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OWENSBORO METROPOLITAN PLANNING COMMISSION

NOVEMBER 13, 2003

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The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, November 13, 2003, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Drew Kirkland, Chairman
- Gary Noffsinger
- Nick Cambron
- Dave Appleby
- Scott Jagoe
- Irvin Rogers
- Sister Vivian Bowles
- Judy Dixon
- Martin Hayden
- Edward A. Baylous, Attorney

* * * * *

CHAIRMAN: I'd like to welcome everyone to our November 13th Owensboro Metropolitan Planning & Zoning Commission meeting.

Would you please rise. Our invocation and pledge of allegiance will be given by Mr. Scott Jagoe.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes of the October 9, 2003, meeting. Are there any changes, additions, questions?

(NO RESPONSE)

1 CHAIRMAN: If not, the Chair is ready for
2 a 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 Mr. Noffsinger, at this time why don't you
11 introduce our pitch hitting attorney tonight.

12 MR. NOFFSINGER: Thank you, Mr. Chairman.

13 Tonight we have with us Mr. Ed Baylous, a
14 local attorney. He will be filling in for Stewart
15 Elliott that is recuperating from health conditions.

16 CHAIRMAN: The commission sends out their
17 thoughts and prayers to the Elliott family, Mr.
18 Elliott's accident and the situation he's facing.
19 He'll be missed and we wish him a speedy and quick
20 recovery.

21 ITEM 2

22 Presentation of FY 2003 audit by Bob Thomas, CPA

23 CHAIRMAN: Our next order of business is
24 the audit by Mr. Bob Thomas, CPA.

25 Mr. Thomas.

1 MR. BAYLOUS: State your name, please.

2 MR. THOMAS: Bob Thomas.

3 (MR. BOB THOMAS SWORN BY ATTORNEY.)

4 MR. THOMAS: Good evening. As stated, I'm
5 Bob Thomas. I'm a CPA and shareholder of Hayden &
6 Company, CPA here in Owensboro.

7 We were engaged to audit the general
8 purpose financial statements of the Owensboro
9 Metropolitan Planning Commission as of and for the
10 year end June 30, 2003. We conducted our audit in
11 accordance with the auditing standards generally
12 accepted in the United States of America and
13 Governmental Auditing Standards.

14 The objective of the audit was an
15 expression of an opinion as to whether the general
16 purpose financial statements are fairly presented in
17 conformity with generally accepted accounting
18 principals.

19 We reported in our report that in our
20 opinion the general purpose financial statement
21 present fairly and all materials respect the financial
22 position of the Owensboro Metropolitan Planning
23 Commission and the results of its operations for the
24 year end June 30, 2003, in accordance with generally
25 accepted accounting principal.

1 Now, each one of you should have received
2 a copy of the audit report. I submit it for your
3 approval. Happy to answer any questions.

4 CHAIRMAN: Does anybody from the
5 commission have any questions?

6 (NO RESPONSE)

7 CHAIRMAN: Does anybody from the audience
8 have any questions?

9 (NO RESPONSE)

10 CHAIRMAN: If not, the Chair is ready for
11 a motion.

12 SISTER VIVIAN: Motion for approval.

13 CHAIRMAN: Motion for approval by Sister
14 Vivian.

15 MS. DIXON: Second.

16 CHAIRMAN: Second by Ms. Dixon. All in
17 favor raise your right hand.

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Mr. Thomas, thank you.

21 Mr. Noffsinger, you have the next item.

22 ITEM 3

23 Powerpoint Presentation by Becky Stone, AICP-2003
24 Owensboro Metropolitan Zoning Ordinance
25 Review/Proposed Revisions.

25 MR. NOFFSINGER: Mr. Chairman, in January

1 2003, as you know, you appointed a committee to
2 oversee the task of going through a mass review of the
3 Zoning Ordinance for the Owensboro Metropolitan area
4 which includes the City of Owensboro, the City of
5 Whitesville and Daviess County.

6 The committee was charged with this task
7 to conduct a review in light of the Adopted
8 Comprehensive Plan. I'm pleased to announce to you
9 that the Zoning Ordinance Review Committee completed
10 their work in the nine month time period that you gave
11 them.

12 Ms. Stone will be giving a presentation
13 tonight. She'll be introducing the members of the
14 committee as well as going over just an overview of
15 what's being proposed.

16 I really feel like that the work of this
17 committee will go a long ways in serving this
18 community and making it a better community in which to
19 live. I think we'll see an enhanced equality of life.
20 I think you'll also see that the ordinance that will
21 be presented to you tonight will be a good economic
22 development tool for this community.

23 So without any further adieu, turn it over
24 to Becky Stone. Some of the planning commissioners
25 may wish to step down into the audience.

1 - - (POWERPOINT PRESENTATION) - -

2 MR. NOFFSINGER: Mr. Chairman, that
3 concludes the Staff's presentation of the committee's
4 recommendations.

5 At this time I think the Planning
6 Commission would want to hear from members of the
7 public, folks out in the audience that wish to comment
8 on any particular section of the Zoning Ordinance.

9 It may be a section that Ms. Stone went
10 over tonight. It may be a section that she didn't
11 cover. It may be a section of the ordinance that the
12 Zoning Ordinance Review Committee didn't propose to
13 make changes to.

14 What Becky has tried to do is provide,
15 again, just a brief overview without going into every
16 detail.

17 Now, this public forum is to generate
18 public comment to see what concerns are out there.
19 The Planning Commission will not be taking a vote to
20 adopt these proposed changes tonight. That will come
21 at a future date. It may come at the December
22 meeting, depending on what the Planning Commission
23 hears tonight. Regardless of what the Planning
24 Commission does, these changes will not take affect
25 until the Owensboro City Commission, the Whitesville

1 City Commission and the Daviess County Fiscal Court
2 each adopt the regulations. So we're probably looking
3 at least three months out before these or any other
4 changes go into affect. So I'll say no more and turn
5 it back over to the chairman.

6 CHAIRMAN: Thank you.

7 Ms. Stone, thank you for a very concise
8 and accurate and very fine report and powerpoint
9 presentation. We appreciate it. You did a nice job.

10 Mr. Appleby, you and your committee, thank
11 you. You did a very good job. I know it took you a
12 great deal of time and a lot of compromising and
13 working together to put this together. We appreciate
14 the job that you did.

15 Now, I'd like to ask our audience if they
16 have any comments or suggestions they would like to
17 make?

18 (NO RESPONSE)

19 CHAIRMAN: Is there anybody from the
20 commission that has a comment or a suggestion?

21 (NO RESPONSE)

22 CHAIRMAN: Mr. Thompson.

23 (MR. TOMMY THOMPSON SWORN BY ATTORNEY.)

24 MR. THOMPSON: Thank you, Mr. Chairman,
25 Members of the Commission.

1 Here tonight representing the Homebuilders
2 Association of Owensboro. We have a handout.

3 Mike, if you could give those to each of
4 the commissioners.

5 I think this kind of frames what our
6 comments are. Might let you glance at that quickly
7 and I can expand on it very briefly.

8 Mr. Chairman and Members of the
9 Commission, as you can see in this handout, we would
10 like to respectfully request that no action or
11 amendments be passed on to the legislative body
12 dealing with Article 18, Flood Plain Regulations,
13 until there can be more opportunity for a discussion
14 on what is I think very fairly a very potentially
15 contentious and complicated article.

16 There's a lot of ramifications to this
17 advisory that could be passed forward by the engineers
18 that have some significant impact and consequences to
19 many members of the community. Some of those
20 consequences quite honestly could be unintended.

21 What we would like to request is that we
22 have the opportunity to simply defer any action
23 tonight or any recommendations as to amendments to
24 this flood plain ordinance and allow time for some
25 public forums to be held on this particular subject.

1 Those forums would be attended by members of the
2 community that could be impacted by these consequences
3 and by this ordinance as well as member of the
4 legislative body, engineers, and so forth, so that we
5 could have more open discussion about this, make sure
6 that all of the contemplated actions are thoroughly
7 discussed and understood and digested. I think the
8 product can be better. I think the public will be
9 better served as a result of these forms and then
10 hopefully some consensus can be reached as a result of
11 this discussion and then bring it back for your good
12 digestion and action at that time.

13 Simply a deferral is what we're asking for
14 at this moment as far as Article 18 is concerned on
15 the Flood Plain Regulation to allow these public
16 forums to take place.

17 I would like to officially ask the
18 commission to consider that request.

19 CHAIRMAN: Thank you, Mr. Thompson.

20 Mr. Noffsinger, I believe the Homebuilders
21 have very adequately outlined what their opposition,
22 what their concerns are. In this meeting this is not,
23 we're not going to vote to pass or to deny the new
24 additions. At this meeting, is this the place where
25 we could consider an addition or deletion of

1 something?

