

## 1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 AUGUST 11, 2005

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4 The Owensboro Metropolitan Planning

5 Commission met in regular session at 6:00 p.m. on

6 Thursday, August 11, 2005, at City Hall, Commission

7 Chambers, Owensboro, Kentucky, and the proceedings

8 were as follows:

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

15 \* \* \* \* \*  
16

17 CHAIRMAN: I would like to welcome  
18 everybody to our August 11th meeting of the Owensboro  
19 Metropolitan Planning Commission. Would you please  
20 stand. Our invocation will be given by Nick Cambron.

21 (INVOCATION AND PLEDGE OF ALLEGIANCE)

22 CHAIRMAN: Our first of order of business  
23 will be to consider the minutes of the July 14, 2005  
24 meeting. Are there any additions, corrections or  
25 questions?

1 (NO RESPONSE)

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

4 MR. CAMBRON: Motion for approval.

5 MS. DIXON: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11 Next item, please, Mr. Noffsinger.

12 -----

13 PUBLIC FACILITIES PLANS  
14 REVIEW FOR CONSISTENCY WITH COMPREHENSIVE PLAN

15 ITEM 2

16 100-300 Blocks Ellis Smeathers Road  
17 Land Acquisition  
18 Consider comments regarding the acquisition of the  
19 existing right-of-way of Ellis Smeathers Road.  
20 Referred by: City of Owensboro

21 MR. NOFFSINGER: Mr. Chairman, Planning  
22 Staff has reviewed this application. The application  
23 is in order. This request comes from the City of  
24 Owensboro in regard to annexation of the property. In  
25 order to move that forward, they need to acquire this  
existing private right-of-way so that they can move  
forward on the annexation. This is a substandard

1 roadway. Planning Staff would recommend that should  
2 this right-of-way be used in a redevelopment of the  
3 Green River Steel property that that roadway be  
4 improved to the public improvement specifications.

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

7 (NO RESPONSE)

8 CHAIRMAN: Does anybody have any  
9 questions?

10 (NO RESPONSE)

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

13 MR. CAMBRON: Motion for approval, Mr.  
14 Chairman.

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

17 SISTER VIVIAN: Second.

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

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: Motion carries unanimously.

22 Next item, please.

23 -----

24 ZONING CHANGES - CITY

25

1       ITEM 3

2       310, 314, 316 Ford Avenue  
3       2002, 2014, 2016, 2026, 2038 Frederica Street,  
4       2.715 acres  
5       Consider zoning change: From R-1B Single-Family  
6       Residential and P-1 Professional/Service to P-1  
7       Professional/Service  
8       Applicant: Daviess County Public Library

9                   MR. ELLIOTT: State your name, please.

10                  MR. HOWARD: Brian Howard.

11                  (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

12       PLANNING STAFF RECOMMENDATIONS

13                  Staff recommends approval because the  
14       proposal is in compliance with the community's adopted  
15       Comprehensive Plan. The condition and findings of  
16       fact that support this recommendation include the  
17       following:

18       Condition:

19                  No direct access shall be permitted to  
20       Frederica Street. Access to the subject property  
21       shall be limited to Maple Avenue and Ford Avenue only.

22       Findings of Fact:

23                  1. The subject property is located in a  
24       Professional/Service Plan Area, where  
25       professional/service uses are appropriate in general  
26       locations;

27                  2. The proposed library will be a  
28       nonresidential use; and,

1                   3. The request will result in a single  
2 zoning classification of P-1 on all tracts within the  
3 subject property so consolidation can be approved.

4                   MR. HOWARD: We would like to enter the  
5 Staff Report as Exhibit A.

6                   CHAIRMAN: Is there anybody here  
7 representing the applicant?

8                   MR. BRANCATO: Yes.

9                   MR. ELLIOTT: Stated your name, please.

10                  MR. BRANCATO: My name is Frank Brancato.

11                  (MR. FRANK BRANCATO SWORN BY ATTORNEY.)

12                  MR. BRANCATO: Mr. Chairman, I don't have  
13 a presentation, but if anybody has any questions I'd  
14 be glad to answer them on behalf of the library.

15                  CHAIRMAN: Thank you very much.

16                  Does anybody have any questions

17                  MR. ELLIOTT: State your name, please.

18                  MS. BLACKBURN: Heather Blackburn.

19                  (MS. BLACKBURN SWORN BY ATTORNEY.)

20                  MS. BLACKBURN: My name is Heather  
21 Blackburn. My husband and daughter and I live at 2015  
22 St. Elizabeth Street which runs behind what is  
23 currently the Owensboro High School parking lot. I do  
24 have a few questions for Mr. Brancato if I may.

25                  CHAIRMAN: Yes, ma'am. How many questions

1 do you have and we'll see if we can group them all  
2 together and have them answered all at one time.

3 MS. BLACKBURN: Two or three.

4 CHAIRMAN: I think we can handle that. Go  
5 ahead.

6 MS. BLACKBURN: The first question I have  
7 is about whether or not there's been any sort of a  
8 traffic study done on the impact on the residential  
9 area around this new proposed library.

10 CHAIRMAN: Okay. What's your next  
11 question?

12 MS. BLACKBURN: Next question is: What  
13 will happen with the high school parking? I guess my  
14 third and final question is: What sort of lighting  
15 are we talking about in the parking lot and what kind  
16 of impact will it have on the residential area behind  
17 what is currently the high school parking lot?

18 CHAIRMAN: Thank you.

19 Mr. Brancato.

20 MR. BRANCATO: To answer the first  
21 question is we haven't done any specific traffic  
22 study. We know that Ford Avenue is a collector road  
23 and has a significant amount of traffic on it now.  
24 Some of that traffic that is now on Ford Avenue  
25 actually comes to the existing library. I don't think

1       there will be a material change on the traffic on Ford  
2       Avenue. We would expect that a lot of our traffic  
3       will come up Frederica Street, turn in to Ford Avenue  
4       and then turn into our driveway or coming the other  
5       direction it might turn in to Maple Street and come in  
6       to our driveway.

7                       We do hope though that the location of the  
8       library does promote and facilitate more usage, public  
9       usage. That is our goal to increase library usage  
10      within the community.

11                     I lost the second question.

12                     CHAIRMAN: Second question had to do - -  
13      there was the one on the traffic, and then there was  
14      the lighting, and then there was the parking lot.

15                     MR. BRANCATO: The lighting is we're  
16      looking at Ballard lighting as we get closer to the  
17      adjacent neighbors. Ballard lighting be the lower  
18      lighting as opposed to the more institutional type  
19      lighting. Also we are going to use some institutional  
20      lighting because of safety and because we also have an  
21      agreement with the school that the library parking lot  
22      will be available to the school on Friday nights for  
23      football and other activities.

24                     Then as far as what the school intends to  
25      do, I really couldn't speak for them, but I can tell

1       you that our arrangement with the school right now is  
2       that until we break ground they have free access and  
3       use of the parking lot. Until we need it, the school  
4       is going to be able to use it.

