

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

March 25, 2016

I. **ATTENDANCE** – The Chairman called the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, March 25, 2016. Members present were Chairman Barry Stumbo, Thomas Glover, Joan Whitman, Chad Needham, Larry Forester, Jan Meyer and Branden Gross. Others present were: Casey Kaucher, Division of Traffic Engineering; Thomas Clements, Division of Engineering; Jim Marx, Zoning Enforcement; and Tracy Jones, Department of Law. Staff members in attendance were: Bill Sallee, Jimmy Emmons, and Tammy McMullen.

II. **APPROVAL OF MINUTES** – The Chair announced that there were no minutes to be considered at this time.

III. **PUBLIC HEARING ON ZONING APPEALS**

Swearing of Witnesses – Prior to sounding the agenda, the Chair asked all those persons present who would be speaking or offering testimony to stand, raise their right hand and be sworn. The oath was administered at this time to several staff members and other persons in the audience.

A. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair sounded the agenda in regard to any postponements, withdrawals, and items requiring no discussion.

1. **Postponement or Withdrawal of any Scheduled Business Item** - The Chair announced that any person having an appeal or other business before the Board may request postponement or withdrawal of such at this time.

a. **V-2016-3: JIM & MOLLIE SAWYER** – request a variance to reduce the required side setback from 25 feet to 8 feet in order to construct a garage between the house and the side property line in the Agricultural Rural (A-R) zone, at 4949 Hidden River Drive (Council District 12).

Representation – Mr. Jay Copley, architect, was present representing the appellant and said that they would like to postpone their application until the April 29th hearing to give them the opportunity to discuss the design with the adjacent property owner.

Action – A motion was made by Mr. Forester, seconded by Ms. Whitman and carried unanimously to **postpone V-2016-3: JIM & MOLLIE SAWYER** to the April 29, 2015 meeting.

b. **CV-2016-6: REPUBLIC SERVICES OF KENTUCKY, LLC** – requests a conditional use permit to construct and operate a transfer station; and a variance to reduce the required landscape buffer area from 15 feet to 5 feet in a Heavy Industrial (I-2) zone, at 203 & 205 Lisle Industrial Avenue (Council District 2).

Representation – Mr. Bruce Simpson, attorney, was present representing the appellant and said had submitted an email to the Planning staff on March 15, 2016, as well as submitted a notice to all the people who received legal notice as well, for a request to postpone their application until the April 29th hearing.

Action – A motion was made by Ms. Meyer, seconded by Mr. Glover and carried unanimously to **postpone CV-2016-6: REPUBLIC SERVICES OF KENTUCKY, LLC** to the April 29, 2015 meeting.

***Note** – As the Chair sounded the agenda, Mr. Emmons stated that the staff had received a letter of opposition with regard to **C-2016-9: JASON ELSEA** and he distributed this to the Board members.

2. **No Discussion Items** - The Chair asked if there were any other agenda items where no discussion is needed...that is, (a) The staff has recommended approval of the appeal and related plan(s); (b) The appellant concurs with the staff's recommendations. Appellant waives oral presentation, but may submit written evidence for the record; (c) No one present objects to the Board acting on the matter at this time without further discussion. For any such item, the Board would proceed to take action.

ABBREVIATED HEARINGS:

1. **V-2016-10: BRADLEY E. DAY** – requests a variance to allow an existing porch to project 9 feet instead of the maximum projection of 8 feet into the required front yard in a Single Family Residential (R-1C) zone, at 906 Darley Drive (Council District 1).

The Staff Recommends: Approval, for the following reasons:

a. Granting the requested variance should not adversely affect the subject or surrounding properties; will not

cause a health, safety or welfare problem; nor will it alter the character of the general vicinity. Although not prevalent as an architectural design, there are other larger covered porches along the front elevations of houses located on this street; and this porch will not be out of character with other properties in the general vicinity.

- b. Granting the requested variance will not allow an unreasonable circumvention of the Zoning Ordinance because, in this case, a one-foot greater projection will likely not be noticeable from the street. Furthermore, the porch is not in violation of Article 15-5(d), which sets the maximum projection allowed, regardless of other provisions of the Zoning Ordinance.
- c. The adjacent property to the south currently has a 6' tall wooden privacy fence at the shared property line with the subject property, and along Darley Drive, which hides the porch on the subject property when traveling north on Darley Drive. Additionally, because of the primary wall plane of the house is offset to the north, the porch does not visually appear to be out of scale with the house or other properties when seen traveling south on Darley Drive.
- d. Strict application of the Zoning Ordinance would likely require the demolition of the entire porch structure in order to rebuild it correctly, which would create an unnecessary hardship to the property owner.
- e. The requested variance is not a willful violation of the Zoning Ordinance. According to the property owner/applicant, he was told by the contractor that a permit had been issued for the construction when in fact, it had not. The applicant will complete his application for the proper building permit (as a condition of approval) if the variance is granted. This variance application was voluntarily filed and was not the result of any enforcement action by the Division of Planning or the Division of Building Inspection.

This recommendation of approval is made subject to the following conditions:

1. Within 30 days of approval the applicant shall apply for a building permit for the porch with the Division of Building Inspection.
2. Within 3 months of approval, the applicant shall plant bushes, shrubs, or equivalent vegetation adjacent to the front of the porch.
3. The remaining construction materials, stored under the porch, will be removed from the front yard, and there shall be no storage of materials under this porch.

Representation – Mr. Bradley Day, appellant, was present. He indicated that he had reviewed the recommended conditions and agreed to abide by them.

Action – A motion was made by Mr. Needham, seconded by Mr. Forester and carried unanimously to **approve V-2016-10: BRADLEY E. DAY** – request for a variance to allow an existing porch to project 9 feet instead of the maximum projection of 8 feet into the required front yard in a Single Family Residential (R-1C) zone, at 906 Darley Drive, based on the staff's recommendations and subject to the three conditions.

