

SUMMARY MINUTES
City-County Planning Commission of Warren County
May 5, 2011 @ 7:00 p.m.
City Commission Chambers
3rd Floor - 1001 College Street

Present:

Larkin Ritter
Velma Runner
John Atkerson

Mary Belle Ballance
Kenneth Sparks

Cliff Nahm
Chuck Coppinger

Bill Hotaling
Bennie Jones

Absent: **Faye Phelps** **Tim Huston** **Albert Rich**

The City-County Planning Commission of Warren County was called to order by Chairman Velma Runner. Chairman Runner requested Sandy Clark, Zoning Administrator, to conduct roll call in order to determine a quorum. A quorum was determined with nine (9) of twelve (12) Commissioners present at the time of the roll call.

I. ADMINISTRATIVE REVIEW:

Chairman Runner asked if all Commissioners had received and read the draft Summary Minutes of the meeting held on April 21, 2011. The Motion was made by Commissioner Hotaling, seconded by Commissioner Jones and agreed upon by all of the Commissioners present (one abstained) to approve the Summary Minutes of the April 21, 2011 meeting as written.

Hon. Hamp Moore, of Cole and Moore Law Office, Attorneys for the Planning Commission, requested the Chairman order that the Joint Zoning Ordinance of Warren County, Kentucky; the Subdivision Regulations; and the Comprehensive Plan with all of its elements effective as of this date (May 5, 2011) be introduced as exhibits for each of tonight's hearings. He further requested the Chairman order that the Staff Report, with all attachments together, along with the Commission's entire file for the application be likewise introduced as exhibits. Mr. Moore asked that the Oath be administered to Steve Hunter, Executive Director; Jonathan Britt, Senior Planner and Marshall Robinson, Planner as witnesses before the Planning Commission and that their oath and qualifications be reflected in the record for each of tonight's hearings. Chairman Runner so ordered and swore in the three witnesses.

C. REPORT ON SUBDIVISION APPROVALS

Chairman Runner asked if there were any questions or comments on the Subdivision approvals. Being no questions or comments, the April 15, 2011 to April 30, 2011 Subdivision plats stand as recorded. Chairman Runner said there were no additions to the list presented to the Commission. Chairman Runner asked if there were any questions or comments in regard to the report given to Commissioners.

D. LETTERS OF CREDIT AND PERFORMANCE BONDS

Chairman Runner indicated the next item on the agenda is the Letters of Credit and Performance Bonds. (This is the reason for the revised Agenda.) She said there were no additions to the list presented to the Commission. Chairman Runner asked if there were any questions or comments in regard to the report given to Commissioners. Being no questions, Chairman Runner asked for a Motion:

ACTION: A Motion was made by Commissioner Atkerson, seconded by Commissioner Coppinger, which passed unanimously, nine (9) yeas, to approve the following:

1. Release the Letter of Credit for landscaping 314 Audley Avenue in the amount of \$11,900 from Cook Properties.
2. Release the cash surety for landscaping lot 4-2 of Buddergreen Subdivision, Plum Springs Loop, in the amount of \$1,250 from Chris Blevins.

II. PUBLIC HEARINGS:

Chairman Runner announced that the first two items under our Public Hearings section is a request for a zone change and, if approved, a couple of Variances described as: 2011-13-Z-BG - Trident Enterprises of Kentucky, LLC., have filed an application to re-zone a tract of land containing 0.664 acres located at 440 High Street, which is located at the intersection of High Street and 5th Avenue, from RM-4 (Multi-family Residential) and OP-C (Office and Professional - Commercial) to OP-C (Office and Professional - Commercial) with a general development plan; and 2011-V- 08 - Trident Enterprises of Kentucky, LLC., have filed an application for two Variances on property located at 440 High Street at the corner of High Street and 5th Avenue. The applicant has requested a Variance of 10 feet from the required 20 foot side set back and a change of 4% from the required 75% lot coverage for a proposed total of 79% lot coverage. This property is zoned RM-4 (Multi-Family Residential) and OP-C (Office and Professional – Commercial) with a pending zone change to OP-C (Office & Professional-Commercial) with Binding Elements.

