The Owensboro Metropolitan Planning Commission met in regular session at 6:00 p.m. on Thursday, November 10, 2005, at City Hall, Commission Chambers, Owensboro, Kentucky, and the proceedings were as follows:

MEMBERS PRESENT: Drew Kirkland, Chairman
Gary Noffsinger
Dave Appleby
Scott Jagoe
Irvin Rogers
Sister Vivian Bowles
Judy Dixon
Martin Hayden
Madison Silvert, Co-Counsel
Stewart Elliott, Attorney

CHAIRMAN: I would like to welcome everyone to the November 10, 2005, Owensboro Metropolitan Planning Commission. Would you please rise while our invocation is given by Mr. Scott Jagoe.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: Our first order of business is to approve the minutes of the October 13, 2005 meeting. Are there any additions, questions, corrections?
CHAIRMAN: If not the Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please, Mr. Noffsinger.

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PUBLIC HEARING

ITEM 2

Consider text amendments to the Owensboro Metropolitan Subdivision Regulations, Article 2, Article 3, Article 4 and Article 5

MR. NOFFSINGER: At this time I would like to ask Planning Staff, Becky Stone, please describe what this amendment is about.

CHAIRMAN: State your name, please.

MS. STONE: Becky Stone.

(BECKY STONE SWORN BY ATTORNEY.)

MS. STONE: All of the changes that are proposed have to do with the electronic digital

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submissions to the Planning Commission approved subdivision and also with monumentation to try to get that in accordance with Kentucky Minimum Standards of Surveying.

We've had several meetings with local surveyors to try to get this language right. This week we have had some additional comment and we would ask that the Planning Commission postpone this item for one more month so that we can have another meeting with the surveyors and make sure that we have the language so it's understood by everyone.

CHAIRMAN: Thank you, Ms. Stone.

The chair is ready for a motion if there aren't any questions.

MR. APPLEBY: Move to postpone.

CHAIRMAN: Motion to postpone by Mr. Appleby.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ZONING CHANGES - CITY

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ITEM 3

Portion of 2211 West Second Street, 0.815 acres
Consider zoning change: From I-2 Heavy Industrial to B-5 Business/Industrial
Applicant: Henry E. O'Bryan, Owensboro Warehouse Co.

MR. ELLIOTT: State your name, please.

MR. HOWARD: Brian Howard.

(BRIAN HOWARD SWORN BY ATTORNEY.)

PLANNING STAFF RECOMMENDATIONS

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

Condition: Access to the subject property shall be limited to River Road only. No direct access shall be permitted to West Second Street.

Findings of Fact:

1. The subject property is located within a Business/Industrial Plan Area, where general business and light industrial uses are appropriate in general locations.

2. The subject property lies within an existing area of mixed general business and light industrial uses;

3. The Comprehensive Plan provides for

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the continuance of mixed use areas; and,

4. The proposed land use for the subject property is in compliance with the criteria for a Business/Industrial Plan Area and to B-5 Business/Industrial zoning classification.

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

CHAIRMAN: Is anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody in the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval based on Planning Staff Findings of Fact 1 through 4 and the one condition.

CHAIRMAN: Motion for approval by Mr. Rogers.

MR. JAGOE: Second.

CHAIRMAN: Second by Mr. Jagoe. All in Ohio Valley Reporting (270) 683-7383
favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

Related Item:

ITEM 3A

2211 West Second Street, 0.815 acres
Consider approval of amended final development plan.
Applicant: Henry E. O'Bryan, Owensboro Warehouse Co.

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff and Engineering Staff. It's found to be in order. It's found to be consistent with the adopted comprehensive plan as well as the adopted zoning ordinance and subdivision regulations.

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. ROGERS: Second.

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

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 4

300 East 14th Street, 0.731 acres  
Consider zoning change: From I-1 Light Industrial to  
B-5 Business/Industrial  
Applicant: Flower Enterprises, LLC

PLANNING STAFF RECOMMENDATION

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

Condition: Access to the subject property shall be limited to East 14th Street or the alley only. No direct access shall be permitted to J.R. Miller Boulevard.