2. **C-2016-7: TRANSYLVANIA UNIVERSITY, INC.** – a request to amend a currently approved site plan for a conditional use in a High Density Apartment (R-4) zone, at 331, 333 & 345 North Broadway and 456 West Fourth Street (Council District 1).

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. Off-street parking is available and adequate and has not proven to be a problem to the immediate neighborhood in the past, as the University owns and manages about four times the required parking on their campus. Some on-street parking is also available in this vicinity for visitors to the University.
- b. The addition of green space and other amenities for the students will enhance the area adjacent to the new residence halls and should improve the quality of student life on campus.
- c. All necessary public facilities and services are available and adequate for the proposed use, including police and fire protection.

This recommendation of approval is made subject to the following conditions:

1. The property shall be developed in accordance with the approved site plan and application, allowing for slight modifications, if necessary, during the normal permitting process. This will be subject to the review and approval of the Divisions of Historic Preservation, Planning, Building Inspection, Traffic Engineering, and Engineering, as necessary. It is understood that Board approval is required for (but not limited to) any additional buildings or an increase in the total gross floor area.
2. All applicable permits, including Building Permits, Fence Permit(s), Zoning Compliance Permits, and Certificates of Occupancy, shall be obtained by the applicant from the Divisions of Building Inspection and Planning.
3. Any construction on the property at 331 N. Broadway will be subject to review & approval by the Board of Architectural Review.
4. The applicant is allowed up to three years to exercise this conditional use permit, with the ability to phase

construction for the expected build-out to occur over a period of time for an additional five years.

Representation – Mr. Mark Matthews, Vice-President of Finance for Transylvania University, was present representing the appellant. He indicated that they had reviewed the recommended conditions and agreed to abide by them.

Board Questions – Mr. Needham asked if the back circle would no longer have vehicle traffic. Mr. Matthews responded affirmatively. Mr. Needham then asked if that was moving a new entrance to a new parking lot behind/along Fourth and the existing Thompson Hall, and asked if there was currently parking behind residence halls #3, 2, and 1. Mr. Matthews asked if Mr. Needham was referring to the new or the old residence halls. Mr. Needham replied the new ones. Mr. Matthews responded that in the new ones, there will be parking behind one of the new dorms #3; the road that runs behind the other two dormitories is really an access road, primarily for the Fire Department.

Mr. Needham then asked if there was no opposition from Hampton Court. There was one present in opposition.

Action – A motion was made by Mr. Needham, seconded by Mr. Glover and carried unanimously to **approve C-2016-7: TRANSYLVANIA UNIVERSITY, INC.** – a request to amend a currently approved site plan for a conditional use in a High Density Apartment (R-4) zone, at 331, 333 & 345 North Broadway and 456 West Fourth Street, based on the staff's recommendations and subject to the four conditions.

3. **C-2016-9: JASON ELSEA** – requests a conditional use permit to open a cocktail lounge in a Neighborhood Business (B-1) zone, at 3090 Helmsdale Place, Stes. 265-270 (Council District 6).

The Staff Recommends: Approval, for the following reasons:

- a. A cocktail lounge/bar (without live entertainment) at this location should not adversely affect the subject or surrounding properties, or alter the character of the area. The shopping center as a whole is well buffered from the surrounding properties, and the central location of this use within the shopping center will further reduce the potential for any disturbances. Additionally, parking requirements will be met for the proposed use of the property.
- b. All necessary utilities and public facilities and services, such as police and fire protection, are available and adequate, with solid waste service to be privately provided.

This recommendation of approval is made subject to the following conditions:

1. The cocktail lounge/bar shall be established in accordance with the applicant's stated hours of operation, and the submitted application and site plan.
2. A Zoning Compliance Permit and a Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy as a cocktail lounge, without live entertainment.
3. A minor amended development plan shall be submitted, documenting the uses and seating and the required and provided parking for all uses in the site statistics of the final development plan. Additionally, a note reflecting the action of the Board shall be denoted on any amended Final Development Plan for the subject property.
4. Outdoor televisions or speakers shall be prohibited for this use.
5. There shall be no live entertainment offered at this establishment.

Representation – Mr. Jason Elsea, appellant, was present. He indicated that he had reviewed the recommended conditions and agreed to abide by them.

Board Question – Mr. Glover asked if this location was where the old Ramsey's restaurant used to be. Mr. Elsea responded that it would be right next door.

Chairman Stumbo questioned the parking issue (available parking spaces) that was discussed in the letter of opposition, and asked if it has met the parking criteria. Mr. Emmons responded that the staff's number one concern was about the availability of parking; however, after reviewing it, the staff did believe that this use can meet the required parking; although, being in a shopping center parking lot, the amount of surplus parking would be reduced, but would still meet the minimum requirements and could be approved by the Board of Adjustment.

Mr. Glover said that it was mentioned that some of the business patrons parked in the apartment complex behind the shopping area. Mr. Emmons responded that he apologized for any confusion; however, in this particular shopping center, there is a row of parking that is the shopping center's parking, but it is behind the building in a residential zone with a conditional use for that parking to be allowed there for use of the shopping center.

Action – A motion was made by Mr. Glover, seconded by Mr. Gross and carried unanimously to **approve C-2016-**

9: JASON ELSEA – a request for a conditional use permit to open a cocktail lounge in a Neighborhood Business (B-1) zone, at 3090 Helmsdale Place, Stes. 265-270, based on the staff's recommendations and subject to the five conditions.

- B. **Transcript or Witnesses** - The Chair announced that any applicant or objector to any appeal before the Board is entitled to have a transcript of the meeting prepared at his expense and to have witnesses sworn.
- C. **Variance Appeals** - As required by KRS 100.243, in the consideration of variance appeals before the granting or denying of any variance the Board must find:

That the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
- (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulations from which relief is sought.

