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OWENSBORO METROPOLITAN PLANNING COMMISSION

JANUARY 8, 2004

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The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, January 8, 2004, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

- MEMBERS PRESENT: Drew Kirkland, Chairman
- Gary Noffsinger
- Nick Cambron
- Dave Appleby
- Jimmy Gilles
- Scott Jagoe
- Irvin Rogers
- Sister Vivian Bowles
- Judy Dixon
- Martin Hayden
- Stewart Elliott,
- Attorney

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CHAIRMAN: I would like to call the January 8th meeting to order. Our invocation tonight will be given by Jimmy Gilles.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to consider the minutes of the December 11, 2003. Are there any additions, corrections or questions from anybody in the audience?

(NO RESPONSE)

1 CHAIRMAN: Anybody on the commission?

2 (NO RESPONSE)

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

5 MR. JAGOE: Move for approve.

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

8 MR. CAMBRON: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 The next order of business is the election  
14 of officers for our Planning Commission. Turn it over  
15 to Mr. Elliott.

16 MR. ELLIOTT: Our bylaws require we do  
17 this the first meeting in January. With that in mind  
18 the floor is now open for the nomination for the  
19 office of chairman.

20 MR. CAMBRON: I nominate Mr. Kirkland.

21 MR. JAGOE: Second.

22 MR. ELLIOTT: Are there any other  
23 nominations?

24 (NO RESPONSE)

25 MR. ELLIOTT: All in favor signify by

1 raising your hands.

2 (ALL BOARD MEMBERS RESPONDED AYE.)

3 MR. ELLIOTT: Mr. Kirkland is chairman.

4 We have the vice chairman.

5 CHAIRMAN: I'd like to nominate Nick

6 Cambron.

7 MR. ELLIOTT: We have a nomination of Mr.

8 Cambron. Any second?

9 MS. DIXON: Second.

10 MR. ELLIOTT: Are there any other

11 nominations?

12 (NO RESPONSE)

13 MR. ELLIOTT: All in favor of Mr. Cambron

14 being vice chairman signify by raising your hand.

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Mr. Cambron is vice chairman.

17 Now we have the office of secretary.

18 CHAIRMAN: I'd like to nominate Mr. David

19 Appleby.

20 MR. ELLIOTT: Do we have a second?

21 MR. GILLES: Second.

22 MR. ELLIOTT: Any other nomination?

23 (NO RESPONSE)

24 MR. ELLIOTT: All in favor of Mr. Appleby

25 being secretary signify by raising your hand.

1 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

2 MR. ELLIOTT: Mr. Appleby is secretary.

3 That concludes the elections of officers.

4 CHAIRMAN: Mr. Noffsinger our first of

5 business.

6 -----

7 ZONING CHANGE- CITY

8 ITEM 3

9 1221, 1223 Mosley Street, 0.207 acres  
10 Consider zoning change: From I-1 Light Industrial to  
11 B-4 General Business  
12 Applicant: Green Valley Development

13 MR. ELLIOTT: State your name, please.

14 MS. STONE: Becky Stone.

15 (MS. BECKY STONE SWORN BY ATTORNEY.)

16 PLANNING STAFF RECOMMENDATIONS

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

22 Conditions:

- 23 1. Provide off-street parking as required by the  
24 Zoning Ordinance for the proposed use;
- 25 2. Reduce the access on Mosley Street to one  
access point not to exceed 24-feet in width; and,

1           3. Install a three-foot high continuous element  
2 with one tree per 40 linear feet of boundary in a  
3 minimum 3-foot wide easement between vehicular use  
4 areas and the Mosley Street public right-of-way.

5 Findings of Fact:

6           1. The subject property is located in a  
7 Business/Industrial Plan area, where general business  
8 uses are appropriate in general locations;

9           2. The subject property is located in an area  
10 comprised of mixed industrial and general business  
11 uses; and,

12           3. The land use element of the Comprehensive  
13 Plan recognizes these mixed use areas and allows for  
14 their continuation.