2 MR. NOFFSINGER: Yes, sir.

3 CHAIRMAN: At this time I think, Mr.

4 Thompson, I believe your group has pretty much

5 outlined, you would just like to leave the - -

6 MR. THOMPSON: The present ordinance.

7 CHAIRMAN: Just the way it currently is.

8 MR. THOMPSON: Yes, sir. Until we can
9 have the opportunity to have these extended forums,
10 where we can have more debate and dialogue on this
11 subject for everybody's benefit. To make sure there's
12 total understanding about the consequences. Then at
13 the result or the conclusion of those forums, come
14 back with a recommendation, but leave the present
15 ordinance as it's presently written and stands.

16 CHAIRMAN: Mr. Noffsinger.

17 MR. NOFFSINGER: Mr. Chairman, if I might
18 add for the record. The committee, when this item was
19 discussed, it's my recollection did not feel strongly
20 about including language to this effect in Article 18.
21 In fact, there was some discussion and there was a
22 sub-committee forum just to talk about some particular
23 language that might be added to the ordinance as an
24 advisory statement.

25 Now, if the Planning Commission so

1 chooses, they can recommend to the Planning Staff this
2 language be taken out. I can certainly say that I
3 agree with Mr. Thompson, but this issue goes beyond
4 the Zoning Ordinance Review Committee, what their task
5 was, and goes beyond the Planning Commission.

6 Since it's a requirement of the city and
7 county engineer and not a requirement of any adopted
8 regulation this community has, I think it warrants
9 further discussion.

10 CHAIRMAN: Mr. Appleby, would you comment
11 on that?

12 MR. APPLEBY: I tend to agree with Gary.
13 I would be in favor of removing this terminology, at
14 least from this draft, so this can go forward until
15 there is further public discussion, if that's the
16 consensus of the board.

17 CHAIRMAN: If I am correct, Mr.
18 Noffsinger, I believe we could, at this meeting, we
19 could change the wording or more accurately we could
20 not change the wording. We could leave the wording as
21 it previously was stated.

22 MR. NOFFSINGER: Yes, sir, that is
23 correct. You would just take the proposed language
24 out of Article 10 and that would leave - excuse me -
25 Article 18 unchanged from the previous ordinance. So

1 there would be no changes proposed to Article 18 of
2 the zoning ordinance.

3 CHAIRMAN: Mr. Thompson, what we're doing
4 here tonight, this is not our public forum.

5 MR. THOMPSON: Right.

6 CHAIRMAN: The next meeting, if everything
7 goes the way we've got it planned, the next meeting
8 will be actual public forum.

9 So at this meeting, Mr. Noffsinger, I
10 believe we could, if there is a consensus, not a vote
11 but a consensus of the commission, to leave that
12 article as it was and then present it to the open
13 public forum at the next meeting as the proposed
14 document without any change to that article.

15 MR. NOFFSINGER: Yes, sir. You're on the
16 right track. This is a public forum, but we have not
17 advertised this ordinance for adoption tonight;
18 therefore, you are reviewing the committee's
19 recommendations. Those are before you. Each of you
20 have had a copy of those. It's certainly within your
21 right to recommend changes to the committee's proposed
22 changes because the item that you advertise for public
23 hearing will be the item that you will act on. If you
24 make changes at that time during the public hearing,
25 then you will probably have to re-advertise. So we

1 didn't advertise for public hearing for adoption
2 tonight because we wanted to hear what comments the
3 public had so the Planning Commission can direct the
4 Staff to make appropriate changes to advertise and
5 then come back for public hearing for adoption.

6 MR. CAMBRON: Can I ask a question?

7 CHAIRMAN: Yes, Mr. Cambron.

8 MR. CAMBRON: Just a quick question, Mr.
9 Thompson. Do you see that there is some changes that
10 need to be done to this or is it just fine the way it
11 was prior?

12 MR. THOMPSON: Quite candidly we feel like
13 the ordinance in its present form is adequate and it
14 serves the need, but certainly would be willing to
15 discuss that.

16 MR. CAMBRON: The only reason I mention
17 that is that in here it states that there have been
18 public forums and workshops held with the city
19 government. In other words, you want more input on
20 it. I didn't know if there was something else that
21 needed to be changed or it's fine the way it is or
22 what.

23 MR. THOMPSON: No. I think presently the
24 way that it's interpreted and the way that it's
25 presented in the ordinance is, in our opinion,

1 satisfactory and adequate.

2 CHAIRMAN: Mr. Thompson, let me ask you a
3 question. If you were in the midst of a project, and
4 I assume a lot of the developers here are in the midst
5 of projects that they're doing, what changes would
6 this have to your planning? How would this affect
7 you?

8 MR. THOMPSON: As far as the proposed or
9 the perspective changes?

10 CHAIRMAN: The proposed.

11 MR. THOMPSON: Fairly significant, Mr.
12 Chairman. Fairly significant in terms of reducing the
13 amount of land that you could build on. In some
14 cases, very significantly.

15 CHAIRMAN: So, in other words, if you had
16 bought 100 acres to develop and you thought you were
17 going to get X number of lots out of it - -

18 MR. THOMPSON: Correct, or be able to
19 build say on 98 of those acres. Well, with this
20 advisory going into affect, you might in fact be able
21 to only build on 90 acres or less and therefore less
22 lots, less yield for economic impact.

23 CHAIRMAN: So the consumer down the road
24 would initially pay the price?

25 MR. THOMPSON: Exactly.

1 MR. APPLEBY: I think this was originally
2 intended - - there's some terminology that was put in
3 for specification, if I understand it correctly. This
4 more or less reflects what's in the public improvement
5 specs. I don't think the committee felt strongly that
6 this needed to be in there. It was meant to be merely
7 an advisory, but I can understand your concern. I
8 would propose that we move this document forward
9 without that terminology to the point where its
10 advertised.

11 MR. CAMBRON: Is that a proposal?

12 MR. APPLEBY: Yes.

13 CHAIRMAN: In other words, what you're
14 saying, Mr. Appleby, is you want this document to go
15 forward?

16 MR. APPLEBY: Just delete this terminology
17 until further public discussion and move forward. See
18 if there are any other suggestions or changes to the
19 rest of the document.

20 CHAIRMAN: All right.

21 Is there any other comment, suggestions?

22 MR. FORD: Yes. Richard Ford.

23 (MR. RICHARD FORD SWORN BY ATTORNEY.)

24 MR. FORD: Mr. Thompson suggested that the
25 Flood Plain Regulations, Sections 18-5(a10) as

1 proposed and Section 18-5(d5) as proposed were
2 potentially contentious. I'm the contentious part of
3 that.

4 I represent several land owners who would
5 be severely impacted if the proposal became a part of
6 the ordinance and became a part of the standards by
7 which future development in flood plain areas would
8 be. I would concur with Mr. Thompson that I think my
9 clients as land owners would suffer tremendously if
10 this particular section were enacted and if this were
11 made a requirement for development in flood plain
12 areas. We would certainly want to see this studied in
13 much greater detail before the commission would
14 recommend its adoption.

15 CHAIRMAN: Thank you. Right now we're
16 considering just deleting it.

17 MR. FORD: Yes, sir.

18 CHAIRMAN: Do you have any further
19 comments you'd like to make?

20 MR. FORD: That's the only thing unless
21 you want to know what our legal questions about this
22 would be and I don't think you're wanting the legal
23 dissertation this evening.

24 CHAIRMAN: I don't think at this time we
25 would like that. There will be a place for it

1 possibly, but if you could hold that until maybe a
2 future day I think we'd appreciate it at this time.

3 Let me ask Mr. Noffsinger a question that
4 concerns me.

5 The flood plain issue would be - - are not
6 the developers bound by the retention basin that they
7 must submit to us anyway?

8 MR. NOFFSINGER: Yes, sir.

9 CHAIRMAN: So any changing of the
10 landscape that they do has to be reflected in the
11 retention basin calculated to the runoff and
12 everything that this is going to count anyway,
13 correct?

14 MR. NOFFSINGER: Yes, sir, that's correct.
15 The issue here is one to one compensation within the
16 flood plain. If you're developing in the flood plain,
17 then you would be required to fill for every foot you
18 take out or for every foot you fill in the flood plain
19 you have to compensate by adding capacity of the foot.
20 So this goes beyond calculating runoff and drainage
21 storage area for a particular development. This
22 impacts properties only within the flood plain.

23 CHAIRMAN: Aren't the land owners of the
24 other properties surrounding this development pretty
25 much protected anyway by the calculation of the

1 runoff?

2 MR. NOFFSINGER: Yes. I think that's a
3 debatable issue as to how much they're protected. You
4 know, I can give you my interpretation and then you
5 can have the engineer give a different interpretation
6 and then someone else might have a different
7 interpretation.

