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

MEMBERS PRESENT:  Drew Kirkland, Chairman
Ward Pedley, Vice Chairman
David Appleby, Secretary
Gary Noffsinger, Director
Madison Silvert, Attorney
Rev. Larry Hostetter
Tim Allen
Wally Taylor
Keith Evans
Martin Hayden
Rita Moorman

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CHAIRMAN:  Please rise for our invocation.

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

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

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

(NO RESPONSE)

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

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

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. ALLEN: Second.

CHAIRMAN: Second by Mr. Allen. 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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ZONING CHANGES

ITEM 2

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

MR. SILVERT: Would you state your name please?

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

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

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

PLANNING STAFF RECOMMENDATIONS

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

CONDITION:

Submission and approval of amended preliminary and final plats.

FINDINGS OF FACT:

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

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

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

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

5. At 2.30 acres, the 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 Ohio Valley Reporting

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

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

MR. APPLEBY: Second.

CHAIRMAN: We've got a second by Mr. Appleby.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 3

2404, 2412 East Parrish Avenue, 66.708 acres

Consider zoning change: From R-1C Single-Family Residential, R-3MF Multi-Family Residential and B-4 General Business with conditions to B-4 General.

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

SPECIFIC LAND USE CRITERIA

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

The KYTC has the authority to alter the KY 54 corridor without the need for any form of rezoning. The City of Owensboro can alter local roadway traffic.
patterns without a rezoning hearing. In this instance, the need for change along the corridor has coincided with the proposed development. The original traffic impact study submitted for the subject property at the time of initial zoning in April 2007, provided for an internal street network, access to KY 54 at a signalized intersection with the by-pass ramp, and the signal at E Byers Avenue to remain. According to the original TIS, capacity analysis for the southbound by-pass ramp/site access intersection on KY 54 was projected to operate at Level of Service (LOS) C during both the AM and PM peak. The E Byers Avenue/Ragu Drive intersection on KY 54 was projected to operate at LOS B during the AM peak and LOS D during the PM peak. The LOS calculations were based on 2012 future traffic projections with roadway improvements as required in the TIS. The Planning Commission Staff was involved in the review of the original TIS and the roadway network proposed as part of the development. However, Staff was not involved at all in the negotiations for the proposal as presented and cannot endorse the proposal. Planning Staff understands that discussion took place regarding the realignment of Byers Avenue to align with the Wendell Ford Expressway ramp which would seem to be a
more logical alignment from a planning land use perspective. While Planning Staff defers to the design professionals and review engineers in regards to the proposed transportation network, we are concerned that the proposed design may present obstacles to traffic movement in the vicinity. A complete realignment of East Byers Avenue would eliminate extra turns and potential confusion for motorists. As Byers Avenue is extended west, traffic is anticipated to increase along the corridor which will be diverted through this site. The potential for an increase in cut-through traffic in the Springs development seems likely, especially for motorists heading west into the city since a signal has been installed at the development access on KY 54. The internal drive design within the Springs development was not designed to public street standards and may not be able to accommodate increased traffic. Motorists will also have to be educated on the new traffic patterns since the roundabout will be the first of its kind in the community and the roadway between KY 54 and the roundabout is multi-lane in each direction.

