

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JUNE 8, 2023

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 5:30 p.m. on Thursday, June
5 8, 2023, at City Hall, Commission Chambers, Owensboro,
6 Kentucky, and the proceedings were as follows:

7 MEMBERS PRESENT: Skyler Stewart, Chairman
Lewis Jean, Vice-Chair
8 Manuel Ball, Secretary
Brian Howard, Director
9 Terra Knight, Attorney
Irvin Rogers
10 Sharla Wells
Jason Strode
11 Laina Strehl
Jason Gasser
12 Teresa Boarman

13 * * * * *

14 CHAIRMAN: We would like to call to order the
15 June 2023 meeting of the Owensboro Metropolitan
16 Planning Commission. We open each meeting with a
17 prayer and a pledge. That honor goes to Commissioner
18 Ball today.

19 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

20 CHAIRMAN: Thank you, Commissioner Ball.

21 Just a little background on how our meetings
22 are ran. Anyone that is wishing to speak for or
23 against an item please come to the podium so that you
24 can be sworn in by our attorney. Please give your
25 name so that we can put that on the record as well.

1 Direct all questions to the commission, please, and
2 not another audience member, and the chair will either
3 find the answer or direct you to the correct answer.
4 We'll figure it out for you. Please stay on topic and
5 be respectful and everyone that wishes to speak will
6 have that opportunity.

7 The first thing on our agenda is the
8 consideration of the minutes of the May 11, 2023
9 meeting. All commissioners should have received a
10 copy of that and have had an opportunity to review.
11 Are there any changes to the minutes that need to be
12 discussed?

13 (NO RESPONSE)

14 CHAIRMAN: Seeing none the chair is ready to
15 entertain a vote or a motion.

16 MS. STREHL: I make a motion to approve the
17 minutes.

18 CHAIRMAN: Thank you, Commissioner Strehl.
19 Do we have a second?

20 MR. STRODE: Second.

21 CHAIRMAN: Second by Commissioner Strode. We
22 have a motion and a second. The chair is ready for a
23 vote. All in favor please raise your right hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: The motion carries.

1 Director Howard.

2 MR. HOWARD: We're going to adjust the order
3 just a little bit. If it's all right we're going to
4 skip ahead to Item 4.

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6 GENERAL BUSINESS

7 MAJOR/MINOR SUBDIVISION PLATS

8 ITEM 4

9 9781, 9793, 9799 & 9809 Oak Street, 2.991 acres
10 Consider approval of a major/minor subdivision plat.
11 Applicant: Prodigal Properties, LLC

12 MR. HOWARD: This plat comes before you as an
13 except to the major/minor subdivision requirements.
14 They are creating a total or what will be a total of
15 four lots out of the existing parcel that's there.
16 They don't meet the underlying zoning requirements as
17 far as minimum road frontage and minimum acreage;
18 however, they barely exceed the three to one
19 requirement which means we can't sign it at the Staff
20 level, but considering it meets all the other
21 requirements, a notation on the plat in regard to no
22 further subdivision of the property without meeting
23 the requirements, we would recommend that you consider
24 it for approval.

25 CHAIRMAN: Thank you, Director Howard.

Is there anyone here representing the

1 applicant or wanting to speak on behalf of the
2 application?

3 (NO RESPONSE)

4 CHAIRMAN: Anyone have questions or comments
5 about the application in the audience?

6 (NO RESPONSE)

7 CHAIRMAN: Do any commissioners have any
8 comments or questions about the application?

9 (NO RESPONSE)

10 CHAIRMAN: Seeing none the chair is ready for
11 a motion.

12 Commissioner Jean.

13 MR. JEAN: Motion to approve.

14 CHAIRMAN: We have a motion by Commissioner
15 Jean. Do we have a second?

16 MR. BALL: Second.

17 CHAIRMAN: Second by Commissioner Ball. We
18 have a motion and a second. Are there any questions
19 on the motion?

20 (NO RESPONSE)

21 CHAIRMAN: Seeing none the chair is ready for
22 a vote. All those in favor please raise your right
23 hand.

24 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

25 CHAIRMAN: Motion carries.

1 MINOR SUBDIVISION PLATS

2 ITEM 5

3 7543 Highway 2830, 1.268 acres

Consider approval of a minor subdivision plat.

4 Applicant: Ernesto Gomez

5 MR. HOWARD: This plat comes before you as an
6 exception to the three to one requirement. There is
7 an existing parcel there. They're essentially just
8 adding on to the rear of it which takes it out of
9 compliance with the three to one requirement; however,
10 keeping with the depth of some other lots in the
11 vicinity and the fact that they aren't creating new
12 additional lots we would recommend that you consider
13 it for approval with the notations on the plat about
14 it not being able to be further subdivided.

15 CHAIRMAN: Thank you, Director Howard.

16 Is there anyone in the audience here on behalf
17 of the applicant or wish to speak on behalf of the
18 application?

19 (NO RESPONSE)

20 CHAIRMAN: Seeing none is there anyone in the
21 audience that would like to speak on the application
22 in general?

23 (NO RESPONSE)

24 CHAIRMAN: Seeing none do any of the
25 commissioners have any questions or comments on the

1 application?