8 In calculating the flood plain, I believe
9 that what you just spoke of is taken into
10 consideration. However, there are some that would
11 agree that, no, the flood plain does not, the
12 calculations do not take into affect the fill. It's
13 not an easily understood issue. It is debatable.

14 Again, I think it goes beyond the scope of
15 what that committee was trying to do and charged with.
16 The committee was basically in their actions trying to
17 accommodate the advisory statement for the city and
18 county engineer and some developers. You know, it's
19 something that the committee did not feel strongly
20 about. I think warrants further consideration by
21 agencies and others beyond the Planning Commission.

22 This has been discussed at other levels.
23 At one point it was determined that detailed studies
24 of certain drainage areas in this community should
25 take place. Then you would know exactly where the

1 one to one fill would be needed. It's necessary in
2 some areas. I don't think anyone would question how
3 long South Frederica area that's developing. We apply
4 city and county engineers, apply a one to one
5 compensation that we're discussing.

6 In other areas, it's debatable as to
7 whether or not it would be required, but the land
8 owners that have property in flood plain will be
9 affected in some way by this requirement of
10 compensation. They need to know that. They need to
11 be advised of that. The word is getting out and I
12 think there will be further discussions.

13 If it's the consensus of the Planning
14 Commission that this language be removed, then we can
15 certainly do that and bring this ordinance back after
16 we advertise without that language. I recommend you
17 do that.

18 CHAIRMAN: I didn't make a statement. I
19 asked a question.

20 If the commission is ready for a
21 consensus, this wouldn't be a vote, but this literally
22 be a consensus that we would take.

23 MR. NOFFSINGER: Are there any objections
24 by the Planning Commission or out in the audience?

25 CHAIRMAN: Yes. Does anybody else in the

1 audience want to address this issue?

2 (NO RESPONSE)

3 CHAIRMAN: If not I think, Mr. Appleby,
4 based on the job that you all did, I think this
5 commission is going to take just a consensus and
6 remove that language and just have it back the way it
7 is.

8 Are we on the right trail to go ahead and
9 take a consensus which will really be in the form of
10 show of hands so we have a majority. All in favor of
11 removing the language raise your hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: The consensus is unanimous that
14 we remove the language of that article and put it back
15 the way it was. That would be - -

16 MR. CAMBRON: Is this something that is
17 going to be revisited at another time, Mr. Noffsinger?

18 MR. NOFFSINGER: I think it would.

19 CHAIRMAN: Wait a minute. Let me complete
20 this. This would be Ordinance Article 18, Flood Plain
21 Regulation. We will return it to the original wording
22 it was.

23 MR. NOFFSINGER: Yes.

24 CHAIRMAN: Are there any comments on other
25 sections of the ordinance?

1 (NO RESPONSE)

2 CHAIRMAN: If there are none, Mr.
3 Noffsinger, we're ready for the next item.

4 MR. NOFFSINGER: Planning Commission will
5 direct the Staff to advertise for public hearing for
6 adoption at the December meeting for this one change.

7 PUBLIC FACILITIES PLANS
8 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

9 ITEM 4

10 500 Block Elm Street
11 Land Disposition
12 Consider comments regarding the closing of
13 approximately 130 feet of an alley running east/west
14 along the rear of 800 West Fifth Street
15 Referred by: City of Owensboro.

16 MR. NOFFSINGER: Mr. Chairman, the
17 Planning Staff reviewed this application. We find no
18 conflict with the Comprehensive Plan and recommend you
19 forward a letter to that affect to the City of
20 Owensboro.

21 CHAIRMAN: Is there anybody here
22 representing the applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Anybody from the commission
25 have any questions?

(NO RESPONSE)

CHAIRMAN: Anybody in the audience have
any questions?

1 (NO RESPONSE)

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

4 MR. APPLEBY: Mr. Chairman, I make a
5 motion that we send a letter back to the City stating
6 that we find no conflict with the Comprehensive Plan.

7 MR. JAGOE: Second.

8 CHAIRMAN: There's a motion for approval
9 by Mr. Appleby. Second by Mr. Jagoe. All in favor
10 raise your right hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Next item, please.

14 ITEM 5

15 Martin Luther King, Jr. Loop, 4800-5201 Blocks Todd
16 Bridge Road
17 Land Acquisition, Facilities Construction
18 Consider comments regarding the acquisition of right
19 of way for the construction of the west portion of the
20 Martin Luther King, Jr. Loop, the widening of a
21 portion of Todd Bridge Road and the construction of a
22 right turn lane addition to the east portion of the
23 Martin Luther King, Jr. Loop.
24 Referred by: City of Owensboro

21 MR. NOFFSINGER: Mr. Chairman, Planning
22 Staff has reviewed this application. We find no
23 conflict with the Comprehensive Plan. It is
24 consistent with the Transportation Plan approved by
25 the Transportation Advisory Committee and

1 Transportation Policy Committee. We recommend you
2 forward a letter to that affect to the City of
3 Owensboro.

4 CHAIRMAN: Is there anybody here
5 representing the applicant?

6 (NO RESPONSE)

7 CHAIRMAN: Does anybody in the audience
8 have any questions or comments?

9 (NO RESPONSE)

10 CHAIRMAN: Does anybody on the commission
11 have any question or comments?

12 (NO RESPONSE)

13 CHAIRMAN: If not, the Chair is ready for
14 a motion.

15 MR. ROGERS: Motion for approval to send a
16 letter of recommendation to the City of Owensboro.

17 CHAIRMAN: Motion for approval by Mr.
18 Rogers.

19 SISTER VIVIAN: Second.

20 CHAIRMAN: Second by Sister Vivian. All
21 in favor raise your right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Thank you.

25

1 ITEM 6
2 4225 New Hartford Road
3 Building Construction
4 Consider comments regarding the construction of a new
5 canopy at the south side of the building and
6 replacement of the existing west and east canopies at
7 the Daviess County High School building.
8 Referred by: Daviess County Board of Education

9 MR. NOFFSINGER: Mr. Chairman, Planning
10 Staff has reviewed this application. We find no
11 conflict with the adopted Comprehensive Plan.
12 Recommend you forward a letter to that affect to the
13 Daviess County Board of Education.

14 CHAIRMAN: Is anybody here representing
15 the applicant?

16 (NO RESPONSE)

17 CHAIRMAN: Does anybody in the audience
18 have any questions?

19 (NO RESPONSE)

20 CHAIRMAN: Anybody on the commission?

21 (NO RESPONSE)

22 CHAIRMAN: If not, the Chair is ready for
23 a motion.

24 MS. DIXON: Move to forward a letter to
25 the Daviess County Board of Education that we find no
26 conflict with the Comprehensive Plan.

27 CHAIRMAN: Motion for approval by Ms.
28 Dixon.

1 MR. APPLEBY: Second.

2 CHAIRMAN: Second by Mr. Appleby. All in
3 favor raise your right hand.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 ITEM 7

8 1415 East Fourth Street
9 Building Construction
10 Consider comments regarding the construction of a new
11 canopy connecting two portions of the Daviess County
12 Middle School building.
13 Referred by: Daviess County Board of Education

14 MR. NOFFSINGER: Mr. Chairman, Planning
15 Staff has reviewed this application. We found no
16 conflict. We recommend you forward a letter to that
17 affect to the Daviess County Board of Education.

18 CHAIRMAN: Anybody representing the
19 applicant?

20 (NO RESPONSE)

21 CHAIRMAN: Any questions from the
22 audience?

23 (NO RESPONSE)

24 CHAIRMAN: Questions from the commission?

25 (NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to forward a letter to

1 the Daviess County Board of Education that we find no
2 conflict with the Comprehensive Plan.

3 CHAIRMAN: Motion for approval by Ms.
4 Dixon.

5 MR. APPLEBY: Second.

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item, please.

11 ITEM 8

12 200 Block West 8th Street
13 Land Disposition
14 Consider comments regarding the closing of
15 approximately 186.50 feet of West 8th Street.
16 Referred by: City of Owensboro

17 SISTER VIVIAN: Mr. Chairman, I need to
18 excuse myself.

19 MR. NOFFSINGER: Mr. Chairman, Planning
20 Staff has reviewed this application. We find no
21 conflict with the Comprehensive Plan; however, we do
22 recommend that the letter is forwarded to the City of
23 Owensboro finding no conflict. Also include a clause
24 that all property as a result of the closing will not
25 have frontage on the public right-of-way, be
consolidated into property so that we have no land
lock parcels.

