The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, February 13, 2014, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT:  Ward Pedley, Chairman
Fred Reeves, Vice Chairman
David Appleby, Secretary
Gary Noffsinger, Director
Terra Knight, Attorney
Wally Taylor
John Kazlauskas
Irvin Rogers
Larry Moore
Steve Frey

* * * * * * * * * * * * * * * * * *

CHAIRMAN:  Call the Owensboro Metropolitan Planning Commission February 13, 2014 meeting to order.

First order of business is to the continued election of officers from the January meeting where it was tabled. I will turn that over to counsel.

I'm sorry, we'll start our meeting with a prayer and pledge of allegiance to the flag and then we'll get into our meeting.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  I will now turn the election of
officers over to counsel.

MS. KNIGHT: Thank you, Mr. Chairman.

As you all remember, last month we conducted our annual election that's required by KRS 100.161.

Article 2 of our bylaws provide that Commission shall have a chairman, vice chairman and secretary/treasurer.

Article 3 provides that any officer elected shall serve for a term of one year or until a successor is elected. The bylaws require a majority of the total membership of this commission in order for a member to be elected. That is six votes.

Last month we had two nominees for the office of chair and two nominees for vice chair. Neither nominees for the position received six votes required to be elected as successor so the current chair and vice chair continue to serve in their elected positions.

Parliamentary procedure dictates that in the event of a tied vote, voting continues until such time a majority is obtained. After several rounds last month, a motion was made to table the election until tonight's meeting. So we will continue tonight where we left off last month.

We vote for officers in the order that they
are listed in the bylaws.

So we will start with voting for chairman.

Last month we started with voting by show of hands, which is the customary and traditional way in which we usually conduct it. We will start in that manner tonight.

Are there comments or questions before we begin?

MR. KAZLAUSKAS: Ms. Knight, yes. I would like to withdraw my name to be considered for chairman of the board. I would like my name to be withdrawn.

MS. KNIGHT: So you would like to withdraw your acceptance as the nomination for chair?

MR. KAZLAUSKAS: Yes, ma'am.

MS. KNIGHT: So in that case that leaves Mr. Pedley as the only nominee for chair. Since he was previously elected, he will continue to serve as chair.

We can go ahead and take a vote to make sure we get the required six votes to keep him in office.

Mr. Pedley then is the only nominee for office of chair. By show of hands all in favor of Mr. Pedley for chair please raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MS. KNIGHT: All opposed.
(NO RESPONSE)

MS. KNIGHT: Mr. Pedley has been elected unanimously.

So we will now move on to the office of vice chair. Last month we had two nominees, Mr. Fred Reeves and Mr. Irvin Rogers.

MS. ROGERS: Ms. Knight, I would like to withdraw my name for the office of vice chair.

MS. KNIGHT: You withdraw your acceptance of the nomination?

MR. ROGERS: Yes.

MS. KNIGHT: That leave Mr. Fred Reeves.

Let's go ahead and take the vote.

All in favor of Mr. Reeves for vice chair please raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

MS. KNIGHT: All opposed.

(NO RESPONSE)

MS. KNIGHT: Mr. Reeves has been elected unanimously as vice chair.

Mr. Appleby was elected unanimously as secretary/treasurer so he remains in that position.

That concludes the elections. I will turn the chair back over to Mr. Pedley.

MR. NOFFSINGER: Mr. Chairman, if I may make a
statement.

The television crew has asked that I make this announcement. If you wish to speak tonight, please step up to a microphone. There are microphones located in each one of these podiums, as well as for each of the commissioners. If you wish to speak, please do as I'm doing and put your mouth close to the microphone so that not only your fellow commissioners can hear you, but the audience can hear you, the audience that's here, as well as the television audience at home. Thank you.

CHAIRMAN: Thank you, Mr. Noffsinger. You're doing my job for me.

I would like to welcome everyone tonight. As he stated, anyone like to speak we welcome your comments. If you'll step to one of the podiums and speak into the microphone. I'm just repeating what Mr. Noffsinger said.

With that the first item on the agenda is to consider the minutes of the January 9, 2014 meeting. Commissioners, in your packet you have a copy of the minutes. Are there any additions or corrections?

(NO RESPONSE)

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

MR. KAZLAUSKAS: Move that it be approved.

MR. FREY: Second.

CHAIRMAN: We have a motion and a second. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

-----------------------------

ZONING CHANGE

ITEM 3

Portion of 931 Commerce Drive, 0.011 acres
Consider zoning change: From R-1A Single-Family
Residential to B-1 Neighborhood Business
Applicant: Robert E. Anderson and Larry K. Harrington

MS. KNIGHT: Would you state your name for the record, please?

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATION

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

CONDITION:

Approval of a consolidation plat to consolidate the subject property with the property to the east.

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 an Urban Residential Plan Area, where neighborhood business uses are appropriate in limited locations;

3. The zoning change will create like zoning to allow the 0.011 acres to be consolidated with the property to the east; and,

4. The addition of 0.011 acres to the existing B-1 lot will not exceed the maximum acreage for an existing neighborhood business center.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit A.

Also, I would like to state that all rezonings heard here tonight will become final 21 days after the meeting date unless an appeal is filed. If an appeal is filed, the application will be forwarded to the appropriate legislative body. The appeal forms are located in the office, on our website and on the back table.

CHAIRMAN: IS anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Is there anyone here that would
like to speak in opposition of this item?

(NO RESPONSE)

CHAIRMAN: Commissioners have any comments or questions?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval based on Staff's recommendations with the condition and Findings of Fact as stated.

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

MR. REEVES: Second.

CHAIRMAN: Second by Mr. Reeves. Comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

9036 Highway 54, 1.396 acres
Consider zoning change: From B-4 General Business to I-1 Light Industrial
Applicant: Crandall Properties, LLC; Tim Peay
PLANNING STAFF RECOMMENDATIONS

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

CONDITION:

Meet all site development requirements including, but not limited to, driveway width, landscaping, screening, paving, etc.

FINDINGS OF FACT:

1. The subject property was rezoned to B-4 General Business in 1986 based on a history of commercial and industrial uses that predated zoning regulations;

2. The proposed I-1 Light Industrial zoning is in agreement with historical uses on the property and with the potential removal of the lone commercial building on the property, the site will be used exclusively for industrial purposes and the industrial zoning classification will be more appropriate for the subject property;

3. The subject property has been historically used for higher intensity uses such as a service station, restaurant, auto body shop and warehouse and has not been used for residential or agricultural purposes for at least 50 years;

4. With the industrial uses already
established on the property and no residences in the vicinity, the I-1 zoning should not cause a burden to neighboring properties; and,

5. Given the ongoing use of the property, the proposed zoning should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit B.

CHAIRMAN: Is anyone here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Anyone here like to speak in opposition or have any comments or questions on this application?

(NO RESPONSE)

CHAIRMAN: Does commission members have any comments or questions?

(NO RESPONSE)

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

MR. ROGERS: Mr. Chairman, I make a motion for approval based on Planning Staff Recommendations with the one Condition and Findings of Fact 1 through 5.

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

MR. FREY: Second.

CHAIRMAN: Second by Mr. Frey. Comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 5

10300 Highway 54, 0.54 +/- acres
Consider zoning change: From R-1A Single-Family Residential to R-3MF Multi-Family Residential
Applicant: Travis J. Barnett; Emmett W. Barnett; Mary G. Barnett; Jennifer J. Barnett

PLANNING STAFF RECOMMENDATION

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

CONDITION:

All vehicular use areas shall be paved and appropriate vehicular use area screening shall be installed where adjacent to road right-of-way.

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 an
Urban Residential Plan Area where urban mid-density uses are appropriate in limited locations;

3. The use of the property as apartments conforms to the criteria for Urban Residential development;

4. The subject property is served by the City of Whitesville sanitary sewer system; and,

5. With frontage on Highway 54, which is a state maintained roadway, the subject property is major-street oriented.

We would like to enter the Staff report into the record as Exhibit C.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone have any comments or questions on the application?

(NO RESPONSE)

CHAIRMAN: Commissioners have any comments or questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. ROGERS: Mr. Chairman, I make a motion for approval based on Planning Staff Recommendation with the one Condition and Findings of Fact 1 through 5.
CHAIRMAN: We have a motion for approval by Mr. Rogers.

MR. APPLEBY: Second.

CHAIRMAN: Second by Mr. Appleby. Comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

ITEM 6

Portion of 4906 Old Hartford Road, 2.170 acres Consider zoning change: From A-U Urban Agriculture to R-1A Single-Family Residential Applicant: James T. & Vicki L. Quisenberry; Independence Bank, Trustee of the Marion H. Poor Trust

PLANNING STAFF RECOMMENDATION

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

CONDITION:

Approval of a consolidation plat to consolidate the subject property with 23 Stone Creek Park.

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 an Urban Residential Plan Area, where single-family residential uses are appropriate in limited locations;
3. The proposed use meets the requirements for urban residential development;
4. The proposed zoning change is a logical expansion of existing R-1A zoning located to the west; and,
5. The consolidated lot will be served by sanitary sewer.

MS. EVANS: We would like to enter the Staff Report into the record as Exhibit D.

CHAIRMAN: Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anyone have any comments or questions on the application?

(NO RESPONSE)

CHAIRMAN: Commission members have any comments or questions?

(NO RESPONSE)

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

MR. REEVES: Mr. Chairman, motion for approval based on Staff's Findings of Fact 1 through 5 with the
Condition that the approval of a consolidated plat to consolidate the subject property with 23 Stone Creek Park.

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

MR. TAYLOR: Second.

CHAIRMAN: Second by Mr. Taylor. Comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 7

315 Worthington Road, 7.00 acres
Consider zoning change: From A-U Urban Agriculture to I-1 Light Industrial
Applicant: Sara Jane McNulty

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

CHAIRMAN: So noted.

MS. KNIGHT: Would you state your name for the record.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

MR. HOWARD: Since this is a Staff Report for
denial I will read it into the record.

PROPOSED ZONE & LAND USE PLAN

The applicant is seeking an I-1 Light Industrial zone. The subject property is located in a Business Plan Area, where light industrial uses are appropriate in limited locations.

SPECIFIC LAND USE CRITERIA.

(A) Building and lot patterns; outdoor storage areas - Building and lot patterns should conform to the criteria for "Nonresidential Development" (D7), and outdoor storage yards, with "Buffers for Outdoor Storage Yards" (D1).

(B) Logical expansions outside of Industrial Parks - Existing areas of Light Industrial use that are located outside of planned Industrial Parks may be expanded onto contiguous land that generally abuts the same street(s). Such an expansion should not significantly increase the extent of industrial uses that are located in the vicinity and outside of Industrial Parks. Also, such an expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

(D) New locations in Highway Business Centers - New locations of light industrial use should be
established in Business plan areas only as integral components of planned “Highway Business Centers” (D7).