Marshall Robinson stepped to the podium to present the staff report. He stated that the applicants propose to re-zone a tract of property from **RM-4** (Multi-family Residential) and **OP-C** (Office and Professional – Commercial) to **OP-C** (Office and Professional – Commercial) in order to construct a medical office building. The applicants have also agreed to certain site restrictions as outlined in the Binding Elements. The property will have a maximum ground floor area of 8,400 square feet with a maximum total square footage not to exceed 10,000 square feet. The applicants are proposing to construct a medical office building on the property. The exteriors of all new buildings constructed on the property shall be constructed of at least 80% masonry materials; like brick, stone, rock, drivit, EFIS, decorative block or similar material. The subject property shall be limited to a single monument style sign no greater than twenty (20) feet in height and one hundred (100) square feet in sign face area for each individual property. The property shall also be limited to wall signage to five percent (5%) of each façade or a maximum of fifty (50) square feet for each individual property. The applicants are proposing that the total will not exceed 10,000 square foot on .664 acres (28,880.28 square feet).

Mr. Robinson said that the applicants propose two (2) access points to the development: one (1) access point on High Street; and one (1) access point on 5th Avenue. The proposed development must be in compliance with the City of Bowling Green's Traffic Access Management Manual. The property will be required to meet the minimum standards of the landscape provisions of the Zoning Ordinance of Warren County, Kentucky. Any new lighting installed on the subject property shall be down lighting, high intensity discharge shoebox luminary type or wall-packed lighting specifically designed to direct all lighting on the subject premises and away from any adjacent property. The lighting is not to exceed 30 feet in height from ground level.

Mr. Robinson stated that this property is located at 440 High Street and contains 0.664 acres. Also, the property is located in Focal Point: 102-1 Fairview - with Characteristics of: residential; in transition from low-moderate priced homes to semi-public, institutional and office uses surrounding the medical complex. The property has frontage on High Street, a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width. The property also has frontage on 5th Avenue, a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width.

In order to address concerns of staff, the applicants submitted Binding Elements which included:

BINDING ELEMENTS

1. *Any new lighting installed on the subject property shall be down lighting, high intensity discharge shoebox luminary type or wall-packed lighting specifically designed to direct all lighting on the subject premises and away from any adjacent property, said lighting not to exceed 30 feet in height from ground level.*
2. *The property will have a maximum ground floor area of 8,400 square feet with a maximum total square footage not to exceed 10,000 square feet.*
3. *The exteriors of all new buildings constructed on the property shall be constructed of at least 80% masonry materials; like brick, stone, rock, drivit, EFIS, decorative block or similar material.*
4. *The uses on the property shall limited to office, medical office and health care facility.*
5. *The subject property shall be limited to a single monument style sign no greater than twenty (20) feet in height and one hundred (100) square feet in sign face. The property shall also be limited to wall signage to five percent (5%) of each façade or a maximum of fifty (50) square feet.*

Mr. Robinson explained that staff reviewed Comprehensive Plan policies totaling seventeen (17) different Policies which were described as follows: **LU-1A-2** (*In preparing a general development plan, surrounding property owners must be consulted prior to submitting a zone change request to the Planning Commission*) - The Staff recommends to all applicants that they contact adjacent neighbors prior to the public hearing or have a neighborhood meeting. No information of a neighborhood meeting was forwarded to the Planning Commission.

In addition, utility Policies of: **LU-5A-11** (*water*); and **LU-5A-9** (*sewer*); There is a six (6) inch water line available along High Street providing more than six hundred (600) GPM with

more than twenty (20) PSI. This meets the City fire control standards of Bowling Green. There is also a four (4) inch water line available along Fifth Avenue providing less than six hundred (600) GPM with more than twenty (20) PSI. This does not meet the city fire control standards of Bowling Green. There is an eight (8) inch sewer line available along both High Street and 5th Avenue.

The next policies of **LU-5A-5** (*Commercial uses may be located adjacent to land zoned for residential uses if buffered from the residential uses by landscaping, lighting, and noise controls*); **LU-5A-6** (*Sites for commercial uses located where an adjoining property on two or more boundaries is residential, must maintain at least 50 percent of the site in green space not devoted to parking. Sites larger than one acre should reserve green space of at least 20 percent of the site or one-half acre, whichever is larger*); **LU-5A-12** (*New commercial development should follow sound design principles for buildings, parking, landscaping, signage, and setbacks*); **LU-5A-13** (*Commercial developments, including loading docks, vehicle use areas, public use areas, and outside storage areas should be screened from adjacent residential developments or districts*); and **LU-5A-14** (*Parking areas are discouraged within the building setback areas to allow for street landscaping*) - As shown on the Zoning Map, the properties that surround the zone change request are zoned OP-C (Office and Professional - Commercial), RM-4 (Multi-Family Residential) or P (Public). There are also properties in the general vicinity zoned GB (General Business). Although there are two (2) adjoining properties currently zoned RM-4 (Multi-Family Residential), as shown on the land use map, the use of the properties are commercial in nature. The applicants are also requesting a Variance for the total lot coverage of the proposed site. Also, as can be seen from the Variance staff report, the applicants are seeking an increase of the minimum lot coverage from 75% to 79%. The applicants are also requesting a ten (10) foot Variance from the twenty (20) foot side yard setback required for **OP-C** (Office and Professional - Commercial) zoned land adjacent to RM-4 (Multi-Family Residential) zoned property. The property will be developed to meet the minimum requirements of the landscape provisions of the Zoning Ordinance of Warren County, Kentucky. The exterior facade of all new buildings constructed on the property shall be constructed of at least 80% masonry materials; like brick, stone, rock, drivit, EFIS, decorative block or similar material. The applicants have agreed that the property will have a maximum ground floor area of 8,400 square feet with a maximum total square footage not to exceed 10,000 square feet.

