

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 JUNE 9, 2005

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4 The Owensboro Metropolitan Planning
5 Commission met in regular session at 6:00 p.m. on
6 Thursday, June 9, 2005, at City Hall, Commission
7 Chambers, Owensboro, Kentucky, and the proceedings
8 were as follows:

9 MEMBERS PRESENT: Drew Kirkland, Chairman
Gary Noffsinger
10 Nick Cambron
Jimmy Gilles
11 Dave Appleby
Scott Jagoe
12 Sister Vivian Bowles
Judy Dixon
13 Dr. Bothwell
Martin Hayden
14 Stewart Elliott,
Attorney

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16
17 CHAIRMAN: I would like to call the
18 Owensboro Metropolitan Planning Commission June 9,
19 2005 meeting to order. Our invocation and prayer will
20 be given by Mr. Brian Howard.

21 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

22 CHAIRMAN: Our first order of business
23 will be to consider the minutes of May 12, 2005. Are
24 there any additions, corrections?

25 (NO RESPONSE)

Ohio Valley Reporting
(270) 683-7383

1 CHAIRMAN: If not the chair is ready for a
2 motion.

3 MS. DIXON: Move to approve.

4 MR. CAMBRON: Second.

5 CHAIRMAN: Motion for approval by Ms.
6 Dixon. Second by Mr. Cambron. All in favor raise
7 your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item, Mr. Noffsinger.

11 -----

12 ZONING CHANGES - CITY

13 ITEM 2

14 1844 Willis Avenue, 1919, 1925 James David Court,
15 0.319 acres
16 Consider zoning change: From R-4DT Inner-City
17 Residential to B-4 General Business
18 Applicant: David & Joyce Simpson

19 MR. ELLIOTT: State your name for the
20 record, please.

21 MR. HOWARD: Brian Howard.

22 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

23 PLANNING STAFF RECOMMENDATIONS

24 Staff recommends approval because the
25 proposal is in compliance with the community's adopted
26 Comprehensive Plan. The conditions and findings of
27 fact that support this recommendation include the

1 following:

2 Conditions:

3 1. Install a 10 foot landscape easement
4 along adjoining residentially zoned properties with
5 one tree every 40 linear feet and a continuous 6 foot
6 high planting, hedge, fence, wall or earth mound.

7 2. Install curb and gutter and sidewalks
8 along the entire frontage of the subject property.

9 3. A consolidation plat and site plan
10 must be approved prior to the issuance of any building
11 permits.

12 Findings of Fact:

13 1. The subject property is located in a
14 Central Residential Plan Area, where general business
15 uses are appropriate in limited locations;

16 2. The proposal is a logical expansion of
17 existing B-4 General Business zone and use immediately
18 west of the subject property; and,

19 3. Expansion of the contiguous B-4
20 General Business zone should not significantly
21 increase the extent of the B-4 General Business zone
22 within the area and should not overburden the capacity
23 of roadways and other necessary urban services that
24 are available in the affected area.

25 MR. HOWARD: We would like to enter the

1 Staff Report as Exhibit A.

2 CHAIRMAN: Is there anybody representing
3 the applicant?

4 APPLICANT REP: Yes.

5 CHAIRMAN: Does anybody have any questions
6 of the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Does anybody from the
9 commission have any questions?

10 (NO RESPONSE)

11 CHAIRMAN: If not the chair is ready for a
12 motion.

13 DR. BOTHWELL: Motion for approval based
14 on Conditions 1 through 3 and Findings of Fact 1
15 through 3.

16 CHAIRMAN: Motion for approval by Dr.
17 Bothwell.

18 MR. HAYDEN: Second.

19 CHAIRMAN: Second by Mr. Hayden. All in
20 favor raise your right hand.

21 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

22 CHAIRMAN: Motion carries unanimously.

23 Next item, please.

24 ITEM 3

25 902 West Second Street, 0.122 acres

1 Consider zoning change: From B-4 General Business
2 to R-4DT Inner-City Residential
3 Applicant: Bradley D. Hutchins

4 PLANNING STAFF RECOMMENDATIONS

5 Staff recommends approval because the
6 proposal is in compliance with the community's adopted
7 Comprehensive Plan. The condition and findings of
8 fact that support this recommendation include the
9 following:

10 Condition:

11 Access to the subject property shall be
12 limited to Poplar Street only with no direct access to
13 West Second Street.

14 Findings of Fact:

15 1. The subject property is partially
16 located in a Central Residential Plan Area, where
17 urban mid-density uses are appropriate in general
18 locations and partially located in a business plan
19 area where urban mid-density uses are appropriate in
20 limited locations,

21 2. Sanitary sewers are currently existing
22 in the vicinity;

23 3. The proposal is a logical expansion of
24 existing R-4DT Inner-City Residential zone immediately
25 west of the subject property; and,

4. Expansion of the contiguous R-4DT

1 Inner-City Residential zone should not significantly
2 increase the extent of the zone within the vicinity
3 and should not overburden the capacity of roadways and
4 other necessary urban services that are available in
5 the affected area.

6 MR. HOWARD: We would like to enter the
7 Staff Report as Exhibit B.

8 CHAIRMAN: Is there anybody representing
9 the applicant?

10 (NO RESPONSE)

11 CHAIRMAN: Does anybody in the audience
12 have any questions?

13 MS. HIPPS: We do on the first one. We
14 didn't know you were asking questions.

15 CHAIRMAN: Excuse me. If we could get
16 someone to step to the podium.

17 MR. ELLIOTT: State your name, please.

18 MS. HIPPS: My name is Wanda Hipps. I own
19 the property to the right of the first - -

20 MR. ELLIOTT: Let me swear you in.

21 (MS. WANDA HIPPS SWORN BY ATTORNEY.)

22 MS. HIPPS: The only thing that I wanted
23 to ask or the only thing I question about is is the
24 city going to come back after you all rezone that, are
25 you going to come back and condemn my property, take

1 my property simply because these people want to add
2 on?

3 CHAIRMAN: Mr. Noffsinger, would you
4 address that question, please.

5 MR. NOFFSINGER: No, ma'am. That should
6 not trigger anything on your property in terms of your
7 ability to continue to live there and have your home
8 there unless there's some violation there that might
9 exist, some property maintenance violation or
10 something like that. This board certainly does not
11 have any authority over that. That's the City of
12 Owensboro, through their department. Just for this
13 rezoning would not trigger anything like that.

14 MS. HIPPS: What about the people that own
15 the property, are getting ready to do whatever they're
16 going to do, are they going to be able to push us out?

17 MR. NOFFSINGER: No, ma'am.

18 MS. CARDEN: I have a question.

19 CHAIRMAN: Yes, ma'am. Step to the
20 podium.

21 MR. ELLIOTT: State your name, please.

22 MS. CARDEN: Misty Coleman.

23 (MS. MISTY COLEMAN SWORN BY ATTORNEY.)

