The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, July 14, 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
Irvin Rogers
Wally Taylor
John Kauzlauskas

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CHAIRMAN: I want to welcome everyone to our July 14, 2011 Owensboro Metropolitan Planning Commission meeting. Will you please rise for our invocation will be given by Chief John Kauzlauskas.

(IN VOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes of the June 9th meeting. Are there any additions, corrections?

(NO RESPONSE)

CHAIRMAN: Anybody from the audience have any questions?
CHAIRMAN: If not the chair is ready for a
motion.

MR. PEDLEY: Motion for approval.

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.

CELLULAR TELECOMMUNICATIONS FACILITIES
PER KRS 100.987

ITEM 2

2401 Highway 1554

Consider approval of a wireless telecommunications
tower.

Applicant: Green Valley Farms, LLC; New Cingular
Wireless PCS d/b/a AT&T Mobility

MR. NOFFSINGER: Mr. Chairman, I have a letter
here that's signed by Lisa D. Kramer asking that this
item be postponed tonight and be rescheduled for our
August meeting which will be the second Thursday in
August. They are working on this application to
provide some more information. There may be some
changes to it, but they are asking that it be
postponed and you will need to vote on a postponement.

CHAIRMAN: Do we have a motion?

MR. APPLEBY: Motion to postpone.

CHAIRMAN: Motion for postponement by Mr. Appleby.

MR. TAYLOR: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Item:

ITEM 2A

2401 Highway 1554, 0.230 acres
Consider approval of a minor subdivision plat.
Applicant: Green Valley Farms, LLC

MR. NOFFSINGER: Mr. Chairman, for the same reasons the applicant has asked that this item be postponed.

CHAIRMAN: Chair is ready for a motion.

MR. PEDLEY: Motion to postpone.

CHAIRMAN: Mr. Pedley will have the motion.

MR. APPLEBY: Second.

CHAIRMAN: Mr. Appleby will have the second.

All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.

Next item.

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ZONING CHANGES

ITEM 3

4100, 4660, 4681, 4690, 4730, 4751, 4840 Free Silver Road, 4225, 4379 Ridge Road, 453.74 acres

Consider zoning change: From A-R Rural Agriculture to EX-1 Coal Mining

Applicant: Western Kentucky Minerals, Inc.; Pence Farms; Bryan & Linda Langford; William Lanham; G.W. Hazel Heirs; Barry & Alice Bickett; William & Regina Toon; Western Kentucky Leasing, LLC

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

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: I will note that all rezonings heard tonight will become final 21 days after the meeting unless an appeal is filed. The appeal forms are available on the back table, in our office and on our website. If an appeal is filed, then the rezoning will be forwarded to the appropriate legislative body for their final action.

PLANNING STAFF RECOMMENDATIONS

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

FINDINGS OF FACT:

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

2. The majority of the subject property is located in a Rural Maintenance Plan Area where coal mining uses are appropriate in general locations;

3. The majority of the subject property is located in the Rural Service Area outside of a Rural Community Plan Area while the portion within the Rural Community Plan Area is a landlocked tract on the southern end of the proposed mining side;

4. The subject property adjoins existing areas of EX-1 Coal Mining zoning;

5. The Maceo Quadrangle Map indicates the presence of coal deposits on the site; and,

6. State and county roads proposed to be used for the transportation of coal have been approved by the appropriate officials.

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

CHAIRMAN: Do we have anybody representing the applicant?

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

MR. HAYNES: Brian Haynes.

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Mr. Silvert: Mr. Haynes, you're sworn as an attorney.

Mr. Haynes: Thank you.

I'm Brian Haynes. I'm an attorney. I'm here on behalf of Western Kentucky Minerals, Inc. I have Mr. Tony Lanham who is one of the owners and Mr. Tim Rye who is an engineer for a company here if there are in questions in regard to the zoning.

Chairman: Thank you very much.

Are there any questions from the audience?

Mr. Silvert: Could you state your name, please.

Mr. Gene Lanham: Gene Lanham.

Mr. Silvert: Judge, you're duly sworn as an attorney.