15           MS. STONE: We'd like to enter the Staff  
16 Report as Exhibit A into the record.

17           CHAIRMAN: Is there anybody here  
18 representing the applicant?

19           MR. SHELTON: Ed Shelton.

20           (MR. ED SHELTON SWORN BY ATTORNEY.)

21           MR. SHELTON: I'm the president of Green  
22 Valley Development Corporation. May I pass out some  
23 pictures to you all?

24           CHAIRMAN: Yes.

25           MR. SHELTON: This property is 50-foot

1 wide. Consist of 3,000 square feet. We're required  
2 to have five parking spaces. We have five parking  
3 spaces.

4           According to the landscape requirement of  
5 the city - - we might have three parking spaces at the  
6 most that we would be able to utilize. There's no way  
7 to turn around in this parking lot without backing out  
8 on the street. Every business in this block are on a  
9 curve and they drive off the street parking. They  
10 want us to build some parking around back.

11           One of these pictures shows the back of  
12 the building. We're standing in the alley in the  
13 back. You can see over top of the building. So if  
14 we're going to - - we're going to have to do some  
15 major excavation back there to build a parking a lot  
16 in the rear. We can landscape next to the front of  
17 the building. Just like to get away from having to  
18 landscape out on the street curve and do away with  
19 that parking.

20           This property is wanting to be rented by  
21 Sister Lorraine Lauter. She's from Louisville. She's  
22 going to use this property to teach computer skills  
23 and other skills to his Hispanic people in Daviess  
24 County. I don't know whether she's funded by the  
25 state or funded by the federal government, but she is

1 the one that wants to rent this property for that  
2 purpose. Has to be zoned for that. So we're asking  
3 for some kind of a variance on this landscaping.

4 CHAIRMAN: Mr. Shelton, this board has the  
5 authority to pass this zoning change, but you used the  
6 key word there. As far as the variance, this board  
7 does not have the jurisdiction to pass a variance. We  
8 can pass what you're requesting as a zoning change,  
9 but we cannot grant a variance. To get a variance you  
10 have to go to the Board of Adjustments.

11 MR. SHELTON: Are they the one that  
12 controls the landscape requirements?

13 CHAIRMAN: Well, they're the ones that  
14 will grant or can grant a variance to the ordinance.  
15 We can only pass a zoning change from going from your  
16 I-1 to your business classification.

17 MR. CAMBRON: Mr. Chairman, if I may  
18 direct this to Mr. Noffsinger.

19 Can we approve this as a zoning change but  
20 not - - I mean can we not include the conditions for  
21 the off street parking at this point in time, be  
22 subject to the variance?

23 MR. NOFFSINGER: What you might want to  
24 consider, the conditions that staff placed on this  
25 application mere the zoning ordinance requirements and

1 they were put in there to put the applicant or anyone  
2 interested in the property on notice as to what the  
3 condition would be to using that site.

4 Now, the Planning Commission could  
5 recommend to approve this zoning change without these  
6 conditions, but that does not make those conditions go  
7 away. You would then have to go before the Board of  
8 Adjustment for variance request if you couldn't meet  
9 the site development requirements. So I guess what  
10 I'm saying is the Planning Commission you can  
11 recommend to change the zoning without the conditions,  
12 but this board can't make those conditions go away or  
13 the site development requirements go away. That  
14 authority is only granted at this time to the Board of  
15 Adjustment.

16 MR. SHELTON: If we get it zoned business  
17 tonight with that stipulation and then we don't get  
18 the variance or the Board of Adjustments, then we're  
19 stuck. If we're zoned B-4, we can't go back to light  
20 industrial without meeting the same requirements; is  
21 that right?

22 MR. NOFFSINGER: Again, that's true. What  
23 you're saying is true. I mean you could go back to  
24 I-1 Light Industrial, but you will still have those  
25 requirements. Those requirements are going to be



1       there regardless of whether you change the zoning or  
2       not. A B-4 general business use generally will  
3       generate more traffic than industrial use. So that's  
4       why it becomes more important if you're rezoning from  
5       industrial to commercial. That the access on these  
6       items be considered because generally you're going to  
7       have more traffic there and more activity. If it's  
8       left the way it is, light industrial, there's not as  
9       much traffic generated generally. So you don't have  
10      that big of an issue. Regardless, you're going to be  
11      faced with this issue and would need to be from the  
12      Board of Adjustment.

