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TRANSCRIPT OF PROCEEDINGS  
OF MINUTES OF BOROUGH COUNCIL  
CONDITIONAL USE HEARINGS VIA ZOOM

BEFORE: Waynesboro Borough Council  
C. Harold Mumma, President  
Dade Royer, Vice President  
Michael J. Cermak  
Jon Fleagle  
Patrick Fleagle  
Jarred Knott  
Richard Starliper, Mayor  
Jason Stains, Borough Manager

DATE: April 21, 2021, 6:30 p.m.

PLACE: The Borough of Waynesboro  
57 East Main Street  
Waynesboro, PA. 17268

APPEARANCES:

Samuel E. Wiser, Esquire, appears on behalf of  
Waynesboro Borough Council.

1 COUNCIL PRESIDENT MUMMA: At this time we'll open  
2 the meeting for the three public hearings, and at this time,  
3 Sam, our solicitor, will have a few comments, and then he  
4 will conduct the three hearings.

5 ATTORNEY WISER: Thank you, Mr. President, and  
6 good evening everyone. Welcome to the virtual meeting of the  
7 Borough of Waynesboro.

8 As a couple considerations for this evening to  
9 minimize background noise participants who are not council  
10 members should mute their microphones until it's time for  
11 public comment.

12 This evening we're going to have some public  
13 hearings to start out with, and there will be time to comment  
14 on those particular public hearing matters during the  
15 hearing, and then we will have the regular meeting following  
16 those hearings at which time the regular meeting will provide  
17 a time for public comment as well.

18 Participants who do not mute themselves may be  
19 automatically muted by the host to reduce background noise.  
20 If you are participating via telephone you can unmute  
21 yourself by pressing star six on the phone keypad, and once  
22 you've concluded your comments you can press star six to  
23 again mute yourself.

24 If you are participating over your computer this  
25 evening and you would like to offer a comment, you can use

1 the raised hand function that's available via Zoom. This can  
2 be accomplished by clicking the icon labeled participants at  
3 the bottom center of your screen, and at the bottom window on  
4 the right side of the screen you click the raised hand  
5 button. The virtual hand can be lowered in the same manner.

6 If a member of the public desires to offer comment  
7 outside of the designated public comment period, they can  
8 request to do so by raising their there hand if their video  
9 feed is enable or during the call for public comment you can  
10 voice your desire to do so.

11 We do have some rules of decorum for the  
12 telemeeting this evening. All public comments should be  
13 directed to the presiding officer who will provide a response  
14 or recognize persons to offer a response as appropriate.

15 Generally public comment is limited to residents  
16 and taxpayers of the borough, however the presiding officer  
17 can extend the courtesy of public comment to others based  
18 upon the nature of the matter before Council.

19 Members of the public and Council are at all times  
20 to demonstrate mutual respect and decorum. Comments,  
21 displays or texts that are libelous, slanderous or defamatory  
22 or are personal attacks that are unrelated to the business of  
23 the borough are not permitted. Comments, displays or texts  
24 of a partisan political nature either in favor of or in  
25 opposition to any political candidate are not permitted.

1 Comments, displays and text of a -- offensive or sexually  
2 explicit nature are not permitted.

3           During the regular meeting the public comment time  
4 period will be limited to two minutes, and I do have one  
5 additional consideration for the conditional use hearing this  
6 evening. We do have a stenographer with us this evening, and  
7 she will be keeping a record of the conditional use  
8 proceedings so we ask that during the conditional use  
9 proceeding that if you speak, please state your name so that  
10 you can identify yourself. That will make it much easier for  
11 our stenographer to keep track of who's speaking, and we'll  
12 try to make sure that your audio feed is loud enough so that  
13 she can hear you clearly, so with that we can start with the  
14 two conditional use hearings that we have this evening.

15           Diana, can you hear me ok?

16           COURT REPORTER: I can, Mr. Wiser. Thank you.

17           ATTORNEY WISER: All good. So thanks for joining  
18 us tonight, Diana. And if there is anyone present this  
19 evening who would like to register as a party or a protestant  
20 to the conditional use proceeding, now is your time to let us  
21 know that you wish to be a party.

22           If you are the applicant you are already  
23 automatically a party. No need to worry about that. So I'll  
24 give folks a moment if you wish to be a named party to the  
25 proceeding, please let me know at this juncture.

1           It does not appear that anyone has indicated a  
2 desire to be a party. The public will be afforded an  
3 opportunity to ask questions upon the conclusion of the  
4 applicant's testimony this evening.

5           The two conditional use requests that we're hearing  
6 this evening are heard in accordance with Section 913.2 of  
7 the Pennsylvania Municipalities Planning Code which  
8 authorizes municipalities to make exceptions to their zoning  
9 ordinance in the form of conditional uses so long as the  
10 ordinance sets forth expressed standards and criteria  
11 governing such exceptions.

