

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 SEPTEMBER 11, 2003

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4 The Owensboro Metropolitan Planning
5 Commission met in regular session at 6:00 p.m. on
6 Thursday, September 11, 2003, at City Hall, Commission
7 Chambers, Owensboro, Kentucky, and the proceedings
8 were as follows:

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

15 * * * * *

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17 CHAIRMAN: Want to welcome everybody to
18 the September 11th meeting of the Owensboro
19 Metropolitan Planning and Zoning Commission. I invite
20 you to stand as we give our invocation and pledge of
21 allegiance.

22 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

23 CHAIRMAN: Our first order of business is
24 to consider the minutes of the August 14, 2003
25 meeting. Are there any corrections, additions to the

1 minutes?

2 (NO RESPONSE)

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

5 MS. DIXON: Move to approve.

6 MR. CAMBRON: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 We have a presentation. Gary, would you
13 give us an update on our presentation and tell us what
14 we're to expect.

15 MR. NOFFSINGER: We're going to have about
16 a 15 minute presentation by Matt Bouthcer. Matt is
17 our computer program analyst. Matt has been the
18 program manager on a project that we've been working
19 on. It's called a Wireless Inspector. It's the
20 product that's provided by Accela is the company.
21 Anyhow, it enables our inspectors, building and
22 electrical inspectors to go out in the field and
23 communicate with our data base as well as to
24 communicate with contractors via e-mail system.

25 He's also going to be going through our

1 Tidemark product which is our data base. It's been
2 updated. This is a project we've been working on for
3 about I'm going to say the last year and a half.
4 Anyhow, we have completed the project. Without any
5 further ado, I'll turn it over to Matt Boutcher and
6 let him explain the project.

7 (PRESENTATION BY MATT BOUTCHER AT THIS TIME.)

8 MR. BOUTCHER: Thank you every much. I'm
9 available to answer any questions you may have.

10 MR. NOFFSINGER: I do have one question,
11 Mr. Boutcher. You indicated that our customers can
12 expect to see Accela wireless in the very near future,
13 but I didn't hear a specific date as to when they
14 would be seeing that.

15 MR. BOUTCHER: Well, we've been testing
16 for the past couple of weeks with this Accela wireless
17 software. On Monday the 15th of September, we will be
18 using the Accela wireless software live and in the
19 real production data base. That's going to be
20 starting on Monday.

21 MR. NOFFSINGER: I think it's important to
22 note that the Planning Commission back a year and a
23 half, two years ago answered a call for improved
24 customer service. That is the attempt here. To
25 improve the service to our customers. We started that

1 phase with the introduction of a website and we moved
2 forward with updating our data base as well as took it
3 to the next level in implementing a wireless
4 inspector. What used to take, as Matt pointed out,
5 one to two days for the customer to get word on their
6 permit, whether it had passed or if it didn't pass,
7 now should only take a few minutes. It's not going to
8 be a perfect system. There's going to be flaws in it
9 and there will be some breakdowns in the program, but
10 for the most part I think our customers will see an
11 improved level of service.

12 CHAIRMAN: Mr. Boutcher, I want to thank
13 you for an outstanding presentation. Well within the
14 time limit we discussed. Thank you.

15 I also want to announce as far as the
16 Planning Commission is concerned that Mr. Noffsinger
17 brought this project to completion; although through
18 many delays caused not by the commission or by the
19 Planning Staff, but due to the change in the
20 technology from one company to the other is well under
21 budget. We've gotten quite a few more assets in the
22 program than we actually bargained for due to the
23 change and the upgrades that the new company allowed
24 us to have.

25 Mr. Noffsinger, thank you.

1 Mr. Boutcher, thank you for a job well
2 done. We appreciate it.

3 Mr. Noffsinger, I think we're ready for
4 our next item of business.

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6 PUBLIC FACILITIES PLANS
7 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

8 ITEM 3

9 1414 Hill Bridge Road
10 Land Disposition
11 Consider comments regarding the sale of 101.592 acres
12 on Hill Bridge Road.
13 Referred by: City of Owensboro

14 MR. NOFFSINGER: Mr. Chairman, the
15 Planning Staff has reviewed this application. We find
16 no conflict with the Comprehensive Plan.

17 This property was considered I think for
18 disposition to the Humane Society. The plans seemed
19 to have changed. The City of Owensboro plans to put
20 this property out for sale to the general public.
21 With that we recommend a letter of no conflict be
22 forwarded to the City of Owensboro.

23 CHAIRMAN: Is anybody here representing
24 the City of Owensboro?

25 (NO RESPONSE)

 CHAIRMAN: Does anybody in the audience
 have any questions?

1 (NO RESPONSE)

2 CHAIRMAN: Anybody on the commission have
3 any questions

4 (NO RESPONSE)

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

7 DR. BOTHWELL: Motion for approval.

8 CHAIRMAN: Motion for approval by Dr.
9 Bothwell.

10 MR. HAYDEN: Second.

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

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: Motion carries unanimously.

15 Next item, please.

16 ITEM 4

17 South Owensboro Trail of Greenbelt Park
18 Land Acquisition and Facilities Construction
19 Consider comments regarding a proposal to purchase
20 approximately 13 parcels to complete two segments of
21 the trail and to acquire property and construct the
22 remaining South Trail segments in conjunction with the
23 Martin Luther King, Jr. Loop and the Southtown
24 Boulevard street projects.
25 Referred by: City of Owensboro

22 MR. NOFFSINGER: Mr. Chairman, Planning
23 Staff has reviewed. We find no conflict with the
24 Comprehensive Plan.

25 CHAIRMAN: Does anybody in the audience

1 have any questions?

2 (NO RESPONSE)

3 CHAIRMAN: Anybody on the commission have
4 any questions?

5 (NO RESPONSE)

6 MR. CAMBRON: Is Chair ready for a motion?

7 CHAIRMAN: Chair is ready for a motion.

8 MR. CAMBRON: Motion for approval, Mr.
9 Chairman.

10 CHAIRMAN: Motion for approval by Mr.
11 Cambron.

12 MS. DIXON: Second.

13 CHAIRMAN: Second by Ms. Dixon. 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 -----

19 ZONING CHANGE - CITY

20 ITEM 5

21 1304 East Second Street, 0.27 acres
22 Consider zoning change: From B-4 General Business to
23 I-1 Light Industrial
Applicant: Donald E. Logsdon, Audubon Loans, Inc.

24 MR. ELLIOTT: State your name, please.

25 MS. STONE: Becky Stone.

1 (MS. BECKY STONE SWORN BY ATTORNEY.)

2 PLANNING STAFF RECOMMENDATIONS

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

8 Conditions:

9 1. No additional access points shall be created
10 onto East Second Street.

11 2. A minimum 3-foot high landscape easement with
12 a 3-foot continuous element and one tree per 40-feet
13 of linear boundary shall be installed between the
14 existing sidewalk and the vehicular use area.

15 Findings of Fact:

16 1. The subject property is located in a
17 Business/Industrial Plan Area, where light industrial
18 uses are appropriate in general locations;

19 2. The subject property is located in an area of
20 existing mixed business and light industrial uses,
21 where the Land Use Plan allows mixed uses to continue;
22 and,

23 3. The reuse of the existing building on the
24 subject property promotes maintenance and conservation
25 of sound buildings.

1 MS. STONE: We would like to enter the
2 Staff Report into the record as Exhibit A.

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

5 MR. KAMUF: Charles Kamuf. We're here to
6 answer any questions.

7 CHAIRMAN: Is there anybody in the
8 audience that has any questions?

9 (NO RESPONSE)

10 CHAIRMAN: Does anybody on the commission
11 have any questions?

12 (NO RESPONSE)

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

15 MR. CAMBRON: Motion for approval, Mr.
16 Chairman, based upon the Conditions and Findings of
17 Fact 1 through 3.

18 CHAIRMAN: Mr. Cambron has a motion for
19 approval.

20 MS. DIXON: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 Next item, please.

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ZONING CHANGES - COUNTY

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ITEM 6

4

6101 Block, 6211, 6200-6400 Blocks Bickett Road,
7200-7300 Blocks, 7201-7301 Blocks Horrell Road,
187.48 acres

5

Consider zoning change: From EX-1 Coal Mining and A-R
Rural Agriculture to A-R Rural Agriculture

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Applicant: James C. Bickett

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PLANNING STAFF RECOMMENDATIONS

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Staff recommends approval because the proposal is

10

in compliance with the community's adopted

11

Comprehensive Plan. Findings of Fact in support of

12

this recommendation follow:

13

1. The subject property is located in a Rural

14

Maintenance Plan Area, where agricultural uses are

15

appropriate in general locations;

16

2. The subject property has remained in

17

agricultural use since being rezoned for Coal Mining

18

in 1982 and the applicant states that there are no

19

plans to conduct coal mining activities on the subject

20

property; and,

21

3. The subject property contains significant

22

areas of prime farmland, which can be maintained

23

through appropriate farming practices.

24

MS. STONE: We would like the Staff Report

25

entered as Exhibit B into the record.

1 CHAIRMAN: Is anybody here representing
2 the applicant?

3 APPLICANT: Yes.

4 CHAIRMAN: Does anybody in the audience
5 have any questions of the applicant?

6 (NO RESPONSE)

7 CHAIRMAN: Does anybody on the commission
8 have any questions of the applicant?

9 (NO RESPONSE)

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

12 MR. HAYDEN: Make a motion for approval
13 based upon Findings of Fact 1 through 3.

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

16 DR. BOTHWELL: Second.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22 ITEM 7

23 7415 Iceland Road, 0.60 acres
24 Consider zoning change: From B-4 General Business to
25 I-2 Heavy Industrial
Applicant: Kinder Morgan Bulk Terminal, Inc.

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 conditions and findings of fact that
6 follow:

7 Conditions:

8 1. Approval of a final development plan that
9 shows removal of existing parking that is located
10 within the right-of-way of Iceland Road and removal of
11 existing parking that requires backing onto Iceland
12 Road; and,

13 2. Approval of final development plan that
14 provides screening/landscaping of all outdoor storage
15 areas and required landscaping for vehicular use areas
16 adjacent to street right-of-ways.

17 Findings of Fact:

18 1. The subject property is located in a Rural
19 Community Plan Area, where heavy industrial uses are
20 appropriate in very-limited locations;

21 2. The subject property immediately adjoins
22 properties that are zoned I-2 Heavy Industrial;

23 3. The subject property adjoins properties that
24 include heavy industrial activities; and,

25 4. The applicant's proposal would not

1 significantly increase the extent of industrial uses
2 in the vicinity and would not overburden roadway
3 capacity or other necessary urban services that are
4 available in the affected area.

5 MS. STONE: We'd like to enter this as
6 Exhibit C.

7 CHAIRMAN: Is there someone here
8 representing the applicant?

9 MR. HUFF: Yes.

10 CHAIRMAN: Does anybody in the audience
11 have a question of the applicant?

12 MR. HARPER: Yes, I have a question.

13 CHAIRMAN: Would you come to the podium
14 please and be sworn in.

15 MR. ELLIOTT: State your name, please.

16 MR. HARPER: Gary Harper.

17 (MR. GARY HARPER SWORN BY ATTORNEY.)

18 MR. HARPER: I would like to know what
19 this is going to do to the adjoining property that
20 adjoins what's being rezoned?

21 CHAIRMAN: Is that your question, sir?

22 MR. HARPER: Yes.

23 CHAIRMAN: Would you sit down and we'll
24 bring the applicant up and swear him in and have him
25 respond to your question.

1 MR. CAMBRON: Let me ask him a question
2 real quick.

3 I see here you live on the east side of
4 Iceland Road; is that right?

5 MR. HARPER: Yes.

6 MR. CAMBRON: So Iceland Road, the
7 property that's being rezoned there is a road
8 in-between you and that property, right?

9 MR. HARPER: Now, this says it's joining
10 my property. The acreage involved is 0.60. There's
11 18 acres across the road from me.

12 MR. NOFFSINGER: If I might for the
13 record. There would be a roadway, Iceland Road
14 between you and this property. The section they're
15 rezoning is the corner lot at Old Highway 60 East and
16 Iceland Road where the office building sits.

17 MR. HARPER: Where Lanham's coal office?

18 MR. NOFFSINGER: Yes, sir. That's the
19 small acreage they're rezoning. Then they have a
20 development plan as the next item which covers a much
21 larger area. Approximately 19 acres.

