The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, January 12, 2012, 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 Kazlauskas
Jason Strode
Fred Reeves

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CHAIRMAN: I would like to welcome everybody to the January 12th meeting of the Owensboro Metropolitan Planning Commission. Will you please rise while our invocation will be given by Mr. Gary Noffsinger.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business will be for Mr. Silvert to swear in our new inductees to the commission.

MR. SILVERT: We have two new members of the Owensboro Metropolitan Planning Commission.
commission tonight.

If Jason Strode and Fred Reeves both stand and
at the end of the oath if you agree just say, "I do."

(SWEARING IN OF JASON STRODE AND FRED REEVES.)

CHAIRMAN: Mr. Silvert, I also turn the
election of officers over to you.

MR. SILVERT: Every January we have the
election of officers. We have a chairman, a vice
chairman and also a secretary.

So I would like to open up the floor for
nomination for the office of chairman.

MR. APPLEBY: I nominate Drew Kirkland for
chairman.

MR. SILVERT: Is there a second?

MR. PEDLEY: Second.

CHAIRMAN: Does Mr. Kirkland accept the
nomination?

MR. KIRKLAND: Yes, sir, I do.

MR. SILVERT: Are there any other nominations?

MR. PEDLEY: I make a motion that nomination
cease and Mr. Kirkland be elected by acclamation.

MR. SILVERT: Is there a second.

FATHER HOSTETTER: Second.

MR. SILVERT: All in favor raise your right
hand.

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(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. SILVERT: Congratulations, Mr. Chairman.

Now is the office of vice chair.

MR. APPLEBY: I make motion to nominate Mr. Pedley as vice chair.

MR. SILVERT: Is there a second to the nomination?

CHAIRMAN: I'd like to second that nomination.

MR. SILVERT: Mr. Pedley, do you accept the nomination?

MR. PEDLEY: I do.

MR. SILVERT: Are there any other nominations for the position of vice chair?

CHAIRMAN: I move that nomination cease.

MR. APPLEBY: Is there a second?

MR. APPLEBY: Second.

MR. SILVERT: All in favor of electing Ward Pedley as vice chair please raise your hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. SILVERT: Congratulations, Mr. Pedley.

Now the office of secretary.

CHAIRMAN: I'd like nominate Mr. Dave Appleby for secretary.

MR. TAYLOR: Second.

MR. SILVERT: Any other nominations for office

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of secretary?

CHAIRMAN: Mr. Silvert, I'd like to move that the nomination cease.

MR. SILVERT: Is there a second?

MR. WALLY: Second.

MR. SILVERT: All in favor of electing Mr. Appleby as secretary please raise your hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MR. SILVERT: Congratulations.

Mr. Chairman, I turn it over to you.

CHAIRMAN: Thank you, Mr. Silvert.

Our first order of business is to consider the minutes of the December 12, 2011 meeting. Are there any questions, corrections?

(NO RESPONSE)

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

MR. PEDLEY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

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, Mr. Noffsinger.

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ZONING CHANGES

ITEM 3

3820, 3900 West Parrish Avenue, 12.787 acres
Consider zoning change: From B-4 General Business to I-1 Light Industrial
Applicant: Allen Investments, LLC; WRP Investments, LLC

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

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: I will note that all zoning changes heard tonight will become final 21 days after the meeting unless an appeal is filed. If an appeal is filed, then we will forward the recommendation from the Planning Commission along with the Staff Report and others to the appropriate legislative body for their final action.

PLANNING STAFF RECOMMENDATIONS

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

CONDITION:

Access to West Parrish Avenue shall be limited to the exiting ingress/egress easement only.

FINDINGS OF FACT:

1. Staff recommends approval because the Ohio Valley Reporting
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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 proposal is a logical expansion of existing I-1 Light Industrial zoning to the north;

4. At 12.787 acres, the proposal does not significantly increase the extent of industrial zoning in the vicinity; and,

5. With access limited to the existing ingress/egress easement, the proposal should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

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

CHAIRMAN: Is there anybody here representing the applicant?

MR. SULLIVAN: Yes.

MR. SILVERT: State your name, please.

MR. SULLIVAN: Mike Sullivan.

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

MR. SULLIVAN: Good evening, Mr. Chairman,

Members of the Commission. My name is Mike Sullivan.

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I represent one of co-applicants, Wayne Supply. Wayne Supply is an equipment dealer who is planning to bring its business here in Owensboro at this location. I have with me tonight Joe Yoerg, CFO, Richard Scott, Vice President of Western Operations, and Mike Morris, branch operations manager in Evansville who will be in charge of this operation. Jason Baker with Bryant Engineering is also here. This business is essentially consistent with the businesses that have been in this location over the years being a boat dealership and an RV dealership currently.

We're here to answer any questions you may have or any members of the public may have.

CHAIRMAN: Thank you, Mr. Sullivan. Does anybody from the audience have any questions?

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

MR. SCHNEIDER: I'm Derek Schneider, 1916 Airport Road.

(DEREK SCHNEIDER SWORN BY ATTORNEY.)

MR. SCHNEIDER: I have a presentation I would like to share with the committee. Is it possible to put on the overhead?

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CHAIRMAN: Yes.

