The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, April 11, 2002, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Drew Kirkland, Chairman
Gary Noffsinger
Dave Appleby
Jimmy Gilles
Sister Vivian Bowles
Judy Dixon
Dr. Mark Bothwell
Stewart Elliott,
Attorney

CHAIRMAN: I want to call our meeting, our April 11th meeting to order. Everybody please stand. (INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first item of the business is to consider the minutes of our March 14th meeting. Are there any corrections, additions?

MR. NOFFSINGER: No.

CHAIRMAN: The Chair is ready for a motion.

DR. BOTHWELL: Make a motion to approve.

MS. DIXON: Second.

Ohio Valley Reporting
(270) 683-7383
CHAIRMAN: Motion for approval by Dr. Bothwell. Second by Ms. Dixon. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Mr. Noffsinger.

PUBLIC FACILITIES PLANS
REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

ITEM 2

101 Daviess Street
Building Construction
Consider comments regarding a proposal to construct an expansion of the River Park Center Patio.
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by Planning Staff. We find no conflict with the Comprehensive Plan. The property is located within the floodway area along the banks of the Ohio River and there will be a need for a Conditional Use Permit to be granted by the Board of Adjustment for the construction; however, we find no conflict with the Comprehensive Plan and we do recommended you forward a letter to that effect to the City of Owensboro.

CHAIRMAN: Do we have any questions or comments about that?
(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Motion for approval.

MR. GILLES: Second.

CHAIRMAN: Motion for approval by Judy.

We've got a second by Mr. Gilles. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 3

2101 Grimes Avenue
Building Construction
Consider comments regarding the proposed construction of an addition to an existing storage building.
Referred by: Regional Water Resource Agency

MR. NOFFSINGER: Mr. Chairman, this plat or this plan has been reviewed by the Planning Staff. We find no conflict with the Comprehensive Plan. Recommend we forward a letter to that effect to RWRA (sic).

CHAIRMAN: Does anybody from the audience have any questions or comments?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr.
SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

2400 Block J.R. Miller Boulevard
Land Disposition
Consider comments regarding a proposal to close a
10-foot wide alley.
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, we've reviewed this proposal. Find no conflict with the Comprehensive Plan and make a recommendation that you send a letter to that effect to the City of Owensboro.

CHAIRMAN: Anybody from the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.
CHAIRMAN: Second by Dr. Bothwell. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 5

731 Jackson Street, 1313, 1319 East 8th Street
Land Disposition
Consider comments regarding the transfer of property to The Arc of Owensboro
Referred by: City of Owensboro.

MR. NOFFSINGER: Mr. Chairman, we have reviewed this proposal. Find no conflict with the Comprehensive Plan and make a recommendation that you forward a letter to that effect to the City of Owensboro.

CHAIRMAN: Any questions from anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

SISTER VIVIAN: Move for approval.

CHAIRMAN: Motion for approval by Sister Vivian.

MR. GILLES: Second.

CHAIRMAN: Second by Mr. Gilles. All in
favor raise right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 6

700 Block East Seventh Street
Land Disposition
Consider comments regarding a proposal to close
approximately 281 feet of East Seventh Street
Referred by: City of Owensboro

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this proposal. We find no conflict with the Comprehensive Plan and pending no comment at this public hearing recommend you forward a letter to that effect to the City of Owensboro.

CHAIRMAN: Any comments or questions from the audience?

(NO RESPONSE)

CHAIRMAN: The commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. GILLES: Second.

CHAIRMAN: Second by Mr. Gilles. All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ZONING CHANGES - CITY

ITEM 7

527, 531 Breckenridge Street, 0.190 acres
Consider zoning change: From B-4 General Business to R-4DT Inner-City Residential
Applicant: A&K Properties, LLC

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

MS. WATSON: Becky Watson.

(MS. BECKY WATSON SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the current zoning classification is inappropriate and the proposed zoning classification is more appropriate. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. The two subject lots shall be consolidated and redivided and reoriented so that each lot has frontage on East Sixth Street;

2. The single-family dwellings proposed for construction shall be faced toward East Sixth Street;
3. No driveway access points to Breckenridge Street shall be permitted.

Findings of Fact:

1. The subject property is located within a Business/Industrial Plan Area, where low-density residential uses are not generally appropriate;

2. 531 Breckenridge Street is currently in use as a residence.

3. Adjoining property along Breckenridge Street is still in residential use;

4. The property adjacent to the subject property along East Sixth Street is zoned R-4DT Inner-City Residential with lots of substandard size, and the applicant's proposal would continue recent redevelopment along East Sixth Street, but at a lower density; and,

5. The R-4DT Inner-City Residential zone is a more appropriate zoning classification for the subject property than the current zoning classification of B-4 General Business, if the new development faces East Sixth Street, continuing the development pattern in the existing residential neighborhood.