1 CHAIRMAN: Let it be noted that Sister
2 Vivian has disqualified herself from the vote.

3 Is there anybody here representing the
4 applicant?

5 (NO RESPONSE)

6 CHAIRMAN: Any comments or questions from
7 the audience?

8 (NO RESPONSE)

9 CHAIRMAN: Any questions from the
10 commission?

11 (NO RESPONSE)

12 CHAIRMAN: Chair is ready for a motion.

13 MR. CAMBRON: Make a motion for approval,
14 Mr. Chairman, sending a letter to the City of
15 Owensboro showing no conflict and a letter also
16 stating that all adjoining property owners will not
17 have access to the right-of-way.

18 CHAIRMAN: Motion for approval by Mr.
19 Cambron.

20 MR. HAYDEN: Second.

21 CHAIRMAN: Second by Mr. Hayden. All in
22 favor raise your right hand.

23 (ALL BOARD MEMBERS PRESENT - WITH THE
24 DISQUALIFICATION OF SISTER VIVIAN - RESPONDED AYE.)

25 CHAIRMAN: Motion carries unanimously.

1 Next item, please.

2 ITEM 9

3 10344 US 231

Building Construction

4 Consider comments regarding the construction of a new
5 bay addition to the existing Pleasant Ridge Volunteer
6 Fire Department.

Referred by: Daviess County Fiscal Court

6

7 MR. NOFFSINGER: Mr. Chairman, Planning

8 Staff reviewed this application. We find no conflict

9 with the Comprehensive Plan.

10 CHAIRMAN: Is anybody here representing

11 the applicant?

12 (NO RESPONSE)

13 CHAIRMAN: Any questions from the

14 audience?

15 (NO RESPONSE)

16 CHAIRMAN: From the commission?

17 (NO RESPONSE)

18 CHAIRMAN: Chair is ready for a motion.

19 MS. DIXON: Move to forward a letter to

20 the Daviess County Fiscal Court that we find no

21 conflict with the Comprehensive Plan.

22 CHAIRMAN: Motion for approval by Ms.

23 Dixon.

24 MR. HAYDEN: Second.

25 CHAIRMAN: Second by Mr. Hayden. All in

1 favor raise your right hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 -----

6 ZONING CHANGES - CITY

7 ITEM 10

8 1121 Scherm Road, 0.263 acres
9 Consider zoning change: From R-1B Single-Family
10 Residential to P-1 Professional Service
11 Applicant: Thomas W. Hulsey, Patricia B. Clark,
12 Trustee, Patricia B. Powell Revocable Trust

11 MR. BAYLOUS: State your name.

12 MS. STONE: Becky Stone.

13 (MS. BECKY STONE SWORN BY ATTORNEY.)

14 PLANNING STAFF RECOMMENDATIONS

15 Staff recommends approval because the request
16 is in compliance with the community's adopted
17 Comprehensive Plan. This recommendation is made
18 subject to the condition and findings of fact that
19 follow:

20 Condition:

- 21 1. Close the existing driveway access to Scherm
- 22 Road on the subject property and establish a shared
- 23 access easement on 1123 Scherm Road.

24 Findings of Fact:

- 25 1. The subject property is located in an Urban

1 Residential Plan Area, where professional/service uses
2 are appropriate in limited locations;

3 2. The subject property is immediately adjacent
4 to P-1 Professional/Service zone and use to the west
5 and to the south across Scherm Road;

6 3. The applicant's request is a logical
7 expansion of existing P-1 Professional/Service zone in
8 the area and will not overburden the capacity of
9 roadways and other necessary urban services that are
10 available in the affected area.

11 MS. STONE: We would like to enter the
12 Staff Report as Exhibit A.

13 CHAIRMAN: Is anybody here representing
14 the applicant?

15 APPLICANT REP: Yes.

16 CHAIRMAN: Any questions from the
17 audience?

18 (NO RESPONSE)

19 CHAIRMAN: Any questions from the
20 commission?

21 (NO RESPONSE)

22 CHAIRMAN: If not, the Chair is ready for
23 a motion.

24 MR. CAMBRON: Motion for approval, Mr.
25 Chairman, with the Condition: Closing the existing

1 driveway access to Scherm Road on the subject property
2 and establish a shared access on 1123 Scherm Road; and
3 Findings of Fact: 1) The subject property is located
4 in an Urban Residential Plan Area, where
5 professional/service uses are appropriate in limited
6 locations; 2) The subject property is immediately
7 adjacent to P-1 Professional/Service zone and use to
8 the west and to the south across Scherm Road; 3) The
9 applicant's request is a logical expansion of existing
10 P-1 Professional/Service zone in the area and will not
11 overburden the capacity of roadways and other
12 necessary urban services that are available in the
13 affected area. That's my motion, Mr. Chairman.

14 CHAIRMAN: Thank you, Mr. Cambron. Do we
15 have a second?

16 MR. JAGOE: Second.

17 CHAIRMAN: Second by Mr. Jagoe. All in
18 favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item.

22 ITEM 11

23 113 West 18th Street, 0.364 acres
24 Consider zoning change: From P1
25 Professional/Service to R-4DT Inner-City Residential
Applicant: Habitat for Humanity of Owensboro-Daviess
County, Inc., John C. Howard, Shirley F. Howard

1 PLANNING STAFF RECOMMENDATIONS

2 Staff recommends approval because the proposal is
3 in compliance with the community's adopted
4 Comprehensive Plan. This recommendation is made
5 subject to the condition and findings of fact that
6 follow:

7 Condition:

8 1. No direct access to West 18th Street shall be
9 permitted. Access shall be limited to the alley
10 running along the subject property's north and rear
11 line.

12 Findings of Fact:

13 1. The subject property is located in a
14 Professional/Service Plan Area, where urban low
15 density residential uses are appropriate in very
16 limited locations;

17 2. Existing sanitary sewers are available to
18 serve the subject property;

19 3. The subject property is adjacent to existing
20 R-4DT zoning to the east, west, north and south;

21 4. The applicant's proposal is a logical
22 expansion of the existing R-4DT Inner-City Residential
23 zone in the vicinity; and,

24 5. The applicant's proposed lot division
25 respects the pattern of development and the density of

1 the existing established residential area.

2 MS. STONE: We would like the Staff Report
3 entered as Exhibit B.

4 CHAIRMAN: Is anybody representing the
5 applicant?

6 MR. STAINBACK: Yes.

7 (MR. FRANK STAINBACK SWORN BY ATTORNEY.)

8 MR. STAINBACK: My name is Frank
9 Stainback. I work with Habitat on property
10 acquisitions. We are here tonight to answer any
11 questions which the commission or the audience may
12 have. We appreciate the Staff's recommendation and we
13 understand the restriction with respect to access and
14 we accept that. Thank you.

15 CHAIRMAN: Thank you, Mr. Stainback.

16 Are there any questions of the applicant?

17 (NO RESPONSE)

18 CHAIRMAN: Any questions by the
19 commission?

20 (NO RESPONSE)

21 CHAIRMAN: If not, the Chair is ready for
22 a motion.

23 MS. DIXON: Move to approve based upon
24 Planning Staff Recommendations, Conditions 1 and
25 Findings of Fact 1, 2, 3, 4 and 5.

1 CHAIRMAN: Motion for approval by Ms.
2 Dixon.

3 MR. HAYDEN: Second.

4 CHAIRMAN: Second by Mr. Hayden. All in
5 favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9 ITEM 11A
10 Related Item

11 113, 115 West 18th Street, 0.366 acres
12 Consider approval of minor subdivision plat.
13 Applicant: John C. and Shirley F. Howard

14 MR. NOFFSINGER: Mr. Chairman, the
15 Planning Staff and Engineering Staff has reviewed this
16 application. We find it to be in order and would
17 recommend that it be approved.

18 After reviewing the plat, we did find that
19 the plat is applicable with all regulations with the
20 exception of minimum lot width. However, the proposed
21 division is consistent with the pattern of lot
22 development in the neighborhood where the typical lot
23 width is 45 to 48 foot in width. So with that
24 finding, the Planning Staff would recommend you
25 approve it.

25 CHAIRMAN: Do we have any questions from

1 the audience?

2 (NO RESPONSE)

3 CHAIRMAN: Any questions from the
4 commission?

5 (NO RESPONSE)

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

8 MR. ROGERS: Move to approve.

9 CHAIRMAN: Motion for approval by Mr.
10 Rogers.

11 MR. CAMBRON: Second.

12 CHAIRMAN: Second by Mr. Cambron. All in
13 favor raise your right hand.

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item.

17 -----

18 DEVELOPMENT PLANS

19 ITEM 12

20 4545, 4565 Frederica Street, 1.48 acres
21 Consider approval of final development plan.
22 Applicant: B.R Associates

23 MR. NOFFSINGER: Mr. Chairman, the
24 Planning Staff and Engineering Staff have reviewed
25 this plan and found it to be in substantial compliance
with all applicable regulations and recommend

1 approval.