5               CHAIRMAN: After you all break ground,  
6       will the school have access to the parking during the  
7       day or would that be strictly excluded to library?

8               MR. BRANCATO: It will be exclusive to  
9       construction. There's not a lot of lay down room area  
10      on that lot. Of course, once the building framing is  
11      up and all the steel is erected, we won't need quite  
12      as much lay down room, but out of the abundance of  
13      caution and certain of safety, the school is going to  
14      park some place else once we break ground.

15              CHAIRMAN: Thank you.

16              Are there any other questions?

17              MR. ELLIOTT: State your name, please.

18              MR. PIKE: My name is Michael Pike.

19              (MR. MICHAEL PIKE SWORN BY ATTORNEY.)

20              MR. PIKE: My name is Michael Pike. I  
21      live at 501 Ford Avenue. I'm here to speak in  
22      opposition of this zoning change.

23              I feel like that this will be an undo  
24      burden on our community for the people who live near  
25      that. I think that Maple Avenue, St. Elizabeth,



1 Locust, Ford will be impacted greatly by the traffic.

2 I know now that during the day the high  
3 school students, a lot of them park on the side  
4 streets. It's a hindrance to traffic as it is. I  
5 think that's just going to be worse. I'm also  
6 concerned about the high school's plan to build a  
7 stadium size arena, as the paper calls it. You know,  
8 where is that going to go? Where is the parking for  
9 that going to go? How is it land being given up going  
10 to impact the high school's plan? What will happen to  
11 the community? How will that impact the community?

12 I know that three or four year ago when I  
13 had an addition to my home, I came down here and  
14 applied for a variance. I asked for eight feet closer  
15 to McCreary Avenue. I was denied that variance. Your  
16 panel told me at that time that the reason they were  
17 denying it is that it would change the character of  
18 the neighborhood. Now, if that's true and if that's  
19 the view of this panel, to protect the character of  
20 our neighborhood, I believe that this new library and  
21 this position will greatly change the character of our  
22 neighborhood and people that live there.

23 I don't oppose the library needing a new  
24 facility. I don't oppose, you know, improving or  
25 whatever. I think it's being put in the wrong place.

1       It's not a good thing for the people that put their  
2       money into their homes and try to improve their place  
3       to live. I just think it's going to be a negative  
4       impact upon our community, where we live.

5               CHAIRMAN: Thank you.

6               Are there any other questions or comments?

7               MS. BLACKBURN: Heather Blackburn.

8               I didn't get a chance to make a comment  
9       after asking my questions. I think some of my  
10      questions haven't been answered have given me rise to  
11      a lot of concern about what would happen to our  
12      neighborhood.

13              My husband and I bought our home just a  
14      little over a year ago. We understood that we were  
15      neighbors with the high school obviously buying the  
16      home where we did. We've put up with the traffic  
17      during football games and our driveway being blocked  
18      on occasion and those sorts of things. I think we've  
19      been a good neighbor to the high school.

20              Our concern though is that we are now  
21      being pushed by two public entities. We have a high  
22      school on one side and now we're going to have a  
23      library right next to it. I also don't oppose the  
24      building of a new library. I think given regulations  
25      and some of those things, we need to get the library

1 up to code. I am concerned about this location.

2 Already we have seen homes by the high  
3 school have been left neglected to a point that  
4 there's probably nothing more to do than to tear them  
5 down. I don't deny that. However, I'm beginning to  
6 wonder if I'm going to become the next immanent domain  
7 person as the high school needs more space. I have  
8 yet to hear anybody convince me that that may not  
9 happen.

10 I'm concerned about the library eventually  
11 needing more space. We are going to be sharing a city  
12 block with the library and there will be a tremendous  
13 impact on my family and in our neighborhood and our  
14 community. Until some of these questions are further  
15 answered, I would oppose the granting of any of these  
16 permissions to build at this time.

17 CHAIRMAN: Are there any other comments or  
18 questions?

19 MR. BRANCATO: I just wanted to respond to  
20 Ms. Blackburn's comment about needing more space. I  
21 hope we do need more space at the library, again, as  
22 usage grows and continues to grows. The space that we  
23 need is already in this lot. The building is being  
24 designed with future expansion in mind. The expansion  
25 would be toward the south of the existing location as

1 shown in the drawing that I sent to you all. The  
2 construction or design right now is taking into  
3 consideration the possibility of adding 20,000 square  
4 feet to the building sometime down the road, but that  
5 does not mean that we would necessarily need to add  
6 any additional space to the property that the library  
7 already owns on Frederica between Ford and Maple  
8 Avenue.

9 CHAIRMAN: Thank you.

10 Are there any other comments?

11 MR. CAMBRON: Mr. Brancato, what size is  
12 the parking that you're going to have at the new  
13 facility as opposed to what you're coming from?

14 MR. BRANCATO: We have I believe 52 spaces  
15 at the current facility and we're proposing 115 at  
16 this facility. One of the problems with the 52  
17 spaces, of course, is we have 40 some employees.  
18 They're not all there at the same time, but they do  
19 consume usually about half the space, half available  
20 park spaces. That's one of our fundamental problems.  
21 That we can't get enough of our patrons and our  
22 patrons can't find parking.

23 MR. CAMBRON: Thank you.

24 CHAIRMAN: If there are no more questions  
25 or comments.

1                   Mr. Noffsinger, do you happen to have a  
2     comment?

3                   MR. NOFFSINGER:   Yes, sir, Mr. Chairman.

4                   I just would like to state for the record  
5     that we are talking about a public facility that is  
6     exempt from zoning requirements.   This rezoning is  
7     being submitted to clean up the zoning within the area  
8     and to consolidate so that all the lots are  
9     consolidated into one parcel and clean up the zoning.  
10    Many of these issues that have been raised here  
11    tonight should be taken to the public library board as  
12    well as the city schools.   Those entities can listen  
13    to your concerns and do something about them.   This  
14    board in terms of trying to direct the public library  
15    or the city commission can only do so in an advisory  
16    capacity.   They do not have to follow the  
17    recommendations of the Planning Commission.

18                  I just want to state that for the record,  
19    again, this rezoning is clearly for property boundary  
20    reasons only.   They do not have to have this property  
21    rezoned in order to construct the library.

