Sponsors: Commissioner Dixon
Commissioner Powell
Second Reading: Sept. 11, 2017
Publication Date: Sept. 14, 2017

ORDINANCE NO. 2017 - 013

AN ORDINANCE REZONING 187 ACRES LOCATED EAST OF I-65, NORTH OF HIGHWAY 100, AND EAST OF EDDINGS ROAD FROM B-5 (INTERSTATE BUSINESS) AND A-1 (AGRICULTURAL) TO I-2 (HEAVY INDUSTRY)

WHEREAS, Red Rock Partners, LLC, a Kentucky limited liability company, 2718 Uhls Road, Franklin, Kentucky 42134, filed a petition to rezone approximately 187 acres located east of I-65, north of Highway 100, east of Eddings Road, and adjacent to the Henderson Industrial Park; and

WHEREAS, Red Rock Partners, LLC desires to rezone the aforementioned property from B-5 (Interstate Business) and A-1 (Agricultural) to I-2 (Heavy Industry) to make the property more productive for the community, and this change is appropriate and consistent with the use of this property and surrounding properties; and

WHEREAS, a public hearing was held on August 1, 2017, after due public notice, in the manner provided by law; and

WHEREAS, the Planning & Zoning Commission recommended the granting of said zone change as it is in agreement with the community's comprehensive plan;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Franklin, Kentucky as follows:

The approximate 187 acres located east of I-65, north of Highway 100, east of Eddings Road, and adjacent to the Henderson Industrial Park as described in Exhibit A attached hereto and made a part hereof are hereby granted a zone change from B-5 (Interstate Business) and A-1 (Agricultural) to I-2 (Heavy Industry).

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

August 28, 2017 FIRST READING

September 11, 2017 SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on September 11, 2017, on motion made by Commissioner Barnes and seconded by Commissioner Stewart the foregoing ordinance was adopted, after full discussion, by the following vote:

AYE LARRY DIXON

AYE JAMIE POWELL

AYE MASON BARNES

AYE WENDELL STEWART

AYE RONNIE CLARK, MAYOR

APPROVED BY:

Ronnie Clark, Mayor

ATTEST:

Cathy Dillard, City Clerk

EXHIBIT A

SIMPSON COUNTY
D295 PG368

183 Saint Charles Street
Bowling Green, Kentucky 42101
- Office: 270-842-0812
- Fax: 270-842-0910
- Email: lel@landmarkengineering.net
www.landmarkengineering.net

EXHIBIT "A"

LEGAL DESCRIPTION

Being a 190.7667 acre tract, as conveyed to Garvins, LLC. as recorded in Deed Book 258, Page 248 in the Office of the County Clerk of Simpson County, Kentucky. This property is located in Simpson County, Kentucky at Exit 6 of Interstate 65 and has frontage along Kentucky State Highway 100 and Eddings Road and being more particularly described as follows:

Beginning at a point, said point is an iron pin found with a cap stamped "KY 1766", said pin is located 3200± feet East of the intersection of the right-of-way of Eddings Road and Kentucky Highway 100, said pin is corner common to a tract of land as conveyed to Eddie and Jana Hammock as recorded in Deed Book 183, Page 104 in the office of the County Clerk of Simpson County, Kentucky, said pin is also located in the North right-of-way line of Kentucky Highway 100; thence a line with said right-of-way, North 63 Degrees 18 Minutes 47 Seconds West, 270.29 feet to an iron pin found with a cap stamped "KY 1766" in said right-of-way and corner common to a tract of land as conveyed to Teresa Herald as recorded in Deed Book 226, Page 685 in the aforementioned clerk's office; thence a line with Herald, the next three (3) calls as follows:

North 25 Degrees 51 Minutes 55 Seconds East, 286.88 feet to an iron pin found with a cap stamped "KY 1766",

North 63 Degrees 27 Minutes 19 Seconds West, 133.02 feet to an iron pin found with a cap stamped "KY 1766",

South 25 Degrees 51 Minutes 47 Seconds West, 286.78 feet to an iron pipe found corner common to Herald and in the North right-of-way line of Kentucky Highway 100; thence with said right-of-way the next four (4) calls as follows:

North 63 Degrees 37 Minutes 36 Seconds West, 346.28 feet to an iron pin set, said pin is a 5/8"x18" rebar with a one (1) inch yellow cap stamped "T LUCAS KY 3569",

North 64 Degrees 31 Minutes 44 Seconds West, 289.40 feet to a point,

North 65 Degrees 43 Minutes 54 Seconds West, 313.66 feet to an iron pin set,

North 65 Degrees 19 Minutes 49 Seconds West, 313.66 feet to an iron pin found with a cap stamped "KY 2142" in said right-of-way and corner common to a tract of land as conveyed to Ricky and Amy Kepley as recorded in Deed Book190, Page 06 in the aforementioned clerk's office; thence a line with Kepley the next four (4) calls as follows:

North 05 Degrees 13 Minutes 54 Seconds West, 1165.11 feet to an iron pin found with a cap stamped "KY 1766",

North 76 Degrees 08 Minutes 02 Seconds West, 366.40 feet to an iron pin found with a cap stamped "KY 1766",

South 13 Degrees 55 Minutes 35 Seconds West, 570.03 feet to an iron pin found with a cap stamped "KY 1766",

South 11 Degrees 32 Minutes 35 Seconds West, 421.21 feet to an iron pin found with a cap stamped "KY 1766" corner common to Kepley and in the North right-of-way line of Kentucky Highway 100; thence with said right-of-way, North 81 Degrees 15 Minutes 13 Seconds West, 211.14 feet to an iron pin set in said right-of-way and corner common to a tract of land as conveyed to Simpson County Water District as recorded in Deed Book 183, Page 231 in the aforementioned clerk's office; thence a line with Simpson County Water District the next two (2) calls as follows:

North 12 Degrees 16 Minutes 17 Seconds East, 30.06 feet to an iron pipe found,

North 83 Degrees 15 Minutes 44 Seconds West, 29.91 feet to an iron pin found with a cap stamped "KY 1766" corner common to Simpson County Water District and in the North right-of-way line of Kentucky Highway 100, thence with said right-of-way the next two(2) calls as follows:

North 77 Degrees 25 Minutes 23 Seconds West, 255.24 feet to an iron pin set,

Property Description Appendix

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EXHIBIT "A" - CONTINUED

North 81 Degrees 11 Minutes 14 Seconds West, 349.31 feet to an iron pin set in said right-of way and in the East right-of-way line of Eddings Road; thence with the right-of-way of Eddings Road the next five (5) calls as follows:

North 02 Degrees 58 Minutes 10 Seconds East, 187.98 feet to an iron pin set,

North 08 Degrees 39 Minutes 36 Seconds East, 276.01 feet to an iron pin set,

North 16 Degrees 08 Minutes 20 Seconds West, 41.50 feet to an iron pin set in the existing right-of-way (30' right-of-way) line of Eddings Road,

North 23 Degrees 27 Minutes 36 Seconds East, 217.78 feet to an iron pin found with a cap stamped "KY 1766",

North 22 Degrees 44 Minutes 05 Seconds East, 924.58 feet to an iron pin found with a cap stamped "KY 1766" in said right-of-way and corner common to a tract of land as conveyed to George J. and Linda E. Brassell as recorded in Deed Book 158, Page 87 in the aforementioned clerk's office; thence a line with Brassell the next two (2) calls as follows:

North 78 Degrees 24 Minutes 36 Seconds East, 161.90 feet to an iron pin found uncapped,

North 23 Degrees 16 Minutes 17 Seconds East, 267.69 feet to an iron pin found with a cap stamped "KY 1766" corner common to Brassell and in the line of a tract as conveyed to James R. and Shelvia Goodrum as recorded in Deed Book 127, Page 530 in the aforementioned clerk's office; thence a line with Goodrum, the next two (2) calls as follows:

South 64 Degrees 50 Minutes 32 Seconds East, 769.33 feet to an iron pin found with a cap stamped "KY 1766",

North 21 Degrees 43 Minutes 14 Seconds East, 1257.55 feet to an iron pin found with a cap stamped "KY 1766" corner common to Goodrum; thence a line severing the parent tract along a new line, South 72 Degrees 21 Minutes 53 Seconds East, 585.09 feet to a found stone, referenced from an iron pin found with a cap stamped "KY 1766", North 39 Degrees 35 Minutes 52 Seconds West, 0.30 feet, corner common to a tract of land as conveyed to Linda G. Moody and Brenda G. Creek as recorded in Deed Book 157, Page 51 in the aforementioned clerk's office; thence a line with Moody the next three (3) calls as follows:

South 53 Degrees 07 Minutes 13 Seconds East, 940.61 feet to a 36" Oak tree,

North 87 Degrees 09 Minutes 18 Seconds East, 880.75 feet to a post, referenced from an iron pin found with a cap stamped "KY 1766", South 53 Degrees 00 Minutes 29 Seconds East, 1.07 feet,

South 18 Degrees 38 Minutes 25 Seconds West, 525.60 feet to an iron pin found with a cap stamped "KY 2081" corner common Moody and a tract of land as conveyed to Karen E. Kemp Revocable Trust as recorded in Deed Book 228, Page 606 in the aforementioned clerk's office; thence a line with Kemp and then with a tract of land as conveyed to Terry and Amy Vaughn as recorded in Deed Book 215, Page 526 in the aforementioned clerk's office, and then with the aforementioned Hammock tract, South 19 Degrees 06 Minutes 42 Seconds West, 2806.46 feet to the POINT OF BEGINNING and having an area of 190.7667 acres (8,309,799 square feet).