Such a light industrial component should be “arterial-street oriented” (D2) and provide for particular higher-intensity uses that maybe desirable in close proximity to highway business uses, such as wholesale-type businesses, self-storage mini-warehouses, etc. Such a light industrial component should be relatively small in size compared to the overall size of the business center and should be development in keeping with the design theme of the larger center.

(F) Industrial Parks – New and expanded locations of Light Industrial use should be developed as elements of planned “Industrial Parks” (D7). These provisions also apply where existing Industrial Parks are expanded into adjoining non-industrial plan areas that contain undeveloped land. Such Industrial Parks should be “arterial-street oriented” (D2) and planned in modules of at least one hundred (100) acres in size, unless an existing Industrial Park is being expanded. Industrial Parks should be established or expanded only where sanitary sewer systems exist or may be expanded, or where new systems may be properly established. Light Industrial uses should be located
near the fringes of a park that included Heavy Industrial uses, to serve as “buffer-uses” (D1) adjoining incompatible plan areas or land uses.

PLANNING STAFF REVIEW

GENERAL LAND USE CRITERIA

Environment

It appears that the subject property is not located in a wetlands area per the US Department of Agriculture Soil Conservation Service map dated March 6, 1990.

The subject property is not located in a special flood hazard area per FIRM Map 21059CO118 D.

The property is designated as prime agricultural farmland per the US Department of Agriculture Soil Conservation Service map dated March 1980.

It appears that the subject property is not within the Owensboro Wellhead Protection area per the GRADD map dated March 1999.

Urban Services

All urban services, including sanitary sewers, are available to the site.

Development Patterns

The subject property is a 7 acre parcel on the southeast corner of US Highway 60 West and Worthington
Road. Land uses in the vicinity include an elementary school, single-family residences and agricultural land.

The subject property has frontage on both US Highway 60 West and Worthington Road. In the vicinity of the subject property US Highway 60 West is classified as a minor arterial roadway with a 500 foot access spacing standard, a 75 foot building setback and 50 foot roadway buffer. Worthington Road is classified as a major collector roadway with a 250 foot access spacing standard, a 60 foot building setback and 30 foot roadway buffer.

The applicant proposes to construct a contractor equipment sales, service and rental business on the subject property. The Planning Staff met with a representative of the applicant in the fall of 2013 to look at various locations that could potentially serve the business. The initial three sites, including this site, did not meet the Comprehensive Plan criteria for a zoning change to light industrial. GIS was used to look at various other sites in the community that might be better suited for a zoning change to light industrial or for sites that were already zoned correctly. As is common with location factors in Daviess County,
both quality transportation access and proximity to floodplain were concerns on possible site locations. The applicants have also met with Planning Staff since the submission of the rezoning application and discussed a possible site layout. Bryant Engineering has submitted a conceptual site plan that provides an overview of how the site could develop if the rezoning is approved. The site plan shows a single building for the sales and services areas, two access points to Worthington Road, customer parking and a large outdoor display area. Based on zoning ordinance requirements the outdoor display area is required to be paved; however, it is shown as gravel on the site plan. The area could be gravel if considered an outdoor storage yard but that requires a continuous six foot solid element around the entire perimeter with some trees required where adjoining residentially zoned property. Since a six foot tall solid element would defeat the purpose of visibility of equipment on site that is for sale or rent the applicant, if a rezoning is approved, will submit a variance request to reduce the perimeter screening requirements to the Owensboro Metropolitan Board of Adjustment for consideration at the March 2014 meeting.

The proposed I-1 Light Industrial zoning is
the appropriate zone for a contractor equipment
dealer. However, it should be noted that the Planning
Commission does not have the ability to rezone
property and limit it to one particular use. Once
rezoned, any use that is listed as principally
permitted within the I-1 zone in the Zones and Uses
Table of the zoning ordinance could locate on the
property. The rezoning would also create the
possibility of future rezonings of adjoining
properties to I-1 that will meet the Comprehensive
Plan criteria for logical expansions. If a rezoning
were approved for the subject property, based on the
proximity to existing residences and the school, due
Consideration should be given to the adjoining
property owners in regards to noise, lighting, dust
control, screening/buffering, access and various other
site development issues.

SPECIFIC LAND USE CRITERIA

The applicant’s proposed rezoning is not in
compliance with the adopted Comprehensive Plan. The
construction of a contractor equipment dealership
would meet the criteria for non-residential
development; however, none of the other criteria can
be satisfied. The proposal is not a logical expansion
of existing I-1 Light Industrial zone or use. The
nearest I-1 Light Industrial zoning is located approximately 1/3 of a mile west of the subject property on the north side of US Highway 60 West at Booth Field Road. The proposal is not an industrial component of a larger Highway Business Center and it is not of sufficient size to meet the criteria for a new industrial park.

In the absence of findings that the proposal is in compliance with the adopted Comprehensive Plan, the Planning Commission or Legislative Body may make alternative findings that the existing zoning classification given to the property is inappropriate and the proposed zoning classification is more appropriate or that there have been major changes of an economic, physical, or social nature within the area which were not anticipated in the adopted Comprehensive Plan. Based on the staff’s review, we cannot support findings that an industrial zoning is more appropriate than the existing A-U Urban Agriculture zoning given the existing use of the subject property and the surrounding zonings and uses or that there have been major changes in the area not anticipated in the Comprehensive Plan since the plan was last updated in 2013.

PLANNING STAFF RECOMMENDATIONS
The Planning Staff recommends denial subject to the findings of fact that follow:

FINDINGS OF FACT:

   1. Staff recommends denial because the proposal is not 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 not a logical expansion of existing I-1 Light Industrial zone or use since the nearest I-1 zoning is located 1/3 of a mile to the west of the subject property on the opposite side of US Highway 60 West;

   4. The proposal is not a light industrial component of a larger Highway Business Center;

   5. The proposal is not of sufficient size to meet the criteria for a new industrial park; and,

   6. Based on the existing land use and zoning of the subject property and the surrounding properties, the current zoning is more appropriate than an I-1 Light Industrial zone and there have not been major changes in the area not anticipated in the Comprehensive Plan since the last update in 2013.

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

CHAIRMAN: Anyone here representing the applicants?

MR. KAMUF: Yes, sir.

MS. KNIGHT: Mr. Kamuf, you're sworn as an attorney.

MR. KAMUF: We represent Sara J. McNulty, the landowner, and her construction equipment company, the applicant.

Erb Equipment Company plans to purchase the property and use it for sales and service of construction equipment and also for the sale of farm equipment. About 30 percent of their business now is farm equipment. Things have changed a little bit.

They're located on Highway 60 East. Most of you know where that is. At the end of the bypass and Highway 60 East.

Erb Equipment Company used to be K&W Equipment several years ago. It was purchased by Erb. That business has been there for approximately 50 years.

The purpose of the zoning application to rezone the subject property from A-1 Agriculture to Industrial is:

A) Erb Equipment Company has outgrown their present location and would like to expand. They've
been looking for several years for a new location.

They looked at the Airpark. They didn't qualify because they were sales.

First of all, Brian read you the certain areas in the Staff Report. I would like to make a couple of points.

The Staff Report states the Planning Staff met with the representatives of the applicant in the Fall of 2013 to look at various locations that would potentially be and serve as the business. The initial three sites, including this site, did not meet the Comprehensive Plan Criteria for a zoning change to I-1. GIS was used to look at various other sites in the community that might be better suited.

So from reading the Staff Report, we can find that Erb Equipment Company was having a difficult time finding a new location.

Erb Equipment Company was having trouble.

Brian spent about ten minutes reading a lot of those criteria of the plan, business plan area, and you can see that the requirements in a business plan area are very stringent. We think that the Staff Report shows just exactly how difficult it is to meet that criteria and these are areas that we'll be talking about tonight.
I would like to, if I could, give each of you a package. We'll have about five or six exhibits. Instead of giving them to you one at a time, I'll just give you a package that we can talk about. Here is a copy for the record. The first exhibit that I show you is Exhibit A, if you'll look at it. It shows the subject property. The subject property is in blue. It's located at Worthington Road and US Highway 60 East. As you can see to the rear, there's certain lots to the rear, but the lots are separated by Worthington Road. On down the road to the west of this property, approximately 2400 feet, we'll be talking about this at length, is Sterett Construction Company. Sterett Construction Company has been there for years. There's a salvage yard that's been there since I was a kid. In the area that you see in the subject property, let me mark this for you. You see a power line. Let me tell you about that power line. That's not an ordinary power line. In 1970 or 1980 OMU had some issues about running power to western Owensboro. They decided that the best way to do this was to run a line across the Ohio River in the river bottoms in Indiana and run it
down to the Riverport and cut across, and then bring
that line over and across to a substation on the south
side of US Highway 60.

So the point I'm making about this power line,
this is a 150 foot power line. It has one steel pole
with about four power lines that goes to the top.
This is not the ordinary type of power line that you
see in Owensboro. It takes all of the power from OMU
and puts it down in western Owensboro.

Here, as you see -- this is an important point
that I'll make and I'll be going over some of these
issues.

You see the post office here. The post office
is zoned in a commercial area because it's exempt.
Directly, just beyond you see the Dollar General Store
which is commercial activity. As you see the post
office, look all around it on your exhibit. You see
the trucks. You see. Even though it's not zoned,
it's an industrial use. Even though the OMU line is
not zoned, it's a highly industrial use.

Let's talk about the criteria. Brian read
this at length. He read the whole. I won't bore you
again with it.

This will be Exhibit B that you have in your
packet. If you recall when Brian read it, he read, we
qualify under Number A, but we don't qualify under B, D or F. Let's talk about that just for a second.

New locations. This case is about new locations of industrial property. We cannot meet B, D or F.

One, we don't meet B because it's not an expansion or a logical expansion of a planned industrial park. That's a pretty strong criteria to meet, but in any event we don't want to be in an industrial park. We want to be where there's invisibility.

D) we do not meet the criteria of a business land use because new locations are required to be in a highway business center. We don't want to be in a shopping mall anyhow.

We do not meet the criteria of Number F because we're not located in an industrial park.

If you read how stringent that is, read at the bottom of your exhibit. It requires under Number F that you have a 100 acre tract of ground.

Our key issue on this thing is that the criteria in this business land at the top, you see business land use area, there are two stringent and it doesn't allow for new locations.

Let me show you Exhibit C. This is the area
that we state that the subject property should be located.

At the top of your Exhibit C, business industrial land use area. If we qualify under a business industrial land use area, we meet one criteria.

Number A) building lot patterns and outdoor storage areas. We meet that. That is the same requirement that we would meet under a business plan area.