24 MS. COLEMAN: I've lived there in the home
25 that they're referring to and they've never maintained

1 the property. The business that's planning on moving
2 in, they've also prior before have put their parts
3 belong, pipes, signs, whatever the case may be.
4 They've never maintained it. They have, you know,
5 weeds out of control. It's came over into our
6 property. They've never taken care of it. How do we
7 know that with them bringing their business back that
8 they're going to not do the same thing and let it go
9 out of control for the other homes that is around it?

10 CHAIRMAN: There is an agency that we can
11 give you the name of that takes care of property
12 maintenance. Mr. Darrell Farmer is the officer that's
13 charged with doing that. We can put you in contact
14 with them if you have any problems. They take care of
15 property maintenance.

16 MR. JAGOE: Mr. Chairman, you may also
17 point out Condition Number 1.

18 CHAIRMAN: Go ahead if would you read
19 that.

20 MR. JAGOE: They have to install a ten
21 foot landscape easement adjoining any residentially
22 zoned properties that adjoin theirs, which would be a
23 fix foot high continuous planting. I'm assuming that
24 would be next to your property. So there will be some
25 type of screening they would have to install.

1 MS. HIPPS: They do have a fence and it's
2 nice, the fence that they've got up now. It blocks,
3 you know, the view from the stuff that they do store.
4 I have no problem with the fence that they have there
5 now. It did get out of control for a while really bad.

6 CHAIRMAN: Two steps. I would recommend
7 you personally contacting the owner. If this that
8 doesn't bring any satisfaction, you can contact Mr.
9 Darrell Farmer. What office is Mr. Farmer in?

10 MR. NOFFSINGER: Community development
11 office.

12 CHAIRMAN: The community development
13 office.

14 MS. HIPPS: Thank you.

15 CHAIRMAN: Does anybody else have any
16 further questions?

17 MR. NOFFSINGER: Mr. Chairman, I do need
18 to point out for the record that I believe that the
19 lady's last name was Hipps.

20 MS. HIPPS: Yes.

21 MR. NOFFSINGER: 1848 Willis Avenue?

22 MS. HIPPS: Yes.

23 MR. NOFFSINGER: Your property is zoned
24 B-4 General Business which is the same zone the
25 applicant is asking for. I understand you have a

1 residential use of your property; however, it is zoned
2 commercial. In terms of screening - -

3 MS. HIPPS: I have never got a letter or
4 anything, no. I have never got a letter saying it has
5 been rezoned. I'm still paying tax on residential
6 area, tax on that.

7 MR. NOFFSINGER: Yes, ma'am, I'm sure that
8 you are, but the actual zoning of it appears to be
9 non-residential. That's okay. You can continue to
10 live there. If you have any questions after tonight,
11 you can contact our staff in the planning office. You
12 can talk with Becky Stone to find out the history of
13 that zoning, but I just want to make it clear for the
14 record what your zoning was and that the screening
15 requirements listed in this condition would not apply
16 to this particular property boundary, the fence and
17 the trees, but I understand you do have a fence
18 between you and the property that's being rezoned; is
19 that correct?

20 MS. HIPPS: On the side. Not in the back.

21 MR. NOFFSINGER: Right. At this point in
22 time they're not rezoning that. It's the property to
23 the east of your property.

24 MS. HIPPS: Is that right?

25 MR. NOFFSINGER: Well, to the east and to

1 the south, but the property is to the south front
2 James David Court.

3 MS. HIPPS: That's still adjacent to my
4 property.

5 MR. NOFFSINGER: Right. But they're south
6 and east of you is what they're rezoning. Not the lot
7 directly behind you which is already zoned B-4 general
8 business.

9 CHAIRMAN: Would you like to say something
10 else?

11 MS. COLEMAN: We have pictures actually
12 showing what she meant by fence. Actually technically
13 it's a sign. It's not even a fence. I don't know if
14 you all want to look at these.

15 Also what we're saying is they're storing
16 their signs here. They're not taking any type of
17 precaution to keep children and other, you know,
18 neighborhood kids that play because kids get into
19 things. I can tell you growing up there with the
20 signs and stuff they store there, kids are all over
21 it. They get in it. They climb on it. I've seen
22 kids get hurt from it. They fall over into our yard.
23 Again, it's a pest control problem. They don't take
24 care of it at all. We're just saying it's a mess.

25 CHAIRMAN: Mr. Noffsinger, would you like

1 to address that?

2 MR. NOFFSINGER: Mr. Chairman, I think
3 you've adequately addressed that in terms there is a
4 department that you can contact, the community
5 development department and Darrell Farmer.

6 MR. COLEMAN: We have called the business
7 people about this and, again, this is stuff that
8 they've left there from years ago. They moved their
9 property down to Second Street or something and they
10 left all of this behind. If they haven't cleaned up
11 anything, how do we know they're going to continue to
12 clean up?

13 CHAIRMAN: Well, they're in the process of
14 rezoning this property and they're going to do some
15 type of development in that area. So I would think
16 your property would improve dramatically because they
17 wouldn't be coming to do a rezoning without ideas for
18 improving the property. There again, those items are
19 not anything that this board can deal with. We did
20 give you the name of the people that do handle that.
21 They'll be more than happy to accommodate you. I
22 would first recommend that you all personally contact
23 the owner. Then after contacting the owner, give them
24 whatever type of response you get and then move to Mr.
25 Farmer in that community development area.

1 MS. COLEMAN: Thank you.

2 CHAIRMAN: Are there any other comments?

3 (NO RESPONSE)

4 CHAIRMAN: If not the chair is ready for a
5 motion.

6 We've already had a motion on that item.
7 Are we ready for our next item?

8 MR. APPLEBY: We're waiting for questions
9 and comments.

10 CHAIRMAN: Do we have questions and
11 comments on Item 3?

12 (NO RESPONSE)

13 CHAIRMAN: If we don't have any questions
14 or comments on Item 3, let's go ahead and take a
15 motion on that one.

16 MR. CAMBRON: Motion for approval, Mr.
17 Chairman, based upon Findings of Fact 1 through 4 and
18 Condition Number 1.

19 MR. APPLEBY: Second.

20 CHAIRMAN: We've got a motion by Mr.
21 Cambron for approval. We've got a second by Mr.
22 Appleby. All in favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: That motion carries
25 unanimously.

1 Next item.

2 -----

3 ZONING CHANGES - COUNTY

4 ITEM 4

5 3542, 3554 KY 54, 3630, 3636, 3700, 3710, 3714, 3726
6 Ralph Avenue, 4.109 acres

7 Consider zoning change: From R-1A Single-Family
8 Residential to B-4 General Business

9 Applicant: Woodlands Investments, LLC

10 MR. HOWARD: In your packets the Staff

11 Report recommended a postponement of this rezoning

12 until a development plan was submitted. We're now

13 prepared to submit a Staff Report that recommends

14 approval of the rezoning with some conditions. I'll

15 read that into the record.

