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

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

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

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

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

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

(NO RESPONSE)
CHAIRMAN: If not, the Chair is ready for a motion.

MS. DIXON: Move to approve.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Mr. Noffsinger, at this time why don't you introduce our pitch hitting attorney tonight.

MR. NOFFSINGER: Thank you, Mr. Chairman. Tonight we have with us Mr. Ed Baylous, a local attorney. He will be filling in for Stewart Elliott that is recuperating from health conditions.

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

ITEM 2

Presentation of FY 2003 audit by Bob Thomas, CPA

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

Mr. Thomas.
MR. BAYLOUS: State your name, please.

MR. THOMAS: Bob Thomas.

(MR. BOB THOMAS SWORN BY ATTORNEY.)

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

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

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

We reported in our report that in our opinion the general purpose financial statement present fairly and all materials respect the financial position of the Owensboro Metropolitan Planning Commission and the results of its operations for the year end June 30, 2003, in accordance with generally accepted accounting principal.
Now, each one of you should have received a copy of the audit report. I submit it for your approval. Happy to answer any questions.

CHAIRMAN: Does anybody from the commission have any questions?

(NO RESPONSE)

CHAIRMAN: Does anybody from the audience have any questions?

(NO RESPONSE)

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

SISTER VIVIAN: Motion for approval.

CHAIRMAN: Motion for approval by Sister Vivian.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Mr. Thomas, thank you.

Mr. Noffsinger, you have the next item.

ITEM 3


MR. NOFFSINGER: Mr. Chairman, in January
2003, as you know, you appointed a committee to
oversee the task of going through a mass review of the
Zoning Ordinance for the Owensboro Metropolitan area
which includes the City of Owensboro, the City of
Whitesville and Daviess County.

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

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

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

So without any further adieu, turn it over
to Becky Stone. Some of the planning commissioners
may wish to step down into the audience.
MR. NOFFSINGER: Mr. Chairman, that concludes the Staff's presentation of the committee's recommendations.

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

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

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

Now, this public forum is to generate public comment to see what concerns are out there. The Planning Commission will not be taking a vote to adopt these proposed changes tonight. That will come at a future date. It may come at the December meeting, depending on what the Planning Commission hears tonight. Regardless of what the Planning Commission does, these changes will not take affect until the Owensboro City Commission, the Whitesville
City Commission and the Daviess County Fiscal Court each adopt the regulations. So we're probably looking at least three months out before these or any other changes go into affect. So I'll say no more and turn it back over to the chairman.

CHAIRMAN: Thank you.

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

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

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

(CHAIRMAN: Is there anybody from the commission that has a comment or a suggestion? (NO RESPONSE)

(CHAIRMAN: Mr. Thompson. (MR. TOMMY THOMPSON SWORN BY ATTORNEY.)

MR. THOMPSON: Thank you, Mr. Chairman,

Members of the Commission.

Ohio Valley Reporting
(270) 683-7383
Here tonight representing the Homebuilders Association of Owensboro. We have a handout.

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

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

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

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

What we would like to request is that we have the opportunity to simply defer any action tonight or any recommendations as to amendments to this flood plain ordinance and allow time for some public forums to be held on this particular subject.
Those forums would be attended by members of the community that could be impacted by these consequences and by this ordinance as well as member of the legislative body, engineers, and so forth, so that we could have more open discussion about this, make sure that all of the contemplated actions are thoroughly discussed and understood and digested. I think the product can be better. I think the public will be better served as a result of these forms and then hopefully some consensus can be reached as a result of this discussion and then bring it back for your good digestion and action at that time.

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

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

CHAIRMAN: Thank you, Mr. Thompson.

Mr. Noffsinger, I believe the Homebuilders have very adequately outlined what their opposition, what their concerns are. In this meeting this is not, we're not going to vote to pass or to deny the new additions. At this meeting, is this the place where we could consider an addition or deletion of
MR. NOFFSINGER: Yes, sir.

