of building permits our office issued  
15 938. Total electrical permits 1,076. So we send out  
16 about 2,000 surveys to our customers and unfortunately  
17 we only had 13 returned. We certainly like to hear  
18 from the other 1900 plus customers.

19 We had 104 heating and ventilation cooling  
20 permits, which was a new program we started January 1  
21 of this calendar year. Total plan review applications  
22 184.

23 Now, in terms of total building permits,  
24 that's the actually number of permits we issued. We  
25 also make inspections. This year our three

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1 inspectors, primarily three inspectors, made 6,249  
2 inspections.

3 So our office deals with a lot of customers on  
4 a daily basis. When you have 6,249 inspection among  
5 three individuals, you know they're out there, they're  
6 getting it and obviously they're getting the job done.

7 Every now and then we're going to run into a  
8 situation where there's an issue. We have something  
9 that doesn't work out. Some of these commissioners up  
10 here, elected officials, may hear something negative  
11 about the Planning Commission or how their issue was  
12 treated.

13 If you ever feel that you're treated in an  
14 unfair manner, I would certainly like to hear about  
15 it. If you're uncomfortable in talking with me, Drew  
16 Kirkland, Chairman, is also available to talk to. We  
17 do have a policy. Drew will confirm this. That if  
18 you have an issue that you want to sit down and talk  
19 with us about, we'll be more than happy. Drew will  
20 meet with you. I will meet with you. We'll ask an  
21 elected official to meet with you. We want to work  
22 through the problems and solve the problems.

23 I can say I'm very proud of our Staff. I  
24 think we have a very fine Staff in this community. We  
25 would like to say, yes, to everything and everyone

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1 that walks through our doors. Unfortunately, based  
2 upon the rules that are handed down to us through the  
3 international electrical code or the building code,  
4 which we do not write, but we have to enforce.  
5 Sometimes we have to say no. We always look for ways  
6 to try to work with folks to make things work out. In  
7 some cases there's not a solution. Certainly that is  
8 tough for the customer and it's tough for us. We do  
9 want to try to find solutions to solve the problems.

10 I'm very proud of the Staff. They do a  
11 tremendous job in my mind. They deal with a lot of  
12 people. We do receive criticism from time to time. I  
13 know each of these commissioners from time to time  
14 will hear something negative. When we do, just bring  
15 it to our attention and we'll be glad to address it.

16 MR. PEDLEY: Mr. Chairman, if I may, please.

17 CHAIRMAN: Mr. Pedley.

18 MR. PEDLEY: I'm the director of the Owensboro  
19 Home Builders. We had a board meeting Tuesday. I  
20 presented this to our board members in the same  
21 fashion that Mr. Noffsinger did. They were very  
22 impressed and very pleased. We did not have a  
23 negative comment. This is a good report to get out  
24 there. The Home Builders Board was very pleased to  
25 hear these reports.

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1 CHAIRMAN: Thank you, Mr. Pedley. That was  
2 good that during the year also that you set up a  
3 meeting with Gary and myself and the Home Builders to  
4 hear their concerns and suggestions for any  
5 regulations and things that we could change or help  
6 and make it run smoother.

7 MR. PEDLEY: We're preparing another meeting  
8 in the future to meet with the Planning Staff and  
9 whoever would like to attend. It's just information  
10 for anything that we could help with or anything that  
11 you can help us with. That's the intent of our  
12 meetings.

13 CHAIRMAN: Thank you, Mr. Pedley.  
14 Does anybody in the audience have any comments  
15 or any questions?

16 (NO RESPONSE)

17 CHAIRMAN: If not, thank you, Mr. Noffsinger.  
18 Give my regards to the Staff for a job well done  
19 because, as you know, I do get the comments. They  
20 have done an outstanding job and I appreciate it.

21 Our next item under Zoning Changes.

22 -----  
23 ZONING CHANGES

24 ITEM 3

25 10133 Highway 54, 1.082 acres

Consider zoning change: From R-1A Single-Family  
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1 Residential to B-4 General Business  
Applicant: Susan A. Cox/SC Development, LLC; Anna Rea  
2 Greer, Mildred Greer & William P. Greer

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

5 MR. HOWARD: Brian Howard.  
6 (BRIAN HOWARD SWORN BY ATTORNEY.)

7 MR. HOWARD: I will note that all the rezoning  
8 changes heard tonight will become final 21 days after  
9 the meeting unless an appeal is filed. The appeal  
10 forms are available on the back table, in our office  
11 and on the website. If an appeal is filed within that  
12 21 day period, we will forward the record of the  
13 meeting, the Staff Report and that information to the  
14 appropriate legislative body for their final action.