16 PLANNING STAFF RECOMMENDATIONS

17 Staff recommends approval because the

18 proposal is in compliance with the community's adopted

19 Comprehensive Plan. The conditions and finding of

20 fact that support this recommendation include the

21 following:

22 Conditions:

23 1. Access to the subject property shall

24 be limited to Villa Point only;

25 2. A 10 foot landscape buffer with one

tree every 40 linear feet and a 6 foot high planting,

hedge, fence, wall or earth mound shall be installed

1 as a buffer along adjoining residentially zoned
2 properties;

3 3. Villa Point Drive shall be extended to
4 Ralph Avenue;

5 4. The developer should pursue permanent
6 closure of Ralph Avenue or improve Ralph Avenue
7 according to the options listed below;

8 Option 1: The Ralph Avenue right-of-way
9 shall be permanently closed from the existing
10 intersection with KY 54 to the south property line of
11 the Immanuel Baptist Church with all expenses the
12 responsibility of the applicant. The applicant shall
13 reconstruct the curb and gutter along KY 54 and remove
14 the entire existing pavement of Ralph Avenue that
15 falls within the KY 54 right-of-way. Finally, the
16 applicant shall improve Ralph Avenue to a 34 foot wide
17 commercial street with curb and gutter and sidewalks
18 from the same south property line of the church, south
19 through the intersection of Villa Point Drive.
20 Improvements "through" Villa Point Drive include
21 widening the southern end of radii at the intersection
22 and tapering from a 34 foot cross-section to the
23 existing cross-section at a speed limit; 1 taper.

24 Option 2: The applicant shall improve
25 Ralph Avenue from KY 54 through the intersection of
26 Villa Point Drive. This improvement includes widening
27 to the southern end of the radii at the intersection
28 and tapering from the 34 foot cross-section to the
29 existing cross-section at a speed limit; 1 taper.

30 5. Surety shall be posted for Option 2
31 with the final plat submittal;

32 6. If the closure of Ralph Avenue or the
33 improvements for which surety is posted have not been
34 completed within five years of the date of the
35 rezoning public hearing, the surety will be forfeited

1 and the local governing body will complete the
2 improvements;

3 7. No building permits shall be issued
4 until a final development plan is submitted and
5 approved by the OMPC; and,

6 8. A preliminary and final subdivision
7 plat must be submitted for the subject property due to
8 the extension of public services.

9 Findings of Fact:

10 1. The subject property is located in an
11 Urban Residential Plan Area, where general business
12 uses are appropriate in very limited locations;

13 2. The proposal is a logical expansion of
14 existing B-4 General Business zone immediately west of
15 the subject property; and,

16 3. If commitments are made by the
17 developer to bond improvements to Ralph Avenue
18 expansion of the contiguous B-4 General Business zone
19 should not significantly increase the extent of the
20 zone within the vicinity and should not overburden the
21 capacity of roadways and other necessary urban
22 services that are available in the affected area.

23 MR. HOWARD: We would like to enter the
24 Staff Report as Exhibit C.

25 CHAIRMAN: Do we have anybody representing

1 the applicant?

2 MR. HUTCHINSON: Yes.

3 MR. ELLIOTT: State your name, please.

4 MR. HUTCHINSON: Randy Hutchinson and Bill
5 Wilson of Hutchinson, Wilson & Poteat representing the
6 applicant.

7 (MR. RANDY HUTCHINSON AND BILL WILSON
8 SWORN BY ATTORNEY.)

9 MR. HUTCHINSON: Mr. Chairman and Gary, we
10 have not seen that. In reading through it quickly, we
11 think everything is okay. Would it be improper for us
12 to maybe ask for ten minutes to look at it in writing
13 so we make sure we understand everything and then we
14 could have a vote at that time. We want to make sure
15 we're in total agreement with everything? Ten minutes
16 will do it for us.

17 CHAIRMAN: Why don't we do this, could we
18 re-arrange their spot on the agenda rather than make
19 everybody wait ten minutes?

20 MR. NOFFSINGER: Yes, sir.

21 CHAIRMAN: Mr. Hutchinson, do you have a
22 copy of the - -

23 MR. HUTCHINSON: No.

24 CHAIRMAN: We will give you a copy and we
25 will move you to the back par with respect to the

1 rest.

2 MR. HUTCHINSON: Absolutely. I didn't
3 mean for everybody to wait.

4 CHAIRMAN: Does that suit you okay?

5 MR. HUTCHINSON: Yes. Absolutely.

6 CHAIRMAN: We will move you from the
7 position you are on the agenda to the last item.

8 MR. HUTCHINSON: Thank you.

9 CHAIRMAN: We have a change on the agenda
10 from Item 4 Woodlands Investments and we will now take
11 Item 5.

12 -----

13 DEVELOPMENT PLANS

14 ITEM 5

15 1120 Woodlawn Avenue, 1100 West 11th Street,
16 0.464 acres
17 Consider approval of final development plan.
Applicant: Woodlawn United Methodist Church

18 MR. NOFFSINGER: Mr. Chairman, this plan
19 has been reviewed by the Planning Staff. Found to be
20 in order and is ready for consideration.

21 CHAIRMAN: Do we have anybody representing
22 the applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Do we have any questions from
25 the audience or from the commission?

1 (NO RESPONSE)

2 CHAIRMAN: If not the chair is ready for a
3 motion.

4 MR. CAMBRON: Motion for approval, Mr.
5 Chairman.

6 CHAIRMAN: Motion for approval by Mr.
7 Cambron.

8 MR. JAGOE: Second.

9 CHAIRMAN: Second by Mr. Jagoe. All in
10 favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 ITEM 6

15 404 East 24th Street, 0.322 acres
16 Consider approval of final development plan.
17 Applicant: Alan Jarboe

18 MR. NOFFSINGER: Mr. Chairman, the
19 Planning Staff has reviewed this application. We find
20 the application to be in order; however, the city
21 engineering department has not completed their review
22 on this particular item. I would recommend that you
23 authorize the director to sign this plan once the plan
24 is in order. I think it's a matter of only putting
25 some notes on the plan, but those are not on the plan
so we can't formally approve it tonight, but if you

1 would authorize me to sign the plan, we'll take care
2 of it as soon as the plan is in order.

3 CHAIRMAN: Is anybody here representing
4 the applicant?

5 MR. JARBOE: Yes.

6 CHAIRMAN: Do you understand?

7 MR. JARBOE: Yes.

8 CHAIRMAN: Just for the record let's get
9 you sworn in and respond to that, please.

10 MR. ELLIOTT: State your name, please.

11 MR. JARBOE: My name is Alan Jarboe.

12 (MR. ALAN JARBOE SWORN BY ATTORNEY.)

13 CHAIRMAN: Mr. Jarboe, do you understand
14 what Mr. Noffsinger said in regards to your proposal?

15 MR. JARBOE: Yes, I do. That is
16 acceptable.

17 CHAIRMAN: Do you have any other comments
18 or anything you'd like to make?

19 MR. JARBOE: Not at this time.

20 CHAIRMAN: With that the chair is ready
21 for a motion to allow Mr. Noffsinger to sign this
22 plat.

23 DR. BOTHWELL: Motion for approval.

24 CHAIRMAN: Motion for approval by Dr.
25 Bothwell.

1 SISTER VIVIAN: Second.

2 CHAIRMAN: Second by Sister Vivian. All
3 in favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 -----

8 MAJOR SUBDIVISIONS

9 ITEM 7

10 Olde Stone on Griffith, 1.807 acres
11 Consider approval of major subdivision final plat.
12 Surety (Performance Bond) posted: \$38,921.00
13 Applicant: Jagoe Homes, Inc.