2 (NO RESPONSE)

3 CHAIRMAN: Seeing none the chair is ready to
4 entertain a motion.

5 MR. ROGERS: Madam Chair, I would like to make
6 a motion for approval with the notation attached to
7 the plat no further development.

8 CHAIRMAN: We have a motion by Commissioner
9 Rogers. Do we have a second?

10 MS. STREHL: I'll second.

11 CHAIRMAN: Second by Commissioner Strehl. Do
12 we have any questions or comments on the motion or
13 second?

14 (NO RESPONSE)

15 CHAIRMAN: Seeing none we're ready for a vote.
16 All those in favor please raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries.

19 MR. HOWARD: Now we'll move back up to the top
20 for Cellular Telecommunications.

21 CELLULAR TELECOMMUNICATIONS FACILITIES PER KRS 100.987

22 ITEM 3

23 9467 Herbert Road (Postponed at the May 11, 2023 OMPC
Meeting)

24 Consider approval of a wireless telecommunications
tower.

25 Applicant: VB 500 II, LLC; James and Amanda Jarboe

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

3 MS. EVANS: Melissa Evans.

4 (MELISSA EVANS SWORN BY ATTORNEY.)

5 MS. EVANS: Just as a reminder that this is a
6 195-foot monopole structure cellular antenna tower
7 with a 4-foot lightning rod.

8 The applicant does agree to most of the
9 standards which are within the zoning ordinance. They
10 did at the last meeting ask for a waiver of the
11 screening requirements. Typically there is a 6-foot
12 tall chain-link fence requirement with a double row of
13 staggered pines. They did ask for a waiver of that
14 requirement. It was not shown on their site plan, but
15 they had acknowledged that they were going to do that
16 in their application, and at the meeting they did ask
17 for a waiver of that one item.

18 Other than that, it does meet all of the
19 design standards of the cell tower requirements. It
20 does look like it is about 150-feet or so from the
21 nearest residence along Herbert Road. It does appear
22 that it will meet the setback requirements from the
23 actual adjoining property, not a leased area.

24 With that we would like to enter the Staff
25 Report into the record again as Exhibit A.

1 CHAIRMAN: Thank you, Ms. Evans.

2 Is there anyone here representing the

3 applicant?

4 MS. KNIGHT: Please state your name for the

5 record.

6 MR. HAHN: My name is Patton Hahn.

7 MS. KNIGHT: Sir, Are you an attorney?

8 MR. HAHN: Yes.

9 MS. KNIGHT: You are sworn as an attorney.

10 Thank you.

11 MR. HAHN: Thank you.

12 My colleague, Nick Diegel, who was here last

13 month couldn't be here tonight. He has a 6th Circuit

14 brief due tomorrow and he sent me instead.

15 I have some materials that were I believe

16 e-mailed to you. I think it might be easier if I pass

17 them out; is that's all right, Madam Chair.

18 CHAIRMAN: Yes.

19 MS. HAHN: While she's passing those out, I'll

20 kind of begin.

21 I don't want to -- I asked Nick what he had

22 talked about last month so I don't go over all the old

23 ground before again. I just want to briefly touch on

24 a few points.

25 First I want to reiterate we that we meet all

1 the requirements of your board. When companies like
2 Vertical Bridge selects cell tower sites, they consult
3 attorneys to say, where can we build it. We make
4 recommendations based on the ordinances that you
5 enact.

6 In this case, we worked with them to make sure
7 that they met all of the requirements of the
8 ordinance. As your Staff Report found or application
9 is complete, it was in compliance with the zoning
10 ordinance. It will improve service for users in the
11 community. It will expand opportunities for
12 collocation and minimize the number of towers.
13 Understand that last month there were some concerns
14 about drilling and whether it would effect the
15 adjoining properties. Towers are routinely placed
16 near existing structures so that there's no disruption
17 and damage to those structures.

18 I've submitted to you as the first document on
19 top of these things, of the handouts, a letter from a
20 Kentucky Licensed Engineer with Vertical Bridge that
21 indicates that they do not, that the piers will be
22 installed or the foundation drawings that are also
23 attached. We'll talk a little bit more about those.
24 And that there will be no impact to the adjoining
25 property to the south.

1 How is that drilling done? Well, it's done
2 according to these design plans. I'm not an engineer.
3 I'm a lawyer. But the third page of these drawings,
4 there's two options for doing these. You either drill
5 down deep piers or you build a very large foundation.
6 On the piers themselves, if they're going to be
7 drilled, will be 24-feet deep, it will be 8-feet wide.
8 They will be done according to, again, Kentucky
9 Licensed Professionals, professional engineers
10 according to the plans they developed to ensure that
11 there's no impact on the adjoining property.

12 If they're done on the foundation design,
13 which is the fourth page of these drawings, it will a
14 6-foot large foundation that has lots more rebar.

15 Why are there two options? Well, they don't
16 have a contractor yet. These documents, if you all
17 approve them, will be put out for bid and some
18 contractors have a drill that can do a 24-foot hole or
19 some have to do just a large vac up. On the size of
20 the length and how deep, I just told you. On the
21 third page you can see the design detail on the left
22 and it says, b) it's going to be 24-feet below the
23 grade. On the fourth page it's, again, the design
24 detail in this case is on the right. It says it's
25 linked D. Link D is the dimensions of 6-feet.

1 Again, all of the work on this project will be
2 done according to plans and engineering plans created
3 by the Kentucky Licensed Engineers.

