The Owensboro Metropolitan Planning Commission met in regular session at 5:30 p.m. on Thursday, February 14, 2019, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

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

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CHAIRMAN: I would like to call the February meeting of the Owensboro Metropolitan Planning Commission to order. We always start our program, meetings with a pledge and a prayer. That honor this month goes to Mr. Ball.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Before we get started, I would like to wish everyone a happy Valentine's Day.

All of the commissioners should have received a packet with the minutes and have had an opportunity
to take a look at those minutes. Do you have any
adjustments, any changes, anything about the minutes?
(NO RESPONSE)
CHAIRMAN: Seeing none the chair is ready for
a motion.
Mr. Ball.
MR. BALL: Motion to approve.
CHAIRMAN: We have a motion. Do we have a
second?
MR. JEAN: Second.
CHAIRMAN: Second by Commissioner Jean. All
those in favor indicate by raising your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries.
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GENERAL BUSINESS
CELLULAR TELECOMMUNICATIONS FACILITIES PER KRS 100.987
ITEM 3
10519 Possum Trot Road
Consider approval of a wireless telecommunications
tower.
Applicant: New Cingular Wireless PCS, LLC
d/b/a AT&T Mobility; Anthony T. & Debra Rafferty
MS. KNIGHT: Please state your name for the
record.
MR. PEDLEY: Trey Pedley.
(TREY PEDLEY SWORN BY ATTORNEY.)
Ohio Valley Reporting
(270) 683-7383
MR. PEDLEY: The applicant is seeking to construct a monopole tower at 10519 Possum Trot Road. The proposed tower is 195-foot tall structure with a 4-foot tall lightning arrestor. All materials for a complete application has been submitted in accordance with the Owensboro Zoning Ordinance.

The applicant is requesting a waiver to Section 20-5(c) Setbacks. The required setback for the tower and all structures constructed in connection with the tower are to be 25-feet from the front property line and 20-feet from the rear property line. The proposed spaces for reserved future co-location will not be able to comply with these setbacks due to the limited size of the lease area.

FINDINGS

1. The application is complete with all materials in accordance with the Owensboro Metropolitan Zoning Ordinance;

2. The site is in compliance with all design criteria of the Owensboro Metropolitan Zoning Ordinance;

3. The permanent tower will improve service for users within the community; and,

4. By providing the opportunity for multiple service providers on this tower, we are promoting the
goal of the Comprehensive Plan to encourage co-location in order to minimize the number of telecommunication towers needed.

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

CHAIRMAN: Thank you.

Before we go any further, I forgot to mention the fact that anyone in the audience that wishes to speak for or against any of the issues before this committee, please come to the microphone. There's one in each aisle. State your name and be sworn in by our attorney. Please direct all your questions to the chair; in turn, I will try to find the answer for you either through Mr. Howard, Staff or the applicant. We will ask that you be respectful. Stay on topic. Everybody has the opportunity to speak and everyone has the right for their opinion so please be respectful.

Anyone in the audience that would like to speak for or against?

Please go to the microphone and state your name.

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

MR. BOYLE: Nancy B. Boyle.
MS. BOYLE: We were invited to come here. It's not on our property, but it might be within 20 foot. Our property adjoins. It shows a circle around on our place. I'm not sure what that means. I just wondered what the ramifications are. I'm pleased that there might be a tower out there, but I don't know why we needed to come. It's Rafferty's property. We have nothing to do with that property. I don't know who I need to direct my questions to. Do you?

CHAIRMAN: Ask your question and I'll try to find the answer.

MS. BOYLE: Our property evidently from what he said is within 20 foot of where the tower is going to be. What does that have to do with our property? Are there ramifications against that? I have no problem with them putting on the property what they want. I just don't know why I might be contacted.

CHAIRMAN: Thank you.

Mr. Howard, can you answer the question?

MR. HOWARD: I know the applicant is here to answer it as well.

The property that they're proposing this on is on the Rafferty property. You were notified because state law requires that adjoining property owners
within a 500-foot radius be notified as well. Melissa maybe can get her packet out. On the exhibit map it shows the 500-foot radius and where your property is. Based on the scale of this drawing, you know, you're probably 300-feet away from the parcel that the tower will be located on, the edge of your property. That's a ballpark estimate.

Mr. Pike may have an exact distance, if we can swear him in to answer it as well.

MS. KNIGHT: If you could go ahead and state your name for the record.

MR. PIKE: David Pike, Pike Legal Group, P.O. Box 369, Shepherdsville, Kentucky.

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


First of all, ma'am, if I can respond directly to the question, Mr. Chairman?

CHAIRMAN: Sure.

MR. PIKE: Before I decide what type of presentation, if any, you want to hear from me.

The minimum setback for this tower from any
adjoining property is 314 feet. On the various compass points, it varies from that all the way up to 1,263 feet. Perhaps most importantly, from the commission's perspective and perhaps from your perspective as an area landowner, is it's 891 feet to the nearest residential structure, and that's on our property, our lessor's property. No other residence is located within 1,000 feet of this cell tower. This tower is configured to be less than 200-feet tall so it does not have to be lit for aviation warning purposes.

Ultimately, I'd like to defy this commission or anyone else to find a tower with better setbacks in this community than this one would have.

I don't know if that answers her question.

Perhaps we can determine what else I may need to do here tonight.

MS. BOYLE: So it's just a state requirement that we were notified?

MR. PIKE: This is perhaps proof positive of the facts that I'm fond of and that is the public is never safe when the general assembly is in session.

Yes, the state law requires that notice to be sent out to you. I apologize if you came here needlessly this evening, but that wasn't our choice.
That's was the general assembly's choice.

MS. BOYLE: So it has nothing to do with our property?

MR. PIKE: It in no way encumbers or adversely affects your real estate.

MS. BOYLE: The tower not on our property?

MR. PIKE: Nothing.

MS. BOYLE: I think we're finished.

MR. PIKE: Very good.

Mr. Chairman, Members of the Commission, as I indicated, it's a pleasure to appear before you again. As you might suspect, I have come here prepared for any contingency. I also have with me Ms. Sherri Lewis who is the senior radio frequency design engineer with AT&T to answer any questions I'm unable to answer; fortunately, she got much better math grades in school than I did.

I can do as much or as little as is your pleasure. I have hearing distribution binders. I have a PowerPoint presentation or I can stand here and say nothing. Perhaps what might be helpful, would it be possible for the Chair to inquiry whether there's anyone else here to speak?

CHAIRMAN: Anyone else in the audience need to speak to this issue?
CHAIRMAN: Any of the commissioners need to speak?

(MR. PIKE: In that case, I believe I will sit down with style and grace.)

CHAIRMAN: Thank you.

We need a motion for approval.

MR. VELOTTA: Motion to approve.

MR. HOWARD: If I could interject real quick.

Including the waiver on the setback requirement of the Zoning Ordinance.

MR. VELOTTA: Correct.

CHAIRMAN: We have a motion.

MR. REEVES: Second.

CHAIRMAN: Seconded by Mr. Reeves. All those in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion passes.

RELATED ITEM

ITEM 3A

10519 Possum Trot Road, 0.23 acres
Consider approval of a minor subdivision plat.
Applicant: New Cingular Wireless PCS, LLC d/b/a AT&T Mobility; Anthony T. & Debra Rafferty

MR. HOWARD: This comes before you to create
the parcel that the cell tower that you just
considered will be located on. It's a land-lock
parcel without road frontage which means we cannot
approve it at the Staff level, but it's for utility
infrastructure purposes only; otherwise, it's a
non-buildable lot and is recommended that you consider
it for approval.

CHAIRMAN: Anyone in the audience wish to
speak on this besides Mr. Pike?

(NO RESPONSE)

MR. PIKE: One thing I did not do earlier was
to thank your Staff for all their help. In the fact
that we had this in in a timely fashion is a direct
reflection that their assistance and also their
willingness to answer our questions in a timely
manner.

CHAIRMAN: Thank you.

Chair is ready for a notion.

Mr. Boswell.

MR. BOSWELL: Thank you, Mr. Chairman. I
would like to make a motion to approve the application
for the minor subdivision plat.

CHAIRMAN: Do we have a second?

MR. EDGE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion passes.

MR. PIKE: On behalf of AT&T and our thousands of customers of this community, thank you very much.

I started practicing law under my dad. He once said, that if you won leave immediately before anyone changes their mind.

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 record the record of this meeting along with all applicable materials to the appropriate legislative body for them to take final action.

ZONING CHANGES

ITEM 4

Portion of 3200-3400 Blocks Hayden Road, 1.228 acres Consider zoning change: From B-4 General Business to R-3MF Multi-Family Residential Applicant: Gateway Land, LLC

PLANNING STAFF RECOMMENDATIONS

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

FINDINGS OF FACT:

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

2. The subject property is located in a Business Plan Area, where urban mid-density residential uses are appropriate in limited locations;

3. The proposed use of the subject property as a multi-family residential development will conform to the criteria for urban residential development;

4. The proposal is a logical expansion of the R-3MF Multi-Family Residential zoning to the south;

5. Sanitary sewer services are available to the subject property; and

6. At 1.228 acres, the proposal should not overburden the capacity of the roadways or other necessary urban services that are available within the affected area.

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

CHAIRMAN: Thank you, Trey.

Anyone in the audience representing the applicant?

MR. RAY: Good evening, Mr. Chair and Members of the Commission. My name is Ed Ray with Gulfstream Commercial Services.

(ED RAY SWORN BY ATTORNEY.)

MR. RAY: I don't have anything to add to the
Staff Report, other than being available for any
questions.

CHAIRMAN: Thank you.

Any commissioners have any questions
concerning this application?

(NO RESPONSE)

CHAIRMAN: Seeing none the Chair is ready for
a motion.

Mr. Jean.