14 MR. NOFFSINGER: Mr. Chairman, this plan
15 is in order and ready for approval.

16 MR. JAGOE: Mr. Chairman, I need to
17 disqualify myself.

18 CHAIRMAN: Let the record show hat Mr.
19 Jagoe will disqualify himself from this vote.

20 Is there anybody here representing the
21 applicant?

22 APPLICANT REP: Yes.

23 CHAIRMAN: Does anybody in the audience
24 have any questions of the applicant?

25 (NO RESPONSE)

26 CHAIRMAN: If not the chair is ready for a

1 motion.

2 MR. CAMBRON: Motion for approval.

3 CHAIRMAN: Motion for approval by Mr.
4 Cambron.

5 MR. APPLEBY: Second.

6 CHAIRMAN: Second by Mr. Appleby. All in
7 favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT - WITH THE
9 DISQUALIFICATION OF MR. SCOTT JAGOE - RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please.

12 -----

13 MINOR SUBDIVISIONS

14 ITEM 8

15 6831, 6845 US 231, 4.372 acres
16 Consider approval of minor subdivision plat.
Applicant: Lewis & Betty Oldham

17 MR. NOFFSINGER: Mr. Chairman, this plat
18 becomes before the planning commission as an
19 exception. It does create a lot that will exceed the
20 depth to width ratio; however, Staff is recommending
21 it be approved in that no additional lots are being
22 created and this would just add this small area to an
23 existing lot.

24 CHAIRMAN: Does anybody have any
25 questions?

1 (NO RESPONSE)

2 CHAIRMAN: If not the chair is ready for a
3 motion.

4 MR. HAYDEN: I make a motion for approval.

5 CHAIRMAN: Motion for approval by Mr.
6 Hayden.

7 MS. DIXON: Second.

8 CHAIRMAN: Second by Ms. Dixon. All in
9 favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 -----

14 NEW BUSINESS

15 ITEM 9

16 Consider for approval FY '06 OMPC Budget and Salary
17 Chart including proposed increase in filing fees
effective July 1.

18 MR. NOFFSINGER: Mr. Chairman, each member
19 has been mailed a copy of the budget, filing fees and
20 salary chart. Answer any questions that you might
21 have.

22 CHAIRMAN: Does anybody on the commission
23 have any questions on the budget?

24 (NO RESPONSE)

25 CHAIRMAN: Does anybody else have any

1 questions on the budget?

2 (NO RESPONSE)

3 CHAIRMAN: If not the chair is ready for a
4 motion.

5 MS. DIXON: Move to approve.

6 MR. CAMBRON: Second.

7 CHAIRMAN: Motion for approval by Ms.
8 Dixon. Second by Mr. Cambron. All in favor raise
9 your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 ITEM 10

14 Amend the Fiscal Year '05 budget.

15 MR. NOFFSINGER: We're asking that you
16 amend this budget to increase the line item under
17 capital replacement from \$16,000 to 27,300. This is
18 for purchase of vehicles. We did purchase one vehicle
19 as budgeted this year; however, we did have one
20 vehicle that was totaled in an accident within the
21 past few weeks and we need to add an additional 11,300
22 into the budget to replace that vehicle.

23 CHAIRMAN: This actually just takes place
24 a year ahead of what we already had planned on doing,
25 correct?

1 MR. NOFFSINGER: Yes, sir. We did take
2 capital replace entirely out of he fiscal year '06
3 budget.

4 CHAIRMAN: Are there any other questions?

5 (NO RESPONSE)

6 CHAIRMAN: If not the Chair is ready for
7 a motion.

8 MS. DIXON: Move to approve.

9 CHAIRMAN: Motion for approval by Ms.
10 Dixon.

11 DR. BOTHWELL: Second.

12 CHAIRMAN: Second by Dr. Bothwell. All in
13 favor raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 MR. NOFFSINGER: Mr. Chairman, at this
17 time I would like to ask Becky Stone to make a
18 presentation in terms of the Owensboro Metropolitan
19 Planning. The building department just went through a
20 rating from the insurance service office. This is a
21 rating that's done nationally of all building
22 inspection programs. I have to say I was very pleased
23 with the outcome. I won't say any more. Would like
24 for Becky to present their findings and what the
25 importance of what that rating actually is.

1 MS. STONE: The insurance services office
2 rates all building departments nationally.
3 Communities that have a building department. They are
4 an advisory organization that prepares this data and
5 makes that available to insurance companies.

6 Insurance underwriters have been using
7 their data for years. You're probably all familiar
8 with the fire department ratings. It make an effect
9 on your community's insurance rating.

10 Building departments have not been rated
11 for a long period of time. That probably started
12 occurring about ten years ago. We are in our second
13 cycle of rating.

14 In 1977 we received, the City of Owensboro
15 received a rating of 4 on a scale of 1 to 10 with 1
16 being maximum effectiveness of building codes and
17 enforcement and 10 being minimum protection for your
18 community. Daviess County received a six in that same
19 cycle.

20 This past rating cycle the City of
21 Owensboro maintained a 4 rating and Daviess County
22 actually raised to a 4 rating. So I think that, you
23 know, part of that can be credited to the planning
24 department taking over the building permitting and
25 inspection process for Daviess County. So both the

1 City of Owensboro and Daviess County are at a 4 now
2 which is a really good rating.

3 We probably could have gotten a little bit
4 of a higher rating if it weren't for the age of the
5 building code that's adopted in the State of Kentucky.
6 The whole scale of the balance of the score is weighed
7 based on the age of your building code.

8 In Kentucky, we're in a 2002 Kentucky
9 building code. That's the adopted code and that's
10 mandatory across all jurisdictions for Kentucky.
11 However, it's based on the 2000 international building
12 code. So they rate our building code as being six
13 years old. This is the sixth year. That reduces some
14 of the points we get for that. In fact, the whole
15 balance of the rest of our points is scaled based on
16 that rating on our adopted building code.

17 So had we gotten all 8 points and gotten
18 100 percent on that particular item, we would have
19 been well within a three category.

20 This is the first time Kentucky has gone
21 through a cycle where it's an international building
22 code so they were delayed in their adoption and made
23 some amendments. So we can expect the next rating
24 cycle will have a more current code in Owensboro will
25 increase even further in their rating.

1 Some of the areas that I just want to
2 bring to your attention pretty quickly how we - -
3 items that we received the maximum number of points
4 on.

5 Under our administration, of course, we've
6 already talked about the building code and we did not
7 get the maximum points on that. In talking with the
8 field representative, Chris Miller, who did the
9 rating, he said meaning jurisdictions in Kentucky
10 obviously had that same problems based on when they
11 were rating. Many jurisdictions actually decreased a
12 point just because of that adopted building code.

13 We did get capture significant points and
14 certification of code enforcement personnel, building
15 officials qualification and experience, and zoning
16 provisions that are addressed.