Then the Policies of **LU-5A-15** (*Free standing signs should be in proper scale, style and bulk with the surrounding area. In general, signs should not be taller than the tallest structure on the site*); and **LU-5A-16** (*All lighting should be directed downward and away from adjacent residential uses and should be shielded to prevent light trespass or reflection onto adjoining properties*) - The subject property shall be limited to a single monument style sign no greater than twenty (20) feet in height and one hundred (100) square feet in sign face area for each individual property. The property shall also be limited to wall signage to five percent (5%) of each façade or a maximum of fifty (50) square feet for each individual property. Any new lightning installed on the subject property shall be down lighting, high intensity discharge shoebox luminary type or wall-packed lighting specifically designed to direct all lighting on the subject premises and away from any adjacent property and said lighting not to exceed 30 feet in height from ground level.

Finally, the traffic policies of: **LU-5A-4** (*Commercial uses are appropriate only with direct accessibility to at least a minor collector street. Vehicular access to commercial development should be oriented away from residential neighborhoods*); **LU-5B-1** (*Infill sites with access to at least a minor collector street may be developed as commercial uses which are*

low volume traffic generators. The proposed development shall maintain the residential scale, size, and style of the neighborhood. At least 25% of the site shall be landscaped open space); **LU-5B-2** (*Peripheral commercial development must be located on at least a minor collector street*); **LU-5B-3** (*Primary ingress or egress to the commercial site shall not adversely impact any residential neighborhood*); **TR-2** (*Measures must be taken to ensure that all private and public development is undertaken in a manner which minimizes increased traffic congestion on existing streets, roads and intersections*); **TR-2H** (*Development within the City limits of Bowling Green shall comply with the City's adopted Traffic Access Management Manual*); and **TR-2I** (*Within urban areas, private access to existing state, county or city streets should be as restrictive as possible, of few as necessary, and align with other existing entrances*) - The property has frontage on High Street which is a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width. The property also has frontage on 5th Avenue, a City maintained local roadway with fifty (50) feet of right-of-way and twenty-four (24) feet of pavement width. As can be seen on the Concept Plan, the applicants propose two (2) access points to the development: one (1) access point on High Street and one (1) access point on 5th Avenue. The proposed development must be in compliance with the City of Bowling Green's Traffic Access Management Manual. The applicants have proposed that the uses on the property will be limited to office, medical office and health care facility. The proposed uses would be considered low traffic generators as confirmed by our Engineer.

Mr. Robinson completed the explanation of the staff report by stating that the staff finds that the proposed zoning is generally in agreement with the adopted Comprehensive Plan after staff spent time reviewing seventeen (17) Policies and finding approximately sixteen (16) policies in compliance and two (2) policies generally not in compliance, which is subjective to the Commissioners. Chairman Runner asked if there were any questions or comments for Mr. Robinson. One Commissioner asked about the parking standards for a medical facility and staff explained that it would be 1 parking space for each 300 square feet which is the need for the Variances. It was also noted that what was presented was a conceptual drawing and the final drawing would include all the parking spaces, landscaping, dumpster location, etc.

Chairman Runner if there were any other questions or comments. Being no other questions or comments from the Commissioners or none from anyone in the audience, she asked for opposition. Being none she asked for a Motion.

ACTION: **Commissioner Coppinger made the Motion, seconded by Commissioner Atkerson, to approve the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan, docket #2011-13-Z-BG. The motion is based on the findings of fact as presented in the staff report and the testimony presented in this public hearing, that the Zoning Map Amendment is in agreement with the adopted Comprehensive Plan as demonstrated by its compliance with the Comprehensive Plan's following Policies: LU-5A-4, 5, 6, 9, 11, 12, 13, 14, 15 and 16; LU-5B- 1, 2 and 3; and TR-2, 2H and 2I. Further, it was requested that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment. The vote was nine (9) yeas, so a recommendation for approval will be sent to the BG City Commission.**

Chairman Runner then asked for a Motion on the Variances requested by the applicants. Attorney Moore advised that the vote would need at least seven (7) concurring votes.