MR. SILVERT: Are you okay with this being submitted in the record at the end as an exhibit.

MR. SCHNEIDER: Yes, I have a copy.

Mr. Yoerg, I have copy for you also.

I would like to discuss the issues concerning the rezoning of the two sectors.

The photograph you see there is the area in question. I just want to make sure that we're looking at real land. Everyone understands what we're talking about.

Next slide, please.

First of all, I just want to quote from the county zoning objective. The objective is "To require buffering between non-compatible land uses; and to protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods."

Gentlemen, that is your charge.

Next slide, please.

Once again, you see the land in question. This is a photograph from the Messenger-Inquirer March of last year where it's cited one of the most beautiful places in Owensboro.

Next slide, please.

A view from the property showing Allegiant Ohio Valley Reporting (270) 683-7383
airline landing. As people approach to Owensboro, their first view will be this land. What impression do you want this community to be in the eyes of its visitors?

There's the land looking out from the aircraft wing.

Looking out the window that is what you will see today. It's up to you to decide what they'll see in the future.

It's hard to see here, but the preliminary development plan is on the left. The satellite view is on the right. I have blown it up to be easier to see.

You see the residential property which is on the right in the last slide. It's on top now. North is to the left. It shows there is a planned service building adjacent to the residential property. The plan calls out for a 10 foot buffer with a 6 foot high partially opaque fence right out of the building code. That sounds wonderful.

Next slide.

That's what it actually looks like. That is a 6 foot partially opaque fence covering a service area. That's taken from 100 feet away. I want you to envision that not 10 feet from your backyard.

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What does the zoning ordinance actually state?

A 6 foot fence partially opaque is not required.

173-114 states that two staggered rows of evergreen trees planted can be substituted for this fence, which will be more obscuring and more in line with the charter with the aesthetics of the neighborhood.

Next slide.

Discuss the service building, in the aerial view above, the area circled is the land in question.

Next slide, please.

On the left you'll see there's another similar building as planned. The airport is on the south or the bottom of the picture. You notice the land in question is basically the same distance with buildings to the west as buildings discussed would be in the east.

In speaking with Mr. Yoerg, we've been told that the service building would have to be located to the east of the property rather than the west side because of airport regulations. However, there's currently buildings the same distance as they use the west side of the property and move it further away from the residential area. So I was told that that was due to airport zoning regulations. I would like to see that in writing.

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Next slide, please.

This is the actual Airport Zoning Regulation Commission with it cited below that an object has to be over 500 feet to be considered an airport obstruction or over 200 feet, if within three miles. This is within three miles of the airport and unless it is a 20 story building, it's planned to be erected. It will not be an influence, objection or obstruction at the airport. Therefore, the building could be placed on the west side of the land rather than the east side, further from the residential areas.

Next slide, please.

What you see here, I'll read to you. In order to comply with this board's charter of protecting, preserving, promoting the aesthetic appear, character and value surrounding the neighborhood when there's two non-compatible land uses, residential and industrial in this case, beside each other.

The following recommendations request:

1. Fencing:
   * That instead of 6 foot opaque fence, the two staggered rows of evergreen trees be planted instead.
   * If for some reason a barrier must be maintained, another option also called out in the Ohio Valley Reporting
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regulation would be a solid wall of eight feet, which
would be either be brick or wood. That would also be
acceptable.

2. Service building location. The service
building location being placed on the west side would
not violate the Airport Zoning Regulations. It would
move it further from the residential areas and be less
affective to the aesthetics.

If these accommodations cannot be made, then
the request would be that you do not rezone the area
to industrial. Thank you very much.

CHAIRMAN: Mr. Schneider, why don't we just
summarize. The staff and the commission here is aware
of the zoning requirements. I appreciate you pointing
it out, but we have got a grasp for that.

Why don't you summarize 1, 2, 3 what your
questions are and we'll bring Mr. Sullivan to the
podium.

MR. SCHNEIDER: Mr. Kirkland, I'm glad you're
aware of the issues. I was not questioning you. I
was speaking to the public. I want to make sure they
knew.

CHAIRMAN: I was just responding to your
comments.

MR. SCHNEIDER: Basically item one is the
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6-foot opaque fence. Although, is within regulation, is not the only option.

CHAIRMAN: Item 2. I'm just going to try to summarize for Mr. Sullivan.

MR. SCHNEIDER: We request that a double line of evergreen trees larger. They would grow much higher. Would cover any service building and separate the residential from the industrial zone better than the 6-foot fence. If that could not be done, then the higher wall would also be --

CHAIRMAN: In other words, you'd rather have the evergreen trees rather than --

MR. SCHNEIDER: I would rather look at trees than a fence with a service sector behind it.

CHAIRMAN: What are your others? The moving of the building?

MR. SCHNEIDER: Moving of the building. Move it further away from the residential area. To the west side. It's open property. Closer to the airport which does not violate the state Airport Zoning Regulation.

