CHAIRMAN: I would like to welcome everybody to our October 9th Planning & Zoning meeting. Please stand while our invocation is given by Mr. Williams. (INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes from the September 11, 2008 meeting. Are there any corrections, additions?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.
MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

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.

Next item, Mr. Noffsinger.

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CELLULAR TELECOMMUNICATIONS FACILITIES PER KRS 100.987

ITEM 2

895 Highway 140 West (Map CO-39) (Postponed at September 11, 2008, meeting)
Consider approval of a wireless telecommunications tower.
Applicant: Larry A. Ratliff, GTE Wireless of the Midwest, d/b/a Verizon Wireless

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. It was postponed from the last meeting to review a packet submitted by an adjoining landowner, Mr. Larry Payne and his wife. It was also postponed for renotification to adjoining property owners as well as advertising in the Messenger-Inquirer. So with that the applicant is here tonight to speak and answer any questions to the application as well as the Paynes are here and they may have some
questions as well.

CHAIRMAN: Mr. Poteat.

MR. SILVERT: State your name, please.

MR. POTEAT: Steve Poteat.

MR. SILVERT: I recognize the oath you took as an attorney.

MR. POTEAT: Thank you.

Mr. Chairman and Board Members, I have with us tonight a couple that were here the first time. Traci Preble, the project manager, Bill Duffey, the design engineer.

We also have Mr. William Grigsby who is a structural engineer that will give some information on the structural integrity of the cell tower.

We also have coming a Mr. Marty Brown who is with Galloway Appraisers out of Louisville. You have, I believe, been provided with a report that he's done and his curriculum vitae and/or resume. He called and he did not get to leave Louisville until 4:30 our time. Be that as it is we will call him last if he gets here.

Couple of comments I would like to make first of all regarding a couple matters before I turn it over first to Mr. Duffey who will discuss the site location, things of that nature.
First of all, the issues have been raised concerning where the access is on that property. I want to address a couple of things on that before we turn it over to them.

Without conceding where access to this property is and that it's over on Mr. Payne or not on Mr. Payne, the fact of the matter is the Ratliff family have owned this farm since 1917. As long as Mr. Ratliff can remember, and he's 57, that's been the access to that farm.

Now, regardless of that fact and without conceding that Mr. Ratliff and his family does not have the right to use it, we have submitted another plan showing an alternate location for access into this site. I wanted to bring that to your attention and point that out to you. Now, again, we're not conceding that Mr. Ratliff doesn't have the right to use that access as it's been in existence for many, many years, but we do have an alternate location and an alternate access that has been submitted for approval as the access or an access to this property.

With that I want to state that, of course, this has been renoticed in the paper. I did want to address a couple of things regarding signage.

I think Mr. Howard will recall that I called
him after we put the signs up. The first time we had
a storm come through and they were blown down. One
was blown away. They were put back up and, yes, they
were put back up probably the day we had our August
meeting. To my knowledge they're still up and they've
been up since then. That satisfies those
requirements.

I'm going to now turn it over to Mr. Duffey
and let him address some issues. After that if you
have any questions of him, obviously you're more than
welcome to ask any question. If nothing now, I'll
turn it over to Mr. Duffey.

MR. DUFFY: My name is Bill Duffey, RF Design
Engineer for Verizon Wireless.

(BILL DUFFEY SWORN BY ATTORNEY.)

MR. DUFFEY: I could take questions or I could
just go into the two proposed locations which is in
the packets that were submitted to you earlier today.

CHAIRMAN: At the present time I don't know if
anybody has any questions. Why don't you go into your
two locations, if you don't mind.

MR. DUFFEY: Mr. Payne found or knows of two
locations where he believes we could locate our
transmitters and provide the objective of the site
from another location. He believes this would be a
better location.

In the letters and the propagation maps which have been submitted to you guys today, I state reasons why we can't go on either one of these towers.

On the first one I call it the Kenergy Tower because I have to refer to towers and the tower owner name is on the FCC license when I look up a tower, and that's who owns this tower. It's called Kenergy Tower.

ASR Number 1043552, this tower is just south of Daviess County. It's in McLean County, Kentucky. Verizon Wireless does not have a license to transmit in this county. So I can't transmit in this county because I don't have permission to do so from the FCC. Verizon Wireless does not have a license so I can't transmit from -- that rules out the Kenergy Tower.

The next tower is the New Cingular Wireless Tower. Again, that's the owner name on the FCC web page.

ASR Number 124413, this tower is further north than the desired location. Let me back up for a minute and state the objective of the site.

The objective of the site is to carry reliable coverage along 431 south from where we currently have coverage, which I call the Towne Square Mall site.
That may mean nothing to you, but for our engineers it's a location. I don't have an address in front of me tonight.

There's an existing site around Towne Square Mall and there's a significant gap in coverage south on 431 to the county line.

This tower at Utica is going to provide reliable coverage all the way to the McLean County line where I'm not allowed to transmit any further. If I were to locate on the New Cingular Wireless Tower, it leaves about a one and third mile gap in coverage where I would not have what I deem or what the industry deems reliable coverage. So that tower is not desirable because it does not meet, again, it does not meet the objectives of the site.

That being said, I can answer any questions.

CHAIRMAN: Does anybody on the commission have any questions?

(NO RESPONSE)

CHAIRMAN: Anybody in the audience have any questions?

MR. PAYNE: Yes, I do.

MR. SILVERT: State your name, please.

MR. PAYNE: My name is Larry Payne.

(LARRY PAYNE SWORN BY ATTORNEY.)
MR. PAYNE: I guess just a couple of questions based on Mr. Duffey's information he provided here tonight.

Is it a major thing to obtain license to transmit into another county? A follow up to that, if your radio signals happen to cross the McLean County line, are you going to be fined for that? I'm not clear.

MR. DUFFEY: I can speak to it. I have limited knowledge of it.

A little bit of relevance for everybody because we all know that analog TV is getting ready to be shutdown. I think we've all seen the commercials. How all that relates to what we're talking about here tonight and to address your question about licenses.

It was a big 700 megahertz auction. I don't know if you heard about it. It's called Auction 73 for the people that are in the wireless business. The government sells off spectrum to wireless carriers I think to the tune of billions of dollars. I don't know what was paid. Verizon Wireless paid close to $10 million for these licenses to transmit. So to answer that question, yes, it is a very big deal. Another company owns that right now. I believe their
name is Bluegrass Wireless or that's the name it's operating as.