22 MR. HARPER: Yes, 18 something acres.

23 MR. NOFFSINGER: Which there were plans
24 for this property - - the rezoning of that property
25 was approved back some time ago, as well as a

1 development plan on how they were going to develop
2 that property was approved and a variance was approved
3 by the Board of Adjustment to allow them to conduct
4 some activities closer to some areas than what would
5 normally be allowed. This would be, the next item
6 would be an amendment of that plan. I don't think
7 what they're proposing on this plan amendment would be
8 any more intrusive than what has already been
9 approved.

10 MR. HARPER: So the .60 acres is where the
11 office building is there now?

12 MR. NOFFSINGER: Yes, sir.

13 MR. HARPER: But the way it read on our
14 statement they sent us it was joining our property on
15 - -

16 MR. NOFFSINGER: Right. By joining they
17 mean, I guess, if you remove the roadways then it
18 touch.

19 MR. HARPER: Then it would be joining.
20 That was my interest in it. You know, if it was
21 joining our property what it was going to do to us on
22 our property that we have there, already there. That
23 was my main question. I see where it's listed here as
24 it's completely across the road from where our
25 property is at. That was our main concern, what it

1 was going to do to us on our property there.

2 CHAIRMAN: Does that answer your question,
3 Mr. Harper?

4 MR. HARPER: Yes, it does.

5 CHAIRMAN: The applicant, do you care to
6 respond or make a statement?

7 MR. HUFF: Do I need to?

8 CHAIRMAN: Well, if you're going to make
9 any statement at all we need you sworn in for the
10 record.

11 MR. ELLIOTT: State your name.

12 MR. HUFF: Tony Huff.

13 (MR. TONY HUFF SWORN BY ATTORNEY.)

14 MR. HUFF: I think the discussion pretty
15 well covered the issues of what the applicant is
16 wanting to do on the property and should be addressed
17 in the final or amended final development plan that, I
18 thin, is the next item of discussion.

19 CHAIRMAN: Thank you very much.

20 We're ready for a motion.

21 MR. CAMBRON: Motion for approval, Mr.
22 Chairman, based upon Conditions 1 through 2 and
23 Findings of Fact 1 through 4.

24 CHAIRMAN: Motion for approval by Mr.
25 Cambron.

1 MS. DIXON: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, Mr. Noffsinger.

7 Related Item:

8 ITEM 7A

9 7415, 7535 Iceland Road (TERMINAL RD) 18.85 acres
10 Consider approval of revised final development plan.
Applicant: Kinder Morgan Bulk Terminals, Inc.

11 MR. NOFFSINGER: Mr. Chairman, this plan
12 has been reviewed by the Planning Staff and
13 Engineering Staff. It's found to be in order.

14 I do have one question of the applicant
15 and perhaps the Planning Staff. That is the proposed
16 entrance drives into this facility going to each of
17 the buildings and providing parking. I understood
18 those were going to be paved, but I do not see that
19 language on the plan.

20 CHAIRMAN: Ms. Stone.

21 MS. STONE: I thought it was on there.

22 MR. NOFFSINGER: Let me just ask the
23 applicant.

24 Is that the intent, to pave those drives
25 and parking areas?

1 MR. HUFF: It is.

2 MR. NOFFSINGER: We can adjust that on the
3 plan. That's the only thing I have. It's in order.

4 CHAIRMAN: Thank you.

5 Does anybody else have any questions of
6 the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: The commission?

9 (NO RESPONSE)

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

12 MS. DIXON: Move to approve.

13 CHAIRMAN: Motion for approval by Ms.
14 Dixon.

15 SISTER VIVIAN: Second.

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

18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

19 CHAIRMAN: Motion carries unanimously.

20 Next item, please.

21 ITEM 8

22 3900, 4000 Blocks Medley Road, 4.519 acres
23 Consider zoning change: From A-U Urban Agriculture to
24 R-1C Single-Family Residential
Applicant: Robert J. Wimsatt

25 PLANNING STAFF RECOMMENDATIONS

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

6 Condition:

7 1. Access points on Medley Road shall be limited
8 to the access points as located on the preliminary
9 plats submitted in conjunction with this rezoning
10 request. The access point for proposed Creekview Ct.
11 shall be located a minimum distance of 250 feet from
12 the centerline of Turtle Creek Drive. Additional
13 access points shall be located spaced 250 feet apart,
14 the first point being 250 feet west of the proposed
15 centerline of Creekview Court, with the last access
16 point being 282 feet east of the centerline of Deer
17 Haven Drive.

18 Findings of Fact:

19 1. The subject property is located in an Urban
20 Residential Plan Area, where urban low-density
21 residential uses are appropriate in limited locations;

22 2. The subject property immediately adjoins R-1C
23 Single-Family residential zoning and urban low-density
24 residential uses to the east, west and south;

25 3. Sanitary sewers are proposed to be expanded

1 to the subject property; and,

2 4. The proposed development of the subject
3 property should not significantly lower the
4 level-of-service for vehicular traffic on Medley Road.

5 MS. STONE: We would like to enter the
6 Staff Report as Exhibit D.

7 CHAIRMAN: Is someone here representing
8 the applicant?

9 MR. ELLIOTT: State your name, please?

10 MR. WIMSATT: Bob Wimsatt.

11 (MR. BOB WIMSATT SWORN BY ATTORNEY.)

12 MR. WIMSATT: Mr. Chairman, Fellow
13 Commissioners, let me just say that certainly I concur
14 with the thorough review the staff has done on this
15 application. Note especially the findings of fact,
16 certainly I don't have any problem with it; nor the
17 condition that the Staff has asked be placed on this
18 application. Ask that you also note, again, that
19 everything in this proposal is in compliance with the
20 Comprehensive Plan. It meets the zoning
21 classifications for R-1C. The related items are in
22 conformance with all the development plans and have
23 been thoroughly reviewed by the utility companies and
24 the city engineer. Also mention that in recent years
25 this commission has approved multiple rezonings,

1 totaling probably about 60, 70 acres or so joining
2 this particular tract of four or five acres.

3 CHAIRMAN: Thank you, Mr. Wimsatt.

4 Does anybody in the audience have a
5 question they'd like to make of the applicant?

6 MR. ELLIOTT: State your name, please.

7 MR. INMAN: J. Todd Inman.

8 (MR. J. TODD INMAN SWORN BY ATTORNEY.)

9 MR. INMAN: My name is Todd Inman. I
10 represent the chairperson of the Bon Harbor Audubon
11 Area Neighborhood Alliance.

12 After a meeting on Tuesday evening the
13 subject property that is at question here today falls
14 within that neighborhood alliance. There was a
15 consensus among that group that there are certain
16 questions that we feel need to be answered. Those
17 questions don't specifically relate to the project at
18 hand, but they relate to the surrounding developments
19 around that area.

20 You may or may not be aware that the city
21 engineer, Marwan Rayan, had a meeting with the
22 developer on the related subjects close to there,
23 which is the Doe Ridge Subdivision and the Turtle
24 Creek Subdivision. Specifically there were certain
25 areas in the Doe Ridge Subdivision which were not up

1 to the Comprehensive Plan according to the regulations
2 that had been filed. Those included several retention
3 basis in addition to final coats of asphalt.

4 As of right now there's an agreement
5 between the developer and the City of Owensboro for
6 those certain conditions to be completed. That
7 agreement stands until the end of September. At the
8 end of September should those items not be completed,
9 the City of Owensboro shall consider or go forward
10 with relocation of the bond issued to that area.

11 We feel that it would not be in the public
12 interest of the citizens of Daviess County and
13 Owensboro to go forward with allowing new development
14 when the potential exist for related properties to
15 have a bond relocated. We're not totally against the
16 actual zoning itself. It may be out of turn with the
17 zoning, but more so the related subdivisions, but we
18 don't feel that it would be in good interest.
19 Therefore, on behalf of the neighborhood alliance, we
20 would like to ask the commission to consider tabling
21 the request until such time that those requirements
22 are met and that there is no concerns in regard to
23 relating developments around there that they will
24 suffer because of this additional development.

25 Now, whether or not that's a question, I

1 don't know, but it certainly is a statement.

2 Probably one question for the developer
3 would be what recourses will there be or what's
4 potential for not the same situation to occur?
5 There's a lot of residents here from both of those
6 subdivisions tonight. In the interest of time, I
7 think a lot of them may not come up and speak, but
8 hope that their voice will be heard just by their
9 attendance.

10 MR. JAGOE: Could I ask a question?

11 CHAIRMAN: Yes, Mr. Jagoe.

12 MR. JAGOE: If I understood you correctly,
13 there are performance bonds, they're in place that the
14 city has at this point. Those expire in September?

15 MR. INMAN: No, sir, they do not. The
16 performance and surety bonds have been transferred
17 from the OMPC to the City of Owensboro.

18 MR. JAGOE: In that transfer, did Marwan
19 state whether or not they would - - do you understand
20 that if there's no performance, that the city can
21 capture those funds and complete the improvements?

22 MR. INMAN: Yes. We have correspondence
23 from Marwan to the developer to that extent, stating
24 that at the end of September should those items not be
25 completed that they will start to ask for the surety

1 bond to be released back to the city.

2 Our concerns are by allowing additional
3 development in there, it makes no sense even if
4 development is occurring that you should allow a
5 second development to be occurring whenever one is
6 imperil or even possibly bond relocation. I don't
7 believe that that's occurred. Well, anybody that's
8 incurring administration doesn't know when a bond has
9 been revoked so they're still wondering how the
10 revisions will be taken care of. I think it's
11 negligent to allow additional development within there
12 whenever you know that the surrounding areas are
13 already imperil by the same development.

14 MR. CAMBRON: Do you have specifics on
15 what has not had - -

16 MR. INMAN: In the correspondence between
17 the city and the developer, certain items that must be
18 addressed would be mud and debris must be removed and
19 cleaned from the streets, specifically Silent Doe
20 Crossing and a portion of Deer Haven. Streets must be
21 re-rocked to asphalt grade. The streets must be
22 proof-rolled. There are three separate detention
23 basins that are not completed. The original basin is
24 90 percent complete. It needs regrading, seeding.
25 The west basin is only 50 percent complete. The large

1 dry basin which is 80 percent complete. Concrete
2 channels and dressing up the basin is required.
3 There's a drive at 926 Deer Haven Drive which must be
4 removed and replaced. There's erosion control which
5 must be in place throughout the development.

6 The agreement between them said that the
7 asphalt basins, the one requirement that must be
8 completed before the end of September before the bond
9 is revoked, the additional items I think are suppose
10 to be contingent upon the development of that. We are
11 not asking, as I said again, to deny the request, but
12 we're merely asking for the commission to consider
13 tabling or delaying the request until such time that
14 there's guarantees these are done.

15 MR. CAMBRON: Is that a letter you have?

16 MR. INMAN: Yes.

17 CHAIRMAN: Mr. Inman, let me thank you for
18 your method of coming before the commission by
19 gathering together the facts and your neighborhood
20 alliance where we have one voice to speak and deliver
21 the issues, 1, 2, 3, 4, that need to be addressed. We
22 definitely appreciate that. All the people that are
23 here, thank you for doing that because it makes our
24 job a lot easier. You all have been very effective
25 and streamlined this procedure. We definitely

1 appreciate it.

2 Now, in fairness I believe now that we
3 need to hear from our applicant to address the issues
4 that you brought forward which you made very plain and
5 very easy.

6 MR. INMAN: I would be happy to tender to
7 the commission the copy of the letter from the city.

8 MR. CAMBRON: I wanted to see that myself,
9 please.

10 CHAIRMAN: Mr. Wimsatt.

11 MR. WIMSATT: Mr. Chairman, let me say too
12 that I certainly applaud the efforts of the city for
13 establishing the neighborhood alliances that they have
14 done in recent years. I too can see the affects of
15 that.

16 I have, as Mr. Inman mentioned, I have
17 received the letter from the city. In the last five
18 to ten years I've been involved in developing.
19 Developed hundreds of lots, multiple subdivisions and
20 I believe I have a very good working relationship with
21 the inspectors and the engineers and the city and the
22 county. When there's a problem, they notify me.
23 Typically that's done verbally. Marwan sometimes will
24 do that in writing. We'll have a meeting at whatever
25 site we need to look at, if there's issues that he

1 thinks are pertinent and then we'll address those
2 issues.

