The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, June 14, 2018, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Larry Boswell, Chairman
Larry Moore, Vice Chairman
Lewis Jean, Secretary
Brian Howard, Director
Terra Knight, Attorney
Beverly McEnroe
Fred Reeves
Mike Edge
Angela Hardaway

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CHAIRMAN: Let me call the June 14, 2018 Metropolitan Planning Commission to order. We always start our meetings with a prayer and pledge. Commissioner Jean will lead us in those two tonight. Please stand with us and pray.

(INOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: I would like to welcome everyone to our meeting tonight. Before we get started we have a couple of housekeeping rules that we always explain before each meeting.

If you wish to speak, please approach the podium and clearly state your name and be sworn in by

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our counsel. It's very important that our commission hears everything that is being said tonight for decision making.

Direct all the questions to the Chair, especially if there are multiple speakers at the podium. Be respectful of the time to allow others to speak. Please stay on topic with all discussions, comments and questions keeping them specific to the agenda item being discussed. Your cooperation in those matters will be greatly appreciated.

Before the commission tonight are the minutes from our last meeting of May 3rd. Hopefully all the commissioners have had a chance to review those. Are there any questions?

Yes, Commissioner Edge.

MR. EDGE: There's one minor change on the back. I believe it says, third order of business, second dot there, the applicant's attorney I believe was Jeff Foreman. Not Boarman.

CHAIRMAN: Okay. So corrected.

MR. EDGE: Other than that, I make a motion to approve the minutes with that change.

CHAIRMAN: Is there a second to that?

MS. HARDAWAY: Second.

CHAIRMAN: Second by Ms. Hardaway. Any
discussion about that motion to make the correction?
(NO RESPONSE)
CHAIRMAN: Any discussion about the motion or the second?
(NO RESPONSE)
CHAIRMAN: All those in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries.
Thank you, Commissioner Edge.
MR. HOWARD: I will note that the zoning changes heard tonight will become final 21 days after the meeting unless an appeal is filed. If an appeal is filed, we will forward the record of this meeting along with all applicable material to the appropriate legislative body for them to take final action.

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GENERAL BUSINESS

ZONING CHANGES

ITEM 3
606 Center Street, 0.253 acres
Consider zoning change: From R-4DT Inner City Residential to P-1 Professional/Service
Applicant: Wendell Foster Campus for Development Disabilities, Inc

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

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MR. PEDLEY: Trey Pedley

(TREY PEDLEY SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATION

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

CONDITION

Approval of an amended development plan.

FINDINGS OF FACT

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

2. The subject property is located in a Central Residential Plan Area, where professional/service uses are appropriate in limited locations;

3. The proposed use will be nonresidential in nature;

4. The proposed P-1 zoning is a logical expansion of the existing P-1 zoning to the immediate south; and

5. At 0.243 acres, the expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

MR. PEDLEY: We would like to enter the Staff Ohio Valley Reporting

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Report into the record as Exhibit A.

CHAIRMAN: Is there anyone here representing the applicant?

MR. SCHARF: Yes.

CHAIRMAN: Would you like to speak on behalf of the applicant? Please come forward and be sworn in.

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

MR. SCHARF: Eric Scharf.

(ERIC SCHARF SWORN BY ATTORNEY.)

MR. SCHARF: I am CEO of Wendell Foster. On 6th and Center what our proposal is is to advance. It's a little archaic. Our maintenance, our laundry, our inventory, so we'll be reviewing all those needs. What we want to do on 6th and Center is to bring on the maintenance department more in line to what is going on currently, which is bring them closer to the campus. That's our proposal.

Chad Underhill is our vice president of facility maintenance. I'll allow him to discuss.

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

MR. UNDERHILL: Chad Underhill.

(CHAD UNDERHILL SWORN BY ATTORNEY.)

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MR. UNDERHILL: As Eric mentioned, what we're trying to do here is to better our facilities. You know, we spend a lot of time with the way our facility is laid out utilizing our employees to go all the way across campus. As many of you all probably know what we do at Wendell Foster, you know, our future goal is to better align our employees with our residents and what better serves and suits them. We appreciate your time.

CHAIRMAN: Does the commissioners have any questions for the applicant?

(NO RESPONSE)

CHAIRMAN: Just one clarification question. The maintenance you're talking about would be maintenance that would be utilized for the entire facility?

MR. UNDERHILL: That's correct.

CHAIRMAN: It could be a little bit of anything; fencing, yard, plumbing, heating, whatever the case may be?

MR. UNDERHILL: Yes, sir.

CHAIRMAN: So it's general maintenance?

MR. UNDERHILL: It's the general maintenance for Wendell Foster. It's our maintenance guys themselves.
CHAIRMAN: Thank you.

Does anyone in the audience have any questions concerning this application of the applicant?

(NO RESPONSE)

CHAIRMAN: There being none then the Chair is ready for a motion.

Mr. Jean.

MR. JEAN: I make a motion that we approve with Condition 1 and based on the Staff Report and Findings of Facts 1 through 5.

CHAIRMAN: Motion has been made for approval based on the approval with Condition Number 1 and Findings of Facts 1 through 5. Is there a second to that motion?

MS. McENROE: Second.

CHAIRMAN: Second by Ms. McEnroe. Any discussion or comment about the motion or the second?

(NO RESPONSE)

CHAIRMAN: There being none all those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

MR. SCHARF: Thank you, Mr. Chairman.

ITEM 4

Portion of 3301 Old Hartford Road, 17.438 acres
Consider zoning change: From I-1 Light Industrial to Ohio Valley Reporting

(270) 683-7383
B-4 General Business  
Applicant: Owensboro Warehouse Leasing, LLC

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

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:

CONDITIONS

1. Access to Old Hartford Road shall be in compliance with the access management manual, as shown on the conceptual plan submitted with the Traffic Impact Study, and shall be approved by KYTC;

2. All roadway improvements recommended by the Traffic Impact Study and agreed upon by the KYTC, City Engineer and OMPC staff shall be met; and,

3. Any changes to the land use as identified in the Traffic Impact Study shall require it to be updated and reviewed by the KYTC, City Engineer and OMPC Staff and will be required at the time of any future rezonings, preliminary plats or final development plans as applicable.

FINDINGS OF FACT

1. Staff recommends approval because the Ohio Valley Reporting  
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proposal is in compliance with the community’s adopted Comprehensive Plan;

2. The subject property is located in an Industrial Plan Area, where general business uses are appropriate in very-limited locations;

3. The proposed use of the subject property as general business use will be non-residential in nature; and

4. Although this appears to be an increase in the B-4 zoning in the vicinity, the Traffic Impact Study submitted by the applicant demonstrates that it should not overburden the capacity of roadways and other necessary urban services that are available, or are planned to be improved, in the affected area based on the recommended improvements.

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

CHAIRMAN: Thank you, Melissa.

Is there anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Would you like to speak?

APPLICANT REP: No.

CHAIRMAN: Any commissioners have any questions concerning this application?
CHAIRMAN: Is there anyone in the audience that would have any questions concerning this application?

CHAIRMAN: There being none the Chair is ready for a motion.

Mr. Moore.

MR. MOORE: Thank you, Mr. Chairman. I move for approval based on Staff Recommendations with Conditions 1 through 3 and Findings of Fact 1 through 4.