We would like to enter the Staff Report as Exhibit A into the record.
CHAIRMAN: Is there anybody in the audience representing the applicant?

(NO RESPONSE)

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

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions or comments?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

DR. BOTHWELL: Motion to approve based on Conditions 1 through 3 and Findings of Fact 1 through 5.

CHAIRMAN: We've got a motion for approval by Dr. Bothwell.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 8

715, 717, 719, 721, 801 East Ninth Street, 1.342 acres
Consider zoning change: From B-4 General Business to P-1 Professional/Service
Applicant: Wendell Foster Center
PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the adopted Comprehensive Plan. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. The subject property shall be consolidated to the existing Wendell Foster property; and,
2. Access points shall be limited to one access point along the East Ninth Street frontage.

Findings of Fact:

1. The subject property is located within a Professional/Service Plan Area, where professional/service uses are appropriate in general locations;
2. The subject property adjoins, P-1 Professional/Service zones and uses to the north, east, south and west; and,
3. Additional parking for the Wendell Foster Center is a logical expansion of the existing P-1 Professional/Service zone and use.

We would like to enter the Staff Report as Exhibit B.

CHAIRMAN: Is there anybody here in the audience representing the applicant?
MR. KAMUF: Yes.

MR. ELLIOTT: State your name, please.

MR. KAMUF: Charles Kamuf.

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)

Mr. Kamuf: Gary, just a point of clarification. They have agreed as Becky stated as to the one access point on the amended development plan, but we’d just like to go on record to say if there’s any traffic problem as a result of that, we would like for you all to reconsider it at a later time if there is a problem. Just want to make a point. If there is a traffic problem having only one access point, we might be back at a later date to ask for a second. We have no disagreement with the one access point; in other words, there could be a traffic problem and we just wanted to point out that we might be back asking for that second access point. Thank you.

CHAIRMAN: Mr. Noffsinger, do you have a comment based on Mr. Kamuf's request?

MR. NOFFSINGER: Only to say that we acknowledge that at any time in the future the applicant can have that right to make that request.

Mr. Kamuf: Thank you.

CHAIRMAN: Are there any questions from anybody in the audience of the applicant?
CHAIRMAN: Any questions from the commission?

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve subject to Conditions 1 and 2 and based upon Findings of Fact 1 through 3.

CHAIRMAN: Got a motion for approval by Ms. Dixon.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ZONING CHANGES - COUNTY

ITEM 9

5430 KY 144, 1.76+ acres
Consider zoning change: From R-1A Single-Family Residential to B-4 General Business
Applicant: Martin Hayden

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because there have been major changes of a physical and economic nature that
were not anticipated in the adopted Comprehensive Plan that have substantially altered the basic character of the area involved. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. Provide a minimum 6-foot high continuous solid wall, fence, or planting within a minimum 10-foot landscape easement between the subject property and the R-1A Single-Family Residential properties to the east and west of the subject property; and,

2. Driveway access shall be limited to one access point located where the existing driveway access exists and an access easement must be provided for future shared access with 5444 KY 144.

Findings of Fact:

1. The subject property is located in a Future Urban Plan Area, where general business uses are appropriate in very-limited locations;

2. The character of the vicinity has been substantially altered by two rezoning changes on nearby properties that were not anticipated by the Comprehensive Plan;

3. The subject property is now contiguous to B-4
General Business zones; and,

4. The applicant's proposal is a logical expansion of the existing B-4 General Business zones and use established in the vicinity and would not significantly increase the extent of the B-4 General Business zone in the vicinity of the expansion and would not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

We would like to enter Staff Report as Exhibit C.

CHAIRMAN: Is there anybody here representing the applicant?

MS. HAYDEN: Yes.

MR. ELLIOTT: State your name, please.

MR. HAYDEN: Carol Hayden.

(MS. HAYDEN SWORN BY ATTORNEY.)

MS. HAYDEN: That's all I know. We wanted to get this rezoned for general business and we hope to build a small building.

CHAIRMAN: Ms. Hayden, be seated unless you want to make another comment. We'll see if anybody has any questions.

Does anybody in the audience have any questions?
Yes, ma'am, please step to the mike.

MR. ELLIOTT: State your name, please.

MS. MORRIS: Bonny Morris.

(MS. BONNY MORRIS SWORN BY ATTORNEY.)