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

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

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

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

The intent of the Traffic Impact Study is to mitigate traffic generated by the development on the Ohio Valley Reporting
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existing roadway network. While the current proposal does indeed mitigate site traffic, it is done so, to the detriment of the general motoring public. The entire roadway system in the vicinity should not be bent towards a single development in total disregard for the existing development and traffic. With the intent of the TIS still intact in regards to mitigating traffic, the Planning Commission Staff recommends approval of the zoning change with some alterations to the conditions as set forth in the Traffic Impact Study. The recommended conditions include all improvements necessary to mitigate traffic generated by the site. However; the recommendation does not include conditions regarding corridor improvements to KY 54. It is the feeling of the Planning Commission Staff that a new signal should be installed at the intersection of the proposed development access/by-pass ramp while the existing signal at East Byers Avenue and KY 54 remains until such time that traffic counts and flow dictate the need to install traffic control devices. The city and state, at that time, can evaluate the needs and install what is required without tying the improvements to the developer and the proposed rezoning. If left-turn queues conflict for eastbound
traffic turning left onto the by-pass and westbound
traffic turning left onto East Byers Avenue, the
possibility of installing a median to prevent
westbound left turns to East Byers Avenue should be
explored. Traffic entering the Heartlands Subdivision
would have to turn one signal earlier and route
through the proposed development, but the remaining
left turn movements at the East Byers Avenue and KY 54
intersection would still be possible while not
compromising traffic turning left onto the by-pass.

PLANNING STAFF RECOMMENDATIONS

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

CONDITIONS:

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

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

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

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

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

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

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

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

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

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

FINDINGS OF FACT:

1. Staff recommends approval because the Ohio Valley Reporting

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

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

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

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

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

CHAIRMAN: Before we get started, I noticed we have quite a few people standing. We have plenty of seats in here if you all would like to sit down before we get started and make yourself comfortable. You all
can move on in and find yourself a seat and that way
you won't have to stand. More than adequate seats to
seat all of you.

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

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

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

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

MR. MEYER: Thank you.

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

They acquired two additional pieces of
property; slivers, if you will. One of them will be
referred to as the Old Barley Road which is a sliver
that ran alongside of Byers Avenue. The other was a
remaining portion of a christian church lot that would basically cut off Byers Avenue, and my clients acquired that. So that was the purpose for seeking this broader application of rezoning, to pick up that additional very small acreage. As I said, all but 99 percent of it is already rezoned B-4 as was done in April of 2007.

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

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

I think everybody in this room, particularly these people sitting here because they live nearby, know that there's already a problem out there because of the way the bypass exits and keys in to Highway 54
and the difficulties that people have in turning in various positions there.

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

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

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

When we made the original projection and everything else, in consultation with those people that I just mentioned, with the city and the state, there were a couple of requirements that were placed in there by not us, the developer, but with the Department of Transportation and the city engineers.
That this would best be addressed by the implementation of a system that we presented to the homeowners last night that had some turn lanes and median requirements that were going to interfere with the passage of traffic, I guess, at Ragu Drive and East Byers Avenue as it addressed or adjoined Highway 54 there.

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

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

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

The system, as you would see up there, it's better on this easel over here, entails a rather developed interchanged system within our development for the flow of traffic. To take traffic off of
Highway 54 turning into the development or those who choose to turn in there in order to access Byers Avenue in a westerly direction. With the removal of the left turn restriction on the median up there, the people do not have a choice of going on down like they are doing today and turning left and going into Byers Avenue.

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

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

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

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

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

CHAIRMAN: Thank you, Mr. Meyer.

Are there any questions from the audience?

Yes, sir. Please step to the microphone.

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

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

(GREG COOPER SWORN BY ATTORNEY.)

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

I am taking exception not so much to the small amount of zoning that's getting ready to be moved into B-4. I'm taking an exception to the already planned, enlarged box item which is Menard's. That the classification given at Planning & Zoning is not direct. Many of us believe it is a lumberyard. It falls under Light Industrial 1 and 2. So therefore
B-4 would not be appropriate for this development. I would like to make an appeal and ask the Planning & Zoning Commission to reconsider. I realize that Planning & Zoning is considering that it is a big box store like Home Depot or Lowe's, but I believe that the operations is consistent with a lumberyard and is a separate --

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

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

CHAIRMAN: Okay.

MR. COOPER: Be very brief, sir.

A lumberyard --

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

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

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

(WITNESS SO INDICATING NOISE WITH RECORDER.)