CHAIRMAN: A motion has been made for approval based on Conditions 1 through 3 and Findings of Fact 1 through 4. Is there a second?

MS. HARDAWAY: Second.

CHAIRMAN: Second by Ms. Hardaway. Any discussion about the motion or the second?

CHAIRMAN: There being none all those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 5

1816 Pleasant Valley Road, 3.502 acres
Consider zoning change: From A-U Urban Agriculture to Ohio Valley Reporting

(270) 683-7383
B-4 General Business
Applicant: Angus Hills Farms, LLC

PLANNING STAFF RECOMMENDATION

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

CONDITIONS

1. Access shall be in compliance with the requirements of the access management manual and subject to KYTC approval; and,

2. Approval of a final development plan or site plan.

FINDINGS OF FACT

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

2. The subject property is located in a Business Plan Area where general business uses are appropriate in limited locations;

3. The proposed use as commercial conforms to the criteria for nonresidential development;

4. The proposal is a logical expansion of approximately 33 acres of B-4 zoning to the north; and

5. At 3.502 acres, the proposed expansion should not overburden the capacity of roadways and other necessary urban services that are available in Ohio Valley Reporting.

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the affected area.

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

CHAIRMAN: Thank you, Melissa. Is there anyone representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Would you like to speak on its behalf?

APPLICANT REP: No.

CHAIRMAN: Any commissioners have any questions for the applicant?

(NO RESPONSE)

CHAIRMAN: Anyone in the audience that would have any questions for the applicant?

(NO RESPONSE)

CHAIRMAN: There being none the Chair is ready for a motion.

Mr. Reeves.

MR. REEVES: Motion for approval based on Planning Staff Recommendation with Conditions 1 and 2 and Findings of Fact 1 through 5.

CHAIRMAN: A motion has been made for approval based on Conditions 1 and 2, Findings of Fact 1 through 5. Is there a second?

MS. McENROE: Second.

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CHAIRMAN: Second by Ms. McEnroe. Is there any discussion about the motion or the second?

(NO RESPONSE)

CHAIRMAN: There being none all those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 6
Portion of 1930 Ragu Drive, 1.380 acres
Consider zoning change: From I-1 Light Industrial to B-4 General Business
Applicant: SYF Properties, LLC c/o Kent Johnson; Buskill Properties

PLANNING STAFF RECOMMENDATION

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

CONDITIONS

Approval of a minor subdivision plat consolidating this portion of 1930 Ragu Drive with 2065 East Parrish Avenue.

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 Industrial Plan Area where general business uses are appropriate in very limited locations;

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3. The proposed use as a strip mall conforms to the criteria for nonresidential development;
4. The proposed B-4 zoning is a logical expansion of existing B-4 zoning to the southwest; and
5. With the conditions in place for the rezoning at 2065 East Parrish Avenue and this expansion being only 1.380 additional acres, the proposal 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 D.

CHAIRMAN: Thank you, Melissa.

Anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Would you like to speak on its behalf?

APPLICANT REP: No.

CHAIRMAN: Would the commissioners have any questions for the applicant?

(NO RESPONSE)

CHAIRMAN: Is there anyone in the audience that would have any questions concerning this application?

(NO RESPONSE)
CHAIRMAN: Mr. Howard, I do have just one clarification question. In the Amended Staff Report, there was mention and listed the conditions that were placed in the March meeting when it was rezoned. My, I guess, assumption or clarification is that these would be, will continue to be part of this particular application as well?

MR. HOWARD: We referenced them in the condition that was placed on zoning change. They apply to the Traffic Impact Study and analysis that was done for the larger portion of the property that was rezoned back then. They're still in effect and still applicable. This portion being a rear landlocked portion that will be consolidated, you know, it will be incorporated into that site with these conditions included.

CHAIRMAN: Thank you, Mr. Howard.

That's the only question I have. Any questions from the commissioners?

(NO RESPONSE)

CHAIRMAN: There being none the Chair is ready for a motion.

Mr. Jean.

MR. JEAN: Motion for approval based on the Staff Report with Condition 1 and based on Findings of Ohio Valley Reporting

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Chairman: Motion for approval has been brought forth by Mr. Jean based on Condition 1 and Findings of Fact 1 through 5. Is there a second?
Mr. Edge: Second.
Chairman: Second by Mr. Edge. Any discussion about the motion or the second?
(NO RESPONSE)
Chairman: There being none all those in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
Chairman: Motion carries.

Item 7
217 West 24th Street, 0.330 acres
Consider zoning change: From R-4DT Inner City Residential to P-1 Professional/Service
Applicant: Buena Vista Baptist Church

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

Conditions
1. Access shall be limited to the alleys only, with no direct access to West 24th Street; and
2. Approval of a site plan or a final development plan.

Findings of Fact

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

2. The subject property is located in a Central Residential Plan Area, where professional/service uses are appropriate in limited locations;

3. The proposed use will be nonresidential in nature;

4. The proposed P-1 zoning is a logical expansion of the existing P-1 zoning to the immediate north, east, and south; and

5. With access limited to the alleys only, the proposal should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

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

CHAIRMAN: Thank you, Trey.

Is there anyone here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Would you like to say anything on its behalf?

APPLICANT REP: No.
CHAIRMAN: Do the commissioners have any questions concerning this application?
(NO RESPONSE)

CHAIRMAN: Anyone in the audience that would have a question concerning this application?
(NO RESPONSE)

CHAIRMAN: There being none the Chair is ready for a motion.

Mr. Moore.

MR. MOORE: Thank you, Mr. Chairman.
I move for approval based on Staff Recommendation with Conditions 1 and 2 and Findings of Fact 1, 2, 3, 4 and 5.

CHAIRMAN: A motion has been made by Mr. Moore for approval based on Conditions 1 and 2 and Findings of Fact 1 through 5.

MS. McENROE: Second.

CHAIRMAN: Second by Ms. McEnroe. Any discussion about the motion or the second?
(NO RESPONSE)

CHAIRMAN: There being none all those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 8

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806 Highway 279 North, 10.017 acres
Consider zoning change: From A-R Rural Agriculture to I-1 Light Industrial
Applicant: The Fruit Company, Inc.; Cabbage Properties Kentucky, LLC

MS. EVANS: This Staff Report is for a recommendation of denial and as customary with our recommendations for denial on Staff Reports, we will read a portion of the Staff Report. I'm going to start at the headline of Development Patterns, if you're following along.

DEVELOPMENT PATTERNS

The subject property is a 10.017 acre tract with a large industrial type warehouse on the property. Originally, the property was used by the Western Kentucky Growers Cooperative to process the produce grown directly around the facility. At some point, the facility transitioned into a privately owned cabbage processing plant which was not an approved use. The warehouse has been vacant for several years at this point. The applicant proposes to rezone the subject property to I-1 Light Industrial for the use of a fruit packaging facility.

All of the surrounding properties in this area are zoned A-R Rural Agriculture and are being used for cropland and single-family residential homes.

It appears that the subject property is
designated as prime agricultural farmland according to
the "Important Farmlands" map created by the US
Department of Agriculture Soil Conservation Service
dated March 1980. However, the Comprehensive Plan
does anticipate the conversion of some prime
agricultural farmland for development.