17 In our plan review, we received the
18 maximum number of points on staffing levels to ensure
19 comprehensive review of construction documents. The
20 comprehensiveness of the plan review, including review
21 of plans prepared by the certified design
22 professionals and also for process for evaluation of
23 substitute products and materials, detailed records of
24 plan review activities and employee performance
25 evaluations.

1 In our field inspections, we received
2 maximum amount of points for staffing levels
3 sufficient to assure comprehensive review of building
4 construction, management of inspection and
5 re-inspection activity, records keeping of inspections
6 becoming a part of the permanent record, inspections
7 for natural hazard mitigation, final inspections
8 performed on all buildings, certificates of occupancy
9 issued after construction is completed, and again,
10 employee performance evaluations.

11 These ratings were for commercial as well
12 as one and two single-family dwelling. So I think the
13 results of this building codes effectiveness rating
14 indicate that we have well qualified plan reviewers,
15 qualified inspectors and administrative support
16 personnel who are doing their jobs effectively and
17 review inspection of all aspects of construction
18 within Daviess County.

19 The information that's supplied to
20 insurance companies is not mandatory to be used, but
21 we expect that it will be used by underwriters just as
22 the fire ratings are used to reduce the insurance cost
23 in our community.

24 CHAIRMAN: Thank you very much. At this
25 point in time I'd like to recognize Mr. Brian Howard.

1 Brian, would you step to the podium,
2 please.

3 Mr. Howard has passed his American
4 Institute of Certified Planners, the AICP which is the
5 next step of a planner. This also helps our overall
6 rating of the efficiency of our office.

7 Brian, thank you very much. Job well
8 done. Congratulations.

9 MR. HOWARD: Thank you.

10 CHAIRMAN: Mr. Hutchinson, is your group
11 ready at this time?

12 MR. HUTCHINSON: Yes, Mr. Chairman. We're
13 in full agreement with the Staff's recommendation and
14 would ask the commission to vote approval of it,
15 please.

16 CHAIRMAN: Thank you very much.

17 Are there any questions of anybody in the
18 audience?

19 MR. ELLIOTT: State your name, please.

20 MR. WALKER: Marty Walker.

21 (MR. MARTY WALKER SWORN BY ATTORNEY.)

22 MR. WALKER: I actually have two pieces of
23 property on Ralph Avenue. 3726 and Splash Swim Club
24 at the end of Ralph Avenue. Having seen this for the
25 first time I want to make sure what I'm looking at I

1 guess fir.

2 Option 1 you're going to close Ralph
3 Avenue completely. Is that what I'm reading?

4 CHAIRMAN: Mr. Noffsinger.

5 MR. NOFFSINGER: Mr. Walker, I'm sorry, I
6 did not prepare that recommendation. In concept there
7 are two plans. One would be either close Ralph Avenue
8 at its intersection with Kentucky 54. If that's not
9 possible, then Ralph Avenue would remain open at its
10 intersection with Kentucky 54. That's option 2, yes.

11 MR. WALKER: But that would be exclusively
12 at the option of the developer. Does that take into
13 consideration the business at the end of Ralph Avenue?

14 CHAIRMAN: Mr. Walker, any closing of
15 Ralph Avenue will have to be with all the people that
16 are affected with the closing up to the part of the
17 closing. So is your property within - -

18 MR. WALKER: Mine is at the end of Ralph
19 Avenue.

20 CHAIRMAN: The closing would only, if I
21 understood that right, Mr. Noffsinger, would be right
22 there at the Villa Point intersection, correct?

23 MR. NOFFSINGER: No, sir. The closing
24 that's mentioned here would be at the intersection of
25 Kentucky 54, but I can tell you that you being a

1 landowner on that street, if you're in opposition to
2 that closure, then you do have standing. I think Mr.
3 Hutchinson would tell you that.

4 MR. HUTCHINSON: No question.

5 MR. NOFFSINGER: This recommendation is in
6 the absence of a specific plan on what's going to
7 happen now. Keeps the options open for what could
8 happen in the future. It may be that the developers
9 decide we're just going to leave the intersection
10 open. We're going to make the improvements and move
11 forward, but it also gives them the option to say,
12 wait a minute, maybe this is not the best idea. Let's
13 pursue or explore trying to close that intersection.
14 That would be with all the residents that have access
15 to it and have standing. If you're in opposition to
16 it, then I think that's going to make it difficult to
17 close that particular road. The only way it can be
18 closed, since that is currently a county road, would
19 be for the Daviess County Fiscal Court to take action
20 to close that roadway. If the roadway is an annexed
21 into the City of Owensboro, it would be the City
22 Commission taking action to do that.

23 MR. WALKER: I want to make sure I
24 understand what you're saying. This is not the final
25 decision. There will be another chance to uphold when

1 the development plan comes in or is this the final
2 decision?

3 MR. NOFFSINGER: No, sir. You're right.
4 This is a final decision of two options that leaves
5 the options open. There will be another opportunity
6 to address. Number one, they have to have a
7 development plan that will come before this commission
8 for approval. Two, if they're going to close Ralph
9 Avenue, there will have to be - - they'll have to go
10 through the closure process which involves a public
11 meeting and an opportunity for you to address your
12 concerns.

13 MR. WALKER: I hope you see my concerns.
14 Number one, my customers are going to have to go
15 through a commercial development to get back on a
16 county road to get to my property. Obviously that's
17 not the easiest way to get to my business. I don't
18 know that I like the idea of leaving it to their
19 decision. I mean it's their discretion if this goes
20 through; is that correct?

21 MR. NOFFSINGER: Those are the two options
22 to leave, I guess, their options open.

23 MR. WALKER: But it will be their decision
24 on which way they go?

25 MR. NOFFSINGER: Yes, but they can only go

1 with the closure of Ralph Avenue if they're successful
2 in going through the closure process, which would
3 involve you and other residents that have property
4 along that roadway and a decision by a legislative
5 body. That decision is not going to be made tonight.

6 MR. WALKER: Can you explain that process
7 to me now? How does that work?

8 MR. NOFFSINGER: What takes place, right
9 now the road is located within the Daviess County
10 Fiscal Court's jurisdiction. They would have to make
11 application or request that the Daviess County Fiscal
12 Court close that roadway. The fiscal court would
13 appoint a reviewer. They would take a look at it and
14 have a public meeting. Notify the residents that
15 adjoin that road, use that road and say, look, what do
16 you think here. If there's opposition to it, then
17 they would take that into their decision. I can't
18 speak for them as to what they might do. Generally
19 with these types of closings it's been my experience
20 that if there's opposition the closing doesn't move
21 forward; however, that may not be the case here.
22 Again, this is to leave the options open, but it's not
23 totally at their discretion. First, they should
24 explore closure, but if that's not possible then they
25 would have to move to the second option and that would

1 mean improve Ralph Avenue.

2 MR. WALKER: What is meant by "improve
3 Ralph Avenue"?

4 MR. NOFFSINGER: It would be improve to a
5 34 foot street with curve and gutter.

6 MR. WALKER: The entire street?

7 MR. NOFFSINGER: Up to the intersection
8 where Villa Point will intersect Ralph Avenue. At
9 that point it would begin a taper.