Third one, if these cannot be done, all the charges, all your rules, gentlemen, deny this as it has due influence on the aesthetics and property value of the area.
CHAIRMAN: Is that complete?
MR. SCHNEIDER: Yes, sir.
CHAIRMAN: Thank you, Mr. Schneider.
Mr. Sullivan.
MR. SULLIVAN: Thank you.
We appreciate Mr. Schneider's comments and we've talked to Mr. and Mrs. Schneider and are aware of their concerns and understand their concerns.
In regard to those evergreens, we don't have a problem with that. If that complies with the ordinance having those staggered rows of evergreens, that's not an issue with my client.
CHAIRMAN: Mr. Sullivan, wait a minute.
Brian, would you step to the podium and address that so we can go over these one by one.
The rows of evergreens.
MR. HOWARD: Right.
CHAIRMAN: Evergreen trees, will that be okay?
MR. HOWARD: The zoning ordinance does allow a double row of staggered pines, as an alternative to the 6-foot tall fence.
CHAIRMAN: Okay. So no problem.
MR. HOWARD: As long it provided the same, 80 percent opacity of screening requirement.
CHAIRMAN: Mr. Sullivan, the moving of the Ohio Valley Reporting (270) 683-7383
MR. SULLIVAN: Well, I would say the photograph that Mr. Schneider showed you was actually the RV dealership building that's right in front of our building, of where our building might be.

Just for your information, that building is actually already there and, I guess, within Mr. and Mrs. Schneider view, it's a B-4 use. I defer to Mr. Noffsinger about this. But essentially they could do what they've done and that's what it looks like.

In regard to our service building, there's no current plans for it. It might be in the plans five or ten years from now. It just depends on how business develops there. I will tell you this: It's not the Kentucky Airport Zoning Regulations that causes a problem. The airport has Avigation Easements over these properties. These aren't in regulations. They're in the Daviess County Clerk's Office. They're pursuant to the FAA Regulations place certain restrictions on what you can and can't do on your property from a height perspective. The problem is that these Avigation Easements are usually trapezoidal in shape. They fan out from the centerline of the runway. The farther you get from the runway, the less restrictive, the height restrictions are. The west
side, the west side of these properties has a more
restrictive height limit than the east side of the
property. We can't agree to that restriction because
it could be that we cannot build this building on the
west side of our lot.

CHAIRMAN: Thank you.

MR. SULLIVAN: Again, we don't even know if
we're -- it's not in our plans right now. It's just a
possibility in the future.

CHAIRMAN: Are you completed, Mr. Sullivan?

MR. SULLIVAN: Yes, sir.

CHAIRMAN: Mr. Schneider.

MR. SCHNEIDER: I request that I be given in
writing the specific ordinances that he discusses with
the restrictions from the airport. So if he has them,
I'd like to have those in writing. He has them right
there with him.

CHAIRMAN: Mr. Sullivan just happens to have
them.

MR. SCHNEIDER: The other question is since
the building is a very similar service building to the
west side of the airport is within the same zone, I
can't imagine that he'd build a high enough building
that would trigger that. I understand we're talking
about in the future; however it still affects us.
MR. SULLIVAN: This isn't just for the zoning. There's some other -- we've got a few other things going on with that property. There is a 1967 Avigation Easement dated April 29, 1967 recorded in Deed Book 360 Page 117 in the Daviess County Clerk's Office which covers part of this property.

There is also an Aviation Easement covering the property owned by WRP Investments, LLC dated April 10, 2006 recorded in Deed Book 815 Page 90.

There is a March 22, 2006 Avigation Easement after, all of these to the Owensboro-Daviess County Regional Airport Board. That's March 22, 2006 Aviation Easement is in Deed Book 814 Page 155. I'll be happy to provide a copy of those to you when I get back to the office. I can e-mail them to you.

CHAIRMAN: Thank you, Mr. Sullivan.

Does anybody else in the audience have any questions?

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

MR. MOSS: My name is Sammie Moss.

(SAMMIE MOSS SWORN BY ATTORNEY.)

MRS. MOSS: I'm Sammie Moss. My husband is Steve Moss. We live at 1950 Airport Road. Unfortunately he couldn't be here tonight.
because he's retiring and he's spending his last two
days of work in Kansas.

I have concerns. Our property also backs
right to this, right immediately to this property that
they're talking about putting this on. I totally
object to it. We don't want it at all. Being no
fence, trees. I'm not as organize or as eloquent as
Mr. Schneider, my neighborhood.

The concerns we have -- unfortunately the
weather tonight has made some of the people who are
concerned not be able to come because we have some
older people in the neighborhood.

There's a large ditch that runs between our
property and Cambron's property and Todd Johnson's
property that on one side is real low and the other
side is high. We're concerned about the drainage from
this facility and how much. We're concerned about the
noise. We're concerned about the dirt. We're
concerned about the road traffic. It's not anything
we want over there. We're residential. We've all got
families. We've got a lot of older people.

I don't see this as a business that belongs
there. This business belongs somewhere out where the
dirt and the dust and stuff is not going to be a
problem to anybody's homes and their things.

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If you gentlemen would at least consider, do I
want this in my backyard? If you can honestly say,
yes, then let's put it there. You know, it's not
anything we want, and I want to file the papers for a
continuous because we don't want to deal with it. My
husband will be more of the talker when we gets back.
Anyway, if you could tell me how to go about doing the
papers to continue this on.