If the rezoning is approved, the applicant
will be required to provide vehicular use area
screening compliant with Article 17 of the zoning
ordinance around the perimeter of any proposed parking
area that faces the Highway 279 North right-of-way.
Any outdoor storage areas shall also be screened with
a six foot high continuous solid wall or fence.

If approved, prior to occupancy of the
property, the applicant must obtain approval of a
final development plan or a site plan to demonstrate
compliance with zoning ordinance requirements
including, but not limited to, parking, landscaping,
building setbacks, access management and signage.

SPECIFIC LAND USE CRITERIA

The applicant’s proposal is not in compliance
with the Comprehensive Plan. The proposed use as a
fresh fruit packaging facility does conform to the
criteria for nonresidential development, however there
is no other industrial zoning in the area; all

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surrounding properties are zoned A-R Rural Agriculture. At 10.017 acres the subject property does not meet the minimum size of 500 acres for a large industrial reserve nor is this an expansion of an existing large industrial reserve.

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

3. The proposed use as a fresh fruit packaging facility would be nonresidential in nature;

4. There is no other industrial zoning in the area; all surrounding properties are zoned A-R Rural Agriculture; and,

5. At 10.017 acres the subject property does not meet the minimum size of 500 acres for a large industrial reserve nor is this an expansion of an existing large industrial reserve.

MS. EVANS: We would like to enter the Staff Ohio Valley Reporting

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Report into the record as Exhibit F.

CHAIRMAN: Thank you, Melissa.

Is anyone here representing the applicant?

Yes, please step forward.

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

MR. MEYER: J.D. Meyer.

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

MR. MEYER: Thank you.

Mr. Boswell, Ladies and Gentlemen of the Commission, my name is J.D. Meyer. I represent the Fruit Company, Inc., and also Agricultural Fulfillment Services who purchased the property. I also have Mr. Scott Webster who is the president of Fruit Company here with me tonight.

We understand that the Planning Staff has recommended denial based upon the fact that this application doesn't meet the Comprehensive Plan. However, the Staff does have or the commission does have the ability to rezone this property from the A-R Rural Agricultural to the I-1 Light Industrial.

If it finds that the requirement in the I-1 zone is not, you know, doesn't currently meet the zoning, but would have back long ago and if the
current zoning is not proper. Currently the property
used as a distribution facility for fruits and
vegetables is the property's highest and best use.

Also, there have been changes. The commission
can find and approve this zoning change if there have
been changes in the economic, physical and social
nature in the area, which we believe that those have
all been met. Most importantly I think that the
commission should note that the property has been used
at least since 2002, and we believe even before that
when it was owned by the Ellis Estate, as a
distribution facility for agricultural products.

You have in front of you all a packet of
information that I'm going to at this time kind of go
through with you all to give you an idea of what the
property is intended to be utilized for by the Fruit
Company.

First, a little background information about
the Fruit Company. It was established in 1942. This
is a multi-generational family business.
Mr. Webster's father began the business. It's based
in Hood River, Oregon. They have over 650 acres of
orchards growing pears, cherries, blueberries and
other types of fruit.

You have in the packet a sample catalog that
recently went out to show the types of product that
the Fruit Company sells throughout the whole entire
United States. There are samples of their baskets and
things that they will put together. It's these
baskets, there won't be any product grown there on the
property. Fruit will be shipped in and the baskets
will be assembled and they will be shipped out from
the facility.

Turning specifically to the property. You
have in your application a copy of the map, which was
part of the zoning application. The property is
located on Highway 279 North. This property is
approximately one mile north off of Highway 60 West in
Stanley, Kentucky. As I said before, it's been
utilized most recently by the Cabbage, Inc. as part of
its food and vegetable processing facility.

The next page shows an aerial photograph of
the property from the west. Just wanted to provide
the commission an opportunity to see and kind of put
their eyes to what the site looks like. There's
another photograph of the property from the east.
Then another grounds photograph of the western side of
building. You can see that this facility is there.
It's an existing facility. It's been utilized for the
exact purpose that we intend to use it for. The only
problem is, obviously, that it has been used in such a
manner that it's not permissible in the agricultural
zone. And that's why we're here, to request tonight
an actual zoning change to the light industrial.

Certainly the property's use meets exactly the
light industrial classification that's being requested
as part of this zoning change.

You can see the interior of the building in
the next photograph. The building is 46,014 square
feet. There are already refrigeration units located
in the building. West Kentucky Growers Co-op did
improve the interior of the property greatly for use
in its facility and for its purpose in connection with
its vegetable distribution facility.

So there's been a great deal of investment
into this particular property, and to rebuild those
refrigeration units at any other type of plant would
be very difficult and more importantly be very, very
expensive. So we believe that helps to justify the
basis for the rezoning and the fact that the current
use is more appropriate as an industrial use.

Now, there's 12,000 additional square feet.
If you go back to the prior picture or two pictures
before, in-between there's kind of an open area. I
know part of the Staff recommendation is if it is
approved that any outdoor storage facilities would be screened. Given the size of the property and the nature of the operation, we can certainly comply with that requirement as well as all the other screening requirements.

The other thing to point out about the property is that it's located in a special flood hazard area. I've also provided you all, it wouldn't quite fit in the packet, an overall map of the area. All of that property is located within the special flood area which does put some limits not only on the ability to expand this facility, but also the ability to develop the other areas around it. We believe this will be just a special select unique type use for zoning classification because of the fact that this special flood hazard area will kind of limit additional growth or expansion into other industrial use properties.

Again, as I stated before, the property has been used as a distribution facility. Originally the buildings were built in 1992 and 1995. West Kentucky Growers Co-op utilized the property from March 1, 2002 until April 1, 2006. Cabbage Properties Kentucky, Inc., or Cabbage, Inc., was the operating facility purchased and utilized the property in December of
What is the Fruit Company's intent with respect to its use? We plan to utilize this as a distribution fulfillment center. It clearly is going to be a light industrial use. There will not be a lot of heavy traffic. The peak season for the Fruit Company runs from October to the end of December. Obviously, during the holiday season these types of gift baskets are in great demand. At that time, at least our projections for this year is that they would employ 24 people.

Again, in 2019 the property and facility would be utilized just during those peak season hours or peak season times, from October to the end of December. Our projections then are that we may employ as many as 50 people.

After that, long-range plans obviously are to continue to use potentially the property year-round; however, during the non-peak season, which runs from January until September 30th, the number of people employed in the facility are close to nine or ten people.

So you'll have during those non-peak seasons there won't be a lot of traffic in and out, as far as employees go, but obviously during the peak season
you'll have a little more. The advantage of that, we think none of that will overburden the traffic in the area mainly because during the peak season for the Fruit Company it's sort of a non-peak season for the agricultural community, as most of their crops have been taken in and obviously it's in the wintertime.

We do have, kind of the next page is a projection regarding the employees and more importantly the employees there will obviously be compensated very well for their time ranging anywhere from 10 to $12 per hour or 13 to $19 per hour. So we believe that it will provide a good economic impact for our community, provide additional jobs, especially to those who may work in the farming industry out in the fields once the, obviously, crops are taken in and starts the peak season for the Fruit Company and are able to employ those people in the facility during the peak season.

I think more importantly what the Fruit Company intends to offer by having and placing this distribution facility here is an added value ag product.

