

SUMMARY MINUTES
City-County Planning Commission of Warren County
November 17, 2011 @ 7:00 p.m.
City Commission Chambers
3rd Floor - 1001 College Street

Present:

Velma Runner	Faye Phelps	Cliff Nahm	
Tim Huston	Bill Hotaling	John Atkerson	
Chuck Coppinger	Larkin Ritter	Kenneth Sparks	Mary Belle Ballance

ABSENT: Albert Rich Bennie Jones

The City-County Planning Commission of Warren County was called to order by Chairman Velma Runner.

A. ROLL CALL:

Chairman Runner requested Sandy Clark, Zoning Administrator, to conduct roll call in order to determine a quorum. A quorum was determined with ten (10) of twelve (12) Commissioners present at the time of the roll call.

B. APPROVAL OF MINUTES:

Chairman Runner asked if all Commissioners had received and read the draft Summary Minutes of the meeting held on November 3, 2011. The Motion was made by Commissioner Hotaling, seconded by Commissioner Huston and agreed upon by all of the Commissioners present (1 abstained) to approve the Summary Minutes of the November 3, 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 (November 17, 2011) be introduced as exhibits for each of tonight's hearings. He further requested the Chairman order that each of the Staff Reports, with all attachments together, along with the Commission's entire file for each application be likewise introduced as exhibits. Mr. Moore asked that the Oath be administered to Steve Hunter, Executive Director; Mac Yowell, Engineer; Jonathan Britt, Senior Planner, and Tonya Travelstead, Planner, as witnesses before the Planning Commission and that their oath and qualifications be reflected in the record for tonight's hearings. Chairman Runner so ordered and swore in the four witnesses.

C. FINANCE REPORT

Chairman Runner asked if there were any questions or comments in regard to the Financial Report that was in the packet. Steve Hunter, Executive Director, said he would be glad to answer any questions. Being no questions or comments, Chairman Runner moved to the next item on the agenda.

D. SUBDIVISION APPROVALS

Chairman Runner asked if there were any questions or comments on the Subdivision approvals. Being no questions or comments, the October 26, 2011 to November 9th, 2011 Subdivision plats stand as recorded. Jonathan Britt explained that one plat was a Revocation Plat for Boneta Meadows Subdivision reverting 22 acres back from thirteen lots back down to just three lots.

E. LETTERS OF CREDIT AND PERFORMANCE BONDS

Chairman Runner indicated the next item on the agenda is the Letters of Credit and Performance Bonds. She said there were five (5) additions to the two presented on the Agenda to the Commission. Chairman Runner asked if there were any questions or comments in regard to the report given to Commissioners this evening. Being no questions, Chairman Runner asked for a Motion:

ACTION: A Motion was made by Commissioner Coppinger, seconded by Commissioner Atkerson, which passed unanimously, ten (10) yeas, to approve the following:

- 1) Release the letter of credit for landscaping 161 McFadin Station Street in the amount of \$5,050 from Overholt Builders, Inc.
- 2) Release the cash surety for landscaping 120 Corvette View Court in the amount of \$2,350 from Cummings Properties.
- 3) Release the cash surety for The Registry at Western Kentucky, LLC in the amount of \$20,000.00 from The Registry at Western Kentucky, LLC.
- 4) Reduce the letter of credit for Cave Mill Station Commercial to \$53,600.00 from Developing Partners, LLC.
- 5) Call or Release the letter of credit for Hillview Mills Section 1 Residential in the amount of \$38,860.00 from Baker and Hilliard.
- 6) Release the performance bond for landscaping 515 Coombs Drive in the amount of \$19,600 from Fort Webb Development Corp.
- 7) Release the cash surety for landscaping 3240 Scottsville Road in the amount of \$8,250 from River Road Restaurants, LLC.

E. PUBLIC HEARINGS:

Chairman Runner announced that the first item under our Public Hearings section is a request for approval of a Right-of-Way (Alley) closing described as: **2011-03-RWC - Kevin R. Kirby** has filed an application to close portions of two alleys, one containing approximately 2,039 square feet, being approximately 12 feet in width and approximately 174 feet in length, and one containing approximately 2,000 square feet, being 20 feet in width and 100 feet in length, located on the block bounded by 11th Avenue, Broadway, High Street and Kenton Street.

Tonya Travelstead, Planner, presented the staff report and stated Kevin R. Kirby has filed an application to close portions of two alleys, one containing approximately 2,039 square feet, being approximately 12 feet in width and approximately 174 feet in length; and one containing approximately 2,000 square feet, being 20 feet in width and 100 feet in length, located on the block bounded by 11th Avenue, Broadway, High Street and Kenton Street. She explained that Sanborn maps show the history of the alleys which go all the way back to at least 1889; 1914; 1932; and 1951 showing the alleys as a part of the city street system.

Upon staff review, it was noted that the applicant, Kevin R. Kirby has requested this closing for the purpose of consolidating the area for parking. There were letters submitted from the agencies listed below stating the closing of this right-of-way is in agreement with their agency, and they foresee no problems with the designated closing with any conditions noted.