There were none remaining.

D. **Conditional Use Appeals**

1. **CV-2016-8: IRONWORKS FARM, LLC.** – requests a conditional use permit to construct and operate an Agricultural Market; and a variance to reduce the required setback distance from a residence on another property from 1,000 feet to 850 feet in the Agricultural Rural (A-R) zone, at 4561 Iron Works Pike (Council District 12).

The Staff Recommends: **Approval of the requested conditional use permit**, for the following reasons:

- a. An agricultural market on the subject property, with the building situated at least 850' from any existing residences on adjoining properties, should not adversely affect the subject or surrounding properties. The proposed facility will substantially comply with all the detailed conditions set forth in Article 8-1(d)7 of the Zoning Ordinance, with developed portions of the property to be located entirely outside the Royal Spring Aquifer Recharge Area. An operational plan will be implemented to ensure that animal waste is managed appropriately. Anticipated traffic can be accommodated by the existing roadways, with necessary access and turn lane improvements to be made to Iron Works Pike if necessary. Based on the location and design of the facility and the operational plan, the proposed use will not constitute a nuisance by creating excessive noise, water pollution, traffic, dust or other public health hazards.
- b. All necessary utilities and public facilities and services, such as police and fire protection, will be available and adequate, with solid waste service to be privately provided.

The Staff Recommends: **Approval of the dimensional variance**, for the following reasons:

- a. Granting the requested variance will not adversely affect the subject or surrounding properties and will not cause a health, safety or welfare issue. The requested variance is minor in scope and there are unique circumstances that justify it. Furthermore, the applicant has agreed to further screen the property with the construction of a 10' tall solid fence in order to mitigate any potential negative impact to nearby residential properties.
- b. Granting the requested variance, a 15% reduction in the required distance, will not be an unreasonable circumvention of the Zoning Ordinance because of the thick buffer along the railroad tracks, further buffered by the applicant's proposed fence, which will meet the intent of the setback requirement.
- c. The existing railroad line, which is vegetated on both sides, the topography of the site, and the location of the Royal Spring Aquifer to the east are unique circumstances that justify the requested variance from 1,000 feet to 850' to the nearest property to the west.
- d. Strict application of the Zoning Ordinance would likely result in a shifting of the facility closer to the aquifer with increased excavation, or a subsequent reduction in the size of the facility, either of which would be considered to be an undue hardship.
- e. The requested variance is not the result of any willful violation of the Zoning Ordinance. The need for the requested variance was discovered during the design phase of the applicant's site plan proposal.

This recommendation of approval is made subject to the following conditions:

1. The property shall be developed in accordance with the submitted application, site plan, and operational plans, allowing minor changes to the site plan during the normal permitting process if required by the Divisions of

Engineering, Traffic Engineering, or Fire Department.

2. All necessary permits, including a Zoning Compliance Permit, Building, and Land Disturbance permits shall be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to construction.
3. The facility shall at all times comply with the operational conditions specified in Article 8-1(d)7 of the Zoning Ordinance.
4. The design of the off-street parking areas and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
5. The following improvements to Iron Works Pike shall be provided:
 - a. a right turn lane for vehicles traveling west and attempting to enter the property;
 - b. a left turn lane for vehicles traveling east and attempting to enter the property; and
 - c. a three-lane access from the subject property (one entry and two exits).

All of these improvements shall be designed in accordance with the requirements of the Division of Traffic Engineering, subject to permitting by the Kentucky Transportation Cabinet, and shall be completed prior to opening the facility.
6. The facility shall be constructed and operated in compliance with all applicable local, state and federal storm water and water quality regulations, with a storm water management plan to be implemented in accordance with the adopted LFUCG Engineering Manuals, subject to acceptance by the Division of Engineering.
7. The facility shall be operated in compliance with the Operational Plan submitted by the applicant, dated February 2016.
8. The proposed wastewater disposal system shall be subject to review and approval by the Fayette County Health Department, or connected to an appropriate municipal sewer.
9. In accordance with Article 8-1(d)(7)(s) of the Zoning Ordinance, this use shall be reviewed annually to ascertain compliance of the accessory uses with the Zoning Ordinance and the Board's conditions of approval.

*Note – Ms. Meyer recused herself from this case due to conflict of interest.

Representation – Mr. Bill Lear and Mr. Nick Nicholson with STOLL KEENON OGDEN, PLLC were present, representing the appellant. They indicated that they had reviewed the recommended conditions and agreed to abide by them.

Staff Report - Mr. Emmons provided a presentation on the overhead projector and discussed the staff's recommendation of approval for the subject property. He distributed several handouts to the Board members with regard to the subject application. Mr. Emmons discussed the following items:

- Conditional use application, variance application, and site plan;
- Aerial photograph of the subject property and surrounding properties (i.e., zoning, floodplain, and PDR farms;
- Two letters in oppositions;
- Several letters of support;
- Additional information that was submitted (Including the staff's colorized version of the applicant's site plan, a letter from the Royal Spring Wellhead Protection Committee, a letter from Strand Associates that discusses an update to the traffic study, and a copy of the operational plan that was submitted by the applicant with their application).

At this time, Mr. Emmons provided a brief overview of the proposed use. He discussed the aquifer area, where the surface water drains towards the main channel. The subject property is partially within the Royal Spring Aquifer; the developed portion of the property is proposed to be outside of the aquifer recharge area.

He said that there was one technical correction to the staff report - the staff had described it as water going either to Cane Run, to the Cane Run watershed, or outside the Cane Run watershed. With that topographic divide, portions of the subject property do drain toward Cane Run Creek, and a portion of it drains to the Dixie Tributary of the Cane Run creek; so technically, it is all in the Cane Run watershed. He said that the water that flows into the aquifer recharge area goes directly into Royal Spring; the water that goes into the Dixie Tributary does not.