To address the second question. If I do cross this line, which I do, we have to draw up what is called an Extension Agreement. It's a legal document that states -- I can paraphrase, but to the extent that signals cross into your area, not that my intention is to steal revenue or customers from your area, but the intention being that I am trying to provide coverage to my boundary line. This is drawn up and signed by various executives of both companies. With the clause in there being that either side can cancel the document, you know, say that this Extension Agreement is null and void and withdraw this document within, I believe, 90 days is standard language.

So, yes, I could invest the money and time and transmit in McLean County and 90 days after I turn it up I'll have to turn the site down and relocate somewhere else.

There again it wouldn't meet the objective of the site for that tower there.

MR. PAYNE: A follow up?

CHAIRMAN: Sure. Sort of address your question this way so we don't get across.

MR. PAYNE: Which way, I'm sorry?
CHAIRMAN: Address to me.

MR. PAYNE: Would we be safe in assuming that Verizon never intends to establish a business in McLean County?

The other question is that the Cingular, the New Cingular Tower that you mentioned is, I have included an RF map in the handout that you guys have had in your possession for about a month. They're able to obtain really excellent coverage in the Utica zip code area because of this tower. I was wondering why Verizon would anticipate them not being able to obtain similar coverage from this 285 foot tower.

CHAIRMAN: Did you understand the question?

MR. DUFFEY: Yes, I understand it.

State it again. I think it was more than one question.

MR. PAYNE: Yes. The first question was: Does Verizon not ever intend to transmit into McLean County?

MR. DUFFEY: Let me do that real quick.

I'm glad I talked about this earlier. The Auction 73 Verizon Wireless, and there's many different bands and spectrums. As we know the spectrum is the visible light that's in this room here to the radio waves that you listen to in your car. A
portion of that was sold off. Verizon bought a portion of that which is nationwide. All 48 states.

So the objective long term is, yes, we do some day intend to broadcast in McLean County, but at this time we do not have permission to.

Why can't I transmit the same way that someone else does?

MR. PAYNE: Actually the clarification of that question is that AT&T is experiencing real good performance off their tower. Basically provides excellent coverage into the area that you're wanting to provide and why could Verizon not take advantage of that.

MR. DUFFEY: I haven't seen these maps. I would have to look at them to see what they, what signal levels they deem reliable. They could show a miniscule amount of RF that would not, you could not reasonably make a telephone call off of.

My maps that I have before you, if you look in the legends of them and you understand what you're looking at, my cutoff is a negative 5 RSSI, is negative 5 BBM RSSI. What that means to you is, in the business if you do it long enough and you know these statistics, you know that the next 75 coverage is generally accepted to be good coverage in a
building like we have here today.

Looked at my phone and I didn't have any bars.

I said, man, I'll need to comment to one of my
counter-parts. We need to get an in-building coverage
here. You maybe could make a phone call in here, but
I would not deem it reliable because statistically
you're not going to get successful in a phone call in
this room.

The next level I believe on my map, neg 80.

That's a little bit -- you can probably make a phone
call inside or you may not be able to.

The next cutoff level or the next color

further out from the towers is a neg 85. Generally

that signal level is accepted for good coverage while

you're driving in your car with the glass and the

metal around the car and the human head. All these

things, and the leaves from the trees, all these

things that impede the free space laws from the

antennas to the cell phone, all these things have to

be considered and generally neg 85 is what I deem as
good coverage.

Since, again, the objective of the site is to

cover along that road to the county line, I use the

gen 85 cutoff as my cutoff. I can't state what cutoff

they have. Maybe they're saying that they only want
people to make phone calls while they're standing outside. That would be another level. That would be more, it would go further into McLean County than these maps before you show because you wouldn't have the metal and the glass from the car. That's basically what these maps before you show.

Did I answer that sufficiently?

CHAIRMAN: Does anyone else have any questions?

(NO RESPONSE)

CHAIRMAN: Does anybody on the commission have any questions?

MR. PAYNE: Mr. Kirkland, I have some information I'd like to cover. Are you asking for that at this point in time?

CHAIRMAN: No, sir.

Mr. Poteat, do you have any further information that you would want to provide at this time?

MR. POTEAT: As to this issue, no, but I do have other information we do want to provide, yes.

CHAIRMAN: I think what I'll do, if Mr. Payne seems to be the only member of the audience that has questions, I'll get him to come forward and we'll sort of summarize his questions so you at the time can
bring the appropriate, rather than bring people up and
he may not have had a question that somebody may spend
10 or 15 minutes covering. Is that okay with you,
Mr. Poteat?

MR. POTEAT: That's fine.

CHAIRMAN: Mr. Payne.

MR. PAYNE: Mr. Kirkland, so that I can
understand the process, I have probably 15 or 20
minutes worth of material that I would like to cover.
I would like to delve in with information that was
submitted to this group last month and review that
briefly. So I can understand the process, is it your
intention to allow me to go through that?

CHAIRMAN: Mr. Payne, we have that
information. I think each person on this commission,
unless somebody has some individual questions, if you
have any witnesses or anything that you want to bring,
we'll be happy to hear from them. I think we're at
the point now where it would be better if we were to
cover the questions that you have while they have the
witnesses to answer those questions.

MR. PAYNE: We have some additional
information, new information we'd like to present here
this evening. I'm going to ask Genie to pass this
information out.
Before we do, I would like to ask this commission as well as Verizon Wireless if they feel like they're in compliance of Article 20, the Antenna Tower Regulation where it talks about the purpose of the regulation. That antennas and cell phone towers should further the health, safety and general welfare of the public.

Clearly in your handout we have provided signed petitions by all the adjacent landowners that says that it's not in their best interest.

Just one side bar here is that we would ask this commission to keep in mind that the only thing the adjacent landowners have asked, I mean they're not saying don't build the tower. They're simply saying by virtue of their signed petition to move it to the back. It's in everybody's best interest to do that. The reasons why it's in the best interest is that the landowner would be much better off to have that tower in the back because it preserves the value of this property for other purposes. It's certainly in an adjacent landowner's best interest because it mediates a devaluation factor of our property. Plus it alleviates some of our health concerns being located that close to the tower.