15 PLANNING STAFF RECOMMENDATIONS

16 The Planning Staff recommends approval subject  
17 to the findings of fact that follow:

18 FINDINGS OF FACT:

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

22 2. The subject property is located in a  
23 Business Plan Area where general business uses are  
24 appropriate in very-limited locations;

25 3. The proposal is a logical expansion of  
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1 existing B-4 General Business zoning to the west and  
2 south; and,

3 4. At 1.802 acres, the expansion of commercial  
4 zoning should not overburden the capacity of roadway  
5 and other necessary urban services that are available  
6 in the affected area.

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

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

11 MR. POTEAT: Yes.

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

14 MR. POTEAT: Steve Poteat.

15 MR. SILVERT: You're sworn as an attorney.

16 MR. POTEAT: Mr. Chairman, Members of the  
17 Commission, if you have any questions about this, I'll  
18 be glad to try to answer them.

19 Would let you know that if this is approved,  
20 the development plan will be complying with the  
21 patterns that have been noted on the Staff Report.

22 CHAIRMAN: Thank you, Mr. Poteat. Be seated  
23 and we'll see if anybody has any questions.

24 Are there any questions from anybody in the  
25 audience?

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1 (NO RESPONSE)

2 CHAIRMAN: Any questions from the Staff?

3 Yes, sir.

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

6 MR. ROBY: My name is Thomas Roby.

7 (THOMAS ROBY SWORN BY ATTORNEY.)

8 MR. ROBY: I'm a landowner. I'm in the back  
9 of the property that they're wanting to rezone. I  
10 think they're wanting to put a Dollar Store in there;  
11 is that correct?

12 CHAIRMAN: Just a moment.

13 For the record would you go to the microphone,  
14 Mr. Poteat.

15 MR. POTEAT: Mr. Roby, that is correct.

16 CHAIRMAN: Thank you, Mr. Poteat.

17 MR. ROBY: I'm not opposed to having it built  
18 if they will put the fence up. I think I've done  
19 talked to Herbert about that. If they'll put a  
20 privacy fence around it and have it cleaned up. The  
21 one that they've got up there at Whitesville now, I've  
22 got pictures of it.

23 CHAIRMAN: Would you just hand them to Ms.  
24 Moorman there and she'll see that the rest of the  
25 board gets it and you can continue with your questions

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1 or comments.

2 MR. SILVERT: Mr. Roby, is it okay if we keep  
3 these pictures and submit them in the record?

4 MR. ROBY: Sure.

5 CHAIRMAN: Thank you.

6 MR. ROBY: Our concern is the landowners if it  
7 looks like that, then our property value will go down  
8 if they put that up there. If they put a fence up  
9 around it and put the trees I think that they should,  
10 maybe it won't.

11 My next question is: If they do put a fence  
12 up, who is going to maintain it and how often will it  
13 be maintained and will they keep it up with the new  
14 look?

15 CHAIRMAN: Are those all of your questions,  
16 Mr. Roby?

17 MR. ROBY: Yes, for now.

18 CHAIRMAN: Would you be seated and we'll let  
19 Mr. Poteat respond.

20 You got all his questions in order?

21 MR. POTEAT: I think I do.

22 Mr. Roby, first of all, I will tell you that,  
23 yes, a privacy fence will be put up. I'm certain that  
24 when the development plan is submitted to the zoning  
25 board that that's going to be one of their

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1 requirements as well. Is that a privacy fence be put  
2 up. We will comply with our landscaping requirements  
3 which requires trees to be put up. I'm not exactly  
4 sure how many or what their requirements are, but we  
5 will certainly comply with that. I know they will  
6 also have issues and matters relating to lighting that  
7 I know we will comply with to keep the lighting  
8 directly to the lot and not to the residences that are  
9 beyond the lot.

10 The property will be maintained by Ms. Cox.  
11 She will be the owner of that property. She's a  
12 person that we represent. So the fences will be  
13 maintained. She's done a very good job on every one  
14 I've seen of hers.

15 Now, granted the other one, that's not hers.  
16 Every project we've seen her do, she's maintained them  
17 very well and I think this is close to her tenth  
18 project in Daviess County.