2 CHAIRMAN: Is anybody here representing
3 the applicant?

4 MR. KAMUF: Mr. Chairman, Charles Kamuf.
5 We're here to answer any questions that you have.

6 (MR. CHARLES KAMUF SWORN BY ATTORNEY.)

7 CHAIRMAN: Thank you, Mr. Kamuf. I'll see
8 if there's any questions.

9 Are there any questions from the audience
10 or from the commission?

11 (NO RESPONSE)

12 CHAIRMAN: If not, the Chair is ready for
13 a motion.

14 MR. HAYDEN: Make a motion for approval.

15 CHAIRMAN: Motion for approval by Mr.
16 Hayden.

17 MR. APPLEBY: Second.

18 CHAIRMAN: Second by Mr. Appleby. All in
19 favor raise your right hand.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Thank you.

23 ITEM 13

24 919, 925, 931, 937 Griffith Avenue, 1.149 acres
25 Consider approval of amended final development plan.
Applicant: E.K. and Betty Barnard, Gertrude C. Smith,

1 Ann O. Bresler, Marvin P. and Deborah M. Nunley

2 MR. NOFFSINGER: Mr. Chairman, Item 13 the
3 applicant has requested that this item be postponed
4 until the December meeting. You will need to vote on
5 that.

6 CHAIRMAN: Chair is a ready for a motion.

7 MR. APPLEBY: Motion to postpone.

8 CHAIRMAN: Motion for postponement by Mr.
9 Appleby.

10 MR. CAMBRON: Second.

11 CHAIRMAN: Second by Mr. Cambron. All in
12 favor raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: This item is postponed.

15 ITEM 14

16 7159 KY 2830, 9.30 acres
17 Consider approval of final development plan.
18 Applicant: Tire Recycling Company

19 MR. NOFFSINGER: Mr. Chairman, Planning
20 Staff and Engineering Staff has reviewed this
21 application and have found it to be in compliance with
22 all applicable regulations and recommend approval.

23 CHAIRMAN: Is anybody here representing
24 the applicant?

25 MR. GARDNER: Yes.

(KELLY GARDNER SWORN BY ATTORNEY.)

1 MR. GARDNER: My name is Kelly Gardner.
2 I'm with Ted Lolley & Associates. We're professional
3 engineers here in town. I'm here to answer any
4 questions.

5 CHAIRMAN: Thank you, Mr. Gardner. Let me
6 see if there are any questions.

7 Any questions from anybody in the
8 audience?

9 (NO RESPONSE)

10 CHAIRMAN: Any questions from the
11 commission?

12 (NO RESPONSE)

13 CHAIRMAN: If not, the Chair is ready for
14 a motion.

15 MS. DIXON: Move to approve.

16 CHAIRMAN: Motion for approval by Ms.
17 Dixon.

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 Thank you.

24 Next item, please.

25

1 ITEM 15

2 2070 Tamarack Road, 8.62 acres (POSTPONED)
3 Consider approval of amended final development plan.
4 Applicant: Owensboro Municipal Utilities

5 MR. NOFFSINGER: Mr. Chairman, Item 15 the
6 applicant request that it be postponed until the
7 December meeting.

8 CHAIRMAN: Chair is ready for a motion.

9 MS. DIXON: Move to postpone.

10 CHAIRMAN: Motion for postponement by Ms.
11 Dixon.

12 MR. JAGOE: Second.

13 CHAIRMAN: Second by Mr. Jagoe. All in
14 favor raise your right hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, please

18 MAJOR SUBDIVISIONS

19 ITEM 16

20 2400-2601 Block East Byers Avenue, 89.111 acres
21 Consider approval of major subdivision final plat
22 for development transfer of 2 parcels 3.432 acres and
23 2.233 acres
24 Applicant: National City Bank, Kentucky, Jagoe
25 Development Company

26 MR. NOFFSINGER: Mr. Chairman, this plat
27 has been reviewed by the Engineering Staff and

1 Planning Staff. It's found to be in compliance with
2 all applicable regulations and we recommend approval.

3 MR. JAGOE: Mr. Chairman, I need to
4 disqualify myself.

5 CHAIRMAN: Mr. Jagoe will be disqualified.

6 Is there anybody here representing the
7 applicant?

8 (NO RESPONSE)

9 CHAIRMAN: Any questions?

10 (NO RESPONSE)

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

13 MR. ROGERS: Motion for approval.

14 CHAIRMAN: Motion for approval by Mr.
15 Rogers.

16 MR. CAMBRON: Second.

17 CHAIRMAN: Second by Mr. Cambron. All in
18 favor raise your right hand.

19 (ALL BOARD MEMBERS PRESENT - WITH THE
20 DISQUALIFICATION OF MR. JAGOE - RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 ITEM 17

23 The Parks of Heartland, Phase 3, Lots 23-42, 7.602
24 acres

24 Consider approval of major subdivision final plat.
25 Applicant: Jagoe Development Corporation

1 CHAIRMAN: Mr. Chairman, Item 17 the
2 applicant request it be postponed until the January
3 meeting of this commission.

4 MR. JAGOE: Mr. Chairman, I need to
5 disqualify myself.

6 CHAIRMAN: Mr. Jagoe will be disqualified.

7 MR. APPLEBY: Motion to postpone.

8 CHAIRMAN: Motion for postponement.

9 MR. HAYDEN: Second.

10 CHAIRMAN: Second by Mr. Hayden. All in
11 favor raise your right hand.

12 (ALL BOARD MEMBERS PRESENT - WITH THE
13 DISQUALIFICATION OF MR. JAGOE - RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, please.

16 -----

17 MINOR SUBDIVISION

18 ITEM 18

19 5701, 5715 KY 144, 2.79 acres
20 Consider approval of minor subdivision plat.
21 Applicant: Carl and Mildred Spurrier, Jerry and
22 Carolyn Hallam

23 MR. NOFFSINGER: Mr. Chairman, the
24 Planning Staff reviewed this application. We found it
25 to be in conflict with the applicable regulations and
 the previous lot division approved for this property

1 which required a shared access point in order for the
2 lot to be divided.

3 The Planning Staff has prepared a
4 presentation, if necessary, to show and to offer to
5 the commission. Our recommendation that this plat be
6 denied and that the existing illegal access point be
7 closed.

8 I'd just like for Ms. Stone to just
9 briefly speak about the history of this property and
10 why we're here tonight.

11 MS. STONE: I think everybody received
12 sort of an outline of what has happened on this
13 property.

14 To try to summarize it, two lots were
15 recreated in 1999. Allan Quinn owned the subject
16 property at the time. In order to divide this 2.79
17 acres, a shared access easement was required between
18 5701 and 5715 Kentucky 1444.

19 The property sold after that time and the
20 plat, of course, was recorded with the shared access
21 easement and language on the plat that clearly stated
22 no additional access points were permitted.

23 At some point after that approval the lots
24 sold to separate owners on each of the separate lots.
25 Mr. Spurrier was applying for a building permit issued

1 to construct a single-family residence on the
2 property. At that time Jim Mischel reviewed a copy of
3 the approved plat and notified him that there was a
4 shared access requirement on that plat.

5 At some point a driveway had been
6 installed separately on the lot that was not in the
7 location that the plat indicated it should be. We
8 contacted the highway department who had no record of
9 the installation.

10 Our recommendation is to maintain the plat
11 as it was approved. That was a condition for the lot
12 being created at that time, to remove the access point
13 that was installed on the property and go back to the
14 shared access point that was required on the approved
15 plat.

16 CHAIRMAN: Thank you, Ms. Stone.

17 MR. NOFFSINGER: Mr. Chairman, if I could,
18 I would like to pass around a copy of the previously
19 approved plat with three access points and enter a
20 copy of that plat into the record.

21 MR. CAMBRON: That plat was voted on when?

22 CHAIRMAN: It was approved by the director
23 May 19th of 1999.

24 MR. CAMBRON: So May of '99.

25 CHAIRMAN: Step forward, please.

1 MR. SPURRIER: Carl Spurrier. I'm the
2 owner of the lot.

3 (MR. CARL SPURRIER SWORN BY ATTORNEY.)

4 MR. SPURRIER: The reason I don't want to
5 use that easement is in '99 when they subdivided it
6 there wasn't a sewer there. The sewer people put the
7 sewer in and the manhole is out of their easement and
8 it's right where the road goes, where the easement
9 comes off the road. When I bought the property the
10 road, the culvert and everything was in there. I
11 assumed that was the road. Actually they've got the
12 manhole switched. They're only suppose to be 8 feet
13 on my side, 12 feet on the other side, and they're
14 suppose to center that manhole which they didn't.
15 They've got it 12 foot from the line where the road
16 goes. The easement is only 15 feet. So I'd have to
17 have a contractor or road builder or something to even
18 go in there to put the road in to get over the
19 manhole. According to the sewer people, if you damage
20 it I'm responsible for it. That's why I wanted to get
21 the culvert or leave where the culvert is now. It's
22 only 30 feet from the line. I've got a 15 foot
23 easement. You still only have one entrance to the
24 highway and just do away with that one.