CHAIRMAN: Are you referring to an appeal?
MS. MOSS: Yes.
CHAIRMAN: He'll be glad to help you.
MS. MOSS: That's all I have to say, but I'm
really concerned. Like I said, if you want it in your
backyard, you're welcome to it.
CHAIRMAN: As far as the appeal is concerned,
I think you need to wait at least until we vote
because you don't know. You did a very nice job.
Your husband would be very proud.

Mr. Sullivan, she raised several questions.
MR. SULLIVAN: I'm not sure about the ditch.
As you all know, any new construction that we may put
on that property, we have to submit a development plan
to you to make sure that we have no adverse impact on
drainage on any of the neighboring land. So I don't
think that will be a concern.

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This is an equipment dealership. There is not going to be a large amount of activity that will stir up dust or cause any other disturbance to the neighbors.

This company has been in business for 100 years. They've been good neighbors everywhere they've been. They'll commit themselves to be good neighbors here. I don't think the use will be much different than what you would see, this is zoned B-4, any other business that may come to this property, including the RV business that's right in front of it.

I ask that you adopt, you approve the application pursuant to the findings of the Staff.

CHAIRMAN: Who is representing Wayne Supply?
MR. SULLIVAN: Me.
CHAIRMAN: I understand that.
MR. SULLIVAN: Who is here for Wayne Supply?
CHAIRMAN: Yes, for Wayne Supply.
MR. SULLIVAN: Joe Yoerg, the CFO, Richard Scott, VP of Western Operations, and Mike Morris, Branch Operation Manager in Evansville. You want any of them to come up here?
CHAIRMAN: Yes. Whichever one. I just have a couple of questions about the operation.
MR. SULLIVAN: Richard.
MR. SILVERT: Could you state your name, please?

MR. SCOTT: Richard Scott.

(RICHARD SCOTT SWORN BY ATTORNEY.)

CHAIRMAN: Mr. Scott, exactly what type of equipment in sales do you anticipate having here?

MR. SCOTT: We believe a significant portion will be agricultural oriented. There will certainly be some rental business. Some small earth moving equipment.

As we mentioned, Mike Morris is our vice president and branch manager of Evansville. This will be a satellite operation of our Evansville operation. So all the major type of repair work, very large machines will continue to operate out of Evansville.

CHAIRMAN: Your display areas and your surface areas of the display area are going to be what?

MR. SCOTT: Primarily along the front of the building, along the road so that they've visible from the highway. We will have a yard or an area, which will be on the left side over where the existing buildings are. We will have an area there where we will store equipment. Again, this being a satellite operation, we don't envision there will be a significant number of machines there. I'd hate to
give you a number, but typically some of other small satellite facilities will have 15 to 20 pieces of equipment. Maybe 30. Depending on the time of the year. There's a bunch returned during the wintertime.

CHAIRMAN: I mean your surface.

Mr. Howard, what I was getting to is like his surface will be, is a majority of it going to be paved?

MR. HOWARD: The zoning ordinance does allow an exception to the full pavement requirement for large farm equipment dealers. Where the drive aisles and any of those have to be paved, but the actual location where the large equipment would rest can be gravel due to the weight of the equipment. There is that provision. They did include a site plan that does show some gravel areas, but it should be noted that if they have an area dedicated solely to outdoor storage of equipment, not for display of sale or rental, that would be required to be fenced in by a 6-foot tall solid fence, but the areas for display could, based on ordinance, be gravel with paved drive aisles.

You could, as a commission, put that provision on. Granted in this instance that does require a development plan to be submitted in order to ask for
that exception.

CHAIRMAN: Mr. Kazlauskas.

MR. KAZLAUSKAS: Mr. Chairman, I want to follow up on that because if this is going to be large equipment in there and that ground is going to be wet and just gravel, isn't it still going to be deformed? How are you going to keep from that ground being deformed even if gravel is there if it's not paved?

MR. HOWARD: That's a good question. They would know the size of their equipment better than I would. The provision is there also for manufactured homes to rest on gravel as an alternative due to the weight could damage the concrete or asphalt that's in place. I'm sure the applicant could address the site, the equipment, the weight and maybe pavement would be a better option.

MR. SCOTT: Again, the majority of the equipment is rubber tire, either rubber or on rubber tracks. There will be some steel track, but it will be mostly small machines. Again, there will be very few that will be there.

CHAIRMAN: When you speak equipment, what type of equipment would there be? You're not going to have any cranes or excavators or dozers or anything like that?
MR. SCOTT: We're not a crane distributor so, no, I can't imagine there being any cranes there. Excavator, yes, there could be some excavators there. Again, not the very large ones, but there could be on occasion a rental that's dropped offer and returned before we transport it to another location. That's certainly possible.

CHAIRMAN: You'll just be unloading or loading this piece of equipment?

MR. SCOTT: For the most part, yes, sir, that's correct.

MR. NOFFSINGER: Mr. Chairman, I do need to state for the record that we're not here to consider the development plan tonight because one has not been filed. However, in the future, there will be need for a development plan to be filed. I just want to caution the applicant that the exemption in the ordinance is for farm machinery. Now, if you have cranes and dozers and items like that, those items will have to be on a paved surface or they will have to be enclosed on all sides by a six foot hide solid wall or fence as Mr. Howard described. I want to make sure that you understand that going into this. That, yes, there is an exception for large farm vehicles, but it's only for large farm vehicles. It is not for
dozers and cranes and things of that nature.