12           A conditional use must be granted by the governing  
13 body where there is compliance with the specific requirements  
14 set forth in the ordinance provided it is not shown to be  
15 detrimental to the public health, safety or general welfare.

16           The format of the two hearings will be as follows.  
17 The zoning officer will present some background information  
18 regarding the application as well as the legal notice that  
19 was provided.

20           The applicant will be given an opportunity to  
21 present their case in support of their application and  
22 Council and staff can ask any questions that they have of the  
23 applicant regarding the information that's provided.

24           I will guide the applicant through the specific and  
25 general criteria as well. At the conclusion of the public

1 hearing we will open it up to public comment or any member of  
2 the public who wishes to offer comments on the particular  
3 application, so those who wish to testify this evening in  
4 either of the two matters that are listed for conditional use  
5 hearing this evening, the first which is the application of  
6 Wild West Motors for a conditional use regarding the property  
7 located at 903 West Main Street or those who wish to speak in  
8 favor of or in opposition to the conditional use for  
9 Mainstreet Waynesboro's, Inc. application for the property  
10 located at 22 West Main Street as well as the zoning officer,  
11 I would ask that you raise your right hand and you will  
12 provide sworn testimony, so I will swear you in at this  
13 juncture.

14 Mr. Kohler is here. Is there anyone here for Wild  
15 West Motors to speak on behalf of that application?

16 I don't know if we have anyone here from the  
17 applicant for Wild West Motors, so with that we will swear  
18 those who are present, which is the zoning officer, Matthew  
19 Schmidt, as well as Bill Kohler from Mainstreet Waynesboro.

20 Gentlemen, do you swear or affirm that the  
21 testimony and evidence that you present this evening will be  
22 the truth? If so say I do.

23 MR. KOHLER: I do.

24 MR. SCHMIDT: I do.

25 ATTORNEY WISER: Thank you. With that then we will

1 proceed with the first application that is on the agenda this  
2 evening.

3           Again, that is the application of Wild West Motors  
4 for the property located at 905 West Main Street and with  
5 that, Mr. Schmidt, if there's any background information that  
6 you would like to provide, and then if you could provide  
7 testimony regarding the notice that was provided for the  
8 hearing this evening, now is the time to do so.

9           MR. SCHMIDT: Thank you, Mr. Wisner.

10           Borough Council members, you should have in your  
11 Council packets information related to the application or I  
12 should say a copy of the application that was submitted by  
13 Wild West Motors.

14           They are proposing to have an electronic message  
15 center on their lot which would advertise the new inventory  
16 that they have in stock at their dealership.

17           If I were computer savvy I would bring up the  
18 photo, but you should have a picture of or an image proof of  
19 what they have proposed. Wild West Motors would be  
20 advertised on top. The electronic message center would be  
21 underneath and usually will feature some sort of auto that  
22 they have on sale that week.

23           The dimensions that they have proposed conform to  
24 the standards that are outlined in Zoning Chapter 295-100  
25 that pertains to electronic message centers. It is not going

1 to be within a sight distance triangle for the intersecting  
2 roads at Prices Church Road and West Main Street, so by all  
3 other tokens the sign is in conformity and it just needs the  
4 approval of Council to go forward.

5 The hearing was published in the local paper, the  
6 Record Herald, on April 7th and April 14th, and notices were  
7 mailed out to surrounding property owners to advise them of  
8 the hearing this evening.

9 The proposal was also reviewed by the Waynesboro  
10 Planning Commission, and I did receive a letter from Head of  
11 Engineering Kevin Grubbs advising that the electronic message  
12 center was approved -- or recommended to be approved  
13 unanimously by the Waynesboro Planning Commission.

14 ATTORNEY WISER: Mr. Schmidt, do you know if Mr.  
15 Long who is the named individual listed under the owner  
16 information on the application was aware that we were having  
17 a public hearing this evening on his application?

18 MR. SCHMIDT: He was aware. He had actually had --  
19 conveyed that he would have a delegate here representing him.  
20 I did anticipate that Mr. Ely from Chad Ely Signs was  
21 supposed to here representing him on his behalf.

22 ATTORNEY WISER: There are numerous criteria both  
23 specific and general that the applicant must demonstrate  
24 compliance with.

25 Without an applicant to ask questions of I'm not



1 quite sure how to proceed this evening.

2 Council, I think our options would be perhaps to  
3 continue the hearing would be an option for Council to a date  
4 certain in the future or Council could take some dispositive  
5 action this evening on the application based on the limited  
6 testimony that -- the limited evidence that we've received  
7 from the applicant.

8 MR. CERMAK: Excuse me, Sam. I just sent a text  
9 message to Chad Ely and I would expect an answer very  
10 rapidly. He's very good at that, so if we can continue this  
11 until later in the meeting or whatever.