10 MR. WALKER: But it would still be curb
11 and gutter and sidewalk throughout the remainder of
12 Ralph Avenue?

13 MR. NOFFSINGER: No, sir. The curb and
14 gutter with sidewalks would stop at the intersection.

15 MR. WALKER: You realize Villa Point, from
16 54 to Villa Point you're only talking maybe, I don't
17 know, 30 yard, 40 yards, 50 yards..

18 MR. HUTCHINSON: 430 feet.

19 MR. APPLEBY: The thinking typically is
20 though that the traffic, the reason they're going to
21 have to improve that intersection is their traffic out
22 of that commercial development is going to utilize
23 that section of the road. They're going to come out
24 and turn that way and go back to 54. We're not
25 expecting all that commercial traffic to come out of

1 Villa Point Drive and turn to go to Splash; although
2 you might want them to.

3 MR. HUTCHINSON: Where it dead ends.

4 MR. WALKER: I understand what they want.
5 I'm just explaining my side and this is I guess my one
6 opportunity to voice my concerns.

7 MR. CAMBRON: I don't think this is your
8 one opportunity, if they pursue that. It may come
9 about they may not even pursue closing that. It may
10 be better for them to just do the improvements right
11 now.

12 MR. WALKER: It's awful hard for me to sit
13 here and agree to something when there's no claim,
14 there's nothing to look at. I don't know what I'm
15 agreeing to. Obviously I have concerns. I don't know
16 if you all do, but I do.

17 CHAIRMAN: Mr. Walker, when the Staff
18 wrote up these agreements for the future, you and all
19 the property owners are written into the agreement;
20 whereas, they have the option to pursue closure. That
21 doesn't mean they get closure. They have the
22 opportunity to pursue closure or improve the road up
23 to their point. They are posting bonding right now
24 where if they do not - - if they're not successful
25 with closure, then the road will be improved either at

1 their expense or the county or the city, whoever is
2 the domain at that Ralph Avenue is at that time. The
3 funding will be turned over to them and they will
4 improve it.

5 MR. WALKER: Beyond the road issue, what
6 about utility and sewer? Are they being addressed
7 here at all? I mean Ralph Avenue currently is not on
8 sewer.

9 DR. BOTHWELL: That doesn't fall under our
10 your jurisdiction I don't think. All we're doing is
11 zoning. You know, that's RWRA.

12 MR. WALKER: You all don't take that into
13 consideration?

14 DR. BOTHWELL: I'm sure it has some play.

15 MR. WALKER: That's not taken into
16 consideration?

17 MS. STONE: The application on the zoning
18 change has proposed an extension of sanitary sewer to
19 serve the subject property that's being zoned. So on
20 the development plan, those plans to construct that
21 sewer will have to be included on that preliminary
22 plat development plan.

23 MR. WALKER: So that means that there's
24 potential access for other property along 54 or Ralph
25 Avenue?

1 MS. STONE: RWRA will review the
2 preliminary plat. There may be an opportunity for
3 properties on Ralph Avenue. I don't know. That would
4 be a question for the Regional Water Resource Agency.

5 MR. CAMBRON: To answer that question for
6 you. They're going to bringing it up to the property
7 that they're rezoning. Then what happens from there
8 depends on how they're going to run those sewers from
9 there.

10 MR. WALKER: Typically I would think that
11 as part of this development you would take into
12 consideration the adjoining properties. I think that
13 would just be a natural, and I'm sure it normally is.
14 I don't know.

15 MR. CAMBRON: You talking about on sewer?

16 MR. WALKER: Yes, sewer.

17 MR. CAMBRON: We don't have anything to do
18 with that.

19 MR. WALKER: You don't take sewer into
20 consideration?

21 MR. APPLEBY: We don't require them to
22 provide sewer service for the adjoining property, no.

23 MR. WALKER: I'm saying provide access to
24 the sewers.

25 MR. APPLEBY: That's what the RWRA does.

1 CHAIRMAN: Mr. Hutchinson, thanks for
2 waiting. I know you want to respond to some of the
3 questions.

4 MR. HUTCHINSON: Let me defer to Gary. I
5 think he and I were maybe going to say the same thing.

6 MR. NOFFSINGER: Perhaps so. For the
7 record, the idea of closing Ralph Avenue at this
8 intersection with Kentucky 54 did not originate with
9 the Planning Staff. I do not believe it originated
10 with the applicant. That idea came from the city
11 engineering office in the review of this application.
12 I don't want anyone to think that the applicant is
13 pushing for that. That was an option that was left
14 open to them.

15 Secondly, there will be opportunity to - -

16 CHAIRMAN: Wait a minute, Mr. Noffsinger.

17 Mr. Hutchinson, would you confirm that.

18 MR. HUTCHINSON: That is correct. Even to
19 take a step further if it solves anything we have no
20 problem taking that option even out. That was not our
21 intent to try to Ralph Avenue. We can take it out or
22 leave it in there. I certainly want the record to be
23 clear we can't just - - that doesn't empower us,
24 Marty, to close that road.

25 MR. WALKER: The option is going to be

1 voted on tonight.

2 MR. HUTCHINSON: Just that's an option.
3 We have no reason to do it. If the commission or you
4 want to take it out, we can take it out. Number 2 is
5 the one that we're going to do.

6 CHAIRMAN: Would you restate Option 2,
7 please, just for the record.

8 MR. HUTCHINSON: Option 2 would be Option
9 2. Do I need to read it? It's listed.

10 CHAIRMAN: Okay. Do you have a copy of
11 that, Mr. Walker?

12 MR. WALKER: No.

13 MS. STONE: I just wanted to clarify that
14 the applicant or any other person along that roadway
15 would have the option to pursue closure under any
16 circumstance. That's always an option for someone to
17 pursue closure. That doesn't give them the right to
18 close it.

19 DR. BOTHWELL: Mr. Chairman, if I
20 understand what Mr. Hutchinson has just said, he's
21 willing to withdraw Option 1, the closure as even
22 being on here which forces you all only to widen and
23 fixing Ralph Avenue.

24 MR. HUTCHINSON: Option 1 never came from
25 us.

1 CHAIRMAN: Option 1 did not come from
2 their group. Did not come from the Planning
3 Commission. That was strictly a recommendation by he
4 city engineer.

5 MR. NOFFSINGER: Yes, sir. I do have that
6 in writing that we can present.

7 MR. CAMBRON: But always remember that
8 Option 1 is an option. That they can pursue it.
9 Anybody can pursue it.

10 MR. WALKER: Not as part of this.

11 DR. BOTHWELL: What I'm trying to get to.
12 Can we not withdraw that from this? Make this the
13 plan without Option 1. The only option available now
14 Option 2. Does that change the Planning Staff's - -

15 CHAIRMAN: We would remove the word option
16 and it would be changed to will.

17 MR. APPLEBY: Our city engineer reviewed
18 it and recommend that this be considered. Either we
19 take the city engineer's advice or we don't.