22                  CHAIRMAN:   Thank you, Mr. Noffsinger.

23                  With that said the chair is now ready for  
24    a motion.

25                  DR. BOTHWELL:   Motion for approval with

1 Condition 1 and Findings of Fact 1, 2 and 3.

2 CHAIRMAN: Motion for approval by Dr.

3 Bothwell.

4 MR. CAMBRON: Second.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: Motion carries unanimously.

9 Next item, please.

10 ZONING CHANGES - COUNTY

11 ITEM 4

12 10300 - 10700 Blocks Jackson Road North, 78 acres  
13 Consider zoning change: From A-R Rural Agriculture  
14 and EX-1 Coal Mining to A-R Rural Agriculture  
Applicant: Terry and Linda Dukes

15 PLANNING STAFF RECOMMENDATIONS

16 Staff recommends approval because the  
17 proposal is in compliance with the community's adopted  
18 Comprehensive Plan. The findings of fact that support  
19 this recommendation include the following:

20 Findings of Fact:

21 1. The subject property is located in a  
22 Rural Maintenance Plan Area, where  
23 agricultural/forestry uses are appropriate in general  
24 locations;

25 2. The subject property is currently

1       being used for agricultural purposes as crop land;

2                       3.   The subject property is designated as  
3       prime agricultural land according to the "Important  
4       Farmlands" map created by the US Department of  
5       Agriculture Soil Conservation Service dated March  
6       1980;

7                       4.   Mining activities have ceased and  
8       reclamation has been completed; and,

9                       5.   The Owensboro Metropolitan Zoning  
10      Ordinance Article 12a.31 requires that property shall  
11      revert to its original zoning classification after  
12      mining.

13                      MR. HOWARD:   We would like to enter the  
14      Staff Report as Exhibit B.

15                      CHAIRMAN:   Is the applicant here?

16                      APPLICANT REP:   Yes.

17                      CHAIRMAN:   Does anybody have any  
18      questions?

19                      (NO RESPONSE)

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

22                      MS. DIXON:   Move for approval based upon  
23      Findings of Fact 1, 2, 3, 4, and 5.

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

1 DR. BOTHWELL: Second.

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

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: Motion carries unanimously.

6 Next item, please.

7 ITEM 5

8 9519 KY 815, 12.337 acres  
9 Consider zoning change: From EX-1 Coal Mining to  
A-R Rural Agriculture  
10 Applicant: George and Belinda Hayden

11 PLANNING STAFF RECOMMENDATIONS

12 Staff recommends approval because the  
13 proposal is in compliance with the community's adopted  
14 Comprehensive Plan. The findings of fact that support  
15 this recommendation include the following:

16 Findings of Fact:

17 1. The subject property is located in a  
18 Rural Maintenance Plan Area, where rural farm  
19 residential uses are appropriate in limited locations;

20 2. The subject property is a separate,  
21 large tract of land;

22 3. The subject property has frontage on  
23 KY 815 which is an existing street with no new street  
24 proposed;

25 4. Mining activities have ceased and



1       reclamation has been completed; and,

2                       5.   The Owensboro Metropolitan Zoning  
3       Ordinance Article 12a.31 requires that property shall  
4       revert to its original zoning classification after  
5       mining.

6                       MR. HOWARD:   We would like to enter the  
7       Staff Report as Exhibit C.

8                       CHAIRMAN:   Is there anybody here  
9       representing the applicant?

10                      (NO RESPONSE)

11                      CHAIRMAN:   Does anybody have any  
12       questions?

13                      (NO RESPONSE)

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

16                      MR. HAYDEN:   Make a motion for approval  
17       based on Findings of Fact 1 through 5.

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

20                      SISTER VIVIAN:   Second.

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

23                      (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24                      CHAIRMAN:   Motion carries unanimously.

25                      Next item, please.

## 1 MAJOR SUBDIVISIONS

## 2 ITEM 6

3 Lake Forest, Unit 22, Lots 259-261, 268, 269, 275-277,  
3.371 acres

4 Consider approval of major subdivision final plat.

5 Surety (Certificate of Deposit) posted \$53,668.14

6 Applicant: Lake Forest Community, LLC

7 MR. NOFFSINGER: Mr. Chairman, this plat  
8 has been reviewed by the Planning Staff. It's found  
9 to be consistent with the Comprehensive Plan and the  
10 Adopted Zoning Ordinance and Subdivision Regulation.  
11 It's ready for consideration.

12 CHAIRMAN: Do we have anybody here  
13 representing the applicant?

14 APPLICANT REP: Yes.

15 CHAIRMAN: Does anybody have any questions  
16 of the applicant?

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 DR. BOTHWELL: Second.

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

26 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

1 CHAIRMAN: Motion carries unanimously.

2 -----

3 MINOR SUBDIVISIONS

4 ITEM 7

5 701, 709, 715 Fulton Drive, 0.551 acres  
6 Consider approval of minor subdivision plat.  
7 Applicant: Talk II Enterprises

8 MR. NOFFSINGER: Mr. Chairman, this plat  
9 comes before the Planning Commission having been  
10 reviewed by the Planning Staff and found to be in  
11 order.

12 It creates a lot to the rear of another  
13 parcel that will not have frontage on public  
14 right-of-way. There is an access easement going back  
15 to that lot that will not have frontage on the public  
16 right-of-way; however, this is for the creation of a  
17 leased lot area for an existing telecommunications  
18 tower. There is a notation on the plat that this  
19 property is to be used for tower facilities only. So  
20 with that the Staff would recommend that you grant the  
21 exception and approve the plat.

22 CHAIRMAN: Is anybody here representing  
23 the applicant?

24 APPLICANT REP: Yes.

25 CHAIRMAN: Does anybody have any questions  
of the applicant?

1 (NO RESPONSE)

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

4 MS. DIXON: Move to approve.

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

7 SISTER VIVIAN: Second.

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

10 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

11 CHAIRMAN: Motion carries unanimously.

12 Next item, please.

13 ITEM 8

14 124 Ellis Smeathers Road, 4+/- acres  
15 Consider approval of minor subdivision plat.  
16 Applicant: Yager Enterprises

17 MR. NOFFSINGER: Mr. Chairman, this plat  
18 has been reviewed by the Planning Staff. It's found  
19 to be in order. It was surveyed by the City of  
20 Owensboro. It's for acquisition of right-of-way along  
21 the Ellis Smeathers Road, which I discussed in Item  
22 Number 2. The plat is in order and is ready for your  
23 consideration. If it's approved, it would need to be  
24 approved subject to the land owners signing the  
25 plat. It's my understanding that the plat has been  
prepared, but the original tracing was at an

1 attorney's office that's on vacation. They were  
2 unable to get the plat signed for this meeting. It  
3 will get signatures. If not, the plat will not be  
4 signed.

5 CHAIRMAN: Is anybody here representing  
6 the applicant?

7 (NO RESPONSE)

8 CHAIRMAN: Anybody have any questions?

9 (NO RESPONSE)

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

12 MR. CAMBRON: Motion for approval, Mr.  
13 Chairman, with the stipulation that the plat is signed  
14 by the owner.

15 Is that correct, Mr. Noffsinger?

16 MR. NOFFSINGER: Yes, sir.

17 CHAIRMAN: Motion for approval by Mr.  
18 Cambron with the conditions.

19 MS. DIXON: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously.

24 Next item, please.

25 -----

1                                    AGRICULTURAL DIVISIONS

2            ITEM 9

3            4400-4500 Blocks Medley Road, 10.015 acres  
4            Consider approval of agricultural division.  
5            (Postponed from July 14, 2005 meeting)  
6            Applicant: Robert Wimsatt

7                                   MR. ELLIOTT: State your name, please.

8                                   MR. WIMSATT: Bob Wimsatt.

9                                   (MR. BOB WIMSATT SWORN BY ATTORNEY.)