So if the subject property would have been in a business industrial area, we meet the qualification. It's our position here, if you read the last finding in the Staff Report, we take complete issue with that. I think we make a real good case for it. We say that the Staff's decision to classify the subject property in a business plan area was incorrect. Not saying they're wrong. We just say they were incorrect. We say they should have classified the subject property in a business industrial area. We say they did not look at the whole picture. They did not look at the surrounding area. We say that if the Staff would have looked at the surrounding area, they would have classified it as an industrial plan area.

Here is the big exhibit. I think this shows
our whole case. Here is the exhibit that we have. If you look at the legend at the top, the legend at the top is industrial. This is the subject property that we see down in blue. All of this area that you see in yellow is either industrial or heavy industrial.

Let's look along the subject property. Subject property is here. We'll take about Sterett in just a second. On this same side of the road about 3,000 feet on the same side is other industrial property. Look all in this area that we have in yellow is industrial or heavy industrial. See what the red shows. The red shows is a business area. This is a commercial either a B-1 to a B-5. If you look right in front of the subject property, that's where the post office is located. This is Highway 60.

Then you see that power line.

Let's talk about that power line one more time. If you see your exhibit that you have in front of you, look at the white area that we have. That white area goes all the way from 60 back to the back. You know what's in the back of that? It's two huge substations that are in the back of it.

What does that make it? That makes it even though it's not industrial zoned, it is industrial. So we're going to present a finding of fact to show
that the subject property should have been placed in
an industrial area.

Our position is there are two major corridors
of industrial property to Owensboro, Kentucky. One is
Highway 60 East. That's where Erb is located now.
The other one is Highway 60 West.

Exhibit E that you have in front of you, let's
look at that. This shows Sterett Construction
Company, I'll call it Sterett Crane from here on.
It's located at the intersection of Booth Field Road
and Highway 60.

When it was purchased, it was purchased in
three or four different tracts. There was a 10 acre
tract that was purchased. There was a 5 acre tract,
and a 2.3 acre tract.

The reason for that, every time Sterett would
build he would run out of space. So they expanded the
industrial zone in the area.

So not only do you have property that is
located on the west side of Booth Field Road, then
they bought another area on the east side of Booth
Field Road, and this property is approximately 2400
feet from the subject property.

Look in the area that you see, and it's shown
clearly on the big map. I hope you can see it on your
little one on E.

Sterett Crane, it's as industrial as you can get in Daviess County. You can see all around it to the east and to the west of Booth Field Road.

Another one that you see, look right in the middle of that property. It's call an industrial use. It's a junk yard. The junk yard is right in the middle of the property. The salvage yard has been there since I was a kid. The reason that it was there and it's not zoned is that it predated the zoning ordinance and it shows just how along Highway 60 that there's been industrial property.

I just have a couple of these, but let me show you these.

I took these pictures two weeks ago. This is completely industrial property.

Mr. Chairman, whether you remember old Freel's Salvage Yard down there when you were young. This is Old Freel's Salvage Yard. It looks a lot better then than it does now. Here are a couple of pictures of it. You can't get any more industrial in Daviess County than you can this junk yard. I didn't call it a salvage yard because it's a junk yard. You can see it on your map as you have Exhibit E. This is what I will show you.
Let's talk about Exhibit D again. This is where the post office is. We're not talking about small tracts of ground. This is 8.23 acre tract that is located right at the end of the property. In other words, it would just about touch if it wasn't for that Dollar General Store. It's 8.23 property. It doesn't have to be zoned, but if it had a zoning classification, it would be zoned industrial. Huge trucks pulling out every day back and forth. It's the headquarters here for the US Postal Department. They don't sell just stamps there. They have all their business operation there.

Next to the post office you see Time Warner Cable, LLC, which is the old WVJS property. That's 24 acres. You go down and look at it, it is industrial property. You've got satellite dishes. You've got antennas. Evidently it didn't have to be zoned or it was grandfathered in. It shows on the map as commercial property.

What else do we have? All of this area that you see here that comes down Industrial Drive, this is by Time Warner. It goes back to this particular area and goes around to the end. The industrial property that you see there, this is known as the Owensboro Industrial Park. To the rear is the Riverport. Right
there, as you see, the northern side of the Riverport
where they have the rail loop down there, that's where
this transmission line crosses the Ohio River. Comes
down and then crosses the property that adjoins us.
As you drive down Carter there at Industrial Park,
there's Swedish Match Tobacco Company. That's 44
acres of industrial property. As you go down to the
north a little further, you have KenTronics Drive
where all the warehouses are located. To the north
further is E-X Coal Mining. How much more industrial
can you get than to have strip mining industrial
property where the major industry of Owensboro is
located.

Again, I show you is the power line that's
located directly to the east of us.

It's our position that you we think the
findings clearly show that the subject property should
have been located in a business industrial area and
not in a business plan area.

Now, we've discussed two areas. The business
plan area and the business industrial plan area.
We're going to talk about another one.

The rural community plan area. The criteria
for rural community plan area is very flexible, even
though it's located in the county.
Let's look at the criteria of the rural community plan use area. New locations, and this is at the bottom. This is Exhibit G, please. Look at Number E. The rural community area allows for new locations. There's only two requirements. That it be on a major street and should be sited at corners of intersecting streets. If what? If located close proximity to existing dwellings. New locations of community area, rural community area are not bound by the stringent requirements that Brian read to you.

A) that it be adjacent to an industrial park.

B) that it be located in a plan highway business center or that it be in an industrial park area that has 100 acres.

I handled this case in 2008. It's known as Case Tractor Equipment.

Wally, you probably know where that property is located. I think it's called H&R Agri-Power.

Case Equipment Company sells heavy equipment and farm equipment just like we do. The property is located at -- I didn't check it completely, but it's about three miles south of the bypass. It was a 10 acre tract as compared to a 7 acre tract that we have. It's located 420 feet from industrial property. The subject property is located at the intersection of Ohio Valley Reporting
(270) 683-7383
Highway 60 and Worthington Road. The Case Tractor was company was not located at any intersection. The Case Tractor company was located next to what? A church to the north, a house to the north, and a house to the south.

Case Tractor Company was allowed to be located in a rural community area without being located in an area where there's intersecting streets.

This board with the recommendations of the Planning Staff recommended and waived that right. It said, even though -- we just talked about, said it has to be two things. It has to major street oriented and it has to be at a corner if it's located near residential property. That was approved in January of 2008.

The point I'm making is this: The board approved the Case Tractor rezoning even though there was an existing resident to the north and to the south and even though it was not located at the corner of an intersecting street. The board did what? The board exercised its discretion and waived that provision. The board is not bound to follow every one of those criteria in the land use plan. We say that the provision should have provided for a criteria for new locations in the business plan area. That's the one
that they talked about when Brian read those four qualifications. That it should allow for highway locations like we have, if it meets the criteria for a major street oriented and at intersection corner. We meet that because we're there at Worthington Road and Highway 60.

Now, the Staff Report. The Staff Report states it should be noted that the Planning Commission does not have the authority to rezone property and limit it to a particular use. The report states that once the property is rezoned, any use listed as a principle use industrial could locate on the property. We don't intend to do that. We've been located on a piece of property for 50 years. You're going to hear a lot of proof in just a few minutes about how much trouble they've had at finding some property to fit this. We're going to be located -- if you approve this rezoning, we're going to be there for a long time.

Now, let me point out a couple of uses. There are certain business uses in a business plan area that could possibly create a much higher traffic count than what we're talking about building a construction company for sales. You can have retail sales of food products, including fast food, McDonald, Hardee's.
You could have the retail sale of merchandise. Lot sales, car lots, vehicle repair shops, vehicle body shop, convenient store. You could have those in a business plan area. They're going to create a lot more traffic than what we're going to do.

My legal argument is this: Here is where we are. This is where the board comes in. It's important for the board to use common sense and exercise their discretion. This board used it out on Highway 431 when they approved Case Tractor Company. The land use -- I'm going to give you a case in just a minute, Terra.

The land use map should be flexible. It should not be a straitjacket. To put us in a business plan area is too stringent. There is no way we can qualify from the criteria in a business plan area. To require us to be in an industrial park to be on a plan highway center such as a strip center or to be on a 100 acre industrial park is putting us in a straitjacket. That's exactly what this case said in 1967. The board should use common sense in applying the land use plan and is authorized to deviate from it.

Here's what the case said in 1967. Not a new case. This has been a law for years. With respect to
the first proposition it seems clear that a zoning
agency is not bound to follow every detail of the land
use plan. As we understand it, such a plan is simply
a basic scheme generally outlined Planning & Zoning
objectives in an extensive area. Here is what it
says. It is no sense a final plan continually subject
to modification in the light of the actual land use
plan. It serves as a guide. As a guide. Not a
straitjacket.

Here are the findings I would like for you all
to adopt tonight. These are the findings I'm asking
for you all to find tonight.

That the present zoning classification is
inappropriate and that an I-1 classification is
appropriate because:

1. The Land Use Map classifying the subject
property in a business plan area is incorrect.

2. The Land Use Map should have classified
the subject property in a Business/Industrial area,
which allows for an I-1 zone.

   (A) The subject property is located in a
mixture of business and industrial uses along Highway
60 in the vicinity of the subject property.

   (B) US Highway 60 is one of the major
industrial corridors to Owensboro. Some of the major
industrial uses are Sterett Crane & Rigging.

I showed you had that. 2400 feet down the road. The salvage yard that we talked about that's been there for over 50 years.

The U.S. Postal Office. Let me point out again. If the U.S. Postal Office is an industrial use, it's exempt. It doesn't have to be. If that was at the end of the street, we would just about touch the subject property.

Time Warner Cable TV, Swedish Match Tobacco Company, the Industrial Park, and E-X Mining.

(C) Adjoining the subject property is 150 foot wide OMU transmission easement, which is industrial in nature.

To take care the neighbors on this one area we have filed a conceptual plan showing exactly where the location of the buildings. In the application it shows where the buffering would be.

So we're asking you to find these findings of fact. They tell you why the Comprehensive Plan is inappropriate on the subject property.

In conclusion let me say this: I have cited that case. It's a landmark case. It's cited in all the treatises on Planning & Zoning. So we're asking you to adopt that.
Let me say this: When you hear the speakers tonight from Erb Construction Company, one of them is Dick Crisp. I've dealt with him many times up there on different things in representing the Regional Water Resource Agency. Everybody knows him. He's been here. He worked for K&W Equipment Company. When you hear what he has to say and what Carrie Roider has to say, I think you'll find they're people that you want to keep in Owensboro, Kentucky. You don't have many of these type of people over years and years that have been good neighbors. I just say that we need to embrace a company such as them that have been here that long.