CHAIRMAN: At this time I think, Mr. Thompson, I believe your group has pretty much outlined, you would just like to leave the ---

MR. THOMPSON: The present ordinance.

CHAIRMAN: Just the way it currently is.

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

CHAIRMAN: Mr. Noffsinger.

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

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

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

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

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

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

MR. NOFFSINGER: Yes, sir, that is correct. You would just take the proposed language out of Article 10 and that would leave - excuse me - Article 18 unchanged from the previous ordinance.
there would be no changes proposed to Article 18 of the zoning ordinance.

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

MR. THOMPSON: Right.

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

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

MR. NOFFSINGER: Yes, sir. You're on the right track. This is a public forum, but we have not advertised this ordinance for adoption tonight; therefore, you are reviewing the committee's recommendations. Those are before you. Each of you have had a copy of those. It's certainly within your right to recommend changes to the committee's proposed changes because the item that you advertise for public hearing will be the item that you will act on. If you make changes at that time during the public hearing, then you will probably have to re-advertise. So we
didn't advertise for public hearing for adoption tonight because we wanted to hear what comments the public had so the Planning Commission can direct the Staff to make appropriate changes to advertise and then come back for public hearing for adoption.

MR. CAMBRON: Can I ask a question?

CHAIRMAN: Yes, Mr. Cambron.

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

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

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

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

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

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

CHAIRMAN: The proposed.

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

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

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

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

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

MR. CAMBRON: Is that a proposal?

MR. APPLEBY: Yes.

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

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

CHAIRMAN: All right.

Is there any other comment, suggestions?


(MR. RICHARD FORD SWORN BY ATTORNEY.)

MR. FORD: Mr. Thompson suggested that the Flood Plain Regulations, Sections 18-5(a10) as
proposed and Section 18-5(d5) as proposed were potentially contentious. I'm the contentious part of that.

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

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

MR. FORD: Yes, sir.

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

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

CHAIRMAN: I don't think at this time we would like that. There will be a place for it
possibly, but if you could hold that until maybe a
future day I think we'd appreciate it at this time.

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

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

MR. NOFFSINGER: Yes, sir.

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

MR. NOFFSINGER: Yes, sir, that's correct.

The issue here is one to one compensation within the
flood plain. If you're developing in the flood plain,
then you would be required to fill for every foot you
take out or for every foot you fill in the flood plain
you have to compensate by adding capacity of the foot.
So this goes beyond calculating runoff and drainage
storage area for a particular development. This
impacts properties only within the flood plain.

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

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

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

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

This has been discussed at other levels. At one point it was determined that detailed studies of certain drainage areas in this community should take place. Then you would know exactly where the
one to one fill would be needed. It's necessary in
some areas. I don't think anyone would question how
long South Frederica area that's developing. We apply
city and county engineers, apply a one to one
compensation that we're discussing.

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

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

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

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

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

CHAIRMAN: Yes. Does anybody else in the

Ohio Valley Reporting
(270) 683-7383
audience want to address this issue?

(NO RESPONSE)

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

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

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

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

MR. NOFFSINGER: I think it would.

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

MR. NOFFSINGER: Yes.

CHAIRMAN: Are there any comments on other sections of the ordinance?
CHAIRMAN: If there are none, Mr. Noffsinger, we're ready for the next item.

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

PUBLIC FACILITIES PLANS REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

ITEM 4

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

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

CHAIRMAN: Is there anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Anybody from the commission have any questions?

(NO RESPONSE)

CHAIRMAN: Anybody in the audience have any questions?

Ohio Valley Reporting
(270) 683-7383
(NO RESPONSE)

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

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

MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 5

Martin Luther King, Jr. Loop, 4800-5201 Blocks Todd Bridge Road

Land Acquisition, Facilities Construction

Consider comments regarding the acquisition of right of way for the construction of the west portion of the Martin Luther King, Jr. Loop, the widening of a portion of Todd Bridge Road and the construction of a right turn lane addition to the east portion of the Martin Luther King, Jr. Loop.