10                                  DR. BOTHWELL: I want to ask a question  
11            before we get started.

12                                  CHAIRMAN: Sure.

13                                  DR. BOTHWELL: So we are still on last  
14            months recommendation that it not be approved. Is  
15            that the Staff's contention?

16                                  MR. NOFFSINGER: Yes, sir. There has been  
17            much dialogue conversations amongst different  
18            individuals from Planning Staff and on the other side.  
19            Nothing has changed since the last meeting.

20                                  DR. BOTHWELL: Thank you.

21                                  MR. CAMBRON: Can I be I guess brought up  
22            to speed? I don't remember exactly why it was denied.

23                                  MR. WIMSATT: Mr. Chairman, if you would  
24            like, I could go through my presentation.

25                                  CHAIRMAN: No, sir. We're going to have a  
                                background first.

1                   MR. NOFFSINGER: The applicant submitted a  
2 plat to the Planning office for review as an  
3 agricultural division. It was discussed. There was  
4 some discussion at the last meeting as to whether or  
5 not this was an agricultural division.

6                   The Staff's contention is that the  
7 property as presented is not an agricultural division,  
8 in that it is proposed creation of a ten acre tract of  
9 land that is part of a parent tract that has seen  
10 ongoing development. This is nothing more than one  
11 more lot off of that parent tract.

12                  The Planning Staff, although we would  
13 prefer to see a number of lots created on this ten  
14 acres, the Planning Staff would not be opposed to the  
15 creation of a ten acre tract provided this tract  
16 address the ongoing development of the parent tract  
17 that this property is involved in. There was a  
18 request that a notation be placed on this plat that,  
19 aside from what's already on it, that there will be -  
20 - if there's ever a street constructed through this  
21 property, that that street be constructed through the  
22 property to the adjoining property to the south.

23                  The applicant contends that they want to  
24 create additional tracts in the future, but do not  
25 want to be subject to a street having to connect to

1 the adjoining property.

2 Since our last meeting we recommended a  
3 somewhat modified note that basically stated that if a  
4 street is required in the future for property  
5 divisions, that street will connect to the adjoining  
6 property. Not necessarily to the south. It's my  
7 understanding that the applicant was opposed to that.

8 The debate centers around whether or not  
9 this is an agricultural division, and it's based upon  
10 also this notation that the applicant disagrees with  
11 the Staff.

12 DR. BOTHWELL: Mr. Noffsinger, just for my  
13 own clarity and hopefully for Mr. Cambron's.

14 We were not opposed to one home being  
15 placed on this and no requirement for the street to  
16 run through. It was the subsequent potential  
17 subdivision for further homes that created the  
18 issue. Is that not correct?

19 MR. NOFFSINGER: That's correct.

20 MR. CAMBRON: I don't have this piece of  
21 paper. I don't know exactly where it's located at, so  
22 on and so forth.

23 MR. APPLEBY: That's just the notation.

24 CHAIRMAN: Does anybody else on the  
25 commission have any comments?



1 (NO RESPONSE)

2 CHAIRMAN: Mr. Wimsatt, before you begin,  
3 the Commission has been informed greatly on this  
4 issue. We've spent a great deal of time on it at the  
5 last meeting and we did postpone it for this meeting.  
6 So anything that you may have to state, you know, we  
7 would hopefully not be redundant on any issue that  
8 would be addressed on the issue of agricultural,  
9 nonagricultural.

10 MR. WIMSATT: I'll try to be careful in  
11 making sure that I don't bog any of our time down with  
12 redundant information.

13 CHAIRMAN: We feel like a ten minute  
14 presentation would be more than enough.

15 MR. WIMSATT: I'll speak as quickly as I  
16 can, Mr. Chairman.

17 First, Mr. Chairman, I do feel like it's  
18 important for me before I say anything tonight. I do  
19 sincerely apologize to each of you. If in any way I  
20 came off abrasive, argumentative or over-aggressive in  
21 the thoughts and points I tried to get across at the  
22 meeting. Especially my apology to you, Mr. Kirkland,  
23 and you, Dr. Bothwell. I assure you in no way was it  
24 my intention to offend anyone then nor was it my  
25 intention here tonight and I'll try very hard to

1        simply stick to the facts.

2                    Mr. Chairman, I hope on my part to do a  
3        better job presenting the facts here tonight.

4                    Mr. Chairman, the plat that you have  
5        before you tonight still is this ten acre agricultural  
6        division. To help orient everyone or make it a little  
7        clearer where that ten acres is, just try to make it a  
8        little clearer because I think you all have a concept  
9        drawing, which isn't necessarily real clear.

10                   This ten acres sits right here, this  
11        agricultural division. This is part of what was  
12        originally a couple of hundred acre tract. Over the  
13        last eight to ten years, I have developed some of this  
14        property. What I've developed is maybe 25 percent of  
15        that property over in this corner. I also have - -  
16        all of this has been done has been fully designed and  
17        deeded and ready for sale.

18                   I've also done preliminary plats on some  
19        portions of this property. I've actually done the  
20        design work that's been approved by this commission.  
21        This work is not all being completed. It is not all  
22        ready for sale at this time.

23                   In addition, I've sold some pieces off of  
24        this property. I've sold eight or ten acres here and  
25        did not develop that property, even though I could

1 have come in here with a cul-de-sac. I sold five,  
2 six, seven, eight acres here. You may remember it.  
3 It was about a year or so ago. I was looking at  
4 putting a short cul-de-sac in here that did meet this  
5 commissions approval. Would do a cul-de-sac that  
6 wasn't being required to be connected to anything. It  
7 met the zoning ordinance. Do a cul-de-sac here. I  
8 remember the neighbors showed up in force and opposed  
9 it. This commission, and I pretty vividly, Mr.  
10 Kirkland, remember you pointing out to the neighbors  
11 that this was in order. It was approved by this  
12 commission. Since then I did decide to go ahead and  
13 sell this to the neighbors and I pulled that.

14 My point is that much of this property has  
15 yet to be developed. There are no formal design plans  
16 for a great deal of this property. All there is at  
17 this time is just a concept that's subject to change.  
18 That concept in fact has changed many times over the  
19 years. At one time this street was suppose to go this  
20 way and connect in to Bon Harbor Estate.

21 Mr. Steel decided he had an annexation  
22 agreement with the city. He had a complete design  
23 plans to develop all this property. He decided for  
24 his own personal reasons that he was not going to  
25 develop that property. He had the right to decide not

1 to do that. There's an annexation agreement with the  
2 city. He had that right. The city did not oppose him  
3 deciding not to develop that property. Things change.