4 These are just not generic plans. These are
5 not plans that Vertical Bridge gets from just off the
6 shelf. The design drawings are done off of the
7 geotechnical report. So they consider the exact
8 geology of this property. That geotechnical report
9 was submitted as part of our application and is in the
10 binders I believe that were previously provided to
11 you.

12 There was talk last month I understand about
13 why was the tower located so close to this line. That
14 was where Vertical Bridge and the landowner could find
15 an agreement to move it. We have a legal agreement
16 and lease with the landowner that says, that's where
17 it's going to be. We do have some ability to move
18 within that compound that's up there. The last part
19 of this handout is a revised survey that shows that we
20 can move it 14-feet further away. So it will then be,
21 the fenced lease area would be 28-feet to the
22 adjoining property to the south. That's as far as
23 we're legally allowed to move it under our lease
24 agreement with the Jarboes.

25 I understand that there was also some concern

1 last month about property values. Without an
2 appraisal any comment about or any opinion about
3 property values and how this tower affected is purely
4 speculative. I hear the same concern routinely. I do
5 these all over the southeast and I hear it at every
6 meeting. In some cases we've gotten reports from
7 appraisers. I've got one tonight. I didn't send you
8 a 50 page document. It doesn't relate to a Kentucky
9 property. We got reports from appraisers which say
10 that take an actual property where we are planning to
11 build it, look at similar properties. I've got the
12 report up tonight. I've got it from Arkansas. It's a
13 rural property kind of like this one. The appraiser
14 looks at other rural properties where they build cell
15 towers and most of those appraisals say that it will
16 not have a negative impact on it. I think in today's
17 society we can make an argument that you have to have
18 wireless coverage in your home and the lack of it
19 would negatively impact property values. Many of us
20 don't have land lines in our houses anymore. I
21 haven't had one for ten years. The fact that if you
22 don't have wireless service to a property, it's a
23 concern.

24 Again, we selected this site considering your
25 ordinance and we met all the requirements of your

1 ordinance. With that I'm happy to answer any
2 questions you may have.

3 CHAIRMAN: Thank you.

4 I think we'll take questions from the audience
5 and then we'll let you know.

6 Is there anyone else here to speak on the
7 application?

8 Please come to the podium.

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

11 MR. BOARMAN: Bruce Boarman.

12 (BRUCE BOARMAN SWORN BY ATTORNEY.)

13 MR. BOARMAN: I have some paperwork to hand
14 out, if that's appropriate.

15 We're grateful for being given this time in
16 front of you tonight.

17 It was questioned in the previous meeting
18 whether or not any other monopolies have been approved
19 in similar proximity to homes. There was a continuous
20 responses referring to urban areas and we are not in
21 an urban area. Structures built in urban areas likely
22 have very different requirements for foundations than
23 requirements for the foundation of our single-family
24 home built in the 1980s.

25 According to Section 1 under Goals and

1 Objectives of the OMPC Comprehensive Plan under Land
2 Use, Item 4, the goal is to "allocate wisely the use
3 of land for various activities by encouraging sound
4 land development policies." Under that goal there is
5 an objective that states to "group activities so that
6 uses of greater intensity (means industrial or
7 commercial) do not harm weaker type, meaning
8 residential and agricultural."

9 We believe the construction of this cell phone
10 tower will present harm to our home and we're asking
11 you to protect the weaker type from this situation,
12 our residence.

13 Mr. Diegle also stated in the main
14 presentation that the proposal in the case of the
15 tower was picked because it was the highest elevation
16 on the tract; therefore making the tower more
17 effective of transmitting signal.

18 The proposed tower location is at 502-feet
19 elevation. With our very limited land surveying
20 skills we were able to locate a collocation on the
21 same tract development on the same tract at an
22 elevation of 500.08 feet. That's on the first page of
23 your handout.

24 The green drop point is our home. The black
25 "X" is the proposed tower location. The yellow plus

1 sign is the comparable location we were able to find.

2 Considering there are eight monopoles in
3 Daviess County and only two of them are at an
4 elevation higher than 422 feet, I think the comparable
5 location we found would work to transmit an effective
6 signal.

7 There is a list of cell towers found in
8 Section 6 of the OMPC Comprehensive Plan in your
9 packet. All monopoles have a red dot next to them on
10 the right-hand side of the page with ground elevation
11 highlighted.

12 I would like to expand beyond the 10-acre
13 tract included in the current lease and give a
14 commission a full picture of many other potential
15 locations on the additional 50 acres owned by the
16 Jarboes.

17 Included in your packet you'll see a few
18 handout showing locations at a higher elevations along
19 public site, with two of them being approximate
20 1200-foot of road frontage. I think given the fact
21 there are several other locations with comparable or
22 higher elevation it's very clear that the proposed
23 site was selected out of convenience for the
24 stakeholders who will financially gain from this
25 project with very little regard to the most impacted

1 party who stands to gain nothing and carries all the
2 associated risk.

3 According to Article 20, Section 12 the
4 application requires the applicant notify all property
5 owners within 500-feet by certified mail. The letter
6 must include a telephone number, address of the local
7 Planning Commission. We received a letter but there
8 was a typo in the document for the application. The
9 zip code provided for the Owensboro Metropolitan
10 Planning Commission was incorrect and unknown zip
11 code.