The above description was prepared from a physical survey performed during the month of October 2011 by Landmark Engineering, Incorporated under the direction of Thaddaeus J. Lucas, Kentucky Licensed Professional Land Surveyor Number 3569 and is subject to all easements and right-of-ways of record and in existence.

THADDAEUS J. LUCAS, KY LPLS #3569

C:\Work\PROJECT\2008\08122\Legals\08122 Legal Tracts Five and Six.docx

STATE OF [redacted]
THADDAEUS J. LUCAS
3569
LICENSED
PROFESSIONAL
LAND SURVEYOR
11/15/11

97412
RECORDED THIS NOVEMBER 22, 2011 02:35:00PM
BOBBY PHILLIPS, JR
SIMPSON COUNTY
PAGES 369 - 370 DEED

Page 2 of 2

SIMPSON COUNTY
D295 PG369

RED ROCK PARTNERS, LLC LEGAL DESCRIPTION
(Continued)

LESS THE FOLLOWING-DESCRIBED PROPERTY CONVEYED TO Commonwealth of Kentucky, Transportation Cabinet, Department of Highways by Master Commissioner's Deed dated January 18, 2017, of record in Commissioner's Deed Book 16, Page 685, Simpson County Clerk's Office, to-wit:

PARCEL NUMBER 10, TRACT A

Being a tract of land lying in Simpson County in the northeast quadrant of the intersection of KY 100 and Eddings Road, and more particularly described as follows:

Beginning at a point 66.73 feet left of KY 100 at Station 503+00.00 thence S 80° 57' 10" E 446.30 feet to a point 64.19 feet left of KY 100 at Station 507+45.49; thence S 11°48' 01" W 40.93 feet to a point 23.30 feet left of KY 100 at Station 507+43.78; thence along an arc 65.19 feet to the left, having a radius of 1175.00 feet, the chord of which is N 80° 14' 28" W 65.18 feet to a point 24.18 feet left of KY 100 at Station 506+7887;thence N 80° 38' 42" W 107.84 feet to a point 25.46 feet left of KY 100 at Station 505+71.06; thence N 81° 24' 34" W 37.93 feet to a point 25.41 feet left of KY 100 at Station 505+33.13; thence N 13° 10' 31" E 28.70 feet to a point 54.01 feet left of KY 100 at Station 505+35.38; thence N 83° 29' 12" W 29.83 feet to a point 52.89 feet left of KY 100 at Station 505+05.57; thence N 77° 28' 36" W 206.04 feet to the point of beginning, **containing 0.230 acre (10,037 square feet).**

It is understood between the parties hereto and made a covenant herein that the above-described property is conveyed in fee simple.

PARCEL NUMBER 10, TRACT B

Being a tract of land lying in Simpson County in the northeast quadrant of the intersection of KY 100 and Eddings Road, and more particularly described as follows:

Beginning at a point 59.68 feet left of KY 100 at Station 514+26.79; thence S 71° 00' 39" E 74.91 feet to a point 65.00 feet left of KY 100 at Station 515+00.00; thence S 65° 23' 00" E 401.82 feet to a point 65.00 feet left of KY 100 at Station 519+00.00; thence S 68° 02' 47" E 411.04 feet to a point 110.00 feet left of KY 100 at Station 523+00.00; thence S 48° 33' 54" E 306.07 feet to a point 60.00 feet left of KY 100 at Station 526+00.00; thence S 57° 48' 35" E 110.00 feet to a point 60.00 feet left of KY 100 at Station 527+10.00; thence S 57° 48' 35" E 41.37 feet to a point 60.00 feet left of KY 100 at Station 527+51.37; thence S 25° 17' 01" W 44.13 feet to a point 16.19 feet left of KY 100 at Station 527+56.68; thence N 63° 21' 12" W 136.18 feet to a point 3.03 feet left of KY 100 at Station 526+21.14;thence N 63° 51' 59" W 440.21 feet to a point 38.63 feet right of KY 100 at

Station 521+81.42; thence N 65° 33' 18" W 524.08 feet to a point 54.12 feet right of KY 100 at Station 516+53.75;thence 65° 19' 44" W 165.57 to a point 53.28 feet right of KY 100 at Station 514+87.14; thence N 5° 11' 59" W 128.09 feet to the point of beginning, **containing 3.254 acres (141,732 square feet).**

It is understood between the parties hereto and made a covenant herein that the above-described property is conveyed in fee simple.

PARCEL NUMBER 10, TRACT C

Being a tract of land lying in Simpson County in the northeast quadrant of the intersection of KY 100 and Eddings Road, and more particularly described as follows:

Beginning at a point 29.03 feet left of KY 100 at Station 528+88.98; thence N 25° 18' 25" E 31.20 feet to a point 60.00 feet left of KY 100 at Station 528+85.24; thence S 57° 48' 35" E 114.76 feet to a point 60.00 feet left of KY 100 at Station 530+00.00; thence S 61° 47' 56" E 120.29 feet to a point 68.37 feet left of KY 100 at Station 531+20.00; thence S 61° 47' 56" E 28.64 feet to a point 70.36 feet left of KY 100 at Station 531+48.57; thence S 19° 12' 10" W 15.21 feet to a point 55.54 feet left of KY 100 at Station 531+51.99; thence N 63° 45' 26" W 138.69 feet to a point 41.17 feet left of KY 100 at Station 530+14.06; thence N 63° 21' 12" W 125.66 feet to the point of beginning, **containing 0.128 acre (5,559 square feet).**

It is understood between the parties hereto and made a covenant herein that the above-described property is conveyed in fee simple.

The above description is taken from the plans of the above-mentioned highway project, the plans for which are incorporated by reference and are on file in the office of the Transportation Cabinet, Department of Highways, Frankfort, Kentucky. The acquisition of right-of-way for this project was authorized by Transportation Cabinet, Department of Highways, Official Order No. 108622. The control of access on this highway shall be by permit.

ALSO LESS THE FOLLOWING-DESCRIBED PROPERTY conveyed to the Simpson County Water District by deed dated October 10, 2016, of record in Deed Book 323, Page 589, Simpson County Clerk's Office, to-wit:

Beginning at an iron pin set on the north side of Kentucky Highway 100, varied right-of-way, said pin being 66.29 feet left of Station 530+90.24 of Highway 100 design centerline, new corner to Red Rock Partners, LLC (DB 295 Pg 365); thence leaving said right-of-way and across said Red Rock Partners, LLC for the next two (2) calls: (1) N 19° 06' 53" E 60.00 feet to an iron pin set, (2) S 61° 47' 55" E 60.00 feet to an iron pin set in the line of Eddie Hammock as recorded in Deed Book 183, Page 104; thence along the line of said Hammock S 19° 06' 53" W 60.00 feet to an iron pin set on said north right-of-way of Kentucky Highway 100, said pin being 70.47 feet left of Station 531+50.10 of Highway 100 design centerline; thence along said right-of-way N 61° 47' 55" W 60.00

feet to the point of beginning, **containing 3,554.8 square feet, more or less.** Unless stated otherwise, any monument referred to herein as an iron pin set is ⅝" rebar 18" in length with plastic cap stamped K. Crowe #3375. All bearings are based on Geodetic North by G.P.S. observations dated February 27, 2016.