Mr. Gene Lanham: My name is Gene Lanham. I represent Marvin and Josephine Boling whose names you don't see anywhere on the application. The owners are shown as Langford, Bryan and Linda Langford. I don't see them in the audience tonight, although I did see their signature on the application.

Let me first say that Mr. and Ms. Boling and I have no real objection to the rezoning of any one of these pieces of property, but with respect to 4379 Ridge Road, the Langfords purchased the property for
$175,000 roughly five years ago. Mr. and Ms. Boling carry the first mortgage, the balance of which is in excess of $162,000. So in that sense they are certainly interested to this, whatever happens to this property.

The 162,000 that's still owed against it represents approximately 90 percent of its value. They learned about this rezoning application in the newspaper. They have expressed their displeasure to the owners, Bryan and Linda Langford, for a number of weeks, that they not so much as against the rezoning or the company or the people, but they have been kept in the dark with respect to any terms of any lease, any terms with respect to any royalties, to any timber or coal that might be removed from this property seriously jeopardizing their interest.

Again, I don't see Mr. and Ms. Langford here today. We attempted negotiations in the last two or three days to resolve the issues with them. We have filed a lawsuit today in Daviess Circuit Court to resolve the issues between us and the Langfords. Again, with that said, we have no objection to the rezoning or the mining of the property, but trust me, there will be some resolutions of the issues. We will obtain the terms of the lease, we will obtain the
information as to royalties, whether any have been
paid and how they will be paid in the future. We want
to learn the process and the procedure by which it
will be mined, whether we're first, last. We just
need information.

That's all we have to say except that I do
want to say that in closing we have no objection
subject to the Boling's rights being protected to
having the priority to any royalties off of that land.
100 percent go to the lien that Mr. and Ms. Boling
have subject to any other funds being reached to any
one.

I'll be glad to answer any questions from
anyone in the audience or from the board.

CHAIRMAN: Thank you, Judge Lanham.

Mr. Silvert --

MR. GENE LANHAM: Excuse me. For the record I
was a previous judge. I have no problems with anyone
referring to me as judge. I know it's force of habit.
So that there's no misinformation or misunderstanding,
I appreciate your comments.

CHAIRMAN: Mr. Silvert, could you sort of
categorize all of Mr. Lanham's comments in regards to
the Planning Commission.

MR. SILVERT: Actually, Mr. Chairman, if there
are questions as to ownership of the property, that's
something that I'd rather deal with directly with
counsel off the record. I didn't hear him assert
that, and maybe you can just attest to this. I didn't
hear you assert that you actually own the property.
You just had a mortgage, correct?

MR. GENE LANHAM: Yes. That is correct.

MR. SILVERT: And don't otherwise object to
this application?

MR. GENE LANHAM: That is correct. That's
correct.

MR. SILVERT: Would you otherwise consent to
the application?

MR. GENE LANHAM: That is correct. Here's the
situation we're caught in. If we don't appear and put
our information on the record, we don't want to be
captured in a situation in circuit court saying, why
didn't you make your objections known to so-and-so.

Again, we have no objections to it being mined
and royalties paid. It might make a difference, it
could make a sizeable difference on the tax. I'm not
a tax lawyer. It could make a difference on the
ramifications of the taxes of Mr. and Ms. Boling, but
I'm sure we can work those things out by way of an
escrow account, etcetera. I simply didn't want to not
make our position known. It's public record. We have
filed our claim today. As of this morning, the lease
have not been filed of record. I don't know whether
they plan to file it or not file it. I think probably
technically speaking we're ahead of any lease on that.

CHAIRMAN: I just wanted to get Mr. Silvert to
clear up our position. As far as your situation with
your clients, is not to oppose the zoning as far as --

MR. GENE LANHAM: That is a fair statement.
So long as Mr. Lanham's company is mining it. We
would have an objection to any kind of assignment or
transfer.

CHAIRMAN: I'll take care of that for you.

MR. GENE LANHAM: Thank you.

CHAIRMAN: Why don't we ask Mr. Lanham to step
to the podium.

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

MR. TONY LANHAM: Tony Lanham.

(TONY LANHAM SWORN BY ATTORNEY.)

CHAIRMAN: Mr. Lanham, you understand the
question of what --

MR. TONY LANHAM: Yes.