1. City of Bowling Green, by Melissa Cansler, PE, City Engineer, Public Works - *Alley that connects to Broadway must remain right-of-way. Maintain easement for sanitary sewer.*
2. Bowling Green Fire Department, by Brian Callaghan, Fire Marshal
3. Bowling Green Police Department, by Doug Hawkins, Chief of Police
4. Medical Center EMS, by Kendra Messenger, Paramedic
5. Sanitation Services, by Gene Tucker, Manager
6. BGMU – Water and Sewer Division, by Rodney Sullivan, Engineering Technician
7. BGMU - Electric Division, by Chad Spencer, Electric Engineering Supervisor
8. AT&T, by Buzz Colburn, Senior Engineer.
9. Insight Communications, by Tom Mracek, Construction Supervisor
10. Atmos Energy, by Byron Oost, Project Specialist

FINDINGS OF FACT PER KRS 82.405: (A) Identification of all property owners abutting the right-of-way to be closed was made by applicant; (B) Written notice was given to the property owners abutting the right-of-way; and (C) The property owner abutting the right-of-way to be closed has given his written and notarized consent to the closing.

Ms. Travelstead completed her explanation of the staff report by saying that the staff recommends approved with one recommended condition of: A revised plat must be recorded reflecting the Right-Of-Way Closing.

Chairman Runner asked if there were any questions or comments for staff. Being no questions or comments, Chairman Runner asked if there were any questions or comments from the audience. Being none, she asked for a Motion.

ACTION: Upon Motion of Commissioner Coppinger, seconded by Commissioner Atkerson to approve Right-of-Way closing, Docket #2011-03-RWC subject to the following condition: A revised plat must be recorded reflecting the Right-Of-Way Closing. The Motion is based upon the on the findings of fact as presented in the staff report and the testimony presented in this public hearing that the Right-of-Way Closing is in compliance with Section 3.16 of the Warren County Zoning Ordinance. The vote was ten (10) yeas, so approved without opposition.

Chairman Runner then announced the next item on the agenda is a request for a zone change being described as: 2011-28-Z-CO - Tina Miller and Ben Lamb have filed an application in order to re-zone a 5.82 acre portion of a tract of land containing 10.89 acres at 1321 Greenhill Road, which is approximately 480 feet from the intersection of Greenhill Rd and South Hewitt Rd, from AG (Agriculture) to LI (Light Industry) with general development plan

Steve Hunter, Executive Director, stepped to the podium to present the staff report. He stated that the applicants had a pre-application meeting with staff on June 22, 2011 and at that time there was discussion that the applicants are proposing to re-zone 5.82 acres of property from AG (Agriculture) to LI (Light Industrial) in order to operate a tree service business at an existing residence. The applicants have also agreed to certain site restrictions as outlined in the Binding Elements

The applicants are using the property for a residence and family owned tree service business. The zone change plat shows an existing residence, pool, pool house, existing garage, proposed locations for two pole barns, a milling area, storage areas and parking/drives on the property. LU-2 in the 1990 Comprehensive Plan states in part: *“All proposals for new development must be assessed to determine their compatibility with the existing surrounding development. Compatibility may be shown because the proposed use is the same as the surrounding neighborhood or it may be established by site design, buffering, control of access through the adjacent neighborhood or by the reservation of substantial open space on the site. Compatibility would be demonstrated by means of a general development plan for the proposal which addresses the controlling policies in the Policy Plan. Surrounding property owners will have been given the opportunity to review general development plans before they are submitted to the Planning Commission for consideration. Compatibility has to do with actual land use and with design measures taken to mitigate any adverse impacts on surrounding existing development. Compatibility does not mean that any development must be the same use or density as surrounding existing density.”*

The subject property consists of approximately 10.89 acres of land. The proposed zone change is for 5.82 acres of this tract to be re-zoned from AG (Agriculture) to LI (Light Industrial) with the remaining acreage of the tract (5.07 acres) to remain zoned AG (Agriculture). A general development plan (Binding Elements) has been submitted with the re-zoning application. Binding Element #10 states, “In the event of the sale, lease or auction of the property, the property owner shall apply to the City-County Planning Commission of Warren County, Kentucky, ninety (90) days prior to any sale, lease or auction to revert the Light Industrial zoning classification back to AG (Agriculture). The applicants have submitted a Binding Element that commits that the signage shall not exceed thirty-two (32) square feet and will be no taller than five (5) feet in height. The property shall be served by the existing access point onto Greenhill Road. Parking on the property will include: parking for the residence, employee parking and equipment parking for the Tree Service business. Any lighting on the

property will not be trespassing or encroach onto neighboring property. The proposed industrial portion of the property shall maintain the existing tree line as a natural landscape buffer and shall have a building set back of thirty (30) feet.

Mr. Hunter stated that this property is located at 1321 Greenhill Road and contains a total of 10.89 acres with only a 5.82 acre portion being re-zoned tonight. Also, the property is located in Focal Point: 115 – Boyce/Alvaton - with Characteristics of: Most Agriculture with some scattered low density single family residential; experiencing market pressure for residential. The property has frontage on Greenhill Road, a rural local roadway with fifty (50) feet of right-of-way and eighteen (18) feet of pavement width.