Referred by: City of Owensboro

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

Ohio Valley Reporting
(270) 683-7383
Transportation Policy Committee. We recommend you forward a letter to that affect to the City of Owensboro.

CHAIRMAN: Is there anybody here representing the applicant?

(NO RESPONSE)

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

(NO RESPONSE)

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

(NO RESPONSE)

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

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

CHAIRMAN: Motion for approval by Mr. Rogers.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Thank you.
ITEM 6

4225 New Hartford Road
Building Construction
Consider comments regarding the construction of a new canopy at the south side of the building and replacement of the existing west and east canopies at the Daviess County High School building.
Referred by: Daviess County Board of Education

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

CHAIRMAN: Is anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody in the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Anybody on the commission?

(NO RESPONSE)

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

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

CHAIRMAN: Motion for approval by Ms. Dixon.
MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 7

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

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

CHAIRMAN: Anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions from the audience?

(NO RESPONSE)

CHAIRMAN: Questions from the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to forward a letter to

Ohio Valley Reporting
(270) 683-7383
the Daviess County Board of Education that we find no conflict with the Comprehensive Plan.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 8

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

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

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

Ohio Valley Reporting
(270) 683-7383
CHAIRMAN: Let it be noted that Sister Vivian has disqualified herself from the vote.

Is there anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Any comments or questions from the audience?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

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

CHAIRMAN: Motion for approval by Mr. Cambron.

MR. HAYDEN: Second.

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

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

CHAIRMAN: Motion carries unanimously.
ITEM 9

10344 US 231
Building Construction
Consider comments regarding the construction of a new bay addition to the existing Pleasant Ridge Volunteer Fire Department.
Referred by: Daviess County Fiscal Court

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

CHAIRMAN: Is anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions from the audience?

(NO RESPONSE)

CHAIRMAN: From the commission?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to forward a letter to the Daviess County Fiscal Court that we find no conflict with the Comprehensive Plan.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

-----------------------------------------

ZONING CHANGES – CITY

ITEM 10

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

MR. BAYLOUS: State your name.

MS. STONE: Becky Stone.

(MS. BECKY STONE SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

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

Condition:

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

Findings of Fact:

1. The subject property is located in an Urban Ohio Valley Reporting
(270) 683-7383
Residential Plan Area, where professional/service uses are appropriate in limited locations;

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

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

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

CHAIRMAN: Is anybody here representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Any questions from the audience?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission?

(NO RESPONSE)

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

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

Ohio Valley Reporting
(270) 683-7383
driveway access to Scherm Road on the subject property and establish a shared access on 1123 Scherm Road; and

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

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

MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 11

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

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

Condition:

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

Findings of Fact:

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

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

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

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

5. The applicant's proposed lot division respects the pattern of development and the density of
the existing established residential area.

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

CHAIRMAN: Is anybody representing the applicant?

MR. STAINBACK: Yes.

(MR. FRANK STAINBACK SWORN BY ATTORNEY.)

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

CHAIRMAN: Thank you, Mr. Stainback.

Are there any questions of the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions by the commission?

(NO RESPONSE)

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

MS. DIXON: Move to approve based upon Planning Staff Recommendations, Conditions 1 and Findings of Fact 1, 2, 3, 4 and 5.
CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 11A
Related Item

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

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

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

CHAIRMAN: Do we have any questions from Ohio Valley Reporting
(270) 683-7383
the audience?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission?

(NO RESPONSE)

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

MR. ROGERS: Move to approve.

CHAIRMAN: Motion for approval by Mr. Rogers.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

--------------------------------------------------

DEVELOPMENT PLANS

ITEM 12

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

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

Ohio Valley Reporting
(270) 683-7383
CHAIRMAN: Is anybody here representing the applicant?

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

(MR. CHARLES KAMUF SWORN BY ATTORNEY.)

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

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

(NO RESPONSE)

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

MR. HAYDEN: Make a motion for approval.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Thank you.

ITEM 13

919, 925, 931, 937 Griffith Avenue, 1.149 acres Consider approval of amended final development plan.