MR. JEAN: I'd like to make a motion we
approve the application based on the Staff Report, the
site visit and Findings of Fact 1 through 6.

CHAIRMAN: We have a motion. Do we have a
second?

MS. McNROE: Second.

CHAIRMAN: Second by Ms. McNroe.

MS. KNIGHT: Mr. Chair, I believe Mr. Velotta
wants to recuse from the vote on this, just for the
record.

CHAIRMAN: All those in favor indicate by
raising your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE -
WITH JAY VELOTTA RECUSING HIMSELF)

CHAIRMAN: Motion passes.

ITEM 5
6301, 6345, 6373 Highway 54, 2.719 acres
Consider zoning change: From A-R Rural Agriculture to B-4 General Business
Applicant: Robert E. Bryant; City of Whitesville

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

MS. EVANS: Melissa Evans.

(MELISSA EVANS SWORN BY ATTORNEY.)

MS. EVANS: This Staff Report is for recommendation of denial and as is custom with those Staff Reports we will read the entire Staff Report into the record.

PROPOSED ZONE & LAND USE PLAN

The applicant is seeking a B-4 General Business zone. The subject property is located in a Rural Maintenance Plan Area, where general business uses are appropriate in very limited locations.

SPECIFIC LAND USE CRITERIA

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

(B) Logical zoning expansions of proportional scope - Existing General Business zones may be expanded onto contiguous land that generally abuts the
same street(s). The expansion of a General Business
zone should not significantly increase the extent of
the zone in the vicinity of the expansion and should
not overburden the capacity of roadways and other
necessary urban services that are available in the
affected area.

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 21059CO305D.

- It does appear that the subject property is
  partially 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
  located within the Owensboro Wellhead Protection area
  per the OMU map dated 2015.

- The developer is responsible for obtaining
  permits from the Division of Water, The Army Corp of
  Engineers, FEMA, the EPA, the OMPC
building/electrical/HVAC division or other state and federal agencies that may be applicable.

URBAN SERVICES

Electricity, water and gas are available to the subject property. Sanitary sewage disposal would be accomplished by an on-site septic system.

DEVELOPMENT PATTERNS

The subject properties are three tracts totaling 2.719 acres, located at the northeast intersection of Jack Hinton Road and Highway 54. Jack Hinton Road serves as the dividing line between the Rural Community of Philpot and the Rural Maintenance Plan Area.

6301 Highway 54 is a small 625 square foot tract owned by the City of Whitesville; 6345 Highway 54 is vacant and a single-wide manufactured home sits on 6373 Highway 54. All of the surrounding properties on this side of Jack Hinton Road and in the Rural Maintenance Plan Area are zoned A-R Rural Agriculture and are being used for cropland and single-family residential homes consistent with the subject properties.

The property to the west, across Jack Hinton Road, was zoned to B-4 General Business in 2018 and is the site of a new Dollar General. This property was
appropriate for the B-4 General Business zoning as it is located within the Rural Community Plan Area and met the criteria of the Comprehensive Plan for the B-4 zoning. The subject property however is located in the Rural Maintenance Plan Area, outside of the Rural Community, and an expansion of the B-4 General Business zoning across Jack Hinton Road would be expanding the B-4 zoning outside of the Rural Community which is discouraged by the Comprehensive Plan.

The applicant sites two previous rezonings as precedent for this application to be approved; 7251 Hobbs Road and 806 Highway 279 North. 7251 Hobbs Road was recommended for approval to the B-4 General Business zone at the January 2013 OMPC meeting. The applicant contends the Staff Report indicated the proposal was in compliance with the Comprehensive Plan even though the property was located in the Rural Maintenance Plan Area. However, the property at 7251 Hobbs Road was, at that time, partially located in the Rural Maintenance Plan Area and partially located within the Rural Community Plan Area and therefore did meet the criteria of the Comprehensive Plan for the B-4 zoning classification. Furthermore, the property at 7251 Hobbs Road, as being
in the Rural Community of West Louisville, was surrounded by various existing land uses including a restaurant, retail firearms dealer and the Diamond Lakes complex and directly adjoined existing B-4 zoning to the west.

806 Highway 279 North was recommended for approval to the I-1 Light Industrial zone at the June 2018 OMPC meeting; however, the Staff recommended the application for denial in its Staff Report. 806 Highway 279 North is also located in the Rural Maintenance Plan Area, but the criteria of the Comprehensive Plan to rezone a property to I-1 Light Industrial are very different from those to rezone to a B-4 General Business zone. In fact, in Section 15.4 of the Owensboro Metropolitan Zoning Ordinance, there are specific criteria to even be eligible to apply for consideration to rezone a property to B-4 General Business whereas the same criteria do not apply to the I-1 Light Industrial zone.

The applicant also states that the existing zoning classification of A-R Rural Agriculture given to the subject properties is inappropriate. Staff contends the A-R zoning is appropriate for the subject properties as they are and have been used for cropland and single-family residential uses and there is no
definitive plan for the properties other than the

generic retail sales.

The applicant contends there have been major
changes of an economic, physical, or social nature
within the area of the subject properties which were
not anticipated by the adopted Comprehensive Plan and
these changes have substantially altered the basic
character of the area involved. Although Highway 54
area has grown, it has not grown out to the point of
the subject properties. The growth and changes along
the Highway 54 corridor were accounted for and
anticipated in the current Comprehensive Plan which
was adopted at the December 10, 2018 OMPC meeting.
There have been no changes to the area in the last two
months.

It appears that the subject properties are
partially designated as prime agricultural land
according to the “Important Farmlands” map created by
the US Department of Agriculture Soil Conservation
Service dated March 1980.

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 54 or Jack Hinton Road
rights-of-way. Any outdoor storage areas shall 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 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
retail sales does conform to the criteria for
nonresidential development. However, the expansion of
the B-4 General Business zone across Jack Hinton Road
would nearly double the extent of the B-4 zone in the
vicinity. The proposal would expand the B-4 zone
outside of the Rural Community Plan Area which is
discouraged by the comprehensive Plan. The current
zoning is appropriate for the subject properties as
they have been and continue to be used as cropland and
residential with no definitive plan for the future.
Additionally, there have been no changes to the area
in question not anticipated by the most recent
Comprehensive Plan as it was adopted on December 10,
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 general business uses are appropriate in very limited locations;

3. The proposed use as retail sales would be nonresidential in nature;

4. The proposed expansion of the B-4 General Business zone nearly doubles the extent of the zone in the vicinity;

5. The proposal would allow for the expansion of the B-4 General Business zone beyond the boundary of the Rural Community Plan Area; and,

6. There have been no major changes to the area in question not anticipated by the Comprehensive Plan as it was most recently adopted on December 10, 2018.

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

Anyone in the audience representing the applicant?

MR. KAMUF: Charles Kamuf.

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

MR. KAMUF: Charles Kamuf, and I represent the applicant Robby Bryant.

Robby's family has owned this property since 1903, nearly all of it since 1903. Several years ago, I think in 1977, the City of Whitesville needed a pump station and they put a pump station on this property. The only reason I mention that is that this property for years has had some type of industrial or commercial use on the property.

First of all, I'll be having several handouts so you'll have to hold on with me.

I'm passing two copies to you. One is the plat that shows the rezoning in March of last year. That will be the one with the small red block that you see.

In talking about the first exhibit that I have, it shows the property along Highway 54. In the color that you have here, the green in an industrial property, and the little red mark that we have here
was about a 1.5 acre that we got zoned, and the property was zoned last year. The property was zoned in March by this Board and the Staff recommended approval. One of the main issues that we'll talk about is that they recommended it because it was at an intervening site.

If you could see the green is industrial. The property was zoned B-4 commercial. All the green along here that you see here is industrial. The blue is commercial. It goes all the way -- I might point out this is Highway 54, which in I think 2015 we testified with the Gateway Commons project that it was the fastest growing area in Western Kentucky.

The second photograph that we show or the blowup, this blowup that I show you right now, this is a 2.75 acres right across from the subject property was zoned in March of last year. It shows the property, that now across is B-4. Across from the other property is industrial, and the map that I show you at the top, I saved this. We did not file the application for rezoning in March of last year. The reason we didn't is I wanted to be able to show you this picture. We paid for this other one and another picture we paid over $700. This picture explains everything in a nutshell.
If you see this property, right in the corner this sits at the intersection of 54 and Jack Hinton Road. The property is located directly to my right. Dollar General store is right in front. What we're asking you to do is to zone right across the street, right across Jack Hinton Road to the same zoning that we got in March of last year.

As you can see this one here -- bear with me because I want to be sure that I get all of my points across.

The second photograph that I show you shows the property coming from the opposite direction, and it shows you the land that we, the exact corner that we intend to get rezoned.

I might point out to you: Immediately after we got the property zoned last year, signs came up from all around. We want our property zoned at this intersection.

If you can see over here on this big exhibit, there's a "For Sale" sign here. Directly behind the Dollar General store, that property is for sale. Once we got the property zoned at Jack Hinton Road and 54, it triggered, it triggered many of the area wanting to sell their property.

I would like to walk you through the Land Use
Plan, and what's applicable as far as the law in this case. It's very simple. The Staff has made it very complicated.

Let me walk you through it. For us to get this property rezoned all we have to do to qualify under the Land Use Plan and the Comprehensive Plan is do what's on the front of this.

Are we in a rural maintenance area? Yes.

Are we a title to zoning of a B-4? Yes; in very limited locations.

What does it say? It says right under, look at A and B. "A" is okay. Everybody agrees on that. Then number "B," what do we have there?

Existing general business zones may be expanded where? Onto contiguous land that generally abuts the same street. The expansion of the general business zone should not significantly increase the extent of the zoning in the vicinity of the expansion and should not overburden the capacity of the roadway and other necessary urban services that are available.