As I think tonight, I was praying that this would happen, is that I don't think that there's any objection from the neighbors. Let me tell you what we did. Dick Crisp went out in that neighborhood. He met with the principal of the school. He met with some of the neighbors. I called the Planning Staff. I don't think there's any objections. You understand? This should be an easy decision. It would have been difficult if there would have been 50 neighbors down here. I think when you hear the other speakers, and we'll have Weaver. He'll talk to you about the conceptual plan from Bryant Engineering. I'm very
proud to represent these type of people in a rezoning such as this.

CHAIRMAN: Mr. Kamuf, are you done with your presentation?

MR. KAMUF: Yes, sir.

CHAIRMAN: Thank you very much.

I would like to ask Mr. Dick Crisp to come up and tell us more about his in-house operation and why he thinks it's compatible with the neighbors, school and such.

If you will, Mr. Crisp fill us in. Give us information, the daily operation, and the hours, and the noise, and dust. Things we have to consider, being compatible with the surround and adjoining property, especially the school. If you will, just bring us up on the entire process.

MS. KNIGHT: State your name for the record, please.

MR. CRISP: Dick Crisp.

(DICK CRISP SWORN BY ATTORNEY.)

MR. CRISP: First of all, my name is Dick Crisp. I've been involved in heavy equipment business for over 45 years at the same location, 2133 Highway 60 East.

For those who are not familiar with us, we're
located on the east end of 60 bypass next to Glenmore Distillery. We've been the John Deere construction and forestry dealer for this area since 1964.

The business was formerly K&W Equipment until November 1st of 2009. Family illness and the need to become a larger dealer prompted us to seek a buyer. We desired to find a similar owner group, primarily family owned, and employee oriented. Erb Equipment was the perfect match.

Erb Equipment founded by Alvin Erb in 1943 in St. Louis, Missouri. His son Robert, or Bob as we call him, took over the leadership of the company at the age of 29 upon the untimely death of his father. The company is now owned by Bob and his children, Carrie Roider who is the CEO and CFO, and his son Greg Erb is president and director of sales. Bob remains as chairman of the board.

Bob is a people person and great motivator. His motto has always been, we want this to be the best place you've ever worked. He believes in three principals. Do what's right. Do your best. Treat others like you would like to be treated. These principals are posted at every Erb location and several places around the stores.

I think to attest to this we have a pretty
good crowd of our employees and whatnot here.

Everybody raise your hand.

Carrie Roider, she's the boss.

Even before the papers were signed for the sale of K&W Equipment to Erb Equipment, the family was already planning to move to a new location. Much larger property, a minimum of seven acres. The reason I'm well aware of this is because I was involved in the sale of the property from the first day to the last day.

When the current building was built in 1964, it was designed for much smaller machines. Most of them were under 8 foot wide and weighed about 20,000 pounds or less. Today the machines are much heavier and much wider and the existing building is concrete block with lower eave pipe and cannot accommodate overhead cranes. Overhead cranes are a must for working on new larger equipment. Not to mention they save time and, of course, a safety factor.

The site selection process had some basic criteria. We needed reasonably high visibility for adequate exposure to display our products. We also needed accessibility so our customers and perspective customers could easily find us. We also desired a
turning lane and, of course, not in a floodplain or floodway.

Ms. McNulty's property offered us all of the above. We chose the site after looking at numerous locations. I sincerely mean numerous. I spent many hours driving up and down the roads trying to find something in Daviess County that would fit our needs.

One of the reasons we chose the site we did, was even after meeting with the Planning & Zoning, we did see on there that there were some limited conditions where I-1 was acceptable. They explained it to us, but we're kind of novuses to this so we didn't really understand everything. Even though it was well explained, I guess, we really didn't understand everything they were telling us. Primarily that was me relating to Carrie and the rest of the company, the older group.

The type of business we are is not a high traffic business. We normally deal with three to five customers at a time, and most of these customers are usually purchasing parts. We normally have somewhere between 15 and 30 vehicles a day that come into our business to trade with us. We do have some vehicle deliveries that we get our parts and what not. We do have some truck traffic that comes in there. However,
all of our vehicles will enter and exit off of Highway 60. In other words, they're not going to be going out Worthington Road in the other directions because it's just isn't cost effective, especially from the standpoint that -- if you all have been out there, Worthington where it joins 56 out there, it's difficult to maneuver a truck through that area.

Most of our heavy equipment sales are conducted at the customer's job site or office. The site plan shows that the building will be located towards Highway 60 West on the front half of the property. A 6 foot solid fence will extend from the south entrance to the southwest corner of the property and then east to the southeast corner of the property.

Much of our total business is done over the phone, like I said, and especially parts and rentals. Our hours are Monday through Friday 7 a.m. to 5 p.m., and Saturday 7 a.m. to noon.

I personally met with the principal of Audubon School and the grounds and maintenance director from the Daviess County Public School System this past week. Also, I was only able to reach one of the neighbors who was contacted by the Staff with the certified letter.

One of the things that all of them were kind
of surprised about, they didn't realize that the way
this Comprehensive Plan is set up what kind of
businesses could locate in that block of ground that
is across from the school or across from that
subdivision.

When I talked to them a little bit about what
could be there, they agreed with me. That we were
probably a pretty good option. In fact, when I left
the school board, they both said, we have no problem
with you all as a neighbor.

Met with one of the ladies from Graystone.
She's very nice. She had more questions than the
school board actually. I think I answered all of them
to her satisfaction. I told her we would be a good
neighbor. That we don't have high traffic count. We
won't be a problem. We won't be noisy or any kind of
issue like that.

One of the things that I brought to their
attention was that our new machines are what they call
IT-4 technology. With IT-4 technology there is
literally no smoke and they're very quiet. They're
very expensive. They cost a lot to build those
engines, but that's the new era of machine that's come
out. That's not going to say that we won't be working
on some machines that are 20 years old. Even the
older machines are not that noisy. John Deere has always been on kind of the cutting edge of noise levels because it's of the big issue, especially when dealing with federal government.

I talked to all of them about our locations and how we've been good neighbors to everybody at all stores. We have eight locations. Most notably I showed pictures of the Fenton location and the Evansville location. The Fenton location sits on a bluff. Fenton is a suburb of St. Louis. It's sits on a bluff. It has upscale apartments that back up to it. It has right across the street or right across Highway 30 from there is a large subdivision which is similar to Copper Creek or Lake Forest.

Evansville backs up to a large subdivision. It's only separated by the highway, which is a county road or it may be a state road, but it's a narrow road. It's a very large neighborhood. Very similar to Graystone. We've not had any complaints from any of the neighbors in that area.

The entire property will be fenced. It will be locked at all times when there are not business hours. We will have sufficient lighting. I think security will be the utmost on our high priority list. We are good neighbors. We have a neighbor here, was
K&W Equipment neighbor and now an Erb Equipment neighbor. Some of you may know him. If you want to talk to him and see what kind of neighbors we are, I'm sure he'll be glad to testify for us. Like I said, we have a number of our employees here.

This is a very important thing to our people because we have needed to move. Like I said, this was the plan from day one whenever be purchased this business. We have to find a better location that will service our customers. It affects all these people that are here and lot that couldn't be here tonight. I think that's important.

I assured all the people that I talked to that we would be good neighbors to them. They all were pretty happy. Obviously I don't see anybody here tonight, maybe there is and I just don't know it. I would be more than happy to answer any questions that anyone would have.

CHAIRMAN: Mr. Crisp, what's your total number of employees?

MR. CRISP: At the present time we have 20 employees. Of that 20 employees most of whom live in Daviess County. They don't all work in that building. We have three employees that are field service techs so they're on the road all the time. We have a truck
driver, who by the way lives in Graystone, Andrew Miller. We have CSA, which is a customer support adviser. He actually lives in Muhlenberg County. He travels all around our area which runs from Daviess County, Breckenridge County, to Grayson County, to Christian County, down to Kentucky Lake, and back up to Lion County, I believe. We have two of salesmen there are outside salesmen. They spend the majority of their time calling on customers. They're out visiting customers at their job sites or at their businesses. They don't spend a lot of time in the office because, as they tell me, they can't make money sitting in the office. Pretty much most of our people, you know, of the 20 probably 13 or 14 are there and the rest of them are on the road. Maybe 12.

We do intend to grow. We anticipate this building will help us, as far as growing the business. We're kind of shooting for, 24 months after we move in, we hope to have about 6 more employees. They would be some of the field service people and probably another parts person, you know, along those lines.

CHAIRMAN: Commissioners, do you have any questions of Mr. Crisp? Anyone?

(NO RESPONSE)

CHAIRMAN: Thank you very much.
Mr. Kamuf, you have anyone else?

MR. KAMUF: This is the boss. She is the owner, she and her brother.

MS. KNIGHT: Would you state your name for the record, please.

MS. ROIDER: I'm Carrie Roider. I'm CEO of Erb Equipment Company.

(CARRIE ROIDER SWORN BY ATTORNEY.)

MS. ROIDER: I want to pass out a couple of things for you guys. One of the things that I'm going to send around here is a little history. It shows you a couple of the things of how we've grown over the years. Shows you some of the moves, the building changes that we've made. It will show you the stability that we've had through the years of our locations. I'll get us to the pictures in just a few minutes. If you'll just hang on to those, I'd appreciate it.

What I would like to talk about is the fact that -- first of all I want to tell you thank you. I appreciate the opportunities to be here first of all and tell you a little bit about the history of Erb Equipment. Tell you a little bit about --

CHAIRMAN: Ma'am, would you stand closer to the mike.
MS. ROIDER: Talk a little bit about our site selection. Additionally, talk about how important this move is, not only to Erb Equipment but in our opinion to Daviess County and Owensboro, and, of course, to our employee and partners and what that means to them. Most of whom I want to tell you live in Daviess County.

Erb Equipment is a long-term family owned business. My grandfather began the business in 1943 as selling used farm equipment in St. Louis, Missouri. If you are not aware of it, those were the World War II years when new equipment wasn't available. So what he did was he went out and he bought used equipment, reconditioned it and sold it. He had a saying that was, when there was a will there was a way, and that's how he lived his life.

In 1944 we became the John Deere, authorized John Deere Dealer. That makes us one of the oldest John Deere dealers in the United States, which we're very proud of.

We've spent 70 years of our relationship with John Deere and we've seen a lot of changes in those 70 years.

If you look at how our business has grown from being that used equipment farm dealer to an eight
locations business serving Missouri or portions of Missouri, Illinois, Kentucky and Indiana. My grandfather would be very proud.

I have to tell you we currently employ 200 people through the eight locations and we sell about $129 million in inventory or sales per year.