CHAIRMAN: The reason I brought you to the
stand rather than your attorney, confer with you about
whether you have any other people that are in on the
deal with you or whether it will be co-signed or
anything else to another party. It's a very simple
question, but I just want to make sure we get it.

MR. TONY LANHAM: I'm not sure in the lease if
it states in there it can or cannot be co-signed.
That's a question you're asking?

CHAIRMAN: That's the question.

MR. TONY LANHAM: We could address that, but I
can't answer that now. I haven't got the lease in
front of me. My interest is to mine the property from
that part of it.

CHAIRMAN: Let me ask your attorney there. He
might be able to address that part of it. Thank you,
Mr. Lanham.

MR. HAYNES: The lease is assignable.

CHAIRMAN: The lease is assignable?

MR. HAYNES: No intention to assign it to any
other party. Western Kentucky Minerals plans to mine
the property. The issue we're talking about here is
not a zoning issue. It's an issue for the circuit
court to decide.

Mr. Lanham is the owner. He has signed the
application. Mr. Boling does have a mortgage on the
property, but as Mr. Lanham says, he's already filed

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suit in circuit court to have these issues resolved. They don't have anything to do with whether the property is appropriate for zoning.

CHAIRMAN: I agree with you. That's why I had Mr. Silvert comment.

MR. SILVERT: I do need to ask a couple of questions just to clear something up for my own edification.

Mr. Haynes, you may be able to satisfy this for me to direct them as to whether or not they can move on.

Mr. Lanham has stated and we now have notice that a lis pendens on the property has been filed. I do not know whether that lis pendens relates to a suit that makes a claim on the property directly or whether a lis pendens was filed because the claim involves the property which is two different things. The reason that's relevant to me is because if we know that there's an outstanding dispute as to who owns part of this property and not everyone has signed this application for a rezoning, then it is not in order. I need to know from Mr. Lanham whether or not his suit makes claim on the property directly or makes claim as to royalties.

MR. GENE LANHAM: As to the property in Count
I, actually I did do an alternative to the court, second count with respect to royalties and the lis pendens filed. We did not make the coal company a party defendant. Frankly, we didn't want to, unless we were legally required to do so. A copy of the lease was not recorded; therefore the question is whether they have a claim against the property, but with respect to Mr. Haynes and Mr. Lanham, Tony, my nephew, we had some conversations within the last two or three days trying to resolve this issue. Apparently where it's broken down at Mr. Haynes, we've been going through him because he represents the Langfords as well as Mr. Lanham.

My last communication with Mr. Haynes was a fax letter from him yesterday that he had spoken to the Langfords and that he would be back in touch with me, if he heard back from them. We haven't heard back from them and obviously that's why we were caught in this trap.

MR. SILVERT: I think I have two questions for you to be able to move forward on this.

MR. GENE LANHAM: Sure. We have no objection to the rezoning subject to the conditions that we mentioned.

MR. SILVERT: You otherwise assent to the
application and the application can move forward?

MR. GENE LANHAM: Absolutely. Absolutely. We

don't intend to delay anything at all.

MR. SILVERT: If you were found to be the real

party in interest and the owner of this property, you

would have signed this application and you would

therefore go ahead and say this application can move

forward?

MR. GENE LANHAM: That's correct.

CHAIRMAN: For the record, Madison, why don't

we bring his clients up and have them --

MR. GENE LANHAM: He doesn't hear well, but he
does hear.

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

MR. BOLING: Marvin Boling.

(MARVIN BOLING SWORN BY ATTORNEY.)

MR. SILVERT: Mr. Boling, the question that I

asked your attorney is if you were found to be the

actual owner of this property with the suit that you

have moving forward currently in Daviess Circuit

Court, would you have otherwise assented to this

application moving forward? Would you have signed it

and let it move forward? Your attorney has previously

said, yes, and just to be absolutely clear, the chair

has asked that you come up and say the same.
I'm sorry, your attorney has motioned that
he'd like to clarify something.

MR. GENE LANHAM: One thing, it's subject to
the terms of the lease. We don't know what -- we've
been told what the royalties and the terms were
vaguely. It's somewhat unfair and certainly not
intended, but for us to be saying we would sign the
application and go forward. It depends on what the
obligations of the lease were.