So what have we done? We asked for a small tract. It's a 2.5 acre tract. The reason for that, even though this property has been in the family since 1903, these lots were already cut out. One of them was cut out from the City of Whitesville to put in a
pump station. So the property has had some type of commercial use. These other two lots were cut out of Mr. Bryant's property because he thought one day his granddad was going to build a house there.

So that's why we've asked for 2.5. Certainly 2.5 acres is not going to overburden any road.

Let's go over what it says.

"General Business zones may be expanded onto contiguous land that generally abuts the same street."

Now, did we qualify? This is the same street, Jack Hinton Road. Is it contiguous? No question. The Staff even admits that. So what we want to do is -- what is the Comprehensive Plan for? What does it say here? "For expansion." Certainly expansion across that road would be qualifications under the Comprehensive Plan. I submit to you that there's nothing in the Comprehensive Plan that we violate in getting this property zoned to B-4 commercial. All that is necessary to qualify is the black and white letter of the law and that's it.

Are we in the rural maintenance area? Yes. Very limited location.

Do we meet the qualifications? The Staff comes up with the idea that it should be discouraged. That's their opinion.
The reason that it's so important is because you have the discretion to do what you want to do. I'm going to give you three precedence that you all established. One of them will be by Martin Hayden who was on your board for 12 years. He's here to testify about one of them.

Here is where we are: Existing general zone, yes. May be expanded. Where? Onto contiguous zones, if it generally abuts the same street. Like I said, there's nothing in that Comprehensive Plan that says we can't do this.

Let me point out: The importance of property being at an intersection. Your Comprehensive Plan, if you look at the little layout that I gave you a few minutes ago, read the top of that, if you will, where where it says "General Business Uses includes a wide range of commercial and professional/service activities. These uses exist in many locations throughout Daviess County, but are more concentrated along urban arterial and major collector streets, and within rural communities." That's what it's about. That's why we have it here as stated in the plan.

The Staff's findings in a recent case in March, one of their five findings was it's located at the site of an intersecting street.
Let me explain to you about how important that is. I'm an agent for Dollar General store there. They sent me out in rural areas. We probably had five cases with you all in the last three or four years. They asked me to go over in Ohio County and see if I could find a spot. It wanted someplace between Pleasant Ridge and Hartford. So I find this intersecting street over there and I knocked on the guy's door. I said, how would you like to sell your property? The guy says, you know, I bought that property ten years ago and I've been waiting for you to come to talk to me.

So the point I'm making is Dollar General store nowadays has changed the idea of these intersecting streets in the county. They're looking all over. Used to be ten miles. Now it's five miles. So the point I'm saying is: What changes this from some of these other examples I'm going to give you in a few minutes? It's at an intersecting street which is critical under -- if you read the Land Use Plan it talks in all cases about intersecting streets. It's more important because now many commercial activities are looking for intersecting streets where? In rural areas. It's not that important in the city, but it is there.
So I'm saying to you that once we got the property zoned in March, this is a logical expansion. It doesn't make any difference whether it's in a rural maintenance area or whether it's in a community rural maintenance area. It's a logical expansion.

We have one more map. The Staff tells you that there's no changes out there. Some of you guys know all about Highway 54. You're out there every day.

This property here, it's in the middle of that block that we had a few minutes ago. What it is, as we speak they're in the process of building a convenient care facility out there as we talk. This is not something that just changes. This is a continual change in the area that you see along 54, right in the immediate area of the subject property.

In the immediate area of this property, there's a feed mill, a restaurant, a sheet metal shop, and a medical center that we see. This is as we talk that's being developed.

To my knowledge in the last ten years there has never ever been a rezoning denied on Highway 54 where the property fronts on Highway 54. I put that in my application. Nobody has denied this.

Now, I'm going to give you three strong
precedents of areas where you have -- the Staff says, we discourage anything in a rural maintenance area as far as B-4. I'm going to be make a case for you.

The first case is at Hobbs Road. This is a case where I think it was 2013 the Staff recommended a zoning in this area, which is several blocks from downtown West Louisville. It was partially in the rural maintenance area, and part in the rural community area. The Staff was able to recommend this even though part of it was in the rural community maintenance area. Your board voted 10 to nothing to approve it.

As we talk about it, the Staff said that in the report if you look, that it was surrounded by B-4 zoning. Look where that is. That's out south of West Louisville. It's in a rural maintenance area partially. The Staff approved a rezoning in that area.

The orange that you see is Whittaker's Gun Store in the middle of West Louisville. So it's out in nowhere. Staff approved it. Staff recommended rezoning in a rural maintenance area. That's the first one.

This property, many of you were on the board when this was done. This is the property down there
at 279 near Stanley. That was in 2018. I refer you
to the back page where you have the pink marker,
second page.

Here is what the Staff said in that case:
"Staff Recommendations: The Planning Staff recommends
denial subject to the findings of fact that follow."

I might point out, as see this property, it's
out in no place. It's somewhere on Highway 279 in the
middle of the block. The Staff says:

"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 property are zoned A-R Rural
Agricultural; and,

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

Now, let's see what happened. Turn the page
over to the front. What makes this different is the fact that the Staff recommended a denial. It was in a rural maintenance area. You all did this. You all are able -- you don't have to abide by the Staff Report. You don't have to abide by the Comprehensive Plan. The Comprehensive Plan is a guide. The Staff Report is a guide. This is what you all did. You all overruled the Staff and here is what it says:

"A public hearing was conducted for the above-reference application June 14, 2018 OMPC meeting. After testimony, the Planning Commission recommended approval of the application. J.D. Meyer represented the applicant, presented a case for the Commission to approve the application on the changes in the area, and that the proposed zoning is more appropriate than the existing zoning." You understand? "More appropriate than existing." Didn't say it was a logical expansion.

"David Reynolds represented CTC Investments, an adjoining property owner, and brought up concerns relative to ingress/egress, the history of failed businesses on the property, questioned what changes have occurred to justify the rezoning, and concern over the increased traffic. Mr. Reynolds' concerns were addressed by the applicant's Engineer, the County
Engineer, and Mr. Meyer. Commissioners Mike Edge, Larry Boswell, Larry Moore and Fred Reeves all asked questioned for clarification on items presented."

Now, why did I bring this up? I bring this up, and the point that this board has discretion. If you didn't have discretion, all we would need is somebody over at the Planning Staff saying, A, B, C, just mark it up. So you all exercise in this case your judgment and did not abide by the Planning Staff.

I point out, in the case that we got, we got all neighbors in the area of Jack Hinton Road are here. Larry O'Bryan lives down the road. We got Mr. Berry here. We got Robby Bryant and some of the other neighbors.

So what make this is so different than the other one?

One, intersecting road. You don't see any intersecting road here.

Second of all, all the neighbors in our case are for it. The neighbors in this case were against it, and you still zoned it because you used your discretion that you're able to use.

The vote I think was 10 to nothing.

Now, another case that we have, and this one is real big.
I might point out Martin Hayden is here.

This case is identical to the case that we have at hand. The same issues that were talked about in this case, the same issues were with the Martin Hayden case.

Let me kind of review where you are. You're at the intersection of 405 and 144 in Thruston, Kentucky. This was a later case, but the law still applies.

The night that I represented Martin Hayden in 1993. His idea was he wanted to put a hardware store in the middle of Thruston. The property that you see in blue was zoned. There was a nursery there, and I think there's Cousin's, some of you that visit out there, Cousin's Dairy Cream, and then there's a little service station, but all the property on that side of the road was zoned. There was nothing on the side where you see the red area.

Since this, I've gotten, this is where the Dollar General store is. Anyway, here is what took place:

Martin Hayden goes down. He gets all of his neighbors to sign that they have no problem with the rezoning. He comes before the Board and the Staff says, wait a minute. Wait a minute. This was when

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Roger was the director. The Staff says, we're not
going to allow anything on the south side of 144.
That's a boundary line and we're not going to cross
it.

What are they doing in the case that we got
here today? They're saying Jack Hinton Road is a
boundary line. There's no zoning on the east side of
Jack Hinton Road. Let's see what happened.

If you'll turn your tab to the little blue
marker. Here is what it says:

SPECIFIC LAND USE CRITERIA - The applicant's
proposal" - this is what the Staff says - "does not
meet the specific land use criteria for general
business proposal in a Future Urban Plan Area.
Because the subject property does not adjoin an
existing General Business zone, the proposal cannot be
considered for logical expansion."

What did they tell you in our case? Same
deal, if you read the findings that they are.

"Furthermore, because property immediately
across the road and to the west of 144 is not zoned
General Business, the Staff cannot find that the
proposal qualifies as an expansion."

Staff says, wait a minute. We're not going
across the road for an expansion.
"That the subject property is in close proximity to existing General Business zoning and uses to the northwest. Staff further agrees that the subject property does not meet size requirement for expansion across an intervening street." They raised the same issue here.

"Staff does not believe that the rezoning would significantly increase the extent of the General Business zone in the area."

Now, here is the key, here is what it says:

"However, Staff contends that the intersection of 144 and Kentucky 405 creates," what, "a logical boundary by which business uses should not be expanded westwardly."

What have we got? Same situation that I've got here. They're saying over here that, the Staff at that time, we've got a boundary line on 144 and we don't want to cross it. Even though there's an expansion we're not going to have any expansion across 144.

What did the Board do? Let's go to the front page at the bottom. Here's what they said about it:

"Rezoning of the subject property to General Business is appropriate in that it is directly in the intersection of Highways 144 and 405 and certainly a
logical expansion of the General Business zoned to the north.

"The expansion of the subject property, which includes 2.56 acre tract," ours is 2.7, "meets the requirements," and goes on down.

"The Land Use Plan recognizes" what, "the need for existing sites to be able to expand their current operations where they have existed for many years since the land surrounding the subject property is mixed use as shown on the Land Use Plan even though there is some residential use continuing." That's exactly what we've got in this case.