4 When this changed, we decided to revise  
5 our concept plan. Instead of the street coming across  
6 here and coming down here, we made this two  
7 cul-de-sacs. We brought this street this way.  
8 There's been other changes on this concept plan. This  
9 concept plan excluded, it's changing all the time.  
10 There's so much question mark as to what might happen  
11 in this area in the future.

12 If I decided to set this apart as an  
13 agricultural reserve like Mr. Steel did on his  
14 property back here, there might not ever be any  
15 development on that property. I'm not suggesting  
16 that's necessary what I intend to do.

17 The point I'm trying to make is if I'm not  
18 sure that it was clear from the concept drawing that  
19 you all had, what really has happened on this  
20 property. What has happened, has happened in eight or  
21 ten years time frame. It doesn't happen overnight.  
22 There's a lot of changes that can occur and a lot of  
23 gray area in here that just simply we don't know.

24 The note, I hope it's clear that we are  
25 not opposed to putting a note on there saying that if

1 anything ever happens to this ten acres that we  
2 realize it has to meet subdivision regs.

3 CHAIRMAN: Let me stop you right there.  
4 If you agree to the note that the Staff wants to  
5 assign to the property, correct, Mr. Noffsinger, if  
6 you want to agree to that note, the issue has ended as  
7 far as we're concerned.

8 MR. WIMSATT: I would really like for this  
9 issue to be over. The note that they've asked for,  
10 Mr. Chairman, the note that they've asked for is for  
11 us to go ahead right now and say - - originally the  
12 note was to ask that street to go all the way to the  
13 bottom of this property line. Now, since then there  
14 has been some discussion that maybe that street could  
15 go here or there or wherever.

16 CHAIRMAN: If you'll pause just a moment  
17 I'll have Mr. Noffsinger read verbatim the note that  
18 they proposed. We will read that into the record. If  
19 you agree to that, then based on the briefing that the  
20 Staff gave us, then their situation would change.

21 Mr. Noffsinger.

22 MR. NOFFSINGER: "Future property  
23 divisions requiring public street construction shall  
24 require street connection to adjoining property."  
25 That is the full notation and that is usual, customary

1 on each development that is considered by this  
2 commission.

3 MR. WIMSATT: I'm trying to be real  
4 careful because I don't want to come off  
5 argumentative, as I said when I started.

6 I know that it is often times customary  
7 that a street to be asked to be subbed out. As it was  
8 asked to be subbed out here and on various locations  
9 over here. Those requests are made and typically  
10 accommodated by the developer at the time when they  
11 get ready to develop that piece of property. At that  
12 time you have a better feel for what's going on around  
13 you. That's a discussion for a later date. That's  
14 the concern that we have by making that commitment  
15 now. A year and a half ago we approved the cul-de-sac  
16 right mere because that made since at that time. This  
17 commission approved that.

18 CHAIRMAN: Mr. Wimsatt, wait just a  
19 minute. I think I'm vastly confused. I thought you  
20 said or stated that you had no problem with the note  
21 being attached to the property.

22 MR. WIMSATT: The problem, Mr. Chairman, I  
23 believe, I really am trying to be clear. The problem  
24 is that the note says that future subdivision will  
25 require that a street be adjoining to the adjoining

1 property line. We don't know depending upon - - first  
2 off we don't know that that ten acres will ever be  
3 developed.

4 CHAIRMAN: And if it's not, no street is  
5 required.

6 MR. WIMSATT: I understand that. How it  
7 will be developed, how many lots. We don't know any  
8 of that stuff. So it may very well make perfect sense  
9 just as this commission approved the cul-de-sac to go  
10 right here. It may very well make sense, depending  
11 upon what's actually happened out there at that time  
12 and what this individual actually proposes to do with  
13 that ten acres. It may very well make sense to just  
14 do a little cul-de-sac. That's the difference that  
15 I'm trying to get across.

16 CHAIRMAN: Let me ask. Will a cul-de-sac  
17 meet the requirements?

18 MR. NOFFSINGER: No, sir.

19 CHAIRMAN: Thank you.

20 Dr. Bothwell.

21 DR. BOTHWELL: Mr. Chairman, we've been  
22 down this road over and over as of the last meeting.  
23 We're saying that we will approve this for one home.  
24 They want the right to add more without putting a  
25 street through. We say no. That's the note that we

1       want to put on the property to make this an  
2       agricultural subdivision. If we allow more homes to  
3       go in there, now we're talking a minor subdivision.  
4       Not agricultural division.

5                   MR. WIMSATT: I understand that.

6                   DR. BOTHWELL: To be very clear on that,  
7       that's what this note is for. It doesn't say where  
8       the street has to go. It doesn't say where it has to  
9       stub in. It just says it has to come some place to  
10      the adjoining property. I think that's a reasonable  
11      request, if they want to do something more than what  
12      they're asking, which is an agricultural division. If  
13      you're coming to us and want to put more than one  
14      house on there, then you should be coming to us with a  
15      minor subdivision plat period.

16                  MR. APPLEBY: I have a question. This  
17      note doesn't say he has to build a street; is that  
18      right?

19                  MR. NOFFSINGER: That's correct. You  
20      could create additional tracts. One. Perhaps no more  
21      than one additional tract without constructing a  
22      street, but if you created more than that, it would  
23      likely trigger a street. We're trying to avoid the  
24      situation that we were put in with the cul-de-sac that  
25      Mr. Wimsatt is talking about that created much



1 controversy in that neighborhood. Because we left a  
2 remnant of land that was undeveloped that was not a  
3 part of his development. That he had no intentions of  
4 ever developing because it was a utility easement.  
5 Once he developed around it, then all of a sudden it  
6 became developable and he came in with a cul-de-sac  
7 which created a lot of controversy in that  
8 neighborhood.

9 That ten acre tract that he's speaking of  
10 in green I believe is owned by the gas company. There  
11 are storage wells located on that property. That  
12 property is likely never to develop and should have  
13 been isolated from the development.

14 MR. WIMSATT: There's a storage well right  
15 here. There are some storage wells, but there wasn't  
16 enough room to do a street in here. There are houses  
17 all the way around that storage well.

18 MR. NOFFSINGER: Does the gas company own  
19 that?

20 MR. WIMSATT: Yes, they do.

21 MR. NOFFSINGER: So it was not sold for  
22 residential development. It was sold to a utility  
23 company.

24 MR. CAMBRON: Can I ask a question, Mr.  
25 Chairman?

1 CHAIRMAN: Mr. Cambron.

2 MR. CAMBRON: I direct this to Mr.

3 Noffsinger.

4 Is it customary, and I ask this as an open  
5 question, for us as a board, and we're doing an  
6 agricultural division, to put that note on there?