Being a part of the same property conveyed to Red Rock Partners, LLC by Garvin's, LLC by deed dated November 21, 2011, of record in Deed Book 295, Page 365, Simpson County Clerk's Office.

FRANKLIN-SIMPSON JOINT PLANNING & ZONING COMMISSION

In Re the Petition for Zone Change from B-5 (Interstate Business) and A-1 (Agriculture) to I-2 (Heavy Industry)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION FOR ZONE CHANGE

A public hearing was held before this Commission on August 1, 2017, beginning at the hour of 6:30 p.m. on the petition of Red Rock Partners, LLC ("Red Rock") that a certain approximately 187 acre tract of land located east of I-65, north of Highway 100, and east of Eddings Road, in Simpson County, Kentucky, be re-zoned from B-5 and A-1 to I-2. The Chair of the Commission, Carter Munday, presided. A quorum of the Commissioners was present. The petitioner was represented by G. William Leach, Jr. The hearing was stenographically recorded by the firm of James Dale, licensed court reporter.

The Commission then proceeded to hear an opening statement from attorney Leach and testimony in favor of the zone change from Kent Kelley, member of Red Rock, and Dennis Griffin, Executive Director of the Franklin-Simpson Industrial Authority. Interested parties were in attendance. Questions were asked and answered.

Having heard testimony, having reviewed the petition for zone change, the exhibits presented, including an aerial map of the area and having reviewed the Comprehensive Plan for Simpson County, Kentucky, Gary Sliger moved, Debbie Thornton seconded, and the Commission unanimously voted to recommend the zone change. In connection with the zone change, the Commission finds, concludes, and recommends the following:

FINDINGS OF FACT

I

Most of the subject property was re-zoned by this Commission about 11 years ago from A-1 (Agricultural) to B-5 (Interstate Business) on request of businessman, David Garvin, who envisioned a grand recreational vehicle complex on the west side of I-65 at Exit 6 and spillover development of restaurants, motels, and related commercial activities on the east side of I-65. Garvin's intended development did not occur, and his entities sold all of their interest in Exit 6 real estate in the Fall of 2011, with the Franklin-Simpson Industrial Authority having acquired about 450 acres located immediately east of I-65, generally west of the Eddings Road, and Red Rock Partners, LLC having acquired 190.00 acres of the Garvin property on the east side of Eddings Road and north of Highway 100.

II

In early 2012, the Franklin-Simpson Industrial Authority requested this Commission to re-zone 428.5314 acres from B-5 to I-2 so that it could develop the property as an industrial park. The Commission unanimously voted to recommend the zone change, and the Franklin City Commission also unanimously approved the zone change to I-2.

III

The Henderson Industrial Park has been created by the Franklin-Simpson Industrial Authority just east of I-65 (from the Garvin property), and an industrial access road has been created, off of which lots have been sold for industrial development. There has been significant demand for such lots, especially over the past two years, resulting in large tracts for a distribution center and further development being unavailable.

IV

Red Rock purchased from Garvin in November of 2011 with the aim to continue using the property for agricultural products, but holding the property for the higher and better use of commercial development or industrial development, given the lay of the land, proximity to I-65 and Highway 100, and availability of all pertinent utilities.

V

Red Rock and Franklin-Simpson Industrial Authority believe it desirable that the Red Rock property be re-zoned to I-2 so that it will be available for industrial development and provide large tracts for potential distribution centers and other industrial activities.

VI

The widening and improvement of Exit 6 and I-65 itself, along with improvements to Highway 100 have made the Exit 6 area attractive for industry which have transportation needs. Moreover, the complete infrastructure of utilities provides a capacity to accommodate significant additional industrial growth.

VII

The Sanders Industrial Park is located on the south side of Highway 100 at I-65 and has been expanded to include the area occupied by Tractor Supply Company. The subject property is across Highway 100 to the north from the eastern portion of the Sanders Industrial Park. The success of the existing industrial parks at Exit 6 serves as an encouragement to not only the current owner of the property but also to potential occupants in a new industrial park.

VIII

No current prospect exists, and the Petitioner intends to remain completely flexible for division of the property, but would expect to either sell the property in total for a large prospect or bisect the property with a road running northwardly from Highway 100 to create a tract or tracts on either side of the road. The property has long road frontage on Highway 100 which makes it suitable for easy division. All major utilities are available on Highway 100. Industrial sites will be in sizes determined by demand.

IX

Red Rock will protect the integrity of its property and development with restrictions and protective covenants similar to those utilized by the Franklin-Simpson Industrial Authority, to ensure only clean industrial operations in the park and to provide for significant green space.

X

The Simpson County Comprehensive Plan which was adopted in the Fall of 1994 recognized the importance of transportation to industrial development. At page 111, the Comprehensive Plan specifically points out that the areas of developing land use that have the strongest potential for further growth is around the I-65 interchanges. The 2010 Comprehensive Plan update echos the community desire to provide opportunities for good growth and good jobs.

CONCLUSIONS OF LAW

The re-zoning of the subject property to heavy industry is in agreement with the adopted Comprehensive Plan. A zone change is in order. The zone change request meets the criteria of KRS 100.213 and § 10.7 of the Franklin-Simpson Zoning Regulations, in that the map amendment is in agreement with the adopted Comprehensive Plan.

The Conceptual Development Plan presented is adequate for its purposes and is approved as a Conceptual Development Plan.

RECOMMENDATION

The Commission having adopted the foregoing Findings of Fact and Conclusions of Law, does now hereby recommend to the Franklin City Commission that the zone change request be approved and that the property described in the attached Appendix be re-zoned from B-5 and A-1 to I-2.

Chairman

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C:\Work\PROJECT\2008\08122\Legals\08122 Legal Tracts Five and Six.docx

STATE OF [redacted]
RECORDED AND
THADDAEUS J. LUCAS
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3569
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97412
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RED ROCK PARTNERS, LLC LEGAL DESCRIPTION
(Continued)

LESS THE FOLLOWING-DESCRIBED PROPERTY CONVEYED TO Commonwealth of Kentucky, Transportation Cabinet, Department of Highways by Master Commissioner's Deed dated January 18, 2017, of record in Commissioner's Deed Book 16, Page 685, Simpson County Clerk's Office, to-wit:

PARCEL NUMBER 10, TRACT A

Being a tract of land lying in Simpson County in the northeast quadrant of the intersection of KY 100 and Eddings Road, and more particularly described as follows:

Beginning at a point 66.73 feet left of KY 100 at Station 503+00.00 thence S 80° 57' 10" E 446.30 feet to a point 64.19 feet left of KY 100 at Station 507+45.49; thence S 11°48' 01" W 40,93 feet to a point 23.30 feet left of KY 100 at Station 507+43.78; thence along an arc 65.19 feet to the left, having a radius of 1175.00 feet, the chord of which is N 80° 14' 28" W 65.18 feet to a point 24.18 feet left of KY 100 at Station 506+7887;thence N 80° 38' 42" W 107.84 feet to a point 25.46 feet left of KY 100 at Station 505+71.06; thence N 81° 24' 34" W 37.93 feet to a point 25.41 feet left of KY 100 at Station 505+33.13; thence N 13° 10' 31" E 28.70 feet to a point 54.01 feet left of KY 100 at Station 505+35.38; thence N 83° 29' 12" W 29.83 feet to a point 52.89 feet left of KY 100 at Station 505+05.57; thence N 77° 28' 36" W 206.04 feet to the point of beginning, **containing 0.230 acre (10,037 square feet).**

It is understood between the parties hereto and made a covenant herein that the above-described property is conveyed in fee simple.

PARCEL NUMBER 10, TRACT B

Being a tract of land lying in Simpson County in the northeast quadrant of the intersection of KY 100 and Eddings Road, and more particularly described as follows:

Beginning at a point 59.68 feet left of KY 100 at Station 514+26.79; thence S 71° 00' 39" E 74.91 feet to a point 65.00 feet left of KY 100 at Station 515+00.00; thence S 65° 23' 00" E 401.82 feet to a point 65.00 feet left of KY 100 at Station 519+00.00; thence S 68° 02' 47" E 411.04 feet to a point 110.00 feet left of KY 100 at Station 523+00.00; thence S 48° 33' 54" E 306.07 feet to a point 60.00 feet left of KY 100 at Station 526+00.00; thence S 57° 48' 35" E 110.00 feet to a point 60.00 feet left of KY 100 at Station 527+10.00; thence S 57° 48' 35" E 41.37 feet to a point 60.00 feet left of KY 100 at Station 527+51.37; thence S 25° 17' 01" W 44.13 feet to a point 16.19 feet left of KY 100 at Station 527+56.68; thence N 63° 21' 12" W 136.18 feet to a point 3.03 feet left of KY 100 at Station 526+21.14;thence N 63° 51' 59" W 440.21 feet to a point 38.63 feet right of KY 100 at

Station 521+81.42; thence N 65° 33' 18" W 524.08 feet to a point 54.12 feet right of KY 100 at Station 516+53.75;thence 65° 19' 44" W 165.57 to a point 53.28 feet right of KY 100 at Station 514+87.14; thence N 5° 11' 59" W 128.09 feet to the point of beginning, **containing 3.254 acres (141,732 square feet).**

It is understood between the parties hereto and made a covenant herein that the above-described property is conveyed in fee simple.