Applicant: E.K. and Betty Barnard, Gertrude C. Smith,
Ann O. Bresler, Marvin P. and Deborah M. Nunley

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

CHAIRMAN: Chair is a ready for a motion.

MR. APPLEBY: Motion to postpone.

CHAIRMAN: Motion for postponement by Mr. Appleby.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: This item is postponed.

ITEM 14

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

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

CHAIRMAN: Is anybody here representing the applicant?

MR. GARDNER: Yes.

(KELLY GARDNER SWORN BY ATTORNEY.)

Ohio Valley Reporting
(270) 683-7383
MR. GARDNER: My name is Kelly Gardner. I'm with Ted Lolley & Associates. We're professional engineers here in town. I'm here to answer any questions.

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

Any questions from anybody in the audience?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Thank you.

Next item, please.
ITEM 15

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

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

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to postpone.

CHAIRMAN: Motion for postponement by Ms. Dixon.

MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please

-----------------------------------------

MAJOR SUBDIVISIONS

ITEM 16

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

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

Ohio Valley Reporting
(270) 683-7383
Planning Staff. It's found to be in compliance with all applicable regulations and we recommend approval.

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

CHAIRMAN: Mr. Jagoe will be disqualified.

Is there anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Any questions?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Rogers.

MR. CAMBRON: Second.

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

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

CHAIRMAN: Motion carries unanimously.

ITEM 17

The Parks of Heartland, Phase 3, Lots 23-42, 7.602 acres
Consider approval of major subdivision final plat.
Applicant: Jagoe Development Corporation
CHAIRMAN: Mr. Chairman, Item 17 the applicant request it be postponed until the January meeting of this commission.

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

CHAIRMAN: Mr. Jagoe will be disqualified.

MR. APPLEBY: Motion to postpone.

CHAIRMAN: Motion for postponement.

MR. HAYDEN: Second.

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

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

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 18

MINOR SUBDIVISION

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

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

Ohio Valley Reporting
(270) 683-7383
which required a shared access point in order for the
lot to be divided.

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

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

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

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

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

At some point after that approval the lots
sold to separate owners on each of the separate lots.
Mr. Spurrier was applying for a building permit issued
to construct a single-family residence on the
property. At that time Jim Mischel reviewed a copy of
the approved plat and notified him that there was a
shared access requirement on that plat.

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

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

CHAIRMAN: Thank you, Ms. Stone.

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

MR. CAMBRON: That plat was voted on when?

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

MR. CAMBRON: So May of '99.

CHAIRMAN: Step forward, please.
MR. SPURRIER: Carl Spurrier. I'm the owner of the lot.

(MR. CARL SPURRIER SWORN BY ATTORNEY.)

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

CHAIRMAN: Thank you, Mr. Spurrier. Let
me ask Mr. Noffsinger to address the manhole cover, the sewer issue, and if the sewer manhole cover is misplaced.

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

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

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

MR. SPURRIER: Excuse me, sir. No. I
mean to do away with that easement there -- where the
culvert is and then everything would be okay. I don't
care for the manhole being on the ground, but it's
level with the ground.

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

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

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

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

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

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

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

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

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

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

MR. SPURRIER: But the people next door,
they consider that their driveway. Like I say the
manhole is over on us. You still have to drive over
that manhole.

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

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

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

MR. NOFFSINGER: That is the driveway.

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

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

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

MR. NOFFSINGER: Yes, sir.

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

MR. NOFFSINGER: Yes, sir.
MR. JAGOÉ: Yes. It's on their property, but you have easement across it. You have the right to use it.

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

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

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

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

MR. SPURRIER: Really I'm just asking for one entrance to the highway, but do away with -- I guess that's what I'm asking. That 15 feet that's part of the shared driveway, just unshare it and give...
me this entrance right there. That's what I'm asking for. It's already in. You know, it's a lot easier. It's no cost or nothing.

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

MR. SPURRIER: Shared entrance.