Mr. Hunter then noted a few items of concern from staff that included:

- *Signage location;*
- *Compatibility with surrounding properties;*
- *Air quality;*
- *Site lighting; and*
- *Outdoor storage areas.*

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

BINDING ELEMENTS

1. *Tree Service General Business hours shall not exceed 6:00 a.m. to 6:00 p.m. Monday through Saturday.*
2. *The industrial portion of the property shall maintain the existing tree line as a natural landscape buffer and shall have “no building” set back of 30 feet.*
3. ~~*Signage shall not exceed, 32 square feet, and shall be no taller than 5 feet.*~~
(NOTE: Applicants agreed to remove this Binding Element during the meeting 11/17/11)
4. *The property shall be served by the existing access point onto Greenhill Road.*
5. *Prior to any industrial related buildings being constructed on the property, the applicants shall provide the Planning Commission a letter from the Warren County Building Inspector and the Barren River District Health Department on the intended use of any building and the requirement of the structure to have potable water, restrooms and/or a septic system.*
6. *All wood or tree related by-products shall be held and managed within accordance of local, state, and federal law.*
7. *There shall be no outdoor ~~open~~ burning on the premises of the property owners. ~~that is not within accordance of local, state, and federal law.~~*
8. *Any lighting on the property shall not trespass or encroach onto a neighboring property.*
9. *The use of the light industrial property shall be limited to the operation of a Tree Service and related wood processing.*

10. *In the event of the sale, lease or auction of the property, the property owner shall apply to the City-County Planning Commission of Warren County, Kentucky, ninety (90) days prior to any sale, lease or auction to revert the Light Industrial zoning classification back to AG (Agricultural).*
11. *There shall be no hazardous waste or products kept or stored on the property. All brush will be taken directly to an off-site location for recycling and not stored on the premises.*
12. *All industrial related buildings, vehicle or employee parking areas, and equipment or product storage areas shall only occur on the portion of the property zoned Light Industrial.*
13. *The vehicles and equipment used for the operation of the Tree Service shall not use South Hewitt Road for ingress or egress to KY Highway 234 (Cemetery Road).*

(NOTE: During the course of the meeting 11/17/11, it was noted that changes were made and agreed to by the applicants in the Binding Elements listed above as shown and illustrated.)

Mr. Hunter explained that staff reviewed Comprehensive Plan policies totaling thirteen (13) 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, if possible. No information regarding a neighborhood meeting has been forwarded to the Planning Commission staff. The applicants can address this when one of the applicants come forward, however, the applicants did indicate that they met with surrounding neighbors on a one-on-one basis.

In addition, Policies: **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*); **LU-6A-3** (*All new industrial development must be planned in a manner that will prevent adverse impacts on the environment or other activities in the community and must demonstrate this by an approved general development plan*); and **LU-6A-11** (*Provisions must be made for proper control of industrial uses which have or make products which could be hazardous to human life and property*) - There is a six (6) inch water line available along Greenhill Road providing 600 GPM with more than 20 PSI. This meets the minimum fire control standards of Warren County for industrial uses. The property is located in the 115 Boyce/Alvaton Focal Point and is classified as a Rural Conservancy District due to soil on the property being poorly suited for septic tank absorption fields. The existing residence on the property is currently served by an approved on-site septic system. The applicants have submitted a General Development Plan (Binding Elements). The applicants are proposing to re-zone the property in order to operate a tree service business at their residence. The applicants have committed in Binding Element 6 that "All wood or tree related waste will be held and managed within accordance of local, state, and federal law". Binding Element #7 also states "There will be no open burning that is not within accordance of local, state, and federal law". Binding Element #11 addresses LU-6A-11 by committing "There will be no hazardous waste or products kept or stored on the property".

Then utility Policies of **LU-6A-7** (*water*); and **LU-6A-8** (*sewer*) There is a six (6) inch water line available along Greenhill Road providing 600 GPM with more than 20 PSI. This is adequate for industrial uses. Sanitary sewer is not available to the property. The existing residence on the property is currently served by an approved on-site septic system. The applicants have stated in their Binding Elements, that prior to any industrial related buildings being constructed on the property the applicants shall provide the Planning Commission a letter from the Warren County Building Inspector and the Barren River District Health Department on the intended use of any building and the requirement of the structure to have potable water, restrooms and/or a septic system.

The next Polices of: **LU-6A-12** (*Loading docks, vehicle use areas, public use areas, and outside storage areas should be screened from adjacent residential developments or from streets classed as a major collector or higher, and in compliance with any adopted landscaping ordinance*); **LU-6A-5** (*Industrial sites should be properly served, accessible, and protected from encroachment by incompatible uses. New industries should be strongly directed toward the industrial parks*); **LU-6A-14** (*Free-standing signs should be in proper scale, style and bulk with the surrounding area. In general, all signs should not be taller than the tallest structure on the site*); and **LU-6A-15** (*When located adjacent to a residential area, site 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 applicants have committed in the Binding Elements that the property shall maintain the existing tree line as a natural landscape buffer. Binding Element #2 also states there will a thirty (30) foot “no building” set back area on all sides of the industrial zoning tract”. Binding Element #12 commits “All industrial related buildings, vehicles or employee parking areas, and equipment or product storage areas will only occur on the portion of the property zoned Industrial”. Signage shall not exceed thirty-two (32) square feet and will be no taller than five (5) feet in height.