MS. MORRIS: The main thing I was wondering we just bought the house from my mother in January and we plan on living there for years and years. Just neighbors. Not businesses. We're having a problem with accepting that we're going to have a business right next to us is the only problem we were having. We was just wondering what they were going to do and how they were going to -- I was reading here where it says provide minimum 6-foot high continuous solid wall fence or planting. Does that mean they can put up bushes between our house and their business to where we don't have to see the traffic and the business or do they have to put up a fence?

CHAIRMAN: Does that complete your questions?

MS. MORRIS: That and that driveway access I didn't understand either. This is first time I've ever been through this. I didn't understand any of it.

CHAIRMAN: Let me have Mr. Noffsinger answer the last two of your questions about the
screening and the driveway and then we'll bring Ms. Hayden back to answer the first part of your question. Is that satisfactory.

MS. MORRIS: Yes.

MR. NOFFSINGER: First I'll answer the screening requirement. The zoning ordinance requires that they screen between your property and the subjects property with a 6-foot high continuous shrub row or tree. They have an option. Now, unless this board sets a specific condition that it's to be a fence or it's to be shrubs, then they have an option. So understand it could be a fence, it could be shrubs and Ms. Hayden might be able to better answer what they might put there to the buffer between the two properties.

In terms of the access, I believe right now the access to the property is located along that eastern boundary of the property near your property. They are going to retain that driveway and we requested that there be an access easement set up so that in the future should your property be used for commercial use, that the two properties share a driveway.

We're basing these recommendations on the pattern of development and change that we've seen
occur within the area. We had a hardware store which
is now being converted I think to a convenient store,
maybe a hardware store, was the first change in that
area. Then we had a rezoning on the Taylor property
which adjoins the property they're asking to rezone
tonight. That was a change in the area from
residential to commercial. It hasn't been developed
yet, but it is zoned for commercial. So our
recommendation is based upon the trends and the
changes within that area. We did make the
recommendation on the share access to benefit you as a
property owner should your property go commercial in
the future as well as to the motoring public. You
don't have to change right now. You'll still have
separate access points, but should your property be
changed at a later date then we would look at a shared
driveway.

CHAIRMAN: The first part of your
question, let us bring Ms. Hayden back to the mike and
have her answer that if we could.

MS. HAYDEN: Our plans were to put up a
row of shrubs and trees for the buffer between the two
pieces of property. Is that the question?

CHAIRMAN: Yes, ma'am. Does that --

MS. MORRIS: This is my first time doing
all this. What if we don't agree with that? Like I say we just bought the house. We plan on living there, you know, until we die probably. I'm just not crazy because I know about the convenient store on the other side. They're trying to buy the other side of us so we're going to have businesses on both sides of our house. Mainly I don't want it, but if I have to deal with it then I want to know that there's going to be a fence up there. That I'm not going to have to look at their business comings and goings day in and day out.

CHAIRMAN: Mrs. Morris, based on the regulations that Mr. Noffsinger just stated and the application that the Haydens made, they're very aware of the stipulations and the applications that they have to put in. There will either be a 6-foot high fence or as Ms. Hayden stated they're going to put shrubbery up to screen your property from there's. We as the commission are governed by the regulations and statutes that handed down to us which we must go by. As stated in the application, they are contiguous with the property right next-door to them that is similar in their zoning and properties around them that are also similar in their zoning. The screening and the other parts of the application are to protect you as a
 homeowner.

MR. APPLEBY: There's required to be a 6-foot continuous element. Do you realize that?

MRS. MORRIS: Well, that's what I was reading. It says solid wall, fence or planting. I just don't think shrubs are --

MR. APPLEBY: If it's going to be shrubbery or trees or pines or something, it will be something that will grow together and be a 6-foot continuous. It's not going to be small shrubs.

MRS. MORRIS: Then another thing my husband talking about because he's got a bad back and everything. He said, you know, if they put up trees to divide our property, you know, we're going to have half the leaves that are going to fall and he's not able to do it and I'm not going to be able to do it either. That means we're going to have to hire somebody, you know, to do the yard work and stuff just because they put up trees and stuff that we're going to have to deal with later on. You know what I'm saying?

CHAIRMAN: Yes, ma'am. In Ms. Hayden's statement, she said they were going to put up bushes which would be low maintenance. You got to remember they're also responsible for taking care of it
themselves.

MRS. MORRIS: On their property.

CHAIRMAN: Right. The bushes would be the best thing as far as maintenance would be concerned on the long-term. The bushes is what she said they were going to put up.

MR. NOFFSINGER: And trees will be required.

MRS. MORRIS: What if we don't want the bushes and we want a fence? Do we have any rights to say about that?

CHAIRMAN: Her question was if they did not like the bushes and would request a fence. I think at this point in time we'll ask Ms. Hayden what her opinion is on that since it is her money that she'll be spending.