MR. COOPER: I want everybody to realize that's what you're going to be hearing within several
yards of Menard's, 10, 12, 14 hours a day. This is a
back-up alarm of a fork truck. This is consistent
with their mode of operation. The mode of operation
requires that they go in and you pay for your product.
You go through a gate. You go to the back. There is
a huge footprint for storage for lumber, large lumber
and so forth. There will be trucks, tractor-trailers
and fork trucking moving about with back-up alarms.
The residents along that perimeter within several
yards, maybe 100, 150 yards, will be hearing this all
the time. Thank you, sir.

CHAIRMAN: Thank you.

Mr. Noffsinger.

MR. NOFFSINGER: Thank you, Mr. Chairman.

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

In July of last year, in an effort to make
this community more business friendly, and as the
candidates heard on the election campaign that this
community is not business friendly. There was an
attempt to change some rules and regulations to make
us a more business friendly community. That was one
of the changes. Okay.

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

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

CHAIRMAN: Thank you.
Are there any other questions?
MR. SILVERT: Would you state your name, please?
MR. GLENN: Bob Glenn.

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

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

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

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

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

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

The only other one is in terms of when people turn right, if you have this triangular thing and they're forced to turn right to go toward the main development on 54, do they have to heel to oncoming traffic? Imagine, that light is now gone. I'm forced, if I understand the plan correctly, to turn right towards, you know, going south. Do I have to wait for oncoming traffic? I presume I do, but I'm just asking. Would they have to? Is that how it's
MR. NOFFSINGER: I think at this point we need to hear from the traffic engineer from the State of Kentucky. They are represented here, as well as the city engineer. They really need to answer those questions.

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

MR. GLENN: A number of people here tonight, that's one of the reasons they're here. This is a massive change in the traffic flow coming off Byers Avenue. That's why there's so much concern.
MR. NOFFSINGER: Exactly. And we share that concern. That's why I stated you need to be aware that regardless of what happens here tonight, the State of Kentucky can make that happen. So it's a real issue.

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

MR. NOFFSINGER: They are here tonight.

MR. GLENN: Let's hear them.

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

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

MR. McCLEARN: Kevin McClearn.

(KEVIN McCLEARN SWORN BY ATTORNEY.)

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

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

In a situation like this, we certainly have

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

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

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

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

Then what we do is comment on that and approve

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. McCLEARN: When you come off the bypass?

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

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

CHAIRMAN: Correct.

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

MR. NOFFSINGER: Yes. The Planning Staff is basing their recommendation tonight on not including a condition that says, if a light is to be removed and the median installed and those channels. We removed that condition from the original Staff Report so that that is not a condition to the rezoning, if this rezoning is approved. However, as I stated earlier,
it's a very real issue and is likely to happen at some
point in time if this plan is approved. So it's still
an issue, but it's not a condition to the rezoning.
So I'm not saying you can't talk about it or shouldn't
talk about it. I think you should. It's just not a
condition.

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

MR. McCLEARN: We'll commit to that.
MR. NOFFSINGER: Thank you.
MR. McCLEARN: Let me just answer both
scenarios on Byers.

If I'm coming up 54 on Byers with a signal,
obviously you do what the signal says. If the signal
is gone, then there's a barrier median down the
center, so you can only go right. When you pull up,
you will yield. If it's clear, you go. If it's not,
you'll wait.
MR. McGUSS: I think the question was --

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

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

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

MR. SILVERT: Just state your name, please.

MR. McGUSS: My name is Tom McGuss.

(MR. McGUSS SWORN BY ATTORNEY.)

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

Actually all I wanted to do was call to the gentleman's attention that I didn't think he had answered Bob Glenn's question and ask him to do that.

I think Bob Glenn asked the question if you were coming out of Byers Avenue meaning to turn right, which is the only way you can turn, would you have to defer to the traffic going east on 54? I think he was thinking the way traffic often backs up there. I want
an answer to that question.  

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

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

CHAIRMAN: Mr. McClearn.