3 In the last five to ten years, Marwan has
4 I believe sent me three letters. The first two
5 letters on issues that he asked to be addressed were
6 responded to appropriately. The most recent letter is
7 being responded to too.

8 I had a meeting yesterday in the city
9 engineer's office to talk about another proposal
10 that's going to be coming before this board probably
11 in the next two months. While I was in there, I had
12 several phone calls. While I was in that meeting I
13 took one phone call from Yager Materials. Yager
14 Materials told me yesterday that I could share with
15 the city engineer that they did not see any problem
16 with getting that asphalt done by the end of
17 September. I told the city engineer several months
18 ago that I'd do everything I could to get that
19 accomplished, and I've done that.

20 Let me also mention too though, in
21 fairness to myself, you know, I understand it's
22 sometimes easy to kind of bring in outside items in to
23 a case. I understand that - - of course, we know that
24 the city and county both have professional staff that
25 are trained and they deal with these issues on a

1 day-to-day basis. They determine what's the
2 appropriate way to deal with it and whether or not
3 they're legitimate concerns. They get a lot of phone
4 calls. Often times myself as a developer, gets blamed
5 for a lot of things they shouldn't get blamed for.

6 Certainly the street is something that I'm
7 responsible for. In this case, I've taken the
8 additional measure. I've already prepaid Yager up
9 front to make sure this gets done. They have the
10 money in hand. Yager does not do it, I'll give that
11 money to the city, but that should not be the case.

12 As a last resort, certainly the city does
13 have bonds on everything that I do. All that has to
14 be in order. The city has those bonds. I guess
15 technically the city could revoke those bonds. I've
16 never had that occur to me. I'm not aware of
17 instances where that has happened with other
18 developers, but I can assure you that I'm aware of
19 instances where other projects, certain phases have
20 drug out much longer than some of mine. I don't care
21 to mention those specifically. Again, it's the
22 responsibility of the trained professional staff of
23 the city and county to monitor the progress on the
24 projects and take whatever action they think are
25 appropriate.

1 MR. CAMBRON: I agree with what you're
2 saying, Mr. Wimsatt, but one thing that I see here is,
3 you know, most of the time when people do have
4 problems they're not trying to rezone other property.
5 They're trying to take care of the problems. We're
6 trying to rezone more property. I've been out there
7 several times. A lot of these issues haven't been
8 addressed.

9 MR. WIMSATT: Mr. Cambron, I have multiple
10 projects going on at different phases of the
11 development.

12 MR. CAMBRON: Sure.

13 MR. WIMSATT: I have multiple projects. I
14 have to make the decision what's the most important.
15 Certainly there's some things that don't get done as
16 quickly as I'd like to get done either. Just as in
17 every other business, body shop or whatever. Don't
18 always get those vehicles out when you want.

19 MR. CAMBRON: You're exactly right.

20 MR. WIMSATT: All we can do is try to do
21 the best we can - -

22 MR. CAMBRON: But I'm not before here
23 trying to get something rezoned either.

24 MR. WIMSATT: Let me just mention too. I
25 do remember another case where I was asked to go out

1 and look at a project and we had a postponement. City
2 engineer went out on site, did his job, and said, you
3 know, this just really was not, this was not really an
4 issue. I understand that sometimes it's easy to
5 postpone items, but that cost me too.

6 CHAIRMAN: Dr. Bothwell.

7 DR. BOTHWELL: Mr. Noffsinger, so the
8 bonds are in the hands of the city, no longer with the
9 planning office; is that correct? Did I understand
10 that?

11 MR. NOFFSINGER: Yes, sir. That's
12 correct.

13 DR. BOTHWELL: They're viewing whether to
14 take action on forfeiting or nonperformance and taking
15 the bonds?

16 MR. NOFFSINGER: Yes, sir.

17 DR. BOTHWELL: That's the letter I assume
18 I just read was about.

19 MR. NOFFSINGER: Yes.

20 DR. BOTHWELL: Thank you.

21 CHAIRMAN: Mr. Elliott, let me ask you a
22 question.

23 MR. WIMSATT: Mr. Chairman, may I just
24 make one other comment?

25 CHAIRMAN: Yes, sir.

1 MR. WIMSATT: I was also in the engineer's
2 office this morning. I asked him very directly.
3 Marwan, do you and I have a problem? He answered no.
4 There are issues as there are on any project and those
5 issues have to be addressed. I'm addressing those
6 issues. Now, if this board chooses to take over
7 review of every developer and make sure that things
8 are progressing at whatever stage they want, you know,
9 Mr. Chairman, we have trained professional staff that
10 have the responsibility of doing that.

11 CHAIRMAN: Let me ask Mr. Elliott a
12 question.

13 Mr. Elliott, as far as this commission is
14 concerned, the transfer of the bonds to the city
15 commission on the past projects that are in question
16 actually puts the city in charge of the project. In
17 other words, we have absolutely no recourse?

18 MR. ELLIOTT: We have nothing to do with
19 the bonds being replaced and the city has the option
20 to revoke or to enforce them to do the improvement.

21 CHAIRMAN: Now, the bonds are totally and
22 absolutely to secure the said work mentioned here?

23 MR. ELLIOTT: Yes. With those bonds, Gary
24 can probably address this, but there are estimates
25 made. I think there's more money put up than what the

1 actual improvements are going to cost, isn't that
2 right, Gary?

3 MR. NOFFSINGER: I'm not sure exactly how
4 those improvements were posted, but I suspect it was
5 based upon the current cost of the improvements.
6 Current meaning when the final plat was submitted. I
7 doubt there was any - - there was a 10 percent
8 up-charge or 20 percent.

9 MR. ELLIOTT: To answer your question, it
10 is the city's responsibility. Those funds have been
11 transferred and it appears they're in the process of
12 making him perform the improvements.

13 CHAIRMAN: So consequently the citizens
14 and neighbors represented here are totally and 100
15 percent protected?

16 MR. ELLIOTT: Right.

17 CHAIRMAN: With all this work being done.
18 In the case, if I read the letter correctly some of
19 the stuff is 90 percent completed. Some of it is 80
20 percent. Some of it is 50 percent completed.

21 MR. ELLIOTT: Yes.

22 CHAIRMAN: So, in other words, Mr. Wimsatt
23 has proportionately paid that part regardless?

24 MR. ELLIOTT: Right.

25 CHAIRMAN: So we have no jurisdiction - -

1 MR. ELLIOTT: We have no authority to do
2 anything with that.

3 CHAIRMAN: His project that comes before
4 us now recommended by the staff - -

5 MR. ELLIOTT: Stands on its own.

6 CHAIRMAN: Must stand on it's own merits.

7 MR. ELLIOTT: Right. Of course, it too
8 will also have to be properly bonded for the
9 improvements and everything. It stands on its own. I
10 don't think this commission can hold him hostage
11 because of something that wasn't done on the other
12 project. This project stands on its own and is to be
13 rezoned or not rezoned.

14 MR. WIMSATT: Let me mention too, Mr.
15 Chairman, for the record that I do have an agreement
16 with the builder for the one of the projects that
17 you're considering tonight, Creekview. It is in my
18 agreement with that builder that those improvements
19 will be completed within six months, barring any
20 unforeseen or extreme weather condition.

21 MR. CAMBRON: The improvements you're
22 doing?

23 MR. WIMSATT: Yes, at Creekview.

24 MR. CAMBRON: Just a couple of comments.

25 First, I want you to understand I'm not

1 against this rezoning. Everything seems to be in line
2 here.

3 MR. WIMSATT: I appreciate that.

4 MR. CAMBRON: Just a couple of things I
5 have. The issue of the green space to the east of the
6 entrance to the street, is there a retention basin in
7 there also?

8 MR. WIMSATT: In virtually all projects
9 brought before this commission for consideration, as
10 is required by the public improvement specs and the
11 city and county engineer review, there has to be some
12 type of detention/retention. Sometimes those are wet
13 basins. Sometimes they're dry basins. In this
14 particular case, it's a very shallow dry basin
15 stretched out over a long area.

16 MR. CAMBRON: Is there going to be any
17 trees planted along that area through there, Mr.
18 Wimsatt?

19 MR. WIMSATT: Mr. Cambron, right now there
20 are trees planted on several of the adjoining property
21 owners. If it is the desire of this commission that
22 additional trees be planted, I have no problem with
23 that at all.

24 CHAIRMAN: Mr. Wimsatt, if you would, let
25 me bring Mr. Inman back to the podium for just a

1 moment.

2 Mr. Inman, based on the review that this
3 commission has made and several questions that were
4 raised by commissioners, I hope you understand that
5 all the neighborhoods are totally and absolutely
6 protected in this situation, the bonding situation
7 that the city enforces with the city engineers and
8 everything. All the work unquestionably will be
9 completed; especially, in these issues where we've got
10 80, 90 percent complete. The city has 100 percent
11 coverage on it to begin with. Plus, as Mr. Noffsinger
12 said, even a 10 percent up-charge. We as a commission
13 must face each one of these issues individually. We
14 really - - the issue of these other things that have
15 not been done or have been held up actually do not
16 come under our jurisdiction. I wanted to make it
17 explicitly clear by clearing it with Mr. Elliott that
18 that's where we stood.

19 So any vote that this commission takes
20 will be on the recommendation of the staff on the
21 current project meeting current stipulations. So
22 issues and things that you brought before us are very
23 important and we understand that, but you have to
24 understand where our jurisdiction ends and where it
25 begins.

1 MR. INMAN: Very much so. If I might, Mr.
2 Kirkland, I think there's two additional points that
3 must be considered. Even with the project standing on
4 its own, the merits, and this is what the staff has to
5 look into, the surrounding properties and adjacent
6 properties so-to-speak, how they relate to that
7 project. That is always something that comes in in
8 rezoning is surrounding areas, things of that sort.
9 If you have an area which is surrounding that that is
10 being developed currently is not meeting the
11 standards, i.e. there's obviously an issue that has to
12 be done, then the past performance has to be
13 considered not of the rezoning, but in the approval of
14 the - and I apologize for not knowing the technical
15 term - subdivision plat. Is that close enough?

16 MR. NOFFSINGER: Yes.

17 MR. INMAN: The second thing is there's
18 precedent that has to be considered. Mr. Wimsatt
19 talked about several times he's known of prior times
20 the commission has done certain things. I think
21 there's a certain precedent that if these items are
22 not completed at the end of September, which although
23 the money is there, if the bond has to be revoked then
24 what message does that send? Obviously, we've got
25 some very competent professional developers on this

1 project that have to deal with bonding issues every
2 day. If a bond is revoked, the future bonding
3 capability of that individual or that developer is
4 severely hanged, unless you go to an authorized letter
5 of credit at that time.

6 My comment to that regard would be this
7 actual development, possibly not the rezoning, it may
8 be the improper time to say that. This development
9 until such time that these issues are resolved we
10 could be standing before you again in a year asking
11 for the exact same thing, granted the money is sitting
12 there in a separate pot, but that doesn't make it
13 legal not to do that. Just because you had to set
14 aside the security or set aside the bond, it doesn't
15 make it right for a developer to walk off a job and
16 everyone say, well, it's fine because the money is
17 there. Does that then mean the developer can go on
18 and do that four or five more times? I think that's
19 bad precedent for the citizens of Owensboro and
20 Daviess County. It looks bad for developers in
21 general.

22 Like I said we're not asking for it not to
23 be approved. We're asking for it to be tabled until
24 those items can be performed.

25 CHAIRMAN: Thank you. Does anybody else

1 have any questions or comments from the audience?

2 (NO RESPONSE)

3 CHAIRMAN: Does anybody else - - Mr.
4 Wimsatt.

5 MR. WIMSATT: Mr. Chairman, I just ask
6 that you too, again, recognize the fact that tabling
7 something for me cost me as well. I mean - - as far
8 as setting precedent, I've never had a bond revoked on
9 me. City and county has a lot of bonds on me.
10 They're all protected. I've never had a bond revoked
11 and this bond won't be revoked either.

12 CHAIRMAN: Thank you, Mr. Wimsatt.

13 Does anybody else from the commission have
14 any questions of the applicant?

15 (NO RESPONSE)

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

17 CHAIRMAN: Mr. Cambron, chair is ready for
18 a motion.

19 MR. CAMBRON: Motion for approval based on
20 Condition 1 and the Findings of Fact 1 through 4, but
21 also I'd like to stipulate that there are trees
22 screened down the east side there from the neighbors
23 in the back there every 40 liner feet. That's my
24 recommendation.