Findings of Fact:

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

2. The subject property lies within an existing area of mixed general business and light industrial uses;

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3. The Comprehensive Plan provides for the continuance of existing mixed use areas; and,
4. The proposed land use for the subject property is in compliance with the criteria for a Business/Industrial Plan Area and a B-5 Business/Industrial zoning classification.

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

CHAIRMAN: Is there anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody in the audience have any questions?

(NO RESPONSE)

CHAIRMAN: Any questions from anybody on the commission?

(NO RESPONSE)

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

MS. DIXON: Move to approve based upon Planning Staff Recommendations 1, 2, 3 and 4 and subject to condition as stated.

CHAIRMAN: Motion for approval by Ms. Dixon.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 5

122 East 18th Street, 0.305 acres
Consider zoning change: From P-1 Professional/Service to B-4 General Business
Applicant: Cary Reynolds

PLANNING STAFF RECOMMENDATIONS

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation include the following:

Findings of Fact:

1. The subject property is located in a Professional/Service Plan Area where general business uses are appropriate in very limited locations;

2. The subject property is located in an established residential neighborhood where no other contiguous General Business uses or zones abut the same street.

3. The subject property does not meet the specific criteria in the Comprehensive Plan to qualify as a logical expansion of an existing General Business.
zone within a Professional/Service Plan Area;

4. The current P-1 Professional/Service zoning classification is appropriate in the Professional/Service Plan Area; and,

5. There have been no major changes in the vicinity that have changed the character of the neighborhood that were not anticipated in the Comprehensive Plan.

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

CHAIRMAN: Is anybody here representing the applicant?

MR. REYNOLDS: Yes.

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

(NO RESPONSE)

CHAIRMAN: Does the applicant have a statement he'd like to make?

MS. REYNOLDS: I guess.

MR. ELLIOTT: State your name, please.

MS. REYNOLDS: Cary Reynolds.

(CARRY REYNOLDS SWORN BY ATTORNEY.)

MR. REYNOLDS: I'm not really sure why they've turned us down except for possibly the acreage. The building pretty much dictates the size
of the retail that I would like to get established there. The parking would be adequate for a retail or a small gift shop or a small dress shop, something of that size. I don't think that you can put in a Wal-Mart where the building is sitting there. I think with the adequate parking and the access off of Daviess, off of 18th Street, I would like to see this get passed so that I can possibly get at least out to either professional or a retail establishment. I think dental and doctors offices probably have more people coming and going as far as cars and parking than would be necessary rather than a small retail shop. I don't see that that's really a problem involved with this building.

CHAIRMAN: Let me have the Staff respond to that. I think in their report there that they did mention about the parking situation, but let me have Mr. Reynolds respond to that.

MR. HOWARD: Sure. I'd be glad to.

Based on what we know, there are approximately 3200 square area leasable area in the building at a 1 to 300 parking requirement which is what we require for retail uses for a building under 10,000 square feet. They would be required to have 11 parking spaces. Based on a field evaluation there are
only eight there currently. It's our feeling that
that they don't have the parking that would be
required to meet the 1 to 300 for 3200 square feet.
They're also proposing to go to the B-4 zone. Some of
the uses that he's mentioned, doctors office, dental
offices, any kind of an office use would be permitted
in what is currently the proper current zone which is
P-1 Professional Services.

CHAIRMAN: Thank you.

MR. REYNOLDS: My point is that doctors
and dental offices, if you'll go around and look at
them they've got people coming and going on an
entirely quicker basis than what you would in a retail
like a gift shop or a little dress shop or something
like that.

CHAIRMAN: Mr. Reynolds, please address
your comments to the chair and then we'll bring forth
who nodes needs to respond. He may not be the
respondent.