Martin Hayden is here and he'll be able to talk to you about it.

You have to rely on precedent. In other words, you can't treat Robby Bryant different than you treat on Hobbs Road or out at Stanley or Martin Hayden. I'm just saying fair play indicates that you treat everybody the same. We have presented we think a good case on that point.

We've given you the three cases: One, Stanley, 279, where you all took issue with the report of the Planning Staff.

We've given you the one at Hobbs Road where it was partially in the rural maintenance area.
And then give you the Martin Hayden case.

Now, what makes our case even twice as strong
as those other cases, the two at Hobbs Road and
Stanley; they weren't at an intervening street. I've
explained to you, intervening streets in the Land Use
Plan is important. Intervening streets out in the
public, as far as what you use property for, is
important.

So we think the property to be rezoned meets
the logical expansion.

It also meets, in our opinion -- what the
Staff has done is that they have reworked the
Comprehensive Plan. When they reworked the
Comprehensive Plan, in my opinion, they didn't take
into consideration this property here.

You mean to tell me that this is an A-R zone,
and I think that was an A-R zone. That once you zone
the property on the west side of Jack Hinton Road,
that it didn't trigger something with the Planning
Staff to say, we need to look at this corner. We're
not talking about -- the tract that you had at 279 was
a 10 acre tract. We're talking about a 2.75 acre
tract in that particular area.

Let's talk about the boundary line. If you
get a boundary line should not keep growth from coming
on 54. What they're trying to do evidently is to stop any growth past Jack Hinton Road on 54.

The boundary line should be flexible. What if we said two years ago, four years ago, that all zoning should stop at 142? These boundary lines that you put up they can't last for long.

Just like I showed you at Thruston, at Thruston now across the road there's a Dollar General store, there's a hardware store, and other things that are across the road. You cannot stop growth, and the Comprehensive Plan takes consideration expansion, growth, but you have to be flexible when you do that.

Let's talk about, there's one other thing if you look at that little sheet that I passed out. What does it say? "In very limited locations."

What we have here: We did not do a 10 acre tract. I didn't do a 100 acre tract. I did a 2.79 acre tract so there would not be any issue about a limited location.

Now, the important thing is for you to use your discretion. There's a landmark case, and it's call Bryan versus Salmon. We used it when I was the attorney for the Board years ago. We used the same case.

Here is what this case says just basically:
"While the Comprehensive Plan is extremely important and must not be treated lightly in considering applications for rezoning, it's a guide, not a straitjacket."

In the case here, if you allow this to have a boundary line here, in my opinion, you're having a straitjacket for anybody trying to get any application for B-4 zoning in a rural maintenance area.

We have presented those three cases. All those cases that I give were unanimous decision of the board where they exercised, the Board exercised its discretion. Staff does what they're supposed to do. They have their own ideas. The Board then has to take and apply what we're given and what the general facts are.

I can't impress on you, and I tried to use that little story about Dollar General. At how important in the county, if there's any development is going to be at intersecting streets or intersections. Dollar General stores and these convenient stores want at an intersection. A lot of reasons, one, is because it's a lot less expensive because the streets are already there.

Our case differs. Intersecting street, there is nobody objecting to it. Who will be hurt? Who
will be hurt?

This is a case that -- the Staff has a case. The Board has a case. I have a case, but Robby Bryant, this is his only time, only time to appear before the Board.

I might say this: Let me explain how important it is to you. This property over here that you see in blue that we got zoned in March, the property sold for $190,000. So doesn't fair play indicate that if he's got that for $190,000, directly across the road there his property is worth $4,500 an acre. I don't think -- to take that in real consideration, it's so important to figure out what Robby has to lose that he has in that situation.

I'm just saying, this is just another case for you, for me, for the Staff, but it's not just another case.

It's sort of like this: Robby has used this property for retirement. It's sort of like being a teacher and you make $100,000 a year, 50, and you get that, and then you're supposed to get a retirement, and at the end you can't get a retirement for some reason or another. This is Robby's retirement.

I submit to you that the Comprehensive Plan that I have just showed you, the Land Use Plan, that's
all we have to do, is qualify under the Land Use Plan
in a limited area. I can't imagine anybody saying
that that's not a logical expansion of an existing use
across the same street.

Now, we have several witnesses. Robby will be
my first witness, and then we've got some neighbors
that want to testify, and then I've got Martin Hayden
that will be here.

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

MR. BRYANT: Robert Bryant.

(REPORTER BRYANT SWORN BY ATTORNEY.)

MR. BRYANT: I'm Robert Bryant. I'm the
fellow seeking to rezone the northeast corner of
Highway 54 and Jack Hinton Road to B-4 General
Business on it.

The northwest corner of Jack Hinton Road and
54 was just rezoned to B-4 General Business and a new
Dollar Store was built there and it's open. The state
has plans to widen Highway 54 to four lanes all the
way through Philpot on it. This is one of the fastest
expanding roads in areas in Western Kentucky.

When I was about five years old, I sat and
watched bulldozers and equipment build Highway 54
through the center of my farm that my family has owned
the majority of since 1903, 115 years on it. My
grandfather didn't like the idea of the road going
through the middle of the farm on it, but was told,
Owensboro is expanding to the east, and this is
progress, and this road would make this farm worth a
lot of money some day. The road was built and he was
told "that's progress."

About 1978 the City of Whitesville came to my
father on it and wanted to run a fairly large
waterline up the farm going to the city, in that area.
They needed four-hundredths of an acre for a pump
station on the corner of this property. It's a little
bitty spot right in here, and he got $600 for it and
he was really happy. It was about 600 foot. That
also was progress in this area. New water line to
Whitesville, pumping station. Once again, it was
progress right there on 54 on it.

When the pumping station was built at that
corner, it began being used basically as a light
industrial site and it has been used ever since on it.
One of the reasons why that was not an issue is
because the City of Whitesville being a municipality
did not have to seek the rezoning in that corner at
the time to put the little pump station right there.
Seeing the Dollar store rezoning and getting ready to
be built there, the Dollar store coming up, I thought, well, I'll wait until the Dollar store gets up, and as you can see it's right here. It would be very logical that we would rezone the other corner right there beside it.

Well, when I went to seek about rezoning, I couldn't believe what I was told. I was told that in December, basically after the Dollar store opened, that we have enacted, the Planning Staff, we've enacted a new Comprehensive Plan. In this Comprehensive Plan, we've drawn an imaginary line down the center of this road and we don't think anything ought to be rezoned on the other side of the road on the thing. I was in shock with it sitting there right on the other side of the road. I thought this was a very biased opinion or decision that was made to do this on it. Basically with the new Dollar Store sitting on the corner we're told, we're going to stop the zoning. The owner of that little corner sold it for $190,000, and I am told, you can grow soy beans on your corner and I guess you could, you know, consider 4,500 or $5,000 bucks for farm ground on it.

I asked this question: I said, if this imaginary line was drawn down this road, I said, how come 30 or 40 years ago we didn't draw this same line
at Fairview Drive and then we wouldn't have anything out Highway 54? It would have stopped there and we wouldn't have the expansion and the progress that has grown out Highway 54, as we all know, that has changed continuously over the last ten years and is continuing to change as we speak.

In this Comprehensive Plan, it states in there under the rural maintenance plan area, general business uses are appropriate in limited locations. We feel like this certainly meets that. The only reason this is any larger than where the Dollar Store is, is because in the '60s my grandfather had considered building a home here. This was already an existing survey on the corner of the farm. I didn't want to have to spend another 2,500 or $3,000 to simply cut that little plat in half right there. That is the only reason this shows any larger than where the Dollar Store is sitting right now on the thing.

As we can see, the progress has just came out 54 continuously on it.

What I'm asking for is a reasonable business zone and expansion of what already exist on the other side of the road. As it states in the Comprehensive Plan, business uses are appropriate in limited locations.
You know, I'm not asking to go out here in the middle halfway to Whitesville and rezone a spot or anything like that. I don't want to put a nuclear power plant there or coal mine or anything along those lines. I just simply want to be able to have the opportunity to do something compatible with what is on the other side of the road right there.

From standing on my property right here, I can see the new medical clinic that Charlie brought up is being built; the hardware store; a restaurant; a grain mill; and a sheet metal shop. All businesses right here that I can stand on this corner and see from the property that I own right there.

The property in front of the Dollar store it's for sale. You can see the sign right there. It's kind of hard to see it, but there's a sign right behind the Dollar store. That property is also for sale, but yet I'm told you can't do anything but grow soy beans on your corner is what I'm being told by the Planning Staff on it.

Once again, what I'm asking for is stated in the Comprehensive Plan, a limited reasonable B-4 expansion right here. And it states in the Comprehensive Plan that that is acceptable and I would ask for you all to approve this zoning request. Thank
you for your time.

MR. KAMUF:  Steve Conkright.

MR. CONKRIGHT:  My name is Steve Conkright.  I live at 5065 Jack Hinton Road.

(STEVE CONKRIGHT SWORN BY ATTORNEY.)

MR. CONKRIGHT:  I am probably the closest residential neighbor to this property.  I personally do not object to it.  Of course, the presentation as you know was fairly complete.  I'm going to be brief.  I don't have a problem with it.  The Dollar General store is on the opposite corner.  It looks fine.  I have no gripe for him to put something on the opposite corner.  Not a problem.  Any questions?

(NO RESPONSE)

CHAIRMAN:  Thank you.

MR. KAMUF:  Martin Hayden.

MS. KNIGHT:  Please state your name.

MR. HAYDEN:  Martin Hayden.

(MARTIN HAYDEN SWORN BY ATTORNEY.)

MR. HAYDEN:  Charlie mentioned Thruston.  When I went up there to rezone that, they told me no way.  The line was right in the middle of 144, turned down 405.  All that section through there and across the road where I built hardware store, no, you can't do that; the comprehensive Plan won't let you do it.
That don't make sense to me. I said, all these other people build whatever they want to on the property. I said, what do I need to do; bring it before the board? Yes.