12 ATTORNEY WISER: Mr. President, if you do not  
13 object we could continue this hearing until we have received  
14 the testimony and evidence for the other conditional use  
15 hearing that we have this evening, and if there is a  
16 representative of the applicant, then perhaps we can resume  
17 testimony with this particular matter or if not, then we can  
18 decide the best way to proceed.

19 COUNCIL PRESIDENT MUMMA: Let's move down to the  
20 second one there, Mainstreet request right now, and then  
21 we'll do the third one and then we'll see if he has come back  
22 online.

23 ATTORNEY WISER: Sounds good, Mr. President.

24 The second conditional use application that we have  
25 this evening has been submitted by Mainstreet Waynesboro, and

1 we do have a representative in the form of Mr. Kohler with us  
2 here this evening.

3 This is a request for a mural in accordance with  
4 the Waynesboro Zoning Ordinance for the property that's  
5 located at 22 West Main Street in Waynesboro.

6 Mr. Schmidt, would you provide some background  
7 information regarding this particular application as well as  
8 testimony regarding the notice that was provided in the  
9 Mainstreet Waynesboro application.

10 MR. SCHMIDT: Yes, sir. Thank you, Mr. Wiser.

11 Borough Council, before you you should have  
12 information again containing a copy of the application that  
13 was submitted by Mr. Kohler, Mainstreet Waynesboro, to  
14 propose a mural be painted on the side of the building at 22  
15 West Main Street.

16 Again, that is -- the proposed mural does meet the  
17 criteria that's outlined in Zoning Chapter 295-88 that  
18 pertains to original art murals. It is in a properly zoned  
19 district in Downtown Business District and, Mr. Wiser, do you  
20 want me to go through this criteria or --

21 ATTORNEY WISER: I will be reviewing the specific  
22 and general criteria with the applicant.

23 MR. SCHMIDT: Okay, very good.

24 A notice of the hearing was mailed out to  
25 surrounding property owners and also published in the Record

1 Herald on April 7th and April 14th.

2 ATTORNEY WISER: Anything else, Mr. Schmidt?

3 MR. SCHMIDT: I believe that's it, Mr. Wiser.

4 Thank you.

5 ATTORNEY WISER: Great. Thank you.

6 BY ATTORNEY WISER:

7 Q. Mr. Kohler, there are specific criteria for an art  
8 mural that are found in Section 295-88 of the Zoning  
9 Ordinance.

10 A. Yes, sir.

11 Q. So we'll run through those specific criteria, and  
12 then we'll move on to the general criteria. So I will ask  
13 you about your application's conformance with the criteria.

14 The first in Subsection A is the mural shall be  
15 consistent with the objectives of encouraging artistic  
16 expressions, fostering a sense of pride in the Borough of  
17 Waynesboro, not interfering with traffic safety or otherwise  
18 endangering public safety providing art which is appropriate  
19 in size and will not dominate the visual appearance of  
20 downtown Waynesboro and providing esthetic benefits the  
21 public will enjoy while not contributing to visual blight.

22 I know there's quite a bit in there, Bill, but  
23 could you describe the ways in which your proposed mural  
24 complies with those requirements?

25 A. Yes. The mural will be -- hello everyone and

1 thanks for taking the time to hear my proposal -- or hear  
2 Mainstreet's proposal and, yes, the mural as you have in your  
3 packet and I do have an updated version that I wanted to  
4 share, but it's not allowing me to share that, but it is  
5 appropriate in size. It's smaller than the -- well, I think  
6 the dimensions that are mentioned in the borough ordinance,  
7 and it says greetings -- the mural will say greetings from  
8 Waynesboro, Pennsylvania. It will be on a side wall, and it  
9 will be mounted by Chad Ely.

10           We've already made arrangements for that, and it  
11 will be created -- and it's not -- it's near -- it's on the  
12 side of the old Western Auto building so it won't be -- I  
13 think it will be an area where a lot of people will see it  
14 but also they will be able to pull over and park and look at  
15 it as well. So, yes, it will comply with Article A.

16           Q. Thank you, Mr. Kohler. The second specific  
17 criteria in Subsection B is that any alteration of an  
18 original art mural other than minor changes to the mural that  
19 result from the maintenance or repair of the mural or from  
20 naturally occurring changes to the mural or caused by  
21 exposure to the elements or the passage of time shall require  
22 a new permit and approval by Borough Council. Does  
23 Mainstreet Waynesboro understand that those are the  
24 requirements applicable to an original art mural?

25           A. Yes, we do.

1 Q. And do you agree to comply with those terms?

2 A. Yes, we do.

3 Q. The third specific criteria in Subsection C is that  
4 no part of an original art mural shall exceed the height of  
5 structure to which it is tiled, painted or affixed. Will  
6 your proposed mural exceed the height of the structure to  
7 which it is tiled, painted or affixed?

8 A. It will not exceed the height of the structure. It  
9 will be below -- as you can see in the picture it will be  
10 below the second floor window so it will be much below that.  
11 It will comply.