Mr. Webster, even though he's coming into the community, he's already communicated with the leaders. He's identified those people who are growing Ohio Valley Reporting

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alternative crops. For those of you have all
recognized and realized that there are farmers in our
community who are looking to grow additional different
types of crops, not just your standard corn and wheat.
We have obviously Mr. Reid and his facility, Reid's
Orchard. We have the blueberry company out on Hill
Bridge Road. We have various wineries. Not wineries,
but we have various individuals in farms growing
grapes. Those are people who the Fruit Company
intends to contract with to help supply their needs
for their business, which obviously adds and has and
will have a great economic impact upon our community.
We have also talked to regional distributing companies
about purchasing product from them. Obviously,
they'll ship product from Oregon in. That may not
satisfy all their needs. We'll also buy locally from
local distributors as well.

As I mentioned before, we do not believe that
there will be a negative impact upon the
infrastructure and the roadways and the other
facilities that are provided in the neighboring
community.

During the non-peak season, I have a picture
of the UPS truck. Typically there will be one UPS
truck delivery per day. Actually it's a pick-up which
is no different than probably what's already on the roads out there. UPS actually prefers and likes companies, likes the Fruit Company in this location. It's advantageous to them because they can be delivering goods out in the Stanley/Western Daviess County or Henderson area and as they're coming back they can backfill and backhaul and pick up product here to be shipped out to their other distribution channels.

During the non-peak season running from January until the end of September you're only looking at probably one box-truck, regular UPS truck per day.

During the peak season, running from the beginning of October to the end of December, you'll probably average one or two small trailers, UPS trailers that will be on site. It will be delivered during the workday, and they'll be picked up later in the evening by UPS. Those are depicted on the next page.

Finally, during the heaviest time in the peak season that lasts probably five to seven days you might have as many as three tractor-trailers full of product. Again, those are dropped off by UPS the night before. They're filled up during the day as the employees work, and then those are picked up at night.

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in the later hours. Typically that's when traffic
would be a little lighter.

We have contacted, in preparation for this
meeting today, we contacted the Kentucky Department of
Transportation. You have in front of you an e-mail
that was sent to Mr. Weaver with Bryant Engineering
who assisted us with our application. As he
questioned and provided this information that I just
gave to you to the Kentucky Department of
Transportation, and it was based -- there's a copy of
their e-mail and response, and it was based upon their
assessment that this proposed use wouldn't overburden
the property.

So as I said, we don't believe that there will
be any negative impact on the traffic or the other
infrastructure located in that area. Again, the
majority of this property, as you can see on the map
that's on the screen, is agricultural. There's
several large farms surrounding it. So by adding this
we don't believe it's going to overburden them. I
think the fact that there has been in the past this
exact type of facility in there, there's been no
complaints filed or any issues raised by any of the
neighbors. That just demonstrates that a
light-industrial zoning of this property is not going
to harm the surrounding properties or provide any negative impact.

The Fruit Company plans and will be, they're going to make a commitment to Owensboro and also to this facility. They know it needs improvements. They plan to make those; again, meeting any of the buffering requirements as required by the Staff. If this were approved, it's not an issue or a problem. We'll be glad and happy to make those.

The company is here for the long term. Actually, Owensboro is a crucial business location for them. Not only is this facility ready for them to utilize, because it already has the refrigeration units there and existing in the facility, but their distribution points, as I alluded to earlier, are mainly through UPS, which obviously we all know has local hubs, which are a short drive distance, which in realty allows them to meet their customer demand and deliver their products to their customers in a quicker time or quicker time period.

I know I've kind of rambled on at this point in time. We feel that while it doesn't fit, the zoning change doesn't fit within the Comprehensive Plan, the Commission can still find that the zoning change is appropriate.
I have proposed findings there on the last page based on what I believe to be appropriate. As I said before in the beginning of my presentation, there have been changes in the economic, physical and social nature of the area that were not anticipated at the time of the adoption of the Comprehensive Plan which altered the character of the area. You know, obviously the area is agricultural in nature. We have a rise of alternative crops. There's a need for processing and distribution facilities such as these to provide a market to our local farmers. Obviously, this will be a big business impact in our community in providing jobs and opportunities for farmers who are growing those alternative products, which obviously helps with the public welfare.

The proposed zoning change will not adversely affect the neighboring property. That's evidenced by the fact that it's been used for several years in that capacity without any issues. As I mentioned, there will not be any negative traffic patterns that will be impacted in any way.

You know, this type of use actually we believe and feel compliments an agricultural zone.

The original zoning classification that was given to the property is another ground upon which you
all can approve the zoning change. The original zoning classification was improper at the time given the current use of the property. You know, there's no opportunity for distribution facilities under our existing Comprehensive Plan to be conditionally permitted in an agricultural zone, but we feel and believe that it should be. Again, this has been utilized for at least 16 years as a light industrial purpose, and it's been done without any negative impact upon the area.

So based upon those two provisions we believe and request that the commission approve the zoning change.

CHAIRMAN: Thank you, Mr. Meyer. You may want to stay there for questioning. I'm sure there may be some.

MR. MEYER: Sure.

CHAIRMAN: Any commissioners have questions for Mr. Meyer?

MR. EDGE: I don't have any questions, but I do think it make sense, if I can inject my opinion here.

I made a couple of notes here in regards to what Mr. Meyer was saying. Distribution is a strength of our community, based on where we're located here in Ohio Valley Reporting

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Owensboro and in Kentucky. Agriculture obviously is fundamental to our economic base, and then obviously it does bring jobs. One of the compelling arguments he makes is the building has been utilized in the same function. They're asking it be utilized for just, in my opinion, cleaning up the paperwork.

CHAIRMAN: I think essentially that's what I heard him say. Their intention is to improve the facility if this were being rezoned, correct?

MR. MEYER: Correct.

CHAIRMAN: That being, you know, cleaned up, you know, new paint, whatever the case may be at some point.

MR. MEYER: Mr. Webster was out today making a list of to-do things.

CHAIRMAN: I'm very familiar with that facility. I've been in it a number of times over the years. I live about five miles from it. I don't go by it all the time, but I know where it's at.

One of the questions that I have in trying to understand what your presentation has been and what the Planning Commission has, the Planning Department has come up with as a denial, the original rezoning, and Mr. Howard may be better to answer this one. The original rezoning, you're proclaiming that it was
incorrect. Can you elaborate a little bit on why you say it was incorrect?

MR. MEYER: Mr. Ellis actually bought this property in 1935. I think the zoning, the original zoning is really more incorrect based upon the changes and use of the facility to what we have today. I think it just becomes by nature, by the way that it was de facto changed, and de facto became what it did. It makes the original zoning improper and inappropriate.

My opinion personally is that the zoning ordinance didn't provide any opportunity to develop a facility like this in an agricultural zone, which benefits an agricultural business. You know, you have issues with transportation. This is close to the market. This is in an agricultural area. You know, it would be something that should have been or could have been under the original zoning application or zoning ordinance could have been, you know, put in as a conditionally permitted property. It was not. I think from the standpoint of the original zoning, and is it improper. It's improper now based upon the change in use which has occurred over a 16-year period. That's the basic basis for that.

CHAIRMAN: Originally it was more localized
farmers that used it for cabbage and the process many years ago.

MR. MEYER: Correct. Then Cabbage, Inc. kind of did the same thing. Now obviously it is what it is.