13                   MR. SHELTON: But if we leave it light  
14      industrial as it is now, that's where we are, right?  
15      We can leave it light industrial and walk away and it  
16      probably stays the same.

17                   MR. NOFFSINGER: That's a question that I  
18      cannot answer. The reason being that would be subject  
19      to the zoning administrator's interpretation of the  
20      ordinance, Mr. Jim Mischel. How long the property has  
21      been unoccupied. There are different factors that go  
22      into this. Have you talked with Mr. Jim Mischel about  
23      the use of the property?

24                   MR. SHELTON: I tried to today.

25                   MR. NOFFSINGER: I can't give you a direct

1 answer to that because you may - - even if you leave  
2 it zoned I-1 Light Industrial, when a use goes in you  
3 may have to make the same improvements, but I don't  
4 know enough about the history of the property to give  
5 you a definite answer.

6 CHAIRMAN: Mr. Noffsinger, why don't we  
7 bring Mr. Mischel to the podium and he can answer  
8 these questions.

9 MR. ELLIOTT: State your name, please.

10 MR. MISCHEL: Jim Mischel.

11 (MR. JIM MISCHEL SWORN BY ATTORNEY.)

12 MR. MISCHEL: I think what Mr. Noffsinger  
13 said was correct. If you have a use what we would  
14 call grandfathered in, if that use was like for  
15 storage or whatever, it's zoned I-1, if it's been used  
16 for storage it can continue that way. If it's vacant  
17 or that use is discontinued for 18 months or more,  
18 then you lose that grandfather clause. At this time I  
19 really don't know what it's been used for. I'm just  
20 using that for an example. If you've been using it  
21 for storage, you can continue that, but if it has been  
22 say vacant for 18 months, then it should - -

23 MR. SHELTON: It's been used for storage.  
24 Next-door, we own that property also. It's been used  
25 for storage by them. Intend to get someone in there

1 that wants to make cabinets, it would fall into light  
2 industrial.

3 MR. MISCHEL: Yes. If you had a cabinet  
4 shop, that would fall into light industrial. That's a  
5 change of use. You would lose that grandfather  
6 clause. They should comply with the parking standard  
7 and anything else that would come into play. Right  
8 now if it is has been a warehouse, you can continue  
9 that for unlimited time. You just keep doing that and  
10 you don't have to - -

11 MR. APPLEBY: What's the park requirement  
12 for light industrial?

13 MR. MISCHEL: For storage it's 1 to 600.  
14 It's different depending on the use. Light industrial  
15 uses are 1 to 600. So much is tied into number of  
16 vehicles too. Some industrial uses may not have to  
17 have that many. I think you said you had a slope back  
18 there. You might get someone to back up and you don't  
19 need that many. I don't know. I haven't seen it.

20 MR. SHELTON: Number of parking spaces,  
21 only thing that's hurting the parking spaces is the  
22 landscaping in front. The back, that property slopes  
23 so bad. It's all sod and grass. You blacktop it you  
24 would have water going in the back door and out the  
25 front unless you put some kind of retention basin in.

1 MR. MISCHEL: I think it would be good to  
2 probably have a surveyor or something to - - he might  
3 have some ideas that might not be that bad. I don't  
4 know at this time.

5 MR. SHELTON: Can we have postpone it for  
6 30 days and talk to Board of Adjustment?

7 MR. CAMBRON: Mr. Chairman, he was asking  
8 you a question.

9 CHAIRMAN: I'm sorry.

10 MR. SHELTON: Can we postpone this for 30  
11 days and talk to the Board of Adjustments about  
12 getting some kind of agreement with them?