Ms. Hayden.

MS. HAYDEN: We'd be happy whatever -- if you'd be happier with a fence, we --

MRS. MORRIS: I think if we have to deal with the business we'd rather have like a wooden privacy fence or something.

MS. HAYDEN: I think we would put up a fence that would make you all happy. We will be more than happy to put a fence if they would feel more at
ease with a business next-door. We don't have any
problem with that.

CHAIRMAN: Thank you.

Mrs. Morris, do you need to make another
comment to that or does that satisfy you?

MRS. MORRIS: Fine.

CHAIRMAN: Does anybody from the audience
have any other comments or questions?

(NO RESPONSE)

CHAIRMAN: Does anybody from the
commission have any questions or comments?

(NO RESPONSE)

MR. APPLEBY: Is Chair ready for a motion?

CHAIRMAN: Chair is ready for a motion,
Mr. Appleby.

MR. APPLEBY: I make a motion for approval
based on Staff's Recommendations the Conditions 1 and
2 and the Findings 1 through 6 with the stipulation
that the property owner is going to put a fence in
lieu of shrubbery.

CHAIRMAN: Mr. Appleby has a motion for
approval.

MR. GILLES: Second.

MR. CHAIRMAN: Second by Mr. Gilles. All
in favor raise your right hand.

Ohio Valley Reporting
(270) 683-7383
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 10

2307 Reid Road, Portion 2311 Reid Road, 31.743 acres
Consider zoning change: From A-U Urban Agriculture to
R-1C Single-Family Residential.
Applicant: Jerry & Donna Butler, John & Pam Vanover,
Norma Belcher

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is
in compliance with the adopted Comprehensive Plan.
This recommendation is made subject to the conditions
and findings of fact that follow:

Conditions:

1. Access to Reid Road shall be limited to one
access point;

2. Location of the access point is subject to
state highway department approval; and,

3. Sanitary sewers shall be constructed and
connected to the public sanitary sewer system in
accordance with RWRA specifications and approval.

Findings of Fact:

1. The subject property is located in a Future
Urban Plan Area, where urban low-density residential
uses are appropriate in very-limited locations;

2. The subject property is contiguous to R-1A
Single-Family Residential zoning and MHP Manufactured Housing Park zoning;

3. The subject property is adjacent to residential uses;

4. Residential uses are prevalent in the immediate vicinity;

5. The applicant's proposal is a logical expansion of existing low-density residential use; and,

6. The subject property will be served by sanitary sewers.

We would like to enter Staff Report as Exhibit D into the record.

CHAIRMAN: Anybody here representing the applicant?

MR. BRYANT: Yes.

CHAIRMAN: Mr. Bryant, do you want to make a comment?

MR. BRYANT: Just to answer any questions that anyone might have.

CHAIRMAN: Does anybody from the audience have any questions of the applicant?

Yes, ma'am.

MR. ELLIOTT: State your name, please.

MS. BOEHMANN: Carla Boehmann.
MS. BOEHMANN: I thought more of us had some questions, but I'm concerned about the traffic. Reid Road is a terrible place. People have died there. It's very narrow. There's going to be, I think, 116 homes. Two probably people drive in each one. That's so much more traffic on Reid Road. I'm sure that's been addressed, but I'm concerned about that.

I was wondering, I know it's residential and it's being changed from agricultural to residential, but is there any plan for a fence dividing it because that's a concern for us because we back right up to it. We were thinking there was going to be a corn field behind us all this time. It was a family home and we thought that is how it would stay. I guess those are the two main concerns.

CHAIRMAN: Let me bring the representative of the applicant to the mike.

MR. ELLIOTT: State your name, please.

MR. BRYANT: Don Bryant.

MR. BRYANT: Traffic is something that has been looked at since probably the pre-ap meeting on this project, as on most major subdivisions any more.
I think the GRADD office was asked to do a study to the traffic situation, level capacity on Reid Road, the impact of this project, the need for turn lanes and things of this nature.

Gary, is that something at this time we need to enter into the record?

MR. NOFFSINGER: Yes, if I might, Mr. Chairman.

As part of the Staff Report that each commission member received as well as the applicant has been made available to the public, we have stated that the Green River Area Development District did conduct a traffic study within this area pertaining to the actual traffic demands on Reid Road at this time of recent traffic counts as well as future projections. Took a look at this development and projected on how many dwelling units would be there, how many trips would be generated. As a result given figures of the current capacity of Reid Road seemed more than adequate to support this development without improvement. So the Transportation Planning Agency for this area has reviewed the proposed developed and has recommended that no improvements be made.