12 Additionally, FAA 1-A letter included in the
13 application, the site location is referred to being in
14 Hancock County. I acknowledge these are likely just
15 clerical errors, but given the project of this
16 magnitude so close to our home, these errors are
17 lowering the confidence we have in the execution of
18 this project. We're not trying to be unreasonable.
19 We're here asking for fair placement of this tower to
20 protect our largest asset which is our home. There
21 are many alternate locations available on that
22 property and I believe that should be taken into
23 consideration during the findings of fact. Thank you.

24 CHAIRMAN: Thank you.

25 Is there anyone else in the audience wishing

1 to speak on the application?

2 (NO RESPONSE)

3 CHAIRMAN: Seeing none, Commissioners, do we
4 have any questions or comments about the application?

5 Go ahead Commissioner Gasser.

6 MR. GASSER: Earlier you stated that by law
7 it's only 14-feet that you can move. Is that an
8 agreement between you and the landowners, is that why
9 you're saying by law?

10 MR. HAHN: If I said by law, I meant by
11 pursuant to the terms of our agreement with the
12 landowners.

13 MR. GASSER: So pursuant to the agreement
14 between you and the landowners they are allowing you
15 to move it 14-feet; is that correct?

16 MR. HAHN: They're not allowing me to move it.
17 We have that much room in lease our space to move it.

18 MR. GASSER: My question to you now is: On
19 this aerial view, if you look at it, I find it kind of
20 suspicious that it's the very far right-hand corner of
21 the landowner's property is where they want to put it
22 instead of putting it where the gentleman just spoke
23 where he proposed. Can you explain to me why the
24 other space is not possible?

25 MR. HAHN: I can't explain it beyond that they

1 agreed to lease a certain area that is very close to
2 the road.

3 MR. GASSER: Thank you.

4 MR. ROGERS: Mr. Diegel led us to believe that
5 that was the best location for reception anywhere on
6 the farm. Is there a reason it has to go there?
7 That's what he led everybody to believe in the
8 meeting, that it had to go in that location to get the
9 best reception.

10 MR. HAHN: As I understand it, what happens
11 away from this road is it goes down and it goes back
12 up. I can't say that it's the best single area on
13 that whole giant parcel for reception, but I do note
14 that, I don't know if that's a creek or whatever that
15 goes down. Something they probably wouldn't want to
16 do.

17 MR. ROGERS: Have you seen this book?

18 MR. HAHN: Yes, sir.

19 MR. ROGERS: With the best signals on their
20 property.

21 MR. HAHN: I don't think moving it on that
22 property is going to dramatically change that much.

23 MR. ROGERS: So the location, the landowner,
24 the adjoining landowner just proposed that cell tower
25 would still work in that area.

1 MR. HAHN: I believe that what we have in the
2 rezoning is a surtrane (phonetic) and we want
3 researching for property in that surtrane.

4 MS. KNIGHT: Are you saying surtrane?

5 MR. HAHN: Yes.

6 CHAIRMAN: Yes, Commissioner Ball.

7 MR. BALL: I have a question for Staff
8 typically.

9 Have we ever been with a scenario like this,
10 this is probably not the only monopole that has come
11 before us that there would not be, I'm sure there are
12 others that would have had either comparable locations
13 or possibly even more effective locations based on
14 elevation that we may not have known that. I mean if
15 everything, and maybe this question is for the
16 attorney too. I'm assuming that the large majority of
17 this is relative to the elevation. You know, the
18 other gentleman here, Mr. Boarman, had talked about
19 elevations, but really that elevation is only relative
20 to that site. One site may work at 400 feet. Another
21 site might not work unless it's 700 feet; is that
22 accurate?

23 MR. HAHN: I'm not an engineer. My experience
24 from how I'm going to answer your question is based on
25 several years of work on this.

1 Cell signal is effected by, yes, topography.
2 It's also effected by trees. It's effected by other
3 structures. I think what you just said is right.
4 Would it work on the site where the adjoining
5 landowner said is 500 feet? Possible. We do know
6 that based on modeling it works where it is or where
7 we're proposing it to be.

8 MR. BALL: And currently you don't have, you
9 don't have an agreement with the landowner on any
10 other portion of the property other than the front
11 portion of the property at this time?

12 MR. HAHN: Yes, sir.

13 MR. BALL: So I guess back to my other
14 question. Is it possible that we've seen others
15 before that there may have been other, better areas
16 for it or less impactful areas, but we still approve
17 those as well? That's a hard question.

18 MR. HOWARD: I think based on the nature of
19 your question my answer has to be, yes. I'm certain,
20 and we've been doing these for 21 years, 22 years.
21 I'm sure over that span of time there have been
22 applications that have come forward that there may
23 have been a more, there may have been other locations
24 on the site that would have worked just as well or
25 better. I'm sure that has happened, but generally

1 what we're looking at as Staff is they've submitted an
2 application. We're looking to see does it check all
3 the boxes and it meets the criteria based on the
4 location that they've proposed. We don't go out on
5 our purview to look at the topography and anything
6 else and say, well, I know you propose it here, but
7 can you look elsewhere. That's not what we as Staff
8 would do.

9 I think to answer your question, yes, I'm sure
10 there have been other applications in the past that
11 have had other sites on it, near it, in the vicinity
12 that would have worked just as well.