MR. REYNOLDS: I'm just saying there would
be less traffic involved with a retail or a gift shop
or a dress shop or something along those lines. I
don't know who is going to want to lease the
establishment. I've had a couple of people inquire
about it, but I haven't got anybody firm involved. I

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think it would open up a few more possibilities for me to lease the building if we take this building from being a non-taxable entity. I bought it, it was going to be bought by somebody who was going to turn it into a parking lot and tear the building down. I didn't want that done because I like the fire station. It's an old, nice building. That's why I bought the building. I'd like to see it continue as it is. It's a nice building that was built in 1944, but I need a little help from the city. No matter what we do I think it's going to be put on the tax base because I bought it and now it's not essentially a building or a fire station. Plus if we can get a retail or whatever in there then we'll have occupational taxes paying towards the city. So I think it's a good all win situation for the city, but I need a little help from the city. I hear all the time that the city is wanting to help bring in businesses into Owensboro and this, that and the other. I'm trying to do that. I'm trying to get this building to where we can bring a business in to the Owensboro area instead of going out on South Frederica or --

CHAIRMAN: Now, wait a minute. When you made the comment "help from the city," I don't believe I understand your statement there.
MR. REYNOLDS: Help from you all. I don't know whether --

CHAIRMAN: You mean as far as the zoning situation?

MR. REYNOLDS: Right.

CHAIRMAN: He did bring up in his response and in his findings you're okay to do professional, dental, those type of offices.

MR. REYNOLDS: I understand that.

CHAIRMAN: But where we are there's certain situations in where we are tied is the ratio to parking. There are other applicants and other people that have been enforced also. That's pretty well just a set regulation that we have. Now, if you can demonstrate where you can come up with you've got 8 and you need 11.

MR. REYNOLDS: Well, it says I've got eight but it's actually nine. There's two behind the building if you want to count those that could be considered parking spots behind the building itself. That would give you the 11.

CHAIRMAN: I think 11 is the magic. Let me bring him back to comment to your response on that issue.

MR. APPLEBY: Another point, Mr. Chairman,
is the acreage to meet, to be in compliance with the
Comprehensive Plan and the zoning across the
intervening street has to be at least an acre and a
half in size and this is only three-tenths of an acre.

MR. HOWARD: As far as the parking goes,
when we went out to looked, there are eight spaces
that I think meet the nine foot wide, 18 foot in
depth. There's one space on the far end that looks to
be substandard. They would also be required, if
approved, to put in vehicular use area landscape
screening which would also eliminate some of the paved
area that could actually be for parking when that
landscaping would be installed.

CHAIRMAN: If he stays in his correct zone
or the zone that's he's in right now, none of that, as
far as his landscaping and none of that would take
affect.

Bring up Mr. Mischel.

MR. ELLIOTT: State your name, please.

MR. MISCHEL: Jim Mischel.

(JIM MISCHEL SWORN BY ATTORNEY.)

MR. MISCHEL: It very well could be a
change of use. The zoning is correct, but typically
that use that was in there is gone. If a different
use comes in, then they would have to comply with the
ordinance as far as the landscaping and such.

CHAIRMAN: As far as going from the museum property to the - -

MR. MISCHEL: To maybe a dental office or something like that.

CHAIRMAN: Thank you, Mr. Mischel.

Mr. Reynolds, did you understand that?

MR. REYNOLDS: I do, but I don't agree with it, the landscaping deal.

CHAIRMAN: It is in our Comprehensive Plan. In our ruling a judgment has to be based on the Comprehensive Plan. We've got the acreage situation and we had the number of parking spaces. It's not that the Planning Commission does not want to put more people on the tax rolls. I think the commission has done an excellent job of putting everybody we can on the tax rolls. It's a situation due to the Comprehensive Plan and our regulations. There are certain things that we're just not allowed to do. That's where we do not have any flexibility.

If you do or when you do open up, if you do get a dental office or a professional office or some sort of office like that, then as Mr. Mischel stated, there will be a certain criteria that you will have to meet in your parking screening and things like
that that are required by P-1 ordinance or P-1 zoning. I didn't want you to not be aware of those situations.

MR. REYNOLDS: Okay.

CHAIRMAN: Are there any other questions or comments?

(NO RESPONSE)

CHAIRMAN: Anybody on the commission have a comment?

MR. JAGOE: Figure out how I can state this. Because there's an existing building there, he doesn't have to file a plan; is that correct?

CHAIRMAN: We'll bring Mr. Howard back up.