MR. SCOTT: Again, appreciate you bringing that up. We have every intention of complying with whatever ordinance there is. So that won't be an issue.

MR. NOFFSINGER: Thank you.

MR. SCOTT: To address Mr. Schneider. Our intention, we would prefer if we were to build another building, which there are no plans at this point to do that, we would want it on the left side. We don't want to put it on the right side because it's not efficient for where the rest of the buildings are. However, we were advised that that was impossible. If that turns out to be different, that is what our plan would be, is to put it on the left side if, again, we were ever to do that.

CHAIRMAN: Thank you. Have we answered your questions?

MRS. MOSS: No, not really. Everything he's saying is good, but it's all ifs, ands and buts. If. If. It alls comes down to if it's done into this, you know. The land is switched over to the light industrial, if the zoning is changed to light industrial, do you usually do that for one's company? Is that something that's done for one company, right
beside a residential neighborhood? It doesn't seem right to me. He keeps saying and talking about the old Boatman building and the other buildings and stuff. That's a whole different ball game. They're intrusive, but they're not as intrusive as I think large equipment would be.

His plans down the road, we all plan to be there down the road too. We're going to live there. We've got major investments in these homes. We plan to be there in five years. In five years, we still don't want that building there. We don't want all them bulldozers there. We don't want all them tractors there. We don't want it.

I'm just concerned that their if, and this might be, and that could be, and we might do this.

CHAIRMAN: If they do certain things, then they must meet certain criterias.

MRS. MOSS: Yes, but I don't like the criteria.

CHAIRMAN: The if's are if they do it, then there are criterias they must be.

MRS. MOSS: I know, but the ifs are --

CHAIRMAN: The ifs aren't on our side.

They're on their, if they do something.

MRS. MOSS: Right. But I don't like the
criteria. I just don't like it.

MR. NOFFSINGER: Right now the property is
zoned B-4 general business. So right now they could
go in on that property and build buildings wherever
the zoning ordinance and wherever the Aviation
Easements will allow them. They're not restricted to
the left side or the left right side of the ordinance
or by any action that this commission takes. Right
now the property could be used to sell recreational
vehicles, boats. It could be restaurants. It could
be fast food restaurants, sit-down restaurants. It
could be a tattoo parlor. There are a number of uses
that could be put to that property without this
commission's approval because it's already zoned
commercial. It's not agricultural. It's commercial.

Now, they're asking for this rezoning to
industrial, and generally a rezoning to industrial is
usually more incompatible with residential type uses
than commercial. However, what they are proposing to
do with this property is to sell large farm equipment.
So at this point in time we know what they're telling
us. That we want to rezone this property because the
only way we can sell this type of equipment is if we
rezone. So that I think we do know.

Now, down the line if could be used for some
other use that's allowed in the industrial zone.

MRS. MOSS: That's what I'm saying. If it's zoned to a light industrial, say they decide to back out of the whole deal, then it's been rezoned for something else. I'm just concerned that -- we just don't want that big equipment back there. We live in a very peaceful nice little neighborhood. The airport is only minor intrusive because an airplane comes in and it's there for a minute and half and it's gone. You don't hear it any more. That kind of stuff.

We're a quiet nice neighborhood with a lot of nice people. I just don't see this as something that's going to benefit us at all. As a matter of fact, I think it's going to be a deficit to our property values and to, like I said before, I just don't want it in my backyard.

MR. NOFFSINGER: One thing also to keep in mind is that the airport, in terms of their operations, they consider industrial uses to be more compatible with their operation than residential uses. The Airport Board, the Kentucky Airport Zoning Commission has been before this commission and stated just that. That in these areas they would like to see either agricultural crop production on the properties or some type of industrial use. The airport is in the Ohio Valley Reporting (270) 683-7383
process of promoting properties they own for future industrial development. Residential is generally not acceptable in these areas because of the flights and the noise that's being made.

That's why the comprehensive plan is a favorable recommendation to this rezoning, is because of its proximity to the airport.

MRS. MOSS: Yes, but you can go around that airport in 50 different directions and have all the land you want. There's land everywhere. Fifty times a day as I drive around Owensboro I pass places that would be suitable for this kind of business. I just don't think where they're wanting to put it is suitable because it's next to me, of course. We have all of this industrial land out on the other side of the airport where all the factories are and stuff. That whole industrial park. They want to be close to the airport. There it is. I mean it's open. I just don't see that this is a good thing for our neighborhood.

MR. ALLEN: Mrs. Moss, what exactly are you most afraid of that's going to happen out there? Is it noise? Is it the view?

MRS. MOSS: It's noise. It's the drainage. I wonder kind of lighting they're going to put up.
there going to be this big light show in my backyard? Of course, the fence, the noise, the dirt. You don't move big equipment without a certain amount of dirt and noise and dust. A semi coming up getting a good piece of equipment it's not quiet. I think it's going to be disruptive to the whole neighborhood.

MR. ALLEN: Do you anticipate going on consistently all day and night? Is that kind of what you see?