CHAIRMAN: Which, I guess, in a sense would have been not necessarily a long-term utilization of it. Periodic utilization, but not necessarily long-term. What you all are proposing is more long-term utilization and economic development of that particular building is how I understand it. This is what you're proposing?

MR. MEYER: Not just development, but also just use in general. You have a 46,000 square foot building there that really, you know, has no economic -- could have a great economic impact, but it can't because of the way it's currently zoned.

CHAIRMAN: What happens if the zoning is denied? What happens with all of that?

MR. MEYER: In my opinion the property could just sit there and rot, which is not to benefit anybody.

CHAIRMAN: Okay. Thank you.

Yes, Mr. Moore.

MR. MOORE: Mr. Chairman, let me ask

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Mr. Howard a question.

As I read through that, when Western Kentucky Growers Co-op had it, it was A-R. Then the Cabbage processing plant took over and it was still A-R, but that was not the right use or the right zone?

MR. HOWARD: So when the co-op, that originally started using this facility, they were using it to process the stuff that they grew here locally only. So that was deemed to fall under the agricultural use.

As Mr. Meyer has stated, over time it transitioned from just doing what, just processing what was grown locally to bringing in shipments of other things and processing and then redistributing out from there.

So it fits ultimately today and what they're proposing, as he has stated, fits the classic definition of a light-industrial use that is a distribution processing packaging facility for product. In this instance, it is for agricultural purposes, but if it were -- that type of activity could go on for, you know, any number of businesses and that type of thing. So it is an agricultural use. It started in an agricultural zone. Over time it has transitioned. We certainly don't have the staff, you
know, that goes out and looks for these kind of
things. It just happened.

You know, Trey is our zoning enforcement guy
right now. He's doing foot inspections in the morning
and reviewing stuff. You know, we don't have a
full-time staff person that can go out and look for
those kind of things. We've never received a
complaint about it in the office. That's how we
follow up on zoning violations. So it's fallen under
the radar and it's been there forever. Well, not
forever, but it's been there for 16 years doing this.
Certainly we could not make findings that it was in
compliance with the Comprehensive Plan nor since it
transitioned, you know, more or less in a nonlegal
fashion over time, we can't make, you know, we as
Staff do not feel comfortable making a finding that
their proposed zoning is more appropriate. Certainly
that's your all's purview based on the evidence that
was entered tonight by the applicant's attorney.

MR. MOORE: Thank you.

CHAIRMAN: Any commissioners?

Yes, Commissioner Reeves.

MR. REEVES: Mr. Meyer, I assume that the
ingress/egress that you have there currently would be
satisfactory if this rezoning were approved?
MR. MEYER: Yes, sir. As you can see in the picture, actually there's a semi truck coming in.

CHAIRMAN: Mr. Howard, I guess the question becomes, to even anticipate approval of this the motion would have to have a completely different findings of fact that would support the approval of this application as opposed to what's been presented?

MR. HOWARD: That's correct. There are three different types of findings of fact that can be made on a zoning change.

One is, is it in compliance with the Comprehensive Plan.

The second is, and this is part of the case that Mr. Meyer made, have there been changes of a social or economic nature in the area that weren't anticipated in the Comp Plan.

And the third is, is the proposed zone more appropriate than the current zoning.

You know, he has provided you all with some sample findings of fact that could be used certainly to make findings upon those two alternative means instead of it being in compliance with the Comprehensive Plan.

CHAIRMAN: Thank you, Mr. Howard.

Any other commissioners have any questions
concerning this application?

(NO RESPONSE)

CHAIRMAN: Is there anyone in the audience
that would like to speak concerning this application?

Yes, please.

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

MR. REYNOLDS: David Reynolds.

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

MR. REYNOLDS: Thank you.

Mr. Chairman and Commissioners, I represent
CTC Investments, LLC.

If you look at the map on the screen there,
CTC owns essentially all three sides that surround the
rectangle there that's in question, the 10 acres.
They also own across the road a large tract and, of
course, a lot of other large farmland in the community
of Stanley.

I want to take an opportunity to express to
you my disagreement with certain things that have been
said, but before I do that I want to address the
questions that the commissioners raise.

Mr. Reeves asked about ingress and egress.
Based upon the plats that are recorded of record, we
do have a surveyor here that may be able to testify. It's my understanding that ingress and egress of this piece of property right here actually is a gravel road for which it leaves 279, crosses over the Case Drilling property, which is a pie-shape little triangle there that goes to a point, and then either partially or wholly is on my client's property, and then you see it veering off to the northeast. If you look there on what I'm talking about on the screen, you will see how the, as you leave the facility there how it arks down onto the solid blue line and then connects to Highway 279. That is what I'm talking about. It appears to be right there on at least partially. It's my understanding the Case Drilling property actually, that last 10 or 15 feet of that little pie-shape, the entrance crosses over that.

In any event, I think if you looked at what is attached to the application, what they chart or survey, you'll see that it comes to an abrupt point right there at 279.

As you look on the screen you can tell that the entrance road, again, follows that blue line. I think ingress and egress is a very important question here because we're talking about a gravel road. There's a question about whether or not it crosses one
or two other neighbors' properties that adjoin this property. So that's a very important point.

I also want to comment that in regard to what West Kentucky Growers Co-op did. In a full disclosure, I'll tell you, I represented the State when West Kentucky Growers Co-op went in default. Their business went under. They went in default on their loan and they at that point executed a foreclosure on the property. Giving it back to their financing company. This was financed by Kentucky Agricultural Department. I was part of that process in 2006. I'm familiar with that.

What I want to point out here is for starters, West Kentucky Growers Co-op was not a successful entity operating this business. They went under. A lot of talk has been about how this has been used for 16 or more years. There's been of lot using the term "the current use." The current use of the building is it's a vacant dormant building. There's no current use that is packaging cabbage. Another company that went under. Cabbage Properties, they went under. They're no longer in business. The most recent use of this business was leasing it out to the local farmers to let them come and strip their tobacco in it. It hasn't packaged vegetables for some time.
So if you want to break down the window of time for 2002 when West Kentucky Growers Co-op got it, how long did they use it? How long was it back in the hands of the state sitting there waiting to find somebody to buy it? Then how long did Cabbage use it before they defaulted and shut down? And now they've conveyed it out. Actual usage time is not nearly as much as you might think, and it's been used by two companies that failed. For all the talk about the Fruit Company is going to be successful, I'm sure that Cabbage Properties and West Kentucky Growers Co-op thought they were going to be successful too. We all do going into that, but what we've seen is they didn't work.

Again, the talk has been "the current use," "the existing use."

Staff's recommendations pointed out, it's not being used right now. Current use is a vacant building. They even refer to this as, for some time or several months or years was their language.

Trying to tie the current application to the current use I don't think is really appropriate here. I also want to say in regard to -- and all respect to Mr. Edge that made the comment about tieing up the paperwork. This commission is not charged with
condoning prior bad acts. If another owner has been in noncompliance of the zoning, that is not a legal basis for this commission to grant a zoning change to the new buyer. There are guidelines we have to follow. There are things that have been stated that have to be met.