MR. HOWARD: Could you restate that.

MR. JAGOE: In changing the zoning with an existing building there, do you have to file a plan?

MR. NOFFSINGER: Yes.

MR. HOWARD: Yes. They would have to file a site plan since it's one building one use on the lot.

MR. JAGOE: It's not up to use -- I guess you went out and looked at the site to determine whether or not there was parking or not.

MR. HOWARD: Right. Went out this afternoon, as well as when I was on site to post the rezoning signs.
MR. JAGOE:  If Mr. Reynolds could figure out how to get 11 parking spots on there, then that goes away, correct?

MR. HOWARD: They would have to demonstrate that, yes, there was room on site to meet all specific parking requirements, parking space size, landscaping requirements, access issues. All of that would have to be addressed.

CHAIRMAN: What about the acreage issue that Mr. Appleby referred to?

MR. REYNOLDS: Could I ask question?

CHAIRMAN: Absolutely.

MR. REYNOLDS: Well, the front drive comes in off of 18th Street. I didn't consider that parking at all. I notice that you all have written up something that I received from you all that that access was either limited or not to be used or whatever. I mean there's parking spots there off of 18 Street which would accommodate two or three more parking spots for like employees. It wouldn't be coming and going, if that's a consideration. I don't know whether that's allowable or not.

CHAIRMAN: If we were able to overcome the parking or, as Mr. Jagoe was making comment to, we still have the lot size situation.

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MR. HOWARD: It doesn't meet the Comprehensive Plan requirements of an acre and a half. I will answer the question pertaining to access on East 18th Street.

East 18th Street is classified as a major collector roadway. In our Staff Report, we note that there's a 250 spacing requirement. That drive does not meet that space requirement. Our recommendation would be that that closed, if the rezoning itself is approved. We've made the same request of the property that's adjacent, I believe it's 116, that was in for rezoning in December. That they closed their access as well.

MR. REYNOLDS: But that driveway has been there since 1944. So that was before your Planning & Zoning created this master plan or whatever you've done. This building has been there since '44. The driveway has since there since '44. So now you're coming back and you're saying that because this was created later on that this is no longer a viable entity. I don't know if I can go on with all of that or not.

CHAIRMAN: The original use of that building was a fire station.

MR. REYNOLDS: That's correct.
CHAIRMAN: The entry and exit off of 18th Street was the only way the trucks could come and go.

MR. REYNOLDS: Right.

CHAIRMAN: As the city has changed and the usage of the building has changed, the Comprehensive Plan come into being. Then as that building changes ownerships, it is covered by the current Comprehensive Plan.

MR. REYNOLDS: True, but the streets in the city were established or maintained for vehicles to get to and from retail establishments or wherever else it is you're going. I find this ludicrous that we're coming back to a situation that you can't establish a retail space on a commercial street. All 18th Street from that corner all the way out is just about commercial or P-1 or something. It's all commercial. The only part of 18th Street that's got very few residential left is from Frederica to that corner. I've got commercial on all three corners across from me. I think from Frederica down to my corner, if somebody will allow it, ought to be turned into commercial, you know, to establish more retail outlets within the city instead of having to go out on South Frederica or 54.

I find this kind of backwards that we're
not trying to establish more commercial within the city rather than saying, no, you can't. You have to have so many acres in order to do this when there's not that acreage within the city. I don't know how you can abide by -- I think they stated you'd have to buy from Frederica all the way down to my corner in order to get 1.5 acres for a commercial zoning. I don't know that you can do that. I can't do that. I can't buy up the whole block just to put a gift shop.

CHAIRMAN: But there are things that you can do within your professional zoning with minor adjustments. I mean there's going to have to be -- landscaping regulations are going to have to be met and there's going to be some other things. The two things that you mentioned you wanted to do you can already do.

MR. REYNOLDS: But I can't open up a retail store.

CHAIRMAN: No.

MR. APPLEBY: Gary, he's talking about the block from Frederica all the way down to this corner. If by chance that property over a period of time from Frederica Street to 18th Street went commercial and it was a logical expansion, it was on the same side of the road, not an intervening street, the acreage
wouldn't be a problem; is that right?