25 CHAIRMAN: Mr. Noffsinger, do we need to -

1 - can we accept that as a motion or do we need to put
2 that into the plan?

3 MR. NOFFSINGER: We can accept it as a
4 motion on the zoning change. Then the plans will have
5 to be altered to show those trees which can be done.

6 DR. BOTHWELL: Mr. Chairman, should we not
7 ask the developer to - -

8 CHAIRMAN: The developer is the next call.

9 MR. CAMBRON: He indicated to us - -

10 CHAIRMAN: Well, he did, but now he has to
11 agree to it that he will do it.

12 MR. HAYDEN: One more thing. Before he
13 answers that, will those trees hamper any of the
14 runoff of the water that's coming down through there?
15 Are we going to make him do something that's going to
16 hamper the basin? I don't know. I'm just asking the
17 question.

18 CHAIRMAN: Mr. Wimsatt, we've got a
19 proposal and a question. Why don't you take the
20 proposal first and the question second.

21 MR. WIMSATT: As far as Mr. Cambron's
22 proposal to put the trees and making that a condition
23 of the rezoning and the approval of the subdivision
24 plats, I have no problem with that condition at all.

25 As far as it being a problem, there is an

1 area between the proposal limits of the detention and
2 the adjoining property owners. In fact, as I said,
3 some of the adjoining property owners already have
4 trees along that boundary line. Some of those trees
5 already extend over onto my property. There's
6 currently some buffer there, but we'll make sure that
7 we do additional buffer to accommodate the condition.

8 MR. NOFFSINGER: I do want to state for
9 the record that we need to be mindful that there's a
10 major power line easement located in that area.

11 MR. WIMSATT: Sure.

12 MR. NOFFSINGER: The trees may not - - you
13 may want to reconsider the trees.

14 MR. WIMSATT: The trees can be planted in
15 power line easement. You just have to meet certain
16 species requirements so they don't grow too large.

17 MR. CAMBRON: And you'll make sure that's
18 met?

19 MR. WIMSATT: Yes.

20 MR. CAMBRON: That's my proposal and my
21 motion.

22 CHAIRMAN: Mr. Cambron, would you possibly
23 add an amendment to your proposal to the fact that
24 based on approval from the city engineer, because we
25 sure wouldn't want to have him do something and then

1 have it in the plan that we put in the plan and then
2 the city engineer, you know, he plants these trees and
3 then - -

4 MR. NOFFSINGER: Utility company.

5 CHAIRMAN: Subject to - -

6 MR. CAMBRON: Signing off and the city
7 engineer signing off on it.

8 Did that answer your question?

9 MR. HAYDEN: That answered my question.

10 CHAIRMAN: Mr. Cambron, would you resubmit
11 your motion.

12 MR. CAMBRON: Motion for approval based on
13 Condition 1 and Findings of Fact 1 through 4, and the
14 condition also that there are trees that are in the
15 limits of the Owensboro Municipal Utility or Kenergy,
16 or whoever that is out there, every 40 linear feet
17 down the east side property line between the detention
18 basin and the local property owners there; and that
19 the city engineer signs off on that too so it does not
20 hamper any runoff. That's my motion.

21 CHAIRMAN: Thank you, Mr. Cambron. Is
22 there a second?

23 MR. HAYDEN: I'll second it.

24 CHAIRMAN: Second by Mr. Hayden. All in
25 favor raise your right hand.

1 (EIGHT COMMISSION MEMBERS PRESENT - DAVE
2 APPLEBY, SCOTT JAGOE, IRVIN ROGERS, SISTER BOWLES,
3 DREW KIRKLAND, NICK CAMBRON, JUDY DIXON AND MARTIN
4 HAYDEN - RESPONDED AYE.)

5 CHAIRMAN: All opposed.

6 (ONE COMMISSION MEMBER - DR. MARK BOTHWELL
7 - RESPONDED NAY.)

8 CHAIRMAN: Eight to one. Motion carries
9 eight to one.

10 Next item, please.

11 Related Item:

12 ITEM 8A

13 Creekview, 3.312 acres
14 Consider approval of major subdivision preliminary
15 plat.
16 Applicant: Robert J. Wimsatt

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

21 CHAIRMAN: We have somebody representing
22 the applicant. Are there any questions, any further
23 questions of the applicant?

24 (NO RESPONSE)

25 CHAIRMAN: If there are not, Chair is
ready for a motion.

1 I'm sorry, we do have a question from the
2 audience.

3 MR. ELLIOTT: State your name, please.

4 MR. ALVEY: Joe Alvey.

5 (MR. JOE ALVEY SWORN BY ATTORNEY.)

6 MR. ALVEY: My wife and I have only been
7 there a short time and our property faces Medley Road.
8 That's right at the corner of Medley Road and Turtle
9 Creek. So our property directly bounds the new
10 subdivision, Creekview. Ours would be right next to
11 the drainage basin. I've already talked to the city
12 engineers the other day, Tuesday. I took off a day of
13 work to look into this. They do not want trees in
14 there to prohibit their mowing. As stated to me, they
15 want to go in there with the mower and mow it. They
16 don't want to have to go in with a mower and ten other
17 people and trim around it. So they do not wish for
18 trees to be in there. That's what the statement was
19 given to me.

20 Also our concern, we've been through the
21 neighborhood and looking at the proposal, the water
22 shed that runs through there, what kind of
23 environmental status has been done on that and the
24 impact of ten lots, city size lots right there plus
25 the concrete drive that's going to provide passage to

1 those. The fact that the property lines run into the
2 center of the basin which gives the property owner's
3 rights to cut any of those trees and so forth that are
4 already presently there.

5 Why a lot of the people moved out there
6 and built property in that area because at that time I
7 understand it was less to believe that that would be
8 maintained or that would kind of stay in that state.
9 That's our objections to this. I'm objecting to it
10 being done period for the fact of the size of the lots
11 and of the deed restrictions and how they differ from
12 the property that's only 200 or 300 feet or
13 approximately 150 feet away. Also the amount of
14 property that those people are going to be having to
15 build in; which they've got 20 feet from the center of
16 the drainage on the back of the property and there's a
17 50 foot easement in the front which leaves them a foot
18 print of approximately, what, 50 by 40 feet to build
19 in.

20 I'm thinking it's being rushed into. It
21 doesn't fit in with the surrounding portions of 160
22 square foot homes and 120 square foot homes that are
23 being built from phase one, two and three. Phase one
24 has been completed I've been told for a year and final
25 improvements to the street and drives have not been

1 done yet. Is all of that - -I don't know if Mr.
2 Wimsatt has done an environmental impact. If he makes
3 those lots in there and there's more roof area, less
4 green area, and there's numerous wildlife in the area
5 and what kind of impact that's going to have. I'll
6 stop there.

7 CHAIRMAN: Mr. Alvey, I can respond at
8 least to the runoff situation. That is something that
9 the city and the county engineer directly have say so
10 over. How much their retention basin is, how many
11 homes can be put in, how much hard surface area can go
12 in, and how big the retention basins have to be to
13 accommodate the storm water runoff. So that's totally
14 handled in the engineering office of the city or the
15 county.

16 MR. ALVEY: No studies have been done in
17 relation to this?

18 CHAIRMAN: Well, they have been done or
19 the plan wouldn't be before us at this point. The
20 city and the county engineers state how big and where
21 the runoff must be done. That's completely done by
22 engineering staff.

23 MR. JAGOE: I believe it's in the public
24 improvements specs, the runoff and the size of the
25 detention. I don't want to answer for Mr. Wimsatt,

1 but more than likely his engineer had to run the
2 calculations. Those calculations are then submitted
3 with the plan. Then the city or the county engineer,
4 wherever the property would be, then reviews those
5 calculations. May adjust it. May say that they agree
6 with the numbers and whether it's pipe detention size
7 or whatever is considered for how fast the runoff
8 takes place to how much hard surface is out there.
9 Has to do with what the upstream flow is and what's
10 going to take place downstream as well.

11 MR. ALVEY: Also on any type of building
12 materials that run off into the water shed and so
13 forth? Is that also taken into account? I know
14 you're talking about water drain and drain off, but
15 that's different from the environmental impact, as far
16 as chemicals and so forth on water shed in that area.
17 Is that not correct?

18 MR. JAGOE: I don't know that there's
19 environmental impact that's done from a chemical shed,
20 from chemical runoff that would maybe be from asphalt
21 shingles on this property any more than it was done
22 when yours was put in. I'm not aware of any.

23 MR. NOFFSINGER: No, that's not a
24 requirement.

25 MR. JAGOE: I'm not aware of that

1 requirement.

2 MR. ALVEY: What may be done six years ago
3 is holding for any projects in that area? I mean does
4 something have to be done when he makes this proposal,
5 something have to be done then in looking at that
6 proposal versus like, you know, if he just put half
7 acre lots in there, that would meet the rest and be in
8 accordance with the other property that's directly
9 related in that area versus ten lots?

10 DR. BOTHWELL: Are you referring now to
11 runoff or something else? I'm not sure where you're
12 going to.

13 MR. ALVEY: Runoff.

14 DR. BOTHWELL: Are you talking about
15 runoff or pollution?

16 MR. ALVEY: The runoff, I guess, has been
17 covered on his study. You're saying also that any
18 type of bleed-off from building materials or
19 pesticides and so forth have been covered also.

20 DR. BOTHWELL: I don't think there is a
21 regulation on that on homes.

22 MR. ALVEY: There's no regulations on
23 that?

24 DR. BOTHWELL: No.

25 MR. JAGOE: You can put as much pesticide

1 on your lawn as what somebody might want to do on this
2 one here as long as you're not using some type of
3 illegal product that couldn't go through.

4 MR. ALVEY: Then the Zoning Commission, do
5 they consider the type of dwellings and the type of
6 size lots in accordance with the other individual
7 property that's in and around that area?

8 MR. JAGOE: With any zoning
9 classification, there's certain size, lot size that
10 you have to meet. Obviously here the zoning is
11 contiguous with everything around it except for the
12 north side of the property which is zoned EX-1 I
13 believe, isn't it?

14 DR. BOTHWELL: Yes.

15 MR. JAGOE: To east is R-1C. I believe
16 everything around the property is R-1C.

17 MR. ALVEY: No, that's incorrect. Our
18 property is agricultural.

19 MR. NOFFSINGER: Mr. Alvey, this community
20 has not adopted design guidelines or standards.
21 Meaning if you meet the minimum lot size frontage in
22 that zone, that is the only requirement you have. You
23 have certain maximums that you can't build a home and
24 exceed those maximums, but there are no minimum sizes
25 of a home, if you will. There are no design

1 guidelines, if you will, that speak to the character
2 of the home, value of that home.

3 That is based upon the developer of that
4 subdivision and they have that right in this community
5 as the property owner to develop the type of home on
6 that property as they see fit. Now, many of
7 developers will protect a development to an extent or
8 a degree in their private deed of dedication, and they
9 have that right, but that's the developer that does
10 that. The local community does not control it.

11 MR. ALVEY: The deed of dedications are
12 different right there around it. I mean there's a
13 small slice going in there that did differ from the
14 surrounding, on the three sides that surround it.

15 MR. NOFFSINGER: Right. As a developer,
16 in this community, he has that right. The community
17 does not regulate that.

18 MR. JAGOE: I might add. Once a community
19 hits a certain percentage of sellout, generally you'll
20 see a covenant and restricted, protective covenant and
21 restrictions that the homeowners within there have the
22 right to change them, if they so desire. Generally
23 with the majority of how many people may be within the
24 neighborhood. Once everybody has purchased an
25 individual site, they may decide that they abolish to

1 have protective covenant or they adopt 50 more.

2 I'd like to get some clarification. I'm
3 seeing on here that all adjoining property is R-1C.
4 He's stating that his is agricultural.

5 MS. STONE: His lot is zoned still A-U.
6 It was built prior to the development of the
7 subdivision. So right at the corner of Medley Road
8 and Turtle Creek Drive, there's one lot that's zoned
9 A-U and the rest is zoned R-1C throughout that
10 subdivision.