12 Q. Mr. Kohler, if you could try again I think it would  
13 be helpful to have the updated mural depiction that you have  
14 if you could attempt to display that that would be helpful.

15 A. Well, it says -- Jason, if you could apply the  
16 participant screen sharing and see if I can. It says host  
17 disabled participant screen sharing. I think it's on the  
18 right hand side there.

19 Q. I think it's generally under the security -- on the  
20 host screen I think it's generally under the security  
21 function and then there's an ability to allow for screen  
22 sharing.

23 A. There it is. Yes, thank you, Jason.

24 Okay, let me find it. Sorry. Okay, let me blow  
25 that up a little bit. Okay, so there is what the -- that's

1 the finished -- what the finished product will look like.  
2 Obviously it will be painted, not photographs but this is on  
3 the former Western Auto building. It will be -- the mural  
4 will be created in four by eight panels and will hang below  
5 that second floor window there. It will replace the -- it  
6 will replace the Charlotte's Web Antiques sign which has been  
7 hanging there for a long time and, of course, the business  
8 has been closed since before I started in my job in 2016 so  
9 -- and, again, it will be a little bit -- it won't be that  
10 deep. That's not proportionally accurate but it will be 20  
11 feet wide by eight feet deep.

12 Q. Thank you, Bill.

13 A. So it will comply with Section C.

14 Q. And if you could, Bill, would you be able to email  
15 a copy of that photograph to Jason and Matt?

16 What I would like to do is make that an exhibit if  
17 that's the updated design that Mainstreet would like to  
18 proceed with, that would be become a part of the record.

19 A. Okay.

20 Q. And we could admit that as Applicant's Exhibit B.  
21 We'll mark the application of Mainstreet Waynesboro, Inc.  
22 with the documents affixed to that as Applicant's Exhibit A,  
23 and then that would -- Council's ultimate action on the  
24 conditional use application would be based on the depiction  
25 that you've just provided us.

1 A. Okay. I sure can.

2 Q. Getting back to the specific criteria, this is  
3 Subsection E. Will the original art mural be placed over  
4 exterior surfaces of any building opening including but not  
5 limited to windows, doors or vents?

6 A. It will not.

7 Q. Will the original art mural be placed on a  
8 dwelling?

9 A. No. This is a commercial space. Now above the  
10 second floor I believe has commercial -- I mean has  
11 residential above this, but this will be on the first floor  
12 which is, again, it's going to be a new restaurant in  
13 downtown Waynesboro.

14 Q. So 22 West Main Street is a mixed use structure  
15 with commercial on the first floor and residential above?

16 A. Correct.

17 Q. The next criteria is found in Subsection G. Will  
18 the original art mural be arranged and illuminated -- we've  
19 got someone who's not muted and that's providing some  
20 interference that may distract for the stenographer.

21 Back to Subsection G, Mr. Kohler, will the original  
22 art mural be arranged and illuminated in a manner that will  
23 provide a light intensity above ambient lighting as measured  
24 at the property line?

25 A. It will not be lighted, so no.

1 Q. Subsection H, will the original art mural be placed  
2 on the side walls of the building? I know it's kind of  
3 self-explanatory but your testimony would be --

4 A. Yes, it will be on the side wall of 22 West Main  
5 Street.

6 Q. And it will not face a street, correct?

7 A. This is correct.

8 Q. Subsection I, it cannot -- the original art mural  
9 cannot exceed 360 square feet. Will this mural exceed 360  
10 square feet?

11 A. No, sir. It will be 20 feet wide by eight feet  
12 deep so that square feet would be less than 360.

13 Q. Subsection J, will the material which is part of  
14 the original art mural project from the building wall on  
15 which it is placed?

16 A. When I consulted with Mr. Ely from C-Ely Designs  
17 he's going to place the bracket -- place the boards directly  
18 on the -- up against the stone and then secure with brackets  
19 so it will be -- I mean, the board is about half an inch  
20 thick so it will slightly project from the surface but,  
21 again, it would be a very -- you know, just the thickness of  
22 these boards which, again, is about half an inch.

23 Q. Will any part of the original art mural contain  
24 material which appeals to the prurient interest?

25 A. It will not.



1 Q. Those are all the specific criteria, Mr. Kohler,  
2 and we'll move on quickly to the general criteria which are  
3 Section 295-114 of the Borough Zoning Ordinance.

4 Is the proposed use, the mural, consistent with the  
5 spirit, purpose and intent of the zoning ordinance?

6 A. Yes.

7 Q. Will the proposed mural substantially injure or  
8 detract from the use of the neighborhood property or from the  
9 character of the neighborhood?

10 A. No.

11 Q. Is the use -- the mural and the use of the property  
12 adjacent to the area adequately safeguarded from any harm?

13 A. Well, I mean, there are lights in the neighboring  
14 parking lot so I think it certainly helps and with the new  
15 streetlights there's one literally about 10 feet away. I  
16 think will be plenty lighted so, you know, you can't control  
17 vandalism, but I certainly think it will be -- it's in a safe  
18 place.