Mr. Emmons then discussed the applicant's request, noting that for the overall facility, they are asking for about 6 acres of building; the majority of that building would be used for the livestock and the agricultural market for the livestock market. Mr. Emmons said that they proposing an additional 40,000 square-foot building, which could hold things such as a restaurant and other types of uses that would be clearly incidental and accessory to the livestock market itself. Mr. Emmons continued discussion of the proposed conditional use and variance.

Mr. Emmons addressed the variance portion of this application by noting that the proposed use is completely outside of the Royal Spring Aquifer recharge area, and outside of other environmentally sensitive areas.

Mr. Emmons noted that the staff is recommending approval for both the conditional use and the variance for the

reasons that are highlighted on the staff report and on the agenda. He then summarized the staff's recommendations.

In concluding his staff report, Mr. Emmons reported that the Royal Spring Aquifer Recharge Committee did review the Bluegrass Stockyards request, and voted to approve this use. They are recommending three additional conditions to be put on the subject property. Mr. Emmons noted that this information was distributed to the Board members in their packets.

Board Comments/Questions – Mr. Gross asked Mr. Emmons to reiterate as to who makes up the Royal Spring Water Supply Protection Committee and what the purpose is. Mr. Emmons replied that the Royal Spring is Georgetown's water supply; about 80% of that aquifer is in Fayette County, and the other 20% is in Scott County. There is a joint Fayette and Scott County commission that reviews development proposals that are in and near the aquifer recharge area and makes recommendations to the appropriate bodies. He noted that he is one of the two Fayette County representatives; however, he abstained with regard to his vote on this particular case.

Representation and Board Discussion – Mr. Bill Lear, attorney with STOLL KEENON OGDEN, PLLC, was present representing the appellants; along with Mr. Nick Nicholson, from the same law firm. He noted that present with them were some of the owners of the stockyards, which is a locally owned and operated business (and has been for at least 70 years) – Mr. Gene and Mrs. Joanne Barber, as well as Mr. Scott Butcher, their Chief Operating Office; Mr. Jim Akers; Mr. Doug Gooch, with AGE Engineering; Mr. Mike Woolum, with Strand Associates; Dr. Steve Higgins, with the University College of Agriculture; and a number of supporters of this project.

Mr. Lear noted that January 30, 2016 was the day that the Bluegrass Stockyards, the largest stockyards east of the Mississippi, burned down on Lisle Industrial Avenue. He said what the proposed project represents is the opportunity for a rebirth - a newer, better, more appropriately located stockyard facility than the old location, which was hard for the farmers to get to and caused a lot of congestion. Mr. Lear spoke about the history of the old stockyard location, compared to what was being proposed for the new location. He said that the proposed facility generates about \$200 million a year in sales, and is an anchor of the agricultural economy in Central Kentucky. Mr. Lear said that this facility is not located within the Recharge Area of the Royal Springs Aquifer, although a huge chunk of northern Lexington is in it.

Mr. Jim Akers, Chief Executive Officer of the Bluegrass Livestock Marketing Group, provided a PowerPoint presentation and discussed each of the following points with the Board:

- The history of Lexington
- The history of the company (Bluegrass Stockyard) and what it does
- Social and economic driver of agriculture in the community
- Promoting the product
- Provide regulatory compliance
- Provide a facility and environment where business can take place
- Conduct and complete the transactions of livestock auctions
- History of Lisle Industrial Road location
- Contrast of the old facility to the proposed facility
- Discussed the previous and the proposed new neighbors (the distance between the neighbors and the proposed new facility)
- The proposal for the new unique facility
- Mark-up of the site plan - some minor changes compared to the one the Board members had received
- Addressed concerns that people have had & the applicant's approach regarding their resolution
- Storm water
- Water quality testing in Stanford of stockyard
- Ground water
- Air Quality
- Results

(Note- This presentation is attached as an appendix to these minutes.)

Board Questions - With regard to Mr. Akers' discussion of air quality, Mr. Glover asked what the stockyard has done in the past 35 years to decrease the ammonia smell. Mr. Akers responded that because of infrastructure, the cattle moved more rapidly through the facilities, spending less time there, as one component; and there were different protocols for cleaning, bedding materials, etc.- i.e., daily maintenance.

Mr. Akers continued with his presentation, discussing the following:

- Waste Management for the facility, noting that the facility is cleaned daily and the waste hauled to Bourbon

County

- Traffic and peak days of the business (Mondays & Tuesdays)
- The question of the stockyard not being "good enough"
- Potential supporting services
- Reality of what already exists in the area (Horse Park, I-75 & a mobile home park, among other uses)

Mr. Glover referenced Mr. Akers' discussion of air quality and his comparison with the Stanford operation, and asked about the other operations in the extended Bluegrass area. Mr. Akers replied that they have 6 other locations and they do 15 sales a week. Mr. Glover then asked if Stanford was the next largest operation compared to the previous one in Lexington. Mr. Akers responded affirmatively. Mr. Glover then asked about the graphic/site plan of minor changes that Mr. Akers had presented, to which Mr. Akers replied that referred to the realignment of the parking spaces. Mr. Emmons said in his presentation on the overhead was the original site plan and not the currently submitted site plan. Mr. Glover said that the reason he brought that up was because the staff's recommendation was that the property be developed according to the submitted application and he wanted to be sure that the Board members had the right one to consider. Mr. Emmons said that the one that the Board members had in their packets was correct.

Mr. Nicholson said that Mr. Akers' presentation was what he wanted the Board to be made aware of it and to make sure that they felt comfortable with the fact that the facility is in compliance with the comprehensive Plan. At this time, Mr. Nicholson presented information with regard to the Zoning Ordinance, as he highlighted the following:

- Traffic issues (traffic study has been updated)
- Referenced tab #3 in the handouts with regard to the environmentally sensitive area near the proposed use
- Operational plan

Mr. Glover said that it was mentioned several times about the impermeable floor, and asked if this was a design that had been used in other places. Mr. Nicholson believed that it is used at the Stanford location, which Mr. Akers confirmed.