13 CHAIRMAN: Yes.

14 MR. MISCHEL: There is one thing, just for  
15 the record. I think when you go to the Board of  
16 Adjustment for a variance there's certain things they  
17 can hear, if I understand the law correctly. They can  
18 hear like a landscape variance, conditional variance,  
19 but I don't believe they can hear a variance on  
20 parking. I don't think that's the way the Board of  
21 Adjustment can approve what we call a parking  
22 variance.

23 MR. SHELTON: Parking variance, is there a  
24 parking problem with this? There's one spot  
25 requirement for every 600 square feet. This is a

1 3,000 square building. It's five spaces. We have  
2 five spaces in front now.

3 MR. MISCHEL: Those that you have you're  
4 backing out on a right-of-way. I'm not sure they can  
5 even hear the parking issue. They could on  
6 landscaping and things of that nature.

7 CHAIRMAN: Let me ask Mr. Elliott a  
8 question.

9 Mr. Elliott, based on the questions that  
10 Mr. Mischel brought up and the situation Mr. Shelton  
11 is in, what would you suggest would be his route to  
12 get an answer to his question as far as variance,  
13 parking spaces?

14 MR. ELLIOTT: First of all Mr. Mischel is  
15 right about the parking. Board of Adjustment doesn't  
16 consider those. So that's not an option for them.  
17 The way that I understand it maybe want to go talk to  
18 Jim about to see whether or not they've got a  
19 non-conforming use of the property first. He may be  
20 okay as far as that's concerned. Has he done that  
21 yet? He hasn't talked to you about the use, has he?

22 MR. MISCHEL: I think - - is that your  
23 brother?

24 MR. SHELTON: Yes.

25 MR. MISCHEL: I talked to him today about

1 the parking issue, things of that nature. Really  
2 didn't have a whole lot of time to talk this  
3 afternoon. We haven't talked into the use that's  
4 there now or anything.

5 MR. ELLIOTT: As far as applying for a  
6 variance, I'm not so sure that he can do that now  
7 until the zoning has been granted. I really don't  
8 know the answer to your question.

9 MR. APPLEBY: Why couldn't he apply for a  
10 variance from landscaping? With an I-1 zone he's  
11 going to have to bring it - -

12 MR. ELLIOTT: He can do that. He can do  
13 that with landscaping.

14 MR. NOFFSINGER: Mr. Chairman, at this  
15 point staff would recommend that you consider the  
16 recommendation with or without the conditions because  
17 the issue of the variance is not going to change what  
18 this board does. They're going to need, most likely  
19 they will need to go before the Board of Adjustment  
20 with some type of variance regardless of how the  
21 property is zoned. The decision is should it be B-4  
22 or do you want to keep it I-1. Recommend Planning  
23 Commission look at it in approving it as stated with  
24 the conditions or without the conditions, but  
25 realizing that just because it may be approved without

1 the conditions, that doesn't make those site  
2 development requirements go away. You know, there are  
3 two issues. There's a zoning issue and then there's a  
4 potential variance issue. You're going to have that  
5 regardless of how the property is zoned.

6 MR. SHELTON: I have to deal with both  
7 those issues regardless, right?

8 MR. NOFFSINGER: Right. If you postpone,  
9 that's going to take -

10 MR. SHELTON: Sooner or later I have to  
11 deal with the issue.

12 MR. NOFFSINGER: Right. It may be that -  
13 - well, you need to make a decision on which zone you  
14 think you will need and want to. Whether you want to  
15 stay I-1 or B-4.

16 MR. SHELTON: You're going to have the  
17 problem regardless.

18 MR. NOFFSINGER: Exactly. Then we will  
19 work with you.

20 MR. SHELTON: We need B-4.

21 MR. NOFFSINGER: We'll work with you on  
22 the site conditions.

23 MR. SHELTON: We're not in a big rush on  
24 this. If we're going to - - we've got to face the  
25 issue sooner or later. You know, take B-4. We'll go

1 to the Board of Adjustments and go from there.