MR. NOFFSINGER: Yes.

MR. APPLEBY: In theory that could go commercial at some point, but right now it does meet the criteria. If we're to overturn the Staff's recommendation, we've got to come up with a findings of fact in support of it, and there are no findings of fact that would support a commercial zone on a lot of that size that doesn't meet the minimum requirements under the ordinance; is that right?

MR. NOFFSINGER: Yes, sir, that is correct. It would not take the entire block all the way to Frederica Street because this is about a third of an acre. So it would take about three lots actually to get an acre. So you're looking at about five lots roughly to get an acre.

MR. APPLEBY: And those could go over a period of time as a logical expansion, if the one next to it does. Then he's beyond the requirement for an acre and a half.

MR. NOFFSINGER: Right.

MR. APPLEBY: Where it doesn't matter any more.

MR. JAGOE: I think what the applicant is saying is that it seems that the change of use from
overall an area is really coming from Triplett to Frederica.

CHAIRMAN: I think he said from Frederica to Triplett.

MR. JAGOE: I'm thinking of what's out there and how that corridor has changed.

MR. NOFFSINGER: That particular block, from Frederica Street to Daviess Street, the trend has been to more residential. I say that because we had two lots that were rezoned on the opposite side of 18th Street about mid block back years ago from residential to professional. They didn't develop. Recently there was a rezoning to take those two lots from P-1 Professional Service back to residential. I believe Habitat for Humanity built two houses, one on each lot.

The property immediately next-door to this property to the west was rezoned back just a few months ago from residential to P-1 Professional Service.

The subject property is P-1 now. The history it was a fire station. Then it became the Symphony headquarters. Then it went up on the auction block. It's a public building. This particular piece of property could be used for professional offices.
based upon the zoning that's allowed.

When we go to a retail classification, we could to a classification that's generally more intense in terms of activities that could be located on the property. Once a piece of property is rezoned to B-4 general business, neither the Planning Commission or the city can say you can have this use, but you can't have this use. It can be anything that's allowed in that zone. So the intensity of use becomes an issue and parking because generally B-4 general business just means you're going to have more vehicles, more traffic.

Now, there was some talk about dental offices, physician offices. It would be very difficult to use this particular piece of property for that type of use because parking is a much higher standard than retail sales for medical offices. It's a in a 1 to 200 square feet. You would be looking at, what, 16 parking spaces would be necessary if that building were used for medical or dental offices. So that particular use is out whether it's rezoned or not. But a general type office could be used, could work at that site.

MR. JAGOE: I realize we can't say that you can change the use. Can the board of adjustment
do that?

MR. NOFFSINGER: No, sir.

MR. JAGOE: They can't do that either?

MR. NOFFSINGER: No, sir.

MR. REYNOLDS: You're saying under the current P-1 I can't put a dental office or a doctors office in there; is that correct?

MR. NOFFSINGER: Your limitation is going to be parking because parking is based upon 1 per 200 square feet.

MR. REYNOLDS: You all are killing me on all fronts. I thought when I bought it it was P-1 and therefore the possibility was at least for a doctors or a dentist office. Now you're saying that's not even a possibility?

MR. NOFFSINGER: Parking is 1 per 200 square feet and you have a 3200 square foot building. You would need 16 parking spaces.

MR. REYNOLDS: It's not 3200. It's about 2800 square feet, but you're still killing me on that.

MR. NOFFSINGER: And you still need 14 parking spaces on site. Just because the building is zoned a certain way doesn't mean it can be used for just any type of use. You have to be able to meet the parking requirements for that use.

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MR. REYNOLDS: I'm dead.

CHAIRMAN: Does anybody have any further comments?

(NO RESPONSE)

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

MR. APPLEBY: I make a motion for denial based on the Staff's Recommendations, Findings of Fact 1 through 5.

CHAIRMAN: We've got a motion for denial by Mr. Appleby.

MS. DIXON: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carry unanimously. Next item, please.