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

Secondly, you cited an example. I think where we're headed here possibly is perhaps another public
meeting where that we get a little bit more specific and answer some questions like that one on why it won't work. What's the problem? Why don't you add more storage by adding another left turn lane? That sort of thing. We are willing in coordination with the city and the city engineer, we're willing to do that. That's not a problem.

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

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

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

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

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

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

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

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

MR. SILVERT: Would you state your name, please?
MR. GORDON: My name is Greg Gordon.

(GREG GORDON SWORN BY ATTORNEY.)

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

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

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

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

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

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

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

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

MR. GORDON: I'll admit it's a mental task, but I do believe that the people from -- everybody needs to come together and do it together. I'd just be afraid that you all vote on something tonight that is going to -- if you try to get this group together
later, it does no good because you've already set it in motion over here. So that's something that you need to consider.

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

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

MR. GORDON: Sure it does.

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

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

MR. McCLEARN: I suggest that Mr. Bill Hayes,
an engineer with Barge Waggoner Sumner & Cannon that
prepared the Traffic Impact Study discuss a little bit
of the specifics.

CHAIRMAN: Mr. Hayes.

Sir, do you have a question?

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

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

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

MR. HAYES: William Hayes.

(WILLIAM HAYES SWORN BY ATTORNEY.)

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

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

One of the questions that came up relates to
where the road from the site at the roundabout would
go into Byers. I believe there was a misunderstanding
that there would be just a single stop sign there and
that the existing Byers Avenue would continue to have
A right-of-way and then we would have alternate
several hundred cars an hour trying to wait for a gap
to turn left there. That was not my intention at all. My anticipation by ten years after the opening of this facility, which is basically the year 2022, would be that by that time the traffic volume on the three approaches would meet warrants for a multi-way stop, which would be the most advantageous way, at least the labor people. In the interim before that happens, if you're going to route the traffic through the two left turns --

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

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

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

That is a workable situation up to a certain volume. There's a certain point though in which having anyone stop is the safest most desirable way. That's the ultimate decision of the city traffic engineer. We ran a few different ways. We certainly agree that just putting up a stop sign, it does back up a pretty good distance. We went from there to another form of traffic control there.

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

One of the things you do is to project the opening day of the site, which in this case we pick 2012. We could have picked 2013, but a short range something will be open. Not the full development. About 85 percent will be open. Then we project 10 years from now, which is how we got the year 2022. We take into account the traffic growth on KY 54, the traffic growth on Byers with new houses being built.
and subdivision, that type of thing. We put all of
that will together plus the site and make evaluations.

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

MR. HAYES: Sure.

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

MR. CRAFTON: David Crafton.

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

MR. CRAFTON: David Crafton.

(DAVID CRAFTON SWORN BY ATTORNEY.)

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

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

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

MR. CRAFTON: Then why are we spending all
this time when we've got another meeting promised by
the state to discuss traffic?

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

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

MR. NOFFSINGER: That is not the sole purpose of what we are here tonight. That is one purpose that we are here tonight. The next purpose we are here tonight is to consider the transportation network internal to this development. What we are not here tonight to do is dictate to the State of Kentucky what they will do in the future. That's why I'm trying to make clear that regardless of what happens here tonight, the State of Kentucky can do something different on 54. Now, I just want you to be aware of that because I don't want you to leave here tonight thinking you got something or maybe you didn't get something and it's different in the future. That is for another meeting. We're not going to be able to
address that here tonight, but what's approved here tonight does have an impact on the State of Kentucky and the future.

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

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

MR. CRAFTON: Most of it.

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

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

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work.

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

CHAIRMAN: Yes, sir.

MR. SILVERT: State your name, please.

MR. BALDWIN: Daniel Baldwin.

(DANIEL BALDWIN SWORN BY ATTORNEY.)

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

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

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

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

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

Thank you.

CHAIRMAN: Thank you.

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

MR. COOPER: Dana Cooper.

(DANA COOPER SWORN BY ATTORNEY.)