MR. SILVERT: Well, ascending to the change in
-- would you agree, if I could bring you back up.
Would you agree that ascending to the change in zoning
is different to whether or not you ascend to the terms
of their lease. Those are two different issues.
Whether or not you would be okay with this rezoning or
would you be --

MR. GENE LANHAM: Exactly. With respect to --

CHAIRMAN: Excuse me. Just logistics. Would
you move over so we can get you on the mike, Mr.
Lanham.

MR. GENE LANHAM: Sure.

MR. SILVERT: Here's what I'm stuck with.
We've got an application that is signed by somebody
that claims to be the property owner.

MR. GENE LANHAM: I think they are the owner.

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MR. SILVERT: You think they are the owner?

MR. GENE LANHAM: Yes. There's no question about that.

MR. SILVERT: Then I don't think we need to move forward. If they're the owner just because you have some type of secondary right of the property through your mortgage or something like that, that's no different than any other bank in my opinion. If they're the property owners and they signed it, you agree that they are the property owners, then let's move forward.

MR. GENE LANHAM: That's right. That's right. I didn't want to hold up anything at all.

With respect to what you're saying -- Count I we filed for a foreclosure which would be at a public sale. Count II is in the alternative it's going to direct the royalties to my clients go forward. Either way we have no objection to this application. We have no objection.

CHAIRMAN: Mr. Lanham, would you be seated and now -- would you move to the podium there and just affirm what your attorney, Mr. Lanham, has said. You agree to everything that Mr. Lanham has stated on your behalf?

MR. BOLING: Correct, sir.
CHAIRMAN: You may be seated unless you want to make a further comment.

Thank you very much.

Now, at this point in time are there any other questions or comments from anybody in the audience?

Yes, ma'am.

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

MS. PAYNE: My name is Ruth Payne.

(RUTH PAYNE SWORN BY ATTORNEY.)

MS. PAYNE: I have some concerns concerning my home that I have on Free Silver Road. I'm wondering how many feet restrictions does the coal company give me to protect my property?

CHAIRMAN: I will get a list of questions and then we'll bring him back up. Do you have some other questions, Ms. Payne?

MS. PAYNE: That's the main question that I have. Is how far away does the coal company have to stay from my house? I have a story and a half brick home with a walkout basement. I also have two concrete porches, one on each side. I'm afraid when the blasting starts that my house is going to start cracking.

CHAIRMAN: Is your husband Joseph Payne?
MS. PAYNE: No, I don't have a husband, sir.

CHAIRMAN: Well, there's an Edward Payne and a Dorothy.

MR. NOFFSINGER: Ma'am, we're trying to locate you on the map.

MS. PAYNE: It's 4667 Free Silver Road.

MR. NOFFSINGER: And we do not have the addresses. We have Dorothy Payne and Edward Payne, Thomas Payne, Joseph Payne, Terry and Perry Payne.


CHAIRMAN: Edward Payne would be Number 6. We're just trying to locate you on the map.

MS. PAYNE: My property runs to Pence Road.

CHAIRMAN: Mr. Noffsinger, can you help us with that?

MR. NOFFSINGER: Yes, sir.

The local zoning ordinance requires that the mining company stay at least 100 feet away from a public right-of-way and at least 300 feet from a residential structure. So your buffer would be 300 feet from your actual, any part of your structure.

MR. APPLEBY: I think it's from the property, isn't it?

MR. NOFFSINGER: It is from the structure.
MR. APPLEY: Is it?

MR. NOFFSINGER: Yes. That is consistent with the state requirements as well. Now, if they were to mine closer than that, then they would have to obtain a Board of Adjustment, a Variance from the Board of Adjustment and it would take your consent to allow them to mine closer than 300 feet to your structure. There would be another public hearing before a different board to address that.

MS. PAYNE: Thank you.

CHAIRMAN: Do we have any other questions from anybody in the audience?

Yes, sir.

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

MR. PALMITER: Morgan Palmiter.

(MORGAN PALMITER SWORN BY ATTORNEY.)

MR. PALMITER: My name is Morgan Palmiter. I live at 4349 Ridge Road. I also had some concerns with distance from the property which you answered with Ms. Payne.