Then the final traffic Policies: **LU-6E-1** (*New Industrial uses are not permitted 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-6A-9** (*All industrial uses shall be located with access to at least a collector street. There shall be no ingress or egress into any residential neighborhood*); and **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*) - An area with severe soil limitation with respect to septic tank and absorption field systems is condition that classifies an area as a Rural Conservancy District. The property is comprised of two soil types: BaC – Baxter Gravelly Silt Loam, 6 to 12% slopes and BaD – Baxter Gravelly Silt Loam, 12 to 20% slopes. Of the two soil types located within the property, the BaD soil type is poorly suited 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. This soil type has limitations related to permeability and slope. The applicants, at this time, do not intend to install an additional septic system nor construct any buildings with public restrooms (triggering the need for an on-site septic system). There is an existing house on the tract of land which is to remain on the portion of land that will remain the zoning classification of **AG** (Agriculture). An existing on-site septic system is being utilized for the property. There are no new lots being created with the proposed zoning map amendment. There is an existing driveway to the property. No new access points are proposed for the property. The property has frontage on Greenhill Road, a rural local roadway, with fifty (50) feet right-of-way and eighteen (18) feet of pavement

width. Binding Element #13 states, "the vehicles and equipment used for the operation of the Tree Service shall not use South Hewitt Road for ingress or egress to KY Highway 234 (Cemetery Road).

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 thirteen (13) Policies and finding possibly two (2) policies not in compliance and definitely two (2) policies not in compliance by the applicants.

Chairman Runner asked if there were any questions or comments for Mr. Hunter. One Commissioner asked about the storm water run-off and decaying organics that go into the ground water as this property is over a cave area. Staff indicated that a building permit would have to be obtained for construction of buildings, etc., and this permit application would trigger Solid Waste inspection and that EPA would be the protection for decaying on the property instead of Storm Water.

Another Commissioner asked about the applicants stating in a Binding Element (#13) they would not use South Hewitt Road with their equipment, however, if there were an emergency, could and would there be a violation if equipment went onto South Hewitt Road. Attorney Moore stated that the applicants committed not to use South Hewitt Road as the trucks are heavy and the roadway is less wide and hilly. Staff indicated that ingress and egress from South Hewitt Road, so possibly if use South Hewitt for work and then back, but not out to Cemetery Road.

Mr. Hunter said that the re-zoning was triggered because of a business that could possibly occur on AG (Agriculture) zoning, however, the fact that employees come to and from the site and heavy equipment to and from the site show a need for Light Industrial for storage of the large heavy equipment. A family service (limited contractor) business is allowed, however, the employees coming to and from the property and storage of equipment needed made the zoning need for Light Industrial.

Being no other questions, on behalf of the applicants, Attorney Bailey Walton, stepped to the podium and gave his opening statement. He then called his first witness, Benjamin Lamb of 1321 Greenhill Road, Bowling Green, Kentucky, who was sworn in by Chairman Runner to testify before the Commission. Mr. Lamb stated he is married to Tina Miller Lamb and he three children. The business is twenty (20) years old and he has owned it for the past eleven (11) years. Mr. Lamb said that he is a residential tree service company that cuts limbs and trees. He said there are 3 to 4 trucks with 3 to 4 employees. Mr. Lamb said that his trucks go in and out of the property three and four times, sometimes 5 times a day carrying logs, limbs, etc. He said that the scope of service would be to recycle firewood, cut up logs to use for buildings on his property and maybe a new deck on the front of the house. In addition, he wants to service and maintain the trucks and then store the trucks at night for protection from vandalism or theft. Mr. Lamb said that the neighbors are welcome to come and get firewood as there is plenty of wood available.

Currently, Mr. Lamb said he has a small storage shed and band saw that he only uses for cutting wood for his own use. He said he asked neighbors if they wanted a privacy fence placed on the property and was told that the fence would not be necessary. From Greenhill Road, Mr. Lamb said you can only see the house and carport and kind of see equipment that is parked.

Mr. Lamb then said there is sufficient buffering along Greenhill Road. He said he is going to build a storage building to place equipment in order to alleviate neighbors seeing any of the storage. Mr. Lamb said the only neighbor to be able to see anything would be the McIntyres who live by the driveway. Currently, the only thing to see on the property would be logs, limbs and equipment. The only use of the wood would be for burning firewood in the house and in the shop which both have wood furnace heating systems. In addition, the logs will be used to cut for boards in order to build a large storage shed that will hold three trucks, trailer and back hoe. The wood will also be recycled and not be burned outside, only in the furnaces and for boards for construction. The band saw located on the property will be used for cutting boards from the logs that are being brought onto the property. He said that the band saw will not be used to make lumber for the general public, only for his personal use.

Mr. Lamb said he would offer wood to his neighbors. One neighbor had a tree fall on the roadway and called him at 2:00 a.m., and he got up and went to help the neighbor and did not charge the neighbor any fee.