2 There's no way around this issue according you all.

3 MR. NOFFSINGER: If I may. I make that  
4 recommendation based upon we don't know what one, two  
5 months down the road might bring. It may mean that  
6 you need X number of spaces for a particular use and  
7 that use could change and maybe you need certain,  
8 maybe you need fewer. The Board of Adjustment will  
9 not be able to grant you a variance on the number of  
10 parking spaces you need, but they can consider issues  
11 such as how you get to those parking spaces and where  
12 they will be located. I don't know how your proposed  
13 use is, but if there's a chance that could change,  
14 then I'd hate to see you hold up on the zoning change  
15 if you really are looking for B-4 in the future.

16 MR. SHELTON: No. I say go ahead with B4.

17 MR. MISCHEL: I might have a couple of  
18 suggestions. If you're not in a time crunch, one, it  
19 might be good if somebody, an expert went over to see  
20 if you could get the parking back where it wouldn't be  
21 that much of a problem and they could get the drainage  
22 out of there; and two, if you're not sure if you want  
23 business industrial we do have a new B-5 zoning coming  
24 up.

25 MR. SHELTON: Is that in effect now?



1 MR. MISCHEL: It's a good possibility in  
2 the near future to where you could use it either way,  
3 if you're not in a hurry right now. That might  
4 benefit you too.

5 MR. SHELTON: But that might be several  
6 months off?

7 MR. MISCHEL: Yes, could be.

8 MR. NOFFSINGER: You might have been a  
9 couple of months early.

10 MR. SHELTON: We go B-4 and deal with it.

11 CHAIRMAN: Do you have any other comments,  
12 Mr. Shelton, or questions?

13 MR. SHELTON: No.

14 CHAIRMAN: Any other questions from the  
15 commission?

16 (NO RESPONSE)

17 MR. CAMBRON: Is chair ready for a motion.

18 CHAIRMAN: Chair is ready for a motion.

19 MR. CAMBRON: Motion for approval, and  
20 this is with a question. We do not have to recommend  
21 Conditions 1 through 3, is that correct, right now,  
22 Mr. Noffsinger?

23 MR. NOFFSINGER: Yes, sir.

24 MR. CAMBRON: Motion for approval with no  
25 conditions tied to it at this point. Findings of Fact

1 1 through 3.

2 MR. APPLEBY: Second.

3 CHAIRMAN: We've got a motion for approval  
4 by Mr. Cambron. We have a second by Mr. Appleby. All  
5 in favor raise your right hand.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

9

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10 DEVELOPMENT PLANS

11 ITEM 4

12 600 Emory Drive, 0.827 acres  
13 Consider approval of final development plan.  
14 Applicant: Paul Martin

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

19 CHAIRMAN: Is anybody here representing  
20 the applicant?

21 APPLICANT REP: Yes.

22 CHAIRMAN: Does anybody in the audience or  
23 the commission have any questions of the applicant?

24 (NO RESPONSE)

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

1 MR. APPLEBY: Motion for approval.

2 CHAIRMAN: Motion for approval by Mr.  
3 Appleby.

4 SISTER VIVIAN: Second.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 ITEM 5

11 3175 Fairview Drive, 0.610 acres  
12 Consider approval of final development plan.  
13 Applicant: B.C.E. Properties

14 MR. NOFFSINGER: Mr. Chairman, on Item 5 I  
15 have a letter in the application from the applicant  
16 asking that this item be postponed until our regularly  
17 scheduled meeting in February. You'll need to vote on  
18 that to postpone.

19 MR. APPLEBY: Motion to postponement.

20 CHAIRMAN: Motion for postponement by Mr.  
21 Appleby.

22 MR. JAGOE: Second.

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

1 Next item, please.

2 ITEM 6

3 3434, 3438, 3442, 3446 Legacy Run, 1.136 acres  
4 Consider approval of amended final development plan.  
5 Applicant: Earl Hayden

6 MR. NOFFSINGER: Mr. Chairman, this plan  
7 has been reviewed by the Planning Staff and  
8 Engineering Staff. It's found to be in order and for  
9 those reasons we recommend approval.