One question I do have is, is there anything that monitors any property damage, anything that pre-existing? Is there anything in place where -- because I just built a home probably two months ago on Ohio Valley Reporting

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Ridge Road. This is going to go probably on two sides of me. I'm just curious what protection.

MR. NOFFSINGER: Yes, sir, there is. There's a requirement of a preblast survey. I think at this point we would need to defer to the applicant to address how he intends to handle those preblast surveys in that area and how far out they're going and how far you are from the mining area.

MR. PALMITER: One other question that you all have pretty well answered. It's 300 feet. So if my house is, if my property line is more than 300 feet, they can come right up to edge of my property. Did I interpret that correctly?

MR. NOFFSINGER: Yes, sir.

MR. PALMITER: Thank you.

CHAIRMAN: The preblast, Mr. Lanham, do you want to address that or do you want to have your engineer?

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

MR. RYE: Timothy Rye.

(TIMOTHY RYE SWORN BY ATTORNEY.)

MR. RYE: Good evening.

CHAIRMAN: Mr. Rye, did you understand the question about the concern about blasting? Would you
respond, please?

MR. RYE: Preblast survey, the state does require the company to offer each residence within a half mile a preblast survey on their property. Everybody will receive a notice within the next month or two months offering that from a company called Vibronics out of Evansville. That's who we've hired to conduct these surveys for us. We'll be getting those out soon.

CHAIRMAN: Thank you very much.

MR. NOFFSINGER: I do have a question. Do you know if this gentleman, if his home would be within that area and he would be --

MR. RYE: He is.

MR. NOFFSINGER: This is a requirement by the state. It's not at the local level. It is at the state level that these preblast surveys are required and they're actually, I guess, filed with the State Mine & Minerals.

MR. RYE: There will be a copy filed with the Department of Surface Mining. The homeowner will get a copy and our company will have a copy in our office also. It is required by the department certifying at the state level that they be done.

CHAIRMAN: Thank you.

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Are there any other questions from anybody else in the audience?

Yes, sir.

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

MR. PAYNE: Thomas Payne.

(THOMAS PAYNE SWORN BY ATTORNEY.)

MR. PAYNE: The preblast survey sounds pretty generic. I didn't really get any information on what actually is going to be done.

CHAIRMAN: Let me ask you to be seated and we'll bring him back.

Could you be a little bit more detailed? Let me ask you to step back to the podium.

I'm sure you gave a correct response, but would you be a little bit more detail about what actually -- I know obviously you're hiring an independent company to do these surveys, and I know you're not going to be doing these surveys, but in a generality would you give Mr. Payne about what will take place during a survey at his house.

MR. RYE: Once he accepts the offer to have a preblast survey done, they will come out. They will survey the home.

MR. NOFFSINGER: Excuse me, sir. I need to
interrupt you at this point. Could you speak closer
to the microphone and pull it up to you. Some people
might be having trouble hearing you.

MR. RYE: Once he accepts his preblast survey,
it will have the notice on there for him to contact
Vibronics, Incorporated out of Evansville. They will
come out and do a preblast survey on his house. They
will survey the structure, any concrete, any
inside/outside damage that might be there prior to the
blasting occurring. All that will be completed prior
to any blasting on our part on the mine site. They
look for drywall cracks, cracks in the mortar on the
brick, sidewalk cracks. If there's another structure
building, garage, separate from the home, they'll
review those also. They'll take pictures. They will
document all of it. What their determination is with
what may be the problem, settling of the ground, so on
and so forth. All of that be will documented clearly
in the preblast survey.

MR. APPLEBY: Homeowner gets a copy of that I
assume?

MR. RYE: Pardon?

MR. APPLEBY: The homeowner gets a copy of the
preblast?

MR. RYE: Homeowner gets a copy. We have a

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copy. The state has a copy.

    MR. APPLEBY: So the homeowner, if they don't agree with it they can dispute?

    MR. RYE: They can dispute it. If there's any problem with them -- this is a protection for the homeowner and for Western Kentucky Minerals. If anything happens after that, then we know it was caused by the blasting. We want it to be correct as much as the homeowner does. We want all the documentation there so if they have a problem, they can contact Vibronics and Vibronics will respond. They can contact us. So either way. We'll make sure it's done right.