CHAIRMAN: Do you mean his part too?

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

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

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

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

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

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

MR. NOFFSINGER: -- put the shared access with the new property.
MR. JAGOE: That's what the original land owner did that brought the subdivision in?

MR. NOFFSINGER: Yes.

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

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

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

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

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

MR. SPURRIER: I know they did. Now, had the sewer people put the manhole on the line where they should have, it wouldn't been no problem, but like it is, you know, a shared driveway I wouldn't like that no way because one person keeps the driveway up and the other one might not, you know. You want to blacktop it, they may not. That's --
MR. APPLEBY: You'd still just have the one access point. Even if that manhole is on the property line, you couldn't have two separate access points within that 30 feet.

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

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

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

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

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

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

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

MR. APPLEBY: I'm talking from the center of the highway. I'm saying the sewer line is still in
easement. If the sewer line is out of easement, that's a different story, but I don't think that's the case.

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

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

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

MR. CAMBRON: I understand. The problem is we can't change that because this property has been subdivided and we allowed one easement due to the heavy traffic out there onto 144 to reduce any accidents there right near Graham Lane. Isn't that the name of the street there, road there? So that's one of the considerations we have to take in here when
we determine how we're going to make an access into
that property. For us to allow one more to the -- is
that the south? Is that where your other entrance is?
Wasn't it to the south?

MR. NOFFSINGER: East.

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

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

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

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

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

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

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

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

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

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

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

MR. SPURRIER: I made a mistake.

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

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

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

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

MR. ROGERS: Mr. Spurrier, you do understand that you could go down there by the Hallam's culvert and put you a culvert 24 foot wide.
MR. SPURRIER: It's pretty level, sir. The ground is pretty level. They've already filled that in. That's what I was told by the permit people that were putting the culvert in there. I said, it's already filled in almost.

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

MR. CAMBRON: The note on this --

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

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

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

MR. SPURRIER: I understand that.

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

MR. APPLEBY: Mr. Noffsinger, if I'm reading the proposed plat that they've submitted it states on here, if I'm reading this right, "30 foot shared vehicle access point for plat of survey by Joseph Pence dated 5/4" - whatever - "to be vacated."

So if we approve this thing, that's closed; is that right?

MR. NOFFSINGER: No, sir, that's not the intent. I had the same question, thoughts that you had. We researched it. No. The intent is to remove
the shared access easement but retain the driveway.

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

MR. JAGOE: I've got a question.

CHAIRMAN: Yes, sir, Mr. Jagoe.

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

MR. NOFFSINGER: Jerry and Carolyn Hallam.

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

MR. NOFFSINGER: Yes, sir.

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

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

MR. JAGOE: Okay.

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

MR. NOFFSINGER: Yes.

MR. JAGOE: But not removing the driveway.

MR. APPLEBY: They still want an access point.

MR. NOFFSINGER: They want to retain their
driveway and the surveyor is here tonight. He can
answer that question I think directly. He's nodding
his head as I am saying that. They wish to retain
that driveway and would not consent to closing that
driveway.

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

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

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

MR. SPURRIER: I guess that would be if
you're talking like that. Like I say I wouldn't see
no problem if the manhole wasn't there. If the
manhole wasn't there, it wouldn't be no problem to me,
but the manhole is there and it's in your driveway. I
don't think anybody want a manhole in your driveway.

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

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

CHAIRMAN: You've been very clear with
that. I appreciate that, but it's to the point where
I think this commission needs to vote because we've
listened to about everything that we could and we've
reviewed and tried every possible solution to it. I
think the commission, unless there's any further
comments by the commission or the audience, I think
the Chair is ready to entertain a motion.
MR. CAMBRON: Motion for denial, Mr. Chairman, based upon the Staff's recommendation back in 1999, the signed plat, agree that there be a shared driveway okayed on those two locations at 5701 and 5715 Highway 144 signed in May 1999.

CHAIRMAN: We have a motion by Mr. Cambron.

Is Mr. Cambron's motion --

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

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

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion is denied.