11 MR. JAGOE: Do you have protective
12 covenant on your site?

13 MR. ALVEY: No, sir I do not.

14 MR. JAGOE: You do not. So yours is
15 different than what your neighbors would be?

16 MR. ALVEY: This is correct.

17 MR. JAGOE: Thank you.

18 MR. ALVEY: That's all I have.

19 CHAIRMAN: Thank you.

20 Does anybody else have any questions?

21 Yes, ma'am.

22 MR. ELLIOTT: State your name, please.

23 MS. DUPLANTIS: Joanie Duplantis.

24 (MS. JOANIE DUPLANTIS SWORN BY ATTORNEY.)

25 MS. DUPLANTIS: I just have a few things

1 that I would like to say about this development.

2 Number one, in my backyard is going to be
3 the water basin, at the very end of my back yard.
4 I've got a young daughter. What's going to happen if
5 she falls into it? Is that basin needed if the
6 development doesn't happen?

7 MR. CAMBRON: I think he said it was
8 fairly shallow. I don't know.

9 MS. DUPLANTIS: She can drown in a
10 bathtub. We were told when we bought the property
11 that there wouldn't be anything until the other side
12 of the creek. Then we were also told, everyone in the
13 neighborhood was told everything was going to go
14 upscale. Then modular homes were put in. These homes
15 are smaller homes that have to be built. We had to
16 have 80 percent brick. We had to have a brick
17 mailbox, a two car garage, 1500 square feet. The new
18 development only has to have some brick somewhere on
19 the front of the house, a one car garage. It is in
20 the same neighborhood.

21 He's going back by making another, saying
22 it's another name, but it's the same neighborhood.
23 It's in our backyard.

24 I have got a 3,000 square foot house, a
25 \$200,000 house and I'm going to have a road running

1 behind me, a ditch behind me, lower income houses
2 behind me, and a road in front of me. He talks about
3 his protection, you know. What about ours? What
4 about ours? What about our property value? There is
5 a time and a place for us to stand up and say enough
6 is enough. He owns land all over the place. He can
7 build someplace else.

8 I don't know any other way to say it. I
9 don't own the land. I know I don't own the land, but
10 there's big power lines back there. The thought of a
11 yard having a creek running through it is ridiculous
12 anyway. Who is going to want it? Who is even going
13 to want property like that? How am I going to sell my
14 house if he's allowed to do this?

15 Mr. Wimsatt, do you want to buy my house?
16 Do you want to buy my house?

17 CHAIRMAN: You need to address us and
18 we'll address Mr. Wimsatt.

19 MS. DUPLANTIS: Ask him if he wants to buy
20 my house, if he wants to buy my property. Where is my
21 protection? I expect the city to protect me. You
22 know, it was my fault that I didn't get it in writing.
23 That I took the man for his word, but I've lived there
24 for almost three years and I still don't have my
25 street paved and I don't care if Yager Material has

1 the money or not, the street needs to be paved before
2 he's even allowed to think about starting something
3 else. We have to drive around the manholes and
4 everything to not tear your car up. It's just one
5 thing after the other. It's one lie after the other
6 and we need some protection. This neighborhood needs
7 some protection.

8 DR. BOTHWELL: Mr. Chairman, - -

9 MS. DUPLANTIS: If it doesn't happen,
10 you're just going to have a bunch of houses sitting
11 there that's useless, worthless. None of us are going
12 to get our money for it. If we try to sell it, we're
13 probably all going to go bankrupt.

14 I want to know who is going to be there to
15 protect my daughter. I really do. I want to know who
16 is going to be - - I'm at the deepest end of that
17 water basin and it is right at my backyard. What are
18 you going to do to keep my child from falling in? I
19 can put a fence up, but who's going to buy the fence?
20 Why should I have to buy a fence just because he wants
21 to put ten more houses in there. They're just
22 useless. The whole thing is useless. It's stupid.
23 It's crazy. I cannot even believe it's come this far.
24 I'm sorry, I am angry. I'm very angry that somebody
25 can do this to people. Lie to people. Basically put

1 one road in, put one road in and then build ten houses
2 and call it another neighborhood.

3 CHAIRMAN: Let us bring the applicant to
4 answer the questions that you have.

5 Dr. Bothwell has a comment that he wants
6 to make and let me get his comment first and then
7 we'll give the applicant his chance to respond.

8 MS. DUPLANTIS: Thank you.

9 CHAIRMAN: Thank you. Dr. Bothwell.

10 DR. BOTHWELL: Mr. Chairman, understanding
11 her distress, but the issues she raised are really
12 matters for the city government to address. Not for
13 this board. I feel for you, but as our attorney
14 stated we're not able to act punitively. That's not
15 our role. The city has the bonds. They are the
16 enforcement agency now for your roads and everything
17 else. You should go and let them know how you feel
18 and get your streets. That was my only comment.

19 CHAIRMAN: Thank you, Dr. Bothwell.

20 MR. HAYDEN: I want her to understand.
21 Does she know that this goes before the city
22 commission before final approval? Is that right or
23 not?

24 MR. ELLIOTT: Yes.

25 CHAIRMAN: Mr. Wimsatt.

1 MR. WIMSATT: Three comments, Mr.
2 Chairman.

3 As far as the asphalt, the asphalt is down
4 on the project. There is one-inch of finish asphalt
5 that hasn't been put down.

6 Everything is in compliance with the
7 development standards and has been thoroughly reviewed
8 by the engineering staff.

9 Third comment is I think of what I've seen
10 a number of times and heard a number of times about
11 smart growth and you develop pockets of land, you
12 know. That's what this is, is a small pocket with
13 everything already developed around it. The utilities
14 and services are there.

15 CHAIRMAN: Mr. Wimsatt, I may have a
16 question. In her assessment of the properties of this
17 small or this area, whatever the area may be, the
18 question has to come to mind, and she did raise that
19 question, about the property values. I believe that
20 was one of her questions. Stating that a said value
21 for her home versus a said value in requirements of
22 incoming homes. Whereas she had to have a brick
23 mailbox. She had to have 80 percent, am I correct,
24 certain percentage of her house must be bricked.
25 These other homes that are coming in there these

1 requirements are not in their dedication of the deed
2 and their requirements. What will that do, and her
3 major concern, and I can totally understand that, is
4 what do you anticipate these homes selling for? In
5 what range?

6 MR. WIMSATT: I'm not the builder of the
7 homes, Mr. Chairman. I would guess - - let me say
8 that even within the Turtle Creek Development
9 Subdivision, the minimum is 1500 square foot. There
10 are homes in that subdivision that are close to 1500
11 square foot and there's some that are larger, as Ms.
12 Duplantis' is. The fact that Ms. Duplantis chose to
13 build a 3,000 square foot house is not my decision. I
14 put basic restrictions that everyone had to abide to.
15 The same thing, there's restrictions on - - on the
16 other side of the ditch, there's a ditch that would go
17 past this proposed project, Creekview. Those homes
18 are \$175,000 homes. Somewhat of a transition from an
19 all brick to 100 percent vinyl where you have kind of
20 a combination brick and vinyl. Site-built homes, yes,
21 they're already in Turtle Creek Subdivision.
22 Appropriate buffering, whatever this commission ask.
23 As far as the detention basin, there's a ditch 10, 15
24 foot deep on the back side of Creekview. There's - -

25 CHAIRMAN: Excuse me. Let me - -

1 MR. WIMSATT: Right now if her daughter
2 went through the weeds, there would be no obstruction
3 for her falling in a 15 foot ditch. There's other
4 detention basins. I don't know really how to address
5 that, Mr. Chairman.

6 CHAIRMAN: Is this wet or dry?

7 MR. WIMSATT: This is a dry basin.

8 CHAIRMAN: Would you explain for the
9 commission and our guests that we have here the
10 difference between a wet and a dry retention basin?

11 MR. WIMSATT: I'm not a professional
12 engineer, but basically the dry basin does not hold
13 water on a regular basis. It just simply holds the
14 water during extreme heavy rain.

15 CHAIRMAN: Thank you. Mr. Cambron.

16 MR. CAMBRON: Mr. Wimsatt, just real
17 quick. We're looking at about 3.3, three-tenths of an
18 acre. Was that property ever offered to these people
19 for sale, the ones that back up to it?

20 MR. WIMSATT: It certainly was. For
21 several weeks I dealt with one of the adjoining
22 property owners. I did not speak, obviously I can't
23 tell who is saying what behind me, but I did not speak
24 to all the adjoining property owners. I do want to be
25 clear. I did speak to one of the adjoining property

1 owners who is involved with building homes and has
2 built several homes in Turtle Creek Subdivision. I
3 thought maybe he might have an interest. Spent
4 several weeks - - offered it to him first. They did
5 counter with an offer that just simply I couldn't
6 accept. Another builder stepped up and agreed to give
7 me what I thought was a fair market price.

8 MR. CAMBRON: But you didn't go to the six
9 different - -

10 MR. WIMSATT: It was my understanding - -
11 actually I join the property so I'm one of the six, I
12 guess. Actually the builder that's going to be
13 building these homes owns one of the lots as an
14 adjoining property owner. The other four, I guess,
15 Mr. Cambron, two of them I spoke with. Mrs.
16 Duplantis' husband, in fact, spoke with me out in the
17 field. His comment to me was that his primary concern
18 was that whatever goes back there that it be
19 site-built houses. Didn't want manufactured homes
20 such as Doe Ridge. Mr. Chairman, I don't want to get
21 into he said, she said.

22 MR. CAMBRON: I didn't want that. I just
23 want to know if you offered.

24 CHAIRMAN: That really has no bearing on
25 what we're doing here.

1 Does anybody else have a statement?

2 MR. ELLIOTT: State your name, please.

3 MR. PINKSTON: Bob Pinkston.

4 (MR. BOB PINKSTON SWORN BY ATTORNEY.)

5 MR. PINKSTON: You've probably got a map
6 here of this proposed - -

7 CHAIRMAN: Yes.

8 MR. PINKSTON: Okay. He's got ten houses
9 back there plotted out. The same distance in the
10 front is five houses. That really doesn't make any
11 sense to me why anybody would want to buy a lot and
12 build a little house back there. It is going to lower
13 our property because you've got two houses versus one,
14 the size of them. Another thing, he said a dry basin
15 doesn't hold any water. What use is it?

16 CHAIRMAN: I think I understand, there
17 again I'm not a professional engineer, but we do have
18 several here. The way he stated, he didn't say that
19 it didn't hold water. He said that there was not
20 standing water. A dry basin was to take when there's
21 an excessive storm or something, when these other
22 basins and the runoff is greater than they can
23 handle. In other words, it would hold water, but not
24 on a regular basis. Only when there's a tremendous
25 downpour in a storm.

1 MR. PINKSTON: It would have to be for the
2 overflow, right?

3 CHAIRMAN: I'm not going to put words in
4 his mouth. I was just restating what he stated.

5 MR. PINKSTON: Another thing, where is the
6 basin in this subdivision for these lots? I mean that
7 retention. Is that for those ten lots, that retention
8 basin?

9 CHAIRMAN: Let's have Mr. Wimsatt answer
10 your question.

11 MR. PINKSTON: If that's the case, I don't
12 know where it would be. What I hear it's on the other
13 side of the creek. If it's on the other side of the
14 creek, it wouldn't do that subdivision any good,
15 right?

16 CHAIRMAN: There again let's have Mr.
17 Wimsatt answer that question.

18 MR. PINKSTON: Thank you.

19 CHAIRMAN: Mr. Wimsatt.

20 MR. WIMSATT: The basin in this project is
21 for this project.

22 CHAIRMAN: Are there any other questions
23 from the audience or from the commission?

24 Yes, ma'am.

25 MS. OWENS: I just have a statement.

1 CHAIRMAN: Come to the mike and be sworn
2 in.

3 MR. ELLIOTT: State your name, please.

4 MS. OWENS: Carol Owens.

5 (MS. CAROL OWENS SWORN BY ATTORNEY.)

6 MS. OWENS: I have a question. How can
7 you all - - how can he develop property under a power
8 line when we had to build our house 75 foot away from
9 the right-of-way on that power line. They made us
10 move our house. We couldn't put it on the lot where
11 we wanted because there was a power line. How is he
12 going to build houses under that power line?

13 MR. NOFFSINGER: He's not. All the homes
14 will be built outside of the easement.

15 MS. OWENS: Seventy-five foot from the
16 power line? There's no way.

17 MR. NOFFSINGER: The street will be
18 located within that easement. The homes will be
19 outside of that power line easement. There's a 150
20 foot power line right-of-way. That's taken in, the
21 street takes that in. These lots, the building area
22 on the lots will be outside that 150 foot power line
23 easement.