It's in Verizon's best interest because they
get the tower and the location that they say they need. Of course, we disagree that they have to have it in that location.

Primarily we would like to ask Verizon: Do they feel that they're in compliance for the first test of the regulation which says it should be in the best interest and the health, safety and general welfare. Will they not agree that it would be a win-win if they simply relocated that tower to the back. That would be my first question, Mr. Kirkland.

CHAIRMAN: I actually got that as two questions. One based on the health and welfare and one based on the movement of the tower. I broke it down into two questions.

MR. PAYNE: I think you're correct, sir.

CHAIRMAN: Do you want to give a list or is that pretty much it?

MR. PAYNE: No. I've got some other information I would like to go through.

CHAIRMAN: Why don't you do a summary of questions and then I'll bring them forward since we have all their people here to ask, if that would be okay with you.

MR. PAYNE: Basically, Mr. Kirkland, we would like to revisit, I'm not sure that I'm in compliance
with the way you want this thing to go this evening.

We would like to revisit the signing issue and the
notification issue as stipulated by Article 20-4 in
the regulation.

I believe in September basically Verizon asked
for a redo because we pointed out some weaknesses in
their application in the way they've done the signage.
Everybody is aware of that. I won't go back through
it.

In your handout what you will find is three
pictures. I'm going to suggest to the commission and
to Verizon that they're still not in compliance with
this requirement.

The top picture on this page was taken, and it
shows the condition of this sign, from September 14th
through October 8th.

The second picture was taken yesterday as
well. It was taken later in the day and somebody
found that it was appropriate to come out and sit this
sign up.

Now, we've said all the way along that this
sign really has never been posed.

If you look at the bottom picture, this sign
is not even visible from the road. It can't be read.
It never could have been read.
That's one of the issues that I have to put forward tonight.

Really they have not complied with the spirit and intent of the regulation. I'm going to suggest to this commission that they never intended to.

Mr. Duffey testified awhile ago extensively that they could not co-locate their equipment on these various towers. We've talked about the Kenergy tower. We've talked about the AT&T tower. Obviously AT&T is by virtue of Page 9, in the addendum that you've had in your possession for a month, shows that they get excellent coverage in the Utica area.

In addition, we found a third tower. This third tower is owned by Mr. Norris Harris. It looks like this. I apologize for the quality of that picture. It's due to my camera and my printer primarily.

This is a guy tower. It's located exactly one mile from the center of Utica. It's 190 foot tall. It sits on a ground elevation of 530 feet. It has an overall height of 720 feet, which is much higher than what Verizon says they need on the Highway 140 West location.

CHAIRMAN: Excuse me, you're listing Norris Harris as the owner. Wouldn't this be on Norris
Harris's property and would somebody else be the owner or is this his tower?

MR. PAYNE: Actually, as I understand it, is that this tower has been no longer in use and has not been used and it has reverted to Mr. Norris's ownership.

CHAIRMAN: So it was a communication tower?

MR. PAYNE: It was indeed a communication tower.

CHAIRMAN: But is no longer being used?

MR. PAYNE: Is no longer being used.

It has another feature. It has power within 150 feet of that tower. Mr. Harris is really interested and leasing this spot and/or this tower for the purposes of locating a cellular antenna on it.

I assume the commission has had a chance to look through the information we submitted. In that I referenced the minutes of the meeting of August 12, 2004. Primarily a conversation between a Mr. Pike and Mr. Appleby here on the commission. I won't go into that again. The only thing I'm saying is that here is another opportunity for this commission to reinforce their regulation as far as collocation. I know this commission is interested in that. We would ask you to consider it.
The other new item that's in your handout is titled Collection Tower Data. I'm saying that this is misinformation that we've seen presented here in the last couple of months.

Verizon testified in August and they kept talking repeatedly, and in the middle of that you'll see an excerpt of the minutes out of the meeting out of August where they talk about they just couldn't make a 70 foot tower work. They barely could make a 108 foot tower work.

It was confusing to me because I couldn't figure out where they were coming up with these numbers because obviously the Kenergy tower and the AT&T tower are much taller than that.

So what I did on Pages 2 and 3, in the middle of that page, there's a scan image. This is a document that we obtained directly from the record at the OMPC.

You'll notice, and this is information that Verizon submitted to the Staff. You'll notice it's kind of small and hard to read. I apologize for that. It was submitted on July 23, 2008.

There's a bracketed box here and it has a Kenergy tower listed on Page 2 and a bracket box on the other page is a Cingular tower. You'll notice out
to the far right-hand column there's a number. It says, 65.5. On Page 3 it says, 86.9. Now, if you stop there, which it appears that Verizon did, we can conclude that that is 65.5 feet and 86.9 feet respectively.

Had they went a little bit deeper into the website of the FCC, on Page 5 and 6 of this handout you'll see that I did. I printed it out on 9/11/2008. Again, the bracketed box is in the center of the page and it shows Kenergy Corporation. This gives a little bit more detail. The 65.5 is meters. Big difference between meters and feet. If you do the math calculation, which I have a calculator that does that. I don't do it by hand. 65.5 meters equals 213 feet. So the overall height of the Kenergy tower is 725 feet. The Cingular tower says it's 86.9 meters.

That's 285 feet.

Finally I understood how that Verizon was throwing numbers out like 70 feet, 100 feet to this commission. Certainly no one thinks that you can put up a cell tower at 70 feet and expect it to work, but the information was provided to this commission suggesting that what we were recommending as far as collocation was ridiculous.

I mean this is supposed to be an engineering
firm. I think it leaves a little bit to be desired.

I want to point out one last thing before we move away from this document. Again, I call your attention that this research was done by Verizon on July 23, 2008. What's significant about that?

Well, what's significant is that by that time they had already core drilled the site. They had already entered into some kind of agreement with the landowner to lease the property on Highway 140 West. They had applied to the FCC. They may have gotten relation from the FCC by this time. They have done some kind of a site plan. What does that mean?

I suggest to you that it means that they never intended to seriously consider co-locating their equipment because they didn't do the search for the other site until the last of July. I think it goes to their intent.

CHAIRMAN: Let me just review the way I took your questions.

Question number one was on the health and welfare of the public.