ACTION: Upon Motion of Commissioner Atkerson, seconded by Commissioner Coppinger to approve the request for Variances at the 440 High Street, docket #2011-V-08, as follows: 10 foot Variance from the 20 foot side yard set back required for OP-C zoned land adjacent to RM-4 property as well as a change of four percent (4%) from the seventy-five percent (75%) maximum lot coverage permitted in OP-C zoning classification, bringing the maximum allowed lot coverage to 79%. The testimony presented in this public hearing has shown that the granting of these Variances will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations. The vote was nine (9) yeas, so approved.

Chairman Runner announced that the second item under our Public Hearings section is a request for Amendment to Binding Elements described as: *2011-05-DP - J. Richard and Shea Rogers have filed an application to amend the general development plan (Binding Elements) on a tract of land containing 6.5965 acres located at 210 Scott Lane which is located approximately 168 feet from Pine Terrace Court. This property is currently zoned RS-1A (Single Family Residential) with Binding Elements*

Jonathan Britt presented the staff report and stated that Richard and Shea Rogers, the applicants - have filed an application to amend the general development plan on 6.5965 acres, located on Scott Lane. The proposed amendment would allow for the creation of one (1) additional single-family residential lot. This property is zoned **RS-1A** (Single Family Residential) with Binding Elements.

The property is located at 210 Scott Lane (Lots 1 – 5 of Pine Terrace Subdivision) and contains 6.5965 acres. The property is located in Focal Point: 114-1 Mt. Ayr – with Characteristics of: Residential; low density single family attached and detached; garden apartments in fringe. Mr. Britt stated that (Agriculture) was the original zoning. The property was re-zoned to RS-1A and RS-1C (Single Family Residential) in July of 2005.

The applicants propose to amend the Binding Elements that were approved in 2005. The proposed amendments are to revise the language in Binding Element I and III. The proposed revision to Binding Element I is as follows: *This property shall be developed with a maximum of six (6) single family residential lots.* The applicants would also like to revise Binding Element III to read as follows: *Any accessory structures constructed or placed on Lots 1-1, 3, 4, or 5 shall be consistent with the architectural design and exterior finishes of the primary structure.*

The applicants submitted the following Binding Elements:

AMENDED STATEMENT OF BINDING ELEMENTS

This Amended Statement of Binding Elements is filed pursuant to Sections 3.10 and 3.11 of the Warren County Zoning Ordinance.

PROPERTY OWNERS: J. Richard and Shea Rogers

PVA TAX PARCEL NUMBER: 051B-15 Tract 2 – 6.59 acres

DESCRIPTION OF PROPERTY AND SOURCE OF TITLE: Deed Book 905, page 943

BINDING ELEMENTS

All Binding Elements recorded in Deed Book 913, page 592 shall remain the same and in full force and effect with the exception of Binding Elements #1 and #3.

* * * * *

The Binding Element recorded in Deed Book 913, page 592 as they relate to the above mentioned tract Binding Elements #1 and #3 will be amended as follows:

1. *This property shall be developed with a maximum of six (6) single family residential lots.*

3. *Any accessory structures constructed or placed on Lots 1-1, 3, 4 and 5 shall be consistent with the architectural design and exterior finishes of the primary structure.*

* * * * *

Mr. Britt then stated that staff reviewed twelve (12) Comprehensive Plan policies which included: **LU-1A-2** (*In preparing a general development plan, surrounding property owners must be consulted prior to submitting a zone change request to the Planning Commission*) - The Staff recommends to all applicants that they contact adjacent neighbors prior to the public hearing or have a neighborhood meeting, if possible. No information concerning a formal neighborhood meeting has been given to Planning Commission staff.