13 MR. BALL: Thank you.

14 CHAIRMAN: Any other questions or comments?
15 Commissioner Jean.

16 MR. JEAN: My question is for the attorney.

17 Easy access, is that a factor of the location
18 of this tower?

19 MR. HAHN: Access is a factor in every tower
20 and I'm sure is a factor there. Moving it back, you
21 have to have a much longer road. You would have to,
22 you know, dig up a bunch more property to put that
23 road there. Yes, access is always a factor.

24 MR. JEAN: Thank you.

25 CHAIRMAN: Commissioner Wells.

1 MS. WELLS: Last month part of the issue,
2 again, was talking about which site would actually
3 work. We had another example of a landowner who went
4 around with your company and looked at several
5 different sites and selected the best one, but you've
6 obviously kind of been locked into a box by the
7 landowner on this small parcel of land. My question
8 is, and I think this is what we were told would
9 happen, was that we would be given some data of other
10 sites on the property that would work. Did your
11 company make contact with the landowner to see if they
12 were amendable to leasing a different section of the
13 property?

14 MR. HAHN: I spoke with Mr. Jarboe today. I
15 did not speak with him about that. I wasn't aware of
16 that question. Sorry.

17 MS. WELLS: Thank you.

18 MR. HAHN: I spoke with him on an unrelated
19 matter. Related application, but unrelated to the
20 issue you've raised.

21 CHAIRMAN: Any other questions or comments
22 from commissioners?

23 (NO RESPONSE)

24 CHAIRMAN: Do we have anything else from the
25 audience?

1 Please approach the podium.

2 MR. BOARMAN: One question I had was I think
3 last, the May meeting in regard to the drilling, the
4 depth was mentioned being 40-foot depth. I don't have
5 the minutes in front of me. Just kind of wondering
6 what the discrepancy there.

7 I think I recall in last month's meeting, I
8 think Commissioner Strehl asked the question, was
9 access determinate to the site, and it was stated at
10 that time that, no, they build roads, they construct
11 utilities as necessary. That isn't a determinant
12 factor. I guess I'm asking for some clarification on
13 those two items.

14 MR. HAHN: I believe last month's meeting, May
15 11th, is that the right date?

16 CHAIRMAN: Yes.

17 MR. HAHN: These plans, they were done on
18 April 17th. I don't believe that our firm had them at
19 that point. We don't usually get these because they
20 aren't part of what's required for zoning. I think
21 Mr. Diegel was trying to explain the best he knew.
22 These are the actual plans that would be used if the
23 tower is constructed.

24 MR. ROGERS: You're talking drilling as far as
25 the depth?

1 MR. HAHN: Yes, sir.

2 MR. ROGERS: Instead of 40-foot as represent
3 it will be 24?

4 MR. HAHN: It would be exactly what is in that
5 plan, yes, sir.

6 CHAIRMAN: Do we have any other questions or
7 comments?

8 MR. BALL: I guess I've got some mixed
9 emotions and I want to make sure that whatever
10 direction this goes we don't set a dangerous
11 precedence and I don't know that we are.

12 I guess in my opinion the landowner,
13 Mr. Jarboe, has specific rights to his property. With
14 that being said the Boarmans have specific rights to
15 their property. If this application were to be denied
16 based on the fact that there are other areas on the
17 site that potentially work, how does that work in the
18 future? Have we set a dangerous precedence based on
19 that information and based on the KRS and everything
20 else that the federal guidelines that revolve around,
21 the monopole and then the fact that for all practical
22 purposes the cell phone signal is really almost a
23 public utility at this point?

24 MS. KNIGHT: I'll take a shot at this.

25 As I said before, I'll say it again, every

1 single application stands on it's own merits because
2 every property is different, the circumstances and
3 situations are different with every application.
4 Precedence in my mind in these type of situations is
5 not necessarily a concern. That doesn't mean somebody
6 is not going to come in and say, you did this three
7 years ago on this other property, you know, whatever
8 the situation might be.

9 With that in mind, just looking at the KRS,
10 you know, yes, they are required to submit what's
11 asked for in the ordinance and at the Staff level,
12 like the director said, they checked the boxes or if
13 not, etcetera. I do think it's up to the Planning
14 Commission to determine whether or not, you know,
15 they've considered all likely effects on the nearby
16 land uses. That is one of the items in KRS. Again,
17 if this is a situation that differs for some specific
18 reason, I think the commission needs to highlight
19 that. If the commission feels like it checks all the
20 boxes, and that's all that is really required. I mean
21 there are certain things in KRS that can't be
22 considered that they haven't even been brought, you
23 know, like the electronic emissions and things like
24 that. Frequency hasn't even been mentioned. That's
25 not at issue.

1 MR. BALL: I guess it's not likely that any
2 adjoining property owner will want one of these next
3 to their house. I can understand the Boarmans. I
4 don't necessarily want one beside my house either, but
5 at the same time I understand its purpose too.

6 I guess my concern is do we open ourselves up.
7 We had another one in here last month that had the
8 exact same concerns. They we were worried about
9 property values and other issues. Was there truly a
10 better location on that site or not? I don't know,
11 but we went the other direction on that one.