10 CHAIRMAN: Anybody here representing the  
11 applicant?

12 APPLICANT REP: Yes.

13 CHAIRMAN: Does anybody in the audience or  
14 the commission have a question of the applicant?

15 (NO RESPONSE)

16 CHAIRMAN: If not chair is ready for a  
17 motion.

18 MR. CAMBRON: Motion for approval, Mr.  
19 Chairman.

20 CHAIRMAN: Motion for approval by Mr.  
21 Cambron.

22 MR. HAYDEN: Second.

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

25 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

1 Next item.

2 ITEM 7

3 3101 West Second Street, 4.399 acres  
4 Consider approval of amended final development plan.  
5 Applicant: Owensboro-Daviess County Humane Society,  
6 Carmel Simmons

7 MR. NOFFSINGER: Mr. Chairman, this  
8 application has been reviewed by the Planning Staff,  
9 Engineering Staff. It's found to meet the minimum  
10 requirements of the adopted regulations and for that  
11 reason it's recommended for approval.

12 CHAIRMAN: Anybody here representing the  
13 applicant?

14 APPLICANT REP: Yes.

15 CHAIRMAN: Does anybody in the audience or  
16 the commission have any questions?

17 (NO RESPONSE)

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

20 MS. DIXON: Move to approve.

21 CHAIRMAN: Motion for approval by Ms.  
22 Dixon

23 MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 -----

3 MAJOR SUBDIVISIONS

4 ITEM 8

5 Covington Ridge, Section 2, Unit 2, 1.137 acres  
6 Consider approval of amended major subdivision  
7 preliminary plat.

8 Applicant: Robert Wimsatt

9

10 MR. NOFFSINGER: Mr. Chairman, this plat  
11 has been reviewed by the Planning Staff, Engineering  
12 Staff. It's found to be in order to meet all  
13 regulations and we recommend for those reasons it be  
14 approved.

15 CHAIRMAN: Anybody here representing the  
16 applicant?

17 APPLICANT REP: Yes.

18 CHAIRMAN: Does anybody have any  
19 questions?

20 (NO RESPONSE)

21 CHAIRMAN: Anybody have any questions from  
22 the commission?

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

24 CHAIRMAN: Chair is ready for a motion.

25 MR. CAMBRON: Motion for approval, Mr.  
Chairman.

CHAIRMAN: Motion for approval by Mr.

1 Cambron.

2 SISTER VIVIAN: Second.

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

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 Next item, please.

8 ITEM 9

9 The Parks of Heartland, Phase 3, Lots 23-42,  
7.602 acres (POSTPONED)  
10 Consider approval of major subdivision final plat.  
Surety (Certificate of Deposit) posted: \$16,121.20  
11 Applicant: Jagoe Development Corporation

12 MR. NOFFSINGER: Mr. Chairman, this plat  
13 has been reviewed by the Planning Staff and  
14 Engineering Staff. It's found to be in order and  
15 meeting all adopted regulations and for that reason  
16 it's recommended for approval.

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

19 CHAIRMAN: Mr. Jagoe will disqualified  
20 from the vote.

21 If there are no question, the chair is  
22 ready for a motion.

23 MR. ROGERS: Motion for approval.

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

1                   SISTER VIVIAN:  Second.

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

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

6                   CHAIRMAN:  Motion carries unanimously.

7                   Next item.

8                   ITEM 10

9                   Revocation of Creekview, 0.207 acres  
10                  Consider revocation of the major subdivision  
11                  preliminary plat.  
12                  Applicant:  Robert J. Wimsatt

13                  MR. NOFFSINGER:  Mr. Chairman, this  
14                  preliminary subdivision plat was approved by the  
15                  Planning Commission on September 11th of 2003.  This  
16                  plat created I believe 10 residential lots along a  
17                  cul-de-sac street off Meadley Road called Creekview  
18                  Court.  The applicant has filed a request of the  
19                  Planning Commission to revoke approval of that plat  
20                  because the property will develop in a different  
21                  manner than what was originally approved by the  
22                  Planning Commission.  What will happen, a large  
23                  portion of this area will be consolidated in with  
24                  adjoining lots and the Turtle Creek Subdivision.  I  
25                  believe two lots in the Turtle Creek Subdivision.  
26                  Then there will be a lot or two that will front on



1 Medley Road. The next item, Item 10A minor  
2 subdivision plat, I think actually creates the lots as  
3 I've just described to you. In order for us to  
4 approve Item 10A, the applicant is requesting that we  
5 revoke the approval of the previously approved  
6 preliminary plat.