24 CHAIRMAN: Yes, ma'am, do you have another
25 question?

1 MS. DUPLANTIS: I would ask the committee
2 to not approve this tonight and give Mr. Wimsatt the
3 chance and us to own the property right in front of us
4 to come to an agreement for us to buy the property
5 from him if that's what it takes so that we don't own
6 property that's worth nothing.

7 CHAIRMAN: Mr. Elliott.

8 MR. ELLIOTT: We have already recommended
9 it for rezoning. I think we're addressing issues that
10 we are not - - we're on unrelated items now. I don't
11 think we can go back and undo anything. We are
12 recommending it for rezoning and it goes to city
13 commission. If they want to go before the city
14 commission and address this there, that's where they
15 should take these issues. We've already taken action
16 on the zoning. There's nothing we can do about that.

17 MR. APPLEBY: There's nothing to prevent
18 the property owners to still negotiate buying this
19 property no matter what we do.

20 MR. ELLIOTT: That's right.

21 MS. DUPLANTIS: But you do have to approve
22 the subdivision; am I correct?

23 MR. CAMBRON: But it's off - - it's all
24 okay. Everybody signed off on it. The subdivision
25 plat is as per - -

1 MS. DUPLANTIS: Item 8a is consider
2 approval of major subdivision.

3 MR. CAMBRON: Preliminary plat, right.

4 MS. DUPLANTIS: What's that mean?

5 MR. NOFFSINGER: Let me address that.
6 It's a preliminary plat. It's a construction drawing.
7 It does not create lots. The developer, once the
8 construction is complete, the street is cut in, is
9 ready to actually transfer property. You will have to
10 submit a final plat to this commission. At that time
11 a surety for any improvements that haven't been
12 installed. This plat is merely a construction
13 drawing. It is not for the transfer of the land and
14 the lots.

15 CHAIRMAN: This commission is pretty much
16 bound if the developer meets the said requirements and
17 the staff okays it and makes a recommendation, unless
18 we find some unusual fault with the testimony or with
19 the facts that are given to us. If he meets all our
20 set regulations, then this commission can vote any way
21 they want to. Obviously, we're nine individuals up
22 here, but we are somewhat bound by that because then
23 Mr. Wimsatt can come back and take us to court saying
24 this should have been passed, based on the
25 Comprehensive Plan and everything that he meets the

1 requirements. But as far as you all as individual
2 property owners, even after this is voted upon,
3 negotiating with Mr. Wimsatt is totally amongst you
4 all and how you all might handle it.

5 MS. DUPLANTIS: What else can we do? If
6 we can't come to an agreement with him, what else can
7 we do? Do we call a lawyer? Do we fight it that way?
8 How else can we fight it?

9 CHAIRMAN: I would have to refer that to
10 Mr. Elliott.

11 MR. ELLIOTT: This body recommends. The
12 city commissioners will either approve or deny that
13 recommendation. So this comes before the city
14 commissioners. We are a recommending body. At this
15 point it's been recommended for approval. The city
16 commissioners have to consider it and either deny or
17 approve this recommendation. So I guess to answer
18 your question, your next step would be to go to the
19 city commissioner meeting and state your objections.

20 MS. DUPLANTIS: Thank you.

21 CHAIRMAN: Yes, ma'am.

22 MS. ALVEY: Tamara Alvey.

23 (MS. TAMARA ALVEY SWORN BY ATTORNEY.)

24 MS. ALVEY: Our property is on Medley
25 Road, adjoins this proposed subdivision. The road is

1 going to go in right at the edge of our property, if I
2 understand it right. Is there going to be any
3 consideration made by Mr. Wimsatt if this is approved
4 and we can't do anything about it, obviously, for
5 sound abatement? I've already got Medley Road on
6 front and Turtle Creek Drive on the other side. I was
7 told nothing would ever be over there too, but is
8 there going to to be some kind of sound abatement for
9 that road?

10 CHAIRMAN: I cannot answer that, but we'll
11 bring Mr. Wimsatt up to answer that question.

12 MR. CAMBRON: Where did you live exactly,
13 I'm sorry?

14 MRS. ALVEY: 3954 Medley Road.

15 MR. WIMSATT: Mr. Chairman, that's not
16 customary.

17 MS. ALVEY: I don't understand because on
18 the other development he's talking about you're
19 talking about putting trees between those residents
20 and that development, but he can't put any kind of
21 sound abatement between his street and the houses that
22 are going to be facing that?

23 MR. NOFFSINGER: You're speaking of the
24 same property line I do believe.

25 Mr. Cambron, the trees, weren't they to be

1 installed along that roadway?

2 MR. CAMBRON: Can you show me where you
3 live here on this map real quick?

4 MR. NOFFSINGER: On the corner lot of
5 Medley Road and - -

6 MS. ALVEY: Corner lot. I'm not in the
7 subdivision. I'm on the corner of Medley Road and
8 Turtle Creek Drive.

9 MR. CAMBRON: Just show me.

10 (MRS. ALVEY COMPLIES WITH REQUEST.)

11 MS. ALVEY: That was my only question.
12 There's no sound abatement because I'm going to be
13 surrounded by road now?

14 MR. CAMBRON: If I'm understanding, if
15 you're living at, and correct me if I'm wrong, is it
16 959 Turtle Creek Road?

17 MS. ALVEY: No. 3954 Medley Road.

18 CHAIRMAN: She's across the street.

19 MS. ALVEY: No. I'm at the corner.
20 Turtle Creek Drive - -

21 MR. NOFFSINGER: Ma'am, you will have a
22 tree every 40 feet for sound abatement.

23 MS. ALVEY: The city engineer said they
24 didn't want - -

25 MR. NOFFSINGER: If the city engineer and

1 the utility companies approve that.

2 MR. CAMBRON: Mr. Wimsatt I feel like is
3 going to try to put trees in there as best he can,
4 considering that I asked him to do so and it's been
5 read into the record. Of course, that is contingent
6 on OMU or Kenergy or whoever that is, and the city
7 engineer or county engineer, whoever is going to be
8 taking care of this.

9 MRS. ALVEY: How many feet?

10 MR. CAMBRON: Every 40 feet. You're
11 looking at approximately - -

12 MRS. ALVEY: Well, three and a half of
13 those house are going to be looking at the side of my
14 house. I'm going to have them looking at my bedroom
15 window.

16 MR. CAMBRON: That was my contingent, was
17 that he puts trees in there. That's about all I can
18 do, that we can do.

19 MR. ELLIOTT: State your name, please.

20 MR. ALVEY: Joe Alvey.

21 I don't think that you realize, but before
22 you made the amendment of what the properties, because
23 we were talking about the Medley Road property there's
24 six lots. There's two different issues. There's six
25 lots that face Medley Road that Mr. Wimsatt has

1 proposed.

2 MR. CAMBRON: We haven't even got there
3 yet.

4 MR. ALVEY: You all have already approved
5 that.

6 MR. CAMBRON: We're still on 8a.

7 MR. ALVEY: I know. That's where I'm at,
8 8a also.

9 MR. CAMBRON: You said something about 8b.
10 We haven't got there yet.

11 MR. ALVEY: 8a is the six that you all
12 have already approved, the 4.519 acres that you
13 approved and talked about the trees, that portion, and
14 you all approved that and talked about the trees.
15 That was the back line lot facing into Doe Ridge.

16 Now, Creekview runs along the creek east
17 of the creek between Turtle Creek and the creek and
18 the power line. The gentleman stated that he had to
19 stay 75 feet away. On our side of the power line it's
20 100 foot easement. On the new subdivision side, it's
21 50 foot easement. I'm just making statements so you
22 all know exactly what the boundaries are and what the
23 limitations are also.

24 MR. CAMBRON: Mr. Chairman, can I ask him
25 to come up here and show me exactly where he's

1 talking? Can you show me, Mr. Noffsinger.

2 CHAIRMAN: Mr. Noffsinger can.

3 MR. CAMBRON: I see he lives there.

4 MR. NOFFSINGER: The trees go in here.

5 MR. CAMBRON: I understand.

6 MS. STONE: The zoning item includes both
7 the six lots on Medley Road and the Creekview
8 Subdivision. So your motion I believe was for the
9 trees along the east line of Creekview Subdivision.

10 MR. CAMBRON: Right.

11 CHAIRMAN: Thank you, Ms. Stone.

12 MR. JAGOE: But as you stated, you were
13 saying Marwan did not want those in there. Wasn't
14 that correct?

15 MR. ALVEY: Sir?

16 MR. JAGOE: In your conversations with
17 Marwan, he was saying that he did not want the trees I
18 guess on the bank.

19 MR. ALVEY: With Mr. Sheppard and another
20 lady, and that was on Tuesday. Two city engineers.
21 They made the statement that they would not want
22 because I talked about evergreens and we talked about
23 regular hardwood trees. He said that they would not
24 prefer the hardwood that would drop leaves in the
25 fall. That evergreens would be better, but they did

1 not want to mow around those because when the bonds
2 are released and the city takes it over, the city
3 would be responsible for keeping the dry basin mowed.

4 MR. CAMBRON: Let me say this, and I don't
5 mean this in a condescending way, but the city is not
6 here.

7 MR. ALVEY: I realize that. I'm just
8 making a statement. You all were talking about
9 referring and getting approval from the city. I'm
10 telling you what's already transpired in conversation.

11 MR. CAMBRON: The motion was made and it
12 was accepted.

13 MR. ALVEY: For the six acres. That's the
14 way I see it. Then we've moved along to 8a, which has
15 not been taken a vote on.

16 MR. APPLEBY: The zoning affected all the
17 property. All the property. Both on Medley and
18 Turtle Creek. The zoning affected both parcels.
19 We're looking at development plans for two different
20 parcels. 8a is Creekview, which adjoins you. That's
21 what we're working on.

22 MR. ALVEY: We did not discuss 8a and 8b
23 before you all passed the motion.

24 MR. APPLEBY: 8a and 8b are development
25 plans, preliminary subdivision plan. The zoning

1 affected a tract of ground which includes both of
2 them.

3 MR. ALVEY: But the sound abatement
4 blocking between the new Creekview road and the piece
5 of property that adjoin that, you all are talking
6 about trees there for sound abatement every 40 feet
7 and that's what you asked him to agree upon; is that
8 correct?

9 MR. CAMBRON: All I was speaking of is
10 between the Turtle Creek Unit 1 and the property that
11 we were rezoning at the time along that east side.

12 MR. ALVEY: East side of the creek?

13 MR. APPLEBY: The property that adjoins
14 your property. That's where we've been asking him to
15 put the trees.

16 MR. ALVEY: All right. We just feel that
17 that's not sufficient I would say.

18 MR. CAMBRON: Okay.

19 CHAIRMAN: Yes, Mr. Inman, would you like
20 to make another comment.

21 MR. INMAN: Yes, sir. I apologize. A lot
22 of the folks that are here tonight, you all have
23 alluded to it, it may be helpful that - - sometimes
24 you have to decide when and where action needs to be
25 taken. With the commission's permission I'd like to

1 make sure I can clarify what the next steps are
2 because not everyone has to go through this every day.
3 If they understand, they may know the concerns can be
4 voiced better at another time.

5 CHAIRMAN: Thank you Mr. Inman.

6 MR. INMAN: If I'm correct, you will refer
7 this to the city commission. The city commission will
8 then in approximately two to three weeks put it on
9 their agenda for one reading. No action will be taken
10 at that time. It will just be read into the public
11 record. Two weeks after that, then they will allow
12 for comments on the zoning, the zoning which has been
13 recommended because they have nothing to do with the
14 actual subdivision plats. They can take public
15 comment and they will vote on whether or not this will
16 actually be approved. Your commission is only merely
17 recommended that it fits within a plan that you didn't
18 really design.

19 CHAIRMAN: Mr. Noffsinger.

20 MR. INMAN: I apologize to belabor that,
21 but I think it's important for them to know so they
22 understand that this is not the last discussion where
23 they might be able to better discuss it.

24 MR. NOFFSINGER: I will attest to what Mr.
25 Inman said with the exception of the time frame. It

1 will probably be at least three weeks before we get
2 this transcript back.