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

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

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

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

Mr. Hayes, would you return.

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

MR. HAYES: Bill Hayes.

We did perform a traffic count at the intersection of East 26th and East Byers, and we did include that in the report. We did not go into analysis of a lot of diversion of traffic. Most of the traffic involved in that intersection that we were counting at 26th and Byers. The dominant movement, and I think he just accurately describe that. If you
come on 26th toward Byers you're turning left and
going 54 and reverse -- if you're coming from 54 on
Byers and you're turning right on East 26th. I don't
know the history of the town enough to know all the
origins of that traffic, but it was a significant
amount of the total Byers Avenue traffic was making
that movement, which frankly was a little surprising
to me.

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

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

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CHAIRMAN: Thank you.

Just a moment. We're going to have a switch

of court reporters.

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

CHAIRMAN: We're back on the record.

MR. SILVERT: State your name, please.

MR. HODSKINS: My name is Ed Hodskins. I've been an attorney here in Owensboro for about 34 years.

I do promise to tell the truth.

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

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

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

First and foremost, I want to clear up a
misconception that has been in the newspaper and on
the lips of a lot of people, and that is that Huck's
was well aware of the traffic proposals that were out
there that would involve removal of the traffic light
and construction of barrier, medians and concrete
impairments or islands to get to their property. I can state unequivocally that Huck's was unaware of any such barrier, median or concrete barriers that would limit access by their customers to their property. They've made quite an investment. About $2.3 million at this location on Ragu Drive. They have another location on J.R. Miller Boulevard. They're a company that has about 107 stores in five states. They are good businessmen. They do their job. Believe me, if there had been any information whatsoever of a barrier where people could not turn off of Highway 54 into their property going one way and the other way where even if you did get in you couldn't get back out and go the other way.

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

Now, they were wined and dined. They were welcomed to this community back in September whenever they came and they got approval and the City welcomed them. Everything was great. No information of any problem like this.
You cannot imagine how much this hits them in the head when they hear that traffic redesign, redevelopment is basically going to say, Owensboro doesn't want you any more. We don't care about you any more. Believe me, we care about safety, but we also care about -- I was so glad to hear Gary Noffsinger talk about we are a welcoming community and we want new business. Prove that to Huck's. Prove that to Huck's.

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

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

CHAIRMAN: Mr. Hodskins, just a moment. Would Ohio Valley Reporting

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

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

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

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

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

CHAIRMAN: Would you explain it to me, please?

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

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

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

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

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

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

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

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

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

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

MR. HODSKINS: It is.

CHAIRMAN: Mr. Hayes.

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

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

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

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

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

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

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

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

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

MR. HAYES: I've already talked to Jim
Whetstone and offered to send him, and I have just not
had a chance to do it. I plan to do it by Monday.
Was to go back to his study. Look at what my
assumptions were there. Give those to him. I also
offered if -- you know, obviously we have to charge at
some point for our time, but I told him anything that
I could provide to him.

CHAIRMAN: We have you for free right now.

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

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

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

I would also suggest that, and this occurs in
different situations. That you can get most of the
traffic in. The problem is getting them out. If they're coming from industrial park and heading back, how would they do that? You do that by way fare signing. Say you're go to the bypass, you'll turn this direction, that type of thing, by the signage there.

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

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

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

MR. MEYER: Tom Meyer.

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

This matter was very much considered, and it's
on the bottom of this development plan. It states, "The developer fully understands that the transportation network in the area of the subject property may be reworked at or by the Kentucky Department of Transportation, the City of Owensboro and private developers. It is understood the current plans call Ragu Drive to remain open as a public street. However, the traffic signal may be eliminated if traffic volumes fall below warranted amounts."

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

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

I think that Bill has explained what the considerations were and how they addressed them. I think it's unfair for him to insinuate that they didn't know because it's stated right on their plan.
that there's a possibility that that light may be
eliminated. Whether they knew all the ramifications
of it. We're not here to address that really.