MRS. MOSS: I don't have any idea. You know, it's hard to know. If it's there, it could. You know what I mean? If it's there, it most certainly could. I just think there's so many places in Owensboro that you could put this kind of operation that wouldn't bother anybody. I just don't see that it's a good place to put it.

I just plead with you to vote against it. Thank you.

MR. SCOTT: Mr. Chairman, if I could.

CHAIRMAN: Yes, sir.

MR. SCOTT: Mrs. Moss, we have 15 locations in Kentucky and southern Indiana. Over half of them are in --

CHAIRMAN: Sir, actually direct it to the chair so we don't get in cross conversation like that.
MR. SCOTT: Over half of them are in what would be perceived to be residential areas. We are very, very sensitive to this. We have no plans to put any additional lighting on the facility.

As I said, our mission stated, it talks about our commitment to the community. I think once we're here I'm quite confident that their concerns will be alleviated because the worst case scenarios that they're envisioning in their mind will not happen because we just don't have those plant. As I said, over half of our facilities are in what would be perceived residential areas. We're very sensitive to that and we will commit that we'll do everything we can to be the good corporate citizen that we have been in all our other facilities, and we will be here as well.

MRS. MOSS: I could ask your, sir --

CHAIRMAN: Ma'am, please direct it to the chair. We don't want any cross conversation.

MRS. MOSS: We went around and looked at aerial view of some of their properties. Junk piles. I'm sorry, they're not well organized, clean looking. They're not. I don't know. You can do the same thing. You know, unless you visit them or seen them. All we did is gone online and look at aerial views of Ohio Valley Reporting

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their other properties. They weren't nice. You know.
It's strictly an industrial thing. That's my opinion.
He's going to argue different. You can do it if you want.

MR. SCOTT: Mr. Chairman, if you would, I have pictures of every one of our facilities. I'd be very happy to bring them to you right now so you can look at them.

CHAIRMAN: Feel free to do that. Thank you.

Anybody else from the audience have a comment?

(NO RESPONSE)

CHAIRMAN: Limit it to one or two photos, please.

Are there any more comments from the audience?

MRS. MOSS: Like I said, I think most of the people on our street are older people and wouldn't get out tonight.

Mr. Chairman, I would also say that I don't know how much money you all think this is going to bring to the area, but I don't see it as a big job maker or a big financial woe for the county. I may be wrong about that because I don't know that much about business. It might be a good business for them, but I don't know that it would be all that, other than taxes.

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CHAIRMAN: This commission has nothing to do with that. It either meets the ordinance or it doesn't. That's all we do.

MRS. MOSS: Okay.

MR. SULLIVAN: Mr. Chairman, may I say just one thing?

CHAIRMAN: Briefly I assume.

MR. SULLIVAN: One sentence.

My clients have absolutely no plans of doing anything to the land that is immediately adjacent to Mrs. Moss's property. It will be a grass field.

CHAIRMAN: Thank you, Mr. Sullivan.

MR. SULLIVAN: With those evergreens I suppose planted down the line, if that's what the commission wants.

CHAIRMAN: You have more than one or two.

MRS. MOSS: Excuse me, sir, they must have anticipated that. I would say a glamour shot is a glamour shot.

CHAIRMAN: They did have one in Hazard so they did survive Hazard, Kentucky.

All right.

MRS. MOSS: But did Hazard survive.

CHAIRMAN: Yes, sir, one closing comment I assume.
MR. SCOTT: Answer any questions there may be.

MRS. MOSS: Can we see those photographs?

CHAIRMAN: Yes, ma'am.

No more comments from the audience. Does anybody else from the commission have a question?

MR. KAZLAUSKAS: Yes.

CHAIRMAN: Yes, sir.

MR. KAZLAUSKAS: Just one more because I want to be sure.

You stated that primarily this was going to be agricultural equipment.

MR. SCOTT: Yes, sir.

MR. KAZLAUSKAS: With the possibility of earth moving equipment coming in being transferred?

MR. SCOTT: That's correct.

MR. KAZLAUSKAS: But primarily you're going to be displaying and selling agricultural equipment?

MR. SCOTT: When we did our analysis for making the decision to come to Owensboro, the number one market was agricultural market. That is the primary reason we are coming to Owensboro.

CHAIRMAN: Mr. Pedley, did you have a comment?

MR. PEDLEY: Yes. I have a question for the applicant or Mr. Sullivan. Maybe it's already been stated and I missed it.

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Your six-foot continuous element fence, what type of fence will that be? A chain-link fence with slats or is it a solid wood fence or vinyl fence? What are your plans on that?

MR. SCOTT: We've really not discussed the type of fence because we're very amendable to the request on the trees. The double planting of the trees, I believe, that were requested, we're very amendable to that. But as far as a specific type of fence, no, we haven't discussed that, but whatever we would do would be well within the ordinance and the requirements that we would have to follow.

MR. PEDLEY: You're saying if you put the pine or evergreen trees in a staggered fashion, you're not putting the fence?

MR. SCOTT: No, sir, we would not put a fence.

CHAIRMAN: Mr. Pedley, I think that's what they --

MR. APPLEBY: That's what the neighbors requested.

CHAIRMAN: That's what the neighbors requested.

MR. PEDLEY: I understand it.