However during the course of review of this development, there is some question as to the
sight distance pertaining to the intersection of this street of Reid Road. The county engineer has given a conditional approval for the street; however, he has deferred the approval to the state because this is a state route. The next item up, Number 10, which will be the subdivision plat, if it's considered for approval it should be considered with the condition that the state approve the site plan as well as an encroachment permit condition upon our approval.

MR. BRYANT: With that I can answer any other questions or if you want to talk about sight distance we can do that as well.

CHAIRMAN: Mr. Bryant, I think the second part of her question had to do with screening.

MR. BRYANT: There's no screening requirements for residential adjoining agricultural or other residential properties or zone classifications. We didn't anticipate or I hadn't anticipated any screening between the properties. That's not to say it couldn't be done, but it would be a voluntary effort on the part of the developer.

CHAIRMAN: Mr. Noffsinger, do you concur with that?

MR. NOFFSINGER: I'm sorry, I was not paying attention; however, I will say there are no
screening requirements between residential and
agricultural zones by ordinance.

CHAIRMAN: Very good.

To my knowledge those are her two
questions and we've covered both of them.

Do you have any other questions you would
like to ask or did we adequately cover the questions
you did have?

MS. BOEHMANN: So the state has to approve
it though before this -- they have the final say?

MR. NOFFSINGER: The state has the final
say in terms of the encroachment to allow the street
to intersect with Reid Road. In terms of the
residential development and lots, they really don't
have a say and that would not be a concern. It would
only be the intersection encroachment.

MS. BOEHMANN: Concerning the entrance to
the neighborhood; is that right?

MR. NOFFSINGER: Yes.

MS. BOEHMANN: Thank you.

CHAIRMAN: Anybody from the commission
have a question of the applicant?

(NO RESPONSE)

CHAIRMAN: If not the Chair is ready for a
motion.
MR. APPLEBY: Motion for approval, Mr. Chairman, based on the Staff Recommendations, Conditions 1 and 2, and Findings of Fact 1 through 6.

CHAIRMAN: Motion for approval by Mr. Appleby.

DR. BOTHWELL: Second.

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

MR. NOFFSINGER: Excuse me. Mr. Appleby, we had to amend the Staff Recommendation and the provisions that put three conditions to the site.

MR. APPLEBY: Conditions 1 through 3 and Findings of Fact 1 through 6.

CHAIRMAN: Why don't you restate your motion in its entirety, Mr. Appleby.

MR. APPLEBY: Sure. Make a motion for approval based on Planning Staff Recommendations, Conditions 1 through 3, and Findings of Fact 1 through 6.

CHAIRMAN: Dr. Bothwell, does your second still stand?

DR. BOTHWELL: Second.

CHAIRMAN: All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Item:

ITEM 10A

Sterling Park, 31.743 acres
Consider approval of major subdivision preliminary plat.
Applicant: Jerry & Donna Butler, John & Pam Vanover, Norma Belcher

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and the Engineering Staff. The Engineering Staff has made one recommendation. That should this be approved it be approved with the condition that the developer provide approved sight distance and encroachment for the State of Kentucky.

CHAIRMAN: Is there anybody here representing the applicant?

MR. BRYANT: Yes.

CHAIRMAN: Are there any questions of the applicant from anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions of this part of the application?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.
DR. BOTHWELL: Motion for approval.

CHAIRMAN: Motion for approval by Dr. Bothwell.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

COMBINED DEVELOPMENT PLAN/ MAJOR SUBDIVISION

ITEM 11

Lake Forest, Lots 182-235, 28.57 acres

Consider approval of amended combined major subdivision preliminary plat/final development plan.

Applicant: Lake Forest Community, LLC

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order and ready for your consideration.

CHAIRMAN: Does anybody from the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Does anybody from the commission have any questions?

(NO RESPONSE)
CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move for approval.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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PLANS DEVELOPMENT

ITEM 12

3415 Buckland Square, 5.9 acres
Consider approval of final development plan.
Applicant: Cliff Hagan Boys & Girls Clubs, Inc., O'Bryan Heirs

MR. NOFFSINGER: Mr. Chairman, the applicant has submitted a letter asking the Planning Commission consider postponing this item until the May 9th Planning Commission meeting.

MR. APPLEBY: Does this require a motion?

MR. NOFFSINGER: Yes, sir.

MR. APPLEBY: Move to postpone.

CHAIRMAN: Motion for postponement by Mr. Appleby.

Ohio Valley Reporting
(270) 683-7383
MR. GILLES: Second.

CHAIRMAN: Second by Mr. Gilles. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Postponement carries unanimously.

Next item.