I got Charlie to take care of the paperwork and everything as my attorney. He said, why don't you get a petition to show that nobody in that area objects to a hardware store there. So that's what I did. I talked to all of them. Explained what I was doing. They were all in favor of it.

Well, since then I got that part rezoned, built a hardware store, and sold it after seven, eight years. Somebody wanting it worse than I did. That's beside the point.

The Dollar General store on that side of the road. There's another piece of property between that property and the Dollar General store, and that's zoned commercial and it's expanded.

I give you a little example about expanding. I'm a farmer, raise cattle. If I don't move my property lines and expand my pastures, I'm dead. I can't do nothing. I can't raise no more cattle, make any more money. It's not the same thing, but the same idea. You tell this farmer on this side he can sell his property and be zoned for it, and the other guy
right across the road can't do that. The comprehensive Plan says you can't do it. Why?
Because the Comprehensive Plan, they come up with a plan what we should follow. But when you fill that plan up, then you should change and go ahead move the line, if you want to move it. I don't understand the line to start with. I was on the Board for 12 years and never did understand it. That's my opinion of it. I just think that it should be rezoned and not let the line stop it, because you're stopping progress when you're doing that. No matter what you say, the progress coming out 54 is really, really expanding. We won't see it. I won't see it. One of these days Whitesville and Owensboro will be tied together.
That's all I have to say. Thank you.

CHAIRMAN: Thank you.

MR. BERRY: My name is Curtis Berry. I live at 5573 Pleasant Point Road.

(CURTIS BERRY SWORN BY ATTORNEY.)

MR. BERRY: It makes logical sense that there is a Dollar Store on that corner. I don't see any reason why there can't be something on the adjacent corner. I own the property on the other side of 54, the next corner.

MR. KAMUF: Can you show them where you own
the property?

MR. BERRY: This is Robby's corner here, and I own the property on this corner right here.

It may also benefit me some day down the road.

We're in a fast growing community and have been for years. Everybody, I suppose agree, we live in a fast lifestyle, a fast pace, and convenience is something we're all looking for in our life. I'm glad the Dollar Store is there. Very convenient for me and my family, you know. Every day, you go through the intersection every day. I won't be opposed to something being on the other side.

MR. O'BRYAN: I'm Larry O'Bryan.

(LARRY O'BRYAN SWORN BY ATTORNEY.)

MR. O'BRYAN: My address is 5117 Pleasant Point Road, which I live about two-tenths of a mile from where this property is.

Me and my wife have no problems with this property being rezoned. As a matter of fact, we really enjoy the Dollar General, especially my wife. I've been a CPA and financial adviser for about 50 years and I'm pro-business. I believe in expansion. I believe in development. My observation is that your Staff wants to slow economic development. Not expand it. This is my second meeting in a roll, and that's
my observation.

You look at the river on the north. We had a proposal last meeting on the west end, and you all voted not to do that.

You look at the south, it's low land. So where are you going to expand? You're going to either expand from the east or from the west. To draw an imaginary line at Jack Hinton and say, we're not going to allow no economic development beyond this I think is foolish. I mean you could have said that from 142 to Fairview Drive and beyond. Looks like to me you need to review your Comprehensive Plan every now and then and make it work for the residents here and be for economic development.

If you have any questions of me, I'll be happy to answer any questions.

(NO RESPONSE)

CHAIRMAN: Thank you, sir.

MR. KAMUF: That's our case. Thank you for listening to me. I apologize for taking so long, but this is a big case for Robby.

CHAIRMAN: Anyone else in the audience that speak for or against this particular application?

(NO RESPONSE)

CHAIRMAN: Anybody have any questions of Mr.
Kamuf?

(NO RESPONSE)

CHAIRMAN: Do any commissioners have any questions about the application?

Mr. Ball.

MR. BALL: I've got quite a few questions actually. Probably a lot of them directed toward Staff.

I would consider myself very pro-development. I think you guys hear me say on multiple occasions that I ask, does this set a precedent or not. That's one of those things that worries me on a lot of occasions.

With that being said, I think Charlie has provided two or three different cases that he thinks are precedent. I think they have somewhat gone through in the Staff Report, but I rely heavily on precedent too. Charlie's thoughts are that the precedent is apples to apples. What does the Staff think? Are these precedent, are they apples to apples; are they apples to oranges? What are we looking at? Do you follow?

MR. HOWARD: Yes, I follow what you're saying.

The example on 144, according to the information that was provided, that was in a future
urban plan area which is actually a subsection of the urban service area.

So, no, I don't think that's an apples and apples comparison in this instance because this property is located in a rural maintenance plan area. To my knowledge there's never been an expansion outside of the rural community of B-4 zoning under rural maintenance plan area.

So this was an example in the urban service area where a request was made. Staff didn't recommend approval of it, but it got approved.

For the Cabbage rezoning, that's an example of, yes, Staff recommended denial. The Planning Commission recommended approval. But again, I don't think it's an apples to apples comparison because if that property come in with a request for a B-4 zoning based on Chapter 15 of the Zoning Ordinance, we would not have taken the application. The only reason we could take application here was because there is a B-4 zoning across the boundary in the rural community.

Then the Hobbs Road zoning. Mr. Kamuf is correct; that property was partially in a rural community plan area, partially in a rural maintenance plan area. If it had been in a rural maintenance plan area in general, no rural community, we would not have
been able to take application. The only reason that we took application on that was because it was partially in a rural community plan area.

The zoning ordinance is very specific as far as in order to go to B-4 zoning you have to meet certain criteria. I think what I'm hearing from Mr. Kamuf and others are that the comp plan should allow along a corridor like Highway 54 for B-4 zoning to expand. If that's the instance, then I guess we need to look at along Highway 54, and 231, and 431, and 56, and 81, all those corridors that we need to put them in a rural community, I guess, where we can take application for B-4 zoning if it's not a logical expansion.

That's the concern we have as Staff. Once it gets out of a rural community plan area, then it's a logical expansion.

If there was B-4 zoning in the rural maintenance plan area right now, we would recommend approval of this application. We would have, but this is taking B-4 zoning outside of the rural community where the Comp Plan says under a goal of within a rural service area where emphasis is placed on protecting agricultural land from urban encroachment, the following policies apply. One of those is in
rural areas outside of rural communities, which this
property is located, urban type residential,
subdivision development, small lot rural housing and
other general urban-related commercial, industrial or
single activities should be discouraged outside of
designated rural communities.

The Comp Plan, the way it's set up, is there
are lines. This is an example where the boundary
follows Jack Hinton Road. That didn't change with
this last Comp Plan update. The boundary of the
Philpot is the way it has for ages, for a long time.
That didn't change with this last update.

They're correct. There was a B-4 zoning on
the corner. We know that it's there.

There is a medical clinic that has been
developed in Philpot. There's another -- and the
Dollar General, those are the only, in the last
several years, the only kind of changes that have
taken place in this area. To get to the other
development on Highway 54, to get to Thruston Dermont
Road, you're looking at three and a half miles in.

That's the concern we have. Once it gets
outside of a rural community, it can go all the way
potentially to Whitesville along that corridor. If
that's the will of the community, the next Comp Plan
update, if that's the will of the elected officials in
the community, that's something we need to look at,
but that's not the way the Comp Plan has been set up
and that's not the way that it is now. I hope that
answers your question.

MR. BALL: I guess on that same note that was
something else I wanted to ask about.

Really the thought process of the line, which
was not new, but the thought process of the line is
to, I guess, as far as good planning for the community
is to keep it from being urban sprawl; is that fair?

MR. HOWARD: Yes. Mr. Kamuf is correct.
We've seen a tone of Dollar General that have popped
up in the community. We've had five or six of them
out in the rural community. Every one of those have
been in a rural community. There's not been one
developed that's been outside of a rural community.

I can't say what I've looked back through
every rezoning in the last 14 years since I've been
here. I don't recall a single rezoning for commercial
use in the rural area that wasn't in a rural
community, or within the Whitesville service area, or
within the urban service area boundary that is outside
city limits. So when commercial development has taken
place outside of the urban service area boundary, it's
taken place in rural communities. Again, that's the way the Comp Plan is geared. When we get outside of that, then that's going to promote sprawl. As a planner that's part of what we look at. That's part of what we try and evaluate on any rezoning, on any kind of development practice. It's not an effort to work development or whatever. The idea is to have development take place in areas where the infrastructure and things like that are available to it. Not all the way out 54, not all the way down 431, that kind of thing.

MR. BALL: I guess I just have one more. I don't know if it's a question or comment here. So if we're not wanting -- as a Staff, and as a commission, as a town, we really need to think about what we're going to do with that sprawl, if we want it to move out further or not.

I guess one of my concerns, and I don't know how quickly that occurs, but even tonight we've heard that there are other properties here in the area that may be interested in rezoning and kind of with Mr. Hayden's case as well. It was rezoned, but once it was rezoned it also opened up the opportunity for other areas to be rezoned.

MR. HOWARD: Sure. Once B-4 zoning is
established, it's a very desirable zone and there will very likely be the potential for expansion or request for expansion.

In this instance here, just going back to what I was talking about in the zoning ordinance. If the Dollar General wasn't there, if B-4 zoning was not on that corner right now, we would not have been able, the zoning ordinance would prohibit us from even taking application.

MR. KAMUF: Let me take issue with that.

In 2013, Mr. Little on Hobbs Road came to Charlie Kamuf and said, I would like to get that property zoned. That's the one we just talked about, 2013. I don't think you were the director. I think Noffsinger, Gary Noffsinger was. So I came and asked the Staff, I said, they want to get this property zoned and it's in a rural maintenance area and also -- the Staff says, we will not take an application. So I don't turn many cases, if I bring a case over here I think it's winnable. If the Staff wouldn't take an application, how am I going to win a case.