I do have to share with you the fact our growth has primarily because of our commitment to our customers, to our employee/partners and then, of course, the community that we service. We service various counties. As you heard Dick talk about the fact that our counties that we service is not just Daviess County, but we service a large area. We serve I want to say about 130 counties spread over those four states. So our customers are wide based and we do move around the counties, you know, in the areas in question with our people. Not necessarily with our location.

Our growth is due to that commitment to those people. You know, our Erb team, and I do mean we are a team. We may be a family owned and operated business, but our team is what makes us successful. Our Erb team strives to provide legendary customer service and to provide customer equipment solutions which help them to be successful. We feel strongly
about that commitment to our customers, but we most
importantly we feel strongly about our commitment to
our employee/partners. We strive to make Erb the best
place that you've ever worked. I know that many of
you would be thinking, well, that's kind of lame, but
I tell you what. It's not. If our employers are
satisfied employees, that's how we achieve great
customer satisfaction.

Our esteem members are paid competitive wages,
receive training, and quarterly performance bonus
reviews, as well as insurance and 401(k) programs. We
have three guided principles that we deal with, and
that's meaningful work. In other words, we want our
employees to like to come to work. We want them to
like what they do because if you like what you do, you
do it better. We want them to be able to achieve the
goal, which is the training that we offer. As Dick
attested, our equipment has undergone a lot of changes
in the last 70 years. We would not be this a
successful dealer that we are if did not reinvest in
training for our people, and we do so on a regular
basis. So that gives them the ability to achieve
their goals as well.

Additionally we have the third principle is
cheering each other on. We all get to celebrate our
wins. That makes a good work environment for us. The training and internal excellence programs that we offer to our people I believe make a difference between whether or not we're an ordinary dealer or we're a great dealer. I tell you what, we're a great dealer with the ability to get better. I am so excited about that ability that I can't tell you how much this move means to us.

There's a lot for us to do and lot of excitement that generates out of even the possibility of the move for our people.

We support the communities that we live in. We participate in local county fairs. We do equipment donations for Habitat for Humanity. We do food drives. We do Toys for Tots. One of the neat things with Toys for Tots is we actually brought in, we have big off-road dump trucks. So we brought in a dump truck the other day for that Toys for Tots and put that dump truck out there and allowed people to come in and use the dump truck as the collection bin. You talk about something that excites people. I know you guys are going to think I'm weird, but I really like construction equipment. It's kind of like a race car in my opinion.

Nonetheless, that's the way we utilize that in
our communities. We, of course, contributes to the
Boy Scouts and the local baseball teams and stuff like
that, the local charities.

If you recall, I don't know if any of you have
had the opportunity, but we did participate in that Ag
Expo that was just here recently at your new
state-of-the-art Convention Center.

We've loaned equipment to the city for their
operator rodeo. We donate equipment to First
Christian Church when they had the unfortunate fire
recently and needed to do some relocation.

In November of '09, as Dick said, my brother
and I, my brother Greg, had the opportunity to
purchase K&W Equipment. They had two locations. One
was in Evansville and one, of course, was here in
Owensboro. We were lucky. The location in Evansville
we found a pre-existing building that had ample lot
space for storage and a display. We were able to
renovate that and moved in 2012. I want you to refer
to the pictures now if you wouldn't mind. I want to
walk you through a couple of pictures.

You see this one here where you've got the big
X over here on the left-hand side. I believe it
should be your first picture. That's is actually our
Evansville facility where the green X is located.
You'll see back here all of the subdivision that's there. We've been there since May I believe of 2012. As Dick has told you, we've not had any complaints regarding our facility there.

One of the other things that I really want to draw your attention to as you look at these pictures of the facility, you'll notice that we keep a very clean yard.

As you've been in other retailers, because we are retailers, if you walk into a cluttered retailer how do you feel? You don't want to go back. Just like our customers when they walk into our place of business wants to see it clean. They want to see a clean shop. Our current facility does not allow us to do that right now. That's also why we need to move.

If you look over here, the second picture is actually our current facility. The yard is very clean. The building itself is not appropriate use for our needs. I'll explain a little bit more as to the reason why we need to move there. Wanted to share that with you.

Now, I've got my colors backward just a little bit. I apologize for that.

This final picture is our main location in Fenton, which is the suburb of St. Louis, if you're
not aware. This orange X is where our business is located. You'll see the orange X actually has two buildings actually. We've got a building here and we've got a building over here and all of the display yard in-between. Additionally you see this other gigantic X over here. That is a big retail development. In-between you see that's housing in-between us. So we are very accustom to being by houses where we try to do what's right. We try to participate in being a good neighbor in the community.

I want to go back and talk a little bit about that Owensboro location. We currently employee 20 people there. We have sales of about $12,300,000 out of that facility. As we have stated, that current facility does not adequately help us meet our customer needs. Why that is, is because the equipment itself has grown to a size that has really put the building in a position that it's just never going to be acceptable to us.

When you look at an excavator, I can explain what an excavator is, if I need to. When you look at an excavator, an average excavator now is 50,000 pounds. Our current building does not accommodate a crane. That puts us in a position where it makes it very difficult for us to work on a piece of equipment.
It makes it difficult for my employees to be effective. Additionally it puts them at risk that I'm very unhappy about.

     Not only does it not allow us to do a crane, but the width of our doors and the height also prevents us from being able to bring equipment into our building as well. We talked a little bit about that dump truck, right. That dump truck would disseminate my building at this point.

     Additionally, the current facility does not allow it to be kept clean in the manner in which we would like. When you're a customer and you just paid a lot of money for that piece of equipment and you bring it into our shop and you look at my floor and you're going, really. It just doesn't leave the impression or the opinion of who we are and who we want to be. The building is going to go. This area that we're looking at, in our opinion, is a great spot.

     While our current building dictates -- I'm sorry, while our current equipment size dictates the need for a large building, you know, one of the things I want to draw out to you is the fact that our people density inside that building is pretty low. I've got 20 people here. We're talking about adding maybe
another 6. We're talking about a 15,000 square foot building. The building size is dictated by the size of the equipment. Not necessarily by the traffic pattern and flow. Additionally, the customers are serviced primarily at their location and not ours. We do a lot of phone business. We do a lot of -- we come to the customers. We do a lot of our own delivery. That type of item. So very low traffic. You know, we're not the Wal-Marts of the world, if you're thinking we're going to encroach traffic-wise. One of the reasons why we really liked where this was, was because it did have easy on and off access of the road. I didn't get in town early enough, but if I recall correctly it had turn lanes, right, off of 60 onto Worthington Road, which is also why we liked the property. It was important to us. We've been looking for a location in Owensboro for quite a while. We searched for preexisting facilities. I'll be quite frank with you. We searched for them pretty hard because it would be less expensive to buy preexist than it would be to build a building we're talking about. However, when we would find a facility that was on the ground and available, the lot was inappropriate. The size wasn't there for the storage or it just didn't meet our need. When we
would find the lot, the building was not appropriate for us. So there was nothing on the ground that was able to be modified to meet our needs.

So then we started looking at pieces of vacant land. Found out that many of the ones that were available were located in the floodplain. While I may be an independent family-owned third generation business, I also have somebody else that I have to report to and also has a lot of influence. That goes by the name of John Deere. John Deere won't approve of a facility for me in a floodplain. So that scratched out all of the opportunities that I may have in order to build up that land because Deere would not approve that for me.

Additionally, we looked at the Airpark. Actually that's a great location. Would meet our needs. We were told that we were a retail establishment. That we would not qualify to be in the Airpark because of the Airpark rules.

Then we looked at another piece of land that was more rural. It had a turnabout which is unnavigable by tractor-trailer trucks with trailers. So that scratched out a couple of those for the roundabout.

I'll be honest with you. Quite frankly some
of the pieces were just too expensive for the
profitability that we get out of our business
sometimes.

It's really put us in a position where our
selection of ground to build on is pretty small.
We've looked pretty hard.

Our business dictates that we do this
relocation. We do not have a choices. We can no
longer put our employees in this position. The size
of our equipment requires us to better serve our needs
of our customer. We will move this facility.

The traffic on US 60 East, I know you guys
live here, it's heavy. We've just simply outgrown the
facility. Our employees struggle to be sufficient and
complete their job safely.

The location we are talking about on Highway
60 West at Worthington Road in our opinion is idea for
the following reasons:

The frontage road gives us excellent exposure,
which required. They have a lot, in order for
somebody to drive along and see it, it's much like
driving along and looking at a car lot. We won't even
have that much traffic as a car lot does.

We need to have a large enough lot. This is
it. It's a great major corridor which gives us great
logistics. It's easy to find and easy to get to.

Additionally, it will allow us to put a size building on this lot that's acceptable to us at this point and give us some room to expand if we have the ability and success to do so.

My brother and I look forward to continuing to grow the Erb Equipment Company, and we believe that the relocation of the Owensboro branch will expand our capabilities of not only in sales but we will then be able to add additional people and be that additional mechanic parts personnel and increase sales. The new facility will allow us to attract more employees that want to work for us. You want to come to a nice place to go to work.

The expansion will help us deliver our promise to legendary in the eyes of our customers and meet their needs. This family-owned business believes that the customer satisfaction has to come first in order to be successful. In order to do that, we have to have satisfied employees.

As Erb celebrates our 70th year in business, we're excited about the years that lie ahead, and about being committed to an outstanding crowd of support and complete customer satisfaction, and we hope to do that here in Owensboro at this location.
So I look forward to any questions that anybody may have. I'll be happy to address any issues or concerns. Thank you.

CHAIRMAN: At this time I'm going to go see if we have any questions or opposition. If you will take a seat, please.

Does anyone in the audience have any questions or comments or is there anyone opposed to this application?

(NO RESPONSE)

CHAIRMAN: Does the Staff have any comments or questions or input in this?

MR. NOFFSINGER: I would just like to state to Erb Equipment, I thank you for your investment in this community and your belief in this community. I wish the business well.

The Planning Staff Report, please do not take that in any way that we do not want you in this community because I can tell you that we do. Our Staff Report is based upon this particular piece of property in a light industrial zoning that is requested for the property.

We at the Planning Staff are charged with looking at the big picture of how this community develops and to make a recommendation based upon sound
planning principals.

The Planning Staff Report I support 100 percent. I believe that it speaks to the adopted comprehensive plan and it speaks to the Kentucky Revised Statute in terms of the requirements that have to be met for a zoning change.

Now, again, there's no opposition here tonight. There's a school facility located directly across the road from this proposed industrial site. You have residential in close proximity. You also open the door to future nonresidential and industrial type zones in that area.

Now, with that said, again, it's not against Erb Equipment. Great company. We want to see them thrive. We want them to be here in Owensboro, but our Staff Report is based upon sound planning principals that is contained in the Comprehensive Plan, as well as the Kentucky Revised Statutes.