19 CHAIRMAN: Mr. Poteat, would you be seated.  
20 Mr. Noffsinger.

21 MR. NOFFSINGER: Yes. I do need to make a few  
22 comments.

23 First of all, the Planning Commission does not  
24 serve as the zoning enforcement officer for the City  
25 of Whitesville. That would be Pat Burch. The reason

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1 I want you to understand that is because what I'm  
2 getting ready to explain to you is what the Planning  
3 Commission will not be able to assist you in.

4 First off, a development plan is likely not  
5 going to be required. So this board or my staff will  
6 not be reviewing a development plan or a site plan.  
7 That site plan would be reviewed by Pat Burch, the  
8 City of Whitesville.

9 We would also not be issuing any permits for  
10 the facility because it's within the City of  
11 Whitesville and we do not have jurisdiction within the  
12 City of Whitesville to issue those permits. The only  
13 thing we have jurisdiction on would be the actual  
14 zoning of the property.

15 Now, the zoning ordinance does require a 6  
16 foot high continuous element and one tree per 40 foot  
17 on average to be installed along that east boundary.  
18 I believe north boundary where it adjoins residential  
19 zoning.

20 Now, the zoning ordinance states that that can  
21 be a 6 foot high shrub row. It could be a 6 foot high  
22 solid fence, chain-link fence with screening slabs or  
23 screening fabric. So there are options. I don't want  
24 you to leave here tonight thinking that the Planning  
25 Commission is going to require a fence to be installed

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1 because they do have options.

2 Now, the Planning Commission does have the  
3 opportunity to attach conditions to this rezoning  
4 which the Planning Staff, we have not in terms of the  
5 character of the type of screening that's going to be  
6 around the facility. At this point in time there are  
7 no conditions.

8 Now, I think there's also a tree line to the  
9 east, along that east boundary. That's a very mature  
10 tree line. That may or may not be left standing. I  
11 don't know what the applicant's proposal is there.

12 Just know that the ordinance requires a 6 foot  
13 high continuous element and one tree per 40 feet on  
14 average. So you could have, if you've got a 400 foot  
15 boundary line, they're going to be required to put in  
16 10 trees. They may group those trees. They might not  
17 put them one every 40. They may group several  
18 together and then there might be gap in there.

19 I just want you when you leave here hopefully  
20 you'll have a better understanding of how the process  
21 works and what could be expected.

22 CHAIRMAN: I believe we had some questions in  
23 the back. Go to the podium, please.

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

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1 MR. BAILEY: My name is Shane Bailey.  
2 (SHANE BAILEY SWORN BY ATTORNEY.)

3 MR. BAILEY: I am the property adjoining the  
4 full length that is on that said tree line. My  
5 concern is what point will the fence, the privacy  
6 fence run up to. I would like to put in a stipulation  
7 if it is to go through that those trees remain.

8 CHAIRMAN: Mr. Poteat.

9 MR. POTEAT: Mr. Chairman, I'm not sure about  
10 the trees at this time because I don't know what  
11 property they're on. The survey that has been done  
12 that we're going by right now does not show exactly  
13 where they are. I will tell that in past they've  
14 tried to keep it. The projects they've done in  
15 Daviess County, Henderson County, McLean County,  
16 Hancock County, Webster County, they've tried to keep  
17 everything that they could that did not interfere with  
18 parking or things of that nature.

19 I apologize to the commission for insinuating  
20 that this commission would. I obviously know that the  
21 City of Whitesville, that Ms. Burch out there will be  
22 the final one to review those.

23 As far as the fence, it will go as far as  
24 we're required to go which I understand that the  
25 zoning ordinance requires it to go the whole length

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1 between residential and business. That's my  
2 understanding.

3 MR. BAILEY: Do you know how close?

4 CHAIRMAN: Just a moment.

5 I believe there's a question in the audience  
6 of how close would the fence be?

7 MR. POTEAT: To the property line?

8 MR. BAILEY: Yes. It's --

9 CHAIRMAN: Wait. We need you at the  
10 microphone for the record if you've another question.  
11 Wait a minute. I've got a question myself of Mr.  
12 Poteat.

13 Mr. Poteat, on the tree line, so it's not  
14 determined whether the trees are on your property or  
15 on your neighbor's property?