Attorney Walton explained the Binding Elements and what is meant for each. The hours of operation were 6:00 a.m. to 6:00 p.m., in order to have a little lead way from quitting at 4:00 p.m. which is what is done normally. If a job were not completed, then the extra couple of hours would allow for extra time to get a job completed and hauled back to the property.

Mr. Lamb explained that he previously burned wood piles, but after a neighbor called EPA, he stopped the burning process. He said he did not get any violations, only that he was told to stop open burning.

Mr. Lamb said he had the business out on the property six to eight months before he received notice from Warren County Code Enforcement that he was improperly conducting a business on agriculture property. He said there had been complaints from neighbors about trucks coming in and out of the site; noise from trucks and the band saw; a sign placed at the driveway located on Greenhill Road; open burning and about large trucks going in and out and traveling on a two-lane roadway over-loaded.

Attorney Walton and Mr. Lamb introduced a Power-Point presentation (Applicants' Exhibit "1") for Agriculture farms within Warren County with equipment, trucks, employees, etc., and stating that his property would not be any different than farming operations business. He compared farm trucks and semis to his bucket trucks and his dump trucks and trailers. He said no one says anything about equipment, trucks, tractors, etc., because the property is Agriculture for farmers and farms. There are large shops, silos and semi trucks on property but because of farming and farms, commercial trucks and facilities are allowed. Also, cattle farms have large trucks and trailers for hauling cattle, feed, etc., to and from farms.

Mr. Lamb said he just wants to run his business from his house and property and wants to be able to watch the equipment from theft and vandalism and not take equipment out of trucks at night. It is convenient to have the business at his home so he does not have to be away from his family. He said there are other tree service companies that are located on Old Morgantown Road; Glen Lily Road and Lovers Lane and no one says anything to them. They are home run businesses and farms where equipment is parked and goes out each day just like he is doing.

Chairman Runner asked if there were any questions from the Commissioners. One Commissioner asked about recycling when there are piles 60 foot across and 10 foot high. Mr. Lamb said it will take a while to clean up the logs on his property and with winter coming, wood can be burned in the wood furnaces. Normally, there would not be as much build up as is there now, but with winter a lot will be burned. Neighbors are welcome to any wood they want. He said he was notified that he could not do any outside burning, so he stopped burning the piles and limbs. The limbs will be taken to Simply Mulch and chopped up for mulch for \$20 to \$40 a load.

When asked about the Binding Elements and no outside burning, Mr. Lamb agreed to following changes:

7. *There shall be no outdoor ~~open~~ burning on the premises of the property owners. ~~that is not within accordance of local, state, and federal law.~~*
11. *There shall be no hazardous waste or products kept or stored on the property. All brush will be taken directly to an off-site location for recycling and not stored on the premises.*

When asked about excess wood, Mr. Lamb said they could haul lumber to mills if the mills want to buy the wood, therein, from the job site to the mill and not haul to his property and then to the mill. He said by the time you cut off the sides of the log, there is not really much lumber left which he intends to use for the storage building.

When asked about a neighborhood meeting, Mr. Lamb said he sent notice of a neighborhood meeting, but no one showed up. He said a week later some of the neighbors held a meeting and he was not invited, however, he showed up anyway to confront the neighbors, who left when he came in. No one wanted to talk with him.

Mr. Lamb explained that he was asked to stop burning, but he did not receive any written notification from EPA or Environmental Planning. He said he did stop on his own. Code Enforcement came out to the property because a business was being conducted on the property without proper compliance. Attorney Walton said this is a family business and the reason to be here tonight is to bring the Lambs into compliance.

Mr. Lamb said that employees coming to and from the property is the only reason to be here tonight. He said he had the business at this location for about eight months. He was located on Girkin Road and Old Louisville Road, but now is located here on Greenhill Road.

Another Commissioner asked about other tree service companies, where they are located and what they are zoned. Mr. Lamb said the neighbors have not complained about the businesses on Morgantown Road and it is probably residential, but no one cares.

Steve Hunter, Executive Director, said that Warren County Code Enforcement is complaint driven. Staff received complaints from neighbors, the officer went out and issued a written Notice of Violation. If the applicants are unsuccessful tonight, then a Citation will be written to stop the business from continuing. From the Citation, the violator can go to the Code Enforcement Board and ask for a formal hearing and contest the Citation. Staff has received several complaints from neighbors on various businesses and even Group Living facilities.

Another Commissioner asked about signage and if nothing is going to be sold at the location and no one comes to the property, then what the need for the sign. Mr. Lamb said that a neighbor called him at 2:00 a.m., because she saw the number on the sign, but he said he would be willing to remove the sign as it was only there for the neighbors. He said that if it was an issue, he would remove the sign and remove the Binding Element.

3. ~~Signage shall not exceed 32 square feet, and shall be no taller than 5 feet.~~
(NOTE: Applicants agreed to remove this Binding Element during the meeting 11/17/11)

Chairman Runner asked if there were any other questions of the applicants. She asked if there was opposition in the audience. Therein, many hands were raised.

Chairman Runner asked for a short break at 8:45 p.m. The meeting was reconvened at 9:00 p.m.