I want to look at a few of those things and I want to ask the applicant, I want to challenge the applicant to show us what they mean when they say in their application. Of course, the application has magic language in them. We all know those. They do. When they say things like, considering the existing land use has not caused any issues. Again, the existing land use is it's a vacant building. It's dormant. The last two owners have given up on it.

They say things like, the applicant contends that there have been major changes of an economic, physical and social nature within the impacted area which were not anticipated in the adoption of the Comprehensive Plan.

As the chairman noted having lived out there for a number of years, challenge the applicant to stand here and point to any changes in that vicinity in the Stanley area along Highway 279. Period. Much less some major social, some major economic change in Ohio Valley Reporting (270) 683-7383
the area that has occurred.

I also want to point out the Comprehensive Plan, when was it adopted? 1991. When did they say that the Ellis Estate started using this property? Early '90s. How do you say the Comprehensive Plan didn't anticipate something that was happening at the time?

The commission can't condone prior bad acts by just saying, well, somebody else did it so we're going to let this person do it. You have to find evidence.

There's been a statement that there's been a change of economic, physical and social nature. There's been no evidence presented of it. In fact, on the contrary. This property has been farmland for a number of years. There's a picture right up there. It looks like the same farmland picture that was taken 50 years ago probably. It hasn't changed. There's no industrial property within miles of this property.

What changes have occurred; social, economic, physical have occurred to allow this property to be rezoned? I submit none.

They go on to say, said changes, those consist of economic, physical and social without any description, have altered the basic character of the area involved. I ask you commissioners who are Ohio Valley Reporting

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familiar with the area, have seen the character of the Stanley area, specifically around this area, altered in the last 20 years? It's pretty much the same as it's always been. It's not bad, but, again, it's what we're trying to prevent. We don't want it to change. We don't want a light industrial classification because we all know one thing leads to another sometimes. All of the surrounding property and for miles is agricultural, with the exception of you see in the top of your picture there are a couple of houses half a mile down the road on the opposite side of the road. We've got residences in there. That's what this property has been used for for years. That's what it should be used for now.

It was mentioned that Mr. Weaver contacted the state about a traffic study. You see in your package the extent of that study. It's about a four-sentence e-mail from Mr. Weaver giving his characterization of the circumstances, and about a one-sentence e-mail saying, well, that ought to be okay based upon what you're telling me. No evidence that anybody did any actual looking into it.

And I have concerns with what Mr. Weaver conveyed. Mr. Weaver conveyed in his e-mail that's attached to the application, the property is plus or
minus 10 acres in size and is being used to package vegetables. I guarantee you that was not true at the time this e-mail was sent. It hasn't been used to package vegetables for some time. The present use is not in compliance with the zoning ordinance. Well, the present use, as I said, is a dormant building.

They go on to talk about, and Mr. Meyer expressed, the UPS trucks coming in. The prior usage from the Ellis Estate, West Kentucky Growers Co-op, and my understanding the Cabbage Properties, they were right there. The farm goes around it. As Mr. Meyer correctly stated, J.C. Ellis bought the property in 1935 with hundreds of acres around it. How is this fruit getting in there? No one has mentioned the trucks coming in to bring the fruit. They just talk about one Fed Ex truck a day. How is the fruit getting in there? Was the state advised of the amount of traffic that the fruit suppliers would do? No, they weren't.

There's a lot mentioned about the Fruit Company, an Oregon Company, and their commitment to the community. Well, I want to first point out that the Fruit Company is not registered to do business in the State of Kentucky according to the Secretary of

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State's website. Neither is the company that now owns the property, who Mr. Meyer indicated he was representing as well. They're not part of the application, but they took title to the property on June 1st. This other company took title to the property on June 1st of this year from Cabbage Properties, Cabbage Properties is gone, while the zoning application was pending. So they're pretty much stuck, I think. The Cabbage Property is gone. They've gotten their check presumably.

So you have two companies. One to benefit and talking about the commitment to the community, but they haven't registered to do business in the State of Kentucky. It is what it is. They haven't. Can they do it tomorrow? Sure, but they haven't.

There's been a lot of talk about their business in Oregon, the success, the nationwide. I don't know that that's evidence that gets you through the parameters and the boxes you have to check off to change the zoning though.

Does our Comprehensive Plan that was adopted in the '90s and that we have to follow, does that get influenced because an out-of-state company says they are a great company and they want to come in and they want to do business in our area? I don't think that's
the standard. That's a great thing that they want to come to the community, but you know what? Maybe they need to go to a more industrial area within the Comprehensive Plan and do their business within the community. Why? Because we adopted the Comprehensive Plan for the region. Not for somebody that wants to come in and say, hey, that's a spot to do what I want to with it. I don't care how long they've been operating as agricultural for the last 100 years. Do what we want to do.

Again, they probably are a good company. I don't have any reason to suggest that they're not, but that's not, as the Staff's findings pointed out procedurally step-by-step, that's not part of the thought process. Good company. Bad company. Is this an extension of an existing light-industrial zone? No. Is this a 500-acre industrial park? No. Do they have social, economic changes in the community that suggest you should make it light industrial? They haven't shown us any.

What we have right here is a vacant building. It is unfortunate that it's a vacant building. It might even be unfortunate that zoning wasn't sought before it was built. Apparently, looking at the dates of things, the Comprehensive Plan was in place before
the building was built; pretty close to the timeframe.
That's the way it looks. I know the Comprehensive
Plan was in place 10 or 12 years before West Kentucky
Growers Co-op took over. They didn't come and ask for
a zoning change. One slight difference though. They
were doing it kind of like Ellis Estate, doing it more
kind of their own stuff right there in the area.
I submit to you that there's no evidence
presented by the applicant at this point that
justifies the boxes that you have to check to override
the Staff's recommendation; which as Staff has pointed
out and you're aware, are also overriding the
Comprehensive Plan.
They put in their application another magic
language. The primary change in the vicinity, and
talking about those changes out in Stanley, is the
successful operation of a light industrial use. The
only thing I can think of they're talking about is
prior nonconforming use. Which, again, shouldn't be
used to justify change. And too, I have a question
over the word "successful," since both of them went
out of business pretty quickly.
Goes on to state in their application, the
other change is the need for industrial uses that are
agriculturally related in the rural areas.
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I don't think they've shown any need other than their own. Their needs are not what this commission is supposed to look at. The needs and the community impacted by the change. Do they need this facility out there? What are they going to do?

They're going to pack up fruit and then they'll bring in fruit from wherever. They're going to pack it up and they're going to ship it across the country; mail order type stuff. I see soybean fields. I see corn fields. I don't see anybody in the community benefiting from this.

I believe this commission needs to really think seriously about the ingress/egress situation, and also this traffic study. The fact they didn't even mention how the fruit is going to be getting in there, and the fact that the reliance on the response on the traffic study is based upon incorrect information you've been given from the state to start with.

The applicant may desire to speak to some of these things. I would ask I be allowed to follow up with the applicant if they choose to speak and refute comments that I've made. That's all I have at the moment.

If any one of you have a question for me, I'd

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be happy to try to answer it. Again, I've had a little bit of experience on this property because I represent the owner all around it and I represented Kentucky Agricultural Living facility when they took it back from West Kentucky. I've got a little bit of title history on the property there. If there's any questions, I'll try to answer them. If not, I'm sure Mr. Meyer wants the applicant to refute.

CHAIRMAN: Do any of the commissioners have any questions for Mr. Reynolds?