16 MR. POTEAT: I don't know that. I don't know  
17 how to answer that right now. I don't know the answer  
18 to that question. I guess --

19 CHAIRMAN: If the trees are on his property --

20 MR. POTEAT: If the trees are on his side, we  
21 won't touch those. They're going to be there.

22 Mr. Chairman, if it's hard to determine which  
23 one they're on, I would say we're probably going to  
24 leave them there. Obviously if they're on Mr.  
25 Bailey's property line, we're not touching them. We

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1 can't touch them.

2 CHAIRMAN: Wait just a moment.

3 MR. ROGERS: Mr. Chairman, the survey states  
4 and appear to be the tree line in the center pretty  
5 much. It's within three or four foot either way  
6 according to the survey.

7 CHAIRMAN: Some of the trees may be on one  
8 person's property and some may be --

9 MR. ROGERS: It's an old property tree line.  
10 The survey states and shows it's pretty well in line.

11 CHAIRMAN: Mr. Noffsinger.

12 MR. NOFFSINGER: Mr. Chairman, the applicant  
13 will also be required by ordinance to maintain a ten  
14 foot wide buffer from the property line into their  
15 property.

16 Now, again, the Planning Commission does not  
17 enforce the ordinance in Whitesville so that's going  
18 to be up to Pat Burch to enforce. The ordinance also  
19 does not say that the fence, where the fence is  
20 exactly to be located. Ideally to serve as a buffer  
21 you have the property line and then you have a ten  
22 foot buffer going into the applicant's property and  
23 you put the fence on that ten foot line. Then you put  
24 the trees out between the fence and the neighbor's  
25 property. That's ideally, but that is not required by

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1 ordinance and that's not always what happens.

2 CHAIRMAN: Yes, sir, do you have another  
3 comment or question?

4 MR. BAILEY: That has it right there.

5 CHAIRMAN: Thank you, Mr. Poteat. Thank you.

6 Are there any other questions from the  
7 audience?

8 (NO RESPONSE)

9 CHAIRMAN: Any questions from the commission?

10 (NO RESPONSE)

11 CHAIRMAN: If not the chair is ready for a  
12 motion.

13 MR. ROGERS: Mr. Chairman, I'd like to make a  
14 motion for approval based on the Planning Staff  
15 Recommendations with the one condition of the existing  
16 tree line on that east property line be left because  
17 they are a mature tree line and the Findings of Facts  
18 1 through 4.

19 CHAIRMAN: Mr. Rogers, may I get you to pause  
20 just a moment.

21 Mr. Poteat, will you step back.

22 Mr. Poteat, you heard Mr. Rogers' motion which  
23 included a condition on the trees. Would you affirm  
24 this condition for your client?

25 MR. POTEAT: May I state or ask one question

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1 --

2 CHAIRMAN: Yes, sir.

3 MR. POTEAT: -- or do you want to go ahead  
4 with the procedure and then me ask a question?

5 CHAIRMAN: I would like to go ahead with the  
6 procedure, but if you have a question that we need to  
7 answer, let's follow that up.

8 MR. POTEAT: I do not anticipate that there  
9 will be any problems with that. The only thing that I  
10 could say is not having seen it and not knowing  
11 exactly where the pavement for parking is going to go,  
12 are there any roots that are above ground that are  
13 going to interfere with putting asphalt and/or  
14 concrete that will be required putting that down. You  
15 know, obviously we don't want something that we're  
16 going to have to be replacing every six or eight  
17 months when you see tree roots come up and uproot it.

18 Other than that, I will say that they will  
19 comply with any condition that the commission puts on  
20 it.

21 CHAIRMAN: Mr. Rogers, is that response okay  
22 with you as far as your motion?

23 MR. ROGERS: Yes. I believe it will work with  
24 the tree line like it is.

25 CHAIRMAN: Mr. Silver, does Mr. Rogers need to  
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1 be a little bit more flexible in his motion?

2 MR. SILVERT: Mr. Rogers, it's his ability to  
3 make a motion that he likes. So it can be as flexible  
4 or inflexible. I don't know how to say it any other  
5 way.

6 CHAIRMAN: If Mr. Rogers happy with Mr.  
7 Poteat's response, then the chair will accept the  
8 motion and request a second.

9 MR. APPLEBY: Second.

10 CHAIRMAN: Second by Mr. Appleby. All in  
11 favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 Next item, please.