Attorney Kevin Brooks stepped to the podium and stated he represented neighbors, Beth and Brent Goodin. Mr. Brooks asked questions of Mr. Lamb after his presentation to the Commission. Mr. Lamb indicated that Mr. and Mrs. McIntyre are the close neighbors along the driveway. He indicated that the other tree services are in the area which may not be in compliance with the Zoning Ordinance. He said he understands that his tree service operation is not legal in the Zoning classification in which it is located. When asked about the agriculture uses of farmers that Mr. Lamb presented, he did say that the Agriculture use is in compliance with the zoning classification for their properties. Mr. Lamb said the agriculture farmers are tearing up county roads and his equipment is not.

When asked about the equipment listed on the website, Mr. Lamb said that 20 bucket trucks and 40 dump trucks, but that only a small portion of the equipment is here, while the remainder of the equipment is located in Sarasota, Florida. Here in Bowling Green are three (3) bucket trucks; three (3) dump trucks; cherry picker; pick-up truck and trailer; bob cat; and chain saws. Employees each come in and out three or four times a day to drop off logs, limbs, etc. Mr. Lamb said that he will no longer be bringing in limbs as they will be going to Simply Mulch. The logs that come in three or four times a day will be logs that will for his own personal use.

When asked about the application, the wording “wood processing”, Mr. Lamb indicated that he uses the logs for sawing up for lumber, fire wood for the heating furnaces for his home and shop. Currently, there are 2 piles of wood that are 50-70 feet long and ten feet tall.

When asked about any violations, Mr. Lamb said he did not know of any written violations, but that he was told to change it up. Mr. Brooks asked what that meant – and Mr. Lamb said over a six month period that he needed to make the business legal, recycling and use this wood for his own personal use. He asked Mr. Lamb if EPA issued a violation and Mr. Lamb said he did not remember seeing anything.

Mr. Lamb said that he does not intend to put a septic system in for the business, but that the employees use the pool house when they are at the property. Mr. Lamb then said that he did not understand the neighbors being against his business. He said he spoke with McIntyres, Enlows and other neighbors who told him it was okay to have his business.

Mr. Brooks then discussed the roadway situation and that Greenhill Road is not a collector road and trucks travel on the road. Mr. Lamb said he did not think it should be necessary for him to re-zone. He said neighbors on South Hewitt did not want his trucks on their road and he placed a statement in the Binding Elements in that regard.

Chairman Runner asked how many people in the audience were here in opposition. Many hands went up for opposition. Chairman Runner asked if anyone in the audience wished to ask Mr. Lamb any questions that have not been asked before and answered. If at the end, anyone wishes to make a statement, time will be allowed to ask questions of staff and make any statements.

Therein, from the audience Tina Craft of 1229 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Ms. Craft asked Mr. Lamb how he notified neighbors of the neighborhood meeting. Mr. Lamb said he sent letters, taped letters to the front doors and called neighbors. Ms. Craft said she lives two doors down and did not receive any notice of a neighborhood meeting.

From the audience Alton Bailey of 461 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. Bailey said he does not want big trucks on Greenhill Road and asked Mr. Lamb if he wants the business to grow and have more equipment. Mr. Lamb said he wants the business to grow and get somewhat larger, but recently there has not been much growth, he said he does plan to move to larger location when the business grows and increases. Mr. Bailey said that one reason he is out on Greenhill Road is that it was quiet and no big trucks, etc., were there when he moved there to get away from businesses.

From the audience Karen Manion of 821 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Ms. Manion first stated that she did not get an invitation to the Lambs' neighborhood meeting. She asked about the neighborhood meeting that he came to when he was not invited. Ms. Manion asked if Mr. Lamb removed flyers out of mailboxes and when he said not that he knew of, she indicated that while riding her horse, saw he and his wife remove flyers from mailboxes on October 2, 2011. Mr. Lamb said the wind might have blown the flyers out.

Ms. Manion asked Mr. Lamb about RVs on the property, he said he has three (3) RVs presently on the property, which are owned by he and his brother and which are not business vehicles.

From the audience Martha Miller Webb of 1220 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Ms. Webb asked if Mr. Lamb received any written violation from EPA. Ms. Webb said she spoke with EPA and a written Notice of Violation was given to Mr. Lamb and the next action would be enforcement and a Citation written. Mr. Lamb said he did not know he had received any notice but he would go back and look at all the paperwork.

Being no other questions for Mr. Lamb, Attorney Bailey Walton asked if he could ask questions of staff, being Steve Hunter, Executor Director, who presented the staff report. He asked about the Comprehensive Plan and the Section 3 that has approximately 210 policies and how staff reviewed and pulled policies for compatibility.

Mr. Hunter indicated there are compatibility policies and based on the land use and surrounding zoning districts, and the Comprehensive Plan allows for Binding Elements and states . . . compatibility has to do with the actual land use, design measures taken that adversely impacts, but does not have to be same use or density as surrounding. . . There are factors that attempt to build similar uses, but allow for incompatible uses with Binding Elements.

The staff feels the applicants are in compliance with eleven policies, two in both lists and four under incompatible policies. Unsuitable soils are under the Rural Conservancy, but with no new septic system being planned, Attorney Walton asked if that would eliminate the need for compatible policy. Mr. Hunter indicated it would not eliminate the unsuitable soils, but helps to mitigate criteria with the staff, commissioners and applicants. There is no way to know that there would never be a septic tank added to the property. The Warren County Building Inspector would determine when a building permit is applied for, if a septic system would be needed and acceptable on the property. The policy seems to say it is the size of the project rather than have multiple units with more lot sizes, etc. Binding Elements help with the compliance of policies.