So I told Mr. Little, I said, I can't come over here because the Staff won't take an application. So I'm driving down the road on Hobbs Road and I see -- let me tell you what it is. It's an area, if
you pull up on your careen, it's an area right behind Whittaker store. The guy, what he wanted to do was continue to sell golf carts. The Staff would not take my application. I'm driving by there and I said, I wonder how they got that zoned? The man himself made an application and he got it zoned, but they told me they wouldn't take my application.

When I first got involved in this case, I come over here at the Planning Staff in August. I kept pushing. I've known Robby for years. I've represented Robby for years. I said, Robby, the minute they get that property zoned out there on Jack Hinton Road, you need to make application.

When I came over here, the first thing they told me, we're not going to take an application. Really? So we come back and they let me have an application.

This deal about an application I'm telling you what happened top Mr. Little on Hobbs Road, and I felt bad. Here I told this man I couldn't get an application. Then later on he applied, he got it zoned. You got to treat everybody the same. That's my position here.

I can't imagine a stronger case than Martin Hayden at Thruston where we had the same facts, the
same situation. We had a boundary line issue, and I think Roger, he'll tell you, Roger Anderson was the director then, and they said, we're not going to let you cross 144 and build a hardware store. The Board, they didn't follow the Staff Report. The Staff Report was strong. They did what was discretionary. You have the discretion to do in this, to use the Comprehensive Plan as a guide or the Staff Report as a guide, but you've got an obligation to use it as -- it has to be -- it can't be inflexible. You need to tell me we're doing something bad for the county by getting 2.75 acres zoned at an intersection, at an intersection. And we have precedent because that case of Martin Hayden's was exactly the same thing. But to say you can't use discretion you might as well do away with the Planning and Zoning Board. What are we talking about expansion? I read you exactly what the land use is. It talks all about expansion.

Manuel, I didn't mean to -- I'm trying to help instead of hinder. Maybe help my side.

MR. HOWARD: I guess I have a couple of comments on that.

The Hobbs Road rezoning, you are correct. When they initially came in, and I looked through the file recently, we did tell them they couldn't ask for
that. With GIS, when we were able to go in and
actually look at parcel layer information, that was
when there's not a street in the vicinity. So the
rural community boundary line was somewhat nebulous.
It was just drawn in. We went back and looked at the
old Mylars. If my memory serves, Becky Stone was the
lead on that case. We looked at the Mylar Map, we
looked at GIS and determined that a portion of it was
in the rural community plan area and that's what
allowed the application to take place.

I would disagree that the one on, Mr. Hayden's
on 144 is apples to apples comparison. Again, it was
not an expansion of B-4 zoning inside a rural
community to outside rural community. There may have
been this, you know, 144 was some type of boundary,
but it was within the urban service area, in a future
urban plan area. So that's an area that is
anticipated for growth, but you need to have sewer, or
road infrastructure, things like that available. It's
anticipated that they would get there at some point.
When it does, then would be open for zoning potential.
I don't think that's an apples to apples comparison.

MR. KAMUF: My answer to that is: It was in a
future urban plan area. A future urban plan area is
the same thing as a rural maintenance area, in my
opinion. That's what that property was out in Thruston with the Martin Hayden case. I disagree with Brian.

CHAIRMAN: Any other questions?

Commissioner Boswell.

MR. BOSWELL: Yes, a number of question.

We've heard a lot of information. Some of it is really hard to follow at some point in time.

Whenever the new comp plan was adopted, I'm assuming -- I haven't seen the new comp map or anything at this point. Nothing changed on the land key designation as far as what is in a rural maintenance and what's in a rural community. Correct me if I'm incorrect, Mr. Howard.

It looks like everything from the Dollar Store, I guess that would be back toward Owensboro area in, in the Philpot area, everything that was done that sort of, I guess, talked to counsel's definition of expansion, you know, great expansion. That was all done within that rural maintenance area which was acceptable at that point in time, correct?

MR. HOWARD: So you just used the term "rural maintenance," but I believe you intended to say rural community, correct; where the development is taking place?
MR. BOSWELL: That's right.

MR. HOWARD: The boundary line in the last comp plan update, the Philpot rural community did not change to answer your first question.

MR. BOSWELL: Thank you.

The other thing I'm a little bit puzzled about, and I know this is associated to the expansion in general business areas. The statement in Section 15 actually states that in order to assure and to accommodate logical expansion to existing business areas there's certain criteria in order to look at a B-4 zoning. One of that criteria is that such larger tract must be located within the designated service area of a rural community in Daviess County; which obviously this would not be located in that particular service area.

MR. HOWARD: Yes. There are three basic criteria. One is that it's within the Owensboro belt line on an arterial type street or as a new location potential. Another is that it's a logical expansion along an existing corridor. Then there's criteria for that within a rural community. That's where as we discussed, and I've said, and I would stand by this, if there was a B-4 zoning already adjoining this property in the rural maintenance plan area, we would
have been able to recommend approval of this
application. It doesn't exist in a rural
maintenance plan area. We're expanding it outside of
the rural community; which the way the goals and
objectives are setup in the Comp Plan, it discourages
that from taking place.

MR. BOSWELL: Thank you, Mr. Howard. I may
have some more questions later.

CHAIRMAN: Mr. Ball.

MR. BALL: I guess as far as the Comp Plan
itself and the land use map, you said that Charlie had
stated that he had looked at this in August. Were you
aware of that line in August, where that designated
line along Jack Hinton Road was?

MR. KAMUF: Let me show you this. I didn't
necessarily want to bring it up, but let's talk about
it.

I spent about two hours just making this
paragraph. We went over and talked to the Staff. If
we had filed my motion for rezoning in August, came
over -- I really came over about three times. I think
Brian will tell you that. You know, I was concerned.
My client he said, we need to get my property zoned
too. If we had filed the application in August, when
we went over to talk to the Staff to discuss the
rezoning, there would be no question, no question that we would satisfy the question of KRS 213 Subchapter Number 3 where it says, "major socioeconomic physical changes required by KRS of the Comprehensive Plan as it existed at that time."

You understand, if we would have been told in August that the Comprehensive Plan was going to be changed, we could have applied in August, had a major change. There's no question a major change. It happened in March. It happened at that intersection. If I had been told at that time, we would have applied that day that they were going to change the plan. When I heard and saw in the report here that they changed the Comprehensive Plan after I had already talked to them, it really concerned me. I didn't aim to bring that up. You understand what I'm telling you? If in August I would have applied, we would have met the requirements of KRS that there had been a major physical, socioeconomic changes which were not anticipated in the plan, what would that be? It just takes one. That would have been the rezoning of that property in March. Nobody told me it was going to be changed.

MR. BALL: Did it change though; did the line change?
MR. HOWARD: No.

MR. BALL: I guess I'm confused. Maybe I should be more forward. The reason for my question was, if you knew that the line was there, I guess I would feel much more comfortable about this if we had the conversation in -- when did we do the Comp Plan, December? If we had looked at the amendment to the Comp Plan in December and this was kind of brought to our attention and somebody came up and said, hey, this is what your new Comp Plan is that you're getting ready to adopt, but we think that there needs to be more growth in that area. I guess I'm feeling more comfortable about the application at that point in time. I guess I'm confused as to why you knew that the Comprehensive Plan had a cutoff there.

MR. KAMUF: I didn't know that. I had no idea that there was going to be a cutoff. All I did -- and the reason we came over because of that picture. Robby kept saying, I don't want to apply until such time as I can have a picture of that Dollar General store in the rear. He said, that should be sufficient to allow the Board to see that it would be a logical expansion because they're talking about so many feet across the road.

When I came over in August, I had no idea they
were going to change the Comprehensive Plan. Am I
missing something? You understand, if I come over in
August, I file an application. We don't qualify
necessarily under a logical expansion, but we qualify
completely under there. Has there been a change in
the area, a physical socioeconomic change? Sure there
has. We just got the property zoned in March. That
would have been -- that's a slam dunk. If I had filed
this application in August -- you're before the Board,
you've got to make a decision. Was there a major
change that was not anticipated in the Comprehensive
Plan? Yes. We just had one.

Our other argument is, if that property was
zoned on that corner, wouldn't it automatically at an
intersection, the zoning on the other side or to look
at it and say, we're not going to use a boundary line.
This is change.

I'm missing something and I don't know what
I'm missing.

MR. HOWARD: I would like to say, when the
Dollar Store was rezoned, it met the criteria of the
Comprehensive Plan, it's in a rural community.

MR. BALL: It was anticipated.

MR. HOWARD: The rural community is the area
outside of the urban service area where commercial
development should be focused. It's anticipated within that rural community that commercial type, industrial office, residential development would take place. Absolutely nothing in regards to the Comp Plan changed from March to August to today as far as what you're talking about. The land use map didn't change. The language in the Comp Plan didn't change. The boundary of this rural community didn't change. You know, my question would be, it should automatically change once the rezoning happened. Where do we stop it at? There's a very logical line there. There have across the street where the Dollar Store is there had been an industrial tire storage place there for a long time. Jack Hinton Road has been the cutoff from where anything urban-like had been located from basically there on into Whitesville it had been in a rural agricultural farm type residential uses. Nothing with that boundary changed. I guess I'm a bit confused as far as what the difference is there.