25 CHAIRMAN: Thank you, Mr. Spurrier. Let

1 me ask Mr. Noffsinger to address the manhole cover,
2 the sewer issue, and if the sewer manhole cover is
3 misplaced.

4 MR. NOFFSINGER: Yes, sir, I can answer
5 that. I've been out to the property and reviewed the
6 situation.

7 The manhole he is speaking of is on the
8 edge of the easement, shared access easement. There
9 is ample room within the existing easement to
10 construct a driveway and miss that manhole. You'll
11 see that on the plat of the property that I hope each
12 of you received. There's an existing gravel drive
13 that's been out there and measured. I'm sorry, I
14 don't recall the exact dimensions, but it's about a 10
15 to 12 foot existing gravel drive. That gravel drive
16 can be expanded to say an additional 10 feet, 12 feet
17 for about a 24 foot drive within that 30 foot easement
18 and still miss that sanitary sewer manhole.

19 Now, if the Hallams and the Spurriers were
20 willing to close the existing gravel drive and that
21 approved shared access point, to totally remove it,
22 then this driveway that's just recently been installed
23 could be retained. Right now on the property what you
24 have approved would be three driveways.

25 MR. SPURRIER: Excuse me, sir. No. I

1 mean to do away with that easement there - - where the
2 culvert is and then everything would be okay. I don't
3 care for the manhole being on the ground, but it's
4 level with the ground.

5 MR. NOFFSINGER: Yes, sir, but are Hallams
6 willing to close their existing gravel driveway that
7 goes to the rear of their house? I've questioned our
8 staff about that and they have indicated to me that
9 they're not willing to close that driveway. So unless
10 you can close their driveway, you wouldn't just be
11 closing the easement.

12 You have three driveways that are
13 approved. If they keep their three driveways and you
14 keep the one that's just recently been installed,
15 you're going to have four. The access spacing
16 standard along 144, which is minor arterial, is 500
17 feet between driveways. We already have too many
18 driveways there.

19 In '99 if this shared access point was not
20 agreed to by the land owner, then that lot division
21 could not have been approved. That was a condition to
22 the approval of that lot.

23 You know, I respect your situation and
24 desire to have an additional access point, but we have
25 standards in place that speak to where driveways can

1 be located.

2 In this particular case, we have
3 previously negotiated and agreed to a location as to
4 where the access points were going to be on these
5 properties. By installing an additional access point,
6 we've moved away from that original agreement.

7 I have been out there and I did measure
8 and there is room to construct a wider driveway than
9 what exist today within that shared access easement.

10 One driveway apron in the right-of-way,
11 once you get up to your property line your individual
12 driveways can branch off, but you would share a common
13 driveway apron in the right-of-way. Wouldn't be a
14 separate apron. So you wouldn't have an existing
15 gravel drive and then a foot separation and then your
16 drive within the right-of-way. Those have to be
17 common driveway aprons and then you can split off.

18 You have an area there that's 30 feet wide
19 that goes back 50 feet in which to work within and to
20 place your driveway.

21 MR. SPURRIER: You mean 50 feet on 144 is
22 only 30 foot easement there?

23 MR. NOFFSINGER: It's 30 feet wide on 144
24 and it goes back onto the property 50 feet.

25 MR. SPURRIER: But the people next door,

1 they consider that their driveway. Like I say the
2 manhole is over on us. You still have to drive over
3 that manhole.

4 MR. APPLEBY: You can drive on their
5 driveway. It's a shared access point. They have to
6 allow you to use that.

7 MR. SPURRIER: I know they don't want to
8 because their driveway was already in there.

9 MR. ROGERS: Mr. Chairman, the driveway on
10 the Hallam's property, it's already in the shared
11 easement right-of-way?

12 MR. NOFFSINGER: That is the driveway.

13 MR. ROGERS: So that part of that is
14 shared?

15 MR. NOFFSINGER: Yes, sir. The easement
16 is wider there so that the driveway could be enlarged
17 if need be.

18 MR. ROGERS: He could use that driveway
19 now or he could put him a culvert in and make it wider
20 if he wishes?

21 MR. NOFFSINGER: Yes, sir.

22 MR. ROGERS: There's nothing keeping him
23 from using his neighbor's driveway because it's shared
24 easement?

25 MR. NOFFSINGER: Yes, sir.

1 MR. JAGOE: Yes. It's on their property,
2 but you have easement across it. You have the right
3 to use it.

4 MR. SPURRIER: Well, I don't know. I
5 don't want to build a house like that. I know that.
6 It's probably my mistake by buying it with the road
7 in, but it was sure, the state and the county, I mean
8 the sewer people and everybody made the mistake. I
9 was just trying to get it changed and let the culvert
10 stay where it is and abandon that down there because
11 that guy has only got a small road anyway. That's the
12 only way he's got to get to his garage. He doesn't
13 want to share it, you know.

14 CHAIRMAN: As far as the access from 144,
15 that is a shared easement. He must share that with
16 you. That is part of the conditions of the approval
17 of the original plat.

18 MR. CAMBRON: Thirty foot wide and 50 foot
19 back belongs to both of you all.

20 MR. JAGOE: The easement belongs to both
21 of them. Not the property, but the easement does.

22 MR. SPURRIER: Really I'm just asking for
23 one entrance to the highway, but do away with - - I
24 guess that's what I'm asking. That 15 feet that's
25 part of the shared driveway, just unshare it and give

1 me this entrance right there. That's what I'm asking
2 for. It's already in. You know, it's a lot easier.
3 It's no cost or nothing.

4 CHAIRMAN: Let me make sure I understand
5 what you're asking. Maybe I'm confused. You're
6 asking to completely do away with that - -

7 MR. SPURRIER: Shared entrance.

8 CHAIRMAN: Do you mean his part too?

9 MR. SPURRIER: Well, he has to have his
10 part. It's already there.

11 CHAIRMAN: Let me explain to you what
12 happened to the commission. When this first came
13 before us, there should have been two entrances to
14 that whole property, both properties. Is that not
15 correct?

16 MR. NOFFSINGER: Actually one, one
17 entrance for both properties.

18 MR. JAGOE: When it originally came in,
19 were there three on tract one?

20 MR. NOFFSINGER: Yes. So we did not take
21 any away and we allowed them to - -

22 MR. JAGOE: Put the shared access with
23 that one.

24 MR. NOFFSINGER: - - put the shared access
25 with the new property.

1 MR. JAGOE: That's what the original land
2 owner did that brought the subdivision in?

3 MR. NOFFSINGER: Yes.

4 CHAIRMAN: So where we should have one
5 entrance to both of those properties, we've allowed
6 three.

7 MR. SPURRIER: They consider their
8 property separate now because they subdivided it, the
9 neighbor next door.

10 CHAIRMAN: But they were very much aware
11 of it when we did it because that was part of the
12 agreement to approve the subdivision of the property.

13 MR. SPURRIER: They told me they didn't
14 know it was even shared driveway. They thought that
15 was to that property.

16 MR. APPLEBY: Well, the original property
17 owner knew it because he signed the plat and agreed to
18 it.

19 MR. SPURRIER: I know they did. Now, had
20 the sewer people put the manhole on the line where
21 they should have, it wouldn't been no problem, but
22 like it is, you know, a shared driveway I wouldn't
23 like that no way because one person keeps the driveway
24 up and the other one might not, you know. You want to
25 blacktop it, they may not. That's - -

1 MR. APPLEBY: You'd still just have the
2 one access point. Even if that manhole is on the
3 property line, you couldn't have two separate access
4 points within that 30 feet.

5 MR. SPURRIER: No, but you could miss it.
6 You could still miss it, miss the manhole because it'd
7 be in the center of the 30 feet, but when the manhole
8 is 12 feet on your side and it's out of the easement
9 anyway, see it's on our property.

10 MR. APPLEBY: The manhole is not in an
11 easement?

12 MR. SPURRIER: No, it's not. It's four
13 feet out.

14 MR. APPLEBY: Is it on road right-of-way?
15 So it's in an easement.

16 MR. SPURRIER: It's four feet over on our
17 property past our line.

18 MR. APPLEBY: But regardless, it's still
19 on road right-of-way whether or not that manhole is -
20 -

21 MR. SPURRIER: No. The manhole is on our
22 property, unless you're talking about from the center
23 of the highway.

24 MR. APPLEBY: I'm talking from the center
25 of the highway. I'm saying the sewer line is still in

1 easement. If the sewer line is out of easement,
2 that's a different story, but I don't think that's the
3 case.