The next policies are utility policies reviewed of: **LU-4B-2** (*water*); **LU-4B-4** (*sewer*); **LU-4B-5** (*underground utilities*); and **LU-4B-7** (*Urban density residential development shall have street lights, sidewalks, curbs and gutters installed at the time of development*) - An eight (8) inch water line providing 944 GPM at 60 static PSI with a residual of 25 is available along Scott Lane. This is adequate for domestic uses and to meet the fire control standards of Bowling Green. A twelve (12) inch sewer line is available along Scott Lane. The development will be required to connect to public sanitary sewer. The applicants are proposing the creation of one (1) additional lot along the existing right-of-way of Scott Lane. No other changes are proposed for the site

Also, traffic Policies of: **LU-4B-6** (*interior street system*); **TR-2** (*Measures must be taken to ensure that all private and public development is undertaken in a manner which minimizes increased traffic congestion on existing streets, roads and intersections*); and **TR-2H** (*Development within the City limits of Bowling Green shall comply with the City's adopted Traffic Access Management Manual*) – The existing house, located at 210 Scott Lane already has its own driveway access onto Scott Lane, which will remain. The additional five (5) lots to be created propose separate access points to Scott Lane as generally shown on Exhibit “B”. Access to the property should be in compliance with the Bowling Green Access Traffic Management Manual. The applicants are proposing six (6) lots into Tract 2 of the Rogers Property Scott Lane Development Subdivision and must be in compliance with the Subdivision Regulations of Warren County.

Then the final policies of: **LU-4A-3** (*Residential neighborhoods are viewed as personal, economic and lifestyle necessities. Measures must be instituted for the protection of both existing and newly created residential neighborhoods*); **LU-4A-4** (*Future growth and development must not jeopardize existing neighborhoods. Therefore, future growth and development shall be compatible with adjacent properties and neighborhoods with respect to (but not limited to) scale, identity, bulk, and site planning*); **LU-4A-8** (*Infill residential uses should reflect the overall density and style of the neighborhood*); and **LU-4A-9** (*Residential development should not exceed density of surrounding developments by more than 50%*) - Homes constructed on the newly developed lots will have a minimum of 1,800 square feet with a two-car attached garage. The minimum ground floor living space will be 1,400 square feet. Each home will be constructed of 90% brick, stone, drivit or concrete-based siding exterior finishes, excluding soffits and porch ceilings (Existing Binding Element 2 to remain). A ten (10) foot natural landscape and buffering easement shall be placed along the common boundary of this property with Indian Hills Subdivision. Any gaps within the existing tree line shall include additional evergreen tree plantings to provide additional screening (Existing Binding Element 4 to remain). A ten (10) foot landscape buffer consisting of evergreen trees shall be placed on this property at the common boundary with Tract 1 to provide screening between the two parcels of this development. (Existing Binding Element 5 to remain). The property to be developed is adjacent to the following zones and subdivisions: Indian Ridge Subdivision (PUD, B.E.); Indian Hills Subdivision (RS-1A); Winfield Acres (RS-1A and RM-3); River Hills Subdivision (RS-1A); and Mt. Ayr Estates (AG). Some subdivisions in the surrounding area include: Talbott Place (RS-1A); Cherry Hill Subdivision (RS-1A and AG); Walkerhurst Subdivision (RS-1A, B.E.); Nob Acres (RS-1B, B.E.); Windsor Meadows (RS-1B, B.E.); and Knox Manor Apartments (RM-3). A total of 6 lots will be developed. This calculates to a density of 0.91 units/ acre. The staff did evaluate densities of other residential areas in the general vicinity. They are as follows: Indian Hills Subdivision-density of 2.76 units/ acre; Indian Ridge Subdivision-density of 5.26 units/ acre; Talbott Place-density of 1.31 units/ acre; Mt. Ayr Estates-density of .46 units/ acre; and Winfield Acres-density of 2.65 units/ acre

Mr. Britt completed his explanation of the staff report by stating that the Staff finds that the proposed General Development Plan Amendment is generally in agreement with the adopted Comprehensive Plan and if the applicants talked with the neighbors, then twelve (12) of twelve policies were in compliance, otherwise eleven (11) of twelve (12) Policies reviewed are in compliance. Mr. Britt then stated that staff found that there have been major changes of an economic, physical or social nature within the area of the property in question.

Chairman Runner asked if there were any questions from the Commissioners. Being none, she asked any additional information from the applicants. The applicants indicated they were available if any questions. Chairman Runner then asked for questions, comments or opposition from anyone in the audience. Being none, she asked for a Motion.