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

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

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

MR. MEYER: Well, I think with all due respect
this is a situation that as you pointed out and
insinuated, is a very tough nut to crack in terms of
trying to make everybody in this room happy and go
I've got a client. Mr. Hodskins refers to a client who's invested $2.3 million in a convenient store that's located out there. What they knew, what they didn't know is beside the point for this purpose. I've got a client that's got two to three times that invested already and it's going to far exceed that amount in terms of this overall development, as I think you all can well imagine. We're trying to move that project forward.

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

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

CHAIRMAN: Our charge is not necessarily to make everybody happy. Our charge is to operate within the statute and to make the area as good of a place as
it was when we passed a zoning ordinance.

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

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

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

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

    What we would propose to do, we didn't put any
conditions in there about, you know, these medians and
barriers have to be part of the project. We didn't
put any condition in there that that traffic light has
to be there. If it can be worked out as Ed hopes it
can and we hope it can, for synchronization and
everything else and that works fine, that's terrific
and that's the route that we suggest that they go.

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

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

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

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

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today.

CHAIRMAN: That is correct.

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

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

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

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

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

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it.

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

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

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

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

CHAIRMAN: I'm sorry.

MR. APPLEBY: Not refuse.

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

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

MR. BAYLEY: Mark Bayley.

(MARK BAYLEY SWORN BY ATTORNEY.)

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

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

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

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

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

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

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

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

CHAIRMAN: That's a question from me to you.

I don't even know if there is something. I can just see there is so many parameters and so many moving parts in this thing that I don't think, like this board, this Commission of the S-curve and all these, we had no idea of any of this stuff. This is what we're now made aware of.

MR. BAYLEY: And us as well.

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

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

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

That's all we ask.

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

Mr. Pedley.

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

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

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

Now this development they reclassify the street to major collector. This development is allowed three access points 250 feet apart.
Also Mr. Jagoe developed East Byers Avenue through that development that doesn't allow him to have lot access, again, for traffic flow. He did everything that was asked of him. Then he had to screen all of that for his homes. He's built berms. He's built fences. He's built walls. He's done major landscaping. He's spent hundreds of thousands of dollars for the residents in that community.

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

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

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

Now then you've got a proposal here that doesn't say what you're going to do with it. What are
You going to do with those trucks? You must absolutely address all of these issues before, in my opinion, we can act on this.

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

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

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

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

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

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

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

MR. PEDLEY: Mr. Chairman --

CHAIRMAN: Mr. Pedley, hold on.

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

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

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

MR. McCLEAN: Clear up everything,
unfortunately not.

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. McCLEARN: Oh, absolutely. I agree.

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

Yes, we would try to fast-track this as
quickly as we can; again, with the approval of the
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state highway engineer.

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

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

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

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

MR. MEYER: Sure. We have no problem with tabling it. My client has graciously agreed to that. I will say this: We've all worked with the State of Kentucky before. I understand what Kevin is saying. Fast-track for them and fast-track for what these people believe are two different things. Mr. Pedley is very much aware of how that works.

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

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

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you understand what I'm saying?

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

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

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

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

CHAIRMAN: That would be fine.

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

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

CHAIRMAN: Mr. Riney.

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

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MR. RINEY: Phil Riney.

(PHIL RINEY SWORN BY ATTORNEY.)

MR. RINEY: I'm a resident of 4133 Wood Chase. I am part of Heartland Crossings. It's a development company. We have met and went through a lot of this on a short meeting last night.

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

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

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

With the scenario that we talked about, Mr.

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

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

Again, at the end of the day did the development go forward? I don't know if it does or not today. So when the state comes back and has to determine how to remedy the existing issues and we're
not there to participate we'll see how that works, as
a result of not possibly having a development. We
hope that that's not case. We hope to be able to
continue with the development going forward.