7 MR. NOFFSINGER: Again, I question - - I  
8 do not believe this is an agricultural division.

9 MR. CAMBRON: I'm not sure that we can  
10 question that. I mean you can question it, but he's  
11 come before us requesting an agricultural division.  
12 My question is just: Is this customary for when we're  
13 doing an agricultural division to do this?

14 MR. NOFFSINGER: It is not customary on an  
15 agricultural division; however, I could go on.

16 MR. CAMBRON: I know.

17 CHAIRMAN: Complete your thought and  
18 sentence.

19 MR. NOFFSINGER: However, we are not  
20 considering I do not believe an agricultural division.  
21 Because Mr. Wimsatt says this is an agricultural  
22 division does not make it so. That is for this board  
23 to determine based upon the facts presented in the  
24 record.

25 MR. CAMBRON: My other question is this:

1 Mr. Wimsatt is selling this to somebody I presume.

2 Is that correct, Mr. Wimsatt?

3 MR. WIMSATT: I certainly hope so.

4 MR. CAMBRON: Then that burden, would not  
5 that burden be given to the person that's going to be  
6 - - forget this note. If we don't put the note on  
7 there period. Again, I'm not sure we really have to  
8 at this point in time. Doesn't that burden go to the  
9 person that buys that property, when he comes before  
10 us either provide one tract, two tracts, three houses,  
11 five houses or whatever?

12 MR. NOFFSINGER: Yes, sir, but what we're  
13 trying to do is plan for the future possibilities  
14 because we're taking a tract of land that's say 200  
15 acres and we're reducing it down to 190 acres. For  
16 whatever we've created a ten acre tract that could be  
17 developed and should not be developed based upon the  
18 adopted comprehensive plan in isolation. It should be  
19 part of a plan development of that overall area where  
20 that the community and the neighborhood connects  
21 through streets, walkways and things like that.

22 MR. CAMBRON: Not to interrupt you. As I  
23 look at that, you've got - what is that? - 300 acres  
24 around that. Probably not 300. 250 acres around  
25 that, Mr. Wimsatt?

1 MR. WIMSATT: Roughly 100 acres.

2 MR. CAMBRON: You've got 100 acres there.

3 I understand what you're saying. I just have a hard  
4 time putting the burden on something that at one point  
5 in time here he's not going to have a thing to do with  
6 it. He's going to sell it. We have regulations and  
7 guidelines to go by when a person buys that if he does  
8 develop it.

9 MR. ROGERS: Nick, last month the reason  
10 all this happened - -

11 MR. CAMBRON: I wasn't here.

12 MR. ROGERS: Whoever he was selling this  
13 to wanted to build a house and build a street up there  
14 and build two more houses. That took it away from  
15 being a farm.

16 MR. CAMBRON: But that's what he says he  
17 wants to do. I'm not saying he wouldn't. I'm just  
18 saying he hasn't applied for anything either, correct?

19 DR. BOTHWELL: No, but he's applied for  
20 the right to do those two houses under an agricultural  
21 division of this land. They want their cake and eat  
22 it too basically. That's my opinion. They want an  
23 agricultural division, but they want to be able to put  
24 two lots in there and not call it a minor subdivision.

25 MR. CAMBRON: All I'm looking at is this.

1                   CHAIRMAN: We heard it to a great extent  
2                   last month and it was pretty well clear.

3                   MR. CAMBRON: I'm very sorry I missed  
4                   that.

5                   CHAIRMAN: As Mr. Rogers pointed out, I  
6                   think we did hit - -

7                   MR. WIMSATT: Mr. Chairman, I think the  
8                   buyer would like to speak. I would like to offer  
9                   this. This is from the Comprehensive Plan. This is  
10                  Agricultural Division.

11                  MR. ELLIOTT: State your name, please.

12                  MR. STALLINGS: Brett Stallings.

13                  (MR. BRETT STALLINGS SWORN BY ATTORNEY.)

14                  MR. STALLINGS: As far as future  
15                  development, when Bob and I started talking about this  
16                  I was very clear to him what I wanted. I wanted ten  
17                  plus acres. Once we settle on that - - the reason I  
18                  asked him could we put in to our contract, which he  
19                  and I have already signed, that in the future if my  
20                  plans change and I have to sell this property I would  
21                  like to be able to divide it up some way or another.  
22                  In other words, if another buyer does not want the  
23                  house I've constructed and ten acres, I want to have  
24                  an option.

25                  Also if it's an agricultural division,

1 anything less than ten acres is no longer an ag  
2 division. So let's say if I came back here, and I  
3 want to say for the records it's totally my intent to  
4 build a home and have the entire ten acres for myself.  
5 Let's just say I came back down here and said, I want  
6 to build a home. All bets are off on the ag division  
7 because you're less than ten acres.

8 I guess what I've asked when speaking with  
9 Brian in the past was if I ever choose to do future  
10 development with this property I or whoever is buying  
11 this will have to come down and go through zoning or  
12 whatever regulations to make it fly. In so doing,  
13 then it would cease being, if we divide it up it would  
14 cease being an ag division. It is not. That is not  
15 what I'm doing this for. I have absolutely zero  
16 intention of developing any property there because if  
17 - - let's just say for instance if the note is not on  
18 there, even if I develop that I would have to build  
19 the streets, sewer, etcetera, whatever, to make that  
20 happen. From a cost standpoint, if I sold two lots  
21 off that, which is what our agreement is max I could  
22 do, if I did that, then I'm going to have to pay for a  
23 road.

24 My point is I don't think that, I don't  
25 think I could ever come out monetarily doing that.

1 The whole reason that I wanted that option is because  
2 from a seller standpoint, and this is what I told Bob  
3 and why I didn't want the note on there.

4 Let's say if I go to market this and I've  
5 asked two prominent builders in town, if I have this  
6 note on there is the value of my property more or  
7 less? They both said less with the note. Now, again,  
8 if I ever decide to do anything I will have to - -  
9 again, then my ten acres will cease becoming an ag  
10 division and then I would have to come down here to  
11 make a request to do whatever it is I want to do and  
12 I'll have to still abide by the rules at that time.

13 CHAIRMAN: Just a moment, Mr. Stallings.

14 Mr. Jagoe, could you explain to me why his  
15 property value would be worth less with the note  
16 attached to the property? He would have to do if he  
17 did - -

18 MR. JAGOE: He talked to two builders and  
19 he didn't talk to developers was his statement. If  
20 you took ten acres and and subdivided that, you could  
21 get more than two or three lots if that's what we're  
22 talking about. You could put the streets in.

23 I don't have privy to what you're paying  
24 for the ground, but it's done all the time and  
25 economically it works out. I understand that may not

1 be what you want to do. If it's two builders and  
2 you're splitting it off and so forth, then that's just  
3 going to be what the market bares for the price.

4 CHAIRMAN: I was having a problem  
5 understanding his statement that this note would cause  
6 the property to be worth less.