CHAIRMAN: Commissioners, do you have any comments or questions?

MR. REEVES: I have a question if I could, Mr. Chairman, for Brian. If you wouldn't mind to step up to the podium.

Brian, on the Staff's finding of fact here, would Finding of Fact Number 2, would that not support
this rezoning if you take out the other five findings of fact?

MR. HOWARD: The subject property is located in a business plan area where light industrial uses are appropriate in limited locations?

MR. REEVES: Yes. Would that support this rezoning if you didn't look at the other five findings?

MR. HOWARD: To be honest I don't know how it would in that that's just saying that it's appropriate in limited locations. Limited locations applies then to the specific criteria in the Comprehensive Plan. So I don't know -- I wouldn't feel comfortable personally as Staff taking one findings of fact and then saying that all the others are not allowed.

MR. REEVES: No. If you had one for approval, would you have that same statement in there?

MR. HOWARD: Yes, we would.

MR. REEVES: That was my question.

MR. HOWARD: Yes. That is typically in any recommendation for approval or denial. We just state what planned area it is in.

MR. REEVES: Secondly, is this property located in the rural community land use planned area?

MR. HOWARD: No.
MR. REEVES: It's not. Thank you.

CHAIRMAN: Any other commissioners have any comments or questions of the Staff or Mr. Noffsinger?

MR. KAZLAUSKAS: Mr. Chairman.

CHAIRMAN: Yes, sir.

MR. KAZLAUSKAS: Was Daviess County School Board made aware of this? Did you get any feedback from them in any way?

MR. NOFFSINGER: Yes. We did send a certified or registered letter certified to the Daviess County School Board at the address that the applicant gave us. They prepared the letters and the envelopes. We have not had any feedback whatsoever from the Daviess County Board of Education.

MR. KAZLAUSKAS: They were made aware of it?

MR. NOFFSINGER: Yes, there was a letter sent. I can't tell you exactly who that went to. I can look it up, but I do know they were notified.

MR. KAZLAUSKAS: The second question I have is how many letters went out to the residents in Graystone?

MR. KAMUF: Mr. Chairman, I think I can answer that. It's on the application.

It went to Daviess County School District, Finance Corporation, 1622 Southeastern Parkway,
Owensboro, Kentucky. That's where the one went to the school system. They're the people that Mr. Crisp met with.

MR. KAZLAUSKAS: Okay.

MR. NOFFSINGER: There were two neighbors that were sent registered letters as adjoining property owners in the Graystone Estates.

MR. KAZLAUSKAS: Only two?

MR. NOFFSINGER: Only two.

MR. KAZLAUSKAS: We have any idea how many houses are in there? A bunch.

MR. NOFFSINGER: A bunch. I would say you're looking at probably 75 roughly. That's just a guess just looking.

MR. HOWARD: We would guess about 260.

MR. KAMUF: Chief, I have one thing. You know there's a sign posted. I saw the sign. There's a sign out front telling everybody. I saw the sign on 60, and I think there was one on Worthington Road. A yellow sign saying "Rezoning."

MR. KAZLAUSKAS: Mr. Kamuf, what I'm trying to do is assure in my own mind that sometimes people just drive by signs, you know. I'm trying to assure in my own mind, you know, if the majority of the people in Graystone Estates know what's happening. That's my
concern.

MS. KNIGHT: State your name for the record, please?

MR. WEAVER: David Weaver.

(DAVID WEAVER SWORN BY ATTORNEY.)

MR. WEAVER: I just wanted to address one simple point regarding to Graystone which adjoins the subject property at the southwest corner.

The applicant is proposing the required 10 feet landscape buffer with a tree every 40 feet and a solid 6 foot fence. In addition to that, to protect this Graystone neighborhood, the applicant has agreed to extend that 6 foot high continuous element 150 foot from the corner. Along with that will be a 10 foot buffer with a tree every 40 feet to protect that line of sight.

I don't know if anybody has any questions.

CHAIRMAN: Commissioners, anyone else have questions of Mr. Kamuf.

MR. KAZLAUSKAS: I still have some more questions, Mr. Chairman.

CHAIRMAN: Go ahead.

MR. KAZLAUSKAS: Maybe Brian can answer this. They talked about access onto Highway 60. What does the state say about that because that's
pretty close to Worthington Road, isn't it?

MR. HOWARD: There was actually a minor subdivision plat done and access would not be permitted to US 60 at this location. It doesn't meet the access spacing standard. Their access would be limited to the two access points as you see on their proposed site plan to Worthington Road.

MR. KAZLAUSKAS: They talked at length about having access off of 60 onto that property.

MR. FREY: For visibility.

MR. KAZLAUSKAS: Is that what they said, for visibility. Not access?

MS. ROIDER: Not access. We talked about the fact that we would be coming in Worthington Road off of 60, but we talked at length about the visibility from 60 the frontage road. If you would like to give us access off 60.

MR. KAZLAUSKAS: State is not going to allow that. That's why I'm asking Mr. Howard.

I guess the other question I have is noise. Coming from that property when you're working on certain type of machinery.

MR. CRISP: I delved on it a little bit, but maybe not enough.

The newer machines are much quieter, the tier
4 technology. The older machines meet a low decibel level. They're not real loud. They're not real noisy. They don't smoke a lot. We don't really have a lot of problem with that. We don't run machines for long periods of time. When we're working on them, if they're in there to be worked on, they're normally aren't running because you can't work on them while they're running unless they have a computer on them, you know, to diagnose the problem.

I would say the time spent with an engine running on a machine while it's being worked on would probably be on average of five percent of the time. We don't have our machines running. That's just the way it is as a normal rule.

MR. KAZLAUSKAS: You can understand my concern about that being so close to a school. It's pretty close.

MR. CRISP: Just to address the first question, maybe the second question.

When I met with - I'm sorry, forgot their name - Ms. Conley at the school, she said, I'll have somebody from the school board down here to meet with you also. We met. I explained to them what we had. What we did. How we do everything we do. When I left, they were very satisfied. Both of them told me,
we have no problems. That's what they told me. So I
had the principal of the school and a representative
from the school board, Daviess County School System.

MR. KAZLAUSKAS: Thank you.

One last question on Mr. Kamuf's Exhibit D,
this zoned B-1, B-5, if I understand it, comes all the
way down to transmission line he was talking about; is
that correct? That whole corridor is B? I understand
we're talking about industrial property here, but just
so I get it straight in my mind. Comes from -- what
is that stretch? How far is that stretch?

CHAIRMAN: Is that a question for, Mr. Kamuf?

MR. KAZLAUSKAS: No. That's a question for
Mr. Howard.

MR. NOFFSINGER: Mr. Chairman, if I may, I'd
like to pass out some exhibits to show the zoning
along that corridor. I believe what you're asking in
that area in red is B-4 General Business corridor
typically. These exhibits I have will show you the
exact zoning in that area.

MR. KAZLAUSKAS: Because according to Mr.
Kamuf's Exhibit B here, the whole corridor looks to be
B-1 to B-5.

MR. KAMUF: Chief, just to answer one question
that you have. We have one of the neighbors that
lives right next-door to the property on Highway 60, if you have some question about the noise. I would like to just let him say something for a second, if you could.

MR. KAZLAUSKAS: That's fine with me.

MS. KNIGHT: Please state your name for the record.

MR. BARTEN: Jim Barten.

(JIM BARTEN SWORN BY ATTORNEY.)

MR. BARTEN: My name is Jim Barten. I'm with a grain inspection agency. We check barges that goes overseas with the grain company in the area. I'm located right north of K&W on two sides.

The noise level there is minimal. There's more noise going down the highway, as far as emergency vehicles, semis and other vehicles going down the highway than I hear from K&W Equipment. I've been there approximately 16, 17 years. They have been really great neighbors to me. They help me any way they could. Any time that I've been in their place they've always been respectful and nice to me. I have no problem with them being a neighbor to me. We live on a private street. We went together and we both helped in financing, blacktop of the street.

Any time I've ever talked to Dick he's said,
anything you give me a call. I have used him where we
had some heavy stuff to move. He brought his
equipment over there. Free of charge. Helped us move
it. We took out trees that bordered us and they paid
for that expense. It's been a delight to have been a
neighbor to them. I have no problem with them at all.

MR. KAZLAUSKAS: Thank you.

CHAIRMAN: Thank you, sir.

MR. REEVES: Mr. Chairman, I have some, I
guess I'm going to pitch out some options or some
things for the commission to take a look at and see
where they are on this.

As I've listened to the various testimony,
these are facts that I'm looking at right now that are
weighing on how I fall down on this issue.

Number one, is that the OMU line in adjacent
substation and is heavy industrial use. Highway 60 is
a corridor that serves heavy industrial use serving
the Riverport, which is heavy industrial use in the
area, as well Time Warner, Sterett. There's a junk
yard that's mentioned there. Certainly the post
office is a pseudo light industrial. It's not
required to be zoned because their exempt from it.

This development I think at this point in time
I see it in fact would not overburden Highway 60 more
than McDonald or any other retail establishment that
might go in that place. We have a prior approval
similar case, was not the same, but a similar case was
agricultural out 431. Those are things that are
weighing on my mind. I just wonder if the other
commissioners had other things they would like to
interject I would like to consider.

CHAIRMAN: Okay.

Mr. Kamuf, do you have anything else? We need
to wrap it up here. If we have any more questions,
we'll bring it back.

MR. KAMUF: Only person I can think is Mother
Theresa that I haven't called. No.

CHAIRMAN: Commissioners, do you have any?

MR. MOORE: I have one question for Mr. Kamuf
or whoever.

Reading through the Staff Report and then
looking at this site plan for rezoning it mentions
that based on the zoning ordinance requirements the
outdoor display area needed to be paved. If it's
graveled it needs to have a solid element around that.
You have a solid element on one side.

MR. KAMUF: We have filed a variance with this
and that will be taken up at the hearing before the
variance. It was filed today for the variance. I
think it's set for March. I can't give you the date.
Gary knows when it is.

MR. NOFFSINGER: First Thursday in March.

MR. KAMUF: Yes, before the Board of Adjustment.

MR. NOFFSINGER: March 6th.

CHAIRMAN: Mr. Kamuf, in your application you state the applicant is willing to comply with requirements of the zoning ordinance regarding screening, landscape buffering. In addition to landscape buffering, the school and residential lots are further buffered by the Kentucky Highway 2120.

Now you're saying you're going to go to the Board of Adjustment for a Variance on these? You said you're willing to do this, but now you're going to go to the Board of Adjustment for a variance on the buffering and screening?

MR. KAMUF: Not on the buffering and screening.

MR. WEAVER: David Weaver again.