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

9 (NO RESPONSE)

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

12 MR. JAGOE: Move to approve.

13 MR. CAMBRON: Second.

14 CHAIRMAN: Motion for approval by Mr.  
15 Jagoe. Second by Mr. Cambron. All in favor raise  
16 your right hand.

17 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

18 CHAIRMAN: Motion carries unanimously.

19 Next item.

20 ITEM 10A - Related Item:

21 938, 948 Turtle Creek Road, 3970 Medley Road,  
22 4.162 acres

23 Consider approval of minor subdivision plat  
Applicant: Robert J. Wimsatt

24 MR. NOFFSINGER: Mr. Chairman, this  
25 application has been reviewed by the Planning Staff

1 and Engineering Staff. It meets the minimum ordinance  
2 requirements and is ready for consideration.

3 CHAIRMAN: Does anybody have any questions  
4 of the applicant?

5 (NO RESPONSE)

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

8 MR. GILLES: Motion to approve.

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

11 MR. HAYDEN: Second.

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

14 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

15 CHAIRMAN: Motion carries unanimously.

16 Next item.

17 ITEM 11

18 Summer Wind of Heartland, Phase 1, Lots 313-316,  
19 380-401, 6.422 acres  
20 Consider approval of major subdivision final plat.  
21 Surety (Certificate of Deposit) posted: \$42,568.60  
22 Applicant: Jagoe Homes and Construction Co., LLC

23 MR. NOFFSINGER: Mr. Chairman, this  
24 application has been reviewed by the Planning Staff  
25 and Engineering Staff. It's found to meet minimum  
ordinance requirements and for those reasons we  
recommend it be approved.

1 MR. JAGOE: Mr. Chairman, I need to  
2 disqualify myself on Items 11 and 12.

3 CHAIRMAN: Mr. Jagoe will be disqualified  
4 on Items 11 and 12.

5 Are there any questions of the applicant?

6 (NO RESPONSE)

7 CHAIRMAN: If not the chair is ready for a  
8 motion.

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

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

13 MS. DIXON: Second.

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

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

18 CHAIRMAN: Motion carries unanimously.

19 Next item.

20 ITEM 12

21 The Village of Heartland, Phase I, Lots 402-404,  
22 423-457, 16.077 acres  
23 Consider approval of major subdivision final plat.  
24 Surety (Certificate of Deposit) posted: \$68,335.80  
25 Applicant: Jagoe Homes and Construction Co., LLC

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

1 Engineering Staff. It's found to meet minimum  
2 ordinance requirements and is ready for your  
3 consideration.

4 CHAIRMAN: Are there any questions of the  
5 applicant?

6 (NO RESPONSE)

7 CHAIRMAN: If not the chair is ready for a  
8 motion.

9 MR. APPLEBY: Motion for approval.

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

12 MR. GILLES: Second.

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

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

17 CHAIRMAN: Motion carries unanimously.

18 Next item.

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20 SURETY TRANSFERS

21 ITEM 13

22 Commercial Warehousing, Inc., Unit #2, \$1,073.80  
23 Transfer of surety (Certified Check) for streets to  
24 the City of Owensboro  
25 Surety posted by: Commercial Warehousing, Inc.

## 1       ITEM 14

2       The Greens of Heartland, Phase 5, \$2,431.80  
3       Transfer of surety (Certificate of Deposit) for 1"  
4       Bitum Concrete Surface to the City of Owensboro  
5       Surety posted by: Jagoe Homes and Construction  
6       Company, Inc.