4 MR. SPURRIER: No. The map that I got
5 from the people, the sewer people give me the map and
6 it's suppose to be 8 feet on our side and 12 on the
7 other side. What they done they flipped that. Put
8 the 12 on our side and the 8 on this side because this
9 guy had a road in I guess and they didn't want to
10 rebuild that road. They already had a road on that
11 side and it don't really hurt nothing with the fill
12 there because I had a road in there anyway on that
13 property that somebody put in. I don't know who put
14 it in.

15 MR. CAMBRON: If there's a problem there,
16 maybe he needs to go back to RWRA and talk with them.

17 MR. APPLEBY: It's still going to be
18 within the right of way.

19 MR. CAMBRON: I understand. The problem
20 is we can't change that because this property has been
21 subdivided and we allowed one easement due to the
22 heavy traffic out there onto 144 to reduce any
23 accidents there right near Graham Lane. Isn't that
24 the name of the street there, road there? So that's
25 one of the considerations we have to take in here when

1 we determine how we're going to make an access into
2 that property. For us to allow one more to the - - is
3 that the south? Is that where your other entrance is?
4 Wasn't it to the south?

5 MR. NOFFSINGER: East.

6 MR. CAMBRON: East, I'm sorry. To the
7 east would just confuse matters any more because we
8 haven't done anything. Everything that we did in '99
9 pretty well comes null and void with you doing that.
10 This has already been recorded and this is the way the
11 property is suppose to have been.

12 MR. SPURRIER: I understand that, but when
13 I asked the sewer people whether they're going to
14 build me a road to protect that manhole, they didn't
15 give me an answer. I think anywhere else if you put a
16 manhole in you would have to take that manhole some
17 way. Like I say it's still in the 30 foot easement.

18 MR. CAMBRON: Then it seems to me, and I'm
19 just guessing, doesn't he need to go on and build a
20 road then? That's their easement into there. Just
21 widen that road to accommodate that manhole.

22 MR. JAGOE: You can certainly pour
23 concrete around a manhole in a driveway, if that's
24 your question. You can do that or asphalt.

25 MR. CAMBRON: Right.

1 MR. NOFFSINGER: Again, this shared access
2 point is 30 feet wide. The existing gravel drive is
3 about a 8 to 12 foot gravel drive. You could widen to
4 about a 24 foot driveway and still miss that manhole.
5 The point I'm trying to make is the location of that
6 manhole should not be an issue in terms of putting a
7 driveway into the property because a 24 foot wide
8 driveway is as wide as many access points we have to
9 commercial developments within the community. That's
10 a standard 24 foot driveway to allow two-way movement
11 vehicles. Again, I've been out there and measured and
12 I know where that manhole is located and that there is
13 ample room.

14 MR. CAMBRON: Mr. Spurrier, how long have
15 you owned this property by the way?

16 MR. SPURRIER: I just bought in about the
17 first of May. The road and the culvert was already in
18 there.

19 MR. CAMBRON: Did you not see this when
20 you bought it?

21 MR. SPURRIER: When I bought the property,
22 to be honest, there was a garage on there. When I
23 went to the deed office at the courthouse, they
24 couldn't show me the garage. When I went to the tax
25 office, they didn't show me the garage. When I went

1 to the assessor, they couldn't show me the garage.
2 Then one of the ladies went back there and said, wait
3 a minute. Let me go back here and see. So she went
4 back and she come out with a picture of the garage and
5 said, yes, the property that you're buying actually
6 has a garage on it. So, you know, really it's not a
7 whole lot of information there. I did see a set of
8 roadway on that thing, but I didn't read that fine
9 print because I didn't get none of that.

10 MR. CAMBRON: It should have been in the
11 deed, shouldn't it, Mr. Noffsinger?

12 MR. SPURRIER: I made a mistake.

13 MR. JAGOE: You know, the deed may only
14 reference the easements.

15 CHAIRMAN: Mr. Jagoe, how wide is a
16 standard driveway into a residential area?

17 MR. JAGOE: Seventeen feet. Double car
18 garage door is 16 feet. So you may go from 6 inches
19 out on each side. May get a little bit wider at the
20 street, 18.

21 CHAIRMAN: Does anybody else on the
22 commission have any questions, any comments?

23 MR. ROGERS: Mr. Spurrier, you do
24 understand that you could go down there by the
25 Hallam's culvert and put you a culvert 24 foot wide.

1 MR. SPURRIER: It's pretty level, sir.
2 The ground is pretty level. They've already filled
3 that in. That's what I was told by the permit people
4 that were putting the culvert in there. I said, it's
5 already filled in almost.

6 MR. ROGERS: But you can still put you a
7 culvert in there. That's that shared driveway.
8 You've got to keep your part of it. He's got to keep
9 his, but as far as what he's got you can widen what's
10 already there.

11 MR. CAMBRON: The note on this - -

12 MR. SPURRIER: I don't know. I mean the
13 culvert is in there and I've talked to the main guy at
14 the state highway department. He said he's never had
15 a problem with putting a culvert in where the county
16 questioned them. He asked me, was it on a curve? I
17 said, no, it's not on a curve. It was just put in
18 wrong is what I'm told.

19 MR. CAMBRON: Let me read something to you
20 here, please. It's noted on this plat. It says, "The
21 driveway apron between the Pavement Edge of KY 144 and
22 the North Right of Way line of KY 144 shall be
23 constructed as a continuous Apron to create a single
24 entrance. Individual driveways may be created beyond
25 the north right of way of KY 144." It states right

1 here on this plat.

2 CHAIRMAN: Mr. Spurrier, the commission is
3 in a situation where Mr. Noffsinger and the Staff have
4 already negotiated and given more entrances than the
5 ordinance provides anyway to this area. Part of the
6 conditions of allowing that plot to exist was the
7 shared entrance. That's the only reason your lot was
8 allowed to exist anyway. Unfortunately, this
9 commission is faced with the task of actually
10 enforcing what the previous land owners had agreed to
11 that allowed your lot to be created as it is today.

12 MR. SPURRIER: I understand that.

13 CHAIRMAN: Unfortunately, we're faced with
14 just enforcing what the property owners had previously
15 agreed to to be allowed to create the second lot.

16 MR. APPLEBY: Mr. Noffsinger, if I'm
17 reading the proposed plat that they've submitted it
18 states on here, if I'm reading this right, "30 foot
19 shared vehicle access point for plat of survey by
20 Joseph Pence dated 5/4" - whatever - "to be vacated."
21 So if we approve this thing, that's closed; is that
22 right?

23 MR. NOFFSINGER: No, sir, that's not the
24 intent. I had the same question, thoughts that you
25 had. We researched it. No. The intent is to remove

1 the shared access easement but retain the driveway.

2 CHAIRMAN: I would say the Chair, unless
3 we have any other comments, questions from either the
4 audience - -

5 MR. JAGOE: I've got a question.

6 CHAIRMAN: Yes, sir, Mr. Jagoe.

7 MR. JAGOE: Is the application - - who
8 owns tract one?

9 MR. NOFFSINGER: Jerry and Carolyn Hallam.

10 MR. JAGOE: The whole shared access point
11 is 30 feet?

12 MR. NOFFSINGER: Yes, sir.

13 MR. JAGOE: Can we remove an access point
14 from somebody's property that hasn't made an
15 application?

16 MR. NOFFSINGER: Well, they have signed
17 this plat.

18 MR. JAGOE: Okay.

19 SISTER VIVIAN: So you're saying that they
20 are in agreement with removing the shared access?

21 MR. NOFFSINGER: Yes.

22 MR. JAGOE: But not removing the driveway.

23 MR. APPLEBY: They still want an access
24 point.

25 MR. NOFFSINGER: They want to retain their

1 driveway and the surveyor is here tonight. He can
2 answer that question I think directly. He's nodding
3 his head as I am saying that. They wish to retain
4 that driveway and would not consent to closing that
5 driveway.

6 MR. JAGOE: Then they understand if they
7 sign the plat, they understand it's a shared access
8 point. I guess the concern I had is they didn't know
9 that it was a shared access point there, but obviously
10 they did. They signed the plat stating they wanted it
11 removed.

12 MR. SPURRIER: I guess the Hallams they
13 want to do away with the shared thing and just split
14 the shared part and move it down 30 feet. It's still
15 the same amount of exits and entrances to the highway,
16 you know. I mean they've got three already, but the
17 one in front of the house they can't use that to get
18 to the garage. There's only one way to get to their
19 garage.

20 MR. APPLEBY: If we do what you want to do
21 though, we're adding a fourth which we've already
22 conceded more access points than is permitted by the
23 access management manual.