3 MS. STONE: The property is not annexed
4 yet. Would it go to the county prior to the city
5 annexing it?

6 MR. NOFFSINGER: It may. It may very
7 well. It could.

8 MR. INMAN: So it could very well be two
9 more stops on this whole improvement. At that time
10 that's when factors such as land values or prior
11 issues, things of that sort, may be a better forum to
12 discuss those?

13 MR. CAMBRON: Right.

14 MR. INMAN: And no development will occur
15 during that time?

16 MR. NOFFSINGER: Let me just say, keep in
17 mind that we're dealing with two different types of
18 applications here tonight.

19 First one, previous application, was a
20 zoning change. It was a zoning change from
21 agricultural to residential. That's a zoning change.
22 That application will go before either the Daviess
23 County Fiscal Court or if it's annexed it will go
24 before the city commission. Then the legislative
25 body, city or county, will take two readings on that

1 application. You will have an opportunity to voice
2 your concerns about the rezoning to the city
3 commission or the Daviess County Fiscal Court. You
4 also have the opportunity to voice your concerns about
5 improvements that haven't been completed or installed
6 in that development to the city commission. I know
7 this issue has been discussed since at least June.
8 Maybe before that.

9 Todd, I know I've discussed this issue
10 with you.

11 MR. INMAN: Yes.

12 MR. NOFFSINGER: You're very well aware of
13 the process. I've also talked with Tracy Marksberry.
14 She is very well aware of the process as well as
15 Commissioner Al Mattingly. In fact, Planning Staff
16 had a meeting back in June. Remember the day very
17 well. It was June 19th. I couldn't attend that
18 meeting. Had full intentions to, but there was a
19 meeting on June 19th to discuss what to do in terms of
20 improvements that were not completed in this
21 development.

22 On June 25th, I believe Marwan issued a
23 letter. Then they have until September to complete
24 the improvements. I think that's going to be done. I
25 think the city is going to follow through on it.

1 The zoning change we're considering the
2 use of the land. The use of the land is for
3 residential and that's the same use of the land that
4 each of you enjoy on your properties. It's the same
5 zoning classification.

6 Then you have the subdivision plat. The
7 subdivision plats that we're considering tonight meet
8 all of the requirements of the subdivision regulations
9 and the zoning. The city engineer has signed off and
10 approved all aspects of the improvements within this
11 development.

12 This community has not adopted design
13 guidelines. This community does not tell an
14 individual what they're building, whether it be a
15 commercial building or a residential structure, will
16 look like. This community does not tell private land
17 owners how large that building is going to be. It
18 dictates, your development regulations dictate that
19 you can't exceed a certain size, but there are no
20 minimums.

21 So until this community adopts design
22 guidelines and restrictions on the development that
23 says you have to build a house of certain size in this
24 development, we're going to have issues just like
25 this. When you buy in an infant subdivision and you

1 have vacant fields around you, you have to anticipate
2 some type of development is going to occur some day
3 regardless of what you may or may not be told on the
4 dates you go in and talk to a developer or sign a
5 contract. Unless you have that in writing, it's fair
6 game. I sympathize with each of you but, again, I
7 want you to understand that this commission, I'm sure
8 the city commission, they want to help you, but they
9 can only go so far.

10 Until this community is willing to step up
11 and say we're going to actually review and have a say
12 in what the development style and quality is of the
13 buildings in our community, we're going to have these
14 issues. I don't think from what I've heard and the
15 city commission and Daviess County Fiscal Court and
16 others, I don't think this community is ready for
17 that. Now, some day in the future, they may, but I
18 don't think they are today.

19 MR. INMAN: And that's probably a much
20 bigger picture than the issues that worries everybody
21 tonight.

22 Can we clarify then, based on the
23 recommendation of the zoning change, and Mr. Wimsatt
24 may want to clarify this, that until that zoning
25 change is allowed, there will be no development on

1 that property?

2 MR. APPLEBY: He can get cut field permit
3 tomorrow regardless of this zoning change and go out
4 there and start moving dirt.

5 MR. NOFFSINGER: He can do that, but let
6 me state that if this commission chooses to approve
7 these next two items, 8a and 8b, the subdivision
8 plats, which this body will take the final action on
9 those two items, the subdivision plats. The plats
10 will not go to the city commission or the Daviess
11 County Fiscal Court. This body takes final action.
12 Your appeal on those will be to circuit court. You
13 have 30 days in which to appeal this commission's
14 action on the subdivision plats to circuit court. I
15 would recommend that you approve it with the condition
16 that the zoning change on the property is granted or
17 changed to R-1C by the legislative body. That would
18 either be the city commission or the Daviess County
19 Fiscal Court and that no building permits be issued
20 until that zoning change is approved. We do issue
21 building permits on preliminary subdivision plats. So
22 I think that's why it would be important - -

23 MR. APPLEBY: If it doesn't become R-1C,
24 he can't do lots this size in A-U?

25 MR. NOFFSINGER: That's correct. Your

1 approval needs to be subject to the granting of the
2 zoning that he's requesting to be conditioned upon it.

3 DR. BOTHWELL: Aren't we doing that in
4 essence because if the zoning is not approved the plat
5 is thrown out anyway.

6 MR. NOFFSINGER: Legal counsel may want to
7 advise, but I would say no.

8 MR. ELLIOTT: I agree with that. Your
9 question is: If they don't approve the - -

10 DR. BOTHWELL: If we go ahead and approve
11 A and B, no restrictions, it goes to fiscal court and
12 they don't approve the zoning, the plats are
13 worthless?

14 MR. ELLIOTT: That is correct, but I think
15 what we're trying to do is not allow any development
16 of this property until the zoning is finally approved.
17 If you go ahead and approve this plat and they have
18 objections to them, they have to file a petition in
19 the circuit court. If you do it the other way,
20 contingent on rezoning, that would hold that off until
21 the rezoning actually occurs. Then they could take it
22 all up at one time. They have a right to appeal that
23 to circuit court after 30 days from the legislative
24 body.

25 MR. JAGOE: Isn't the applicant or the

1 owner, the land owner able to develop the property as
2 it's zoned?

3 MR. ELLIOTT: As it's zoned, yes.

4 MR. APPLEBY: So he could go in and move
5 dirt tomorrow?

6 MR. NOFFSINGER: Not with these size lots.

7 MR. APPLEBY: He just couldn't subdivide
8 lots off.

9 MR. ELLIOTT: Right.

10 MR. INMAN: If it's agricultural, I take
11 it from your discussion, he could go and till his
12 field?

13 MR. APPLEBY: He could make it one acre
14 lots.

15 MR. INMAN: If that's the understanding,
16 but no development - -

17 MR. JAGOE: Technically he could dig the
18 streets, dig the basins and do that, but he's doing it
19 under an agricultural zone. If he came in here then
20 to have a final plat put on the site, then without the
21 proper zoning then he would not be able to have ten
22 sites as they're configured here.

23 MR. NOFFSINGER: That's why you need to
24 condition your approval on final action.

25 MR. JAGOE: But we can't stop, this body

1 cannot stop a - not to send the wrong message - an
2 individual the rights to develop their property under
3 the current zone that it's in.

4 MR. NOFFSINGER: That is correct.

5 MR. JAGOE: But it has to meet the
6 criteria of that zone.

7 MR. NOFFSINGER: That's right. These
8 plats do not meet the criteria for A-U.

9 MR. APPLEBY: But if he brought it back,
10 if he brought the same development back and he had the
11 minimum lot size for an A-U zone with that street in
12 there, it would meet the criteria.

13 MR. NOFFSINGER: It may very well, but
14 that's not the plan that's before you.

15 MR. APPLEBY: Right. But I'm saying he
16 could got out there and move - - we don't want these
17 people to think that he can't be doing work over
18 there.

19 MR. NOFFSINGER: No, I'm not saying that.
20 What I'm recommending is that you approve the plat
21 conditioned upon zoning - - no building permit is
22 being issued.

23 MR. JAGOE: I thought we did that anyhow.

24 MR. NOFFSINGER: No.

25 MR. INMAN: I think that would be

1 acceptable to a lot, and I don't want to speak for
2 everyone, acceptable to a lot of people here to know
3 that they have their voice heard in another venue to
4 where it's not held by the same rules that you all are
5 held by. Thank you for your time.

6 CHAIRMAN: Thank you, Mr. Inman.

7 DR. BOTHWELL: Mr. Chairman, are you ready
8 for a motion to that affect?

9 CHAIRMAN: Yes, sir.

10 DR. BOTHWELL: Can we bundle A and B
11 together under one motion?

12 CHAIRMAN: No, sir.

13 DR. BOTHWELL: Mr. Chairman, I make a
14 motion for approval of 8a subject to the zoning being
15 approved prior to any development or issuing of
16 building permits.

17 MR. APPLEBY: Second.

18 CHAIRMAN: Wait just a moment.

19 CHAIRMAN: Is that an appropriate motion,
20 Mr. Elliott?

21 MR. ELLIOTT: Any development - - I don't
22 know about that part of it.

23 CHAIRMAN: I just want to make sure we can
24 stand on what we're doing.

25 MR. ELLIOTT: I mean he can develop it as

1 it's zoned.

2 DR. BOTHWELL: How about issuing a
3 building permit? Mr. Noffsinger, how did you phrase
4 it?

5 MR. NOFFSINGER: No building permits shall
6 be issued.

7 DR. BOTHWELL: That is my motion.

8 MR. APPLEBY: That's my second.

9 CHAIRMAN: We've got a motion by Dr.
10 Bothwell. Second by Mr. Appleby. All in favor of the
11 motion raise your right hand.

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: This motion carries
14 unanimously.

15 Next item, please.

16 ITEM 8b

17 4004, 4026, 4052, 4080, 4100, 4120 Medley Road, 967
18 Deer Haven Drive, 2.154 acres
19 Consider approval of major subdivision preliminary
20 plat.
21 Applicant: Robert J. Wimsatt

22 MR. NOFFSINGER: Mr. Chairman, Planning
23 Staff and Engineering Staff has reviewed this item.
24 It is ready for consideration and we recommend that if
25 it's approved it be approved subject to no building
 permits being issued until such time as the zoning
 change becomes final.

1 CHAIRMAN: I think everyone in the room
2 has had a chance to say anything that they would like
3 to say and the commission has heard from everyone. I
4 think the commission has asked any questions that they
5 have. I think it might be appropriate for simplicity
6 means that Dr. Bothwell make another motion.

7 DR. BOTHWELL: I make the same motion for
8 approval subject to no building permits be issued
9 until the zoning has been approved.

10 MR. CAMBRON: May I ask a quick question
11 real quick?

12 Mr. Noffsinger, do these lots all have
13 entrances off onto Medley Road; is that correct?

14 MR. NOFFSINGER: Unfortunately, yes, that
15 is the case.

16 MR. APPLEBY: But they have shared access
17 points.

18 MR. CAMBRON: Right. So how many access
19 points are there off of Medley Road? This thing is so
20 shrunked down I can't tell.

21 MR. NOFFSINGER: I believe you're going to
22 have three.

23 MR. CAMBRON: So there's going to be an
24 access road and then three entrances?

25 MR. NOFFSINGER: No, sir. There will be

1 one, two, three entrances to Medley Road and you'll
2 have lots sharing, those two lots sharing an entrance.

3 CHAIRMAN: Does that satisfy your
4 question, Mr. Cambron?

5 MR. CAMBRON: It does.

6 CHAIRMAN: We're in the midst of a motion
7 by Dr. Bothwell.

8 MR. APPLEBY: Second.

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

11 (EIGHT COMMISSION MEMBERS - DAVE APPLEBY,
12 SCOTT JAGOE, IRVIN ROGERS, SISTER BOWLES, DREW
13 KIRKLAND, JUDY DIXON, DR. BOTHWELL AND MARTIN HAYDEN -
14 RESPONDED AYE.)

15 CHAIRMAN: All opposed.

16 (ONE COMMISSION MEMBER - NICK CAMBRON -
17 RESPONDED NAY.)