## 7       ITEM 15

8       The Greens of Heartland, Phase 5, \$6,252.00  
9       Transfer of surety (Certificate of Deposit) for  
10       sidewalks to the City of Owensboro  
11       Surety posted by: Jagoe Homes and Construction  
12       Company, Inc.

## 13       ITEM 16

14       The North Landings of Heartland, Phase 1, \$6,850.20  
15       Transfer of surety (Certificate of Deposit) for 1"  
16       Bitum Concrete Surface to the City of Owensboro  
17       Surety posted by: Jagoe Homes and Construction  
18       Company, Inc.

## 19       ITEM 17

20       The North Landings of Heartland, Phase 1, \$15,672.00  
21       Transfer of surety (Certificate of Deposit) for  
22       sidewalks to the City of Owensboro  
23       Surety posted by: Jagoe Homes and Construction  
24       Company, Inc.

## 25       ITEM 18

26       The North Landings of Heartland, Phase 1, \$4,810.00  
27       Transfer of surety (Certificate of Deposit) for storm  
28       sewers to the City of Owensboro  
29       Surety posted by: Jagoe Homes and Construction  
30       Company, Inc.

## 31       ITEM 19

32       Southgate Centre, \$683,515.50  
33       Transfer of surety (Performance Bond) for storm sewers  
34       and sanitary sewers to the City of Owensboro  
35       Surety posted by: Home Depot USA, Inc.

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1       ITEM 20

2       Southgate Centre, \$639,279.00  
3       Transfer of surety (Performance Bond) for streets to  
4       the City of Owensboro  
5       Surety posted by: Home Depot USA, Inc.

6                   MR. NOFFSINGER: Mr. Chairman, Surety  
7       Transfers Items 13 through 20 are in order. I do have  
8       a correction on Item 19 and 20. Those should be  
9       transferred to the City of Owensboro and not the  
10      Daviess County Fiscal Court. There is an error on the  
11      agenda. So it should be transferred to the City of  
12      Owensboro on 19 and 20. With that they're ready and  
13      may be considered to transfer toto.

14                   CHAIRMAN: The chair is ready for a  
15      motion.

16                   MR. JAGOE: Mr. Chairman, I need to  
17      disqualify myself on Items 14 through 18.

18                   CHAIRMAN: Mr. Jagoe will be disqualified  
19      from Items 14 through 18.

20                   Chair is ready for a motion.

21                   MR. HAYDEN: Motion for approval.

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

24                   MS. DIXON: Second.

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

1 (ALL BOARD MEMBERS PRESENT - WITH THE  
2 DISQUALIFICATION OF MR. JAGOE ON ITEMS 14 THROUGH 18 -  
3 RESPONDED AYE.)

4 CHAIRMAN: Motion carries unanimously.  
5 Chair is ready for one final motion.

6 MR. APPLEBY: Move to adjourn.

7 CHAIRMAN: Motion for adjournment by Mr.  
8 Appleby.

9 MS. DIXON: Second.

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

12 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

13 CHAIRMAN: We are adjourned.

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

3 I, LYNNETTE KOLLER, Notary Public in and for  
4 the State of Kentucky at Large, do hereby certify that  
5 the foregoing Owensboro Metropolitan Planning & Zoning  
6 meeting was held at the time and place as stated in  
7 the caption to the foregoing proceedings; that each  
8 person commenting on issues under discussion were duly  
9 sworn before testifying; that the Board members  
10 present were as stated in the caption; that said  
11 proceedings were taken by me in stenotype and  
12 electronically recorded and was thereafter, by me,  
13 accurately and correctly transcribed into the  
14 foregoing 31 typewritten pages; and that no signature  
15 was requested to the foregoing transcript.

16 WITNESS my hand and notarial seal on this  
17 the 22nd day of January, 2004.

18

19

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

22 COMMISSION EXPIRES:  
DECEMBER 19, 2006

23

24 COUNTY OF RESIDENCE:  
DAVIESS COUNTY, KENTUCKY

25