PARCEL NUMBER 10, TRACT C

Being a tract of land lying in Simpson County in the northeast quadrant of the intersection of KY 100 and Eddings Road, and more particularly described as follows:

Beginning at a point 29.03 feet left of KY 100 at Station 528+88.98; thence N 25° 18' 25" E 31.20 feet to a point 60.00 feet left of KY 100 at Station 528+85.24; thence S 57° 48' 35" E 114.76 feet to a point 60.00 feet left of KY 100 at Station 530+00.00; thence S 61° 47' 56" E 120.29 feet to a point 68.37 feet left of KY 100 at Station 531+20.00; thence S 61° 47' 56" E 28.64 feet to a point 70.36 feet left of KY 100 at Station 531+48.57; thence S 19° 12' 10" W 15.21 feet to a point 55.54 feet left of KY 100 at Station 531+51.99; thence N 63° 45' 26" W 138.69 feet to a point 41.17 feet left of KY 100 at Station 530+14.06; thence N 63° 21' 12" W 125.66 feet to the point of beginning, **containing 0.128 acre (5,559 square feet).**

It is understood between the parties hereto and made a covenant herein that the above-described property is conveyed in fee simple.

The above description is taken from the plans of the above-mentioned highway project, the plans for which are incorporated by reference and are on file in the office of the Transportation Cabinet, Department of Highways, Frankfort, Kentucky. The acquisition of right-of-way for this project was authorized by Transportation Cabinet, Department of Highways, Official Order No. 108622. The control of access on this highway shall be by permit.

ALSO LESS THE FOLLOWING-DESCRIBED PROPERTY conveyed to the Simpson County Water District by deed dated October 10, 2016, of record in Deed Book 323, Page 589, Simpson County Clerk's Office, to-wit:

Beginning at an iron pin set on the north side of Kentucky Highway 100, varied right-of-way, said pin being 66.29 feet left of Station 530+90.24 of Highway 100 design centerline, new corner to Red Rock Partners, LLC (DB 295 Pg 365); thence leaving said right-of-way and across said Red Rock Partners, LLC for the next two (2) calls: (1) N 19° 06' 53" E 60.00 feet to an iron pin set, (2) S 61° 47' 55" E 60.00 feet to an iron pin set in the line of Eddie Hammock as recorded in Deed Book 183, Page 104; thence along the line of said Hammock S 19° 06' 53" W 60.00 feet to an iron pin set on said north right-of-way of Kentucky Highway 100, said pin being 70.47 feet left of Station 531+50.10 of Highway 100 design centerline; thence along said right-of-way N 61° 47' 55" W 60.00

feet to the point of beginning, **containing 3,554.8 square feet, more or less.** Unless stated otherwise, any monument referred to herein as an iron pin set is ⅝" rebar 18" in length with plastic cap stamped K. Crowe #3375. All bearings are based on Geodetic North by G.P.S. observations dated February 27, 2016.

Being a part of the same property conveyed to Red Rock Partners, LLC by Garvin's, LLC by deed dated November 21, 2011, of record in Deed Book 295, Page 365, Simpson County Clerk's Office.

FRANKLIN - SIMPSON COUNTY
PLANNING & ZONING COMMISSION

IN RE: ZONE CHANGE REQUESTED BY RED ROCK, LLC, TO CHANGE B-5, INTERSTATE BUSINESS TO I-2, HEAVY INDUSTRY

*** *** *** ***

TRANSCRIPT OF PROCEEDINGS
DATE: AUGUST 1, 2017

*** *** *** ***

JAMES A. DALE, JR., INC.
REGISTERED PROFESSIONAL REPORTER
P.O. BOX 392
BOWLING GREEN, KY 42102-0392

INDEX

The TRANSCRIPT OF PROCEEDINGS, taken pursuant to notice heretofore filed, in the First Floor Meeting Room, Simpson County Courthouse, Main Street, Franklin, Simpson County, Kentucky, on Tuesday, August 1, 2017, at 6:35 p.m.

*** *** *** ***

APPEARANCES

Commissioners present:
Carter Munday, Chairman
Mark Andrews
Pat Jones
Chad Konow
George Weisinger
Debbie Thornton
Gary Sliger

Staff Present:
Joseph Perry, Building Inspector
Julie Freeman, Administrator

For the Franklin - Simpson County Planning & Zoning Commission:
Robert Young Link
205 West Kentucky Avenue
P. O. Box 474
Franklin, KY 42135-0474

For the Applicant:
G. William Leach, Jr.
Leach & Cummins
200 North Main Street
P. O. Box 425
Franklin, KY 42135-0425

*** *** *** ***

CHAIRMAN MUNDAY: Call the meeting to order, Franklin-Simpson Planning & Zoning Commission at 6:32

p.m. August 1st, 2017, here at the courthouse meeting room.

First item on the agenda is the approval of the July 11th meeting minutes. The floor is open for a motion.

COMMISSIONER JONES: Make a motion we approve.

CHAIRMAN MUNDAY: Motion by Jones.

COMMISSIONER WEISINGER: Second. Second.

CHAIRMAN MUNDAY: Your name, sir.

COMMISSIONER WEISINGER: George Weisinger.

CHAIRMAN MUNDAY: Mr. Weisinger. Second by Mr. Weisinger. All in favor. (Indicating). Motion carries. Next item; we don't have any old business to attend.

New business tonight; we have one item on the agenda, the public hearing. We have a zone change requested by Red Rock, LLC, to change B-5 interstate business to I-2, heavy industry, north side of highway 100 east of Exit Six interchange.

First of all with this public hearing as we start this; always prior to go through some ground rules so we don't have a lot of confusion.

Let me ask. Who is here tonight in opposition? Just one person?

MR. MALINOWSKI: Two of them.

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1 CHAIRMAN MUNDAY: Okay. The two of you all. Okay.
2 What we'll do is -- I'm under the impression that I
3 believe counsel is present --
MR. LEACH: Yes.
CHAIRMAN MUNDAY: -- representing the Petitioner. The
6 Petitioner will have the floor, and they will be calling
7 witnesses. Witnesses will have to be sworn in. After
8 testimony you'll get the opportunity to question any of
9 the testimony that's been brought forth, cross-examine
10 the witness if you wish.
11 At which time then the petitioner will relinquish
12 the floor, and you'll have an opportunity to speak. I
13 want to urge you when you speak kind of direct your
14 argument or your questions or any witnesses toward the
15 aspect of --
16 This board makes a recommendation to the city or
17 county governing body for a zone change. That's all it
18 is. We're not making a zone change. We're making a
19 recommendation.
20 And I stress this a million times. When you aim
21 your objective of what you're trying to put a point to
22 in your testimony, aim it at the zone change aspects,
23 not what's going to be going in or what's goes to be
24 taking place or any of that. Because that's -- This
25 board doesn't have anything to do with that. All we do

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1 is make a zone change recommendation, and we need
2 information based strictly on zone change information.
3 That's basically what we want to hear tonight. Okay?
4 Any questions about that?
5 MR. MALINOWSKI: No, not right --
6 CHAIRMAN MUNDAY: Okay. Now, once -- The Petitioner
7 will get an opportunity to end anything in terms of, if
8 they've got a findings of fact; we usually require that.
9 They'll present that, and the board will have an
10 opportunity to read that.
11 If you have any closing comments you'd like to
12 make, you can at that point. We ask if you base any
13 facts, you'll to be sworn in first. Okay. If you call
14 any testimony from witnesses, you know, they'll have to
15 be cross-examined. But before that testimony takes
16 place they'll have to be sworn in as well. Any
17 questions about that?
18 MR. MALINOWSKI: No.
19 CHAIRMAN MUNDAY: Okay. All right. We'll proceed on
20 with this zone change. Mr. Leach, you have the floor.
21 MR. LEACH: Mr. Chairman, Members of the Commission,
I'm Buddy Leach, and I represent Red Rock Partners on
23 this zone change request. And I think you know that the
24 property is located on the north side of highway 100
25 which is at the Exit Six interchange.