(NO RESPONSE)

CHAIRMAN: Not at this point. Thank you.

Mr. Meyer.

MR. MEYER: I would kind of like to ask Mr. Weaver to come up to address the issues with respect to the easement and the impact of the traffic of this facility.

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

MR. WEAVER: David Weaver.

(DAVID WEAVER SWORN BY ATTORNEY.)

MR. WEAVER: One of the conditions that Brian had mentioned should this become approved that he recommended was that a condition be placed on the rezoning that a site plan or final development plan be
submitted and approved by the Planning Staff, and I believe he said the county engineer. We would think that that condition would hold true to Mr. Meyer's findings as well. The reason why I bring that up is during the process of approval of a site plan such things as ingress/egress are addressed at that time.

In addition, you can put a condition on the application that if applicable a permit would be forthcoming from the Kentucky Department of Transportation with regards to access.

In part of the site plan process we do a topographic survey and tie the boundaries such that we are able to determine whether or not the existing access does in fact encroach on the neighbor's property. So that's one thing that would be taken care of at that time.

In addition, I believe I heard that the existing access is gravel. According to the zoning ordinance, all vehicle use areas have to be paved, and as such that would be taken care of.

The highway department would make their own determination as to whether or not a Traffic Impact Study was needed or if there were issues with the traffic volume in that vicinity.

CHAIRMAN: So am I understanding you correctly

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that once that would be done, it's possible that the
entrance could be reallocated or relocated to be
within the bounds of the property?

MR. WEAVER: Yes. If we do find during the
process of preparing the site plan in the field work
that we do, that the existing access point does
encroach on the adjoining property, that situation
would be fixed.

At this point in time there has been no
Traffic Impact Study. I don't have my original e-mail
with the State Highway Department, but I don't think I
used the word "Traffic Impact Study." The amount of
traffic we're anticipating here wouldn't warrant a
Traffic Impact Study.

CHAIRMAN: Thank you.

I noticed the county engineer is here. Would
he like to speak on behalf of anything on the
transportation side of it or the road?

Just get a flavor for what the county's
position may be on it.

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

MR. BRASHER: Mark Brasher.

(MARK BRASHER SWORN BY ATTORNEY.)

MR. BRASHER: Like Mr. Weaver said, once a
site plan is presented in front of the county, I will review the access. We would, since Kentucky 279 is a state highway, we would bring them into the conversation, as far as if a Traffic Impact Study is needed or if there's any issue with the ingress/egress of this property.

CHAIRMAN: Thank you.

Any commissioners have questions for Mr. Brasher?

(NO RESPONSE)

CHAIRMAN: Mr. Meyer, would you like to speak concerning some of the comments and questions?

MR. MEYER: I would just briefly.

I understand that there has been past failures at the site by two prior companies, but that's no indication as to what is going to happen with the Fruit Company.

I'll represent to you all that last year the Fruit Company sales were over $21 million. Mr. Webster has no plans to fail. His family business has no plans to fail. They plan to use this site. It's a perfect spot for them. They were previously up in Chicago. They were looking for an additional facility. Located this site, and it works perfectly within their future growth plans. So $21 million in Ohio Valley Reporting (270) 683-7383
total sales, I don't think you can call that a
failure. We shouldn't use past acts of failure of
other businesses to address or look at this situation.

As far as there was a question posed or asked
about how does the fruit get there. Well, it will
come in in maybe one or two trucks during the peak
season. When the fruit is packed, if it's coming from
Oregon, it's very, very tightly packed and compacted.
So you're not going to have a large six trucks, eight
trucks a day coming in of fruit during the peak season
to fill the orders. Like I said, Mr. Webster and his
company packs it very tightly. Obviously they need to
do that for economic reasons. So there's not going to
be a greater burden. You'll see one or two trucks a
day.

During the non-peak season a lot of the fruit
that comes in will maybe be a local truck. Somebody
here in the community who they buy fruit from or they
may be buying from CRS One Source or another food
distributor. In that circumstance and in that
situation, you're looking at the same size box truck
as a UPS truck. One coming in is their estimate. So
it doesn't impact. The incoming fruit is not going to
impact the traffic or the infrastructure in the area
at all.
You know, in looking at the findings, I think that certainly there was a question asked as to what economic, physical or social changes have occurred in the area. As I stated in my initial presentation, the change has been a change in the way we grow crops and produce agricultural products in this area.

In Stanley, the McKay family has a large watermelon farm. That provides an opportunity for the Fruit Company and Mr. Webster to actually expand into an area that they want to get into. So that's the change in the economic. That's the social change in the area. This provides an opportunity for those local farmers to increase their production on all different kinds of levels. So that's the social economic change that we were talking about and providing testimony about, at least during my presentation.

As far as the use of the property, well, yes, it was vacant for a while, but it was also being used for a while, and at no point has there been any change. It's like a de facto change in the property; as it slowly progressed, people did more, but to also pigeonhole it and say, well, just because you're growing crops there locally and you're growing your own crops, you're still distributing them. It's no
really different if you think of it in a larger perspective.

I know Mr. Howard said and indicated that that fit within the A-R zone, but it's really the same thing. Should it be treated differently because it's your own product versus something else you're bringing in? I submit it shouldn't. I submit that it should not.

I think it's important to note too that Mr. Clark actually purchased this property in 2006 from West Kentucky Growers Co-op. So all the property and the acreage he acquired on February 24, 2006, at that time West Kentucky Growers Co-op was in operation, I presume. He bought it from them. Even after that you had the facility being utilized by the Cabbage Company.

I do want to point out, the property directly across 279, it's hard to see, but I think it's shown in the zoning application, that property is zoned by Sara McNulty. I will represent to the board that I did contact Ms. McNulty prior to this hearing. She had no objections to the proposed zoning change.

With that I'll rest. I think that there's clearly enough information upon which the commission can find that there's been some change in the social,
economic, physical and social nature in the area to
warrant a change in the zoning to light industrial,
and also that the original zoning classification, you
know, given its de facto nature of what the property
is.

If there are any other questions, I'll be glad
to answer them.

CHAIRMAN: Any commissioners have any
additional questions for Mr. Meyer?

(NO RESPONSE)

CHAIRMAN: Thank you.

MR. REYNOLDS: Mr. Chairman, I want to point
out first off, CTC purchased what would almost be
maybe a larger string horseshoe around that property
in 2006 after or concurrently at the same time that
the state was taking back from West Kentucky the 10
acres. So West Kentucky had already shut down when my
client bought the surrounding because that's what
happened. My client bought the farmland around it
from a company that had shut down and stopped using
the farmland and the state took back the 10 acres that
they had financed and allowed them funding to acquire.
So it was kind of a hand-in-hand transaction. So it's
not like he bought this property, as might have been
suggested, with an ongoing company doing all this work
there. It's not the case.

One of the things I made a note of Mr. Meyer said goes back to something I said. They believe this is a perfect site for them. This commission has the Comprehensive Plan as its guide. It's not the applicant's perfect need that we're talking about here. It's Owensboro. It's our area, Daviess County. That's what this commission is bound to uphold. Not the need of an applicant. This body sees applicants all the time that may very well be a strong company, good company, but if they want to come in, use a piece of property that is not the way we want to use it, I encourage them to move on down the road a little bit. We'd like for them to stay, but move on down the road in an area that's more familiar with what they're doing.