12 MS. KNIGHT: Yes. Again, every property is
13 different. Every situation is different. I think if
14 I remember correctly, I'm not applying one way or
15 the other, I'm just remembering what I remember from
16 last month, but the distances were a little different
17 from what I remember from houses, and structures, and
18 property line and things. Every application stands on
19 its own merits. The ordinance has its own setback and
20 distance requirements and things of that nature.
21 Again, from a black and white perspective is one
22 thing. It's up to the Planning Commission to decide
23 whether it's suitable or not suitable.

24 MR. BALL: One more question. If this were
25 denied tonight, could they make another application on

1 the same property or is there a time limit in order to
2 do that?

3 MR. HOWARD: I don't recall there being a time
4 limit on that. On a zoning change you cannot -- if a
5 rezoning were submitted and it were denied, you cannot
6 resubmit the exact same rezoning within six months, I
7 believe. I don't think that's a requirement on this.
8 Of course, if this location were denied and they were
9 to find another location, it would be in the same spot
10 anyway.

11 MR. BALL: Another application.

12 MR. HOWARD: I don't remember reading -- I
13 don't think it's in there. I haven't read the
14 regulation in the last couple of days either so I'm
15 going off memory, but I don't think that's in there.

16 MR. BALL: I have a question for the attorney
17 as well.

18 At this point in time are you interested at
19 all in getting back with the property owner to
20 determine if there is another location that they're
21 willing to lease?

22 MR. HAHN: I can't answer that. That's
23 between the Jarboes and Vertical Bridge. I'm happy to
24 talk to them.

25 Can I speak to something you were asking the

1 Planning Staff about?

2 MR. BALL: Sure.

3 MR. HAHN: The requirement, the concern in
4 this matter is addressed by the ordinance. Again, I
5 deal with a lots of ordinances that say just, for
6 example, Orange County, Florida. I had a tower turned
7 down there because they have a requirement that you
8 can't be within 1,000 feet of any adjoining
9 residential property. I deal with ordinances like
10 that. Orange County, Florida is where Orlando is.
11 It's a pretty extreme jurisdiction for these kind of
12 projects. I deal with lots of jurisdictions that
13 would say, you know, this is a very small setback
14 requirement you have. It's very easy for us to meet.
15 I do a lot that say you can't be within the tower
16 height of the adjoining property line.

17 Again, we make decisions and base our
18 application based on the ordinance. That's all.

19 MR. BALL: Thank you.

20 CHAIRMAN: Commission Wells.

21 MS. WELLS: To respond to your point. Our
22 responsibility as the commission is very complex and
23 we have to enforce everything in these goals. One is
24 to provide our citizens with access to efficient and
25 affordable telecommunication system, and there are

1 several subpoints under that. There's also to avoid
2 introduction of urban activities that would have a
3 detrimental effect on residential activity, but allow
4 some mixture of appropriate and nonresidential uses.

5 So I think you probably agree that just as our
6 attorney said, every piece of property and every
7 application is different.

8 MR. HAHN: Yes, ma'am.

9 MS. WELLS: So when the ordinance is passed we
10 don't know every single property and every application
11 that will come before us.

12 Again my question is: We asked, and it was
13 asked tonight, if you would be willing to go back,
14 your company, and just ask the property owner if they
15 were willing to look anywhere else. If we postponed
16 again, is that an issue? That's for Staff and
17 attorney.

18 MS. KNIGHT: I think under KRS we have to make
19 a written determination within 60 days. So we would be
20 past that if we postpone again. If you don't, then
21 that's presumptive approval.

22 MS. WELLS: All right.

23 CHAIRMAN: Any other questions by
24 commissioners or comments?

25 MR. HAHN: I agree with you on the

1 requirements, especially a body like this that doesn't
2 make the ordinances. You're tasked with a difficult
3 job of deciding these issues and I certainly ---
4 you're asking a lot of great questions to do that.

5 CHAIRMAN: Anything else from the audience?

6 MS. BOARMAN: I have one last comment. Our
7 intent wasn't to muddy the water with presenting some
8 adjacent locations. Those are obviously between the
9 Jarboes and Vertical Bridge.

10 All we're saying is we just want to exhibit
11 good faith. Not dis the negotiation. We're not
12 trying to prevent the Jarboes from having this. We
13 just want it fair. We just want this at a fair
14 location. That's all we're asking.

15 CHAIRMAN: Commissioner Jean.

16 MR. JEAN: Mr. Boarman, what are your actual
17 concerns about this tower being located at this
18 location?

19 MR. BOARMAN: The foundation of my home and
20 its property value.

21 MR. JEAN: Are you not concerned about the
22 tower being close to your residence?

23 MR. BOARMAN: Yes, absolutely. It's 199-feet
24 tall and it's 140-feet from my home.

25 MR. JEAN: Thank you.

1 CHAIRMAN: Do we have anything else from the
2 commission?

3 (NO RESPONSE)

4 CHAIRMAN: Anything else from the audience or
5 commission?

6 MS. STREHL: With regard to the original
7 reading to reference to the screening, can someone
8 explain to me what are we negotiating there on
9 screening?

10 MR. HOWARD: I believe what they proposed last
11 month was to, instead of doing the chain-link fence
12 with a double row of staggered pines, they were
13 proposing to eliminate the double row of staggered
14 pines, but install a solid fence around the compound.