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ZONING CHANGES - COUNTY

ITEM 6

4641 KY 1514, 4601 BLK KY 1514, 64.61 acres
Consider zoning change: From R-1A Single-Family Residential and A-R Rural Agriculture to A-R Rural Agriculture
Applicant: Kevin Ferguson

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the

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proposal is in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation includes the following:

Findings of Fact:

1. The subject property is located in a Rural Maintenance Plan Area where agricultural uses are appropriate in general locations;

2. The use of the subject property will remain as the golf course and clubhouse for the Panther Creek Golf Club;

3. The current zoning is inappropriate and the proposed zoning is more appropriate as the property has been used as a golf course since the early 1970's and the clubhouse since the early 1990's; and,

4. The rezoning will bring the entire site into compliance with the conditional use permit process that is applicable to the subject property.

MR. HOWARD: We would like to enter the Staff Report as Exhibit D.

CHAIRMAN: Is there anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions of the applicant?
(NO RESPONSE)

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

SISTER VIVIAN: Move for approval based upon Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval by Sister Vivian.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 7

2800, 2810 KY 54, 3200 Alvey Park Drive West, 75.617 acres (POSTPONED from October Meeting) Consider zoning change: From A-U Urban Agriculture, MHP Manufactured Housing Park and I-1 Light Industrial to B-4 General Business Applicant: B&K Development, LLC

PLANNING STAFF RECOMMENDATIONS

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

Conditions:

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1. Approval of a final development plan by the OMPC;

2. The Wimsatt Court access shall be limited to right turn in and right turn out only. The access shall be channelized to prohibit left turning vehicles at the access;

3. Install a 100 foot full length right turn storage lane and 100 foot decel taper at the Wimsatt Court access.

4. Lengthen the existing westbound right turn lane on KY 54 at the Highland Pointe Drive intersection to a minimum of 250 feet of full storage with a 180 foot taper;

5. Install an additional northbound lane on Highland Pointe Drive to allow for dual northbound left turn lanes;

6. Post surety at the time of final plat submittal for 20 percent of the construction cost for the installation of a second right turn lane at the Wendell Ford Expressway exit ramp and KY 54 intersection; and,

7. Provide a connection from the Highland Pointe development to the Greenbelt Park along the south side of the property.

Findings of Fact:

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1. The subject property is partially located in a Business Plan Area where general business uses are appropriate in limited locations and partially located in an Industrial Plan Area where general business uses are appropriate in very-limited locations;

2. The development of the subject property will be non-residential in nature and consistent with development patterns in commercially zoned property;

3. The proposal is a logical expansion of existing B-4 General Business zoning located immediately east of the subject property; and,

4. With the required improvements completed as conditioned with the rezoning, the development should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

MR. HOWARD: We would like to enter the Staff Report as Exhibit E.

CHAIRMAN: Is anybody representing the applicant?

MR. WILSON: Yes.

MR. ELLIOTT: State your name, please.

MR. WILSON: Bill Wilson.
MR. WILSON: I'm here on behalf of the applicant. Bill Hayes is here who has done a traffic study. Don Bryant is here to address any questions you all might have, as is Matt Hayden one of the developers.

With that said if any of you all have any questions we'll try to address them. I believe we can. I believe everything is in compliance. We would ask that it be voted on and rezoned tonight.

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

(NO RESPONSE)

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

(NO RESPONSE)

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

MR. HAYDEN: Motion for approval based on Staff Recommendations, Condition 1 through 7 and Findings of Fact 1 through 4.

CHAIRMAN: We have a motion for approval by Mr. Hayden.

MR. APPLEBY: Second.

CHAIRMAN: Second by Mr. Appleby. All in

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favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

RELATED ITEM:

ITEM 7A

Highland Pointe, Lots 1-19, 75.617 acres
Consider approval of preliminary development plan.
Applicant: B&K Development, LLC

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff. It's found to be in order. It's found to be consistent with the adopted Comprehensive Plan as well as the adopted subdivision regulations and zoning ordinance.

CHAIRMAN: Is anybody representing the applicant?

MR. WILSON: Mr. Chairman, the same as previously stated. Here on behalf of the applicant and all the same gentlemen are here if you have any questions.