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1 To get you acclimated, I'd like to make
2 Petitioner's Exhibit 1 an aerial photo of the area. I
3 will ask Mr. Dale to mark that while I pass it out.
4 (Petitioner Exhibit 1 was duly marked for
5 identification).
6 MR. LEACH: Here's one here.
7 CHAIRMAN MUNDAY: Would you like to see a copy of
8 this?
9 MR. MALINOWSKI: Please.
10 CHAIRMAN MUNDAY: You don't have any problem with
11 that.
12 MR. LEACH: Uh-uh. (Shaking head negatively). So the
13 background of this -- This could be long and rambling,
14 but remember, this is some of the Garvin property. You
15 notice that the middle right there I've got Red Rock.
16 That's the 187 acres that we seek to rezone. I've
17 outlined it in bold so you know the property there.
18 It's just north of highway 100 and east of
19 Eddings Road. The Henderson Industrial Park is on the
20 west side of Eddings Road and actually kind of to the
21 north. Some of it is to the east of Eddings Road as
22 well. And you see the interchange there.
23 The Sanders Industrial Park is to the south. And
24 as you probably know it's full or about full. I didn't
25 show every industry there, but I showed Tractor Supply,

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1 Camping World just to get you oriented there. And then
2 in Henderson Park Garvin Pointe apartments are going up
3 there at the corner of Eddings Road.
4 And then actually we have 10.2 acres under
5 contract for a hotel and convention center just west of
6 that which would be on the east side of Garvin Road.
7 And then Sumitomo which is new, you see where
8 that is. We also have a prospect for 30 acres across
9 the road from Sumitomo that's a pretty hot prospect. I
10 think today is the first day that Hunt Ford is open at
11 its new location.
12 Hunt Ford actually has two sites there. They
13 have a vacant lot to the south. I put Hunt Ford Future,
14 because when they acquired that, they acquired two
15 sites. There's potential for another dealership to the
16 south if the one out there does well.
17 And then we also have a -- I don't want to say
18 too much, but a really nice project for a proposed
19 60-acre site there at the north end of the industrial
20 park.
21 So Red Rock acquired this property in the Fall of
22 2011 as did the industrial authority; purchased its
23 property in the Fall of 2011 at an auction sale that
24 David Garvin had. Red Rock purchased -- And its
25 property is zoned B -- Most of it is zoned B-5.

9

1 I notice from the zoning map some of it is still
2 zoned AG. It was just, it was zoned just like the
3 property the industrial authority purchased which was
B-5, interstate business.
A few years ago the industrial authority got its
6 acreage or at least means it zone to I-2 for the
7 development of the industrial park. And now Red Rock,
8 seeing that Henderson Park is filling up, just wants to
9 get its zoned as well in case a prospect comes along.
10 It has no prospect now. It would just be open to
11 what prospect may come but just wanted to kind of get it
12 lined up, get the zoning right, because this process can
13 take a few months to do.
14 All the utilities are available out there.
15 That's a pretty significant thing, because water and
16 sewer for an industrial prospect is a pretty big ticket
17 item. It can be very extensive to run, and that is out
18 there. The city and the county have worked together to
19 get it out there.
20 As you know there's a TVA substation in that
21 direction for power. Fiber optics is there. So the
22 utilities are at the site, and so it makes it -- And, of
23 course, this site is, as you can see, can probably tell
24 from the aerial that it's in cultivation. It's fairly
25 level. It would be a good site for an industrial

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1 prospect with minimal land preparation costs.
2 Kent or Red Rock purchased 190 acres, and the
3 state took about three acres off the front for the
4 widening of the road. And at the extreme southeast
5 portion he recently sold a little tract for the water
6 district. The water district put in a new pump station
7 there.
8 So that, this is the property we seek to rezone.
9 It's about 187 acres. So I'd like to call my first
10 witness, and that's Kent Kelly.
11 CHAIRMAN MUNDAY: Okay. Mr. Kelly, we'll need to have
12 your sworn in. Mr. Dale, if you don't mind, please.
13 KENT KELLY, called on behalf of the Petitioner,
14 being first duly sworn, was examined and testified as
15 follows:
16 EXAMINATION
17 BY MR. LEACH:
18 Q. Ken, are you one off the owners of Red Rock
19 Partners --
20 A. **Yeah.**
21 Q. -- LLC?
A. **Yes, sir.**
23 Q. You heard my opening statement to the Commission.
24 Did I misstatement anything --
25 A. **No.**

11

1 Q. -- too badly?
2 A. **No, sir.**
3 Q. So this is property that your partnership bought
4 in 2011, and you've been farming it, now farming it
5 today. Correct?
6 A. **Correct.**
7 Q. And is it your intent or desire to get this
8 rezoned just to bring it into conformity with the
9 industrial authority's Henderson Park so that if you
10 have an opportunity to sell you can?
11 A. **That's correct.**
12 Q. Do you have any prospects at this time?
13 A. **No, not at this time.**
14 Q. So you don't have any preconceived ideas of how
15 you would split it up, put a road in or anything like
16 that at this time.
17 A. **No, sir.**
18 Q. Okay. As far as you know are all the utilities
19 available at the site?
20 A. **Yes, sir.**
21 Q. Okay. You've done some spec building. You've
22 dabbled in industrial development yourself, haven't you?
23 A. **Yes, sir.**
24 Q. Does the property lie in a favorable way for land
25 development?

12

1 A. **Very much so.**
2 Q. Okay. Do you have any plans to use the Eddings
3 Road for any of this?
4 A. **No, sir.**
5 Q. Okay. Are you aware that there may be some
6 buffer requirements, and are you willing to comply with
7 whatever buffer requirements there might be around you?
8 A. **Yes, sir.**
9 Q. I noticed one of the persons here that's
10 concerned about it owns property to the east. I think
11 that's zoned AG. What kind of fence line is this
12 between you and your neighbors?
13 A. **If I'm not mistaken he's got a high tensile**
14 **fence, maybe a fence rail. I'm not for sure which**
15 **neighbor you're talking about.**
16 Q. Okay. But whatever buffer requirements there
17 might be --
18 A. **Yes.**
19 Q. -- you're willing to abide with that.
20 A. **(Nodding head affirmatively).**
21 Q. Having held the property for going on six years
22 now, I guess you're not in any necessary hurry to sell
23 it, are you?
24 A. **No, sir.**
25 Q. Would you be willing, would you be looking for a

1 desirable --
2 A. **Yes, sir.**
3 Q. -- tenant or purchaser?
A. **Yes, sir.**
Q. And you're aware, I think, of the I-2
6 requirements on smoke, dust, noise, all of those kind of
7 things?
8 A. **(Nodding head affirmatively).**
9 Q. You would abide by those?
10 A. **Yeah. (Nodding head affirmatively).**
11 Q. The industrial authority has restrictions on its
12 property, and we've discussed that. I think you're
13 generally willing to just go with that.
14 A. **Yes, sir.**
15 MR. LEACH: Mr. Chairman, I don't have any other
16 questions of this witness. Maybe others do.
17 CHAIRMAN MUNDAY: Have you got any questions for the
18 witness, sir? First of all I need you to state your
19 name for the record if you don't mind, please.
20 MR. MALINOWSKI: This is Karen Kemp. She's the
21 trustee owner, and I'm her husband, Ray Malinowski. Can
22 somebody define the buffer requirements that are, I
23 guess, in the code to me?
24 MR. LEACH: For I-2 property that adjoins AG, it's a
25 six-foot either fence or greenery.