19 Q. And I think, Mr. Kohler, your testimony earlier  
20 that the mural itself will be appropriately affixed to the  
21 side of the building. I believe your testimony, and you can  
22 confirm this by no means do I mean to put words in your  
23 mouth, but there will not be a public safety hazard as a  
24 result of the mural. It will meet the necessary code  
25 requirements to ensure that it doesn't blow off the building

1 or fall over and injure someone?

2 A. Correct. That's why I talked with -- you know,  
3 having it professionally installed, and Mr. Ely has, you  
4 know, been in business for almost 20 years I think in this  
5 business. I think -- I trust that he -- and he has done  
6 several projects for Mainstreet and for much better clients  
7 than Mainstreet, and so I feel very confident that it will be  
8 very secure to the building.

9 Q. Mr. Kohler, will the proposed mural serve the best  
10 interest of the borough, the convenience of the community and  
11 the public health, safety and welfare?

12 A. Yes.

13 Q. Mr. Kohler, will there be any adverse affect on  
14 public services and facilities such as public water, sewer,  
15 police, fire protection, public schools or other public  
16 facilities?

17 A. No, sir.

18 Q. The next just says that the use must comply with  
19 all the specific standards which you've already offered ample  
20 testimony on that.

21 Is the use consistent with sound standards of land  
22 development practice? And here there is no land development  
23 activity so I believe your answer would likely be yes?

24 A. Yes.

25 Q. And will the use result in any traffic hazards or

1 congestion?

2       A. I don't think so. I mean, obviously any time  
3 there's something new and shiny there's going to be people  
4 that are going to be looking at it and gawking at it but, you  
5 know, I feel like this is something, again, that people are  
6 going to see. It's going to be on a bright white -- you  
7 know, board, and I think people are going to say, wow, look  
8 at that, but I also think that, you know, people will -- you  
9 know, traffic moves slow on Main Street most of the time that  
10 I think they'll -- that they'll pull over to look at it I  
11 hope or park and come look at the mural and then go shop in  
12 other places, so I would -- my hope is no, it would not be a  
13 hazard.

14       Q. Thank you, Mr. Kohler. That concludes the specific  
15 and general criteria.

16               Is there any other information that you would like  
17 to add that you think may be helpful for Council's  
18 consideration?

19       A. Yes, thank you, Mr. Wiser. Yeah, this is a project  
20 that, you know, Mainstreet has been wanting to do for some  
21 time even before I got in this position and, you know, this  
22 is a joint project with the school district with our  
23 community arts class, and I think it will be a fantastic  
24 addition. Downtown Waynesboro has no public art but we also  
25 have four or five very fantastic art galleries in the

1 downtown area, and we have a lot of talent here, and I think  
2 this gives opportunity for more folks to say, hey, you know,  
3 Waynesboro is proud of their -- obviously we're very proud of  
4 our history and what we have here, and we're hoping that we  
5 can do this again.

6 I'll be back next year to ask for another mural  
7 somewhere else honoring our first responders and our fire  
8 department, our ambulance squad, and then eventually other  
9 parts of our history as well, so I think it's just going to  
10 be a great attribute to the community and people love it. I  
11 mean, people travel to see these kinds of things, and I  
12 think, you know, it would help, again, emphasize the  
13 revitalization in downtown and some of the cool things that  
14 we have here.

15 Q. Thank you, Mr. Kohler.

16 ATTORNEY WISER: Members of the public who have  
17 joined us, is there anyone who did not have an opportunity  
18 earlier to register as a party of record?

19 If you desire to be a party of record, which means  
20 you would be an actual party to this particular matter,  
21 please indicate your desire to do so now.

22 If you only wish to offer public comment there will  
23 be an opportunity for that upon the conclusion of the  
24 testimony from the applicant.

25 I'll take the resounding silence as no one is

1 seeking to be a party of record.

2 Mr. President, now would be an appropriate time for  
3 members of Council to ask questions or even staff if they've  
4 got questions for Mr. Kohler regarding the proposed original  
5 art mural.

6 Mr. President, you are muted at the moment.

7 COUNCIL PRESIDENT MUMMA: Sorry. Is there any  
8 council members have any questions of the applicants for the  
9 first two public hearings?

10 COUNCILMAN CERMAK: I do. Mr. Kohler --

11 MR. KOHLER: Yes, sir.

12 COUNCILMAN CERMAK: -- will this project comply  
13 with all state and local building and construction permits  
14 and special requirements?

15 MR. KOHLER: That's a good question. I certainly  
16 can get to -- go and see Accredited Services tomorrow. I  
17 thought because of the size that it would comply, but that's  
18 certainly something I can -- is that something that can be  
19 dealt with in a phone call or --

20 MR. CERMAK: Let me help you out here, Bill. What  
21 I'm looking for is construction safety, not size. The size  
22 is a zoning thing, and that's with Matt, but what it's  
23 constructed of and how it's mounted, and that's what the  
24 building permit review and inspection is for, so it would  
25 behoof us to ensure that it does comply with those. If it

1 would fall and injury someone without a permit or inspection  
2 we're all in trouble.