Question two would be the movement of the tower to the back of the land.

Question three was the sign issue, which the Staff will cover. Then the sub question off that was
about the application process.

The fourth question was about the Norris, what we'll refer to as the Norris Harris location. Would that be correct?

MR. PAYNE: That's correct.

Fifth question was about the misinterpreting of the height of the towers and the decimal that they gave about the 70 foot when it was actually much higher than that because they failed to convert it from meters to feet.

CHAIRMAN: Let me ask you to be seated.

Mr. Poteat, why don't you take the podium there and assign your -- would you want me to repeat those questions or do you pretty much have them?

MR. POTEAT: I'm not sure that I have them and I'm not sure that I ever will.

I want to point out a couple of things. First of all I would like to see a copy of what he filed. I have no idea what he's talking about.

(MR. POTEAT IS HANDED DOCUMENT.)

CHAIRMAN: Mr. Poteat, why don't you turn that over to whichever needs to see that and lets proceed with who would be --

MR. POTEAT: I wanted to comment on a couple of points on the first question, which I think he
indicated failure to follow Article 20 and the purpose of the statute or the regulation.

The purpose is furthering the public health, safety and general welfare, yes, that is part of it, but you can't just come in and say, well, the reason it doesn't is because we don't want it there. That's basically what they're doing. They've offered nothing to show that this tower in any way will affect the public health, safety or general welfare. Nothing. They're saying, we don't want it there. A lot of people don't want it there.

We'll have Mr. Brown here on the values. We'll ask him to answer those questions.

I think the first one I want is Mr. Duffey back up here to answer some questions relating to the Norris site, if he knows. I certainly don't know anything about that tower other than what we've got here.

MR. DUFFEY: First thing I wanted to state before it leaves me, we have not filed with the FCC, and I don't know where you get this information. The process doesn't work like that. I don't know. I can come back to this later. It all goes into if the tower is filed with the FAA, it has an FAA study number done. It has a determination done whether it
is or whether it is not a danger to aircraft. Once
that is done, another study is done. I believe it's
called a topo air. Our regulatory people do it. I'm
not into the rules. I'm vaguely familiar with them.
It basically has to do with the approach and the
descent of airplanes to runways. Will this tower
interfere with these airplanes while they're in what's
called clean cockpit. You're not supposed to
interfere with them because there's a danger of making
them crash.

How it works is, my understanding of how it
works is the FAA study is determined, you're granted a
certain height. The FAA says it's safe to this
height. You need to put a light on top or you need to
paint it and other criteria. After that is done then
it is filed with the FCC. This tower as we proposed
it is not needing to be filed with the FAA so
therefore it will not be filed with the FCC. I don't
know -- I'm confused where you're coming up with this
information.

The next point, this tower. I know from the
picture that you said it was a mile south. I'm glad I
spoke earlier about the license in the county line. I
can speak a little bit further about.

I stated earlier that the objective of this
site is to carry a phone call reliably on 431 south to the county line. Also in my statements and every RF engineer wants, every cellular RF engineer wants good overlapping coverage. If I were to move a mile south, that would put this tower outside of my search area. Therefore, I wouldn't be interested in the tower. It would be south there. Not only would I not be interested in it being that much further south, it would further encroach on my neighbors to the south, Bluegrass Cellular, and it would be more of an aggressive approach to them. They would take it like I was trying to steal more revenue because it's not really responsible design. If you are doing the work that I do, you would understand that this is generally accepted practices. You don't build these towers generally this close to a line, a neighbor line. It's not something that neighbors do to each other.

Now, I forget another point. What was another point?

CHAIRMAN: Movement of the tower to the back of the land. I believe we've covered that, but would you revisit that for us.

MR. DUFFEY: I kind of talked about that in my statements just a second ago.

If I were to move it further anywhere, the
surveys that I have and that I can look at sitting at
my desk just north of Indianapolis where I work, it
shows that I am putting the tower on the highest point
on this property. That being said, I have a couple of
considerations.

Yes, I can move the tower. I can move the
tower -- I've already moved the tower one time from
another property owner. When we went through the
state historical preservation officer, he found a
cemetery on this person's property. So we said we
can't do this. This is not something that we want to
enter into. So we started approaching this current
landowner.

So, yes, to answer the question, I can move
the tower, but there are consequences to moving that.
I believe everyone will think it's undesirable. It's
my intention to not cause an undesirable impact to the
neighborhood.

Like I said, I'm putting the tower on the
highest point on the property.

CHAIRMAN: What would be the consequences that
maybe you're referring to that maybe we're not -- if
you move the tower.

MR. DUFFEY: To get the overall height that
Mr. Payne is referring to, which is my objective on
building it, give or take a foot I'm building the
tower as tall as I can without having a light on top
and without having the FAA study done and without all
these other restrictions. I'm trying to get the
maximum height that I can for this tower. That's my
objective.

If I were to lose elevation, to get that same
objective I would have to put a light on top, which
would be blinking on Mr. Payne's property, and I don't
want that. Generally that is resisted by adjacent
landowners. I've got one blinking in my front door,
which I stated back in August. In the mornings I walk
with out with the dog and I see a blinking red light.
It's annoying, but I know that I can use my phone if
something were to happen with me on my walk. It's
something that I don't want to do to a neighborhood if
I can keep from doing it to a neighborhood. I'm
trying to be considerate here.

You may not know this, but these towers that
are lit are a great source of controversy by Avion
groups. There are some studies out and there's
pending legislation about blinking red lights on
towers cause the death of migratory birds. It's going
to impact this business like you would not believe.
It is something that I'm not trying to do unless I
absolutely have to. If you haven't heard about it, I'm sure you will hear about it more.

So I'll kill migratory birds. I have a light on top, which is undesirable to the neighbors. Have to be filed and studied by the FAA and an ASR number, which I cited from the other two towers earlier.

CHAIRMAN: Are you going to, maybe you did address and I missed it, but the height from meters to feet?

MR. DUFFEY: I'm very well aware that a meter is 3.28 feet. I cited those ASR's earlier because I can pull my laptop out and show these documents to you. I don't know where he's getting this from, but when I cite these ASR's and you go to this web page that I do and will require to go to to find out about these towers, it has two four different values for height on this from.