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

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

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

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

I live in the area. I understand that we're not here to capitalize on someone else's back. We're trying to improve the situation as well. If it's not what you think it is, then I encourage their remarks. I just hope it's in a timely fashion to where we've already delayed for six months as a result of the city and state coming to us and asking us to work with them from August. Now you're asking me to be delayed another probably at least a month or two.
So I just ask that we do attempt to do it in a timely fashion. Once those recommendations come back, I'm assuming that those will be mandated and we'll approve those. Whatever they are and whatever the impact is to me or to any neighbor. I'm not sure what the process is after that. So I wouldn't mind having some clarity as to what that will be after that.

CHAIRMAN: Let me ask Mr. Silvert and Mr. Noffsinger a question, which would come to mind if I was in your shoes at the present time. What can Mr. Riney and his developers do at this point in time with the situation that they have now with their own property?

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

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

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

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

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

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

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

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

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

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

MR. SILVERT: State your name, please.

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MR. BAKER: Jason Baker.

(JASON BAKER SWORN BY ATTORNEY.)

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

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

MR. BAKER: We would then be able to submit just a rezoning for the two separate tracts?
MR. NOFFSINGER: Separate rezoning, yes, sir.

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

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

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

MR. NOFFSINGER: Yes.

CHAIRMAN: Thank you.

Now, the Chair with no further comment -- Mr. Riney, would you like to step to the podium?

MR. SILVERT: State your name, please.

MR. RINEY: Jim Riney.

(JIM RINEY SWORN BY ATTORNEY.)

MR. RINEY: I'm here representing Jagoe Development tonight. Bill Jagoe, III, Bill, Sr. as you know him, he had asked us to be here. I've heard comments tonight about change. We've heard some
changes here. We've heard comments about compromise, and I've heard comments from the Chairman about brevity.

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

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

CHAIRMAN: Mr. Noftsinger, including Mr.
Riney, we'll refer to him, the engineer, in the mix also will be a good idea of the meeting.

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

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

CHAIRMAN: Would you have one final comment?

MR. COOPER: Yes, sir, I do.

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

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

Many of the residents at the Heartlands and the homes were not developed when the approval process went through in 2007. Since then and especially in the last year, it has not been a transparent process. We have not been allowed nor given the ability to object to what's going on. I'm just asking: Is there any avenue at this point for the residents of Heartland to have input in what they're going to have to deal with?
CHAIRMAN: I think Mr. McClearn said he was going to have some meetings, but he was also going to get some more proposals from the state together to try to make it better for all people involved. I think in his statement he said there would be more meetings conducted by the state.

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

CHAIRMAN: We understand that. All right.

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

MR. REYNOLDS: David Reynolds.

MR. SILVERT: You're duly sworn.

MR. REYNOLDS: Thank you.

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

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

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

CHAIRMAN: Okay. Thank you very much.

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

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

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

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

CHAIRMAN: We have a motion for postponement.

MR. ALLEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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CHAIRMAN: The motion carries unanimously.

Next item.

RELATED ITEM:

ITEM 3A

Heartland Crossing, 66.708 acres
Consider approval of preliminary development plan.
Applicant: Heartland Crossing, LLC

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

CHAIRMAN: Mr. Pedley.

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

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

MR. TAYLOR: Second.

CHAIRMAN: We've got a second by Mr. Taylor.

All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

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NEW BUSINESS

ITEM 4
Amend Fiscal Year 2011 budget to include revenue generated by the new HVAC Program.

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

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

MR. NOFFSINGER: Yes, sir.

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

MR. PEDLEY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

We've got one final motion.

MR. ALLEN: Motion to adjourn.

CHAIRMAN: Motion to adjourn by Mr. Allen.

MS. MOORMAN: Second.

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

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All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We're adjourned.
STATE OF KENTUCKY )

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 96 typewritten pages; and that no signature
was requested to the foregoing transcript.

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

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

COMMISSION EXPIRES: DECEMBER 16, 2014
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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