15 ITEM 4

16 4910 Little Hickory Road, 54.992 acres

Consider zoning change: From EX-1 Coal Mining and A-R

17 Rural Agriculture to A-R Rural Agriculture

Applicant: Betty Ann Koller

18

19 PLANNING STAFF RECOMMENDATIONS

20 The Planning Staff recommends approval subject  
21 to the findings of fact that follow:

22 FINDINGS OF FACTS

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

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- 1           2. The subject property is located in a Rural
- 2 Maintenance Plan Area where rural farm residential
- 3 uses are appropriate in general locations;
- 4           3. The subject property is a large tract with
- 5 agricultural and forestry potential;
- 6           4. The subject property has access to Little
- 7 Hickory Road via a private drive with no new roads
- 8 proposed;
- 9           5. All strip-mining activity has ceased on the
- 10 subject property; and,
- 11           6. The Owensboro Metropolitan Zoning Ordinance
- 12 Article 12a.31 requires that the property shall revert
- 13 to its original zoning classification after mining.
- 14           MR. HOWARD: We would like to enter the Staff
- 15 Report into the record as Exhibit B.
- 16           CHAIRMAN: Is there anybody here representing
- 17 the applicant?
- 18           APPLICANT REP: Yes.
- 19           CHAIRMAN: Do we have any questions?
- 20           (NO RESPONSE)
- 21           CHAIRMAN: If not the chair is ready for a
- 22 motion.
- 23           MR. APPLEBY: Motion for approval based on
- 24 Staff's Recommendations with Findings of Fact 1
- 25 through 6.

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1 CHAIRMAN: Motion for approval by Mr. Appleby.

2 MR. HAYDEN: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 ITEM 5

8 9950 Main Street, 9930 West Street, 0.478 acres

Consider zoning change: From R-3MF Multi-Family

9 Residential and R-1A Single-Family Residential to B-4

General Business

10 Applicant: Allen Wade

11 PLANNING STAFF RECOMMENDATIONS

12 The Planning Staff recommends approval subject

13 to the findings of fact that follow:

14 FINDINGS OF FACT:

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

18 2. The subject property is partially located  
19 in a Business Plan Area where general business uses  
20 are appropriate in limited locations and partially  
21 located in a Professional/Service Plan Area where  
22 general business uses are appropriate in very-limited  
23 locations;

24 3. The proposal is a logical expansion of  
25 existing B-4 General Business zoning to the west

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1 across West Street;  
2 4. Although the portion in the  
3 professional/service plan area does not meet the 1.5  
4 acre minimum for expansion across an intervening  
5 street. It is expansion of B-4 zoning that can be  
6 supported on the other tract proposed for rezoning at  
7 9930 West Street; and

8 5. At 0.478 acres the expansion of commercial  
9 zoning should not overburden the capacity of roadways  
10 and other necessary urban services that are available  
11 in the affected area.

12 MR. HOWARD: We would like to enter the Staff  
13 Report into the record as Exhibit C.

14 CHAIRMAN: Do we have somebody representing  
15 the applicant?

16 APPLICANT REP: I am, sir.

17 CHAIRMAN: Do we have any questions of the  
18 applicant?

19 (NO RESPONSE)

20 CHAIRMAN: Do we have any questions by the  
21 commission?

22 (NO RESPONSE)

23 CHAIRMAN: Does the applicant care to make a  
24 statement?

25 APPLICANT REP: No, sir.

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1 CHAIRMAN: Let the record note that he did  
2 not.

3 If not the chair is ready for a motion.

4 FATHER HOSTETTER: Mr. Chairman, move to  
5 approve based on Planning Staff Recommendations and  
6 Findings of Fact 1 through 5.

7 CHAIRMAN: We've got a motion for approval by  
8 Father Larry.

9 MR. ROGERS: Second.

10 CHAIRMAN: Second by Mr. Rogers. All in favor  
11 raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: Motion carries unanimously.

14 -----

15 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISIONS

16 ITEM 6

17 The Pointe at Wrights Landing, 1.662 acres

Consider approval of combined final development

18 plan/major subdivision preliminary plat.

Applicant: Image Builders, LLC

19

20 MR. NOFFSINGER: Mr. Chairman, this plan has  
21 been reviewed by the Planning Staff and Engineering  
22 Staff. I believe that Staff is nodding to me saying,  
23 yes, it did receive final approval from RWRA today.  
24 It is ready for consideration.