ACTION: **Commissioner Hotaling made the motion, seconded by Commissioner Sparks, to approve the proposed General Development Plan Amendment, docket #2011-05-DP. The motion is based on the findings of fact as presented in the staff report and the testimony presented in this public hearing, that the General Development Plan Amendment is in agreement with the adopted Comprehensive Plan as demonstrated by its compliance with the Comprehensive Plan's following Policies: LU-4A-3, 4 8 and 9; LU-4B-2, 4, 5, 6 and 7; and TR-2 & 2H. Further, it was found that there have been major changes of an economic, physical or social nature within the area of the property in question and a request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment. The vote was nine (9) yeas to approve the Amendment to Binding Elements.**

Chairman Runner announced the final item on the agenda as being a zone change request described as: 2011-12-Z-CO - Sherry Baldwin and Houchens Properties, Inc. - have filed an application to re-zone two tracts of land containing 0.54 acre and 3.73 acres for a total of 4.27 acres located at 415 Browning Road, which is located approximately 700 feet from the intersection of U. S. Highway 68/80 and Browning Road, from AG (Agriculture) to R-E (Residential Estate) and (HB) Highway Business with a general development plan.

Steve Hunter, Executive Director, stepped to the podium to present the staff report. He stated that the applicants are proposing to re-zone 3.73 acres of property from **AG** (Agriculture) to **R-E** (Residential Estate), as well as 0.54 acre of property from **AG** (Agriculture) to **HB** (Highway Business). The applicants have also agreed to certain site restrictions as outlined in the Binding Elements. The applicants propose to re-zone 3.73 acres of property from **AG** (Agriculture) to **R-E** (Residential Estate), as well as 0.54 acres of property from **AG** (Agriculture) to **HB** (Highway Business). The 3.73 acre tract is currently occupied by a residential structure. The 0.54 acre tract is to be combined to the property located at 7604 Russellville Road, which currently houses a grocery store. No new structures or subdivisions are being proposed at this time for either tract. Upon final approval of the proposed zone change of the property from **AG** to **HB**, those certain Binding Elements of record in Deed Book 859, Page 754 in the office of the Warren County Court Clerk which apply to the original tract (located at 7604 Russellville Road) shall be deemed to apply to Tract 1.

In addition, there is an existing house on the property along Browning Road that will not change as a part of this zone map amendment request. The property along Russellville Road has an existing commercial structure located on it and will not change. The portion of the property to be zoned **R-E** (Residential Estate) shall be subdivided into no more than two building lots. The applicant plans to combine the .54 acre portion with the previously zoned 9.67 acre tract for a total of 10.21 acres. The property will be developed and maintained to be consistent with the presently existing landscaping provisions of the Zoning Ordinance of Warren County, and will have landscape buffering on the sides bordering adjacent to residential and agricultural uses.

Mr. Hunter stated that this property is located at 415 Browning Road and contains 4.27 acres (0.54 acre is Tract 1 and 3.73 acres is Tract 2). Also, the property is located in Focal Point: 111-3A New Rockfield – with Characteristics of: in transition from agriculture to low density single family residential. The property has frontage on Browning Road, a State maintained rural roadway with fifty (50) feet of right-of-way and eighteen (18) feet of pavement width. The property also has frontage on Russellville Road, a State maintained principle rural arterial with rights-of-way that vary and sixty-two (62) feet of pavement width.

In order to address concerns of staff, the applicants submitted Binding Elements which included:

BINDING ELEMENTS – RESIDENTIAL

- I. The property may be subdivided into no more than two building lots.
- II No mobile homes or manufactured housing shall be allowed on the property.

The second set of Binding Elements is for the HB (Highway Business) portion of the property that is being sold to Houchens. The Binding Elements are as follows:

BINDING ELEMENTS – HIGHWAY BUSINESS

- I. *The subject property is adjacent to properties owned by Houchens Properties, Inc., acquired by deed of record in Deed Book 861, page 653, in the Office of the Warren County Court Clerk (the “Original Tract”). The property which is the subject to this Statement of Binding Elements shall be combined with the original tract, by Plat to create a single commercial lot upon final approval of the proposed zone change of the property from AG to HB.*
- II. *Those certain Binding Elements of record in Deed Book 859, Page 754 in the Office of the Warren County Court Clerk which apply to the original tract shall be deemed to apply to the property which is the subject to this Statement of Binding Elements upon final approval of the proposed zone change of the Property from AG to HB.*

Mr. Hunter explained that staff reviewed Comprehensive Plan policies totaling twenty-one (21) different Policies which were described as follows: **LU-1A-2** (*In preparing a general development plan, surrounding property owners must be consulted prior to submitting a zone change request to the Planning Commission*) - The Staff recommends to all applicants that they contact adjacent neighbors prior to the public hearing or have a neighborhood meeting. No information of a neighborhood meeting was forwarded to the Planning Commission.