18 CHAIRMAN: We've got an eight to one
19 vote. The motion does carry.

20 Next item, please.

21 ITEM 9

22 3925 Ronnie Lake Road, 27.71 acres
23 Consider zoning change: From EX-1 Coal Mining and A-U
24 Urban Agriculture to A-U Urban Agriculture.
Applicant: Stephen and Chandra Ray

25 PLANNING STAFF RECOMMENDATIONS

1 Staff recommends approval because the proposal is
2 in compliance with the community's adopted
3 Comprehensive Plan. Findings of Fact in support of
4 this recommendation include:

5 Findings of Fact:

6 1. The subject property is located in a Rural
7 Community Plan Area, where agricultural uses are
8 appropriate in general locations;

9 2. Coal mining activities have ceased on the
10 subject property;

11 3. The Owensboro Metropolitan Zoning Ordinance
12 Article 12a.31 requires property to revert to its
13 original zoning classification when mining is
14 completed; and,

15 4. The tract is large enough to support
16 agricultural production under appropriate farming
17 practices that conserve topsoil.

18 MS. STONE: We recommend the Staff Report be
19 entered as Exhibit E.

20 CHAIRMAN: Thank you, Ms. Stone.

21 Is there anybody representing the
22 applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Any questions from the
25 audience?

1 (NO RESPONSE)

2 CHAIRMAN: From the commission?

3 (NO RESPONSE)

4 MR. HAYDEN: Make motion for approval.

5 CHAIRMAN: Motion for approval by Mr.

6 Hayden.

7 MR. CAMBRON: Second.

8 CHAIRMAN: Second by Mr. Cambron. All in

9 favor raise your right hand.

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 -----

13 MAJOR SUBDIVISIONS

14 ITEM 10

15 The Brooks, 31.844 acres
16 Consider approval of revised major subdivision
17 preliminary plat.
18 Applicant: Owensboro Master Builders, Inc.

19 MR. CHAIRMAN: This plat is in order and
20 ready for consideration.

21 CHAIRMAN: Anybody representing the
22 applicant?

23 (NO RESPONSE)

24 CHAIRMAN: Any questions?

25 (NO RESPONSE)

CHAIRMAN: If not, the commission is ready

1 for a motion.

2 MR. CAMBRON: Motion for approval.

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

5 DR. BOTHWELL: Second.

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: The motion carries unanimously.

10 Next item.

11 ITEM 11

12 Hialeah Park of Lakeside at the Downs, Unit #1, Lots
206A-220A, 14.699 acres
13 Consider approval of major subdivision final plat.
Surety (Irrevocable Letter of Credit) posted:
14 \$94,598.40
Applicant: Thompson Homes, Inc.
15

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

20 CHAIRMAN: If there are no questions, the
21 chair is ready for a motion.

22 MS. DIXON: Move to approve.

23 CHAIRMAN: Motion for approval by Ms.
24 Dixon.

25 SISTER VIVIAN: Second.

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

3 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.

5 Next item, please.

6 ITEM 12

7 Lanewood Hills, 22.156 acres
8 Consider approval of major subdivision preliminary
9 plat.
10 Applicant: David Clark

11 MR. NOFFSINGER: Mr. Chairman, this plat
12 has been reviewed by the Planning Staff and
13 Engineering Staff. Found to be order and ready for
14 consideration.

15 CHAIRMAN: Somebody representing the
16 applicant?

17 APPLICANT: Yes.

18 CHAIRMAN: Any questions?

19 (NO RESPONSE)

20 CHAIRMAN: Chair is ready for a motion.

21 MR. CAMBRON: Motion for approval.

22 CHAIRMAN: Motion for approval by Mr.
23 Cambron.

24 MR. HAYDEN: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 -----

4 MINOR SUBDIVISION

5 ITEM 13

6 10324, 10328 Main Street, 10323 Walnut Street, 0.28,
0.11, 0.34 acres

7 Consider approval of major/minor subdivision plat.
Applicant: Owen Kaysinger

8

9 MR. NOFFSINGER: Mr. Chairman, this plat
10 has been reviewed by the Planning Staff. I'm confused
11 on it and will confer to Becky Stone.

12 CHAIRMAN: Ms. Stone.

13 MS. STONE: This is a piece of property
14 that has three existing homes on it. The surveyor was
15 starting to consolidate two pieces of property that he
16 thought were existing lots of record on the tract.
17 Our base map shows these property lines; however, the
18 surveyor was not able to determine through his
19 research into the records that these were existing
20 lots of record. It appear that they were created
21 after 1977; although they've been taxed separately for
22 some time and under separate ownership for some time.

23 What they're proposing to do is create
24 these lots as they were identified previously to
25 include a house on each tract. They meet the

1 requirements in R-1A for the minimum lot size, but
2 they're deficient in the lot frontage. They're about
3 62 feet of frontage rather than the 75 feet.

4 They are improving the situation by
5 attempting to consolidate a piece that although
6 there's no plat on it, it is taxed separately and
7 they're consolidating that to one of the properties
8 with frontage so that that piece is no longer
9 land-locked. So there's some evidence that these may
10 have been existing lots of record, but it can't be
11 documented in research. We would support approving
12 this plat. It ends up with a house on each of the
13 three separate tracts.

14 CHAIRMAN: Thank you, Ms. Stone.

15 Any questions from the commission or the
16 audience?

17 (NO RESPONSE)

18 CHAIRMAN: If not, the chair is ready for
19 a motion.

20 MR. APPLEBY: Motion for approval.

21 CHAIRMAN: Motion for approval by Mr.
22 Appleby.

23 SISTER VIVIAN: Second.

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

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 CHAIRMAN: Motion carries unanimously.

3 Thank you.

4 SURETY RELEASES

5 ITEM 14

6 Audubon Dental, \$2,645.00
7 Consider release of surety (Performance Bond) for
8 landscaping.
9 Surety posted by: Hagan Construction Co.

10 ITEM 15

11 Covington Ridge, Section 2, \$5,000.00
12 Consider release of surety (Certificate of Deposit)
13 for fire hydrants.
14 Surety posted by: Ballard Development, LLP

15 ITEM 16

16 Covington Ridge, Section 2, \$14,033.44
17 Consider partial release of surety (Certificate of
18 Deposit) for streets.
19 Surety retained (Certificate of Deposit) \$6,799.20
20 Surety posted by: Ballard Development, LLP

21 ITEM 16a

22 Covington Ridge, Section 2, \$2,000.00
23 Consider partial release of surety (Certificate of
24 Deposit) for storm sewers and drainage.
25 Surety retained (Certificate of Deposit) \$4,256.50
Surety posted by: Ballard Development, LLP

ITEM 17

Cross Creek, Unit #1, \$10,990.00
Consider release of surety (Certificate of Deposit) 2"
Bitum Conc. Base
Surety posted by: Pedley Developers, LLC

ITEM 18

Cross Creek, Unit #1, \$1,946.00
Consider release of surety (Certificate of Deposit)

1 for 6" DGA.
2 Surety posted by: Pedley Developers, LLC
3
4 ITEM 19
5 Thomas and Carol Hulsey, LLC, \$1,320.00
6 Consider release of surety (Certified Check) for
7 landscaping.
8 Surety posted by: Thomas and Carol Hulsey
9
10 ITEM 20
11 Kentucky Wesleyan Campus Community Center, \$5,242.50
12 Consider release of surety (Irrevocable Letter of
13 Credit) for landscaping
14 Surety posted by: Kentucky Wesleyan College
15
16 ITEM 21
17 Lake Forest, Unit #7, \$16,500.00
18 Consider release of surety (Certificate of Deposit)
19 for deceleration lane.
20 Surety posted by: JMP/Lake Forest, Inc.
21
22 ITEM 22
23 New Dollar Tree, \$4,788.00
24 Consider release of surety (Performance Bond) for
25 landscaping.
26 Surety posted by: U.S. Industries Group, Inc.
27
28 ITEM 23
29 The North Landings of Heartland, Phase 1, \$13,700.40
30 Consider release of surety (Certificate of Deposit)
31 for 2" Bit. Conc. Base
32 Surety posted by: Jagoe Homes and Construction Co.,
33 Inc.
34
35 ITEM 24
36 The North Landings of Heartland, Phase 1, \$5,700.00
37 Consider release of surety (Certificate of Deposit)
38 for fire hydrants.
39 Surety posted by: Jagoe Homes and Construction Co.,
40 Inc.

1 ITEM 25

2 The North Landings of Heartland, Phase 1, \$10,916.00
3 Consider release of surety (Certificate of Deposit)
4 for water mains.
5 Surety posted by: Jagoe Homes and Construction Co,
6 Inc.

7 ITEM 26

8 135 Salem Drive (REMODEL) \$2,500.00
9 Consider release of surety (Certificate of Deposit)
10 for landscaping.
11 Surety posted by: Kenneth Crandall

12 MR. NOFFSINGER: Mr. Chairman, under
13 Surety Releases Items 14 through 26 are in order and
14 may be released in toto.

15 MR. JAGOE: Mr. Chairman, I need to
16 disqualify myself on Items 23 through 25.

17 CHAIRMAN: It will be noted that Mr. Jagoe
18 is disqualifying himself on Items 23 through 25.

19 MR. JAGOE: Yes.

20 CHAIRMAN: If no questions, chair is ready
21 for a motion.

22 MR. CAMBRON: Make a motion for approval.

23 CHAIRMAN: Motion for approval by Mr.
24 Cambron.

25 SISTER VIVIAN: Second.

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

28 (ALL BOARD MEMBERS PRESENT - WITH THE

1 DISQUALIFICATION OF SCOTT JAGOE ON ITEMS 23 THROUGH 25
2 - RESPONDED AYE.)

3 CHAIRMAN: Motion carries unanimously.

4 Next item, please.

5 -----

6 SURETY TRANSFERS

7 ITEM 27

8 The Greens of Heartland, Unit #4, \$13,068.00
9 Transfer of surety (Certificate of Deposit) for
10 sidewalks to the City of Owensboro
Surety posted by: Jagoe Homes and Construction Co.,
Inc.

11 ITEM 28

12 The Greens of Heartland, Unit #4, \$5,986.40
13 Transfer of surety (Certificate of Deposit) for 1"
14 Bit. Conc. Surface to the City of Owensboro.
Surety posted by: Jagoe Homes and Construction, Inc.

15 ITEM 29

16 Woodcrest, Unit #3, \$8,820.00
17 Transfer of surety (Certificate of Deposit) for
streets to the Daviess County Fiscal Court
Surety posted by: J.D. Wells Builders, Inc.

18 MR. NOFFSINGER: Under Surety Transfers,
19 Items 27 through 29 are in order and may be
20 transferred in toto.

21 MR. JAGOE: Mr. Chairman, I need to
22 disqualify myself on 27 and 28.

23 CHAIRMAN: Let the record be noted Mr.
24 Jagoe is disqualifying himself on 27 and 28.

25 SISTER VIVIAN: Move for approval.

1 CHAIRMAN: Motion for approval by Sister
2 Vivian.

3 MR. CAMBRON: Second.

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

6 (ALL BOARD MEMBERS PRESENT - WITH THE
7 DISQUALIFICATION OF SCOTT JAGOE ON ITEMS 27 AND 28 -
8 RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 -----

11 NEW BUSINESS

12 ITEM 30

13 6120 Old KY 54, 4223 KY 142
14 Land Disposition and Acquisition
15 Consider comments regarding the transfer of 0.158
16 acres of property from the Daviess County Board of
17 Education to the Southeast Daviess County Water
18 District.
19 Referred by: Daviess County Board of Education,
20 Southeast Daviess County Water District

21 MR. NOFFSINGER: Mr. Chairman, I apologize
22 for this item being the last item on the agenda. It
23 was submitted to us late. However, in order to
24 facilitate this transfer between of the board of
25 education and the water district, we did place it on
26 the agenda. We've reviewed it. We find no conflict
27 with the plan and recommend you forward a letter to
28 that affect to both entities.

1 CHAIRMAN: Thank you, Mr. Noffsinger.
2 Chair is ready for a motion.
3 MS. DIXON: Move to approve.
4 CHAIRMAN: Motion for approval by Ms.
5 Dixon.
6 DR. BOTHWELL: Second.
7 CHAIRMAN: Second by Dr. Bothwell. All in
8 favor raise your right hand.
9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
10 CHAIRMAN: Motion carries unanimously.
11 The chair is ready for one final motion.
12 MS. DIXON: Move to adjourn.
13 CHAIRMAN: Motion to adjourn by Ms. Dixon.
14 DR. BOTHWELL: Second.
15 CHAIRMAN: Second by Dr. Bothwell. All in
16 favor raise your right hand.
17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
18 CHAIRMAN: We are adjourned.

19 -----

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