MR. KAMUF: Let me ask you this: What's wrong with good planning to zone an intersection? I didn't go to out to Whitesville. I just adjoined property of a 2.75 acre. You say, it's all bad. Wait a minute. That's what the Staff -- you guys are authority. You guys have gone to school. You know how to do it, but
to say you can't join -- it's an intersection. To say that good planning, after we got the property across the road zoned in March, that good planning wouldn't say, wait a minute, this thing is coming. We got -- I didn't ask for 10 acres. It says, in a rural maintenance area, a limited area. We won't overburden the streets. It just looks like to me good planning would have required you, after I got the property zoned in March to look at this intersection and say, this is going to happen on 54. We're not -- you understand, you got to stop. I understand. You don't want to take care of infrastructure. You've got to worry about that. I've looked at that rural service area. What I'm saying is it's changed at that corner. You just can't block it out and be blinded that this didn't happen, and that across the street -- all of these stores are commercial is coming. For you not to say, to take some consideration in the Comprehensive Plan and say, you're not going to do something with that corner, as far as a commercial activity. I'm not a planner. It looks like to me that you had to look at that and you had to shift the line. It caused you at that time to say, wait a minute, activity out here. This is the fastest growing place in Western Kentucky. We're going to have to do something about this
intersection at this corner. I might be wrong. I'm doing the best I can.

MR. HOWARD: I get what you're saying. My question would be: Okay, let's say we looked at it. We expanded the rural community because the Dollar Store went in along this intersection. Likely the way that it would have been looked at would have been the one corner parcel, you know, that probably would have been a logical spot to stop it. You're requesting 2.7 acres. So I guess my question would be: We expanded out the rural community a little bit, included some area there in that intersection. Would you then argue, if that corner got rezoned and then his adjoining property he wanted to get that B-4 as well, and then the next neighbor on down, would you not be here making the same case to expand those as well?

MR. KAMUF: I would.

MR. HOWARD: That's our concern.

MR. KAMUF: That still doesn't do away with the fact that this corner is ready to be developed and you have to shift. I know it's complicated. I'm not trying to tell you it's not complicated for the Staff to make these decisions, but the Planning Staff has to make a decision on expansion of commercial on 54. They have to recognize it's coming, and it's not going
to stop at Jack Hinton Road. This is not an application where I asked for something up at one of those other streets up there. It's happening, expansion. Why do we have that word in the land use word, "expansion." Expansion, that's this is, an expansion. I think the Staff has to look at it and come up with some affirmative answer that this is going to change.

In 2015 Gateway Common is coming. They're getting ready to widen 54 to four lane traffic, just to take care of additional traffic that's coming, especially out at this intersection. I hope I'm not bothering you. I just feel very strongly about this.

CHAIRMAN: Commissioner Reeves.

MR. REEVES: Mine is going to be more of a comment. You may want to respond, Mr. Kamuf.

I'm more concerned about urban sprawl than anything else. I'm concerned about in 20, 30 years Highway 54 is Triplett Street. Have we consumed all of the available useable B-4 property to the west of this intersection?

MR. KAMUF: Let me help you; can I?

MR. REEVES: Yes.

MR. KAMUF: I own a Family Dollar Store. I work with the people that -- Susan Cox owns the Dollar
General Store. I talked to them at a Family Dollar Store and they said, go out on 54 and try to find some property. I knocked on 142. I forgot who the people. You're dealing out there with real estate out there. 142, the property is astronomical. You can't find any property. I could not find a location for Family Dollar to build on 54. Now that was before they got this property that's a Dollar General store got lined out. It's not out there. You're going to have to expand if you're going to find any location.

Now, the property across the road over here, this property here and this property, that's low. That doesn't help you as far as the long range plan. In answer to your question, I personally, I asked two people to give me a price because Family Dollar, the difference in Family Dollar and Dollar General is that Dollar General, Susan Cox has 350 of them and she builds them all, but a Family Dollar Store, you can build it and you can own it. So I looked all up and down that road and, Freddie, I couldn't find any property that was available. Nobody would put a price on it. That one lady -- she's out there by that True Value. I said, put a price on it, and she wouldn't. I'm trying to answer you honestly. I think I have. It's gone. You can't find it.
CHAIRMAN: Any other questions?

MR. BOSWELL: Thank you, Mr. Chairman.

This may be a question for Mr. Howard and counsel may want to add to it.

On one of the Type II Findings that you have to substantiate your application, you made mention about major changes in the Highway 54 area, but those changes in my mind have really occurred from Thruston Dermont Road back towards Owensboro more than they have occurred from Thruston Dermont Road to Jack Hinton Road. There have been changes, but not significant major changes.

MR. KAMUF: I put that on about convenient store just to answer that question. They've tearing down buildings so they can build something out there.

MR. BOSWELL: I mean it's something like six miles I think from the Gulfstream properties to where this is at.

I guess I'm struggling to understand how you're justifying that as major changes. Because really --

MR. KAMUF: The major change in the area when you've got the property zoned at Jack Hinton Road in March. Isn't that a change? You got this property. This property right here and behind it were zoned
industrial. Those properties are not zoned B-4 necessarily. They're industrial property. There's all kind of mixed zones out there. Where that Dollar General store used to have a tire reprocessing plant. It was industrial. They got it changed from industrial to B-4.

CHAIRMAN: Anyone else?

(NO RESPONSE)

CHAIRMAN: Mr. Kamuf, are you finished?

MR. KAMUF: That's the best I can do.

CHAIRMAN: Any other commissioners?

MR. EDGE: Can I make a comment?

CHAIRMAN: Sure.

MR. EDGE: I think it comes down to this, guys, for us as the commissioners, or at least from my point of view, and if I'm mistaken let me know.

Mr. Bryant, you make a propelling case in regards to it being adjacent to B-4 and on the corner of 54. The precedent argument I think they crisscross. I think they're very confusing. On the other side of the coin, I think the Staff does a great job in regards to the Comprehensive Plan. I think our decision really comes down to the fact that do we want to make a variance against the Comprehensive Plan in the fact that this is adjacent or across the road from
existing B-4. Basically I think it comes down to that decision. Are we open to make an exception to the Comprehensive Plan, understandings the precedent being set and the fact that it's on the 54 corridor. I'm incline to say, yes, for that reason simply because Mr. Bryant can look at the property across the street at Dollar General and it is on the corner of 54. I don't the precedent arguments line up well for me, but I think the one that does is the fact that, you know, it is an imaginary line. It is extremely close to a B-4 development already. I don't see it stretching that too far for the record.

CHAIRMAN: Thank you.

MS. KNIGHT: Mr. Chairman, if I could just add something. There's been a lot of discussion about precedent and previous decisions. This has come up at other Planning Commission meetings as well. Mr. Reeves asked the question a lot about precedent. My position, and I would submit to Mr. Kamuf, this Planning Commission is not bound by previous decisions at other property locations. I've said this before. Each application stands on its own merits. These are different properties. I agree there are similarities. I also agree there are differences, and the Planning Commission should consider all of that as a whole how
it relates to the Comprehensive Plan in making its
decision. I hope that helps clarify some of those
issues.

CHAIRMAN: Thank you.

Anyone else.

MR. REEVES: One more comment. I think I
piggyback off Mr. Edge.

What we're seeing here is inevitable. It's a
matter of whether or not do we recognize that it's
inevitable and deal with it as kind of an exception to
the current plan or realize that the next time the
plan is done, I think we would be foolish to approve
one that didn't recognize that there's going to be
development out this corridor. I appreciate the
Staff's work on it, and maybe we just didn't
anticipate the rapid growth that's taking place in the
current plan when we adopted it that it's taking
place. It's like throwing a seed out on a fertilized

ground.

MR. EDGE: You mentioned the Staff. You guys
did the job, do what you're supposed to do, which is
stay within the Comprehensive Plan. So totally
commend that. What they're asking for is an
exception. This is exactly what I want our Staff to
do, is stay within the Comprehensive Plan. I have no
problem with their denial, but I do understand making
variances. And to Terra's point, I'm not bound by
previous precedent, and I don't think even the
precedent -- I think all the other ones actually fit
within the Comprehensive Plan and being able to zone
it properly.

In this case, we're being asked to step
outside of the Comprehensive Plan in regards to where
the line is and what we decide in the Comprehensive
Plan, but the reality is there is expansion going on
here. It is foreseeable. Mr. Bryant makes a great
case. He can see the property right across the street
and it is on the 54 corridor. It's without exception
to Fred's point, it's happening. I'm in favor of
making this variance without being held to precedent
in the future.

CHAIRMAN: Thank you.

Mr. Kamuf.

MR. BRYANT: The only thing that I have to
add, I'm not real versed in this, but my point is
looking here at what we see. In the Comprehensive
Plan, it still even in that Comprehensive Plan was my
understanding it does allow for reasonable limited
expansion on it. This certainly would be a limited
expansion being right on the other side of the road
from that. If anything ever was a reasonable limited expansion, that this certainly would fit that criteria would be my thought, and I appreciate your all's time on everything.

CHAIRMAN: Thank you very much.

Mr. Ball.

MR. BALL: How often can we look at the Comprehensive Plan?

MR. HOWARD: State law requires it be updated every five years.

MR. BALL: Can we look at it more often?

MR. HOWARD: You could. I mean you're talking about -- yes, you could. You're talking about public hearings and whatnot in order to go through the process to amend the Comp Plan.

MR. BALL: So it would probably not make sense to change the Comp Plan to change one boundary?

MR. HOWARD: Personally I would say, no, not on such a short timeframe from when it was such approved.

Now, if this zoning is approved tonight, then certainly in the next update we'll be looking at where this rural community boundary would go.

CHAIRMAN: I think we have asked all the questions we need. Now chair is ready for a motion.
MR. KAMUF: Whatever happens, I want to thank you. You've been very attentive and this is what the Board is for. Whatever happens I want to thank all of you for being attentive and asking questions and trying to get to the truth of it.

CHAIRMAN: Thank you.

Still looking for a motion.

Mr. Ball.

MR. BALL: I would like to make a motion for denial based on the Staff's Recommendations and Findings of Fact 1 through 6.

CHAIRMAN: We have a motion for denial. Do we have a second.

MR. BOSWELL: Second.

CHAIRMAN: Second by Mr. Boswell. Any questions from any commissioners about the motion or the second?