In addition, Policies: **LU-2** (*For purposes of evaluating land development proposals and considering zoning map amendments, all land in Warren County is divided into Three Broad Development Districts: Urban Density Development, Rural Density Development, and Rural Conservancy Areas*); **LU-2C-3** (*Rural Conservancy Districts are designed to prevent the premature development of land at densities and patterns to which basic services or facilities cannot be provided, as well as, preserve rural farm land, valuable woodlands and open spaces*); and **LU-4G-2** (*Such single family lots or tracts may be built upon only where a properly located and designed on-site waste disposal system can be provided. Such systems must be approved by the Health Department prior to issuance of a building permit*) – An area with severe soil

limitation with respect to septic tank and absorption field systems is one of the criteria that classifies an area as a Rural Conservancy District. The property is comprised of two soil types: FeC – Fredonia-Vertrees Complex, 6 to 12% slopes, very rocky and FnC – Fredonia-Vertrees-Urban Land Complex, 6 to 12% slopes, very rocky. FeC soil types are unsuited for septic tank absorption fields. The National Resources Conservation Service rates this soil type as very limited, meaning that the soil has one or more features that are unfavorable for use of septic tank absorption fields. The FeC type soil is characterized by slow permeability shrink-swell potential, and limitations in regards to depth to bedrock, slope, and areas of rock outcrop. The FnC soil type has a very limited rating and is poorly suited for septic tank absorption. Like the FeC soil type, FnC soils are also characterized by slow permeability shrink-swell potential (in the lower part of the subsoil), and limitations in regards to depth to bedrock, slope and areas of rock outcrop. There are no sanitary sewers within 1,500 feet of the property. The current residence located at 415 Browning Road and the grocery store that is located at 7604 Russellville Road both utilize existing on-site septic systems. A preliminary on-site site evaluation from the Barren River District Health Department would be needed prior to the issuance of any new building permits

Another Policy reviewed was: **LU-4G-1** (*One single family residential development is allowed on existing lots of record*) - The property has one existing residential structure on 4.27 acres. The applicants have stated that no changes will occur on the **R-E** portion of the property to be re-zoned and the Binding Elements state that no more than two (2) lots would be created.

The next Policies of: **LU-4A-3** (*Residential neighborhoods are viewed as personal, economic and lifestyle necessities. Measures must be instituted for the protection of both existing and newly created residential neighborhoods*); **LU-4A-4** (*Future growth and development must not jeopardize existing neighborhoods. Therefore, future growth and development shall be compatible with adjacent properties and neighborhoods with respect to (but not limited to) scale, identity, bulk and site planning*); and **LU-4A-9** (*Residential development should not exceed density of surrounding developments by more than 50%*) – The applicants proposed that no manufactured or mobile homes shall be permitted on the property. The proposed site consists of 4.27 acres and will conceptually be divided into two (2) lots: one (1) residential and one (1) commercial non building lot that is to be combined with the adjacent commercial property. Tracts 1 and 2 will consist of 0.54 and 3.73 acres respectively.

The next policies reviewed were utility polices of: **LU-5A-11** (water) and **LU-5A-10** (sewer) - There is a 4 inch and 6 inch water line providing more than 250 GPM with more than 20 PSI available along Browning Road. There is also an 8 inch water line providing more than 600 GPM with more than 20 PSI along the property at Russellville Road. The property's fire protection is adequate for commercial and residential uses and meets the fire control standards for Warren County. The commercial property included with this zone map amendment request was rezoned to **HB** (Highway Business) in 2003. The maximum building size for commercial development utilizing an on-site septic system is 12,000 square feet on a minimum of five (5) acres. This commercial property does not have public sanitary sewer available.

Then Traffic polices of **TR-2** and **LU-5A-4** - The applicant is not proposing to create any new lots in this zone map amendment request. The residential property on Browning Road is an existing property with an existing access. There are no new access points being proposed for either of the properties. The map amendment is proposing to add an additional 0.54 acres to the existing 9.67 acre commercial property zoned **HB**. The property is served by 2 existing access points to Russellville Road; each 40 foot wide with a minimum distance of 230 feet between the inside edges of the entrances.

Then Policies **LU-5A-5** (*Commercial uses may be located adjacent to land zoned for residential uses if buffered from the residential uses by landscaping, lighting, and noise controls*); and **LU-5A-6** (*Sites for commercial uses located where an adjoining property on two or more boundaries is residential, must maintain at least 50% of the site in green space not devoted to parking. Sites larger than one acre should reserve green space of at least 20% of the site or one-half acre, which ever is larger*) - The commercial portion of this zone map amendment request was approved by the Warren County Fiscal Court on July 25th, 2003. Binding Element III of this approval stated that the property would be developed to be consistent with the presently existing landscaping provisions of the Zoning Ordinance of Warren County, Kentucky, and would have landscaping to buffer the property of the adjacent residential and agricultural land uses.