ITEM 13

4612, 4700, 4800, 4950 KY 56, 94.575 acres
Consider approval of final development plan.
Applicant: Bellevue Baptist Church

MR. NOFFSINGER: Mr. Chairman, we have a letter from the applicant, it's my understanding we have a letter from the applicant stating they would like a postponement until the May 9th Planning Commission meeting.

CHAIRMAN: Ms. Watson, do we have a letter?

MS. WATSON: Yes, we do.

CHAIRMAN: For the record we do have a letter from the applicant requesting postponement. Do we have a motion.

MS. DIXON: Motion to postpone.

CHAIRMAN: Motion to postpone by Ms. Dixon.

MR. APPLEBY: Second.
MR. CHAIRMAN: Second by Mr. Appleby. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Postponement carries unanimously.

Next item.

ITEM 14

815 Triplett Street, 6.042 acres
Consider approval of amended final development plan.
Applicant: Wendell Foster Center

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

CHAIRMAN: Do we have anybody here representing the applicant?

MR. KAMUF: Yes.

CHAIRMAN: Does anybody from the audience have a question of the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the Commission have any questions?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

DR. BOTHWELL: Motion to approve.

CHAIRMAN: Motion to approve by Dr.
Bothwell.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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MAJOR SUBDIVISIONS

ITEM 15

The Brooks, 31.84 acres
Consider approval of major subdivision preliminary plat (revised street name)
Applicant: Owensboro Master Builders, Inc.

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Engineer Staff, the Planning Staff. It's found to be in order and ready for your consideration.

CHAIRMAN: Is anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody from the audience or commission have any questions?

(NO RESPONSE)

CHAIRMAN: If not the Chair is ready for a motion.
MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 16

Southgate Centre, Phase I, 49.078 acres
Consider approval of major subdivision final plat.
Surety (Irrevocable Letter of Credit) posted: $1,433,026.50
Applicant: Rodney Burns

MR. NOFFSINGER: Mr. Chairman, this plat is for the Home Depo Development that has been in plan for some time now. It creates a lot for the Home Depo as well as about five other out lots, I believe, for development along Frederica Street.

Mr. Chairman, the Planning Staff and the Engineering Staff have reviewed this plan and it's determined that adequate easements to get sanitary sewers as well as to loop a water main to this development have not been acquired at this time by the developer. We have Mr. Dean Behnke representing Regional Water Resource Agency here tonight that will
tell you about the sewer issue.

In this circumstance in order to move this development along, we had asked that the property owner give us a hold harmless clause that would hold harmless the Planning Commission as well as the other legislative bodies in the event that the necessary easements were not able to be acquired. I'm certainly concerned about it from a liability standpoint and what liability the Planning Commission and our legislative bodies might have by approving the plat without adequate easements.

The applicant, Mr. Burns, is my understanding was not willing to sign that clause so we are recommending tonight after we hear from Mr. Dean Behnke give us some satisfaction on the sewers that this plat be given a conditional approval. It be conditioned upon the property owner signing this hold harmless clause. In such time that the property owner signs that clause, then the plat may be signed by this commission and recorded. It's my understanding the current owner is not willing to sign that; however, the new owners that will be taking title to the property will be in a position to sign that clause and we can move forward with this development.

On another note should this development be
approved, I have committed to Home Depo that I would
state into the record that at any time MRD Owensboro,
LLC may replace surety posted by Home Depo, USA, Inc.
as long as replacement surety is submitted to the OMPC
consistent with OMPC requirements. Home Depo has
posted the surety for this development and the surety
may be replaced by another company. That's certainly
fine. We just want to make sure we have adequate
surety on hand by someone to guarantee that
improvements will be installed.

The second point is should MRD Owensboro,
LLC or Home Depo, USA, Inc. not take title to the
property on or before June 1, 2002, the OMPC will
release surety posted for the final plat provided that
a consolidation plat be submitted to the OMPC approved
and recorded that would essentially revoke the
approved final plat.

So with that I turn it over to you for
consideration and I would like to hear from Mr. Behnke
in terms of sewers.

CHAIRMAN: First I'd like to ask Mr.
Elliott, our attorney, Mr. Elliott, have you reviewed
and are aware of these documents?

MR. ELLIOTT: Yes, I am. I've talked to
Gary about both of them, the hold harmless clause and
also the other items he mentioned and I agree with them.

CHAIRMAN: I'd say at this point in time is there anybody representing the applicant?

MR. KAMUF: I represent the applicant, but I will allow Dean to go ahead in front of me if there's any questions. I met with Gary today and we agree on those terms about the applicant executing as the new property owner once they get title. We've agreed to that.

CHAIRMAN: Thank you, Mr. Kamuf.

Mr. Behnke, would you step forward and be sworn in, please.