The first value is -- I don't know where you start. One value on the form is a total overall with pertinence. To define that, that is the height of the supported height of the tower plus any lightning rod. The lightning rod is an impertinence.

The second value on that form is a supported height or a -- I forget the exact word, but it's a little bit less and it's just the other number minus
the length of the impertinence.

The other two values on the form one of them is the ground elevation, which all of these are in meters. Then the last value on this form is a supported height plus the impertinence, plus the ground elevation all together. So I'm very well aware.

Those maps you have before you, how I plotted those and how it's responsible to plot these when I go to investigate that this is a viable candidate, you can't mount antennas on the impertinence so I don't add that value into my antennas that I would be promulgated from.

Generally if a tower is not transmitting somebody most of the time is up there, unless there's not, but generally it's accepted that you take the supported height that I referred to just a second ago, subtract about 20 feet, because an average antenna anywhere between 6 and 8 foot in height. Keep a separation tip to tip. Generally like ten feet in the business, but it may be a little bit more aggressive.

So I take the top of the supported height, I subtract 20 feet and that's how you have the plat you have before you this evening.

I did all of that. I don't know how and why
you think I didn't do this or where all this came
from. I don't appreciate it. I know what I'm talking
about. I do this stuff every day for a living so it's
pretty insulting. I'll move past that personal
attack.

I'll take any other questions now.

MR. APPLEBY: I think his question was, and it
was in the testimony from the meeting of August 14th,
is, maybe you misspoke, but you at this point said the
70 foot tall tower isn't going to work.

MR. DUFFEY: I'll say that again. A 70 foot
tall tower will not work.

MR. APPLEBY: I think his argument was that
that Kenergy tower is not a 70 foot tower. It was
65.5 meters. Did I understand that correctly?

MR. PAYNE: That's correct.

MR. DUFFEY: Right. 150 foot tower may not
work. I'm not trying to get a 150 foot tower. I'm
trying to get a 180 foot tower. I think I was
misunderstood when I --

CHAIRMAN: Would you want to see a copy of
this?

MR. DUFFEY: I would like to see the coverage.

CHAIRMAN: Why don't you come up here and you
can get mine.
MR. DUFFEY: Sure.

CHAIRMAN: Exhibit 2 is what you're referring to, Mr. Appleby?

MR. APPLEBY: Yes. This is what he gave us tonight where he quoted that meeting. I think we've got confusion between the two of them.

MR. DUFFEY: If I remember while I'm reading this, if I remember how things happened, I believe at the meeting I found out about a 70 foot tall or these other two towers. Before the meeting in August, I had no knowledge of these towers because they were outside of my search range and therefore I didn't investigate them. Am I correct? These towers were news to me that last meeting. So I wouldn't have had time to investigate or do my normal due diligence. That's how we got the maps before you this evening. I just produced those in the last 30 days because that's when I was made aware of these two towers. So plainly this was talking about in generalities, not referring to these two towers specifically.

CHAIRMAN: The other question was the sign issue which I think Mr. Howard would probably be more capable of answering that.

Am I correct, Mr. Noffsinger?

Mr. Howard.
MR. SILVERT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: The zoning ordinance regulations require basically that two signs be posted on the property. One is a sign to be posted at the location where the tower will be constructed. The other is closest to the intersecting street or the nearest street.

I didn't see the pictures that were submitted tonight, as far as the one that might not have been seen.

CHAIRMAN: Mr. Miller, would you mind giving him yours.

MR. HOWARD: He mentioned the one that was back where the actual tower would be. Mr. Poteat could probably speak better to which one was at which location.

(MR. HOWARD REVIEWS PHOTOGRAPHS.)

CHAIRMAN: Please return to the mike.

MR. HOWARD: Actually, I guess, these pictures, looks like these were all or all these were taken at the nearest intersecting street.

I understood the statement that one could not be seen from the road. I'm assuming it might be the
one posted at the back of the property. Mr. Poteat could probably answer as well where they were posted.

MR. POTEAT: The one there is on the disputed drive. When they blew down and that one was put back up, the dispute had already arisen regarding whether the access was located on Mr. Ratliff's property or Mr. Payne's property. We moved it down the hill off the backside and moved it down to that corner. It was the only place we could get.

The other one is back in the middle of the bean field. It was back in the middle of the bean field. The beans probably the last time I saw them were that tall. They're probably not now.

CHAIRMAN: Mr. Noffsinger, have we got an issue here? In the spirit of the regulation, the sign has been posted. It appears that mother nature or others has had havoc on this sign.

MR. NOFFSINGER: Mr. Chairman, I think that's certainly possible. Perhaps the question is has proper notification or notice been served. I think that is a legal question which should be addressed by counsel.

CHAIRMAN: Mr. Silvert.

MR. SILVERT: Well, it could be a question of best evidence too. We don't know how long the sign
was in this condition either. There's no testimony to that. We do have testimony the sign was placed. That would be a question of whether you allow the evidence that that sign was actually placed. We take it for what it is.

CHAIRMAN: Would there be any question in your mind, Mr. Silvert, whether the sign was placed or not?

MR. SILVERT: The testimony is that the sign was placed. They've taken an oath to tell the truth.

CHAIRMAN: Thank you.

Mr. Poteat.

MR. POTEAT: Again for the second time, they were placed at a different location earlier, but evidently they couldn't be seen there either because nobody saw them.

Again, unless you go back in the middle of the bean field, you're not going to see the other sign.

Now, I haven't been back in there lately.

CHAIRMAN: Refresh my memory. Why was it put back in the middle of the bean field?

MR. POTEAT: Because that's where the site location is.

CHAIRMAN: It was right in the site location, I'm sorry.

MR. POTEAT: Right now it's covered with
beans.

CHAIRMAN: But the sign was placed there.

MR. POTEAT: The sign was placed back there.

Whether there's beans there now or not, I don't know. I
don't know whether the sign is there or not. I
haven't been back out there to look.

As far as somebody picking the sign up
yesterday or the day before, I don't know. I don't
make a habit of driving out there every day to take a
look and see. I don't think that's a responsibility.

I think Mr. Silvert will agree that the
purpose of the signs, the newspaper ad, of certified
mails to all adjoining landowners is notification so
that people will have the opportunity to come in and
speak their mind concerning this. That's happened.