The final three Policies were **LU-5A-15** (*signs*); **LU-5A-16** (*lighting*) and **LU-5F-1** (*New commercial development is not permitted*) - The existing commercial property has existing Binding Elements that commit to having one freestanding sign no taller than twenty-eight (28) feet and with a gross area on each side of the sign no more than one hundred and sixty-five (165) square feet. Existing Binding Element VI which that lighting on the property would be focused downward to minimize light trespass onto adjacent properties. This property is located in a Rural Conservancy area; however, the commercial property is already existing and no additional development is proposed.

Mr. Hunter completed the explanation of the staff report by stating that the staff finds that the proposed zoning is generally in agreement with the adopted Comprehensive Plan after staff spent time reviewing twenty-one (21) Policies and finding approximately twenty (20) policies in compliance and one (1) policy generally not in compliance, which is subjective to the Commissioners. Chairman Runner asked if there were any questions or comments for Mr. Hunter. Being none, she asked the applicants if they had anything to add. Therein, Attorney Kevin Brooks stepped to the podium and called his witness, Tim Rich of 11646 Highway 269 N, Bee Spring, KY who stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. Rich stated that he is representative of Houchens and that they held a neighborhood meeting regarding this re-zoning request last Thursday, April 28th at Rockfield in which twenty-five (25) neighbors were invited and three (3) neighbors attended. He said that Houchens is purchasing this small strip of land (30 feet wide and about 600 feet long) as this has been an area that Ms. Baldwin has had to mow and maintain, but if this zone change request goes through, it would be added to the property Houchens already owns where the grocery store is located. He said it is not now or in the future plans for or going to be a roadway placed on this strip of land that Houchens is obtaining from Ms. Baldwin if this zone change request is approved.

Chairman Runner if there were any questions or comments. Being no questions or comments from the Commissioners or from anyone in the audience, she asked for opposition. Therein, Charles Cranor of 349 Browning Road, Rockfield, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. Cranor stated that someone from Houchens approached him about selling property for a roadway from Browning Road to the Houchens' property (grocery store). He asked if that is the intention of Houchens for getting this property to build a roadway from Browning Road to Houchens' property.

Mr. Cranor also said that there is Texas Gas gas line and easement down the strip of land and said that this property could not be used for a road over the gas line. He said he was very concerned that a roadway was going to be built and wanted to know if the Commission could ask Mr. Rich and Houchens to put something in the Binding Elements to the affect that a roadway is not going to be built down that strip and connect Browning Road with the grocery store property on Russellville Road.

Attorney Kevin Brooks stated that they had no comment or no response. Being no additional questions or comments, Chairman Runner asked for a Motion.

ACTION: Commissioner Atkerson made the Motion, seconded by Commissioner Ritter, to approve the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan, docket #2011-12-Z-CO. The motion is based on the findings of fact as presented in the staff report and the testimony presented in this public hearing, that the Zoning Map Amendment is in agreement with the adopted Comprehensive Plan as demonstrated by its compliance with the Comprehensive Plan's following Policies: LU-1A-2; LU-4A-1, 3, 4, & 9; LU-2 & 2C-3; LU-4G-1 and 2; LU-5A4, 5, 6, 10, 11, 12, 13, 14, 15 & 16; LU-5F-1 and TR-2. Further, it was requested that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment. The vote was nine (9) yeas, so a recommendation for approval will be sent to the Warren County Fiscal Court.

III. ADDITIONAL NEW BUSINESS

Steve Hunter said that the next meeting is scheduled for on May 19, 2011. A draft agenda was given out to all of the Commissioners. He noted that currently there are two zone change cases on the agenda.

Mr. Hunter then said that the text amendment was postponed from tonight and is being re-scheduled for June 2, 2011. The City Commission asked for a study of LED signs so a committee was established and met several times to discuss LED signage in Bowling Green. From the committee, there is a recommendation for a text amendment based on their research and findings. In addition, Mr. Hunter said that the Comprehensive Plan is now in its 4th Draft and after review of the Liaison Board one more time, will be presented also at the June 2nd Planning Commission meeting for a public hearing concerning same. Chairman Runner stated there was no additional business to come before the Commission; the meeting was adjourned at 8:12 p.m.

CHAIRMAN, VELMA RUNNER

Sandy M. Clark, Zoning Administrator