

**CITY OF SHEPHERDSVILLE**  
**SPECIAL MEETING**  
**Thursday, February 23, 2012**

A special meeting of the City Council to have City Attorney Wantland to have second reading and public comment of 3 people in favor and 3 people opposed to Ordinance 012-(number to be assigned) rezoning 48 acres, more or less, from B-1 and AG to I-G General Industrial (Limited) a tract of land located on the west side of S. Preston Highway (just south of Beech Grove Road) by Zoneton Developers, Inc.; City Attorney Wantland to have second reading and public comment of 3 people in favor and 3 people opposed to Ordinance 012-(number to be assigned) rezoning 1.48 acres, more or less, from R-1 Residential to I-G General Industrial (Limited) located at 5241 S. Preston Highway (just south of Beech Grove Road) by Debra Ann Shaw; City Attorney Wantland to have second reading and public comment of 3 people in favor and 3 people opposed to Ordinance 012-(number to be assigned) rezoning 89 acres, more or less, from AG to I-G General Industrial (Limited) a tract of land located on the west side of S. Preston Highway (just south of Beech Grove Road) by Oma Lee Shaw Estate, Karen Sullivan, Executrix.

In attendance were Council members Bernie Brown, Don Cundiff, Larry Hatfield, Corky Miller and Faith Portman.

Mayor Ellis called the meeting to order at 6:31 and stated the purpose of this special meeting is for rezoning of properties on Highway 61 at 245 interchange. The parameters for tonight's meeting will be 3 sign in speakers in favor of; 3 in opposition; five minute speaking time and then the attorneys will have a 5 minute rebuttal on each side at the end of any speaking from the residents. I'm going to let John Wooldridge lead off with any speaking first then we'll call folks in favor and opposition. City Attorney Wantland: Mr. Mayor before he proceeds may we read the Ordinances for a second time?

City Attorney Wantland had second reading of Ordinance 012-(number to be assigned) rezoning 48 acres, more or less, from B-1 and AG to I-G General Industrial (Limited) a tract of land located on the west side of S. Preston Highway (just south of Beech Grove Road) by Zoneton Developers, Inc. A copy of the recommendation is attached and it was approved.

City Attorney Wantland had second reading of Ordinance 012-(number to be assigned) rezoning 1.48 acres, more or less, from R-1 Residential to I-G General Industrial (Limited) located at 5241 S. Preston Highway (just south of Beech Grove Road) by Debra Ann Shaw. A copy of the recommendation is attached and the recommendation is that it be approved.

City Attorney Wantland had second reading of Ordinance 012-(number to be assigned) rezoning 89 acres, more or less, from AG to I-G General Industrial (Limited) a tract of land located on the west side of S. Preston Highway (just south of Beech Grove Road) by Oma Lee Shaw Estate, Karen Sullivan, Executrix. A copy of the referenced recommendation is hereto attached as a part hereof and it was recommended.

John Wooldridge: I apologize Mayor and Council Members I didn't quite get the understanding of how you want to proceed tonight. I heard about the three witnesses to speak for and three opponents against and five minutes for the attorney's to rebut but I didn't hear the first part or didn't understand it clearly. Mayor Ellis: I'm saying if you and Mr. Simpson want to say anything beginning then you'll have the floor to do that. John Wooldridge: Are we limited at that point and would it be preferential for the Council to let the opponents speak and the proponents and then we go forward? Mayor Ellis: It's at the pleasure of the Council. Larry Hatfield: I think that would probably be the wise thing to do. If that suits everybody else. Bruce Simpson: Mayor and members of the Council if I can speak to that, Bruce Simpson, on behalf of Bardstown Junction Baptist Church. The burden in the case is on the applicants of the zoning and they have to go forward with

their arguments and their position based upon the record of the Planning Commission, not the objectors. Under law they have to go first and we respond and they can make their counter arguments and we can do rebuttal if the Chair so inclines. Under law the applicant has the burden of going forward first. John Wooldridge: He's correct we have the burden but there's nothing that requires us to go first but if Mr. Simpson prefers to go second, that's what we'll do tonight. If I could please, not counting against the five minutes I'd like the applicants to stand up and be noted and be sworn in case there are questions that they are asked, I want them to be under oath. Mr. Kevin Magruder, Gary Magruder, these are the two principles in Zoneton Developers. Miss Sullivan is in the second row, she is the Executrix of the Estate of Oma Shaw and Debbie Shaw is in the third row. If you all would please swear these people so if any question is asked it is under oath. City Attorney Wantland swore in the applicants. Bruce Simpson: Mayor if I could, not to be problematic but simply to set rights on behalf of the Church in this matter. As I discussed previously with your Council in this case and as the law provides, this is an argument only type hearing. No new testimony or evidence or questions about anything can come into play. It can only be argument from representatives or people on their own but there can't be any questions and answers and evidence coming in from those questions and answers in this case based upon the format this body has chosen. Larry Hatfield: I have one quick question, who is this gentleman recording for? Which side? He answered Bardstown Junction Baptist Church. Larry: Who is the court stenographer recording for? Bruce Simpson: Same body. John Wooldridge: I will be as quick as possible. I represent the applicants here. We've asked to have this property rezoned from Agricultural R-1 and B-1 Highway Business to Limited IG and it's very important that you understand that the IG Limited is only for specific uses; only three or four, and then what can go into a light industrial use. Basically we presented this case several times. This property is now in the City of Shepherdsville. It is served by City sewers, which it was not in 1997. It was a 16" water main that has been extended to the property by virtue of Louisville Water Company. Alltel is expanding fiber optics and phone lines. It was Louisville Gas ability and it has three substations as far as providing electrical service. This property fronts on Highway 61. It fronts on Beech Grove Road for a very small portion in the north corridor. It terminates at the southern end close to where 245 terminates coming off of I-65 interchange. The property lays topography mostly level; it falls from the south to the north. This property is bordered on the west by CSX Railroad which is the property owner, two lines and north and south bound lane for the trains and it does have the capabilities of having an a siding which is probably the only place in Bullitt County right now not developed that you can get a siding for commercial and industrial site. The property also has been permitted by the Commonwealth of Kentucky for the construction of a one million square foot building on the site as it sits with the adjacent parking that you would need. That's in the exhibits. I won't waste your time on that but that has already been permitted. We've had traffic studies; I think they are in the file showing that the roads are adequate. We are not constructing roads that the City will maintain or the County will maintain. You will enter into it off 245. There will be dedicated and there already has been in the past record a 15' easement given by our property owners and applicants their entire frontage of the property along 61 and Beech Grove Road. That is if there are future expansion needed, they will be done without the State having to acquire that property. There is also any type of turning lane that would be required if any which we do not believe we need that at this time will be constructed. This property is in an area that has multiple uses. There are numerous rezonings. I call to the Council's attention there is a 40 acre rezoning is 2007; 150+ acres in 2007 on Chapeze Lane which is part of the Bourbon Trail from AG to an IL zone. That property does not have sewer at this time. It does not have access to 65. It does not have the water that we have. It is a site that is there. Across the road we have a piece of property owned by Salt River Development and/or Flynn and his groups, currently zoned Agricultural, it's proposed to have a million-million and a half square foot warehouse constructed on that site. It's in the permitted process with the State but it has not been approved at this time. It's not in the City, has not been zoned yet at this point. There again have been major changes in the infrastructure, roads, water, gas, electric. We have the ground approved by the State to put a site in. storm water runoff will be addressed, that's part of a site plan. It's not part of a zoning process. I have engineers available. The City has engineers available. They can be designed without any issue. The other thing would be traffic, we've addressed that. We believe that at this point, if you look at your comprehensive plan, that

was adopted when zoning came in, it's really not changed much. Right now 1997 to the future part of the property that I have before you is based on a comprehensive plan that should be town center. The property that is across the road that Flynn has is economic development property. Our property is no different than the Flynn. In fact it is better because we have less in the flood zone; very little. We believe that the current zoning is inappropriate. We believe that the requested zoning is appropriate based upon the testimony that I've just given you which I will put under oath if necessary. And we will provide anything that the City needs and answer any questions. Bruce Simpson: I'm going to use 10 minutes of the Church's time, or the 15 minutes. We're going to be limited to 15 minutes, is that correct? Per side? City Attorney Wantland: It's up to the Council. I would limit you to 5 but go ahead do 10. Bruce Simpson: I'm just asking for guidance. Mayor Ellis: They'll have 5 minutes for now to start off with and that's not going to cut into that. Bruce Simpson: I'm going to speak for the Church. They will assign me; I think there are 15 minutes for pro and 15 minutes for con, if I understand the format. Mayor Ellis: But we have some folks that are signed in that are not members of the Church. And they would be part of the opposed too. Bruce Simpson: I understand and I certainly don't have any right to infringe upon their time. I've talked with a couple of the representatives about it. It's okay with me having 10. City Attorney Wantland: Let's start and see where we go okay? Bruce Simpson: Mayor, Members of the Council I'm Bruce Simpson again, I'm at attorney and represent the Bardstown Junction Baptist Church. I've been down here 2 or 3 times now. I appreciate the opportunity to appear in front of you all. We've here tonight under the guidelines of what took place at the Planning Commission and the record that was established before that body. And the record before that body as it sits in front of you now if you've had the opportunity to read it is flawed. We had a hearing on January 12<sup>th</sup> in which certain procedural errors involving due process rights were breached. In particular, the right of cross examination of the applicants witnesses and in particular, the right of rebuttal to evidence introduced by the applicant during his case in chief. Those errors were recognized the day after the hearing the Assistant County Attorney Tammy Baker called me and said Mr. Simpson you were right we made an error we're going to have another hearing. I explained you can't have another hearing because the final decision has already been made by the Planning Commission and that recommendation is now on its way to the City Council under a 90 day rule required by KRS Chapter 100 for this body to make a decision. Nevertheless they set a hearing on January 31<sup>st</sup>. The Counsel for the Planning Commission, Ms. Baker explained that there was an error made, we needed a new hearing, but for the first time in this case, both Mr. Wooldridge and I agreed that the body had no jurisdiction to hold a new hearing because it already made a final decision. So the record of the January 12<sup>th</sup> hearing is before you tonight and that's the record we're speaking on only. Understand that from this body's decision. And I'm here to speak to that question. The record is flawed. We objected at the Council, we object now on the process and the status of the matter before you tonight. The only way to cure it, which is what I suggested on January 12<sup>th</sup> to the Planning Commission and to Mr. Wooldridge and his clients, was to withdraw the application, refile it and start over again and have a hearing in which due process rights were afforded to all participants. Obviously that's not taking place and this matter is now before you tonight for final decision. Let me share with you the undisputed facts however tainted that record is at the Planning Commission. The application, contrary to Mr. Wooldridge's assertion, a minute ago is not in compliance with your comprehensive plan and I site you no other proof other than page 4 of the minutes that you have before you from the Planning Commission. And that was the recommendation by the professional staff of the Planning Commission that this application is not in compliance. That the recommendation for the land use in question that is before you tonight on all three zone changes is not for industrial use. It is in fact for low density residential suburban use. It has been that way since 1997. The comprehensive plan has been amended twice since then. The latest on March 10, 2010. So in every single case the most important development guiding document that this City and County has, the comprehensive plan, has said the appropriate land use for this particular property is low density residential development. All of the zone changes that Mr. Wooldridge sited as being causing a change in the character of the area were changes that were already made prior to March 10, 2010. They were contemplated by the comprehensive plan and therefore they can't be the basis for rezoning property based upon his argument. There are three ways to get a zoning change as you know. Number one, if you're application is in compliance with the plan.

Well clearly it's not. The plan itself paints the picture yellow or the color for the residential development, it identifies it in two different sections and that's in the record. Your own staff agrees with that recommendation, it's not in compliance with the plan. It's also not appropriate for this property. The existing zoning is appropriate. The proposed zoning is not appropriate. And that's because the traffic studies and engineering studies that they cited were both flawed. And we pointed those out during the course of the Planning Commission hearing. In particular as regards to traffic study, the zone change now when it was before the County was for Light Industrial, and it comes to you today it's for a higher density general industrial. They're trying to contend they are limiting to several uses in General Industrial but the reality of it is they've increased the zoning to General Industrial as opposed to Light Industrial from what it was the first time they filed it back in June when it was going to be decided by the County. The significance of that is they used the same traffic study for the light industrial even that was flawed, for warehouse use, rather than general industrial in terms of trip generation and as we pointed out at the hearing, the difference is significant. Their calculation is they were going to add 7000 new trips a day. There are about 4400 trips out there on 61 and 245 right now. They say with this development it would only add 7000. If they done the right calculations as we pointed out, instead of using a warehouse designation but using the designation of the zone change that was filed, it's going to be 14000 trips a day. So the inherent basis to calculate trips, traffic management, turn lanes, etc. completely flawed and not rebutted and not in dispute. The flooding, the reality of it is undisputed, the Church sits on about 3 acres of property on 61 as you know, the property owned by the applicant complete wraps around the Church as three sides. That's where the detention is going to be held, 12 acres. Undisputed evidence at the hearing, 5 - 6 feet deep maybe more in terms of storm water all around the Church. The Church is going to be an island with the only access out on 61. Radical change in what they've been used to. They've been there for 40 years. The Church has been serving this Community for 95 years. And now you're going to ask them to have to live with 12 acres of detention completely surrounding their property except for the little access point on 61. Those reasons alone call for it to be inappropriate. The fact that it's not in compliance with the comprehensive plan calls for it to be denied. And the other thing, with all due respect to your decision on annexation, the annexation coupled with the decision to rezone amounts to spot zoning which under the Commonwealth of Kentucky's Court of Appeals decision governing spot zoning is also illegal. As you know you went 2 miles out on 61 annexed it to get to this property and now you're going to rezone it and the law simply does not uphold that kind of decision making. I know this is not a court of law but I've got to make an objection for the sake of the record and that's what I'm doing at this instance. When all is said and done members of the body and I know you hear some of these cases, this is what I do, and I represent both sides fortunately. But there is one common theme that I've learned after doing this for 25 years, and that's elected officials are charged with a significant fiduciary obligation to look after the entire needs of the community and the only document that you really have to guide you in this document, the comprehensive plan. As I said this was recently adopted in March 2010. Nothing has changed to warrant breaching that document. The problem that you get into is when you don't follow these guidelines. You don't follow the plan is that then you're going to have lawyers like me come in on another case and say well you know you gave them industrial zoning out here and it called for low density residential. Now I'm entitled to the same treatment because I've got an option down the road, across the road, around, and you can't legally deny me my same zoning because you'd be treating me differently. And the courts will uphold that. And so what I suggest to you as a friendly constructive suggestion, is that if you want this industrial development out there send it back to the Planning Commission with instructions to take a look at this area and do we need to amend the comp plan to allow for a careful crafting of conditions and study and requirements that doesn't get us in a bind, that doesn't cause Mr. Simpson and his brethren and sisters to come down here and make arguments about precedent and going to court trying to force a zoning on us that we really don't want. What this document does is provides a quality of life, a kind of guideline for the entire community. Not under the throes of jobs jobs jobs. We've been at this case since July. I have not heard one single employer step up to this podium or any podium in the many hearings that we've had and say if you approve it I will come with this number of employees. Not once. If you had Dell Computers that said tonight I want to build it I could see you might blink and say well maybe we need to make an exception.

Those are high paying jobs and payroll tax. I would just urge you on behalf of the Church to follow this plan and turn down this zone change.

Mayor Ellis stated he would call the in favor speakers first.

Dave Jurgens: Three disclaimers. I've been on the Planning and Zoning Board for a while. I own a little less than 2 acres that's already zoned Highway Business and I was attending the Church 13-14 years ago. I haven't been to any of the meetings previously. I've kind of watched it in the newspaper; bad thing to do. Point is there are a lot of things that have changed in the area. Up until UPS made Louisville the hub we wouldn't be talking about warehouses. Two, if Shepherdsville hadn't put a sewer line to Beam, there wouldn't be a sewer line out there. Years ago when the water line was put in by Louisville Water, you have that now. There's a gas main we didn't have then. I forget the year of the last flood it was in the late 90s, the water for this area comes from underneath of the road from the creek. It doesn't flood. My property at the end of 245 and 61 you look to the left there's a tile that drains my property underneath of 61 Bruce Simpson: Excuse me Mayor we're getting in to testimony here. New evidence has come in and the only thing to be commented on is minutes of the Planning Commission's decision. He wants to point to places in the record where certain things were discussed and argue their relevancy that's fine but we cannot open this up under the guidelines of the law to new testimony commentary and evidence that wasn't introduced at the Planning Commission and this was not. City Attorney Wantland: He's not sworn so I take the position that he is making general observations about the property and for that reason alone but keep it to commentary by the Planning Commission if you want to please. Mr. Jurgens: But I'm not on the Planning Commission now. City Attorney Wantland: I understand. Larry Hatfield: You're not on the Planning Commission now? Mr. Jurgens: I haven't been for 6-7 years. Mayor Ellis: If that's the case Mr. Simpson then any of these folks that signed in on opposition cannot speak tonight so you're violating a person's first amendment rights with being able to speak. Bruce Simpson: No sir you're wrong Mayor. The law provides that in an argument only type hearing as the notice went out based upon the Planning Commission record that came from your office. Mayor Ellis: But anybody that stands up there to speak though ... Bruce Simpson: They have to speak based on the record what the record was at the Planning Commission. Mayor Ellis: Then some of these folks that were not at the Planning and Zoning meetings have nothing to speak on. Bruce Simpson: Well if they read the record they could comment on the record. Mayor Ellis: Well if they didn't read the record they can't speak. Bruce Simpson: I agree with that. Mr. Jurgens: I didn't read the record.

Mayor Ellis asked L.E. Alberton is he was at the Planning and Zoning meeting and if he was going to speak on record of what was at the Planning and Zoning meeting. Mr. Alberton stated he was at the meeting and was going to speak on record of the Planning and Zoning meeting. I was at the Planning and Zoning committee, the last one and it was a total farce. They accomplished nothing as you well know. And I would like to ask the people on this Committee here are you familiar with the area. Physically familiar with it. Larry and Faith both stated they were. City Attorney Wantland stated that was new evidence and he would like for Mr. Alberton to make comment on the Planning Commission and not ask questions of the Council. Mr. Alberton: Okay. The Planning Commission last time accomplished nothing. It was deemed to go the first way it went. As I understand it as a resident of Beech Grove Road you all have no option but to vote against it. I can't say more without getting into your new evidence.

Mayor Ellis asked Todd McKendrick is he was at the Planning and Zoning meeting and if he was going to speak on Planning and Zoning and no new evidence. Mr. McKendrick: Yes sir I'd like to speak as to the process that we had there. My name is Todd McKendrick, I'm youth minister as Bardstown Junction Baptist Church. I've been there for 12 years. I just want to put that in there, I know that's not to the record. When we were at the hearing both times, am I clear to speak to both hearings or just the second hearing. Mayor Ellis: Just this last one. Mr. McKendrick: At the second hearing several times evidence was put in there and we were not given any chance to ask question, to counter it or anything. They were allowed to make comments

that were just set out there and we didn't get to even say a word. I feel like as an individual and a member of this County we were violated. And when we come back to that meeting the second time they told us we violated your rights. This is the second time they've told us that. First time being when we didn't get notified about the hearing; we couldn't even come to speak to it. So the second time I thought this can't be right. Here we are again doing everything we can to be heard and I tell you we're doing that as we brought out in the hearing cause we're afraid. We're afraid because we've had water as was mentioned in that hearing within inches of our sanctuary. Our basements have been flooded and I tell ya I just realized this I'm not an engineer but I know if I fill my bathtub up about halfway and I stick a bunch of blocks in it the water level goes up. You're talking about filling up 35 acres of flood zone out there. And was put in the hearing we are on the downhill side. That property slopes from south to north and as it comes north it gets narrower and we've caught right at that end. As you heard the plan was to put flood wall around us on three sides. I ask you this if you're in that bowl that we're going to be in, and you know that Preston Highway is the high part of your property, to the railroad tracks is the low part, would you want a bowl around you because everything that lands in our bowl we're stuck with. Honestly I thought this can't even be legal. But through this process it seems like every time when we got a chance for somebody to do what was right for somebody to make a stand and say we're not going to chase jobs that aren't there. I got a lot of youth and they need jobs. A lot of these jobs are entry level. But as was brought out in that hearing these jobs you're talking about guys we've got employers in this County that couldn't even fill all their seasonal employees this year. They couldn't even get enough people hired. We don't need more jobs like that. We need jobs that keep people in our County. They don't have to drive somewhere else to work. And that was brought up in that hearing. The thing I really want you guys to consider is this. Have we been given our rights? Have we been treated fair? The zoning board themselves tried to pull this back and say stop. That wasn't a legal option. It was kind of like they said that both lawyers said that hey the train's done left the station guys it's gone. Well guess what, unfortunately for you guys the train has pulled up at your station. You've got a chance to do what's right. And I know you're under a lot of pressure. You have to operate a big expensive operation here and you have to manage our money and I tell you as a church we've been accused of being greedy, in that hearing they said we countered an offer because we were greedy. We didn't get to say a thing about it. But I want to tell you something we weren't greedy. Our counter that went back that Red Rock offered us the only big difference was that we wanted City Attorney Wantland: You made a comment that there were some conversations about that. The Council really doesn't want to be involved in negotiations about buying property. Mr. McKendrick: But they talked about it in the hearing. They said it. City Attorney Wantland: You made that clear that it was talked about at the hearing. Mr. McKendrick: Right and what was said I'm getting ready to speak it. What was said was that we were greedy and we wanted more. But what I want to tell you when we countered the only thing we put in there that was really a big change was we needed input on that flood control plan so we knew we wouldn't get flooded because we were scared. And I tell you guys if you were going to be put in that bowl, if it were your house or your community center or your church, and I want to tell you that Church is a community center, you'd be scared too. I tell you our Church has been beat up through this process. Unrightfully so. And like the last hearing we didn't even get to defend ourselves. Our lawyer was told to shut up, shut up. We paid a lot of money for him to be told to shut up. And you guys got the chance. The bus is in your station. You all can change this course and do what's right. I appreciate your time and consideration.

Mayor called Mr. Wooldridge and stated he had 5 minutes. John Wooldridge: I was allowed three witnesses to testify. Mayor Ellis asked if he had 2 more. John Wooldridge: I'd like Ms. Sullivan who's an applicant to be able to speak.

Karen Sullivan: What I have to say is more of a rebuttal. Is that acceptable? To things that Mr. Simpson said. Well first of all Mr. Simpson has said that the professional staff at the Planning and Zoning board made a recommendation stating that our request would not be in compliance with the comprehensive plan. Do you have a copy of that document in front of you. I think you do. The one that he is referring to and if so I believe

what you will see it does say staff report, but that's not a recommendation from the staff. I believe it's on page two where it says recommended use of the property. That is what the comprehensive plan has said that it is. What you're actually looking at is basically the application and once, as I understand it, someone files for a rezoning, then the professional staff looks up the information in the County records to see what the comprehensive plan has said about that particular property. City Attorney Wantland: For the record on all three zoning map amendments requests there was not a finding that the requested change was in agreement with the comprehensive plan. For the record, the finding of the Commission is that there has been major economic physical and social changes of the requested change were not anticipated in the adopted comprehensive plan which altered the basic character of the area around this requested zoning change. Ms. Sullivan: Precisely. But he insinuated or intimidated that they professional staff had made a recommendation that our request was not in compliance and I'm simply saying that's the application he's referring too. It wasn't a decision on the part of the professional staff. The second thing I would like to say is that he has suggested that the only way that we should be rezoned is to go for an amendment of the comprehensive plan. To my understanding you don't amend the comprehensive plan. You can actually revise it but you don't amend it based on one property owner's request. What the law does allow in Chapter 100 of the Kentucky Revised Statutes is the ability to make a map zone amendment. And that's what we're asking you to do here today. There are provisions that specifically set out how that can be done. And I think that you are aware of those. That's why we're here tonight because this is the process that one goes through. Now let's talk about whether or not our property does comply with the comprehensive plan. First of all the comprehensive plan serves as a guide. What you find in there is not set in concrete. And one responsibility of the Commission, it is the Commission's responsibility to actually develop and approve the comprehensive plan is to always be aware that there are changes that occur and to be aware of new opportunities. And the opportunity for us to develop industrial park out there is something that needs to be under consideration. As guides the three parts of the comprehensive plan are intentionally general. They are not to be used in context of a stand-alone plan but in conjunction with other exhibits and strategies in the plan. You have map exhibits which are useful guides for appropriate use of certain areas of the County. You also have strategies which are more specific and give additional cues for the decisions that are made for zoning request changes. The zoning agency according to the Supreme Court is not bound to follow every detail of the comprehensive plan because the plan is intended to be a guide rather than a straightjacket. The State Supreme Court has also upheld approval of zone changes based on findings of fact that were in agreement with the comprehensive plan even though there were parts of the plan which the application did not totally conform too, In other words, there is so many parts of the comprehensive plan that pertain to certain types of areas that you are not bound to have to be able to comply with each and every one of them. The Supreme Court has also said that the governing body in this case it would be you, is given authority to decide on each application according to its own merits. There is no specific magic formula for you to apply in making your decision. That your responsibilities include looking at the big picture and making tough decisions. I will agree that the Church was denied its right to cross examine during the hearing before the Planning and Zoning Commission. Obviously the ball has landed in your court, as they say, that does not mean that our request has any less merit because of what took place before the planning and zoning board.

Gary Magruder: Having been on that property since about 1980, farming it for a while and then leasing it at that point and after having bought the property, I'm very familiar with the property. Quite a few things have changed as is in the record. There's a 16" water line. There's a booster station. Beech Grove Road has been realigned down there and squared out on that property looking for future use expansion. This is a unique site in this County. One of the few on the double CSX line that would allow a rail spur and allow a lot of uses that a lot of other sites don't. It is "shovel ready". We have almost all our permitting done. All the infrastructure is there. There's not sites up Cedar Grove Road that suit any better at this point. Cites up Cedar Grove Road that has been put into the record that Best Buys are sitting on, they still show as vacant. Other sites up there that are not have the infrastructure back to them. The sewer line was put down there to be used. The water line was put down there to be used and all the other infrastructure was put there to be used. And it

is a needed change to have this rezoned and try to supply some jobs. There's been names batted around and there's a name being batted around in Southern Indiana. I think I stood down there on the road and looked at this property with them and they gave us indications they were interested in being there if we rezoned. Thank you.

John Wooldridge: The only thing I will bring up for the Board is simply this. The comprehensive plan is not a concrete document. If it was we wouldn't need to be here. We would have people just merely set the comprehensive plan, establish the zones, you guys wouldn't have a job. We wouldn't need a Planning Commission. The comprehensive plan by Kentucky law is basically a breathing entity. It has to change. It has to move. It's just a guideline. But in this particular case it's an important guideline because from the very start of zoning in Bullitt County to the present, you look at the comprehensive plan and you all have it, it's part of the record, you will see that it has always been envisioned that development, economic and otherwise, will go south of Shepherdsville. And we are south of Shepherdsville. And if you look at it it tells you it will go south of Shepherdsville when you have water, when you have sewers, when you have gas, when you have rail, when you have fiber optics. And most of all when you have a need. If you look at your comprehensive plan we made numerous references to that comprehensive plan at that meeting and you have it and you're entitled to recite it and look at it tonight. Many of the economic goals are met. You are supposed to plan for our future. You are supposed to plan sites such as this so that you will have jobs. You are supposed to by your goals and objectives look at what's around you particularly UPS and the airport. And you make sites that will take advantage of those type of opportunities. This site is unique. It is sitting right there less than a mile off of 245. We're not at the end of the Bourbon Trail. We're in a sparsely isolated area if you really want to know. We had a map done. We have done a study. A half mile perimeter entirely around this property will only show you 96 homes. And our property is probably over 3000 feet long. It is probably 900-1000 wide. So we're talking about a huge area that we do not have a lot of homes. If you drive out there and I'm sure you guys have driven out there. You'll look up and down 245 from Preston in and the majority of what you will find is either property that is now being used commercial or property that is going to be used as commercial. The comprehensive plan calls for your development to be around interchanges. We're not on the interchange because if you read the comprehensive plan closely it says that that is where you want more tourist related, more drive related. We're a little bit off of that but we are in an area that has everything there that has been put there for one purpose and that is to move forward. I agree that you represent the citizens of Shepherdsville but you guys also represent the citizens of Bullitt County. What is good for Shepherdsville in terms of economic development has to be good for Bullitt County as well. Any development that goes there any jobs that are going there, we hope they are Bullitt County jobs. They all won't be from Shepherdsville. You guys, if you create jobs, they'll be for people from other communities, Mt. Washington, Louisville, whatever. I take offense the fact that we are chastised as going to destroy a Church. The Church has one entrance into their property right now. We're not taking away that entrance. They will still have the same entrance out. That Church built there in 1985 in a flood zone. We didn't create the flood zone. It was there long before the Church decided to locate there and put a basement in a structure that is susceptible to flooding. The City has numerous engineers. The City has requirements for storm drainage plans. The Planning Commission has that. That is when all of that will be addressed. We're not building 40 acres out of a flood zone. Our property has much less than that. I'm not going to tell you that we're going to have a big lagoon there because we're not. It was never discussed that we were going to have a pond around this Church. It is a dry detention center and that is it drains. Within 36 hours of a major flood, major down fall of water, that detention basin are designed to by dry. You've seen them. You know all about them. The spot zoning is not what you're doing. Spot zoning is more akin to dropping an acre lot in the middle of 15 or 20 houses on a highway. You all are establishing an industrial park that will be a regional employer. You have to understand we are not going to cut up roads. We are not going to create City streets. The City is not going to maintain anything within this park if you look at a plan. It is a self-contained structure.

Bruce Simpson: Thank you Mayor, members of the Council. I appreciate the need for jobs in this economy and in future economies because it's obviously every municipality, every County government needs them. I hear tonight from Mr. Magruder that there's somebody in Southern Indiana. This is the same ghost employer that's I guess been lurking around the territory here since the zone change was first filed back in June of last year. First heard in June of last year. Usually with a project of this magnitude some employer is willing to come up to the microphone and say these are the jobs I'm bringing to Bullitt County. These are the jobs I'm bringing to Shepherdsville and conspicuous by its absence is any such employer. I think there is no such employer. I think this is wishful thinking on the part of the applicant and they hope that you'll buy into it simply because we need jobs. The truth of the matter is we introduced at the Planning Commission un rebutted evidence where there was at least 500 acres of industrial zoned land in Bullitt County available for development right now zoned undisputed. The second things are getting back to the traffic. Our testimony was not refuted or rebutted that they were going to add 14000 trips if this project gets approved. This is a 2 million square foot project ultimately. 3.7 million square feet. When it rains once pretty hard every two years based upon the evidence we introduced at the Planning Commission record, that 3.7 million square feet of impervious surface that's including the parking lot for 3000 cars and 70 tractor trailer trucks on their development plan. At 3.7 million square feet of concrete and roof tops on a typical rainfall that occurs once every two years, will generate 5 million gallons of storm water runoff just from that property. That's a serious storm water issue. And it's also not in dispute that the Church is going to be completely surrounded by their detention basin. How long will that water be in there? How well will that detention basin function? Do they fail? Do City governments have to appropriate money to fix detention basins that were supposedly well designed engineerinly? You bet ya. Happens all the time. Some of us are under federal court orders for not maintaining these basins or allowing them to deteriorate. Serious environmental consequences with storm water. A traffic study that's completely flawed and un rebutted in this record. 14000 new trips a day on 61 and 245 and they're calculating 7000. Radical departure from the standard of care for professional study to be submitted to this body for an appropriate decision. And what can't be cured is the record upon which you have to rely which is the record of the Planning Commission. Flawed in several legal respects and that too is not undisputed and is in fact was acknowledged by the County Attorney's office as being flawed. It's your decision. I would ask again on behalf of Bardstown Junction Baptist Church based upon undisputed facts of a flawed hearing and based upon the fact that it was a flawed hearing that you turn this application down. Thank you.

Mayor Ellis: At this time I'm going to open the floor up for any Council discussion.

Larry Hatfield: I'll go ahead and speak and start it off. I took some notes as we went along. To be honest with everyone I've got friends in the church, some are in the audience tonight, and I have friends on the other side. Irregardless of how I vote, I'm going to be wrong. The second thing I'd like to say is I'm not going to try to compete with the Attorneys on law. That's their job. I think Bullitt County as a whole sent a bad message of around all the surrounding counties since this has gotten started. I think money has been a problem of it. I think it there would have been enough money put out we wouldn't be here tonight having an argument. And I hope I don't hurt anyone's feelings on what I'm saying. I don't think that the people that own the property should have to have a buyer before its rezoned. I don't believe that at all. And I do think that this will help the Church by having sewers in front of them and by raising the property values in that area. I think if there is a water problem and the engineers are wrong then I think that falls back on the developer. I do think the comprehensive plan is a plan. The City of Shepherdsville spent a lot of money out there and anywhere you look over the last 5-6-7 years in the City, the City is going south whether we like it or whether we don't that's where it's going. It's going to follow the sewer line. That's all I have to say for right now.

Faith Portman: I agree with Larry, I think it's going to help the property owners around there. It's going to raise value of the property and he's right they don't have to have a buyer to rezone. No one else has had to

do that. And I too have friends on both sides and I don't want to hurt anybody's feelings but I have to do what's best for the community.

Corky Miller: I'd just like to say that the comprehensive plan is spreading industrial parks or industrial areas across the County which is the way it should be not all located up in one conglomeration and the south being vacant there as the way it is now I think that is the ideal location for an industrial center area. And I think that is the plan, was the plan all along of the comprehensive plan. I do have to say this one time again I think I don't know how to say this, the Church had an opportunity to move elsewhere. The opportunity was you turned down \$1.3 and came back with \$3.1.

Don Cundiff: I just want to say I do think the comprehensive plan is just that, it's a plan. It's not set in stone. Things do change and I've been around this area for a long time and that area has changed. It's not what it was and I think that change has to be reflected in the zoning.

Mayor Ellis: One thing that I look at and of course I do not have a vote in this matter unless there is a tie, but I look at the areas on 245 and even on Highway 61. The City of Shepherdsville invested a lot of money with putting the sewer line down that way. Looking at a lot of the property owners in that area a lot of them have rezoned for light industrial, general industrial, folks I hate to say it, it's moving that direction and I don't know that anybody can control that. The City is moving south just like Councilman Hatfield and a couple others said. It's the direction that it's happening. If the Council doesn't have anything else to say at this point in time I'm going to ask for a motion to accept or reject the Planning and Zoning on the table at this time.

Faith Portman made motion to accept. Larry Hatfield 2<sup>nd</sup>. Motion carries 5-0-1 absent. City Attorney Wantland: Mayor for purposes of the record, this is for 2012Z-02, the first that was read. 48 acres just south of Beech Grove Road.

City Attorney Wantland: This will be 2012Z-03, 1.4 acres, more or less, applicant is Debra Ann Shaw. Faith Portman made motion to accept the recommendation of the Planning Commission. Don Cundiff 2<sup>nd</sup>. Motion carried 5-0-1 absent.

City Attorney Wantland: The third proposed ordinance adopting the recommendation of the Planning Commission 2012Z-04 the applicant being the Oma Lee Shaw Estate, Karen Sullivan, Executrix, 89 acres. Again it was approved and recommended by the Planning Commission. Faith Portman made motion to accept the recommendation. Corky Miller 2<sup>nd</sup>. Motion carried 5-0-1 absent.

Larry Hatfield made motion to adjourn. Faith Portman 2<sup>nd</sup>.

Meeting adjourned at 7:29 p.m.

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R. Scott Ellis III, Mayor

Attest: \_\_\_\_\_  
Tammy Richmond, City Clerk