20 DR. BOTHWELL: I'm just trying to maybe if
21 they don't have any use to close.

22 MR. HAYDEN: Any option would have to go
23 through either the city commission or fiscal court,
24 whichever the city takes it in. It has to be their
25 decision. Not our decision. If we didn't even make a

1 decision, they still have the option to do that.

2 CHAIRMAN: As you do. You have the option
3 to close it. Anybody lives on the road has the
4 option.

5 MR. CAMBRON: Looks like there's eight
6 landowners on the east side that would have vocal
7 reject or accept that one way or the other. It is
8 somewhat kind of tough to get that done from time to
9 time if you people that oppose that unless it's a for
10 safety reason.

11 MR. WALKER: What's the option of taking
12 that out? Is that possible?

13 MR. CAMBRON: I mean we can take it out,
14 but it really doesn't make a difference because that
15 option is always there.

16 MR. WALKER: Then on Option 2 I guess I
17 have some concerns about safety. I don't know if you
18 all have been out to Splash on a summer day, but it's
19 a busy road. I don't know how the development is
20 going to occur on the proposed lot. Obviously if
21 there's development over there, there's going to be
22 more foot traffic up and down Ralph Avenue. As it
23 stands right now they're not proposing anything beyond
24 Villa Point I guess is the way I read this.

25 CHAIRMAN: I would address that question

1 to Mr. Hutchinson.

2 MR. HUTCHINSON: That's correct

3 MR. WALKER: So I guess that's my concern.

4 You're going to get a lot of foot traffic on that
5 street.

6 MR. CAMBRON: Why would you get more foot
7 traffic?

8 MR. WALKER: There's no sidewalks.

9 MR. CAMBRON: You're going to get more
10 foot traffic?

11 MR. WALKER: You're going to have a
12 commercial development of about 35 acres now going up
13 against Ralph Avenue. Do you not think there's going
14 to be more traffic, more bikes?

15 MR. CAMBRON: To come to your place you
16 mean? Is that what you're talking about?

17 MR. WALKER: I'm talking about up and down
18 my hill. My place, the back along those developments.
19 I don't know how the proposal land comes out so I
20 can't tell you at this point. That's a concern I
21 have, knowing what the proposal is.

22 MR. CAMBRON: Is there foot traffic there
23 now?

24 MR. WALKER: Absolutely, yes. Bike
25 traffic.

1 MR. CAMBRON: What they're going to be
2 doing, and I'm looking at the preliminary development
3 plan, whatever they're going to be doing is going to
4 be an enhancement of what's there now.

5 MR. WALKER: I guess I'm not privy to
6 that.

7 MR. CAMBRON: You're privy to it. Here.
8 See right there.

9 MR. HUTCHINSON: Might also point out it
10 does require a buffer along the back?

11 MR. WALKER: Explain the buffering of
12 that.

13 MR. CAMBRON: Be the landscaping, trees.

14 CHAIRMAN: Why don't we let Mr.
15 Noffsinger.

16 MR. JAGOE: Mr. Chairman, those are going
17 to be things on the development plan that we don't
18 have in front of us either.

19 MR. NOFFSINGER: That is true. However I
20 understand that this development will not have
21 driveway access to Ralph Avenue. There will be a
22 retaining wall constructed along Ralph Avenue to
23 provide I guess somewhat of a buffer, but there will
24 not be any vehicular access via driveway. That's why
25 the proposal is only to improve up to the intersection

1 of Villa Point because the additional traffic
2 generated should be coming on to Ralph Avenue, turning
3 onto Villa Point.

4 Now, because they are changing the
5 character of Ralph Avenue with this rezoning, we're
6 recommending these improvements and as rezonings come
7 through in the future along Ralph Avenue for
8 non-residential development, including any plan Splash
9 may have for expanding or redeveloping, we would be
10 looking for the owners and developers of those
11 properties to participate in improving Ralph Avenue.

12 MR. WALKER: My responsibility, if I do
13 something at Splash, would be all the way back to
14 Villa Point at that point?

15 MR. NOFFSINGER: That would be for another
16 day.

17 MR. WALKER: You see where I'm going?

18 MR. NOFFSINGER: I do, Mr. Walker. I
19 understand that.

20 MR. WALKER: I don't like the bear of the
21 cost when the development comes one house away from
22 me. Now if I - - which I want to do a water park. I
23 mean that's my ultimate goal. This development is
24 coming one lot away from me, but if they're not
25 improving - -

1 MR. NOFFSINGER: They are improving it
2 from it's critical point at the intersection up to
3 Villa Point. An argument could be made that they
4 should improve more than that. However, during the
5 review and the recommendation by the city engineering
6 office is to improve up to this point. Yes, in the
7 future we would look for others to help with future
8 improvements. They are improving both sides of the
9 road. Not just one side of the road. They're
10 improving both sides up to Villa Point. So they are
11 making a significant contribution and they're
12 extending Villa Point to Ralph Avenue which will give
13 your customers and others on that road an opportunity
14 to exit at a potential or at least you could go to a
15 traffic signal now and a potential future traffic
16 signal at Commonwealth Court. That's the reason for
17 the connection and the improvements.

18 MR. WALKER: I'm not in opposition to that
19 at all. My concern, number one, was closing down
20 Ralph Avenue, my direct access. Secondly, just
21 thinking out loud is if I do something back at Splash
22 it appears as though I'm not going to be responsible,
23 be the next guy down the line for improving all of
24 Ralph Avenue.

25 MR. HUTCHINSON: That's not true. I

1 understand, Marty, you would rather have us develop
2 all the way back for you, but that's certainly - -

3 MR. WALKER: I mean you're developing all
4 the way back to me except the lot right next to me.

5 CHAIRMAN: Randy, let me get you to
6 address your response to me because we don't want to
7 get in to cross comments like that.

8 MR. HUTCHINSON: I don't know what's at
9 issue here.

10 CHAIRMAN: Mr. Walker, what we have here
11 before us on agenda is their request. I understand
12 your concerns, but your concerns have to be directed
13 to what they're doing. What they're doing has been
14 reviewed by our staff and then a recommendation by the
15 city engineer came to our office in recommendation on
16 the improvement of Ralph Avenue. The improvement
17 beyond Ralph Avenue to your business is an issue that
18 we would take up when you apply for expansion,
19 improvement or whatever you might do down the road.
20 At this present time it's not an issue for us that we
21 can discuss or make any projection on at this time.

22 MR. WALKER: So Ralph Avenue is going all
23 the way back to where they're proposing the
24 development is not an option.

25 CHAIRMAN: It's going back to Villa Point

1 to where their development is.

2 MR. APPLEBY: This development is
3 restricting their access though to Villa Point Drive.
4 Not to Ralph Avenue.

5 MR. WALKER: But you're affecting Ralph
6 Avenue.

7 MR. APPLEBY: They're not going to put any
8 additional traffic out on Ralph Avenue beyond Villa
9 Point Drive. All that traffic from that development
10 on those lots is going to have to dump out on Villa
11 Point Drive and then come to Ralph Avenue. If they
12 had an access point up there on the lot right next to
13 your, 3726 Ralph Avenue, if they had an access point
14 there we'd make them improve it from there all the
15 way.