Yes, Ward, it is correct. The original application we prepared did say it would be in compliance with the zoning ordinance, but that was prior to -- when we put application together, it was prior to an opportunity for us to talk with Erb
Equipment and fully understand their needs. We have filed a variance application. We are doing, if you want me to I can walk around the perimeter of the property and just kind of give you an overview of what the variance would entail. Would that be helpful?

CHAIRMAN: At the same time should the commissioners decide to approve this, they will need to put a condition on that that you will go to the Board of Adjustment and get approval for a variance or you will meet the requirements.

MR. WEAVER: Yes, we'll certainly do that. The conceptual site plan that we've turned in with -- we didn't turn it in with the application, but we have since provided to the Planning Staff shows the applicant's intent. The applicant fully understands that they would have to either comply with the zoning ordinance or have an approved variance. We wanted to address that with the Board of Adjustments because of timing issue.

CHAIRMAN: The reason I'm stating that, whoever makes a motion, if they should decide to approve this, they need to put a condition on that that would happen.

Am I right on that, Mr. Noffsinger?

MR. NOFFSINGER: No, I disagree. I don't
think you need a condition on it unless you want it. They're required to meet the requirements of the zoning ordinance. However, if they choose to file a variance application, which they have, which they've told you were going to, to waive pretty much all development requirements that are contained in the zoning ordinance for this particular piece of property, then you don't need that condition because they're exercising their rights to ask for a variance. If they don't get the variance, they have to comply.

CHAIRMAN: Okay. Thank you.

MR. WEAVER: Ward, to point out a couple of things.

The southwest corner is the only area that adjoins residential zoning classification. That's the area we talked about before that is going to have a 10 foot landscape buffer, a tree every 40 foot, and a solid fence. In addition to that, going actually beyond the zoning ordinance, the applicant is proposing to continue that same landscape buffer up 150 foot on that southern boundary to provide a buffer for a site triangle as you would drive down Worthington Road. Then along Highway 60 and Worthington Road, what we're going to ask for in the variance is that we be allowed instead of a 6 foot
high continuous element be allowed a 3 foot high
continuous element. We're proposing to do a 3 foot
shrub row which should look appealing from the street.
Of course, there will be a chain link fence behind
that, but it won't be slatted.

Then along the power line side there will just
be a chain-link fence. There won't be any screening.
From a practical standpoint it really doesn't make
sense to buffer yourself from 150 foot transmission
line. So that's the overview.

CHAIRMAN: Okay. In fact, if the Board of
Adjustment turns this down, you will have to comply.
You agree to comply. So if the variance is turned
down, you will to have comply with zoning the
ordinance.

MR. WEAVER: I've been told I really can't
speak on behalf of the applicant. I've had
conversations with the applicant, or Mr. Kamuf can
speak on behalf of the applicant. They know they have
to comply.

CHAIRMAN: Thank you.

Are there any other questions.

MR. KAZLAUSKAS: Just one more question. I
need to get this from Mr. Noffsinger.

If this subject property is approved I-1
industrial, that's what we're looking at, then the property to the south would be continuous, right?

MR. NOFFSINGER: Yes.

MR. KAZLAUSKAS: If someone came back and asked that that be approved the same as the subject property, we have set a precedent, correct?

MR. NOFFSINGER: The Planning Staff's recommendation would be for approval because it's a logical expansion. We would also recommend approval of the property across the street, across 60 west because it becomes a logical expansion. This opens the door for I-1 Light Industrial for the future in that area.

MR. KAZLAUSKAS: What about going to the east?

MR. NOFFSINGER: Yes.

MR. KAMUF: If there would be any zoning to the south, the Staff can always require a development plan to show exactly what, you know, that type of thing, to take care of any issue from the neighbors.

CHAIRMAN: Any other questions or comments?

(NO RESPONSE)

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

MR. REEVES: Mr. Chairman, I make a motion for the approval of the application based on the following
Findings of Fact:

1. The subject property is located in a business plan area where light industrial uses are appropriate in limited locations;

2. Currently in the area is a very large industrial type OMU line and substation. Also, in very close proximity to this development, the US Post Office, which would be light industrial in this area if it were required to be zoned. Other operations in close proximity are the Time Warner Company, which has numerous trucks, large trucks going in and out daily. Sterett is in that area. It serves the Riverport which is heavy industrial that passes by there continuously during the day.

This development will not overburden Highway 60 as much as perhaps a similar or another use in there that is currently allowed there such as a convenient store, fast food operation.

This commission has prior approval a similar development on US Highway 431 in the past. That's it.

CHAIRMAN: We have a motion for approval by Mr. Reeves. Do I hear a second?

MR. KAZLAUSKAS: I make a second.

CHAIRMAN: We have a second by Mr. John Kazlauskas. Any comments or questions on the motion?
CHAIRMAN: If not all in favor of the motion, raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 8

927 East 18th Street, 1.44 acres
Consider zoning change: From B-5 Business/Industrial with Conditions to B-5 Business/Industrial
Applicant: Thekla's Rentals, LLC

PLANNING STAFF RECOMMENDATIONS

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

CONDITIONS:

1. Submission of a site plan to be approved by the City Engineer's office and OMPC prior to building occupancy;

2. Install a three foot tall solid element between the vehicle use area and the property line with one tree on each side; and,

3. Stripe and sign the existing on-street parking area as "no parking."

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 within a Business/Industrial Plan Area, where general business and light industrial uses are appropriate in general locations;

3. The subject property lies within an existing area of mixed general business and light industrial uses;

4. The Comprehensive Plan provides for the continuance of mixed use areas; and,

5. The proposed land use for the subject property is in compliance with the criteria for a Business/Industrial Plan Area and a B-5 Business/Industrial zoning classification:

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

CHAIRMAN: Anybody here representing the applicant?

MR. BOWERS: Robert Bowers, attorney for applicant.

CHAIRMAN: Mr. Bowers, let's see if we have any opposition.

Anyone here like to speak in opposition or have any comments or questions on this?

MR. THACKER: John Thacker.

MS. KNIGHT: You're sworn as an attorney.
MR. THACKER: I've spoken with Mr. Bowers and the applicant previously prior to the meeting. My clients just have a concern on the site plan that was presented that shows a continuous line for a roadway buffer across the two driveways on either side of the building. The applicant has assured us that they are not going to, you know, close those off. We want to just confirm with the Staff and the board that there's no intent for those driveways to be closed. As part because my clients use those drives, shared access for their properties. Are we good on that?

CHAIRMAN: Mr. Howard, would you address his questions, please?

MR. HOWARD: To the best of my knowledge that is the case. Of course, the applicant is here. If they would like to address just to further get it on the record to assure that. To my knowledge those would not be fenced off or gated in any capacity.

CHAIRMAN: Thank you, Mr. Howard.

Mr. Bowers, do you have any comments or questions?

MR. BOWERS: Mr. Howard's understanding is correct. Those two roadways will not be blocked. The green line going across I think was an error on the drawing. The line just extended too far.
CHAIRMAN: Commissioners, do you have any questions of Mr. Bowers?

(NO RESPONSE)

CHAIRMAN: Thank you, Mr. Bowers.

Chair is ready for a motion.

MR. KAZLAUSKAS: Mr. Chairman, question. Could we make that a condition? Could we have that as a condition, those driveways wouldn't be blocked?

MR. NOFFSINGER: I would not recommend that. That's not what they're proposing to do. At this point in time I would not suggest that.

MR. KAZLAUSKAS: Okay.

CHAIRMAN: Any other questions?

(NO RESPONSE)

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

MR. KAZLAUSKAS: I make a motion it be approved based on the Staff's Recommendations, Conditions 1, 2 and 3 and Findings of Fact 1, 2, 3, 4 and 5.

CHAIRMAN: We have a motion for approval by Mr. Kazlauskas. Do I hear a second?

MR. MOORE: Second.

CHAIRMAN: We have a second by Mr. Moore.

Comments or questions on the motion?
(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

Related Items:

ITEM 8A

927 East 18th Street
Consider a request for a Variance in conjunction with an application for zoning change to reduce the roadway buffer on East 18th Street from 40 feet from the street centerline to 30 feet from the street centerline and to eliminate the required vehicular use area screening along East 18th Street.
Reference: Zoning Ordinance, Articles 8 and 13, Sections 8.5.17(c) and 13.6221
Applicant: Thekla's Rentals, LLC

MR. HOWARD: I will try and summarize our Variance Staff Report as best I can.

As you recall, at the January 2014 meeting there was a rezoning to rezone this property to the B-5 Business/Industrial area. At that time there were some conditions placed upon them. That the roadway buffer be maintained and some various other things.

Once their engineer looked at this site, they realized they could maintain the two parking spaces in the front and still meet the roadway buffer requirement. They would have had to eliminate all the parking in the front.
Si they've worked with our Staff, the city engineer's staff to try to come up with an alternative that would meet their needs and yet still meet the intent of the zoning ordinance.

So what has happened is they have a plan to reduce the roadway buffer and still allow the parking spaces in the front to remain. Yet they will still install the three foot tall continuous element and trees. So the intent of the ordinance as far as screening of the vehicular use area that will still be met. However, just due to some site constraints in that limited distance in front of the building, they couldn't bring it into complete compliance.

One of the conditions on the zoning change was the area in the right-of-way return to grass, that on-street parking area removed. The city engineer's office in discussing this with them, they anticipate that there could be a construction project on 18 Street at some point in the future. In their future hopefully. The end result would be the area they remove now and return to grass would be ripped out and paved again. They didn't see the need for development to go through the extra cost of removing that at this point when in the future you're looking at roadway improvement that would take it back out.
They ask for full waiver on screening requirements, but as I said, working with the developer's engineer Jason from Bryant in looking at the options on the site we've been able to come up with something and still have a 3 foot element.

So at this point they're not requesting a full waiver, just a partial waiver of the 3 foot width. Not 3 foot high.

So with that we're going to recommend the Variance be approved for both, partial on the second, but the granting on the Variance to reduce the roadway buffer:

1. It will not adversely affect the public health, safety or welfare because the right-of-way should be sufficient for future improvement;

2. It will not alter the essential character of the general vicinity because it appears other building and parking areas in the vicinity encroach into the roadway buffer;

3. It will not cause a hazard for nuisance to the public because the City Engineer's office has made the applicant aware that if additional property is needed in the future for East 18th Street construction that they will only be reimbursed for the cost of land and not any site improvements located in the vicinity.
prescribed 40 foot roadway buffer.

It was an issue that they did want us to stress. I think it's been added to the site plan. That the property owner will be reimbursed for land cost only. They wouldn't be reimbursed for any of the landscaping or parking areas that are forward of the building in what would normally be the roadway buffer.