MR. ELLIOTT: State your name, please.

MR. BEHNKE: Dean Behnke.

(MR. DEAN BEHNKE SWORN BY ATTORNEY.)

MR. BEHNKE: I'm not sure of the complete status of the whole thing as far as the easement that exist that we're going through and exact rights that we have to do it. As a developer typically they would go in and get easements or whatever to put something in.

This particular line is going to serve the public. The lift station is going to serve more than this development. That line is figured to serve
pretty much that whole general area to the south as it continues to grow or if it continues to grow.

It's RWRA's position that if the easement that's defined is not adequate to cover the sanitary sewer, that we as a sewer agency would go in and acquire the easement to the point if condemnation is necessary we would do that because this is a public facility.

I don't know what else I can add to that.

There's been a lot of work that's gone into the proposal as far as looking at options for sewer. Several options were considered. This we feel is the best path, the best long range project to do.

CHAIRMAN: Does anybody on the commission have any questions of Mr. Behnke?

(NO RESPONSE)

CHAIRMAN: Does anybody in the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Mr. Elliott, are you satisfied with his statement in regards to acquiring right of way and providing service of the property?

MR. ELLIOTT: Yes.

CHAIRMAN: If there are no questions from the audience, do you have further comments you would
like to make?

MR. BEHNKE: No.

CHAIRMAN: If there are no questions from the commission, the Chair is ready for a motion.

MR. APPLEBY: Mr. Chairman, I make a motion for approval with the condition that the new property owner, some property owner sign this plat with this notation regarding the easements.

CHAIRMAN: We have a motion with the conditions by Mr. Appleby. Do we have a second?

DR. BOTHWELL: That included all the conditions that Gary said?

MR. APPLEBY: There's really just one. That notation on the plat.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 17

Thorobred Crossing, Unit 1, Lots 1-6, Lot 54, Lots 56-66, 4.126+ acres

Consider approval of major subdivision final plat. Surety (Irrevocable Letter of Credit) posted: $19,980.40 Applicant: Thompson Homes, Inc.
MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and the Engineering Staff. It's found to be in order and ready for your consideration.

CHAIRMAN: Is anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries.

Next item.

ITEM 18

Timber Trails, 16.795 acres
Consider approval of major subdivision final plat (for pre-development purposes.)
Applicant: Scott Baird, Jr., Arthur W. Baird

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MR. NOFFSINGER: Mr. Chairman, this plat
has been reviewed by the Planning and Engineering
Staff. It's found to be in order. It is a plat
coming before this commission for basically the
transfer of property, but it is not a plat that
actually puts this subdivision into lots that can be
transferred individually. It's merely a matter of
exercising an option on the property. With that it's
ready for your consideration.

CHAIRMAN: Any questions or comments from
anybody on the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr.

Appleby.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

SURETY RELEASES

ITEM 19

Automotive Machine & Performance, $840.00

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Consider release of surety (Certified Check) for landscaping
Surety posted by: Automotive Machine & Performance

ITEM 20

Maurice Pools and Spas, $1,245.00
Consider release of surety (Certified Check) for landscaping
Surety posted by: John Maurice

MR. NOFFSINGER: Mr. Chairman, under
Surety Releases Items 19 and 20 are in order and may be released in toto.

CHAIRMAN: Chair is ready for a motion.
SISTER VIVIAN: So moved.

CHAIRMAN: Motion for approval by Sister Vivian.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next items.

SURETY TRANSFERS

ITEM 21

Arbor Gate, Unit #1, $6,912.00
Transfer of surety (Certificate of Deposit) for sidewalks to the City of Owensboro.
Surety posted by: Wells & Wells Builders, Inc.

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ITEM 22

Belmont Park West Of Preakness Place At The Downs, Unit #2, $18,474.00
Transfer of surety (Irrevocable Letter of Credit) for streets, sidewalks, storm sewers to the Daviess County Fiscal Court.
Surety posted by: Thompson Homes, Inc.

ITEM 23

Brookhill Heritage, Unit #12, $3,054.00
Transfer of surety (Certificate of Deposit) for sidewalks to the City of Owensboro.
Surety posted by: Yewell's Heritage Developers, Inc.

ITEM 24

Brookhill Heritage, Unit #12, $1,332.80
Transfer of surety (Certificate of Deposit) for streets to the City of Owensboro
Surety posted by: Yewell's Heritage Developers, Inc.