The other thing I didn't understand was are they proposing a fence and are the neighbors wanting...
the pine trees with the fence or are they okay with
the evergreen trees staggered? What it really does
for sound when your trees are only five feet high it
doesn't really block out anything. Normally most
everything I do I put up a six foot wooden fence, nice
looking wooden fence, and then I put the pine trees.
Then after six or seven years, those pine trees are
about 30, 40 feet high and they do an excellent job of
buffering the sound. The view, the site and
everything, but initially the pine trees doesn't do
the job. So I just want to make sure the neighbors
were okay with just the pine trees.

Also, I want to know if you intend to put the
fence up or if you put the pine trees you're not
putting the fence up.

CHAIRMAN: Mr. Pedley, I think what they're
offering to do, and I'm not going to put words in your
mouth. Mr. Sullivan is there and I'm sure if I'm
incorrect he'll correct me. You're welcome to do so.

I think they're agreeing to do what the
neighbors have suggested. The neighbors have
suggested the pine trees. That they would be willing
to do whatever within reason that the neighbors
suggested within the ordinance they're happy to do.

MR. SULLIVAN: That's exactly it.

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CHAIRMAN: Did I word that correctly?

MR. SULLIVAN: Yes.

Mr. Pedley, there will be no activity on that side of the property for four or five years. If even then. Everything will be over on the west side of the property for the first five years or so.

CHAIRMAN: Thank you.

MR. PEDLEY: I'm looking at the site plan here it's showing gravel area all the way over to that property line. The drainage issues will be addressed by the county engineer. That's not before us tonight. The drainage issue will be taken care of. The design engineer and county engineer has signed off on the drainage.

MR. SULLIVAN: Is that the one that has the service building on it?

MR. NOFFSINGER: Yes.

MR. SULLIVAN: That's what we're talking about. That service building, if it ever happened, would be at least five years from now. Right now for the first five years they do not plan on doing anything on that side of the property.

MR. PEDLEY: I just want to make sure that the neighbors are comfortable with only the pine trees.

CHAIRMAN: Thank you, Mr. Sullivan.

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Mr. Reeves.

MR. REEVES: I want some clarification on Mr. Kazlauskas's question from this gentleman right here. When you said you anticipate their primary market being agricultural, I assume that does not preclude that you would anticipate a farm on occasion might need a backhoe or a small bulldozer or a front-end loader or something?

MR. SCOTT: Yes, sir.

MR. REEVES: Might not necessarily be just plows?

MR. SCOTT: Correct. That's correct. Any of the products would go into the agricultural community that we represent.

CHAIRMAN: Do you have a comment?

MS. SCHNEIDER: I do.

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

MRS. SCHNEIDER: Lori Schneider.

(LORI SCHNEIDER SWORN BY ATTORNEY.)

MRS. SCHNEIDER: I just wanted to mention quickly about the evergreens. The reason why we're coming up with the evergreen idea is because the fence that you saw in my husband's presentation is per code that the RV gentleman put in, and it's an eye sore.
You can see through it. It may fit the code of 80 percent opaque, but clearly it is not. If any of you feel free to drive down Parrish and if you'll look at the RV place, you can see right through that fence. You can see people walking in there. I know there were concerns about putting a fence around that to begin with as well because his equipment is 12 feet high. The RV's are very large.

This is a very beautiful neighborhood. Nice homes. We're there forever. We're just looking at beautification and what people will see when they come into Owensboro. That's why we came up with the, you know, we discussed this scattering of the evergreens all the way down as a tree line to make it more natural and pretty as it currently is. This has just been farmland. We've only been there a year and a half, but it's been corn and soy beans.

CHAIRMAN: Mrs. Schneider, I think they're agreeable to work with you on the screening. I don't think the screening at all will be an issue. I think that's really basically --

MRS. SCHNEIDER: We appreciate that.

CHAIRMAN: -- up to you all. We're not going to debate that. If you like the pine trees within the ordinance, that's fine with us.
MRS. SCHNEIDER: We would like not object to a
nicer fence, but if that is code, we don't want that.
That's very -- you expect that in -- not in this
neighborhood.

CHAIRMAN: I think, according to Mr. Sullivan,
I think they would be willing to work with you on
that. I don't think that will be an issue at all.

MRS. SCHNEIDER: Thank you.

CHAIRMAN: With no more questions from the
audience, the commission, the chair is ready for a
motion.

MR. PEDLEY: Mr. Chairman, I make a motion for
approval on this with the added condition on the
Staff's recommendation. That condition would be along
the east boundary that the 5 foot pine trees would be
put in in a staggered fashion with a maximum of 10
feet spacing. The other condition would be access to
West Parrish Avenue shall be limited to existing
ingress/egress easement only and Findings of Fact 1
through 5.

CHAIRMAN: Before we can take action on that
motion, Mr. Sullivan.

MR. NOFFSINGER: Mr. Chairman, we need
clarification from the attorney on the findings of
fact.

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CHAIRMAN: Mr. Silvert.

MR. SILVERT: I just need a clarification from Mr. Pedley on the basis for your findings of fact. If you would clarify that for the record, please.