At this time, Mr. Nicholson addressed the concern regarding the sewer. He said that the site would be sewered; it would be tied into a municipal system; there is no package plant on site; there is no water treatment that occurs on site. Mr. Nicholson said that they have three possible ways that they could do that: tie into the LFUCG pump station; tie into Scott County system to the north; or go across the interstate. They are currently looking at all three options to determine which would be the most efficient, the safest, and the most economical.

Mr. Doug Gooch, with AGE Engineering, presented and discussed a larger version of the site plan. He said it has been easier on their part because the owners have committed to staying out of the Royal Spring Aquifer Recharge Area; however, that that put the stockyards in the most expensive, least "engineering consideration" spot on the farm. Mr. Gooch said that all the stormwater around the site runs toward the stockyards - all the rain water that lands on the fields runs toward the site; so it is easy to contain the water that lands on the farm. He said that the water that is collected is taken to the detention basins that are designed on either side. Mr. Gooch further discussed the water runoff of and the detention basins and explained how they would work.

Board Questions - Mr. Needham indicated a point on a photo and asked if that location was where the water from the detention basins would go. Mr. Gooch responded affirmatively.

Dr. Steve Higgins, director of Animal Environmental Compliance for the Agricultural Experiment Station at University of Kentucky said that he helped draft the Operational Plan. He said that he and his team have received over \$2 million to study the Cane Run watershed and try to improve water quality. Dr. Higgins said that part of that process is basically designing and implementing best management practices to address agricultural water quality concerns. Some of the practices that have been developed in the Cane Run watershed and other watersheds, as part of the studies, have been adopted into state law as true traditional best management practices; some of them have actually been practices that are eligible for cost share so that farmers could actually put them on their property. Dr. Higgins said that he has kind of adopted the watershed as part of his work, and he would like to see an improvement there. Dr. Higgins further discussed information with regard to the watersheds, as well as the questions posed by Mr. Glover with regard to the construction of the floor, noting that it is an all-weather surface - basically six inches of dense grade aggregate over compacted clay, which forms the lining. He explained how it forms an impermeable surface that protects the ground water. Dr. Higgins addressed the ventilation of the building and how they proposed to prevent odors and from emanating through the area.

With regard to waste management and the bedding that Mr. Akers referenced, Mr. Glover said that he didn't see those on the site plan, and asked about the coverage. Dr. Higgins responded that that was at the old facility on

Lisle Industrial Avenue; at the new facility, everything is all under the same roof. Mr. Glover asked if the bedding and animal waste storage were all going to be under the same roof. Dr. Higgins responded affirmatively and further explained the concept of how the facility will work.

Mr. Glover said he had noticed the railroad that goes right next to the facility on the west side, and asked if the facility had planned to use the railroad to bring animals in and out. Dr. Higgins responded that historically (back in the 1950s), is where they actually herded cattle up to that point, and they had built a facility right there to load the cattle onto the train which is what that spur was for back in the day. Mr. Lear said that he had been to the Stanford facility and he did not smell any odor from any point along the perimeter of the property.

At this time, Mr. Nicholson addressed the proposed variance. He said that the key situation with the variance is by reducing the 1000 foot setback to 850 feet, it doesn't change the equation regarding assessment of the variance request as it relates to adverse impact on surrounding properties. He referenced the pictures that were in Tab 6 of the exhibit book, and said that those were pictures that were taken the day prior to this hearing; the other (from the PVA site) is of the existing residence that is the subject of the variance. Mr. Nicholson said that it is clearly vacant, appears to have been vacant for quite some time, and will likely remain so; therefore, they are 1000 feet away from any and all existing residential use. Mr. Nicholson displayed one of the photos on the overhead projector and discussed the 850 distance, noting that the Norfolk Southern track was between the proposed facility and the vacant residence, providing even more of a buffer. Mr. Gross asked if the railroad track was an elevated railroad track, or if it is at grade. It was noted that it is slightly elevated.

Board Questions - Mr. Gross asked who owns the vacant property, to which Mr. Nicholson responded that it was the Sextons. Mr. Needham asked if the letter of support was from the Sextons. Mr. Nicholson responded affirmatively. He also said that he wanted to point out that use is now allowed in the A-R zone, in the Overlay zone, within 300 feet; at the previous facility, they were already at 330 feet from a residential zone.

Mr. Nicholson discussed the essential character of the general area, noting that it is an agricultural zone, and the proposed use is an agricultural use - putting animals (livestock through an auction ring). It is the same use as Keeneland and the exact same thing as Fasig-Tipton. He pointed out that Fasiq-Tipton is fully in the Royal Spring Aquifer recharge basin. This is an agricultural area, and the only developed property that one would pass coming either from or to the interstate is a gas station.

Mr. Gross said that Mr. Emmons had mentioned the traffic flow coming in and out, recommending a change from what was planned, and asked if that was correct. Mr. Nicholson responded that they were incorporating the staff's recommendations into their plan and discussed what they are proposing to do with regard to the traffic flow. Mr. Gross said that he knew that this wasn't a property that would need a buffer because it is not two zones that join together. His question was, if it did need a buffer; if the brush along the railroad track would act as an appropriate buffer without them putting up a fence. Mr. Emmons said that he was sure that the existing vegetation along the railroad tracks would meet minimum requirements if it were from an industrial to a residential zone. At this time, Mr. Emmons presented photos that showed at the existing entrance looking toward the railroad, indicating the amount of vegetation that is there. There was further discussion with regard to the "buffer" between the proposed use and the other residences, and Mr. Nicholson said that they also propose to put up a 10-foot solid wood fence along the residential stretch as well.