ITEM 25

Dutch Banks, Unit #4, $8,248.00
Transfer of surety (Irrevocable Letter of Credit) for fire hydrants and water mains to the City of Owensboro.
Surety posted by: Dutch Banks

ITEM 26

The Parks Of Heartland, Phase 2, $9,827.40
Transfer of surety (Certificate of Deposit) for sidewalks to the city of Owensboro
Surety posted by: Jagoe Development Corporation

ITEM 27

Salem Drive Development, $78,756.90
Transfer of surety (Irrevocable Letter of Credit) for streets, storm sewers, sanitary sewers to the City of Owensboro.
Surety posted by: John D. & Ione Miller Jones

MR. NOFFSINGER: Mr. Chairman, under Surety Transfers Items 21 through 27, these are in

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order and may be transferred in toto.

CHAIRMAN: Do I hear a motion.

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

NEW BUSINESS

ITEM 28

Consider approval of procurement determination for noncompetitive negotiation of contract for office automation and authorization for OMPC Chairman and Director to negotiate and sign related contracts.

MR. NOFFSINGER: Mr. Chairman, prior to this meeting each of you attended a work session in which a presentation was given regarding office automation and working through our permitting process to up-date that process as well as our land use file process. For about the past two years the Staff along with this commission and the legislative body has been looking at alternative ways to move from the outdated Ohio Valley Reporting
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land use file system we have to a land use file that's more modern and up-to-date and is readily usable by the staff.

"Under KRS 45A.380 a local public agency may contract or purchase through noncompetitive negotiations only when a written determination is made that competition is not feasible and it is further determined in writing by a designee of the local public agency that one or more specified conditions exist."

This document that we would like to enter into the record tonight contends that Number 1) An emergency exists which will cause public harm as a result of the delay in competitive procedures.

This is given by the fact that we cannot wait for delays that will accompany competitive procedures because we have a concern as well as the city information system has a concern that our information may reach a point where it's no longer backed up and stored and we would run the risk of losing that information.

The second item is that there is a single source within a reasonable geographical area of the product or service to be procured.

We have for the past two years been

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looking for products out on the market that would meet
the needs of the Planning Commission which would be a
preformatted and flexible product. A product that
will allow for automotive field inspections as well as
additional modules for the future expansion.
Especially with GIS. We're looking for a national
vendor. The land use file we have right now we don't
have -- the vendor is gone. We have no support
whatevor with that program and it's not easily
usable. So we need a national vendor that will be
there and be there to provide support when we need it.

So we conclude that Accela Corporation is
the single source of national products and support
services that fully match OMPC's criteria for office
automation. Each system we found when we thought we
were getting close to having a system that we would
like to recommend, Accela bought that company up. So
we're back to Acela.

We would ask that this commission approve
the procurement to allow for noncompetitive
negotiations and to authorize the Chairman and
Director to sign all contracts. We're looking to try
to move on this project and get it under way by May
15th of this year.

I'll be happy to answer any questions you
might have.

CHAIRMAN: Does anybody on the commission have any other questions? All of you were present for the opening presentation that we had. Is there any other questions?

(NO RESPONSE)

MR. ELLIOTT: Gary, do you intend to make this document a part of the record?

MR. NOFFSINGER: Yes, sir. We do want to enter this document.

MR. ELLIOTT: Findings and emergency does exist to allow this negotiation, right?

MR. NOFFSINGER: Yes, sir. The two findings that Number 1) emergency exist and Number 2) we have a single source within a reasonable geographical area of the product or service to be procured.

MR. ELLIOTT: Okay.

MR. NOFFSINGER: This has been signed by Mr. Gary Adams, OMPC Associate Director.

MR. ELLIOTT: It needs to be signed by the chairman.

MR. NOFFSINGER: It needs to be signed by the chairman.

CHAIRMAN: Are there any other questions?
CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

The Chair is ready for one last motion.

MS. DIXON: Move to adjourn.

CHAIRMAN: Motion for adjournment by Ms. Dixon.

DR. BOTHWELL: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting is adjourned.

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

I, LYNNETTE KOLLER, Notary Public in and for
the State of Kentucky at Large, do hereby certify that
the foregoing Owensboro Metropolitan Planning & Zoning
meeting was held at the time and place as stated in
the caption to the foregoing proceedings; that each
person commenting on issues under discussion were duly
sworn before testifying; that the Board members
present were as stated in the caption; that said
proceedings were taken by me in stenotype and
electronically recorded and was thereafter, by me,
accurately and correctly transcribed into the
foregoing 49 typewritten pages; and that no signature
was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this
the 27th day of April, 2002.

LYNNETTE KOLLER, NOTARY PUBLIC
OHIO VALLEY REPORTING SERVICE
202 WEST THIRD STREET, SUITE 2
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES:
DECEMBER 19, 2002

COUNTY OF RESIDENCE:
DAVIESS COUNTY, KENTUCKY

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