3 MR. KOHLER: Okay. I can follow through tomorrow  
4 with that.

5 MAYOR STARLIPER: Mr. Kohler --

6 MR. KOHLER: Sir.

7 MAYOR STARLIPER: -- thank you very much for what  
8 you're doing to brighten up the community and make people  
9 aware of who we are.

10 MR. KOHLER: Thank you, Mr. Mayor.

11 MAYOR STARLIPER: It is, in fact, beautiful.

12 MR. KOHLER: Thank you.

13 COUNCIL PRESIDENT: Are there any other comments?

14 COUNCILMAN KNOTT: I'll echo what the Mayor has  
15 said where -- thank you for the project, Bill, on Main  
16 Street. It will certainly dress up and add some beauty to  
17 down town -- more beauty to downtown, so thank you.

18 MR. KOHLER: You're welcome. Thank you.

19 (Thereupon, the Court Reporter indicated to  
20 Attorney Wisner that the last person speaking did not identify  
21 themselves.)

22 ATTORNEY WISER: Oh, thank you, Ms. Sydnor. The  
23 last person who spoke was Council Member Knott.

24 For Council members if you do have a question or  
25 comment if you could please identify yourself that will make

1 it much easier for Diana to keep track of who's talking.

2 Are there any other members of Council who have any  
3 questions or comments of the applicant?

4 COUNCIL PRESIDENT MUMMA: Sounds like there are  
5 none.

6 ATTORNEY WISER: That was Council President Mumma.

7 COUNCIL PRESIDENT MUMMA: Yes.

8 ATTORNEY WISER: And I think I heard a Clint  
9 Eastwood tune in the background. I'm not sure who's comment  
10 that was.

11 COUNCIL PRESIDENT MUMMA: Well, I just shut him  
12 down.

13 ATTORNEY WISER: Are there any members of staff  
14 who have any questions for Mr. Kohler? It doesn't appear  
15 that there are.

16 Are there any members of the public who are present  
17 that wish to offer any public comment regarding Mainstreet  
18 Waynesboro's application for an original art mural at 22 West  
19 Main Street?

20 I'm scrolling through the participants to make sure  
21 I don't see any raised hands. I do not see any raised hands  
22 and I have not heard a member of public identify that they  
23 would wish to offer public comment, so with that, Mr.  
24 President, we can close the testimony and evidence regarding  
25 the application of Mainstreet Waynesboro.

1 COUNCIL PRESIDENT MUMMA: Okay, we'll now call that  
2 one closed.

3 Councilman Cermak, did you hear back from Ely?

4 MR. CERMAK: Yes, sir. He's online here with us.

5 COUNCIL PRESIDENT MUMMA: Okay, then, Mr. Wiser, do  
6 you want to move back up to the first one?

7 ATTORNEY WISER: Certainly, and I will -- as I'm  
8 pulling out the information on the conditional use  
9 application for Wild West Motors and the property at 903 West  
10 Main Street I will ask, Mr. Ely, are you joined us via video?  
11 There you are.

12 MR. ELY: Yes.

13 ATTORNEY WISER: Mr. Ely, would you please raise  
14 your right hand. I'll swear you in so that we get your sworn  
15 testimony on the record.

16 CHAD ELY, being called as a witness, having duly  
17 been sworn, testified as follows:

18 BY ATTORNEY WISER:

19 Q. Thank you, Mr. Ely. Just as a quick refresher  
20 where we left off on the application earlier this evening was  
21 the zoning officer had presented some background information  
22 regarding the application for the electronic message center  
23 sign, and we were just at the point where we were going to  
24 review the specific and general criteria with the applicant,  
25 so if it's okay with you I will run through those specific



1 and general criteria and you can offer testimony. Before we  
2 get in to that could you tell us what your relationship to  
3 the applicant is?

4 A. Dan is just a customer of mine, but he wanted me to  
5 sit in because I would know more questions if anybody had any  
6 questions about the signage or location or whatever.

7 Q. You would be performing the installation on behalf  
8 of Mr. Long, correct?

9 A. Yes. Yes.

10 Q. So is Mr. Long proposing that there only be one  
11 electronic message center erected at the property at 903 West  
12 Main Street?

13 A. Yes.

14 Q. Will the electronic message center be programmed so  
15 that the displayed message does not change more frequently  
16 than one time per seven seconds?