    CHAIRMAN: Mr. Payne, step back.

    Do you have any further questions in regard to the survey?

    MR. PAYNE: No. I just wanted to know just a little bit more about what he was talking about.

    CHAIRMAN: Thank you.

    Are there any other questions from anybody else in the audience?

    (NO RESPONSE)

    CHAIRMAN: If there are no further questions, any questions from the commission?

    (NO RESPONSE)

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

MR. APPLEBY: Mr. Chairman, I make a motion for approval based on the Staff Recommendations with Findings of Fact 1 through 6.

CHAIRMAN: We've got a motion for approval by Mr. Appleby.

MR. PEDLEY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously. Next item, please.

ITEM 4

5541 Highway 54, 0.722 acres Consider zoning change: From R-1A Single-Family Residential to I-1 Light Industrial Applicant: Bruce A. Hardesty

PLANNING STAFF RECOMMENDATIONS

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

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 Rural Ohio Valley Reporting

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Community Plan Area, where light industrial uses are appropriate in limited locations;

3. The subject property is located within the Rural Community of Philpot which has existing mixed uses and zonings; and,

4. The subject property is located at the corner of intersecting streets and is major-street oriented with road frontage on Highway 54.

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

CHAIRMAN: Is there anybody representing the applicant?

APPLICANT REP: I'm the applicant. I'm here.

CHAIRMAN: We do have a representative. Do we have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Would the applicant like to make a statement?

APPLICANT REP: No.

MR. APPLEBY: Is chair ready for a motion?

CHAIRMAN: Chair is ready for a motion, Mr. Appleby.

MR. APPLEBY: Motion for approval based on the Staff Recommendations with Findings of Fact 1 through 4.

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

MR. TAYLOR: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 5

102 West 9th Street, 0.875 +/- acres

Consider zoning change: From I-1 Light Industrial to B-2 Central Business

Applicant: Calvary Wesleyan Church; The Malcolm Bryant Corporation

PLANNING STAFF RECOMMENDATION

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

CONDITION:

Submission and approval of an amended final development plan.

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 central business uses are appropriate in very-limited locations;

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3. The subject property is located within the downtown overlay districts as adopted by the City of Owensboro and the request is consistent with the concepts of the plan;

4. The use of the property as a church will be nonresidential in nature;

5. The proposed zoning change is a logical expansion of existing B-2 zoning on the subject property; and,

6. The B-2 zoning classification will promote the redevelopment of an existing building on the site to provide a church facility in the near-downtown area.

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

CHAIRMAN: Is there anybody here representing the applicant?

APPLICANT REP: I'm the applicant.

CHAIRMAN: Be noted that the applicant is here.

Does anybody have any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: If there are no questions of the applicant, does anybody on the commission have a
CHAIRMAN: If not the chair is ready for a motion.

MR. PEDLEY: Mr. Chairman, I make a motion for approval based on the Staff Recommendations and Findings of Fact 1 through 6.

CHAIRMAN: We've got a motion for approval by Mr. Pedley.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously. Next item.

MAJOR SUBDIVISIONS

ITEM 6

Hunters Ridge, 3.03 acres
Consider approval of amended major subdivision preliminary plat.

Applicant: Hunters Ridge, LLC

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. The use of the property is consistent with the Ohio Valley Reporting

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underlying zoning and it's ready for your
consideration.

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

CHAIRMAN: Let the record note Mr. Pedley is
disqualifying himself.

Is there anybody here representing the
applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. ALLEN: Second.

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

(ALL BOARD MEMBERS PRESENT - WITH THE
DISQUALIFICATION OR WARD PEDLEY—RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

It looks like we will be ready for one final
motion.

MR. PEDLEY: Motion to adjourn.

CHAIRMAN: Motion for adjournment by Mr.
Pedley.

FATHER HOSTETTER: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

We are at adjourned.

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

I, LYNNETTE 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 31 typewritten pages; and that no signature was requested to the foregoing transcript.

Witness my hand and notary seal on this the 1st day of August, 2011.

LYNNETTE 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

Ohio Valley Reporting
(270) 683-7383