(NO RESPONSE)

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

(BOARD MEMBERS LARRY BOSWELL, BEVERLY McENROE, MANUEL BALL AND ANGELA HARDAWAY RESPONDED AYE.)

CHAIRMAN: All opposed.

(BOARD MEMBERS IRVIN ROGERS, LARRY MOORE, LEWIS JEAN, MICHAEL EDGE, JAY VELOTTA AND FRED REEVES)
CHAIRMAN: Four to six.

Now the Chair is ready for another motion. Do we have another motion?

MR. EDGE: I make a motion, but I don't know how to state it against the denial, but I'm in favor of their request for the rezoning. I would like to make a motion for the rezoning.

MS. KNIGHT: If you're going to make a motion to rezone, the motion needs to include findings of fact and the finding that it either is or is not in compliance with the Comprehensive Plan and those type of things. I think Mr. Kamuf have provided some potential.

CHAIRMAN: Commissioners Reeves.

MR. REEVES: I make a motion to approve this application based on the fact that the applicant is in compliance with the Comprehensive Plan in that the Comprehensive Plan allows for logical expansion onto contiguous land that generally abuts the street.

MR. EDGE: Leave it at that because I don't want to go too far into precedent. Stop right there. I want to be clear about that in the fact that it's on Highway 54. I would be careful the way you state the rest.
MR. REEVES: Fact Number 2 --

MR. EDGE: That's where I disagree; that's why I want you to be careful.

MR. REEVES: -- that there have been other similar rezoning situations in the past where the Board has deviated from the Comprehensive Plan, and that this seems to be -- those are the two facts that I would present.

CHAIRMAN: Thank you, Mr. Reeves.

Was that good enough?

MS. KNIGHT: There's some findings there. So Mr. Reeves has made a motion. We need a second.

CHAIRMAN: We need a second.

MR. EDGE: Second.

CHAIRMAN: Second by Commissioner Edge. All those in favor of that motion raise your right hand.

(BOARD MEMBERS IRVIN ROGERS, LARRY MOORE, LEWIS JEAN, MICHAEL EDGE, JAY VELOTTA AND FRED REEVES RESPONDED AYE.)

(BOARD MEMBERS LARRY BOSWELL, BEVERLY McENROE, MANUEL BALL AND ANGELA HARDAWAY RESPONDED AYE.)

CHAIRMAN: Motion carries six to four.

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MR. KAMUF: Thank you. You all are very important to the community. Do you realize that you control the community. In whichever way it went, you listened. Thank you very much.

MAJOR SUBDIVISION PRELIMINARY PLATS

ITEM 6

Angus Hills Commercial Subdivision, 16.82 acres
Consider approval of a major subdivision preliminary plat.
Applicant: Angus Hills Farms, LLC

MR. HOWARD: Mr. Chairman and Commissioners,
this plat comes before you as a preliminary plat for a new development. It is in compliance with the underlying zoning, the requirements of the Comprehensive Plan and subdivision regulations. It's been reviewed by the Planning Staff and Engineering Staff and it's ready for your consideration.

CHAIRMAN: Any of the commissioners have any questions concerning the application?

(NO RESPONSE)

CHAIRMAN: The Chair is looking for a motion.

MR. ROGERS: Mr. Chairman, I make a motion for approval.

CHAIRMAN: We need a second.

MS. McENROE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

MINOR SUBDIVISION PLATS

ITEM 7

319 & 351 East Harmons Ferry Road, 19.137 acres
Consider approval of a minor subdivision plat
Applicant: Roger Dale & Deborah Tooley; Kimberly Lynn Tooley Nevitt

MR. HOWARD: This plat comes before you as an exception. There is two parcels at present and they are requesting that there still be two parcels. The only change is that the smaller lot at 351, they're adding acreage to the back which take it out of compliance, the three to one compliance. They're not maximizing the number of lots. They're not trying to get any additional building sites here. They have added notations that the properties can't be further subdivided without being in requirements of the subdivision regulations. So we would recommend that you consider it for approval.

CHAIRMAN: The Chair is looking for a motion for approval.

MR. BOSWELL: Motion to approve.

MR. JEAN: Second.

CHAIRMAN: Second by Mr. Jean. All those in favor please raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.
favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 8

10390 & 10404 Highway 54, 3.364 acres
Consider approval of a minor subdivision plat.
Applicant: Ray Rice

MR. HOWARD: This plat comes before you as an exception. There's a smaller, what will be .482 acre parcel. They're adding some additional property reducing the road frontage, a long skinny lot. When that's done it takes that long skinny lot, which will be 2.882 acres out of whack with the three to one requirement. Again, both have a significant amount of road frontage and they're not maximizing the number of lots. So we would recommend that you consider it for approval.

CHAIRMAN: Any questions.

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

Mr. Reeves.

MR. REEVES: Motion to approve.

CHAIRMAN: Do we have a second?

MS. McENROE: Second.

CHAIRMAN: Second by Ms. McEnroe. All those in favor please raise your right hand.
ITEM 9

11608 Highway 1513, 5.515 acres
Consider approval of a minor subdivision plat.
Applicant: Cole T. & Brett C. Lanham

MR. HOWARD: This is a 5 1/2 acre parcel and they're adding a quarter of an acre to the backside of it. It was already out of compliance with the three to one. They're adding a little bit more to it. They have added a no further subdivision note on here. So we would recommend that you consider it for approval. They're not requesting any new buildable lots.

CHAIRMAN: Chair is looking for a motion.

Mr. Ball.

MR. BALL: Motion to approve.

CHAIRMAN: Second?

MS. HARDAWAY: Second.

CHAIRMAN: Second by Ms. Hardaway. We have a motion and a second. All those in favor please raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

NEW BUSINESS

ITEM 10
Consider approval of December 2018 financial statements

CHAIRMAN: All commissioners should have received a package of the financial statement. You've had an opportunity to take a look at that. Anyone have any changes, questions, concerns?

(NO RESPONSE)

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

MR. BOSWELL: Motion to approve.

CHAIRMAN: We have a motion. Do we have a second?

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

ITEM 11

Consider approval of the amended 2019 Filing Deadlines and Meeting Dates

MR. HOWARD: You all approved the meeting dates and filing deadlines; however, since that happened, the APA Kentucky Annual State Conference has been scheduled and it conflicts with our Planning Commission meeting date in May, which is supposed to be on May 9th. This year I am the immediate past
president on that Board, Melissa is our Western Kentucky Regional Rep. The annual meeting of membership is that Thursday afternoon.

As Staff we would request that you all -- we need to attend, but as Staff we request that you all consider amending this to double up on May 2nd like we've done for Spring and Fall Break. It's just another one of those where the Board of Adjustment would meet first, Planning Commission after to allow us to attend the board meeting for APA Kentucky on the 9th.

CHAIRMAN: Thank you.

We need a motion.

MR. ROGERS: Mr. Chairman, I make a motion to move both meetings to May 2nd.

CHAIRMAN: Do we have a second?

MR. JEAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

ITEM 12

Comments by the Chairman

CHAIRMAN: Chair has none.

ITEM 13

Comments by the Planning Commissioners
CHAIRMAN: Yes, Mr. Reeves.

MR. REEVES: I would just like to say, this was a very difficult one that we dealt with, but I want to say how healthy it is when you have a split vote on the commission because I think that means we're listening carefully and we're trying preference the perspective that we think is correct. Certainly not a reflection on Staff if we decide to take another position. I thought it very helpful when we have that. This shows that this group does listen and consider everybody that appears in front of us. Thank you.

MR. EDGE: I'd like to make a comment too. I want to reiterate the fact that I totally actually agreed with Staff even though I went against you on this. I totally agree with why you did what you did, and I expect you to do that with regards to the Comprehensive Plan.

I looked at it strictly as a variance to that logical kind of explanation or expansion. I appreciate all your work. I actually agreed with your assessment, but I also understood the variance they were asking for. I appreciate the hard work done on it, and Fred's comments as well.

CHAIRMAN: Anyone else?
ITEM 14

Comments by the Director
* Jennifer Logsdon - Regular, full-time appointment to the position of Plan Reviewer Trainee

MR. HOWARD: I only have one thing.

Last month I brought forward several folks that have new positions or new hires in the office based on retirements. Left poor Jenny off the list.

Jennifer Logsdon, she has moved from our front desk role as the receptionist, the first person that people see. Jenny is a go-getter and she wanted to try and she wanted to do something different. She's bright. She's been working with building stuff since she's been with our office. She has taken a role as a plan reviewer trainee training under Matt Warren and Kyle Trunnel to learn the planning review process and be ready one day when retirement happens for other folks on our staff. Want to commend her for the initiative to do that. She's following in a similar path of what Ms. Evans did, start as a front desk receptionist and now she's our associate director of planning.

We like to promote from within and give people opportunities to expand their area of knowledge and expertise. Want to commend Jenny for her desire to do
that. She kind of doesn't stop. Always thinking, always doing. Fully endorse her appointment to a full-time position as plan reviewer trainee.

CHAIRMAN: Thank you. We need a motion to accept Jenny Logsdon as plan reviewer trainee.

MR. BALL: I make a motion to accept.

CHAIRMAN: Second?

MS. HARDAWAY: Second.

CHAIRMAN: All those in favor please raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Now Manuel.

MR. BALL: Motion to adjourn.

MR. EDGE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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 foregoing 90
typewritten pages; and that no signature was requested
to the foregoing transcript.

WITNESS my hand and notary seal on this the
1st day of March, 2019.

LYNETTE KOLLER FUCHS
NOTARY ID 613522
OHIO VALLEY REPORTING SERVICES
2200 E. PARRISH AVE, SUITE 106E
OWENSBORO, KY 42303

COMMISSION EXPIRES: DECEMBER 16, 2022
COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

Ohio Valley Reporting
(270) 683-7383