24 MR. SPURRIER: I guess that would be if
25 you're talking like that. Like I say I wouldn't see

1 no problem if the manhole wasn't there. If the
2 manhole wasn't there, it wouldn't be no problem to me,
3 but the manhole is there and it's in your driveway. I
4 don't think anybody want a manhole in your driveway.

5 CHAIRMAN: The manhole issue is something
6 that this commission cannot handle. I mean that's out
7 of our jurisdiction. That would be something that you
8 could and probably should take up with RWRA. I think
9 this board has listened and done about all we can do
10 as far as hearing your side of the story and what you
11 would like for us to do, hearing the Staff's
12 recommendation. I think we've reached the point now
13 where, unless there's any further or new evidence,
14 that this commission needs to vote on this issue.

15 MR. SPURRIER: I was just trying to see if
16 I could get the entrance or the easement moved down
17 three feet from the line.

18 CHAIRMAN: You've been very clear with
19 that. I appreciate that, but it's to the point where
20 I think this commission needs to vote because we've
21 listened to about everything that we could and we've
22 reviewed and tried every possible solution to it. I
23 think the commission, unless there's any further
24 comments by the commission or the audience, I think
25 the Chair is ready to entertain a motion.

1 MR. CAMBRON: Motion for denial, Mr.
2 Chairman, based upon the Staff's recommendation back
3 in 1999, the signed plat, agree that there be a shared
4 driveway okayed on those two locations at 5701 and
5 5715 Highway 144 signed in May 1999.

6 CHAIRMAN: We have a motion by Mr.
7 Cambron.

8 Is Mr. Cambron's motion - -

9 MR. BAYLOUS: I think that covers the
10 sufficient finding of fact, yes.

11 CHAIRMAN: Thank you, Mr. Baylous. Do we
12 have a second?

13 MS. DIXON: Second.

14 CHAIRMAN: Second by Ms. Dixon. All in
15 favor of the motion raise your right hand.

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion is denied.

18 -----

19 SURETY RELEASES

20 ITEM 19

21 Frito-Lay, \$3,847.00
22 Consider release of surety (Certificate of Deposit)
23 for landscaping.
24 Surety posted by: MMK, Inc.

25 ITEM 20

Healing America, \$3,652.50
Consider release of surety (Certificate of Deposit)

1 for landscaping.
Surety posted by: The Malcolm Bryant Corp.

2
3 ITEM 21

4 Jagoe Homes, Inc. Office, \$6,309.00
5 Consider release of surety (Certificate of Deposit)
6 for landscaping.
7 Surety posted by: Jagoe Homes, Inc.

8
9 ITEM 22

10 Jamestown Apartments, \$16,540.00
11 Consider release of surety (Irrevocable Letter of
12 Credit) for water mains and fire hydrants.
13 Surety posted by: Jim Hawkins

14
15 ITEM 23

16 Homebuilders Association, \$2,362.00
17 Consider release of surety (Certificate of Deposit)
18 for landscaping.
19 Surety posted by: Homebuilders Association

20
21 ITEM 24

22 Lafayette Plaza, \$3,991.50
23 Consider release of surety (Certified Check) for
24 landscaping.
25 Surety posted by: Massie-Clarke Development

26
27 ITEM 25

28 Owensboro Self Bailment, \$2,000.00
29 Consider release of surety (Performance Bond) for
30 landscaping.
31 Surety posted by: Richard Harris

32
33 ITEM 26

34 RNA Rentals, LLC, \$398.00
35 Consider release of surety (Certified Check) for
36 landscaping.
37 Surety posted by: Contractor Services

38
39 ITEM 27

40 Subway, \$2,512.00
41 Consider release of surety (Certified Check) for

1 landscaping.
Surety posted by: Mike Armstrong

2

3 MR. NOFFSINGER: Mr. Chairman, under
4 Surety Releases Items 19 through 27 are in order and
5 may be released in toto.

6 MR. JAGOE: Mr. Chairman, I need to
7 disqualify myself from Item 21.

8 MR. APPLEBY: And I need to disqualify
9 myself on 24.

10 CHAIRMAN: If there are no further
11 discussion, the Chair is ready for a motion.

12 MS. DIXON: Move to approve in toto 19
13 through 27.

14 SISTER VIVIAN: Second.

15 CHAIRMAN: We've got a motion for approval
16 by Ms. Dixon. We've got a second by Sister Vivian.

17 Be noted that Mr. Appleby and Mr. Jagoe
18 are disqualifying themselves from their noted
19 conflicts.

20 All in favor of the motion raise your
21 right hand.

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE -
23 WITH THE DISQUALIFICATION OF MR. JAGOE ON ITEM 21 AND
24 THE DISQUALIFICATION OF MR. APPLEBY ON ITEM 24.)

25 CHAIRMAN: Motion carries unanimously.

1

2

SURETY TRANSFERS

3 ITEM 28

4 Plantation Pointe, Unit #1, \$6,021.40
5 Transfer of surety (Irrevocable Letter of Credit) for
6 1" Bitum Concrete Surface to the city of Owensboro.
7 Surety posted by: Steve Baker Building, LLC

6

ITEM 29

7

8 Plantation Pointe, Unit #1, \$13,920.00
9 Transfer of surety (Irrevocable Letter of Credit) for
10 sidewalks to the City of Owensboro.
11 Surety posted by: Steve Baker Building, LLC

12 ITEM 30

13 Timber Trails, Unit #1, \$7,014.00
14 Transfer of surety (Certified Check) for 1" Bitum
15 Concrete Surface to the Daviess County Fiscal Court.
16 Surety posted by: Timber Trails, LLC

13

ITEM 31

14

15 Timber Trails, Unit #1, \$14,028.00
16 Transfer of surety (Certified Check) for 2" Bitum
17 Concrete Base to the Daviess County Fiscal Court.
18 Surety posted by: Timber Trails, LLC

19 ITEM 32

20 Timber Trails, Unit #1, \$2,000.00
21 Transfer of surety (Certified Check) for basin erosion
22 to the Daviess County Fiscal Court.
23 Surety posted by: Timber Trails, LLC

20

ITEM 33

21

22 Timber Trails, Unit #1, \$1,300.00
23 Transfer of surety (Certified Check) for paved ditches
24 in basin to the Daviess County Fiscal Court.
25 Surety posted by: Timber Trails, LLC

24

MR. NOFFSINGER: Mr. Chairman, under

25 Surety Transfers Items 28 through 33 they are in order

1 and may be transferred in toto.

2 CHAIRMAN: Chair is ready for a motion.

3 MS. DIXON: Move to approve Items 28
4 through 33 in toto.

5 CHAIRMAN: Motion for approval by Ms.
6 Dixon.

7 SISTER VIVIAN: Second.

8 CHAIRMAN: Second by Sister Vivian. All
9 in favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 -----

13 NEW BUSINESS

14 ITEM 34

15 Consider participation in the Kentucky League of
16 Cities Insurance Service Mediation Program for
employee/employer disputes.

17 MR. NOFFSINGER: Mr. Chairman, each of you
18 have received information regarding this program. We
19 have discussed it on two occasions. Our attorney, Mr.
20 Stewart Elliott, has reviewed the documents and we
21 would recommend that you approve entering into that
22 program for employee/employer disputes.

23 CHAIRMAN: Is there any discussion?

24 (NO RESPONSE)

25 CHAIRMAN: Chair is ready for a motion.

1 MR. HAYDEN: Make a motion to approve.

2 CHAIRMAN: Motion for approval by Mr.

3 Hayden.

4 MR. CAMBRON: Second.

5 CHAIRMAN: Second by Mr. Cambron. All in

6 favor raise your right hand.

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 If there is no further business, the Chair
10 is ready to entertain one final motion.

11 MS. DIXON: Move to adjourn.

12 CHAIRMAN: Motion for adjournment by Ms.

13 Dixon.

14 MR. HAYDEN: Second.

15 CHAIRMAN: Second by Mr. Hayden. All in

16 favor raise your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Meeting adjourned.

19 -----

20

21

22

23

24

25

1 STATE OF KENTUCKY)
) SS: REPORTER'S CERTIFICATE
2 COUNTY OF DAVIESS)

3 I, LYNNETTE KOLLER, Notary Public in and for
4 the State of Kentucky at Large, do hereby certify that
5 the foregoing Owensboro Metropolitan Planning & Zoning
6 meeting was held at the time and place as stated in
7 the caption to the foregoing proceedings; that each
8 person commenting on issues under discussion were duly
9 sworn before testifying; that the Board members
10 present were as stated in the caption; that said
11 proceedings were taken by me in stenotype and
12 electronically recorded and was thereafter, by me,
13 accurately and correctly transcribed into the
14 foregoing 67 typewritten pages; and that no signature
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this
17 the 4th day of December, 2003.

18

19

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

22 COMMISSION EXPIRES:
DECEMBER 19, 2006

23

24 COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

25