7 MR. STALLINGS: May I add one comment.

8 CHAIRMAN: Sure.

9 MR. STALLINGS: I know that if you went  
10 out and developed it and whatever, let's say in half  
11 acre lots, you could put many lots there. What I mean  
12 by that though if you're just going to have, as our  
13 agreement, a maximum of two other lots on that  
14 property, then you are restricted, again, we  
15 restricted two maximum lots and you have to build a  
16 road to make that happen. I just feel like most  
17 people looking at this are going to see it more of a  
18 liability than an asset because they can't develop it.

19 CHAIRMAN: Mr. Stallings, here's where we  
20 are right now. The Staff has recommended this to be  
21 denied. The Staff has worked diligently to try to  
22 reach a compromise to try to push this project  
23 forward. At this point in time, I guess I  
24 misunderstood what Mr. Wimsatt said. I thought he at  
25 one point stated that you all did not have opposition



1 with the note. With the note being attached to the  
2 property, that completely gets us out of the long-term  
3 review of what could happen to this property. It's  
4 almost automatic. We don't have to come back for  
5 further debate and further arraignment over what could  
6 or could not happen. It's very clear cut what needs  
7 to be done. So basically that is the situation the  
8 board is faced with and that is where we stand right  
9 now. So you as a property owner have that decision to  
10 make. If you decide to go and agree to the note and  
11 the compromise that the staff offered you, then so be  
12 it. If you do not, I think it's time for this board  
13 to make a decision which they have to make because I  
14 don't see any other statements other than redundant  
15 statements that could be brought up at this time. I  
16 think Mr. Jagoe may have one more comment.

17 MR. JAGOE: Just a point of clarification.  
18 Under the ten acres you can build one home. That's  
19 correct, right?

20 MR. NOFFSINGER: Yes, sir.

21 MR. JAGOE: But he could subdivide and  
22 build two?

23 MR. NOFFSINGER: Yes, sir.

24 MR. JAGOE: And if subdivides and builds  
25 two, he has to put a street in this note?

1 MR. NOFFSINGER: No, sir.

2 MR. JAGOE: If he does subdivide to three,  
3 it becomes a minor division?

4 MR. NOFFSINGER: No, sir. It would become  
5 a minor subdivision before that. He doesn't have  
6 enough frontage to meet depth to width ratio to get  
7 that third lot. So that would - -

8 MR. JAGOE: But for two he could?

9 MR. NOFFSINGER: For two I think he could.

10 MR. JAGOE: Your goal would be maybe if  
11 you had to sell down the road would be to go with  
12 three. Is that what I heard you say?

13 MR. STALLINGS: Yes. I just would like  
14 options.

15 MR. JAGOE: Okay. If you went to three,  
16 you would have to put a street in?

17 MR. NOFFSINGER: Yes.

18 MR. JAGOE: Because you're not meeting lot  
19 to depth and you're going to - -

20 MR. NOFFSINGER: Right.

21 MR. WIMSATT: Mr. Chairman, I have just -

22 -

23 MR. JAGOE: Let me finish.

24 Can you bring a five acre tract in? Could  
25 he just bring in a five acre tract?

1 MR. APPLEBY: Not as an ag division.

2 You're just saying a five acre tract?

3 MR. JAGOE: Just a five acre tract. Bring  
4 it in and create a lot. Is that possible?

5 MR. APPLEBY: Not without frontage.

6 MR. JAGOE: But it is possible?

7 MR. NOFFSINGER: Well, it's possible to do  
8 a five acre tract, yes.

9 MR. JAGOE: Then you could come in and do  
10 another five at the next meeting; is that correct, but  
11 you have to meet the lot to width ratio?

12 MR. NOFFSINGER: Right.

13 MR. CAMBRON: I just make this comment. I  
14 feel like, and again I wasn't here last month. I feel  
15 like we're putting a note on here that really burdens  
16 the buyer and I guess we're penalizing him for  
17 possibly for what could happen, but yet we don't even  
18 know what's happened, but we have all these  
19 regulations in place that would stop this or at least  
20 hinder it anyway.

21 MR. JAGOE: Just want to make sure I  
22 understand this correctly. You could subdivide one  
23 more time and get two homes. Three times you're not  
24 going to meet the lot to width ratio. You would have  
25 to build some type of street. You could subdivide

1 three times if you met the lot to width ratio, lot to  
2 depth ratio rather; is that correct?

3 MR. NOFFSINGER: That's correct.

4 MR. WIMSATT: Mr. Chairman, may I please  
5 just add one other bit of information?

6 CHAIRMAN: A final comment.

7 MR. WIMSATT: Just in regards to whether  
8 or not this note is customary on an agricultural  
9 division. What I handed out was directly out of the  
10 Comprehensive Plan. It does say that a ten acre tract  
11 with 50 foot of road frontage, according to KRS 1000  
12 and according to policies. All I can ask is that you  
13 please read it. It's directly out of the  
14 Comprehensive Plan. It says that this commission  
15 recognizes that, in KRS 100 recognizes a 10 acre tract  
16 with 50 foot of road frontage as an agricultural  
17 division.

18 As an example of that, this is another  
19 tract that I broke off just this past month. This was  
20 approved by Mr. Noffsinger just two weeks ago. This  
21 is 20 acres that I broke off of another tract. This  
22 is right across the road from this property. This  
23 Boothfield Road. This is right across the road from  
24 that property. You have small homes and you have  
25 large tracts going on everywhere out there. You have

1       Gray State Estates and other developments going on out  
2       there. This is a 20 acre tract so it's 10 acres plus.  
3       It has at least 50 foot of road frontage. This is an  
4       agricultural division. It says this plat deemed to be  
5       an agricultural division. It was approved and signed  
6       by Mr. Noffsinger in-house.

7                   DR. BOTHWELL: Mr. Chairman, excuse me but  
8       we're off track again. This is not the same issue.

9                   Is chair ready for a motion?

10                  CHAIRMAN: I told him he could make his  
11       final comment and I will let him.

12                  MR. STALLINGS: The only thing. What Mr.  
13       Cambron says kind of was my feelings exactly and what  
14       I've said to Mr. Wimsatt every time. I just feel like  
15       it's an unnecessary burden on me. Not on him but on  
16       me.

17                  MR. APPLEBY: I have one comment.

18                  CHAIRMAN: Yes, sir, Mr. Appleby.

19                  MR. APPLEBY: At the last meeting it was  
20       brought as an ag division. You said, Bob, he wanted  
21       to reserve the right to subdivide at least two more  
22       lots off of it. So that right off the bat makes it  
23       anything but an ag division.

24                  MR. WIMSATT: This - -

25                  CHAIRMAN: Just a moment.

1                   MR. APPLEBY: This is not a burden unless  
2     you subdivide it. If it's an ag division, the 10 acre  
3     ag division you can cut another lot off of it and  
4     still meet the width to depth ratio for the additional  
5     lot, unless you try to cut a third lot or more lots,  
6     at which at that point you're subdividing the  
7     property. You don't have this requirement to build a  
8     street. So this is not a burden on it unless you  
9     subdivide the property. That's the way I see it.  
10    Then it becomes a subdivision and this is required on  
11    practically every subdivision plat we do. That we  
12    require streets to reach the adjoining property.