25 I will say that the use, underlying use is

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1 consistent with the underlying zoning and it is ready  
2 for consideration.

3 CHAIRMAN: Do we have someone here  
4 representing the applicant?

5 MR. HAYDEN: Yes.

6 CHAIRMAN: Do we have any questions from the  
7 audience?

8 Yes, ma'am.

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

11 MS. JOHNSON: Tamara Johnson.

12 (TAMARA JOHNSON SWORN BY ATTORNEY.)

13 MS. JOHNSON: I understand these houses are  
14 going to be built and that's fine. I do have one  
15 request or two requests actually. That the board make  
16 it mandatory that there is a barrier or privacy fence  
17 put up before any building starts so that we can have  
18 our privacy from the builders and have a noise barrier  
19 and they'll keep down on the dust and the dirt. I  
20 would also like to get a copy of the plat. That's it.  
21 Thank you.

22 CHAIRMAN: Mr. Noffsinger.

23 MR. NOFFSINGER: The Planning Staff would be  
24 able to provide a copy of the plat to you, if it's  
25 approved here tonight. This right here is just a

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1 preliminary plat development plan. It's not a  
2 recordable document in the courthouse. It's not going  
3 to be a document that's going to show actual lines  
4 necessarily. We can provide you with a copy of that  
5 after this meeting.

6 The developer would have to address the issue  
7 of the fence because the zoning ordinance does not  
8 require a fence between residential properties.  
9 That's something that the developer would have to  
10 address.

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

13 MR. HAYDEN: Randy Hayden.

14 (RANDY HAYDEN SWORN BY ATTORNEY.)

15 MR. HAYDEN: Regarding the fence, the concept  
16 that we have here you can see there's three sections  
17 on the plat. Our goal is to begin with the four lots  
18 that are on Wrights Landing Road. Ms. Johnson's home  
19 is in Wrights Acres which will be the last four lots  
20 that we'll build. We'll phase these four lots, three  
21 lots, and four lots. To put the fence up right now  
22 certainly is not necessary. We'll be far enough away  
23 from her.

24 Secondly, the cost of that fence would be more  
25 born by the homeowner that's going to have that Lot 11

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1 I think it is. So I'm not sure -- if that's not a  
2 requirement of zoning. I think we've met all of the  
3 requirements for this development plan. I'm not  
4 saying that it won't be done. It probably will be. I  
5 think the homeowner that's going to build on that lot  
6 will probably want it as well. We're in conformance.  
7 I don't want to commit to it at this point, but it  
8 likely will be.

9 CHAIRMAN: Thank you, Mr. Hayden.  
10 Did that meet your questions?

11 MS. JOHNSON: I guess it does if there's  
12 nothing that I can actually do and if he's met all of  
13 his zoning things, then be it.

14 CHAIRMAN: As Mr. Noffsinger stated and Mr.  
15 Hayden stated, there is no requirement for a  
16 preconstruction fence. I'm sure Mr. Hayden will be  
17 conscientious builder and not disturb the neighborhood  
18 because he's got, as he's building he's got homes that  
19 he's building behind himself too. There's nothing  
20 this board can do to assure that a fence will be put  
21 up in the building stage.

22 MR. HAYDEN: Let me say one more thing, if I  
23 may.

24 CHAIRMAN: Yes.

25 MR. HAYDEN: Certainly I've built their homes.

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1 The whole concept here when we changed this from a  
2 commercial zoning to where it could have been a gas  
3 station behind their homes. We're trying to do  
4 something that's harmonious that will be appealing.  
5 As you said, Mr. Kirkland, we will be conscientious of  
6 the neighbors that are there. We have to do that in  
7 every subdivision.

8 CHAIRMAN: Thank you, Mr. Hayden.

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

11 FATHER HOSTETTER: I have a question. Just a  
12 point of clarification.

13 CHAIRMAN: Yes, sir.

14 FATHER HOSTETTER: What we're looking at here,  
15 based on the decision that was made at the Board of  
16 Adjustment, this is not exactly -- you said this is a  
17 preliminary. Not the final plan.

18 MR. NOFFSINGER: This will be the final  
19 development plan. It's just not the final plat that  
20 records the boundary lines of the properties that will  
21 be recorded in the courthouse. That will come later.