Mr. Payne, of course, I think is the only one
here tonight for that, but everyone else has had
notice. It was in the paper. That's the purpose of
those. I don't think Mr. Silvert would disagree that
whatever has happened now the intent, and he'll know
the case law as well as anyone else. The notice
requirement has been met. We believe it has been.

If we can go on to a couple of other
questions. I know the Norris cell tower site came up.

CHAIRMAN: Yes. I thought the other gentleman
covered that. If you would like to elaborate on it.

MR. POTTEAT: Well, the structural engineer

that has some comments on that particular Norris
tower.

CHAIRMAN: Very good.

MR. SILVERT: State your name, please.

MR. GRIGSBY: William E. Grigsby.

(WILLIAM E. GRIGSBY SWORN BY ATTORNEY.)

MR. GRIGSBY: Granted this is not a great

quality picture and I'm not trying to make any

comments on anybody's photographic abilities.

You can see at the top of this that it's got a

whip antenna on it.

CHAIRMAN: Just describe it.

MR. GRIGSBY: It's a short-wave antenna. Like

a police radio.

CHAIRMAN: Okay. I got it.

MR. GRIGSBY: A police radio, a fire radio,
Kentucky Utilities radio. It's my experience that,
one, 190 feet is very short for a guide tower. So
that kind of set off alarm bells for me to begin with,
but it's not unusual for a radio, for a short wave
radio antenna tower.

It's my experience that trying to put, it's my
experience that small radio, short wave radio antenna
towers of this type cannot carry the weight and the
mass of cellular towers.

We've looked into it on several projects and
it's just not feasible. You basically have to take
that tower down and put another tower up.

CHAIRMAN: Because of?

MR. GRIGSBY: It's just not structurally
capable of carrying the loads.

CHAIRMAN: Does anybody have any questions of
our engineer?

(NO RESPONSE)

CHAIRMAN: All right, sir. Thank you very
much.

Does anybody on the commission have any
questions at this time?

(NO RESPONSE)

CHAIRMAN: Does anybody else have any other
comments?

MR. PAYNE: Yes, I do, sir.

Really I would like to ask Mr. Kirkland a
question about oaths for a moment.

Does the commission recognize the oath I took
as being on par and valid as any other oath that's
given?

CHAIRMAN: I think that question would be
Mr. Silvert.

MR. SILVERT: Sir, the commission has to evaluate the evidence. You might have competing points of view on that evidence. All parties have taken oaths. We assume that they're telling the truth. They might have competing points of view. It's this commission's duty to weigh the evidence one way or the other just like any trial or fact does.

So, yes, to answer your question. Of course, the commission recognizes the oath that you took as well as any other.

If the question is whether or not this sign was posted in compliance with the ordinance, I'm reading the ordinance right now. I don't want to get into the legal questions of whether or not something was done properly or improperly, but if I were to advise my client right now, was this sign posted in good faith and in accordance with the ordinance, my opinion would be, yes.

MR. PAYNE: Thank you, sir.

CHAIRMAN: Mr. Payne, were you trying to imply that somebody on Mr. Poteat's side was not truthful?

MR. PAYNE: No, sir.

CHAIRMAN: I just wanted to clear that up. It was confusing in my mind.
MR. PAYNE: All I'm saying is that Mr. Poteat has given some statements that are in direct contradiction of things that I'm saying, but I heard reference. Well --

CHAIRMAN: For instance?

MR. PAYNE: About the signage, for example. Mr. Poteat said that the sign was -- earlier in the evening he said the sign was put up well prior and within the 14 day time frame. I live out there. I travel the road every day. The only sign that's ever been up, the only sign that was ever attempted to be posted is the one in the picture that I gave you.

CHAIRMAN: Are you saying that Mr. Poteat did not put the one in the bean field?

MR. PAYNE: I'm saying I'm sure Mr. Poteat personally did not put any signs up there. I'm saying that there is not a sign in the bean field and never has been.

CHAIRMAN: Just a moment. Mr. Poteat.

MR. POTEAT: First of all I take exception to that. I did put the signs up.

MR. PAYNE: I apologize then.

MR. POTEAT: I put the signs up. There was a sign out in the bean field.
Unfortunately, and I think I sent Mr. Howard prints of those pictures showing. If he doesn't have them, I've got them on my computer at the office and I can send them to you tonight.

CHAIRMAN: Mr. Poteat, just one question from me personally. You said, and to make sure that I'm exactly clear on this. You said you put the signs, meaning both signs?

MR. POTEAT: I put the signs up.

CHAIRMAN: The one in the bean field, you personally put that sign up?

MR. POTEAT: Yes. There was another sign that was put up on top of the hill trying to keep it off, after the issue came up, trying to keep it off of anything that might be his and trying to get it to where it could be seen.

Now, probably the day or the day after they were put up is the day we had that first storm and that's when I called Mr. Howard and told him the signs were gone. I called him shortly after that. They were blown down. They were blown somewhere. I put them back up on the 14th.

CHAIRMAN: Personally?

MR. POTEAT: Personally.

CHAIRMAN: Both locations?
MR. POTEAT: Both locations.

CHAIRMAN: Thank you.

Based on Mr. Silvert's advice to the commission, I will say that the sign issue is pretty much squared away in my mind.

I think at this point unless we have any further questions, I think the chair is ready to entertain a motion.

MR. PAYNE: One more point. One more,

Mr. Kirkland. Two minutes.

Mr. Duffey said that the Kenergy tower nor the AT&T tower showed up in his search when he was preparing his study. Well, they done a study on 7/23/2008 and the document they put in the record at the OMPC Staff office clearly shows that they did find these towers. Thank you very much.

CHAIRMAN: Mr. Duffey, I don't think I can let that one rest.

MR. DUFFEY: I think it all has to do with the amount of radius and what was in my search ring. I could put the 1A certified ordinance for the lumpus tower and do a search ring for ten miles and I could come up with all kinds of towers. I've already spoken to it quite --

CHAIRMAN: Excuse me, Mr. Duffey, for
interrupting you. I think his question was, he's questioning whether you did or did not find these towers in your search.