Attorney Walton asked about LU-6A-5 which indicates an incompatible use, but with Binding Elements, would it be met. Mr. Hunter said policies are clearly one or two sentence statements, while other issues are “shall” or “should” in the wording that give consideration to acceptance or denial of the policy in commercial or industrial requests. Sometimes an applicant can meet one part of the policy, however, with further reading do not meet the second portion of the policy. The Planning Commissioners then make a decision of compliance or compatibility or not.

In LU-6A-9 – Collector Street – Attorney Walton wanted to know who establishes the category for roads and street. Mr. Hunter said there is a list of state roadways, county roadways, along with local roadway and collector street, and how to determine the category is based on the list for state roads and city streets, but over the years staff has compiled a list for county roads. Greenhill Road meets the standards for county road is 18 feet of pavement width. When asked about the weight of vehicles allowed on county roads, then Mr. Hunter said that question should be asked of the county road engineer and not something he is aware of as far as weight. When asked if the tree service equipment should be allowed on Greenhill Road, he said that staff does not deal with road weight standards, or involved with road carrying capacity, but it looks to be a difficult road to maneuver. Yes, school buses travel on the road way, but clearly an 18 wide road is better than a 16 foot wide road.

Attorney Bailey Walton asked that the PowerPoint Presentation be entered as Applicants Exhibit “A”.

Attorney Kevin Brooks came back the podium to ask Steve Hunter a couple more questions. He asked about one of the things that caused this to be a zone change instead a Conditional Use Permit is employees coming to and from the facility. Mr. Hunter explained the difference between a zone change versus a conditional use permit – limited contractors must meet certain criteria and have a public hearing for approval, whether it be here at the Planning Commission or the Board of Adjustments. Both require certain criteria and certain standards that have to be met.

Mr. Brooks explained zoning district map and land use map which he asked Mr. Hunter to confirm that these maps were requested and obtained from the GIS Department at the City-County Planning Commission. Mr. Hunter explained and confirmed that the maps were requested and obtained. Mr. Brooks then asked about the 210 Policies of the Comprehensive Plan and the policies are reviewed by staff and how the policies are used in the explanation of how general development plans and staff reports are prepared and explained. It was explained that the general development plan can assist in reaching compatibility of requests.

Attorney Kevin Brooks explained he represents a couple that live across the street from this location and he called his witness, Elizabeth Fabian Goodin of 1290 Greenhill Road, Bowling Green, Kentucky, who stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Ms. Goodin explained the location of her property compared to the applicants and Mr. Brooks had Ms. Goodin explain pictures that he entered as a Power Point presentation for Opposition Exhibit "1". The pictures were photographs of items on the applicants' property, including: equipment, log piles, burn piles, log splitter/band saw and also photographs of properties and homes along Greenhill Road and South Hewitt Road. These photos show the general characteristics of homes and properties. Ms. Goodin shared her concerns about employees coming to and from the property; open burning on the property; equipment on the roadways; speed and safety on the roadways; a sign being placed; how Binding Elements will be enforced; and the personal activity of the applicants on the property.

Chairman Runner asked if there were any questions of the opposition witness or attorney for the opposition. Being none, she asked for Attorney Walton to ask any questions of the witness. Mr. Walton asked who took the photographs of the Lamb property. Ms. Goodin said that it was her understanding that Mr. Craft and Mr. McIntyre took the photographs that were used and introduced in the PowerPoint presentation. When asked where the photographs were taken from, it was stated that it looked like the back of the property. When asked if there were any mobile homes or manufactured homes on South Hewitt Road, Ms. Goodin said she was not aware of any.

Chairman Runner then asked if there were any persons in the audience who wished to make statements from the audience that have not already been brought out this evening.

From the Oprah Meredith of 1619 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Ms. Meredith said she and her daughter and her husband own about 16 acres and four homes in the area on Greenhill Road. She said they are all opposed to this zone change request. Ms. Meredith said the employees of the applicants drive unsafely on the 35 mph roadway, where children play, which are curved and hilly, along with the large vehicles being driven on Greenhill Road. The saw mill located on the property is being used, along with open burning on the property. Vehicles on the roadway are overloaded as one could not get up the hill on Greenhill Road and Cemetery Road, wherein started using South Hewitt Road. Another time, a large truck hauling equipment and speeding had to lock its brakes to keep from rear-ending a school bus. There would be traffic hazards and dangerous conditions if allowed to have the business out on Greenhill Road and with 70 plus residents on Greenhill Road, would not be a good idea to have this operation on Greenhill Road because of hazardous and unsafe and environmentally unsafe conditions.

From the audience, Mac McIntyre of 1619 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. McIntyre said he lives next door to the property and when the six or eight employees come in and out beginning at daylight and coming back after dark. The lights from the vehicle shine in on the bedroom which is a nuisance. There are logs and limbs being dumped out and there is pile of brush a mile high back there and it looks are though the brush pile is located on top of the sink hole on the property. He said he is concerned about getting run off the road by the trucks and equipment and he asked that the zone change not be allowed.