MR. PEDLEY: Basis of the findings of fact. Basis of the Findings of Fact is given the fact that this joins residential property. We have some opposition here. We need to properly screen this area. It is in compliance with the comprehensive plan. With the conditions put on the screening process of the pine tree staggered every 10 feet apart and a minimum height of 5 feet. Pine trees will buffer that area very soon. In four or five the pine trees will be 20 feet high. With that it makes it compatible with the residential neighborhood. Then with the condition on the access point, and the Staff's Findings of Fact 1 through 5.

CHAIRMAN: Mr. Silvert, does that satisfy your question?

MR. SILVERT: Thank you, Mr. Pedley.

CHAIRMAN: Mr. Sullivan, you understand we have a motion for approval, but we have an additional condition that are spelled out more specific about what your client needs to do.

MR. SULLIVAN: That being the screening, Mr.
Chairman; is that correct?

CHAIRMAN: That would be the screening.

Mr. Pedley, didn't you have an egress as another condition?

MR. PEDLEY: No.

MR. SULLIVAN: We understand that.

CHAIRMAN: Mr. Sullivan, you're stating that your client is agreeing?

MR. SULLIVAN: We understand and we'll abide by that restriction, yes. Additional condition, yes, sir.

CHAIRMAN: So far we have a motion for approval with the additional condition stated by Mr. Pedley with his findings.

MR. APPLEBY: Second.

CHAIRMAN: We have 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 4

2895, 3031, 3035, 3139, 3300 Block, 3447, 3515 Russell Road; 3100, 3570, 3574, 3580 Girl Scout Road; 11300, 11440 US Highway 431, 685.65 +/- acres

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

Applicant: Western Kentucky Minerals, Inc., Horrell Trogden, Troy Vanover, Regina Vanover, Dennis Gauselman, Shirley Taylor, Gertie Taylor Estate,

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Lindley Taylor, Mildred Taylor Johnson Estate, Anna Faye Belcher, Tilford Thompson Estate, Stephen Thompson, Clara Thompson Estate, Ruby Hitchcock

MR. NOFFSINGER: Mr. Chairman, this application has been reviewed by the Planning Staff. The application is found not to be in order.

I do have a letter from Mr. Tim Ryan with Western Kentucky Minerals, Inc. asking that this item be postponed until the February 9, 2012 meeting on the Planning Commission.

Now, it will take a motion and a favorable outcome for you to postpone this item for the next meeting.

However, Staff would strongly suggest that between now and the next meeting that if this is not already occurred that there be a town hall meeting set up by the applicant within the area of the Pleasant Ridge area of the coal mining area and that the Department of Mines & Minerals be represented at that meeting and the word gets out to folks here tonight that have questions and folks in the community and be well announced as to when that meeting will be. So that there will be an opportunity for folks to ask questions and get answers prior to the next Planning Commission meeting. I think if that's done I think that will be beneficial to the applicant as well as
the landowners that have land that's proposed to be rezoned tonight and those that don't have land proposed to be rezoned and that live in that area.

So the applicant is here tonight. I see them nodding. I would certainly hope that would take place and it will require your vote to postpone this item.

MR. SILVERT: State your name, please.

MR. HAYNES: Brian Haynes.

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

MR. HAYNES: We are willing to advertise that town meeting in the Messenger-Inquirer probably at least a week in advance and try to get it two weeks in advance. We're committed to that.

CHAIRMAN: Thank you, Mr. Haynes. Do you have any idea where you would host such a meeting?

MR. HAYNES: We do not. We're obviously going to need a large location and hopefully it will be in the area where the operation will be. That will be published.

CHAIRMAN: Thank you, Mr. Haynes.

With that being said --

MR. APPLEBY: Chair ready for a motion?

CHAIRMAN: -- the chair is definitely ready for a motion.

MR. APPLEBY: Motion to postpone.
CHAIRMAN: Motion to postpone by Mr. Appleby.

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: The motion carries unanimously.

The item is postponed.

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NEW BUSINESS

ITEM 5
Consider approval of the Public Improvement Specifications surety unit cost annual revision.

MR. NOFFSINGER: Mr. Chairman, this item comes to you as it does every year in January and February.

It involves the review of the amounts that a developer would post for surety for improvements that aren't finished in a development prior to this commission or Staff approving final plat.

This information is put together by a committee that works within the community such as there are two members on this commission, Mr. Dave Appleby and Ward Pedley that serve on this committee that are a part of this committee, as well as your city and county engineer, local engineers such as Bryant Engineering and Hale Riney & Gilmore, Mr. Jim Ohio Valley Reporting
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Riney, as well as the Home Builders.

What they do, they compare their notes in terms of what the cost are for public improvements and what they're seeing. Then they make recommendations to you as what the unit prices should be.

We bring this to you. There are very few changes in the cost. In each case, the costs are going up slightly. We feel good about the cost and think it will carry us well into this next year.

So with that it's recommended for your consideration.

CHAIRMAN: Are there any questions?

(NO RESPONSE)

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

MR. PEDLEY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Pedley.

MR. STRODE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

We need one final motion that the chair will entertain.

MR. APPLEBY: Move to adjourn.
CHAIRMAN: Motion to adjourn by Mr. Appleby.

MR. WALLY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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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 Board of Adjustment 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 47 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 30th day of January, 2012.

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, KY

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