17 A. Yes.

18 Q. Will the electronic message center be programmed to  
19 display static images only?

20 A. Yes.

21 Q. And is the applicant aware that no flashing,  
22 blinking, moving or other distracting features are permitted?

23 A. Yes.

24 Q. Will the electronic message center flash, scroll,  
25 twist or otherwise move during the change of message?

1 A. No.

2 Q. Will the electronic message portion of the sign  
3 exceed 32 square feet in size?

4 A. No.

5 Q. What will the size of the electronic message center  
6 be?

7 A. It is 3 foot 11 inches tall and 7 foot I think 9  
8 inches wide, so it's just under 4 by 8, so just under the 32  
9 square foot.

10 Q. Will the electronic message center project beyond  
11 the property line?

12 A. No.

13 Q. Will the electronic message center be erected  
14 within 20 feet of an intersection?

15 A. It would be 25 feet so, yeah, it wouldn't be in  
16 that 20 feet. It's 25 feet.

17 Q. Thank you for that testimony, Mr. Ely. That's the  
18 specific criteria applicable to this application.

19 I will now ask you questions regarding the general  
20 criteria as found in Section 295-114 of the borough zoning  
21 ordinance. Is the proposed sign consistent with the spirit,  
22 purpose and intent of the zoning ordinance?

23 A. Yes, as far as I know. I mean, I went over it with  
24 Matt, and I think we pretty much meet all the -- you know,  
25 what we need to meet with it.

1 Q. Will the proposed -- I'm sorry, Mr. Ely.

2 A. That's alright.

3 Q. Will the proposed sign substantially injure or  
4 detract from the use of neighboring property or from the  
5 character of the neighborhood?

6 A. No, I wouldn't think so.

7 Q. Will the use of the property adjacent to the  
8 property in which the sign will be installed, will they be  
9 appropriately safeguarded?

10 A. So what do you mean by that, I mean, like --

11 Q. Would there be any adverse affect on the neighbors  
12 to the property at 903 West Main Street -- 905. I'm sorry,  
13 095?

14 A. I wouldn't think with being 25 feet from, you know,  
15 the boundary lines. Well, I guess center of the road and  
16 all. There is some houses I think across the street, but I  
17 wouldn't think that it would affect any of them especially as  
18 long as we meet the flashing, you know, all that, the seven  
19 seconds.

20 Q. Will the proposed sign serve the best interest of  
21 the borough, the convenience of the community and the public  
22 health, safety and welfare?

23 A. Yes.

24 Q. Will the proposed sign have any impact upon public  
25 services such as public water, sewer, police or fire

1 protection and public schools?

2 A. No.

3 Q. You've offered testimony already that addresses the  
4 criteria that the specific standards be met, and so we can  
5 move to the next one. Is the proposed sign consistent with  
6 sound standards of land development practice?

7 A. Yes. As far as I know we should meet all the  
8 basis.

9 Q. Will there be an impact on traffic hazards or  
10 congestion?

11 A. No. I mean, I think with the LED sign thing, I  
12 mean, yes, there is obviously you're trying to get the  
13 message out there to people. There's many LED signs around  
14 now so that even in Waynesboro and I don't see any affect  
15 there. I mean, we don't see any -- even the companies that I  
16 am dealers for their signs they do -- they do -- you know,  
17 analyzations on, you know, if it distracts people from  
18 driving and all that, but I would think that it wouldn't.

19 Q. And, Mr. Ely, that concludes the general criteria.  
20 Is there any other information that you would like to provide  
21 Council in support of the application of Wild West Motors?

22 A. No, not at this point.

23 ATTORNEY WISER: Is there anyone who has joined us  
24 after we opened the hearing that wishes to be identified as a  
25 party of record? If so, now is your opportunity to let us

1 know. It does not appear that anybody desires to be a party  
2 of record.

3 Mr. President, now would be the appropriate time to  
4 have members of Council or staff or the Mayor offer any  
5 public comments or questions.

6 COUNCIL PRESIDENT MUMMA: Do I have any comments  
7 from any Council or Mr. Mayor or staff?

8 MR. CERMAK: Here I am again.

9 COUNCIL PRESIDENT MUMMA: Go ahead.

10 MR. CERMAK: Just a comment that Mr. Long always  
11 gets permits and I'm sure everything will be safe there.

12 ATTORNEY WISER: Thank you, Mr. Cermak.

13 COUNCIL PRESIDENT MUMMA: Anyone else? Sounds like  
14 there are none.

15 ATTORNEY WISER: With that, Mr. President, are  
16 there any members of the public who wish to provide public  
17 comment on the conditional use application of Wild West  
18 Motors for the electronic message sign?

19 Mr. President, it does not appear that there is any  
20 members of the public that wishes to provide the public  
21 comment regarding this application.

22 We received testimony regarding the specific and  
23 general criteria, and I believe we can close the hearing at  
24 this juncture.

25 COUNCIL PRESIDENT MUMMA: Okay, the hearings are

1 now closed. Do you want to move on to the third item there?

2 ATTORNEY WISER: Mr. President, I would just ask  
3 whether or not Council desires to take action on the  
4 conditional use applications this evening. If you do you  
5 could either do that now and Diana could transcribe the  
6 action of Council or you can decide to defer that until the  
7 regular meeting agenda or some future meeting. It's up to  
8 Council.