4. It will not allow an unreasonable circumvention of the requirements of the zoning regulations because the existing building and parking areas predate zoning regulations but are no longer grandfathered in due to the change in zoning and use on the property. The reduction will allow some parking to remain forward of the building while still providing the required vehicular use area screening as required by the zoning ordinance.

In regards to the Variance to eliminate the three foot landscape easement:

1. It will not adversely affect the public health, safety or welfare because there are other sites in the vicinity that have parking that encroaches into the roadway buffer;

2. It will not alter the essential character of the general vicinity because the intent of the ordinance can still be met with the installation of a
three foot tall solid fence at the property line;

3. It will not cause a hazard or a nuisance to the public because there is currently 32 feet of right-of-way along East 18th Street;

4. It will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the ordinance is still accomplished with the three foot tall solid element with a tree on each side of the parking areas.

Staff would recommend approval with conditions that:

1. Submission of a site plan to be approved by the City Engineer's office and OMPC prior to building occupancy; and,

2. Install a three foot tall solid fence between the vehicle use area and the property line with one tree on each side.

We would like to enter the Staff Report into the record as Exhibit G.

CHAIRMAN: Counsel, do we need to approve them separately?

MS. KNIGHT: We need to approve them separately.

I would just remind the commission, because we don't have a lot of Variances before us, that KRS 100
does allow variances to be considered in conjunction
with zoning change, but it does require that when you
start making your findings of fact as to why the
variance should be granted or denied that it does have
to be made specifically. Just a reminder.

CHAIRMAN: Thank you.

Mr. Thacker, do you have any comments or
questions on this?

MR. THACKER: Nothing in addition to what I
mentioned earlier.

CHAIRMAN: Commissioners, do you have any
comments or questions of Mr. Bowers?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a
motion on the application of the 40 feet from the
street centerline to 30 feet from the street. We'll
do that one first. Chair is ready for a motion.

MR. REEVES: I recommend approval of that
variance based on the findings of fact as stated by
Mr. Howard in his comments earlier.

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

MR. APPLEBY: Is this on the variance for the
roadway buffer?

CHAIRMAN: Right.
MR. APPLEBY: Second.

CHAIRMAN: We have a second by Mr. Appleby.

Any comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

Now we will go to the vehicular use area screening along East 18th Street.

Mr. Thacker, do you have any comments or questions on that?

MR. THACKER: Nothing extra.

CHAIRMAN: Commissioner, do you have any comments or questions of Mr. Bowers?

(NO RESPONSE)

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

MR. APPLEBY: I make a motion to approve the variance to eliminate the 3 foot landscape easement based on the findings that it will not adversely affect the public health, safety or welfare because there are other sites in the vicinity that have parking that encroaches into the roadway buffer; it will not alter the essential character of the general
vicinity because the intent of the ordinance can still be met with the installation of a three foot tall solid fence at the property line; it will not cause a hazard or a nuisance to the public because there is currently 32 feet of right-of-way along East 18th Street; it will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the ordinance is still accomplished with the three foot tall solid element with a tree on each side of the parking areas. I would also like to incorporate the Staff's conditions that submission of a site plan to be approved by the City Engineer's office and OMPC prior to building occupancy; and that they install a three foot tall solid fence between the vehicle use area and the property line with one tree on each side.

CHAIRMAN: We have a motion for approval by Mr. Appleby. Is there a second?

MR. FREY: Second.

CHAIRMAN: We have a second by Mr. Frey. Comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

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

MINOR SUBDIVISIONS

ITEM 9

5378 West Fifth Street Road, 1,000 acres
Consider approval of minor subdivision plat.
Applicant: Boone Family, LLC; Jeff Boone

MR. HOWARD: This plat comes before you as an exception as an existing half acre lot that was created prior to the current regulations being in place. Their proposing to add an additional half acre to the rear of the property. The property would then meet the minimum lot size requirements that currently exist; however, with that additional acreage in the back it doesn't meet the three to one requirement so it's not a plat that we could approve at the Staff level. They're not requesting any new lots to be created. It's just increasing the size of an existing lot and they've noted on there the property won't be further subdivided. Since they're not looking to do any more development lots we would recommend that you consider for approval.

CHAIRMAN: Commissioners have any comments or 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. FREY: Second.

CHAIRMAN: Second by Mr. Frey. Any comments or questions on the motion?

(NO RESPONSE)

CHAIRMAN: All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

Next item.

----------------------------------------------

                        NEW BUSINESS

ITEM 10

Consider approval of December 2013 financial statements

MR. NOFFSINGER: Mr. Chairman, each member has been mailed a copy of these financial statements and they're ready for your consideration.

CHAIRMAN: Commissioners, any comments or questions on the financial statements?

(NO RESPONSE)

CHAIRMAN: If not the chair is ready for a motion.
MR. FREY: Motion to approve.

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

MR. TAYLOR: Second.

CHAIRMAN: We have a second by Mr. Taylor.

All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimous.

ITEM 11

Comments by the Chairman

CHAIRMAN: I would just like to remind everyone we have a work session scheduled for the 20th of this month at 5:30 on the mayor's business committee recommendation. We have handout by Melissa for those 18 recommendations. Also have a handout from Mr. Madison Silvert, EDC to the mayor, on his findings and recommendations.

I would like you to review these before we meet the 20th, which is next Thursday, at 5:30 and bring any comments or questions or suggestions to the meeting.

MR. REEVES: Mr. Chairman, am I understanding we're not going to take any kind of comment from the public at this meeting?

CHAIRMAN: No. This is a work session, if I
understand it correct.

MR. REEVES: Is there any reason we couldn't
meet at 5:00, which would make it a little bit more
convenient for us, and maybe meet at Room 406 where we
could have an around the table discussion rather than
trying to have a discussion here at the podium?

CHAIRMAN: That would be good unless the
public is invited they cannot participate on any
items, but they can be here.

MR. REEVES: I mean they can still come in
Room 406. It's just hard to have a discussion when
I'm 50 feet from Mr. Moore down there.

MS. KNIGHT: As long as we provide the proper
notification that's fine.

MR. REEVES: Has that notification gone out
yet, Mr. Noffsinger?

MR. NOFFSINGER: No, sir.

MR. REEVES: That's just a suggestion.

CHAIRMAN: Would the commission like to meet
at 5 instead of 5:30? Would that be better for you?

(NO RESPONSE)

CHAIRMAN: I guess we'll meet at 5 instead of
5:30. Okay. That's all I have.

ITEM 12

Comments by the Planning Commissioners
CHAIRMAN: Anybody have anything?

MR. REEVES: I would like to share one thing, if I could, Mr. Pedley.

I had the occasion last week to attend a meeting with Mr. Ball and a developer who is planning a very major big box development in this community. He requested that he'd like to come into the Planning Commission and meet with Mr. Ball and with the fire department. I want to tell you what a great learning experience that was for me. The amount of information that Mr. Ball had put together to share with those people is extraordinary. You probably could stack it this high what had to be taken into consideration. Mr. Ball did an outstanding job meeting with this. This was the architecture for the development by the way. I think the thing that most impressed me is I got feedback from the architecture was, first, he was astonished by the turnaround time he could get from the OMPC.

Secondly, Mr. Ball made it very clear that he would like at any occasion where he could combine reviews to minimize the cost to the applicant. He would like to do that. He assured the applicant he would be available by e-mail or by phone at the pleasure of the applicant.
The fire chief also did a wonderful job of advising the developer where his various -- any time in the future I would say, Mr. Ball, Mr. Noffsinger, if you have an opportunity for a commissioner to come in and just sit in on one of those like I did, I would encourage you to invite commissioners to do that. It was a learning experience for me.

I really want to commend Mr. Ball for doing an exceptional job that day. That developer walked away from that meeting with a very good feeling about Owensboro, Kentucky, and this Planning Commission.

CHAIRMAN: Thank you, Mr. Reeves.

MR. BALL: Thank you, Fred.

CHAIRMAN: That's the tings we like to hear.

Mr. Kazlauskas, do you have comments?

MR. KAZLAUSKAS: Yes, sir.

I would like to take this opportunity to thank the members of the committee that you appointed to review the bylaws. Members of the committee, Mr. Ward Pedley, Mr. Fred Reeves, Larry Bidwell, Mr. Noffsinger, myself. Mr. Howard kept a record for us, kept minutes for us, and kept us on track. Would just like the commission to know that we had three meetings to review the bylaws. There was a lot of conversation.
Especially want to thank our counsel, Ms. Knight, for all the direction that she gave us because we pestered her a whole lot even when she was home sick in bed. We certainly appreciate your efforts in helping us keep everything straight.

I'm happy to say that in the three meetings we were able to go through the bylaws and make some changes that we think were appropriate.

What I would request the chair to do at this time is to go ahead and send a copy of those revisions out to all of our commission members where they have the opportunity to review them. Then at our next meeting I'll be prepared to give a presentation, answer any questions, and maybe at that time that we can go ahead and vote to approve the revised bylaws.

CHAIRMAN: Okay. Thank you, Mr. Kazlauskas.

I agree with that.

How do we go about getting that out?

MR. NOFFSINGER: The bylaws will be e-mailed to each member tomorrow that receive e-mails. If not, we'll mail them out a hard copy, if you don't receive it by e-mail.

CHAIRMAN: Thank you very much.

Anyone else have any comments?

(NO RESPONSE)
ITEM 13

Comments by the Director

MR. NOFFSINGER: Only thing I would like to do is see if we can get a vote by the Planning Commission on this.

Commissioner Reeves contacted me the other day and told me how much he enjoyed the ride-along with the inspectors. He said, you know, it would really be great if we could get continuing education credit for that. I think that's an excellent idea.

I would like for the Planning Commission to take a vote to provide three hours of continuing education to each commissioner that does a ride-along with one of the inspectors and to make that mandatory for all new planning commissioners when they come on board, retroactive to January 1. Actually, December 1 so we can get Beverly. That would good for them. They would get three hours of continuing education. I would like for you to approve that so we can automatically give that continuing education to whatever commission goes.

MR. FREY: We need to make a motion?

MR. NOFFSINGER: Yes.

CHAIRMAN: Does anyone have any comments on other ideas?
CHAIRMAN: If not the chair is ready for a motion to approve Mr. Noffsinger's request.

MR. APPLEBY: I make a motion.

MR. REEVES: Second.

CHAIRMAN: We have a motion by Mr. Appleby for approval and a second by Mr. Reeves. All in favor of the motion raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

We need one more motion.

MR. APPLEBY: Motion to adjourn.

MR. FREY: Second.

CHAIRMAN: We have a motion to adjourn by Mr. Appleby and a second by Mr. Frey. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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

WITNESS my hand and notary seal on this the 6th day of MARCH, 2014.

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBOO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2014

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting
(270) 683-7383