MR. DUFFEY: And that's what I'm defining. My search ring is an area that -- no, it's not in my search ring. But since he brought them up at the last meeting in August, to show that I'm a good neighbor and I'm trying to do and maybe this will work from this other tower, I went back and I looked at these and I drafted the documents that are before you this evening. I went in to find out how tall the towers are and I made my propagation maps from that. After he said, why can't you use this tower, I was just stating what I already knew. That anything outside of this search ring simply was not going to meet the objectives of the site.

CHAIRMAN: It was called into question and I felt like you needed to respond.

MR. DUFFEY: That's fine. Thank you.

CHAIRMAN: At this point the chair would be ready to entertain a motion or any questions from the commission.

MR. APPLEBY: Mr. Chairman, to be clear. The Staff Report that we were given for their meeting, in their findings they have stated that the application
is complete with all materials and in accordance with
OMPC Ordinance; Staff feels that they're in compliance
with all design criteria of the OMPC Ordinance; and by
providing the opportunity for three service providers
on this tower, we are promoting the goal of the
Comprehensive Plan to encourage collocation; is that
correct? Is that where the Staff is on this tonight
after all the other information?

MR. NOFFSINGER: That is correct. I believe
what has been done here over the past several months
by the applicant and those that had questions
regarding the application is to determine if there is
another feasible location where they can locate. I
think Mr. Payne has told you he believes there is.
Mr. Duffey and those from Verizon have given you
information as to why that's not the case. Keep in
mind there is a waiver as a part of this application
which waives the distance, the setback distance of the
tower from the lease line that it's on that you are to
consider.

Just a point of clarification. The
information that Verizon submitted in the application
that included the Kenergy tower was a requirement of
the application to show other cell towers within the
jurisdiction of Owensboro Metropolitan Planning
Commission. While that tower did show up within the
jurisdiction of Daviess County, that does not mean
that it is located within their search ring. I think
what Mr. Duffey is saying here is that they're limited
by their search ring that they define and the towers
that are located within that search ring. I felt like
I needed to expand on that.

Mr. Duffey, am I clear?

He's shaking his head. I wanted to make sure
we all understand what is meant by that. Staff does
stand by the Staff Report and also call your attention
to the variance on the setback.

CHAIRMAN: Should we have Mr. Duffey come to
the mike just to say that he agreed to that statement
by you?

MR. NOFFSINGER: That would be good.

CHAIRMAN: Mr. Duffey, would you just
acknowledge that you're aware of the statement that
Mr. Noffsinger just made and that it is correct.

MR. DUFFY: Yes, it is correct.

CHAIRMAN: Thank you, Mr. Duffey.

Mr. Appleby.

MR. APPLEBY: I'm going to make a motion for
approval based on the Staff's findings.

CHAIRMAN: We've got a motion for approval by
Mr. Appleby based upon the Staff's findings.

MS. DIXON: Second.

CHAIRMAN: Second by Ms. Dixon. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Items:

ITEM 2A

895 Highway 140 West, 0.230 acres (Postponed at September 11, 2008 meeting)
Consider approval of minor subdivision plat.
Applicant: Larry A. Ratliff

MR. NOFFSINGER: Mr. Chairman, this application plat has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. It comes to you as an exception because it creates a lot that does not meet the minimum requirements of the zoning ordinance or subdivision regulations. However, it is a lease lot for a cellular antenna communication tower and its approval would be consistent with other leased lots in the community that have been approved for cellular telecommunication facilities.

CHAIRMAN: Obviously we have the applicant represented here. Do we have any questions?
CHAIRMAN: If not the chair is ready for a motion.

MR. PAYNE: I have a question, Mr. Kirkland.

CHAIRMAN: Yes, sir.

MR. PAYNE: I have not had an opportunity to see the revised plat drawing where it shows that it's not infringing on our right-of-way. I would like to see that.

(MR. POTEAT HANDS MR. PAYNE DOCUMENT.)

MR. PAYNE: Thank you very much.

CHAIRMAN: If there are no further questions, the chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MS. MOORMAN: Second.

CHAIRMAN: Second by Ms. Moorman. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ZONING CHANGES

ITEM 3

9210 Highway 144, 0.82 acres
Consider zoning change: From A-U Urban Agriculture to B-4 General Business
Applicant: East Daviess County Water Association

MR. HOWARD: I'll note that on all the rezoning that all the recommendations made by the commission tonight will become final 21 days after the meeting, unless an appeal is filed by a person, the applicant or the local jurisdiction to hear that rezoning case.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation include the following:

FINDINGS OF FACT

1. The subject property is located in a Rural Community Plan Area where general business uses are appropriate in limited locations;
2. The continued use of the property by the East Daviess County Water Association for offices will be nonresidential in nature;
3. The proposed rezoning is a logical expansion of existing B-4 General Business zoning located immediately east of the subject property;
4. The rezoning of the subject property to B-4 General Business will bring the existing use on
the property into compliance with zoning ordinance standards and will allow the two tracts owned by the applicant to be consolidated; and,

5. At 0.82 acres in size, the expansion of a General Business zone should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

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

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

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

MR. HAYDEN: Make a motion for approval with Staff Recommendations and Findings of Fact 1 through 5.

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

MR. MILLER: Second.
CHAIRMAN: Second by Mr. Miller. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

2601 Old Henderson Road, 2740 McFarland Avenue, 1.232 acres (Remanded from the City of Owensboro regarding questions of potentially improper notice to adjoining landowner(s) and to allow the landowner(s), if any, due process

Consider zoning change: From I-1 Light Industrial and R-4DT Inner-City Residential to I-1 Light Industrial

Applicant: Unique Granite & Marble Shop; Rick Thomas Custom Builders, Inc.

MR. NOFFSINGER: Mr. Chairman, Mr. Silvert needs to make a statement on this item before Mr. Howard reads anything into the record.

MR. SILVERT: This is unusual procedurally, Commission. Typically we will send an item and it will either automatically the zoning will change 21 days if there is no grievance filed; however, with this one there was. It went to the city commission.

At the city commission the question was raised whether or not everyone was properly noticed. That question actually was a difficult one to answer because the statute says that we may rely upon PVA records. Unfortunately the PVA records as to one of these adjoining landowners provided two different addresses.
One was served. The other was not apparently.

Although, we don't necessarily have evidence of that.