22 CHAIRMAN: Are there any other questions or  
23 comments?

24 (NO RESPONSE)

25 CHAIRMAN: If not the chair is ready for a

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1 motion.  
2 MR. APPLEBY: Motion for approval.  
3 CHAIRMAN: Motion for approval by Mr. Appleby.  
4 MS. MOORMAN: Second.  
5 CHAIRMAN: Ms. Moorman has a second for us.  
6 All in favor raise your right hand.  
7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)  
8 CHAIRMAN: Motion carries unanimously.  
9 Next item, please.

10 -----

11 MAJOR SUBDIVISIONS

12 ITEM 7

13 Cross Creek, 4.459 acres

Consider approval of amended major subdivision

14 preliminary plat.

Applicant: Pedley Developers, LLC

15

16 MR. NOFFSINGER: Mr. Chairman, this plan has  
17 been reviewed by the Planning Staff and Engineering  
18 Staff. It's found to be in order. The use is  
19 consistent with the adopted Comprehensive Plan and  
20 adopted regulations. It's ready for your  
21 consideration.

22 MR. PEDLEY: Mr. Chairman, I need to  
23 disqualify myself from this item.

24 CHAIRMAN: Let the record show Mr. Pedley has  
25 disqualified himself.

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1 Is there anybody here representing the  
2 applicant?  
3 (NO RESPONSE)  
4 CHAIRMAN: Are there any questions?  
5 (NO RESPONSE)  
6 CHAIRMAN: Does anybody from the commission  
7 have any questions or the audience?  
8 (NO RESPONSE)  
9 CHAIRMAN: If not the chair is ready for a  
10 motion.  
11 MR. APPLEBY: Motion for approval, Mr.  
12 Chairman.  
13 CHAIRMAN: Motion for approval by Mr. Appleby.  
14 MR. HAYDEN: Second.  
15 CHAIRMAN: Second by Mr. Hayden. All in favor  
16 raise your right hand.  
17 (ALL BOARD MEMBERS PRESENT - WITH THE  
18 DISQUALIFICATION OF WARD PEDLEY - RESPONDED AYE.)  
19 CHAIRMAN: Motion carries unanimously.  
20 ITEM 8  
21 James C. Roby, 15.31 acres  
22 Consider approval of amended major subdivision  
23 preliminary plat.  
24 Applicant: Danco Construction, Inc.  
25 MR. NOFFSINGER: Mr. Chairman, this plan has  
been reviewed by the Planning Staff and Engineering  
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1 Staff. It's found to be in order. The use is  
2 consistent with the Adopted Comprehensive Plan and  
3 underlying zoning and meets with the minimum  
4 specifications of the regulations adopted for the  
5 community.

6 CHAIRMAN: Do we have anybody representing the  
7 applicant?

8 APPLICANT REP: Yes.

9 CHAIRMAN: Do we have any questions of the  
10 applicant from the audience?

11 (NO RESPONSE)

12 CHAIRMAN: Does anybody else have a question?

13 (NO RESPONSE)

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

16 MR. HAYDEN: Make a motion to approve.

17 CHAIRMAN: Motion for approval by Mr. Hayden.

18 MR. KAZLAUSKAS: Second.

19 CHAIRMAN: Mr. Kazlauskas has a second. All  
20 in favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 The chair is now ready for a motion for  
24 adjournment.

25 MR. KAZLAUSKAS: Motion to adjourn.

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1           CHAIRMAN: Motion for adjournment by Mr.  
2 Kazlauskas.  
3           MR. HAYDEN: Second.  
4           CHAIRMAN: Second by Mr. Hayden. All in favor  
5 raise right hand.  
6           (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)  
7           CHAIRMAN: We are adjourned.  
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1 STATE OF KENTUCKY )  
 )SS: REPORTER'S CERTIFICATE

2 COUNTY OF DAVIESS )

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and  
4 for the State of Kentucky at Large, do hereby certify  
5 that the foregoing Owensboro Metropolitan Planning  
6 Commission meeting was held at the time and place as  
7 stated in the caption to the foregoing proceedings;  
8 that each person commenting on issues under discussion  
9 were duly sworn before testifying; that the Board  
10 members present were as stated in the caption; that  
11 said proceedings were taken by me in stenotype and  
12 electronically recorded and was thereafter, by me,  
13 accurately and correctly transcribed into the  
14 foregoing 33 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notary seal on this the  
17 31st day of AUGUST, 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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COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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