Citizen Comment in opposition – Mr. J.R. Williamson, retired Scott County Solid Waste coordinator, who lives at 2008 Longview Drive in Georgetown, said that his concern was not about the project itself, but a concern for potential water contamination. He presented photos and discussed his concerns about water quality as it relates to the proposed use. He said that the Clean Water Act was passed in 1948 and was upgraded in 1972. With regard to the ponds that are currently there, Mr. Williamson asked if the Board could put in some conditions that once the retention ponds are there for a decade or so, that they be refurbished. He presented more photos and further discussed his concerns regarding the parking lot for the stockyards.

Mr. Williamson discussed several issues he had with the Kentucky Horse Park. The Chair informed Mr. Williamson that this particular application was a conditional use and variance request for the stockyard, and the Board could not speak to the Clean Water Act or the Kentucky Horse Park.

Mr. Danny Burkhead, who lives at 1082 Lisle Road, Georgetown, said that the proposed use is directly beside his property and felt that it would pose a problem. He said that there is a 24-inch drain pipe coming from the applicant's property, right onto his. Mr. Burkhead said that he was opposed to the proposed building site back in 2004 & 2005, and he still opposes their request. Mr. Burkhead also discussed his concerns regarding a well that runs through the Royal Spring Aquifer. He said that he would like for someone from the Wellhead Protection Committee to come check his wells and tell him where the water run off goes.

Mr. Charlie Denham, who lives at 1695 Adios Drive, presented photos on the overhead projector and discussed the groundwater in the Royal Spring Aquifer. He said that he was here to question the "line" for the aquifer recharge and to request that a survey be done to determine where exactly the Royal Spring Aquifer is located. Chairman Stumbo asked if Dr. Higgins could speak to the "line" that Mr. Denham was referring to. Dr. Higgins deferred to the Kentucky Division of Water for a response.

Mr. Rob Blair, geologist with the Kentucky Division of Water, and Mr. Pete Goodmann, geologist and Director of the Kentucky Division of Water, were present. Mr. Goodmann responded to the question with regard to the delineation of the Wellhead Protection Area of the aquifer noting that it is settled. He said that that decision is provided by the Division of Water based on data that is submitted to them over the years, and the Wellhead Protection Plan that is submitted by the Royal Spring Wellhead Protection Committee.

Mr. Blair presented a photo on the overhead projector and said that the black dashed line (representing the Royal Spring Aquifer) off to the east; there have been a couple dozen dye traces done (mainly by students of the University of Kentucky) in the 70s and 80s, that established that boundary, that basin for the Royal Spring Aquifer. He said that in 2003/2004, the Kentucky Geological Survey conducted the trace tests that were being presented on the overhead projector (the orange lines) on the property. Those dye traces were shown to drain away from the Royal Spring Aquifer (or the spring system); therefore, the entire area does not drain to the Royal Spring and is not a threat to that water supply.

Mr. Glover asked if did from to the Cane Run watershed. Mr. Blair responded affirmatively.

Mr. Needham asked how long ago the dye tests were taken. Mr. Blair replied that the original dye tests that were done to delineate the main part of the aquifer started in the late 70s; the study was completed and published in 1982 and then the two current ones being presented were done in 2003/2004.

Mr. Burkhead indicated on the overhead projector where his barns were relative to the two lines (red and blue) and said that the water vein that is feeding his well goes straight north; and if one goes past those two barns (a couple hundred feet), his veins would probably go right over into the aquifer.

Mr. Denham said that it has been mentioned that tests were run several years ago; however, there are new technologies that are better used, and one of them is ground penetrating radar. Mr. Denham discussed ways that thus could be accomplished and suggested that someone speak with someone at the Kentucky Geological Survey to see about getting more up-to-date information for this aquifer.

Mr. Burkhead said that he would like to have his question answered about impervious parking lots and whether they should or should not have catch basins and filters to protect non-point source pollution coming off the parking lots (i.e., oil, anti-freeze etc.) that come out of the trucks. He wanted to know if someone could verify if a parking lot should or shouldn't. Dr. Higgins responded that at the Horse Park they had done some pervious (water infiltrates through the pavement) pavement; they did some pervious concrete, and there were also some pervious pavers that were done. Dr. Higgins said that they may do some demonstrations - small sites of pervious pavement, but not pavement itself. They were actually looking at pervious pavers, which drain better. Dr. Higgins said that it is not set in stone, but it's something that they may do. He said regarding the issue of renovating a basin coming off of an impervious area, as far as the stockyards design goes, there is a settling basin that is planned to catch the solids; large particles will be cleaned out with a back hoe on a periodic basis (part of the maintenance).

Mr. Williamson presented a photo on the overhead of the Horse Park, noting that he did so because of the water issue. He asked if there should be a catch basin on it. As he pointed to the area on the photo, he said that the area he was speaking of, they are required to put catch basins to protect the drinking water and they are not in the watershed. He said that this is right over the aquifer, and he questioned, for public drinking water purposes, if there should be some sort of catch basin. He believed that there should be one. Mr. Stumbo replied that this was outside of the scope of this hearing. Mr. Williamson said that the point he was making was that the applicants have talked about how far the water went downtown; but it is all about protecting drinking water, and asked if someone could respond to his question. He asked why the Kentucky State Horse Park did not have to come before the Board. Chairman Stumbo responded that he couldn't answer that because that is not what is before the Board today.

Note: Chairman Stumbo declared a brief recess at 3:51 p.m. The meeting reconvened at 3:58 p.m. with the same members in attendance.

Mr. Steven Price, horticulturist who studied at the University of Kentucky, was present. He said that horticulture has a market competitor in meat, and he was here to protect his sector of the food market, which is horticulture produce. Mr. Price referred to the agenda (required findings for approval of a variance). He then referred to this case and read the condition on page 3; the staff wrote that there would be no adverse public health hazard. Mr. Price said

that he wanted to call the Board's attention to a study that is required by federal law. Every 5 years, in conjunction with the U.S. Department of Agriculture, it is required by federal law to update the national standards for nutrition. He discussed the current 215-220 standards that were issued last year with regard to healthier eating, noting that the study advises reduced consumption of meat & dairy products. Chairman Stumbo advised Mr. Price that this had nothing to do with the application before the Board today.

At this time, Mr. Price discussed the physical activity that it takes to produce vegetables, fruits, and grain crops on a small, domestic, homestead scale, which provides a superior health product. Mr. Gross asked if his point was that he wanted the Board to find that it does not hurt the health and welfare, and that the beef precludes them from finding that. Mr. Price responded that all health care authorities that he knows of, warns against fat. At this time, there was further discussion with regard to Mr. Price's opposition.

Mr. Price discussed the tax incentives that the applicant has been granted. Mr. Price asked Mr. Akers if any of the clean roof water is intended for consumption by the livestock. Mr. Akers responded that they hadn't planned that. He said that is one potential use of that water. Mr. Price further discussed the increase of noise that the proposed use could cause when transporting the livestock to and from the stockyards.

Mr. Tom Dugan, who lives at 2521 Southview Drive is a professional geologist and owns and operates Bluestone Geologic. He presented a topographic map on the overhead projector and discussed whether or not the facility is within the Royal Spring drainage basin. He pointed out the "green" line on the map, which showed the basin divide, based on the dye tracing that has been done as to date. He said that the question is whether or not there needs to be a more current dye trace, saying that it is the industry's standard to define ground water flow; however, there is another industry standard that he utilizes, called Geophysics. At this time, Mr. Dugan discussed the dye tracing and "faults" on the property. Mr. Dugan said that he was neither in opposition nor in support, but basically in search of more information.

Citizen Comments (support) - Mr. William "Tom" Prater, Mayor of Georgetown, 100 Court Street, submitted a copy of Mr. Denham's letter of support for the record. Mayor. Prater said that with him in support were Scott County Judge Executive George Lusby, and Director of Georgetown Municipal Sewer Service, Bob Wilhite. He said that ever since they saw the smoke from the stockyard back on January 30, 2016, they have been working together in Scott County because they thought that this day would be coming. Mayor Prater said that their primary concern was that of the aquifer and the aquifer recharge area, as it is the responsibility of the City of Georgetown to protect that environmental resource. He said that he wanted to make clear that they understand how important the agricultural heritage is for Scott County and Central Kentucky. Mayor Prater noted the fact that Georgetown may have some concern about the Royal Spring and its aquifer - it is actually a long established precedent for them; however, over the years, they have worked with the University of Kentucky to get their concerns addressed about Coldstream. Design requirements were put in place that eventually addressed their concerns, and it allowed them to appear before the Urban County Government and endorse the zone change that was required for the Coldstream Research Park. Mayor Prater said that Mr. Akers and his staff have been absolutely professional and transparent in their dealing with them. At this time, Mr. Prater discussed the City of Georgetown's diligence in trying to be "good neighbors" to the proposed use. Mayor Prater said that he had visited the site in Stanford and he did not find any noise or odor nuisance in the facility.

Mayor Prater said that their conclusions make a couple of important assumptions, and they are as follows:

1. That the site will not be expanded into the recharge area;
2. That the design and construction will be completed as has been assured and shown to them in the construction plans and the operational plan; and
3. The continued maintenance, the cleaning, the monitoring, and the checklist that is in their operational plan shows activities that have to be done daily, weekly, monthly, and annually

He expressed the hope that discipline shown to be the maintenance schedule continue well beyond the first year of the new facility's operation. He said that they have been given that reassurance from Mr. Akers, but wanted his statement(s) to be made part of the record.

Mayor Prater said with those assumptions in place, it is his belief that the Bluegrass Stockyard can be rebuilt on the site without negative consequences to the Royal Spring Aquifer. He said it is critical as to how they would address the need for sanitary sewer, and discussed the sanitary sewer issue that currently occurs between the Fayette and Scott County line with regard to two mobile home parks in the area (479 residential units that operate off of one plant that is failing). He said that one-third of those units are in Fayette County, with the balance in Scott County, but all of the waste goes to Scott County. It is a serious environmental concern, as well as a humanitarian crisis that exists on the shared county line of two of Kentucky's most prosperous counties. He said that a solution must be found.

Chairman Stumbo asked Mayor Prater what would have to transpire to make that happen. Mayor Prater responded that Georgetown/Scott County is committed to maintaining a green belt between themselves and Lexington. He said they think that makes for good planning and that is what makes them a unique place. He further discussed options of ways to resolving the issue, noting the importance of the size of the line to deal with the sewage & wastewater from the mobile home parks. Lack of funding has hindered them in achieving that to date. He said that they are trying to get funding in place, as it will be a \$3.5 million project.

Ms. Kathleen Burke, Director of Education and Outreach at Fayette Alliance, was present on behalf of Fayette Alliance. Ms. Burke read a letter of support into the record written by their Chair, Mr. Don Robinson.

Mr. Jacob Walbourn, attorney, was present on behalf of the Sexton family. He noted that the Sextons had provided a letter of support, which he would not re-read; however, one point that he wanted to mention was that they didn't realize, until the start of this hearing, that they were closest residence to the proposed use; however, that they did not change their support of the proposed use for the stockyard.

Mr. Warren Beeler, at 404 Ann Ft., Frankfort, Ky., Executive Director of Governor Bevin's Office of Agricultural Policy, said that they also received all of the calls in terms of things that people were concerned about; they have been to the Richmond stockyard in terms of checking it out, and they strongly support the rebuilding of the stockyard. It is an economic engine, and they feel that the applicants have jumped through every hurdle and have done everything possible to be a good neighbor environmentally. They think that they would build a showplace to be proud of, and they believe they would enhance the Horse Park rather than hinder it. Mr. Beeler said that the Bluegrass Stockyard staff are high quality business people - when they tell you something, that is the way it will be. He said that they have been in business a long time and have been an asset to Fayette County.

Mr. Bob Barton, who lives at 4095 Huffman Mill Road, said that his brother has a farm adjoining Iron Works Farm. He said that they support this site very much - agricultural markets need to be in the rural area - not only for transportation purposes, but also for the safety and security of the animals. Mr. Barton said that every once in a while an animal may get loose, either loading or unloading; and it would be a whole lot easier to corral that animal safely and return it to its pen if one is on a 120-acre fenced-in farm rather than downtown. Mr. Barton discussed the wells in the area (to include his). He said that he felt it was explained correctly, and that they are well outside of the discharge area.

Ms. Nancy Cox, Dean of the College of Agriculture, Food and Environment, at University of Kentucky, said that she represents a college that tries to provide comprehensive research and education and efforts of all aspects of beef production and food production. She said that they see their role in forums like this to advise policy makers with the best scientific and technological information. Ms. Cox discussed how the Bluegrass Stockyard, for Fayette County, has contributed to a land-based economic cluster, and its location in Fayette County would continue to be that support. She said that the University of Kentucky team believes that the Bluegrass Stockyard is a state-of-the-art facility, and they support this proposed use.

Ms. Carrie McIntosh, Executive Director for Fayette County Farm Bureau, noted that a letter of support was submitted; and for all the conditions presented, they would like to reiterate that they are in support of the proposed use.

Mr. Bob Quick, President and CEO of Commerce Lexington, said that a letter was submitted with regard to their support of the proposed use, and they support it fully and strongly.

Mr. Jeremy Walls, a third generation farmer in Fayette County, said that he would like to thank the Bluegrass Stockyard for working on this. He said he has had the ability to farm because of cattle, and that has been because of the Bluegrass Stockyard. Mr. Walls said that without a market for the cattle, they cannot protect the greenspace that brings in the thousands of tourist dollars into Fayette County every year. He said that he wanted to urge the Board to approve this - they need the market for cattle.

Mr. Kyle Kelly, Kentucky Department of Agriculture, was present on behalf of Commissioner Quarrels. He said the wanted to thank everyone for the time put into this project and all those who have taken to the time to hear this case, and reiterated that he is supportive of the proposed use.

Mr. Dave Maples, Executive Director of the Kentucky Cattlemen's Association in Lexington; also the Vice-President, Mr. Bobby Fore, beef producer from Henry County; and Mr. David LeMaster, President from Clark County, also a cattle farmer, were all present to support the proposed use.

Representation Rebuttal/Discussion – Mr. Lear said that he would like to put into the record that the Bluegrass

Stockyard is not in the aquifer that is outlined in yellow. He said that it has been studied, researched, and dye tested. He said that they are doing a state-of-the-art facility that captures all of the water. He said that their record speaks for itself, and it is not going to have any negative impact on it. Mr. Lear said that they are practicing best management; and they are capturing every drop of rain water.

Mr. Lear said that there is a process for establishing lines like the boundary of this aquifer. That process ends by action of the Kentucky Division of Water, and it doesn't end as a one-time event - it is studied over and over again. He said the most recent dye test was not that long ago; and it was confirmed that from this site, the water does not go into the Royal Spring Aquifer Recharge area and explained where the water will go. At this time, Mr. Lear discussed their request for the conditional use and variance and their reasoning for the request.

Mr. Glover said that another name for retention basins are silt ponds, and the purpose of silt ponds is to slow down the flow of water and collect suspended solids so that they precipitate out, and collect at the bottom; and over time, those silt ponds tend to decrease in area because they build up with the solids that were collected. He said that he wanted to make sure that it was their intent and purpose to clean out those ponds so that they effectively maintain their purpose. Mr. Lear asked if he could adopt it as it was stated, and replied that that is the expressed intent.

Opposition Rebuttal – Mr. Price said that the Lexington-Fayette Urban County Government has an office that calls itself "Reforest the Bluegrass", and he wished they had such an office in Georgetown. He said that Reforest the Bluegrass' mission is to reforest the Bluegrass Region by planting trees, and the assertion that one can only preserve green space with beef and horse farming is wrong. Mr. Price said that there could be forested bluegrass and a timber industry that would complement the historic horse industry rather than the liability of a relatively unhealthy food product, beef. He said to say that this project is necessary to preserve green space is not true, and he would urge the Board to deny this use.

Mr. Dugan said that he still did not understand where the "magical blue line" is - and that Mr. Lear has relied on some older documentation. He said that, basically, what it requires is very site specific information, and what he would suggest for the applicant to do is to basically redraw that line.

Action – A motion was made by Mr. Forester, seconded by Ms. Whitman and carried 6-0 (Meyer disqualified) to **approve CV-2016-8: IRONWORKS FARM, LLC.** – the request for a conditional use permit to construct and operate an Agricultural Market; and a variance to reduce the required setback distance from a residence on another property from 1,000 feet to 850 feet in the Agricultural Rural (A-R) zone, at 4561 Iron Works Pike, based on the staff's recommendations for both the conditional use permit and dimensional variance, and the nine conditions.

E. Administrative Review

There were none remaining

IV. BOARD ITEMS

None were presented.

V. STAFF ITEMS

None were presented.

VI. NEXT MEETING DATE – Mr. Stumbo confirmed that the Board's next meeting date would be April 29, 2016.

VII. ADJOURNMENT - Since there was no further business, the Chair declared the meeting adjourned at 5:10 p.m.

Barry Stumbo, Chair

Joan Whitman, Secretary