9 COUNCIL PRESIDENT MUMMA: I thought there was a  
10 regulation we can't have the hearing and Council approval in  
11 the same evening?

12 ATTORNEY WISER: You can have it in the same  
13 evening, yes.

14 COUNCIL PRESIDENT MUMMA: Oh, you can?

15 ATTORNEY WISER: Yes.

16 COUNCIL PRESIDENT MUMMA: Well, then I would  
17 entertain a motion for approval for Wild West Motors at this  
18 time.

19 COUNCILMAN CERMAK: So moved.

20 COUNCILMAN KNOTT: Second.

21 ATTORNEY WISER: We've got a motion from Mr.  
22 Cermak and a second from Mr. Knott.

23 COUNCILMAN KNOTT: Thank you, Sam.

24 COUNCIL PRESIDENT MUMMA: It's been moved and  
25 seconded. Any further discussion? Hearing none, Borough

1 Manager, roll call please.

2 BOROUGH MANAGER STAINS: Councilman Knott?

3 COUNCILMAN KNOTT: Aye.

4 BOROUGH MANAGER STAINS: Councilman Knott aye.

5 Councilman Pat Fleagle?

6 COUNCILMAN PAT FLEAGLE: Aye.

7 BOROUGH MANAGER STAINS: Councilman Pat Fleagle

8 aye.

9 Councilman Jon F. Fleagle.

10 COUNCILMAN JON FLEAGLE: Aye.

11 BOROUGH MANAGER STAINS: Councilman Jon Fleagle

12 aye.

13 Councilman Royer.

14 COUNCILMAN ROYER: Aye.

15 BOROUGH MANAGER STAINS: Councilman Royer aye.

16 Councilman Cermak?

17 COUNCILMAN CERMAK: Aye.

18 BOROUGH MANAGER STAINS: Councilman Cermak aye.

19 Councilman Mumma?

20 COUNCILMAN MUMMA: Aye.

21 BOROUGH MANAGER STAINS: Councilman Mumma aye.

22 Mr. President, the vote is unanimous.

23 COUNCIL PRESIDENT MUMMA: The motion has been

24 approved.

25 Okay, do I have a motion for the Main Street mural

1 at this time?

2 COUNCILMAN PAT FLEAGLE: So moved.

3 COUNCILMAN KNOTT: Second.

4 COUNCIL PRESIDENT MUMMA: Pat Fleagle council and  
5 who seconded it?

6 COUNCILMAN KNOTT: Me, Jarred Knott.

7 COUNCIL PRESIDENT MUMMA: Jarred Knott second. Any  
8 further questions?

9 Hearing none, Borough Manager, roll call.

10 BOROUGH MANAGER STAINS: Councilman Knott?

11 COUNCILMAN KNOTT: Aye.

12 BOROUGH MANAGER STAINS: Councilman Knott aye.  
13 Councilman Pat Fleagle.

14 COUNCILMAN PAT FLEAGLE: Aye.

15 BOROUGH MANAGER STAINS: Councilman Pat Fleagle  
16 aye.

17 Councilman Jon Fleagle?

18 BOROUGH MANAGER STAINS: Councilman Jon Fleagle  
19 aye.

20 Councilman Royer?

21 COUNCILMAN ROYER: Aye.

22 BOROUGH MANAGER STAINS: Councilman Royer aye.  
23 Councilman Cermak?

24 COUNCILMAN CERMAK: Aye.

25 BOROUGH MANAGER STAINS: Councilman Cermak aye.



1 Councilman Mumma?

2 COUNCILMAN MUMMA: Aye.

3 BOROUGH MANAGER STAINS: Councilman Mumma aye.

4 Mr. President, the vote is unanimous.

5 COUNCIL PRESIDENT MUMMA: It has been approved.

6 ATTORNEY WISER: Mr. President, I will note for  
7 the applicants that within 45 days of the Council  
8 determination this evening a written decision will be issued  
9 that's consistent with the determination of Borough Council.

10 The use that you conduct must be consistent with  
11 the testimony and evidence that you presented this evening,  
12 and a potential opposer to the approval of this evening does  
13 have 30 days to appeal the written decision once it's issued,  
14 so any actions that you take between now and the 30th day  
15 expiring after the written decision is issued is at your own  
16 risk, so with that, Mr. President, that would conclude the  
17 conditional use hearings this evening.

18 Diana, thank you for your patience with us this  
19 evening, and thank you for your work in transcribing the  
20 proceedings.

21 (Thereupon, the hearing was concluded at 7:24 p.m.)

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\_\_\_\_\_ I hereby certify that the  
foregoing is a true and correct transcript of testimony taken  
by me in the above-entitled matter.

\_\_\_\_\_  
Diana L. Sydnor  
Official Court Reporter