15 MR. HAHN: I think a solid fence around the
16 chain-link.

17 MS. STREHL: And that's to reduce visibility
18 of the chain-link?

19 MR. HAHN: Yes, ma'am. The reason was asked
20 for a waiver because there's already an existing
21 screen.

22 CHAIRMAN: Commissioner Ball.

23 MR. BALL: I assume you don't know the answer
24 to this question, but, is there -- you don't know if
25 the property owner has any issues with it being

1 located somewhere else on the property because you
2 guys haven't really gone through that? He determines
3 this was the best location. He's not here tonight.
4 You don't know if another location would be suitable
5 to him or not at this point in time?

6 MR. HAHN: I can't comment on that. I also
7 can't comment on whether Vertical Bridge is willing to
8 move it on the site.

9 MR. BALL: Thank you.

10 CHAIRMAN: Actually I have a question. With
11 that and kind of in conjunction with Commissioner
12 Ball, if Vertical Bridge is not willing to move it on
13 the site, could they possibly just go to an entirely
14 new site and the entire area would lose that potential
15 increase in communication?

16 MR. HAHN: I believe that is certainly
17 possible. They had looked at property, I don't have
18 it in front of me, but it's further across the street.
19 I believe it's one of Mr. Jarboe's relatives, and that
20 person said, no.

21 CHAIRMAN: Thank you.

22 Do we have anything else from the commission?

23 (NO RESPONSE)

24 CHAIRMAN: Anything else from the audience?

25 (NO RESPONSE)

1 CHAIRMAN: Seeing none the chair is ready to
2 entertain a motion.

3 MS. STREHL: I make a motion that we approve
4 this. They have met the requirements as defined by
5 our governing body and it's not our job to go out and
6 select sites, and this does meet the criteria set
7 forth.

8 I make a motion to approve based on the
9 findings that our review board has found and also make
10 reference to note of the screening, that we approve
11 that request as well, to the adjust the screening
12 request.

13 CHAIRMAN: We have a motion for approval with
14 an approval for the screening amendment from
15 Commissioner Strehl. Do we have a second?

16 MR. BALL: Second.

17 CHAIRMAN: Second from Commissioner Ball. We
18 have a motion and a second. Do we have any questions
19 or comments on the motion?

20 (NO RESPONSE)

21 CHAIRMAN: Seeing none the chair is ready to
22 entertain a vote. All in favor of approval please
23 raise your right hand.

24 (BOARD MEMBERS MANUEL BALL, LEWIS JEAN AND
25 LAURNA STREHL RESPONDED AYE.)

1 CHAIRMAN: All opposed.

2 (BOARD MEMBERS IRVIN ROGERS, TERESA BOARMAN,
3 JASON STRODE, SHARLA WELLS AND JASON GASSER RESPONDED
4 NAY.)

5 CHAIRMAN: The motion failed.

6 MS. KNIGHT: If we disapprove, we have to make
7 a motion and findings. So somebody else try.

8 CHAIRMAN: The motion is denied. As Terra
9 mentioned, we have to have another motion.

10 Commissioner Wells.

11 MS. WELLS: I make a motion that we deny the
12 application based on our request for additional
13 information, the attempt for the applicant to relocate
14 and we did not get the information we requested.

15 MS. KNIGHT: Well, findings of fact as to the
16 application, the information that was presented as to
17 why it's not otherwise in accordance with the rules,
18 regs, comprehensive plan, things of that nature.

19 MS. WELLS: This is my first motion and one of
20 my first meetings so I'm just going to be open about
21 this.

22 I understand that they meet the requirements.
23 I interpret the law that we have the right to request
24 information from the applicant and we did and we
25 didn't get it. I can't say I deny the application

1 based on merit. If we need to make a motion, like if
2 I'm not allowed to have that concern or that to be
3 addressed, that's fine. We can make a motion on
4 accepting it, but I'm not --

5 CHAIRMAN: Do we have a second on the motion
6 for denial with the findings of fact according to the
7 request for data from Vertical Bridge and the data not
8 being represented?

9 MR. GASSER: Second.

10 CHAIRMAN: Second from Commissioner Gasser.
11 Do we have any questions or comments on the motion?

12 (NO RESPONSE)

13 CHAIRMAN: I actually have a question for
14 Staff, if that's okay, on this.

15 I recognize your concern, Commissioner Wells,
16 but with a motion that does not have findings of fact
17 according to the application as presented.

18 MS. KNIGHT: Well, she made findings.
19 Basically it sounds like the application viewed as
20 being incomplete, and that would be her finding.

21 CHAIRMAN: That was my only concern.

22 Any other questions or comments on the motion?

23 (NO RESPONSE)

24 CHAIRMAN: Seeing none the chair is ready to
25 entertain a vote. All in favor of denial of the

1 application please raise your right hand.

2 (BOARD MEMBERS IRVIN ROGERS, SKYLER STEWART,
3 TERESA BOARMAN, JASON STRODE, SHARLA WELLS AND JASON
4 GASSER RESPONDED AYE.)

5 CHAIRMAN: All opposed.

6 (BOARD MEMBERS LEWIS JEAN, MANUEL BALL AND
7 LAURNA STREHL RESPONDED NAY.)