In order to make sure that we completely served everyone on this issue it was remanded and all of the adjoining landowners were re-served notice as to this hearing. So we are here today again evaluating this question about this rezoning regarding 2601 Old Henderson Road and 2740 McFarland Avenue.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan. The conditions and findings of fact that support this recommendation include the following:

We have some additional conditions from what was originally presented at the Planning Commission meeting and I'll read those into the record now.

CONDITIONS:

1. No vehicular access shall be permitted to McFarland Avenue;

2. Install sidewalks along the road frontage on McFarland Avenue;

3. The two tracts shall be consolidated into a single tract;

4. A minimum six foot tall fence with
screening slats and one tree every 40 linear feet
shall be installed around the entire perimeter of the
storage area. The required trees may be grouped;

5. Stacked materials on the subject property
shall not exceed the height of the fence;

6. A 10 foot landscape buffer with one tree
every 40 linear feet shall be installed within the
fence boundary adjacent to the residentially zoned
property to the east. The landscape buffer shall
remain free of any and all materials on the site. The
landscape buffer, fence and trees must be installed
along the entire tract boundary of the adjoining
residentially zoned property. The required trees may
be grouped;

7. A 10 foot landscape buffer with one tree
every 40 linear feet shall be installed between the
installed sidewalk and the fence along McFarland
Avenue. The required trees may be grouped;

8. Any proposed structures shall be a minimum
of 30 feet from the back of curb along McFarland
Avenue, but shall be no less than the prescribed
setback established in the zoning ordinance;

9. All conditions of this rezoning must be
completed by July 31, 2009.

FINDINGS OF FACT:
1. The subject property is partially located in a Business Plan Area, where light industrial uses are appropriate in limited locations and partially located in a Central Residential Plan Area, where light industrial uses are appropriate in very-limited locations;

2. The subject property is currently used for a granite and marble business with outdoor storage which is nonresidential in nature;

3. The proposed rezoning is a logical expansion of existing I-1 Light Industrial zoning located immediately south and east of the subject property; and,

4. The I-1 Light Industrial expansion should not significantly increase the extent of industrial uses that are located in the vicinity and outside of Industrial Parks and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

MR. HOWARD: We would like to enter the Staff Report with the amended conditions into the record as Exhibit B.

CHAIRMAN: Do we have any questions?

State your name, please.

MR. REYNOLDS: David Reynolds.
MR. SILVERT: I recognize the oath you took as an attorney, Mr. Reynolds. Thank you.

MR. REYNOLDS: As counsel for CTC Investments, one of the adjacent landowners that did file notice to take this to the commission, based upon the additions to the application we are informing the Commission that we are satisfied with those.

CHAIRMAN: Thank you, Mr. Reynolds.

MR. SILVERT: State your name, please.

MR. JACOBS: Marty Jacobs.

MR. SILVERT: Mr. Jacobs, I recognize the oath you took as an attorney. You may proceed.

MR. JACOBS: Thank you.

I'm here representing the applicant and the applicant does agree to the conditions that have just been read and Mr. Silvert accurately described the process of why we are back here tonight. We would ask you to approve it with those conditions.

CHAIRMAN: Thank you.

I want to thank both counsels, Mr. Silvert, Mr. Noffsinger, and the Staff for working this situation out. We appreciate it very much.

At this point in time the chair is ready for a motion.

MR. ROGERS: Motion for approval based on the
Planning Staff Recommendations with the Conditions 1 through 9 and the Findings of Facts 1 through 4.

CHAIRMAN: We have a motion for approval by Mr. Rogers.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

MAJOR SUBDIVISIONS

ITEM 5

Harbor Hills, Section 1, Unit 4, Lots 27-30, 45-48, 3.632 acres
Consider approval of major subdivision final plat. Surety (Certified Check) posted: $63,513.50
Applicant: Robert Wimsatt

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. The plat is found to be in order. The plat is found to meet with the minimum requirements of the subdivision regulations and its use is consistent with the adopted comprehensive plan.

CHAIRMAN: Do we have any questions?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. MILLER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

MR. NOFFSINGER: Item 6 has been withdrawn.

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MINOR SUBDIVISIONS

ITEM 7

606, 610 Bolivar Street, 613, 617 Clay Street, 0.672 acres
Consider approval of minor subdivision plat.
Applicant: Eddie Wilson, Austin Martin, Tammie H. Wagovich

MR. HOWARD: This plat comes before you.

Basically it's a scenario where three adjoining property owners are swapping properties. The result of that is that one of the tracts, which is at 617 Clay Street, exceeds the three to one length to width requirement. So it's something that could be approved at the Staff level. It comes before you tonight with the Staff's support for approval.

CHAIRMAN: Do we have any questions?
CHAIRMAN: If not the chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. GILLES: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 8

8511 Ward Road, 9628 Highway 54, 22.69 acres
Consider approval of minor subdivision plat.
Applicant: Wayne Neal Benningfield

MR. HOWARD: Again, this plat comes before you due to an exception.

They're proposing to cut a tract into two lots. They're taking it actually back to the way the lots were designed originally. They were consolidated in May of this year. There's an existing home on the lot that has no road frontage. They want to recreate that lot with no road frontage. We've noted on the plat that no further subdivision on the lots will create addition irregular shaped lots, but the fact that there is a home on the tract will not have
frontage. It does have an access easement to 54.

That they will not further subdivide the lot by a

note.

We will give support for approval.

CHAIRMAN: Somebody representing the

applicant?

(No Response)

CHAIRMAN: Do we have any questions?

(No Response)

CHAIRMAN: If not the chair is ready for a

motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. TAYLOR: Second.

CHAIRMAN: We have a second by Mr. Taylor.

All in favor raise your right hand.

(All Board Members Present Responded Aye.)

CHAIRMAN: Motion carries unanimously.

The chair is ready for one final motion.

MS. DIXON: Move to adjourn.

CHAIRMAN: Motion for adjournment by Ms. Dixon.

MR. GILLES: Second.

CHAIRMAN: Second by Mr. Gilles. All in favor

raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY )
)SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS )

I, LYNETTE KOLLER FUCHS, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Planning Commission meeting was held at the time and place as stated in the caption to the foregoing proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately and correctly transcribed into the foregoing 59 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 1st day of November, 2008.

LYNETTE KOLLER FUCHS
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY  42303

COMMISSION EXPIRES: DECEMBER 19, 2010
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY