

**MINUTES OF REGULAR MEETING  
OLDHAM COUNTY  
PLANNING AND ZONING COMMISSION**

**Tuesday, February 25, 2014**

At 9:00 a.m., local time on the above date, this meeting of the Oldham County Planning and Zoning Commission, hereinafter called the Commission, was called to order in the Courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky, by Chairman Kevin Jeffries.

Other Commission members present were:

Joyce Albertsen	Greg King
Bob Arvin	Bob Klingenfus
Laura Bohne	Kevin Mesker
Denia Crosby	Joe McWilliams
John Falvey	Mary Ann Smith
Tom Henrion	Robert Zimlich
Jan Horton	

Others present and sworn in were Planning and Development Services Director Jim Urban, Planning and Development Services Assistant Director Brian Davis and Community Planner Amy Alvey. Also present was Administrative Assistant Ethel Foxx and Attorney Travis Combs.

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**Oldham County Schools – Three Year Enrollment and Growth Comparison**

**(1) Presentation by the applicant or representative and others in support of the application:**

Michael Williams, Oldham County Board of Education (OCBE), 6510 Ashbrooke Drive, Pewee Valley, was present and sworn prior to speaking on behalf of the Oldham County School Board.

- Each year the Oldham County School Board prepares the annual growth projections for the district as part of the capacity planning agreement with the County.
- Provided a 3, 5 and 10 year data set projection (Exhibit A).
- Recommended a five year projection of 0.388 students per building permit.

**Questions by the Commission:**

Administrator Urban confirmed that the School Board can provide the Commission with the information, the Commission can accept the data and a motion can be made at that time.

Mr. Williams responded to questions from the Commission:

- Confirmed that they will use the 0.388 number when preparing the capacity planning letters.
- The numbers are slightly lower than last year.

- Confirmed that the difference between the 3 year and 5 year for the 2014/2015 school year will be 63 fewer students; the five year projections will have 80 fewer students.
- For planning purposes, the OCBE is using the 10 year data showing an increase of 13 students across the district for next year.
- They did see an increase of 177 students last year.
- Confirmed this is for new housing starts only (not births and migrations) and students per household; that is where the average comes from.
- OCBE felt comfortable closing Liberty Elementary because they do not foresee growth at the elementary school age level.
- Growth is seen at the high school level versus the middle and elementary schools.
- Birth rates for the county are in a decline.
- Rate of survival factor for eighth to ninth grade is 100.2%; most students will move on to high school and OCBE will see growth at the high school level coming into 9<sup>th</sup> grade.
- Redistricting is finalized and the numbers are reflected in what has been presented; Liberty is shown as closed.

**End of Public Hearing**

**Decision**  
**Three Year Enrollment and Growth Comparison Data**

Motion is made by Commissioner McWilliams and seconded by Commissioner Zimlich to accept the Oldham County School Five Year Enrollment and Growth Comparison Data.

The vote was as follows:

- YES: Commissioners Crosby, Albertsen, Arvin, Horton, King, Mesker, Smith, Zimlich, Klingenfus, Falvey, Bohne, Henrion and McWilliams**
- NO: None**
- ABSTAIN: None**
- ABSENT: Commissioner Finney**

**Motion passed 13-0.**

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**Community Planner Amy Alvey called and read Docket PZ-14-002:**

**Docket PZ-14-002 - Adoption of the GIS zoning layer as the Official Zoning Map of Oldham County.**

**(1) Introduction of the application by staff and questions by the Commission:**

Assistant Director Brian Davis presented a photo of the existing Official Zoning Book (Exhibit A).

- The map was adopted in the early 1970's by the Oldham County Legislative Bodies.
- In the past years when there was a zone change, one would hand draw the change in the book.
- The pages from the original book were scanned and digitized (Exhibit B).

- Proposing to adopt the GIS Zoning Layer as the Official Zoning Map of Oldham County.
- The new layer will be the most accurate representation of the Official Zoning Map that has ever been produced.
- Stressed that no properties will be rezoned with this action.
- On February 20, 2014, the Study Review Committee voted to recommend the GIS Zoning Layer to the Planning Commission for adoption.
- The Planning Commission's recommendation will go to all the legislative bodies with zoning authority: Oldham County Fiscal Court, City of Crestwood, City of LaGrange and City of Pewee Valley.
- The request will go to all those bodies as a resolution and not an ordinance.

**End of Public Hearing**

Administrator Urban stated this is Resolution 2014-02 and has been reviewed by Attorney Carter and Attorney Combs.

**Decision  
Adoption of the Official Zoning Map of Oldham County  
Resolution No. 2014-02**

Motion was made by Commissioner King and seconded by Commissioner Crosby to adopt the GIS Zoning Layer as the Official Zoning Map of Oldham County, Resolution No. 2014-02.

The vote was as follows:

- YES: Commissioners Mesker, Klingenfus, King, Horton, Henrion, Albertsen, Arvin, Bohne, Crosby, Falvey, McWilliams, Smith and Zimlich**
- NO: None**
- ABSTAIN: None**
- ABSENT: Commissioner Finney**

**Motion passed on a vote of 13-0.**

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At 9:20 a.m. the Commission took a ten minute break and resumed at 9:37 a.m.

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**Community Planner Amy Alvey called and read the following:**

**DOCKET PZ-14-003** - Application has been filed by Wal-Mart Stores, Inc., for approval of a Zoning Map Amendment on approximately 16.28 acres. The property is located at 6501 Veterans Memorial Parkway (also known as Highway 329 Bypass), Crestwood (SE of intersection of Veterans Memorial Parkway and Madison Park Place). The proposed change is from C-2 Community Business and C-3 General Business to C-4 Highway Service.

**DOCKET PZ-14-004** - Application has been filed by Wal-Mart Stores, Inc., for the approval of a Development Plan for 3 lots on approximately 16.28 acres. The applicant is also requesting a waiver of Section 300-040

Landscape Buffer Requirements, a variance from Section 180-040 Maximum Impervious Surface and a Program for Signs as permitted by Section 290-140. The property is located at 6001 Veterans Memorial Parkway (also known as Highway 329 Bypass), Crestwood (SE of intersection of Veterans Memorial Parkway and Madison Park Place). The proposed zoning change is C-4 Highway Service.

**(1) Introduction of the application by staff and questions by the Commission:**

Assistant Director Brian Davis presented the following:

- Summary of application.
- Explained the requests for approvals of Zoning Map Amendment, Development Plan, Waiver, Variance and Program for Signs.
- Site History
- Aerials, photos of property and surrounding property and site plan of property
- Notes and Issues (Exhibit A dated February 25, 2014)
- This site has been the subject of a number of development plans throughout the years.
- Presented a copy of the Cedar Springs Development Plan from 1989 when the property was first zoned commercial.
- In 2000 there was a request for a revised development plan to amend the 1989 plan.
- That proposal was for a residential development, a number of out lots and a 180,000 square foot shopping center located at the rear of the property.
- Presented current site photos and showed where the parking spaces and the building footprint was laid out for that 2000 development plan.
- There was a separate development plan approval for the Baptist Medical Facility.
- Referred to the aerial photo showing C-2, C-3 and C-4 zoning.
- The proposed development plan for Lot 1 is a 158,583 square foot Wal-Mart Super Center.
- Applicant is requesting a waiver for landscape buffer area due to the location of utilities along the west and south property lines.
- Also requesting a variance for the maximum impervious surface percentage.
- Requesting approval of a Program for Signs for building signs and one free-standing sign; a change has been made for the free-standing sign to be one pole rather than two poles.
- Presented a photo showing the existing state of all the surrounding property (Exhibit B).

**Mr. Davis responded to questions by the Commission:**

- Property was originally rezoned in 1989.
- In 2000 a revised plan was approved for a shopping center.
- In May 2007, the Zoning Ordinance was amended and instituted square footage maximums within the commercial zoning districts.
- A traffic signal is proposed at the Highway 329 Bypass and Madison Park.
- The number of parking spaces proposed is 642; the minimum is 635 and the maximum is 793.
- As to the Program for Signs, the free standing pole meets the regulations and wall sign exceeds what is allowed.
- The proposed Wal-Mart building square footage is less than what was originally proposed on the revised plan from 2000.

- The 2000 plan did not have the square footage restrictions that were put in place in the zoning ordinance in 2007.
- Confirmed that the requested zone change is for Lot 1 consisting of 16.27 acres.

**Diane Zimmerman**, Jacobs Engineering Group, Licensed Professional Engineer in the State of Kentucky, 11940 U.S. Highway 42, Goshen, was present and sworn prior to speaking:

- Reviewed the traffic study submitted by Richard Phillips, Traffic Engineer.
- Presented map showing proposed location for the Wal-Mart store at the KY 329 Bypass (Exhibit C).
- The exhibit shows the four intersections which were included in the study.
- Presented the 2003 System Capacity Map (Exhibit D) stating the KY 329 Bypass was designated as operating at Level C or better (Exhibit E).
- When Wal-Mart will open in 2015 it will generate 293 a.m. peak hour trips and 690 p.m. peak hour trips. (Trips Generated chart presented as Exhibit F).
- Referred to the two main intersections that will connect Wal-Mart to the system, KY Hwy 329 Bypass at Madison Park and the entrance connecting to Kenwood Station Elementary and presented a summary table (Exhibit G) of the level of service calculations.
- Existing intersection operates at Level Service A or B; in 2015 the intersection will still operate at Level Service B.
- The intersection at Kenwood Crossing, at the school entrance, will operate at a level of service A and B; included a 2025 addition of out lots and can see that the intersection will still operate at a level of service B and all is acceptable in the regulations.
- A traffic analysis was also done at the Highway 329 Bypass and Highway 146 intersection and it also operates at acceptable levels of service.
- Improvements requested as part of their plan is to install a traffic signal at the intersection of the Highway 329 Bypass and Madison Park Place, which needs to be approved by the Kentucky Transportation Cabinet. The signal should be in place by the time they open.
- Another improvement is that the lane will be updated and striped on Madison Park Place and there will be three exit lanes with a left and right turn lane as well as a thru lane.
- Presented a copy of the letter sent from Jacobs Engineering to Administrator Urban for the file (Exhibit H).

Administrator Urban stated that for the benefit of the audience and those watching Channel 25, Ms. Zimmerman is under contract by the County to do traffic analysis or review analysis by an applicant. Her presentation is on behalf of the County. This review by the traffic engineer is to determine the accuracy and appropriateness of the traffic impact study.

**Ms. Zimmerman Responded to Questions by the Commission:**

- An analysis was prepared both with and without a traffic signal.
- There is no reason to believe that a signal will not be installed.

**Beth Stuber**, Oldham County Engineer, 100 West Jefferson, LaGrange, was present and sworn prior to speaking:

- Addressed the detention basin and that the run-off is slightly unusual on this site.

- There is a large basin in front of the South Oldham Campus that was designed to be more of a regional basin; this development is one of the areas feeding into that regional detention and therefore less on-site detention is required.
- Some run-off is going to the north which is also going into a regional detention basin, which is preferable rather than several little ponds in the development.

**Ms. Stuber responded to questions by the Commission:**

Confirmed that the large detention basin is located in front of Kenwood Elementary School (is also referred to as the South Oldham Campus).

**(2) Presentation by the applicant or representative and others in support of the application:**

**Deborah Bilitski**, Attorney, 500 West Jefferson Street, Suite 2800, Louisville, was present to speak on behalf of the applicant:

- Presented a map showing the total area of the development plan and how the surrounding properties are zoned (Exhibit H)
- Showed location of Madison Park Place Condominiums and Arbor Ridge Subdivision and Kenwood Elementary.
- The development plan was initially approved in 1989; showed the portion of the site they wish to rezone to C-4 and was part of a larger development which included Arbor Ridge Subdivision, commercial properties along the Highway 329 Bypass, as well as Madison Park Place; was all one unified development and was understood that the subject site would always be commercial.
- Gave history and showed the site that was rezoned in 1999 (Exhibit I) that was to be rezoned C2 and C-3; there were no building square footage limitations at the time.
- Only requesting to rezone the portion of the property where Wal-Mart is to be located; there are two out lots to the north part of the property and that will remain C-3 (Exhibit J).
- Property is designated Commercial in the Comprehensive Plan.
- Presented a detailed plan from 1999 that was approved in 2000 (Exhibit K).
- In that plan there were four out lots proposed at the Highway 329 Bypass frontage and a larger development at the rear of the property; lots 2-5 consisted of 188,610 square feet and 930 parking spaces.
- The proposed Wal-Mart building is smaller, consisting of 158,583 square feet, and has less parking, 642 spaces (Exhibit L).
- The Wal-Mart building will be located towards the rear of the property and not along the frontage.

**Richard Phillips**, Traffic Engineer, 106 Mission Court, Franklin, Tennessee, a licensed engineer was present and sworn prior to speaking on behalf of this application.

- Presented a Traffic Study of intersections at the Highway 329 Bypass, Kentucky Highway 146, Kenwood Crossing (internal to the site) and Madison Park Place (Exhibit M).
- Looked at existing and future conditions up to the year 2025 and results found all intersection studies as projected to operate with acceptable levels of service.
- KYTC District 5 has given their part of the approval, and will forward to Frankfort for a final decision on the traffic signal.

**Greg Stellmon**, Harrison French and Associates, Architects for Wal-Mart Stores, 1706 West Walton, Bentonville, Arkansas, was present and sworn prior to speaking on behalf of this application.

- Presented photos of proposed Wal-Mart store which is their newest design (Exhibit N).
- After meetings with neighbors, he worked with the architectural manager for a better design and focused on upgrading the vestibules and will provide brick as requested at the meetings.
- Store will offer a two lane pharmacy on the side of the building, a garden center, an automotive area where one can get their oil changed and tires rotated and all basic services associated with Wal-Mart.
- Showed where the signs will be located.
- Presented a photo showing topography of the area that shows the Wal-Mart store will not be seen from the Highway 329 Bypass; also showed location of the proposed Wal-Mart pylon sign (50 feet from the property on Highway 329 Bypass) and illustrated the reason for the request for the height of the sign (Exhibit O).
- The highway is about 22 feet below the proposed finished floor level of the building.
- The allowable sign square footage is 531 square feet which is calculated based on the building frontage on the Highway 329 bypass.

**Attorney Deborah Bilitski Continued Testimony:**

- The Wal-Mart building will not be visible due to the topography.
- The free-standing sign will have a height of 45 feet in order to be seen from a couple of the angles particularly coming from the south.
- Sign has an opaque background and only the letters will be illuminated.
- The free-standing sign will be the only sign that can be seen from off-site and will conform with the sign regulations for the C-4 zoning district.
- Only need approval for the wall signs at the front of the building that will be needed for directional purposes.

**Justin Paris**, Civil Engineer, Carlson Consulting, 7068 Ledgestone Commons, Butler, Tennessee, was present and sworn prior to speaking on behalf of this application:

- Addressed the lighting which proposes a 42-foot mounting height for fixtures; which consists of a 39 foot pole with a three foot base. (Exhibit P).
- This is a shoebox style fixture using the LED bulbs inside; the fixtures are directional.
- Presented a photometric plan of the site.
- Presented site plan showing plantings along boundaries of parking areas.
- Designed large bioswale islands at ends of parking areas to discourage cut through traffic.
- Pointed out the location of the truck loading docks which are adjacent to commercial areas and not adjacent to residential areas.
- Presented drawing of pedestrian access.
- Showed location of the traffic signal on the west side of Highway 329 Bypass; will have crosswalks to connect to the existing sidewalk infrastructure.

- Presented photo of drainage areas (Exhibit Q) and explained the regional detention facility plan which will drain to north as well as to the south; drainage plan conforms to the plan approved in 2000.
- Presented sketch and addressed landscape waiver (Exhibit R).
- There are many utilities installed along perimeter of the site.
- Code was rewritten that utility easements cannot encroach more than 50 percent of the perimeter landscape buffers.
- Utilities were not installed for this development and are working with the utility companies to get the easements abandoned.
- Presented sketch and chart (Exhibit S) regarding impervious surface areas.
- In order to meet the parking requirements as mandated by code the applicant needs to increase the impervious surface percentage to 78.81%, which is still below from 83.97% which was previously approved in 2000.
- The 65% maximum impervious surface requirement was not in place when the previous plan was approved.
- Bioswales can remove up to 95 percent of pollutants and reduce volume of storm water run-off before entering the storm water systems (Exhibit T).

**Attorney Bilitski continued testimony:**

- In relation to the impervious area, the previously approved development had 2.6 acres of landscape area. This proposed plan will have 3.449 acres of landscaping, which will be of a higher quality and better design.
- Will be decreasing the impervious area over what was originally approved.
- Will have green infrastructure that was not incorporated in previous approval.
- Will be a lower traffic impact than what would have been for existing approved development.
- Showed what lot the seller will retain and what Wal-Mart will acquire.

At this time, Commissioners took a short break at 10:38 a.m. and resumed at 10: 50 a.m.

**(3) Others in support of Wal-Mart Development**

Mary Jo Grantz, 6501 Matalin Place, Unit 102, Crestwood, was present and sworn prior to speaking on behalf of this application:

- She comments as an individual owner of Madison Park Condominiums.
- There may be a few of the 180 units to speak in opposition but they do not speak for all of the Madison Park Condominium community.
- There are others present that are not Madison Park residents that signed the petition and feels scare tactics may have been used regarding this proposal.
- Initially many had concerns regarding the loss of privacy, security and traffic problems due to increase number of people who would be using the proposed Wal-Mart store and using the same entrance as Madison Park residents.
- Welcomes Wal-Mart to the community.

#### **(4) Testimony and questions by those opposing the application:**

Steve Porter, Attorney, 2406 Tucker Station Road, Louisville, was present to speak on behalf of Arbor Ridge residents and some residents of Madison Park Place (not the home owners association)

- Presented signed petitions having 102 signatures from Arbor Ridge and 59 signatures from Madison Park Place (Exhibit U).
- Presented a list of reasons why they are in opposition (Exhibit V).

The following reasons given on behalf of the Opposition:

- Oppose having one intersection to the Wal-Mart site having 10, 277 vehicles and trucks.
- There will not be two entrances as one is a private school road; legally, they have only one entrance.
- Since Wal-Mart is retaining a lot there could be a fuel station which will draw more traffic and could be open 24 hours a day.
- Wal-Mart will be open 24 hours a day.
- A stop light would be necessary at the Highway 329 Bypass.

Stated the following reasons to deny:

- Arbor Ridge sits high and on the same level as the development and will have a clear view of the Wal-Mart building.
- Wal-Mart proposes a big box retailer but would be better to have a few smaller box retailers.
- Wal-Mart will be open 24 hours a day having truck and car traffic.
- Wal-Mart tried to negotiate with Madison Park that they would give them \$32,000 for trees and evergreens around the pool area but only if they did not attend the hearing in opposition.
- Would prefer a monument sign rather than a 45 foot tall sign.
- Trucks would be coming to the store at 5:00 a.m. until 10:00 p.m.; request delivery hours be reconsidered.
- Request there be no outdoor storage, the auto center be screened and no fuel station.
- There should be a sidewalk available on the other side of the parking for the children.
- The building design is cheap and should come back with a better design.

**The following were present and sworn prior to speaking in opposition to this application:**

1. Wood McGraw, 6600 Southwind Court, Crestwood, resident of Arbor Ridge Subdivision.
2. Sandy Holly, 6603 Eastwind Way, Crestwood, and certified appraiser.
3. Sandra Vazzana, 6505 Arbor Ridge Drive, Crestwood (presented Exhibit W) an aerial of properties affected).
4. Mark Ochsner , 6705 Westwind Way, Crestwood, represents himself and four members of Arbor Ridge subdivision
  - Presented statements (Exhibit X).
  - Property borders Kenwood Station (Exhibit Y) and the front parking lot is used for field days.
5. Gay Lynn Huber, 6503 Mattalin Place, resident of Madison Park Place, Crestwood.
6. Lori Roussel, 5601 Arbor Ridge, Crestwood.
7. Lisa Fahringer, 5901 Landers Avenue, Crestwood.

8. Jeff Harkness, 6500 Mattalin Place, Crestwood.
9. Fitzgerald, 6405 Cameron Lane #104, Crestwood.
10. Jonathan Watkins, 6705 Northwind Way, Crestwood, President of Arbor Ridge Homeowners.

**The following are statements made by the Opposition:**

- Crime associated with Wal-Mart stores.
- Traffic.
- Request a traffic light be installed at the Bypass.
- Sales of firearms.
- Moved here due to openness and quiet.
- Resale value of property.
- Value of homes in the area has already decreased 10 to 30% due to the commercial development nearby.
- Arbor Ridge neighborhood concerned as vehicles already cutting through their subdivision from old Highway 329.
- Affect on small businesses in the area.
- Safety of children crossing the parking lot from Madison Park to the schools.
- No safe access for pedestrians.
- Height of sign not in keeping with community.
- Madison Park residents already talking about moving due to their safety.
- No need for another Wal-Mart as there are already two within only eight miles each way.

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**At this time, Commissioners recessed for lunch at 11:45 a.m. and returned at 1:00 p.m.**

**(5) Questioning of the applicant and those opposing the application by the Commission:**

**The engineers for the Applicant responded as follows:**

- **Justin Paris**, Civil Engineer, Butler, Tennessee is not a professional engineer in the State of Kentucky, but his firm, Carlson Consulting is licensed in the State of Kentucky.
- **Richard Phillips**, Traffic Engineer, Franklin, Tennessee, is a licensed engineer in the State of Kentucky and Tennessee.

**Attorney Bilitski responded to questions by the Commission:**

- Showed the pedestrian access plan.
- The bioswales are to be maintained by Wal-Mart and will be part of the binding elements.
- There are no road improvements and no added pavement or lanes recommended for Madison Park Place Road (entrance off Highway 329 Bypass); the road will be striped and a signal will be provided.

- Kenwood Crossing Road located in between the proposed Wal-Mart and the school is a private road; however, there is a recorded dedicated access agreement and that road cannot be closed.

At this time, Administrator Urban explained to the Commission regarding Kenwood Crossing Road. The current owners have an approved development plan, came to an agreement and constructed that connection and were given an access easement. Only in the event that both parties agree, can that access easement go away.

**Attorney Bilitski continued response to questions by the Commission:**

- Confirms that she was approached by the Madison Park Place Association requesting a list which was very detailed for landscaping and berm around the pool.
- Wal-Mart was willing to agree to pay Madison Park Place for the requested landscaping.
- Since Wal-Mart was willing to pay for the landscaping, she requested that when the Condo Association came to the hearing to support this development.

**AT THIS TIME, Motion was made by Member Horton and seconded by Member McWilliams to extend 10 more minutes for the questioning phase. Motion carried by unanimous voice vote.**

**Attorney Bilitski continued response:**

- As to the routing of the delivery trucks, one can see from the previous development plan that the road is already in place and the trucks will travel behind the store.
- There will be no outdoor storage of materials.
- Wal-Mart allows RV's to park in their parking lot overnight.
- Confirmed that the waiver for landscaping is not to avoid planting landscaping but to allow to overlap of the easement.

**Administrator Urban responded to questions by the Commission:**

- There is no green infrastructure requirement for bioswales; staff recommended and they responded with plans to install bioswales and tree wells.
- The landscape plan is only preliminary and not a formal submittal; it is not reviewed until construction plans are received.
- Confirmed that the drainage pipes were put in with the previously approved plan and explained how the water will be absorbed by the bioswales.
- Presently, there are no plans for a gas station and there was testimony that the two out lots are not part of this consideration.
- Any development on the out lots would have to come before the Commission for approval.
- There is actually a building permit still active for the once proposed Kroger building and could be constructed as proposed in 2000.
- There is no requirement for an additional entrance into commercial property.

**The following responded to questions by the Commission:**

**Greg Stellmon** pointed out the location of the drive-thru pharmacy area on the development plan.

**Sandy Holly** stated she did not know that the subject property was zoned commercial.

**Justin Paris responded to questions by the Commission:**

- Addressed storm water.
- Survey has located gas pipeline on the school site; however, the proposed development will not impact the gas line.
- As to the Landscape Waiver requested, pointed out the eastern property line that has a gas line, sanitary sewers, water lines, and telephone lines.
- Are in conversation with each utility company trying to get these easements abandoned.
- The need for the waiver exists because the easements encroach more than 50 percent into the landscape area.
- The security cameras designed for the parking lot are based on the 42 foot high light poles; does not know how the cameras are monitored.
- The pylon sign has been changed to one pole because a two pole would encroach into utility easements.

**Attorney Bilitski continued response to the Commission:**

- Referred to the lighting drawing and stated when there is a taller pole, can place fewer poles and create a more optimal lighting situation.
- There is not a height limit in the regulations so they put together the best optimal lighting plan.
- Showed the Site View (Exhibit Z) and the location of the out lots and the area that is tree buffered in between Madison Park Place and the proposed development.

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**Motion made by Commissioner Horton and seconded by Commissioner Crosby to add five minutes to the questioning portion. Motion passed by unanimous voice vote.**

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**Attorney Bilitski continued response to the Commission:**

- Answered questions regarding building materials, security cameras and property ownership.
- Security cameras are not monitored from midnight until daylight.

**Michael Williams from the Oldham County School Board responded to questions by the Commission:**

- Confirmed with the Oldham County School Board Attorney that an agreement does exist with both parties regarding Kenwood Road; a chain cannot be placed across the road and the road cannot be closed.
- There is bus service to all four schools in the South Campus; the children do not have to walk to school.
- The children that live in Madison Park Place attend Kenwood Station Elementary, South Middle and South High.

**(6) Rebuttal evidence and Cross Examination by the Applicant:**

**Attorney Bilitski stated the following:**

- This site has been zoned commercial since 1989.
- Traffic study has been submitted that shows the development will not negatively impact levels of service in the area; all the intersections will operate at acceptable levels of service.
- There has been a misunderstanding that 10,000 cars will be coming to this site; the corrected number is 5,000; one car in and one car out (being the same car).
- Originally, the site was previously approved for more square footage which would have generated more traffic.
- The rezoning is necessary in order to be in compliance with the current regulations.
- With the previous proposal there would have been four out lots along the frontage, four buildings and four signs.
- The proposed development will have one sign that is not very visible, no out lots, no additional buildings and a bioswale landscape buffer area that will be the view from Arbor Ridge.
- Arbor Ridge residents will not see the store and there will be no off-site lighting to impact them or Madison Park.
- At this point they are not prepared to agree with the binding elements prepared by Mr. Porter; however, they do agree with the suggestions of the staff report and are in agreement that the traffic signal is to be installed contingent upon approval by the State.

**(7) Rebuttal evidence and Cross Examination by the Opposition:**

**At this time, Attorney Combs informed the Commission that for rebuttal purposes, Ms. Holly would be allowed to present testimony that is in direct rebuttal of a previously stated fact.**

**Sandy Holly, real estate appraiser, stated the following in favor of the Opposition:**

- Presented photos (Exhibit AA) of the view across the street from the rear of the Arbor Ridge Subdivision; they have visibility of all the proposed development; photos taken from other houses and a street in front of them; photos from Wal-Mart to Arbor Ridge and from Madison Park to Wal-Mart.
- Rebutting that Ms. Bilitski was playing down the view from Madison Park and Arbor Ridge into the proposed development.

**Attorney Porter stated the following in rebuttal:**

- Was not aware of the easement regarding the two access points as it was not on the plan or in the file.
- Still thinks there is one private road access and one public road access which is a negative.
- He feels that 10,000 trips will be going into the development.
- As to the design and appearance of the building, he is familiar with Wal-Mart buildings and if they say it is the best and greatest, that it is probably the cheapest way to go.
- Applicant does not wish to use pervious pavement because it is more costly.

**Jeff Harkness stated the following in rebuttal:**

- There is bus service, but there is no bus service for after school activities and in the summer months.

**Wood McGraw stated the following in rebuttal:**

- There are two retention basins and concerned how much that will leave for the other development.

**Justin Paris responded to Mr. McGraw:**

- The two retention basins were designed by BTM in 2006.
- The design of the facilities has already been approved by the County; the County would be able to answer as to how many areas are designed to flow to those basins.

**Chairman Jeffries stated the following:**

- Beth Stuber, County Engineer, stated that there is adequate capacity to handle the stormwater flow.

**Administrator Urban responded as follows:**

- The subject basin handles the South Oldham School Campus and this is the only development for which it is designed.
- As to the one going towards the north, if someone else wanted to drain to a regional basin, they would have to make it larger or put it on their own site if there was not enough capacity.

**(8) Final statement of the Opposition:**

Attorney Porter stated the following:

- Wal-Mart denied all the proposed binding elements presented by his clients if the rezoning were approved.
- There is a two-fold decision: whether to rezone the property and whether to approve the development plan.
- If the Commission approves the rezoning, suggests voting against the development plan until the applicant goes back to the drawing board and considers their binding elements.
- Requests that the rezoning be denied as it is not good enough for Crestwood or for the neighborhood.
- Will still have 10,277 trips and will be open 24 hours a day.
- Deliveries will be at 5:00 in the morning coming by Madison Park; request they wait till 7 a.m.
- The Commission has the power to stop the 10,000 vehicles and the national retailer and instead, allow local stores.

**(9) Final statement of the Applicant:**

**Attorney Bilitski stated the following in closing:**

- Met with surrounding residents on December 16 and even though they were not required to have a second meeting they did so on January 14.
- Since the January 14th meeting, has communicated via e-mail with the president of Arbor Ridge Homeowners regarding an update on the revised elevations but they never responded.
- Also has been in communication with the Attorney representing Madison Park Condominiums and negotiated in good faith.
- Today is the first time she has seen the list of binding elements; they sought input and stayed in open communication; she is not in a position to give approvals for a national corporation.
- This is a great plan, an improved plan that is in compliance with the Comprehensive Plan and would like to incorporate that into the record; it is in compliance with the Land Use Elements as this site is designated as commercial, has all the appropriate infrastructure and designed with this intensity of development in mind; nobody should be surprised to see this.
- The site is partially built.
- The storm water run-off has been dealt with and meets all the requirements; sidewalks will be provided and believe this will not impact the surrounding property negatively.
- Transportation infrastructure is in place.
- Storm water detention areas and run-off plan is appropriate and meets requirements including green infrastructure.
- Request approval and consideration of the application.

**END OF PUBLIC HEARING**

Chairman Jeffries reminded those present that the Zoning Change Application will be recommended to the Crestwood City Council whether or not the Commission approves; it is up to Crestwood City Council to make the final decision.

Administrator Urban gave an overview as to five separate decisions to be considered today:

- Zoning Map Amendment
- Development Plan (which would include Binding Elements)
- Variance
- Waiver Request
- Program for Signs (which could be a binding element)

Attorney Combs cited the procedures to the Commission and explained that the Commission can approve or deny, however, findings and reasons must be stated which is required by the Statutes.

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**FINDINGS AND DECISIONS  
PZ-14-003  
ZONING MAP AMENDMENT**

Motion was made by Commissioner King and seconded by Commissioner Falvey to approve Docket PZ-14-003, Zoning Map Amendment from C-2 Community Business and C-3 General Business to **C-4 Highway Service** for the following reasons:

- (1) The zoning map amendment is in compliance with the Comprehensive Plan.
- (2) Application was supported in testimony presented today materially and substantially.
- (3) Application is based on submittals as contained in the staff report.
- (4) The existing zoning classification given to the property is inappropriate.
- (5) Based on testimony presented and subsequent changes to the regulations governing zoning classifications given to the property at the last zoning change did not contemplate that the intended use of the property did not anticipate the changes embodied in those regulatory changes and the intensity contemplated at that time is consistent with the proposal set forth today.
- (6) As to Land Use Elements the proposal is consistent where we have been for some time.
  - This is an approved zoning designation with approved development plans.
  - Presentation although not exactly the same is consistent with the intensity of the plan previously approved for this property.
  - Have testimony that we requiring fewer square feet of built out space and otherwise a retail use center consistent with what the land use elements cited present.
- (7) Transportation Elements
  - No degradation of levels of service.
  - Based in the mitigation provided based on testimony of the applicant.
- (8) Community facilities
  - Making use of regional detention facilities that are constructed, approved and functioning

**The vote was as follows:**

**YES: Commissioners King, Bohne, Falvey, Henrion, Arvin, Horton, Smith, McWilliams, Mesker and Klingenfus**

**No: Commissioners Albertsen, Crosby and Zimlich**

**Abstain: None**

**Absent: Commissioner Finney**

**Motion passed on a vote of 10-3**

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**FINDINGS AND DECISIONS  
PZ-14-003  
VARIANCE FOR IMPERVIOUS AREA**

**Motion was made by Commissioner King and seconded by Commissioner Henrion, to approve the Variance for Impervious Area under Docket PZ-14-003 because:**

- (1) Testimony presented.
- (2) It will not adversely affect the public health, safety or welfare.
- (3) Will not alter the essential character of the general vicinity.
- (4) Applicant provides presentations for mitigation embodied in bio swale infiltration structures within the site to capture and filter some of the water and commits to maintaining those structures.
- (5) Finds no evidence presented to demonstrate the inability of any drainage structure facilities to handle the storm water management objectives on this site.

**The vote was as follows:**

**YES: Commissioners Henrion, King, Klingenfus, Mesker, McWilliams, Smith, Arvin, Bohne, Crosby and Falvey**  
**NO: Commissioners Horton, Zimlich and Albertsen**  
**ABSTAIN: None**  
**ABSENT: Commissioner Finney**

**Motion passed on a vote of 10-3.**

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**FINDINGS AND DECISIONS  
PZ-14-004  
LANDSCAPE WAIVER**

Motion is made by Commissioner Bohne and second by Commissioner Falvey to approve the Landscape Waiver under Docket PZ-14-004 because:

1. Strict compliance with the regulations would create an undue hardship due to the existing utility easements.
2. The only alternative would be to shift the building site to be able to fit in the landscaping outside the easements and cannot do that because of the topography at KY 329 Bypass.
3. They are not trying to avoid the landscape buffer, but because of the restrictions of the utility easements, is hindering them to give them the buffer they would like to have.

**The vote was as follows:**

**YES: Commissioners Mesker, McWilliams, Smith, Zimlich, Albertsen, Arvin, Bohne, Crosby, Falvey, Henrion, Horton, King and Klingenfus**  
**NO: None**  
**ABSTAIN: None**  
**ABSENT: Commissioner Finney**

**Motion passed on a vote of 13-0.**

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**FINDINGS AND DECISIONS  
PZ-14-004  
APPROVAL OF DEVELOPMENT PLAN**

Motion is made by Commissioner King and seconded by Commissioner Bohne to approve the Development Plan under Docket PZ-14-004, because:

- Based on objectives of the Comprehensive Plan
- Approval is contingent upon the strict adherence to the conditions of approval.

**The following are the required Binding Elements:**

1. There shall be no changes to the development plan without review by the Oldham County Planning Commission.
2. Lots 2 and 3 to be developed at a future date. Revised plan for each lot must come before the Oldham County Planning Commission for approval.
3. The development plan must comply with the Oldham County Fire Hydrant Ordinance.
4. There shall be no direct access to Veterans Memorial Parkway (also known as Highway 329 By-pass).
5. Applicant agrees to install traffic signal at the intersection of KY 329-B and Madison Park Place per KYTC standards and upon approval by KYTC.
6. Applicant agrees to stripe the westbound approach of Madison Park Place with three existing lanes, to be utilized as separate left turn, thru and right turn lanes.
7. Applicant shall adjust the lighting plan so that the lighting levels along the KY 329-B right-of-way shall be 0.0 footcandles, not 1.1 footcandles.
8. The sidewalk/crossing plan shown during the hearing which was included in the applicant's public hearing exhibit booklet (Exhibit 7) shall be incorporated as part of the development plan.
9. All landscaping and bioswales shall be maintained by the applicant.
10. No idling of trucks shall be allowed on the property. Signs shall be posted in loading areas.
11. There shall be no outdoor storage of any supplies or materials.
12. There shall be no repairs or servicing of any vehicles outside the building. Auto center bays shall be closed during closed hours.
13. Applicant should study the warrants of making the intersection of Madison Park Place, Landers Avenue and Kenwood Crossing Road a four way stop. The applicant shall make improvements if the findings determine it is warranted.

**The vote was as follows:**

**YES: Commissioners Bohne, Falvey, Klingenfus, Arvin, Henrion, King, Mesker and Smith**

**NO: Commissioners Horton, McWilliams, Albertsen, Zimlich and Crosby**

**ABSTAIN: None**

**ABSENT: Commissioner Finney**

**Motion passed on a vote of 8-5**

Assistant Director Brian Davis provided the following information to the Commission:

There was one change regarding signage in that the free-standing sign will have only one pole instead of two, due to utility issues. The only signs illuminated will be the free-standing sign and the main Wal-Mart logo sign.

**FINDINGS AND DECISIONS  
PZ-14-004  
PROGRAM FOR SIGNS**

Motion was made by Commissioner McWilliams and seconded by Commissioner Falvey to approve the Program for Signs under Docket PZ-14-004 as presented.

**The following are the Binding Elements for the Program for Signs:**

1. There shall be no changes to the Program for Signs without approval by the Oldham County Planning Commission.
2. Signage lighting shall be designed to not shine in the eyes of drivers.
3. Any temporary signage must be in compliance with Section 290 and only permitted upon submittal and approval of a sign permit application.

**The vote was as follows:**

**YES: Commissioners Klingenfus, Mesker, Albertsen, Arvin, Crosby, Bohne, Falvey, Henrion, McWilliams, Zimlich, Smith and King**  
**NO: Commissioner Horton**  
**ABSTAIN: None**  
**ABSENT: Commissioner Finney**

**Motion passed on a vote of 12-1.**

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**Approval of Minutes - January 28, 2014**

Motion was made by Commissioner Henrion and seconded by Commissioner King to approve the Minutes of January 28, 2014 as submitted and corrected.

Motion carried by unanimous vote.

**OTHER BUSINESS:**

**Green Infrastructure Training**

Motion was made by Commissioner Smith and seconded by Commissioner Horton to allow two credit hours to those Commissioners that attended the Green Infrastructure Training on Thursday, January 30, 2014.

Motion passed by unanimous voice vote.

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There being no further business, the meeting adjourned at 3:45 p.m. The next regular meeting is scheduled for Tuesday, March 25, 2014 at 9:00 a.m. in the courtroom of the Oldham County Fiscal Court Building, LaGrange, Kentucky.

Respectfully Submitted:

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Ethel Foxx, Secretary

Approved:

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Kevin Jeffries, Chairman