8 CHAIRMAN: The motion for denial carries.
9 Director Howard.

10 MR. HOWARD: The Related Item 3-A, there's no
11 reason to take action on that since the application
12 was denied.

13 That would move us on to Item 6.

14 -----

15 NEW BUSINESS

16 ITEM 6

17 Consider approval of April 2023 financial statements

18 MR. HOWARD: Each of you should have received
19 a copy of those. I'll be happy to answer any
20 questions you may have.

21 CHAIRMAN: Are there any changes or concerns
22 by the Commission regarding the financial statement
23 for April 2023?

24 (NO RESPONSE)

25 CHAIRMAN: Seeing none the chair is ready for

1 a motion.

2 MR. STRODE: Make a motion for approval.

3 CHAIRMAN: Motion for approval by Commissioner
4 Strode. Do we have a second?

5 MS. BOARMAN: Second.

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries.

10 ITEM 7

11 Consider approval of the FY 2024 OMPC budget and
12 salary chart

13 MR. HOWARD: Each of you received a copy of
14 that. It is substantially similar to the draft budget
15 that you reviewed during our work session back in
16 February. We did receive a requested funding analysis
17 from both the City of Owensboro and Daviess County
18 Fiscal Court. We have eliminated, there are lots of
19 notes in there in regards to what we've done. We did
20 eliminate the budget item for a new vehicle. We were
21 actually able to purchase one through the state bid
22 process this spring, which was great because we
23 haven't been able to for about the last three years,
24 two and half years. We outlined everything else in
25 there. I would be glad to answer any questions that

1 you may have, but it's a very similar budget to what
2 we have done in years past.

3 CHAIRMAN: Thank you, Director Howard.

4 Do we have any questions or comments on the
5 fiscal year 2024 budget and salary chart or any
6 changes to those?

7 MS. STREHL: I appreciate Brian doing the
8 bullet point summary. Very thorough. We could tell a
9 lot of effort, I could tell a lot of effort went into
10 it.

11 I vote approve it.

12 CHAIRMAN: We have a motion for approval from
13 Commissioner Strehl. Do we have a second?

14 MR. BALL: Second.

15 CHAIRMAN: Second from Commissioner Ball. All
16 those in favor please raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: The motion carries.

19 ITEM 8

20 Comments by the Chair

21 CHAIRMAN: I just want to thank the Staff for
22 always giving us the best information and allowing us
23 to make informed decisions. I know that sometimes we
24 ask pretty difficult questions. I appreciate you all
25 always answering for us.

1 ITEM 9

2 Comments by the Planning Commission

3 MR. BALL: I would like to make a comment. I
4 appreciate everybody on the commission. I think that
5 was a really tough one. I think that's probably one
6 of the more difficult ones we've seen in a long time.
7 I appreciate everybody's opinion, everybody working
8 together.

9 CHAIRMAN: Thank you Commissioner Ball.
10 Anything else?

11 MS. WELLS: I appreciate you guys having
12 patience with me, and it's very hard work.

13 CHAIRMAN: Thank you Commissioner Wells.

14 ITEM 10

15 Comments by the Director

16 MR. HOWARD: I have two. One, this is the
17 year, you all are aware of this, but we are updating
18 the Comprehensive Plan. On Thursday, June 29th, here
19 in just three weeks or whatever, we will be hosting an
20 open house which will be a public forum, public
21 opportunity for people to come and ask questions, look
22 at information about the Comprehensive Plan. We'll
23 have slides. We're going to meet in this room. We
24 will have representatives from the city and county
25 government, transportation folks, economic

1 development, hopefully schools, utilities. We're
2 going to have just a slew of people in this room so
3 that if folks have questions about any aspect of the
4 Comprehensive Plan we'll have people on hand that
5 should be able to help answer those. In years past
6 we've had questions about, you know, EDC's program and
7 what have they done and this kind of thing or where is
8 the sewer going to be extended, things like that.
9 We'll have people on hand that can specifically answer
10 those questions as part of this. The county judge and
11 the city manager should be here along with others.

12 We're looking forward to that. It will be on
13 June 29th. Melissa from our Staff sent out the e-mail
14 today. You all should have that in your in-box, if
15 you haven't already seen it.

16 Second, I would just like to thank Lynnette.
17 Lynnette, she has been doing our court reporter duties
18 for 20 plus years, 23 years. Just based on the fact
19 that we generally don't need a full transcript, all of
20 the meetings are video and audio recorded now, we're
21 not going to have Lynnette here at every meeting
22 anymore.

23 CHAIRMAN: Thank you, Director Howard.

24 The chair would like to entertain a motion to
25 adjourn.

1 MR. BALL: Motion to adjoin.

2 CHAIRMAN: Do we have a second?

3 MR. STRODE: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: We are adjourned.

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

3 I, LYNNETTE KOLLER FUCHS, Notary Public in and
4 for the State of Kentucky at Large, do hereby certify
5 that the foregoing Owensboro Metropolitan Planning
6 Commission meeting was held at the time and place as
7 stated in the caption to the foregoing proceedings;
8 that each person commenting on issues under discussion
9 were duly sworn before testifying; that the Board
10 members present were as stated in the caption; that
11 said proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into foregoing 40
14 typewritten pages; and that no signature was requested
15 to the foregoing transcript.

16 WITNESS my hand and notary seal on this the
17 11th day of July, 2023.

18

19

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23 COMMISSION EXPIRES: DECEMBER 16, 2026

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25