1 MR. MALINOWSKI: Six foot --
2 MR. LEACH: Tall.
3 MR. MALINOWSKI: -- height.
4 MR. LEACH: Tall.
5 MR. MALINOWSKI: Tall.
6 MR. LEACH: Uh-huh.
7 **E X A M I N A T I O N**
8 BY MR. MALINOWSKI:
9 Q. What is the proximity of the eastern border of
10 this 187 acres to Loving Chapel Road? How close are you
11 to Loving Chapel Road on your eastern border?
12 A. **I can't answer that. I haven't --**
13 MR. LEACH: I mean like a couple tenths of a mile or
14 half mile or something.
15 MR. DUNNING: Several farms in between them.
16 A. **Yes, yes.**
17 Q. So you -- Should I ask if Red Rock owns the
18 other? You know, I have 120 acres on the corner of
19 Loving Chapel Road and 100.
20 A. **Yes, sir.**
21 Q. Do you own the property that butts right up to my
western border?
23 A. **No, sir.**
24 Q. Okay. Do you know the space that's there?
25 A. **Mr. Dunning might. I don't.**

1 MR. DUNNING: Not without looking at the plat.
2 Q. I can't tell on some of the aerial photography
3 where we're at exactly in relation to our farm.
4 MR. LEACH: I think it joins your farm. I think it
5 joins the property Miss Kemp is the trustee of.
6 MR. MALINOWSKI: It does join.
7 MR. LEACH: Uh-huh.
8 MR. MALINOWSKI: Okay. That's what I came here
9 thinking, but I can't --
10 MR. LEACH: Yes.
11 MR. MALINOWSKI: Okay. I can't object to you doing
12 what you want with your property to inflate the value.
13 But you should also realize that whatever you're doing
14 probably to inflate will seriously deflate the value of
15 our property.
16 You know, it's an agricultural setting now and it
17 has been, you know, for centuries, I guess. And we have
18 a cemetery there, you know, and certain things.
19 And would a consideration, you know, I'll throw a
20 consideration out that the buffer that, if you do build
21 and sell industrial property there, if you do a very
22 enhanced buffer, it may be a hundred feet or something
23 along the property line to separate the ag people from
24 the factory people.
25 MR. LEACH: Let me interject that, too. The buffer

1 would be right on the property line. There will be
2 setbacks. So there won't be buildings like right up to
3 the property line.
4 MR. MALINOWSKI: Right. But still you, you know, you
5 encounter noise and view a site of semis or whatever
6 there is.
7 MR. LEACH: Well, realize --
8 Q. I can't, you know, I can't control that. But I'm
9 asking if that should be a consideration.
10 A. **I was born and raised here. My mother and daddy**
11 **is here. My grandparents is here. My children are**
12 **here. So I won't do anything to degrade anybody else's**
13 **property like I wouldn't want anybody to do mine. So --**
14 MR. MALINOWSKI: Uh-huh.
15 MR. LEACH: One other point, too; it's zoned B-5 now
16 which is interstate business. There could be motels,
17 hotels, restaurants. Across the fence a factory with
18 lot of green space might be more desirable than a motel.
19 MR. MALINOWSKI: When I came here I didn't know it was
20 zoned B-5. I thought it was still agriculture. That's,
21 B-5 is like commercial. Is that correct?
22 MR. LEACH: Well, it's interstate business.
23 MR. MALINOWSKI: Interstate business.
24 MR. LEACH: Uh-huh. I guess that's enhanced business.
25 Q. Well, I'm not going to -- I can't oppose him. I

1 mean it's his property and he can do what he wants as
2 long as consideration, I think, for the whole
3 neighborhood; not himself.
A. **Yes, sir. I understand.**
Q. That depending on -- We've got enough traffic on
6 100 now, and this will definitely add to it. They
7 didn't really widen the road big enough for a whole lot
8 more. So --
9 MR. LEACH: He has quite a track record for
10 development in Simpson County, and I think it all speaks
11 well. So I know you haven't been here that long. I
12 know he's been here a long time, and I think most of the
13 people here know him, too.
14 MR. MALINOWSKI: Uh-huh.
15 MR. LEACH: You know, you put some faith in a person's
16 background and what they've done previously. So I think
17 you have good reason to believe that you'll have a good
18 neighbor there.
19 MR. CARVER: Can I say something, too?
20 CHAIRMAN MUNDAY: Are you going --
21 MR. LINK: You'll have to be sworn.
22 CHAIRMAN MUNDAY: Are you going to state a fact or --
23 MR. CARVER: Yeah, just a fact.
24 CHAIRMAN MUNDAY: You'll have to be sworn in, David.
25 **DAVID CARVER**, called on behalf of the Petitioner,

1 being first duly sworn, was examined and testified as
2 follows:
3 MR. CARVER: I just wanted to say, I think industrial
4 board and the people here that's doing these jobs and
5 stuff, to give you a better feeling about what's going
6 on, it could be -- Whatever happened could only be maybe
7 one thing, because they can, if it's a company now, like
8 Chris Winter, to come and put one building on 200 acres,
9 you know, or something like that.
10 And I know in some of the stuff that we've done
11 in industrial parks and stuff we're nowhere near close
12 to a house. You know, they leave a great deal of buffer
13 and land, you know, between that and even if there is
14 multiple buildings going up beside.
15 So I just wanted to say that, you know, to make,
16 help you feel better about it.
17 MR. MALINOWSKI: Uh-huh.
18 MR. CARVER: They're doing a great job about buffers
19 and not, you know, like I said. And I like the idea of
20 a company coming and using 200 acres to put one plant
21 on.
So I just, you know, it hopefully would be
23 something like that. But if it's multiple, like I said,
24 I think they're doing a great job on buffers and things.
25 When we say six foot high fence, that's a fence there.

1 And a hundred foot, 200 foot away or 300 foot away or
2 half mile might be a building then.
3 That's just, you know, the -- So I just want to,
4 you know, just say something to you there, because I
5 really feel good about what they're doing with their
6 buffers.
7 And they don't, they don't come in here and tend
8 to hurt somebody else's property values or anything. So
9 I've really, really watched and seen what they've been
10 doing with it. And they've been doing a good job.
11 Okay. Thank you.
12 CHAIRMAN MUNDAY: David Carver.
13 MR. LINK: Did you get his name for the record?
14 THE REPORTER: David Carver.
15 CHAIRMAN MUNDAY: Yes, ma'am.
16 MS. KEMP: I'm Karen Kemp. I just have a couple of
17 questions.
18 CHAIRMAN MUNDAY: Okay.
19 **EXAMINATION**
20 BY MS. KEMP:
21 Q. Probably kind of stupid questions. But if
22 something is zoned heavy industrial, that doesn't
23 predispose it to just be sold to that type of -- I mean
24 you can, you can sell it to somebody that would still be
25 light industrial or interstate business. Correct? It

1 doesn't force you to --
2 COMMISSIONER THORNTON: (Nodding head affirmatively).
3 MS. KEMP: Okay. Then I got the impression that there
4 are existing, maybe like emissions and noise regulations
5 for development in the county already.
6 CHAIRMAN MUNDAY: Yes, ma'am.
7 MR. LEACH: Uh-huh.
8 MS. KEMP: Is there a copy of those restrictions or --
9 MR. LEACH: The zoning regs have a whole list of
10 those.
11 MR. KEMP: Who does?
12 MR. LEACH: The zoning regulations have a whole list
13 of those. And if you're in an I-2 zone you can't have
14 smoke, dust, noise, a whole bunch of parameters for
15 those kind of things. So anything in an I-2 zone would
16 have to abide by those.
17 COMMISSIONER THORNTON: Smell.
18 MR. LEACH: What I was trying to get to earlier, even
19 if something were to comply with that, I have a feeling
20 he'd be more restrictive than that. I mean we'd rather
21 make Apple iPhones probably than, you know, dog food or
22 whatever.
23 So I think you have an owner that's likely to be
24 more self-imposing restrictions than most others or some
25 others. But it is in the regs. There's parameters for

1 that.
2 MS. KEMP: I don't know. Where could I get a copy?
3 Do you have it?
MR. MALINOWSKI: Well, they have it online.
MR. LEACH: They're actually available online.
6 MS. KEMP: Okay.
7 CHAIRMAN MUNDAY: Anybody have anything else?
8 MS. KEMP: No, sir.
9 MR. MALINOWSKI: I just want to say one more thing.
10 We grew up or I grew up in a town with a gasohol plant.
11 I can assure everybody in this room you don't want one
12 of those.
13 COMMISSIONER SLIGER: We've had one.
14 CHAIRMAN MUNDAY: We had one.
15 MS. FREEMAN: Been there and done that.
16 MR. MALINOWSKI: It was not so good. Not every day
17 was bad, but a lot of days were bad.
18 COMMISSIONER THORNTON: Lot of smells.
19 MR. LEACH: Depends on which way the wind is blowing,
20 right?
21 MR. MALINOWSKI: Yes.
22 MR. LEACH: I have one other witness. Call Dennis
23 Griffin.
24 CHAIRMAN MUNDAY: Mr. Griffin, you'll have to be sworn
25 in, sir. Mr. Dale, if you don't mind, please.

1 **DENNIS GRIFFIN**, called on behalf of the
2 Petitioner, being first duly sworn, was examined and
3 testified as follows:
4 **EXAMINATION**
5 BY MR. LEACH:
6 Q. Mr. Griffin, you're the executive director of the
7 industrial authority, aren't you?
8 **A. Yes.**
9 Q. And are you aware of, were you aware of the zone
10 change request by Red Rock?
11 **A. Yes.**
12 Q. And is that something that, that you're in favor
13 of or opposed to it or what?
14 **A. Very much in favor of.**
15 Q. Okay. Is it something -- And you worked with Mr.
16 Kelly in the past for building spec buildings and other
17 industrial parks and those kinds of things, aren't you?
18 **A. We've worked with Kent regarding Camping World,**
19 **also when Sun Products was in town; both of those in the**
20 **Sanders Park. And then recently he built a very nice**
21 **spec building which we have some clients for also on the**
22 **Sanders Park.**
23 Q. So is this, is the property he has something that
24 you would probably help him market or be involved in
25 perhaps the industry might locate there?

1 **A. Yes.**
2 Q. And if it required some subdivision of road and
3 so forth, you'd probably be involved in that as well?
4 **A. Yes. At some point in time, you know, different**
5 **industries, we, this property would be eligible for --**
6 **for instance Kentucky industrial access road incentive,**
7 **state incentives, things like that. So we would be very**
8 **much involved.**
9 Q. Now, when the industrial authority acquired the
10 Garvin property, it seemed like a bottomless pit of
11 available industrial property.
12 **A. Uh-huh.**
13 Q. But are you running low on large sites now?
14 **A. We are. When we purchased that we were very**
15 **close to closing out on the Sanders Park. We had**
16 **bought, you know, phase two -- which, you know, phase**
17 **one wasn't pretty quickly.**
18 **We bought an area for phase two and thought that**
19 **would last several years. And Tractor Supply came along**
20 **and took 94 acres and suddenly that 120-acre farm was**
21 **gone. So pretty much.**
22 **So the auction, you know, where we acquired the**
23 **Garvin property, that was, came along at a very good**
24 **time. It gave us an additional 451 acres. But we're,**
25 **we have sold about a hundred of that so far and have**

1 **commitments, as Mr. Leach mentioned, for another ten.**
2 **So we're now and we still have quite a bit of**
3 **land left. But as he mentioned -- And I can't go into a**
4 **lot of details. But we are working with a company very**
5 **similar in nature to Tractor Supply. We're one of two**
6 **communities that they're looking at.**
7 **And we have one site left in the park that would**
8 **be suitable for them, 60-acre site. If they were to**
9 **take that, then it limits our ability to attract another**
10 **major, very nice distribution center. So that's why we**
11 **have a strong interest in what Mr. Kelly is doing with**
12 **his property.**
13 Q. Would you speak about the utilities? I know
14 that's obviously a big ticket item in any industrial
15 park, any development for this matter.
16 **A. Yeah. Years ago when we first developed -- You**
17 **know, we developed the Wilkey North Industrial Park**
18 **first. Then, because it had rail and had, you know,**
19 **some really nice land.**
20 **And I think we acquired 106 acres initially from**
21 **the Thornton family and then an additional 120 acres, I**
22 **think, what's known as the Baker farm.**
23 **And, of course, all of that land, all of that**
24 **development is done. But as we were developing that**
25 **and, again, it was prime property and had rail and**

1 everything.
2 We noted that a lot of people wanted to be out by
3 the interstate. And this is when we started seeing a
need for distribution in this area, you know, that type
of thing.
6 So we worked with EDA administration, got a
7 million dollar grant for a sewer, worked with, you know,
8 the various utility companies. Because industrial
9 utilities are quite different that what you have to have
10 for a subdivision.
11 You know, you typically have to have 12-inch, ten
12 to 12-inch sewer. We've got 10 to 16-inch water lines
13 out there, high pressure gas, you know, those time of
14 things.
15 So that's another interest in the, what Kent is
16 looking at with his property, because those utilities
17 are very hard to come by. And where we were able to get
18 quite a bit of funding back 10, 15 years, you know, a
19 lot of those funds are not available any more.
20 Or the EDA was a hundred percent grant at that
21 time. And now because of our status and just changes
22 with the EDA, it's a 50/50 match. So if we were going
23 to do another million dollar project, we'd have to come
24 up with half a million dollars just to match it.
25 So that's why those utilities are very crucial

1 out in that area.
2 Q. Now, there's road work going on out there, too.
3 But has the industrial authority looked into maybe
4 traffic lights or some kind of traffic control in the
5 area?
6 A. My chairman, who is Gary Broady, Gary and I met
7 with Joe Plunk with the, who's the district highway
8 engineer. And we talked to him about a traffic light.
9 Hopefully, you know, the first one being at Garvin and
10 Page Drive, at that intersection.
11 Joe had some commitments, but he said that they
12 would do a survey in September. And he felt like with
13 all the activity going on that they would be able to
14 fund a traffic light, that the traffic would warrant
15 that.
16 However, we did discuss at our last board meeting
17 that if for some reason the numbers weren't there, the
18 industrial authority would probably go on and purchase
19 the traffic light, $50,000.
20 But we feel like that it's, you know, it's
21 needed. And it's time. So we're waiting for the that
survey. Hopefully there will be some funding for that.
23 If not, we plan on going with a traffic light there.
24 MR. LEACH: That's all the questions I have. If any
25 of you have any other questions --

1 CHAIRMAN MUNDAY: Like to cross-examine the witness?
2 MR. MALINOWSKI: No thank.
3 CHAIRMAN MUNDAY: Does anyone else have any questions
4 about the testimony? You'll have to state your name for
5 the record.
6 MS. GREGORY: Rhonda Gregory. I live somewhere in the
7 middle of this. I don't know exactly which one, 4294
8 Scottsville Road.
9 CHAIRMAN MUNDAY: Miss Gregory, if you're going to
10 make a statements that are true --
11 MS. GREGORY: Uh-huh.
12 CHAIRMAN MUNDAY: -- with your statement, I'll have to
13 have your sworn in.
14 MS. GREGORY: That's fine.
15 CHAIRMAN MUNDAY: Are you going to make statements?
16 MS. GREGORY: Yeah.
17 CHAIRMAN MUNDAY: Okay. If you don't mind, Mr. Dale,
18 if would.
19 **RHONDA GREGORY**, called on behalf of the
20 Opposition, being first duly sworn, was examined and
21 testified as follows:
22 MS. GREGORY: Okay. My thing is I'm in the middle of
23 this, and I'm not sure if I'm number 44 or 34 down here.
24 But --
25 MR. LEACH: You're 34.

1 MS. GREGORY: Am I 34?
2 MR. LEACH: Uh-huh.
3 MS. GREGORY: Okay.
4 MR. LEACH: 44 is the Kepleys.
5 MS. GREGORY: Okay. That's what I thought. But
6 they've recently sold, correct?
7 MR. LEACH: I don't know.
8 MS. GREGORY: Okay. But if factories do come in, I
9 mean would they -- I don't know how I'm wanting to ask
10 it. I mean I just own like eight tenths there, of
11 course, I've got my house.
12 But with all the noise that we already have with
13 100, the traffic and everything, I mean how close is --
14 Can they come as close as six foot from the line? Is
15 that what I understood you all to say a while ago from
16 my property line.
17 MR. LEACH: Six foot was the height of the fence that
18 would be erected, a buffer fence, like a plank fence or
19 a row of pine trees. The set back, Bob, do you have
20 there?
21 MR. LINK: Is 100.
22 MR. LEACH: 100 feet.
23 MS. GREGORY: Okay.
24 MR. LEACH: So there wouldn't be any building closer
25 than that.

1 MS. GREGORY: Okay.
2 MR. LEACH: Now, one thing it observed about your
3 property, it's there in the bottom right. There's so
little distance between your property and his east
boundary line. There wouldn't be any improvements put
6 there, because it's just too small an area.
7 MS. GREGORY: Okay.
8 MR. LEACH: So basically you're not going to have
9 anything on the east side. So whatever you might have
10 would be out to the north or perhaps to the west.
11 MS. GREGORY: Okay. All right. I'm just trying to
12 figure out a little bit more what's going on. Thank
13 you.
14 MR. GRIFFIN: One thing I'd also like to point out;
15 that we were very pleased with our parks, I think our
16 covenants call for a 50 percent land to building
17 parking, things like that.
18 So we have a lot of green space, and that's one
19 thing we discussed with Mr. Kelly here, agreed with;
20 that we'd want to continue that. There's no reason, you
21 know, an industrial park can't look nice. And so we
22 were pleased that he wanted to continue that with his,
23 his plans.
24 CHAIRMAN MUNDAY: Any other questions?
25 COMMISSIONER JONES: Kent, that 44 property, that was

1 the Henry Stratton property, right.
2 MR. KELLY: No, sir. That's Ricky Kelly.
3 COMMISSIONER JONES: But Henry, that's what he did,
4 though, right.
5 MR. KELLY: No. His is up where the apartments are.
6 COMMISSIONER JONES: Where the apartments are.
7 MR. KELLY: Yes.
8 MR. LEACH: Henry owned to the west of Eddings Road.
9 COMMISSIONER JONES: Okay.
10 MR. LEACH: You can almost see where it says 30-acre
11 prospect right below that. It looks like a pond and so
12 forth. That was part of his property in there.
13 COMMISSIONER JONES: Okay. Got you.
14 CHAIRMAN MUNDAY: If there's no more questions for the
15 witness, I'll excuse the witness.
16 MR. LEACH: Mr. Chairman, I don't have any other
17 witnesses to present. I'll just make a short closing by
18 saying that I believe this project is consistent with
19 the Comprehensive Plan which projects industrial
20 development on major arteries.
21 It's adjacent to an existing industrial park.
Utilities are all available, and so I think it's
23 consistent with the Comprehensive Plan and something
24 that should be adopted.
25 CHAIRMAN MUNDAY: Do you have any findings of fact?

1 MR. LEACH: I do.
2 MR. LINK: Buddy, one thing I'm just curious about
3 after everyone has given their testimony and the
4 questions. There have been references to the rules and
5 regulations that the industrial boards apply to
6 properties, on their properties. Have you all -- I'm
7 just asking this on behalf of the board. Have they
8 talked about any type of limitations or restrictions
9 similar to what --
10 MR. LEACH: We don't have a draft, but we did talk
11 about that. And I think Red Rock wants its development
12 to be consistent with the industrial authority. If you
13 look at the industrial authority restrictions, they
14 pretty much parrot requirements in the I-2 regulations.
15 MR. LINK: Okay.
16 MR. LEACH: Plus have the green space requirement.
17 MR. LINK: All right.
18 CHAIRMAN MUNDAY: All right. Is there any other
19 questions? I'll give you --
20 COMMISSIONER ANDREWS: Where is the boundary here
21 where it's cut off on the black? Is it just a fence row
22 that goes on up here and joins or --
23 MR. LEACH: Yeah. That's just a fence row, and that's
24 where it joins Ms. Kemp's property.
25 COMMISSIONER ANDREWS: Okay.

1 MR. MALINOWSKI: Sir.
2 MR. LEACH: Yes.
3 MR. MALINOWSKI: Is there any potential for railroad
4 spur that would be brought into this area?
5 MR. LEACH: I'd say it would probably be zero.
6 MR. GRIFFIN: It's too far away. It would be cost
7 prohibitive. But we knew that going in, but there are a
8 lot of industry, a lot of distribution centers that
9 require rail.
10 CHAIRMAN MUNDAY: Okay. Thank you, Dennie. Well,
11 I'll give the board a few minutes to read through the
12 findings of fact and any closing argument from anybody,
13 opposition. Then we'll go ahead and render a
14 recommendation from the board.
15 COMMISSIONER SLIGER: So is a portion of this land in
16 agriculture zone now?
17 MR. LEACH: A little bit of it is, yes. I thought it
18 was all B-5. When I looked at the zoning map yesterday
19 I noticed that some of the southern portion on highway
20 100 is still AG.
21 MR. LINK: Is that just on the map itself? Didn't
22 Garvin have everything he owned rezoned?
23 MR. LEACH: That's why when I prepared the petition I
24 prepared it all B-5, because we intended to rezone the
25 whole thing B-5. But like I say, when I looked at the

1 map yesterday some of it wasn't B-5. But it's A-1.
2 I've got a copy of the map if I can put my
3 fingers on it. Here's a portion of the map. So this
portion right here is still A-1 according to the map.
This is B-5. This is I-2, the Henderson farm.
6 MR. LINK: Why in this world would that not have got
7 included?
8 MR. LEACH: See, I think it was meant to be and maybe
9 it was just an overlay or something with the --
10 CHAIRMAN MUNDAY: That's got an overlay issue.
11 MR. LEACH: So anyway that's why when I did the
12 findings I went back and changed it to make it B-5 into
13 A-1.
14 CHAIRMAN MUNDAY: Everyone had an opportunity to look
15 through it? Any discussion?
16 MR. LINK: Buddy, I'm looking at the property
17 description that's attached. It looks like they have --
18 Is this the original survey?
19 MR. LEACH: It is.
20 MR. LINK: When Garvin --
21 MR. LEACH: I was going to comment about that. It's
22 really long, because, you know, it goes around the
23 Kepley property. It goes around the Goodrum property.
24 It goes around Miss Gregory's property.
25 And then what I typed is the off conveyances to

1 the highway department for widening of the road. There
2 are a couple of those. And then also Red Rock sold to
3 the water district a tract as well.
4 MR. LINK: Okay. I just now figured out. I saw one
5 that I thought was an additional tract, and I just
6 wanted to make sure. So all of these are off
7 conveyances.
8 MR. LEACH: Right. It's originally 190.7, and there's
9 approximately 3.7 sold off.
10 COMMISSIONER THORNTON: May I ask a question?
11 CHAIRMAN MUNDAY: Sure.
12 COMMISSIONER THORNTON: Eddings Road, is it a dead
13 end?
14 MR. LEACH: Yes.
15 COMMISSIONER THORNTON: Okay. And is there only one
16 house on that? Is that a 48?
17 MR. LEACH: I think there are two houses. Jim Goodrum
18 lives on, at 49, and then Mr. and Mrs. Brasil have the
19 smaller tract.
20 COMMISSIONER THORNTON: Okay. That's 40. That's a --
21 Okay.
MR. LEACH: That's 40.01.
23 COMMISSIONER THORNTON: Yeah.
24 CHAIRMAN MUNDAY: Any other questions? The floor is
25 open for a motion.

1 COMMISSIONER SLIGER: I make a motion that we
2 recommend to rezone it to I-1 from B-5.
3 MR. LINK: They has asked for I-2.
4 COMMISSIONER SLIGER: Okay. I-2 is what I meant to
5 say.
6 MR. LINK: And then as part of your motion do you move
7 that we adopt the findings of fact and conclusions of
8 law that have been tendered.
9 COMMISSIONER SLIGER: Yes, sir.
10 CHAIRMAN MUNDAY: Motion on the floor. Do I hear a
11 second?
12 COMMISSIONER THORNTON: I second Gary's motion.
13 CHAIRMAN MUNDAY: Okay. There's a second by Miss
14 Thornton. All in favor.
15 COMMISSIONERS: (Indicating).
16 CHAIRMAN MUNDAY: Motion is unanimous. This concludes
17 the hearing. Take a five-minute recess. Thank you, Mr.
18 Dale.
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25

1 STATE OF KENTUCKY)
) SS.
2 COUNTY OF WARREN)

3 I, James A. Dale, Jr., a Notary Public, within and
4 for the State of Kentucky, do hereby certify that the
5 foregoing **TRANSCRIPT OF PROCEEDINGS**, was taken before me
6 at the time and place and for the purpose in the caption
7 stated; that the said witnesses were first duly sworn to
8 tell the truth, the whole truth and nothing but the
9 truth; that the Transcript of Proceedings was reduced to
10 shorthand writing by me in the presence of the
11 witnesses; that the foregoing is a full, true and
12 correct transcript of said proceedings so given; and
13 that the appearances were as stated in the caption.
14
15 I further certify that I am neither of kin nor of
16 counsel to either of the parties to this action, and am
17 in no wise interested in the outcome of said action.
18
19 WITNESS MY SIGNATURE, this 4th day of August, 2017.
20 My commission expires May 18, 2019.
21
22 _____
Notary Public, Notary ID 442893
State at Large, Kentucky
23
24
25