13                  MR. WIMSATT: Can we make that clear, that  
14    the note would only be applied if we do above the  
15    three lots? If you can do two lots without that - -

16                  MR. APPLEBY: But you can't do it and meet  
17    the frontage requirements. You can't cut three lots  
18    off.

19                  MR. WIMSATT: I thought Mr. Noffsinger  
20    just said that - -

21                  MR. APPLEBY: He said you could do two.  
22    You could cut one lot off and make two.

23                  MR. WIMSATT: So can we say that he could  
24    break at least one lot off without that requirement  
25    being made? That's what we're saying tonight. That

1 he can do that.

2 CHAIRMAN: Just a moment.

3 Mr. Noffsinger.

4 MR. JAGOE: The note does say that because  
5 it says - -

6 MR. APPLEBY: It says future division  
7 requiring public streets. One division won't require  
8 public street.

9 DR. BOTHWELL: Mr. Chairman, this has been  
10 presented as breaking it into three lots. That's been  
11 the presentation from the beginning and we could have  
12 saved a lot of time if we could have gotten them to  
13 agree to two and we would not have to be where we are.

14 MR. APPLEBY: Well, you can't do an ag  
15 division and have two lots.

16 DR. BOTHWELL: They can break it into five  
17 and five.

18 MR. APPLEBY: That's not an ag division  
19 though. We're doing a ten acre ag division, which is  
20 what the gentleman wants to buy at this point, but he  
21 wants to reserve the right to further subdivide it.  
22 Well, if he does, then this note applies the way I see  
23 it.

24 DR. BOTHWELL: Is the chair ready for a  
25 motion now?

1                   CHAIRMAN: The chair is ready for a  
2 motion. Everybody had their closing comments and  
3 questions. I think the commission was very open in  
4 listening to some redundant. Hopefully not a whole  
5 lot of redundant information. So at this point in  
6 time Dr. Bothwell the chair will accept a motion.

7                   DR. BOTHWELL: Mr. Chairman, I move for  
8 denial of this application based on findings of fact  
9 that this is not a true agricultural subdivision. The  
10 land is located in an ongoing development. The Staff  
11 has been more than I think generous and going the  
12 extra mile trying to negotiate a compromise in the  
13 last 30 days. I make a motion for denial based on  
14 those - -

15                  MR. APPLEBY: You're making a motion for  
16 denial if they refuse to put this note on there. Is  
17 that the way I understand it?

18                  DR. BOTHWELL: Yes, that is correct.

19                  MR. WIMSATT: Can we have the option to  
20 put the note on there?

21                  CHAIRMAN: Mr. Wimsatt, at this point in  
22 time, the option is you either do or you don't. If  
23 you do not want to put the note on there, Dr.  
24 Bothwell's motion is in the hopper waiting for a  
25 second. I mean there's not going to be an option to



1 option it. As we stand right now, his motion is for  
2 denial.

3 (MR. WIMSATT AND MR. STALLINGS CONFER.)

4 MR. BOTHWELL: I assume, Mr. Chairman,  
5 we're waiting for a second?

6 CHAIRMAN: No. I think we're giving them  
7 time to discuss it. I think there will be a second  
8 forthcoming, but I'm giving them more of a courtesy.

9 MR. WIMSATT: Mr. Noffsinger, would you be  
10 opposed to us adding some additional acreage to this  
11 10 acres. That would get it up to 11 acres. That  
12 would allow him to do one or two lots along the front  
13 without having to build a road and then he could put  
14 that note on there that you want. If he builds the  
15 road he will connect? Would that be acceptable to the  
16 Staff?

17 MR. NOFFSINGER: Mr. Wimsatt, we would be  
18 receptive to listen to that, if you submit a plat in  
19 that fashion. Right now this commission has a plat to  
20 consider as submitted. Be my recommendation to the  
21 Planning Commission that you consider the plat as  
22 submitted. Then when they come up with a plat that  
23 they can live with, we can review it. They can submit  
24 it as a minor subdivision and go with it. Staff  
25 recommend you follow along the lines of Dr. Bothwell's

1 motion

2 CHAIRMAN: Dr. Bothwell has a motion. We  
3 have allowed some additional discussion in courtesy to  
4 the applicant.

5 At this point in time the chair has a  
6 motion for denial. You did state the findings of  
7 fact. The chair is now ready for a second.

8 MR. ROGERS: Second.

9 CHAIRMAN: Second by Mr. Rogers. All in  
10 favor of Dr. Bothwell's motion for denial raise your  
11 right hand.

12 (BOARD MEMBERS - DAVE APPLEBY, SCOTT  
13 JAGOE, IRVIN ROGERS, SISTER VIVIAN BOWLES, DREW  
14 KIRKLAND, JUDY DIXON, DR. MARK BOTHWELL AND MARTIN  
15 HAYDEN - ALL RESPONDED AYE.)

16 CHAIRMAN: We've got in favor of. All  
17 opposed.

18 (BOARD MEMBER - NICK CAMBRON - RESPONDED  
19 NAY.)

20 CHAIRMAN: Have one against. The motion  
21 carries.

22 We have new business.

23 -----

24 NEW BUSINESS

25

1       ITEM 10

2       Check signing resolution.

3                   MR. NOFFSINGER: I have a check signing  
4       resolution that needs to be signed by the officers,  
5       the Mr. Chairman, Vice Chairman as well as the  
6       Secretary. It would be on file at Independence Bank  
7       and this resolution is necessary to be approved by  
8       this commission so the bank will have record of each  
9       of your signatures for check signing purposes. That  
10      would require approval for the Chairman, Vice Chairman  
11      and Secretary to sign all checks, as they have in the  
12      past. This is a matter of record keeping.

13                  CHAIRMAN: Chair is ready for a motion.

14                  MR. ROGERS: Motion for approval.

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

17                  MR. CAMBRON: Second.

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

20                  (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21                  CHAIRMAN: Motion carries unanimously.

22                  We have one final motion for the chair.

23                  MS. DIXON: Motion to adjourn.

24                  DR. BOTHWELL: Second.

25                  CHAIRMAN: All in favor raise your right

1 hand.

2 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

3 CHAIRMAN: Motion carries. We are

4 adjourned.

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16                   WITNESS my hand and notarial seal on this  
17       the 2nd day of September, 2005

19 \_\_\_\_\_  
20 LYNNETTE KOLLER, NOTARY PUBLIC  
21 OHIO VALLEY REPORTING SERVICE  
22 202 WEST THIRD STREET, SUITE 12  
23 OWENSBORO, KENTUCKY 42303

COUNTY OF RESIDENCE:  
24 DAVIESS COUNTY, KENTUCKY

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