The biggest part of this whole process that concerns me is the questions related to, once we get the zoning changed, we have to bring to you this. What do you do if they don't comply? Change the zoning back?

CHAIRMAN: I think Mr. Howard would have to answer that.

MR. REYNOLDS: But people need to remember that. The zoning change is the first step. I don't
believe you make your findings tonight on a zoning change application based upon what Mr. Weaver says we're going to have to do when we bring you our site plan. Whether he will or not, okay. The point is, that's not part of the burden. It's not in compliance with the Comprehensive Plan. They have a burden to meet. Again, what is the social, economic change that they're talking about?

You drive by that property, Mr. Chairman. You've been driving by that property for a long time. How many changes have you seen out there?

They're talking about all these major changes, and they call them major changes. They're not out there. That picture could have been taken 50 years ago. With regard to the agricultural needs of the community, soybeans, things of that nature grow out there primarily. I don't think the farmers in the community are clampering to have this company in here and they're not lined up here to speak for how it's going to help them.

I ask you to deny the application request respectfully and follow the Staff's recommendation. Thank you.

CHAIRMAN: Thank you, Mr. Reynolds. Anyone else in the audience would like to
speak or have any comments concerning this
application?
(NO RESPONSE)

CHAIRMAN: Any commissioners have any further
questions or comments about this application?
(NO RESPONSE)

CHAIRMAN: If not chair is ready for a motion.

Mr. Reeves.

MR. REEVES: I'm always reluctant to use an
attorney's motion. They may have something embedded
in there that might come back to haunt us later.

Counsel, please advise.

MS. KNIGHT: Thank you.

MR. REEVES: I'm going to have four conditions
on this also, just to let you know.

Make a motion to approve this application
based on these facts:

That building has been there for 28 years so
it will not alter the essential character of the area.
This seems to be an appropriate use for the existing
vacant building. It's unlikely that should this
application be denied that the building would be torn
down and returned to farmland as it's only 10 acres.

It may provide an opportunity for local
growers to sell their products.

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It will not overburden the local highway system.

It will not likely impact the surrounding farmland.

I'm adding these four conditions:

That the screening be applied as outlined in the application and defined by the Planning Staff.

That there be no additional ingress/egress beyond the two that are currently on the plan; although, those may need to be relocated. The site plan must be approved by the Planning Commission and the county engineer, and all vehicular use areas must be paved.

CHAIRMAN: Let me make sure I'm hearing you. You had a motion for approval based on four conditions?

MR. REEVES: And five Findings of Fact.

CHAIRMAN: And five Findings of Fact which I hope Lynnette recorded all of those.

Yes, Mr. Jean.

MR. JEAN: I would like to second that motion.

CHAIRMAN: A motion has been seconded by Mr. Jean. Any discussion about the motion from Commissioner Reeves or the second by Mr. Jean?

(NO RESPONSE)

CHAIRMAN: Any discussion about that at all?
CHAIRMAN: There being none the Chair is ready for a vote. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

MINOR SUBDIVISION PLATS

ITEM 9
2004 Greenbriar Road, 4.406 acres
Consider approval of a minor subdivision plat
Applicant: Rick M. Crabtree

MR. HOWARD: This plat comes before you as an exception to a parcel that's 4.4 acres. It's got an existing home on the property. The existing lot is of regular shape. They're creating basically a flag-lot around the existing home and consolidating the remainder back into the farm that surrounds it.

They're not trying to maximize the number of homes that could be built on the property. They're actually creating a smaller parcel around an existing home. So we would recommend that you consider it for approval.

CHAIRMAN: Thank you, Mr. Howard.

Is anyone here representing the applicant?

MR. RINEY: Yes.

CHAIRMAN: Yes, Mr. Riney. Would you like to speak on its behalf?

MR. RINEY: No, sir.
CHAIRMAN: Any questions from the commissioners about this application?
(NO RESPONSE)
CHAIRMAN: Anyone in the audience would like to speak on this application?
(NO RESPONSE)
CHAIRMAN: There being none the Chair is ready for a motion.
Mr. Moore.
MR. MOORE: Move for approval.
CHAIRMAN: Move for approval by Mr. Moore. Do we have a second?
MS. McENROE: Second.
CHAIRMAN: Second by Ms. McEnroe. Any discussion or comment about the motion or the second?
(NO RESPONSE)
CHAIRMAN: All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries.

NEW BUSINESS

ITEM 10
Consider approval of April 2018 financial statements
CHAIRMAN: You have before you the financial, April 2018 financial statement. Hopefully the
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commissioners have read through this.

If there's any questions, do we have any
questions or comments concerning this statement?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. MOORE: Move to approve.

CHAIRMAN: Motion to approve. Do we have a
second?

MS. HARDWAY: Second.

CHAIRMAN: Second by Ms. Hardaway. Any
discussion or comment about the motion or the second?

(NO RESPONSE)

CHAIRMAN: There being none all those in favor
raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 15

Consider approval of the FY 2019 OMPC budget and
salary chart

CHAIRMAN: The commissioners have been
presented the 2019 OMPC budget and salary chart.
Hopefully got a chance to review all of that.

Mr. Howard, is there anything you would like
to add or state about this particular budget?

MR. HOWARD: No. It's a pretty
straightforward budget. In line with what we've done in years past; outlining salaries, benefits, revenues, expenditures, all of that stuff. So if you all have any questions, I'd be glad to answer them; otherwise, I think it's ready for approval.

CHAIRMAN: Commissioners have any questions concerning this?

(NO RESPONSE)

CHAIRMAN: Just one comment, Mr. Howard. I think this is a well put together budget. You've got a lot of good information that really has helped with planning the direction that you're going on and what you're planning for. I commend you on that. It's a very well put together budget.

MR. HOWARD: Thank you.

CHAIRMAN: Any comments or questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

Ms. Hardaway.

MS. HARDAWAY: Motion to approve.

CHAIRMAN: A motion has been made to approve.

Do we have a second?

MS. MCENROE: Second.

CHAIRMAN: Second by Ms. McEnroe. Any discussions about the motion or the second?
(NO RESPONSE)

CHAIRMAN:  There being none all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN:  Motion carries.

ITEM 16

Comments by the Chairman

CHAIRMAN:  I have none.

ITEM 17

Comments by the Planning Commissioners

(NO RESPONSE)

ITEM 18

Comments by the Director

MR. HOWARD: No thank you.

CHAIRMAN: Then we have one final motion.

Mr. Edge.

MR. EDGE: I make a motion to adjourn.

CHAIRMAN: Motion to adjourn.

MR. REEVES: Second.

CHAIRMAN: Seconded. Any comment or question about that?

(NO RESPONSE)

CHAIRMAN: There being none all in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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CHAIRMAN: We are adjourned.

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STATE OF KENTUCKY )
 )SS: REPORTER'S CERTIFICATE

COUNTY OF DAVIESS )

I, LYNETTE KOLLER FUCHS, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Planning Commission meeting was held at the time and place as stated in the caption to the foregoing proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately and correctly transcribed into the foregoing 70 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notary seal on this the 10th day of July, 2018.

LYNETTE KOLLER FUCHS
NOTARY ID 524564
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2018
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

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