16 MR. HUTCHINSON: Mr. Chairman, may I
17 address?

18 CHAIRMAN: Mr. Hutchinson, yes, sir.

19 MR. HUTCHINSON: I think it is important.
20 As Dave pointed out, if it was up to us, we don't need
21 any road into Ralph Avenue. We would stub it off
22 back. We don't need any access. We did that as an
23 accommodation to future development for this
24 community. We knew that's something the commission
25 would want. We did it, but we don't need it. We

1 don't need Ralph Avenue. We don't need that road to
2 run up to Ralph Avenue, but because it's good for the
3 community that it goes there so we could have some
4 continued growth, we were willing to do it, but we
5 shouldn't have to bear the cost improving all the way
6 down to the far end when the traffic will only be
7 impacted up to that point.

8 One other thing and then I'll be done. As
9 far as Marty's concern about closing, if you want to
10 leave both options in we'll commit now on the record
11 that we'll follow Option 2 and not Option 1. If you
12 want to leave the options there, but we will commit on
13 the record Number 2 because we have no intent to try
14 to close Ralph Avenue.

15 CHAIRMAN: Thank you, Mr. Hutchinson. I
16 don't think this commission has the right to take away
17 the option from you or anybody else.

18 MR. HUTCHINSON: Correct.

19 CHAIRMAN: But if you're committing that
20 and are on the record to that, Mr. Walker, is that - -

21 MR. WALKER: May I ask a question? Is
22 Ralph Avenue a city or a county road?

23 CHAIRMAN: County.

24 MR. WALKER: What will it be?

25 CHAIRMAN: I have no idea.

1 MR. CAMBRON: Right now it's county. I
2 mean it's up to the city, I guess.

3 CHAIRMAN: But we cannot - - there again
4 that's not under our - -

5 MR. WALKER: It's a pretty complicated
6 issue you've got to admit that, I think.

7 MR. NOFFSINGER: Yes, sir. Mr. Walker, it
8 is.

9 MR. WALKER: I guess if Ralph Avenue were
10 to stay county beyond Villa Point - - I don't know.

11 MR. HAYDEN: If they didn't do anything to
12 to Ralph Avenue, my understanding is you're going to
13 develop your property at the end of Ralph Avenue, then
14 you would have to come before this commission and take
15 the whole burden of fixing Ralph Avenue for more
16 traffic that you put on Ralph Avenue. So they're
17 helping you out by bringing it up to Villa Point. If
18 you're going to develop your property up to - -

19 MR. WALKER: I'm open two months out of
20 the year. Obviously building a road that - - I don't
21 know how long Ralph Avenue is, but economics start
22 coming into play where it just doesn't make sense at
23 some point.

24 MR. HAYDEN: We're only guessing at that
25 because we don't have a development plan from you to

1 see what you're going to do.

2 MR. WALKER: I don't have a development
3 plan here either. Thanks for putting up with me.

4 CHAIRMAN: Thank you, Mr. Walker.

5 Are there any other questions or comments
6 from the commission?

7 (NO RESPONSE)

8 CHAIRMAN: Anybody else in the audience?

9 MR. APPLEBY: I have a question of Gary.

10 What are your thoughts, Gary, on whether
11 or not to remove the option of closing the road since
12 it's a recommendation of the engineers office? Do we
13 leave it in or take it out?

14 MR. NOFFSINGER: Mr. Appleby, all I can do
15 and would do is offer to you what the Planning Staff
16 staff would recommend or in this situation would
17 prepare to recommend at some point. That would be to
18 improve Ralph Avenue from its intersection at Kentucky
19 54 to Villa Point which follows along with Option 2 I
20 believe it is. Not close Ralph Avenue because we
21 realize that we're dealing with an existing public
22 road that serves not only a church and residential
23 homes but also Splash. The spacing standard along
24 Kentucky 54 for street intersection is 500 feet. The
25 spacing standard or the spacing of this street from

1 the nearest street intersection is about 478 feet.
2 Pretty close to that 500 foot spacing standard.
3 Generally if you look out on Frederica Street at the
4 Home Depo, Target development, you see access points
5 at about every 500 feet. I think you would anticipate
6 that here. I think there would have been another
7 access point into Woodlands Plaza had they not had to
8 deal with the flood plain issues and have such a huge
9 crossing to cross that ditch, which was tremendous
10 economics expense.

11 Mr. Walker, the Planning Staff anticipated
12 his concerns. We realize that he's back there and
13 would probably not support closure because that's his
14 direct access to Kentucky 54. I'm not saying it's a
15 bad idea to close that intersection. It might had its
16 advantages, but we also realize its purpose and why
17 it's there and why it's going to be important to some
18 for that to remain.

19 Our recommendation would be, since the
20 applicant is agreeable if you go with improving Ralph
21 Avenue as stated in these options, drop the closure
22 option, although that's still an option at any point
23 in time. Say drop the five year requirement because I
24 don't think you want to bond that street for five
25 years. I would think you would want to move forward.

1 That would be up to the applicant. Sureties are
2 posted for two years and then transferred to the city
3 or county.

4 MR. HUTCHINSON: That's correct, Gary.

5 CHAIRMAN: Mr. Appleby, by reading into
6 the record Mr. Hutchinson's statement that as far as
7 their concern they will do Option 2.

8 Is that correct, Mr. Hutchinson?

9 MR. HUTCHINSON: Yes, Mr. Chairman.

10 MR. APPLEBY: Understanding you to say
11 that you would waive the five year, the bonding for
12 five years? You going to go ahead and proceed with it
13 or do you want to leave the five years?

14 MR. HUTCHINSON: Be better to leave in the
15 five year part of it or within five years.

16 MR. APPLEBY: Is chair ready for a motion?

17 CHAIRMAN: Mr. Hutchinson, do you have any
18 other comments?

19 MR. HUTCHINSON: No, sir.

20 CHAIRMAN: Mr. Appleby, I think the chair
21 is waiting your motion.

22 MR. APPLEBY: I would recommend approval
23 based on the Planning Staff Recommendations and
24 Conditions 1, 2, 3, 4 with elimination of Option 1,
25 Conditions 5, 6, 7 and 8, and Findings of Fact 1, 2

1 and 3.

2 DR. BOTHWELL: Second.

3 CHAIRMAN: We have a motion by Mr. Appleby
4 for approval based on the conditions of the Planning
5 Staff. We have a second by Dr. Bothwell.

6 MR. CAMBRON: Just a question quick
7 comment there. Leaving Option 2.

8 CHAIRMAN: That's the way he stated it,
9 yes.

10 All in favor raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 DR. BOTHWELL: Motion to adjourn.

15 MR. GILLES: Second.

16 CHAIRMAN: All in favor raise your right
17 hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: We are adjourned.

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16 WITNESS my hand and notarial seal on this
17 the 10th day of July, 2005

19 _____
20 LYNNETTE KOLLER, NOTARY PUBLIC
21 OHIO VALLEY REPORTING SERVICE
22 202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

COUNTY OF RESIDENCE:
24 DAVIESS COUNTY, KENTUCKY

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