-----------------------------------------
SURETY RELEASES

ITEM 19

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

ITEM 20

Healing America, $3,652.50
Consider release of surety (Certificate of Deposit)
for landscaping.
Surety posted by: The Malcolm Bryant Corp.

ITEM 21

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

ITEM 22

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

ITEM 23

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

ITEM 24

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

ITEM 25

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

ITEM 26

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

ITEM 27

Subway, $2,512.00
Consider release of surety (Certified Check) for landscaping.
Surety posted by: Ohio Valley Reporting
(270) 683-7383
landscaping.

Surety posted by: Mike Armstrong

MR. NOFFSINGER: Mr. Chairman, under

Surety Releases Items 19 through 27 are in order and

may be released in toto.

MR. JAGOE: Mr. Chairman, I need to

disqualify myself from Item 21.

MR. APPLEBY: And I need to disqualify

myself on 24.

CHAIRMAN: If there are no further

discussion, the Chair is ready for a motion.

MS. DIXON: Move to approve in toto 19

through 27.

SISTER VIVIAN: Second.

CHAIRMAN: We've got a motion for approval

by Ms. Dixon. We've got a second by Sister Vivian.

Be noted that Mr. Appleby and Mr. Jagoe

are disqualifying themselves from their noted

conflicts.

All in favor of the motion raise your

right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE -

WITH THE DISQUALIFICATION OF MR. JAGOE ON ITEM 21 AND

THE DISQUALIFICATION OF MR. APPLEBY ON ITEM 24.)

CHAIRMAN: Motion carries unanimously.

Ohio Valley Reporting
(270) 683-7383
SURETY TRANSFERS

ITEM 28
Plantation Pointe, Unit #1, $6,021.40
Transfer of surety (Irrevocable Letter of Credit) for 1" Bitum Concrete Surface to the city of Owensboro.
Surety posted by: Steve Baker Building, LLC

ITEM 29
Plantation Pointe, Unit #1, $13,920.00
Transfer of surety (Irrevocable Letter of Credit) for sidewalks to the City of Owensboro.
Surety posted by: Steve Baker Building, LLC

ITEM 30
Timber Trails, Unit #1, $7,014.00
Transfer of surety (Certified Check) for 1" Bitum Concrete Surface to the Daviess County Fiscal Court.
Surety posted by: Timber Trails, LLC

ITEM 31
Timber Trails, Unit #1, $14,028.00
Transfer of surety (Certified Check) for 2" Bitum Concrete Base to the Daviess County Fiscal Court.
Surety posted by: Timber Trails, LLC

ITEM 32
Timber Trails, Unit #1, $2,000.00
Transfer of surety (Certified Check) for basin erosion to the Daviess County Fiscal Court.
Surety posted by: Timber Trails, LLC

ITEM 33
Timber Trails, Unit #1, $1,300.00
Transfer of surety (Certified Check) for paved ditches in basin to the Daviess County Fiscal Court.
Surety posted by: Timber Trails, LLC

MR. NOFFSINGER: Mr. Chairman, under Surety Transfers Items 28 through 33 they are in order

Ohio Valley Reporting
(270) 683-7383
and may be transferred in toto.

CHAIRMAN: Chair is ready for a motion.

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

CHAIRMAN: Motion for approval by Ms. Dixon.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

NEW BUSINESS

ITEM 34

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

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

CHAIRMAN: Is there any discussion?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.
MR. HAYDEN: Make a motion to approve.

CHAIRMAN: Motion for approval by Mr. Hayden.

MR. CAMBRON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

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

MS. DIXON: Move to adjourn.

CHAIRMAN: Motion for adjournment by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Meeting adjourned.

-----------------------------------------
STATE OF KENTUCKY)  
COUNTY OF DAVIESS)  

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

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

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

COMMISSION EXPIRES:  
DECEMBER 19, 2006

COUNTY OF RESIDENCE:  
DAVIESS COUNTY, KENTUCKY

Ohio Valley Reporting  
(270) 683-7383