Ms. Tina Craft came back to the podium to make a statement. She said she moved here from Chicago and after living in the City of Bowling Green for a while, she and her husband found their home out on Greenhill Road because it was quiet and peaceful and has endangered animals in the woods behind their house. Neighbors are good to them and each take care of each other when needed when sick, injured, even when a fire got out of hand, the neighbors got there before the fire department. Greenhill Road is residential and a haven for the residents who live there who take care of one another. Please do not let this business continue and the neighbors are here tonight to appeal to the Commission to deny this request.

From the audience, Lynn Osborne of 1117 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. Osborne asked how much Light Industrial is outside of the City Limits. Steve Hunter said he observed 28 acres in Warren County (possibly 6 to 8 cases) that have been approved for Light Industrial use out in Warren County. Some cases were denied because of water and fire protection protections. There have been some large cases with the transpark, and some small cases requested with a plumbing supply; dozer business and even a pest control business. Most of these businesses are within 5 miles of the City Limits because customer driven business. A tree service business would be less likely to have customers on site, as this type of business would have go to where the trees have fallen or have been damaged. Mr. Hunter said he did not know if Warren County Rural Electric would need to be brought out to the property.

From the audience, Kenneth Bird of 638 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. Bird said that he has been out on Greenhill Road for many years and now there have been many people moved out there, now cannot hunt and radios and noise are all over the area now. Mr. Bird said times have changed.

Ms. Oprah Meredith stepped back to the podium and asked if Mr. Bird's son works for the Lambs and Lamb Tree Service. He said it did not make any difference to him.

From the audience, Tom Enslow of 1347 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. Enslow said he does not want the business in the area as it disrupts the neighborhood. He said that the applicants do not know where the property line is located and that the applicants have come onto his property by 18 feet. The pool house where the employees go to the bathroom, he asked where the septic system is for that facility.

Chairman Runner asked if there was any more information from the audience. From the audience, Pam Osborne of 1117 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Ms. Osborne said that one of her concerns is that if this is approved, what could happen in Light Industrial zoning and how much the business could grow.

Steve Hunter responded that one the Binding Elements restrict the use to wood processing and tree service and if the property is sold, it would revert back to Agriculture.

From the audience, Shane Wright of 1683 Greenhill Road, Bowling Green, Kentucky, stepped to the podium and was sworn in by Chairman Runner to testify before the Commission. Mr. Wright said he is concerned about his small children who live out in the area. He is also concerned about the business growing and the contradictions the applicant has made throughout the night in that he is not going to be able keep all the wood that will be brought in unless he would go up. There is only five acres out there to use.

Ben Lamb stepped back to the podium and said he would agree to allow only one more bucket truck and one more dump truck if it would make the neighbors happy.

Chairman Runner asked if there were any other questions or comments. Being none, she asked for closing statements from Attorney Kevin Brooks and Attorney Bailey Walton.

First were closing statements from Attorney Kevin Brooks which included concerns from the neighbors; incompatibility with land use surrounding the property; personal consumption of all the wood being brought onto the property, etc.

Attorney Bailey Walton gave his closing statements that Mr. Lamb is trying to come into compliance and address concerns of neighbor with Binding Elements. There has been a “catch 22” in that this is agriculture property and could have this fire wood, saw mill, etc., but with the exceptions of having employees coming to and from the property and storing equipment on the property. The applicants have tried to become compatible with compliance and meet the criteria with compatibility with submittal of Binding Elements.

Chairman Runner asked if there were any additional questions or comments. Being none, she asked if there were any other questions or comments from the audience.

Commissioner Sparks said he would like to call attention to the zoning map and at South Hewitt Road as it was Agriculture in the past, received a zone change and now is residential and the use changed.

Chairman Runner asked for additional questions or comments from the Commissioners or from anyone in the audience, the applicants or attorneys for applicants and for the opposition. Being no other questions or comments, Chairman Runner asked for a Motion.

ACTION: Commissioner Coppinger made the Motion, seconded by Commissioner Huston, to deny the proposed Zoning Map Amendment, docket #2011-28-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 not in agreement with the adopted

Comprehensive Plan as demonstrated by its non-compliance with the Comprehensive Plan's following Policies: LU-2C-3; LU-6A-5 & 9 and LU-6E-1. 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 and one (1) nay, so a recommendation for denial, will be sent to the Warren County Fiscal Court.

F. ADDITIONAL NEW BUSINESS

Chairman Runner asked for any additional new business. Steve Hunter, Executive Director, stated that the next meeting is scheduled on Thursday, December 1, 2011 and a draft agenda has been given to all the Commissioners.

Mr. Hunter asked if he could meet with Personnel Committee for a few minutes after this meeting to discuss Health Care Plans that need to be decided before December 1, 2011 and the Greenways Commission position so it can be advertised.

G. ADJOURN

Chairman Runner stated there was no additional business to come before the Commission; the meeting was adjourned at 10:30 p.m.

CHAIRMAN, VELMA RUNNER

Sandy M. Clark, Zoning Administrator