CHAIRMAN: Thank you.

Are there any questions of the applicant at this time?

(NO RESPONSE)

CHAIRMAN: Questions form the commission?

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

MS. DIXON: Move for approval.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 8

Portion of 4100 Veach Road, 3.7 acres
Consider zoning change: From R-1A Single-Family Residential to R-1C Single-Family Residential
Applicant: Thompson Homes, Inc., PKP 79 Company

PLANNING STAFF RECOMMENDATIONS

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

Findings of Fact:

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

2. The plans for the subject property are
consistent with urban residential developments in character, size and configuration.

3. Sanitary sewer service is available to the site and will be incorporated in the development; and,

4. The subject property is a portion of a larger tract of property of which the majority is currently zoned R-1C.

MR. HOWARD: We would like to enter the Staff Report as Exhibit F.

CHAIRMAN: Is anybody here representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

MS. DIXON: Move to approve based upon Planning Staff Recommendations and Findings of Fact 1 through 4.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 9

5400 Blk Willow Brook Loop, 6.490 acres (POSTPONED from October Meeting)

Consider zoning change: From A-R Rural Agriculture to R-1A Single-Family Residential

Applicant: O'Bryan Development, Inc.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan and there have been major changes of an economic fiscal or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan. Those changes have substantially altered the basic character of the area involved. The findings of fact that support this recommendation include the following:

Findings of Fact:

1. The subject property is located in a rural preference plan area where urban low-density residential uses are appropriate in very limited locations.

2. The adjacent property was rezoned in 1998 and 2001 to R-1A Single-Family Residential and
the applicant's proposal is a logical expansion of
that zone and development.

3. The adopted Comprehensive Plan update
now recognizes the location of a new elementary school
in the vicinity of the subject property.

4. The adopted Comprehensive Plan update
now recognizes the extension of sanitary sewers in the
vicinity of the subject property, the availability of
sanitary sewers to the immediate vicinity as resulting
in creation of an urban residential growth area within
a rural preference plan area under the adopted
Comprehensive Plan.

MR. HOWARD: We would like to enter the
Staff Report as Exhibit G.

CHAIRMAN: Is anybody here representing
the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions
of the applicant?

(NO RESPONSE)

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

MR. ROGERS: Motion for approval based on
Findings of Fact 1 through 5.

CHAIRMAN: Motion for approval by Mr.
MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

MR. NOFFSINGER: Related Item is a first for the Planning Commission because this is a Variance. Usually variance request are handled by the Owensboro Metropolitan Board of Adjustment.

However, the Kentucky Statute allows the Planning Commissions to review variance request in conjunction with rezonings. Now, in the past the duty has always been given to the board of adjustment. However, when the zoning ordinance was reviewed and revised back a couple of years ago, I believe it was. The zoning ordinance allowed the Planning Commission to consider variance requests where we differ from the requirements of the zoning ordinance if it's in conjunction with the rezoning. So this, as I stated earlier, is the first for the Planning Commission.

I just want to mention to the Commission is there's certain considerations that you must take.
into account for a variance request. The first one in
considering a variance request you're to determine if
there are special circumstances on the land that
generally do not exist. Also whether or not there's a
hardship.

You also should consider whether or not
the applicant's actions are wilful in terms of their
approach to the variance or if the relief that's
sought is not a result of the applicant's actions.

There are findings that you have to make
as a requirement of law. Those four findings, I think
each of you have a list, but in granting of a variance
you're to find, if you approve, that the granting of
the variance will not adversely affect the public
health, safety or welfare; will not alter the
essential character of the general vicinity; will not
cause a hazard or a nuisance to the public; and will
not allow an unreasonable circumvention of the
requirements of the zoning regulations.

Now, you do not have to find each and
every one of those; however in making your motion you
do need to attach specific findings as to why granting
a variance will not adversely affect the public
health.

If you were to deny the variance, you
would do just the opposite. You would find that it
would adverse affect the public health, safety or
welfare. Then you would state findings as to why
that's the case.

Now, we have helped the Planning
Commission in terms of a variance request because just
like zoning changes we've prepared a recommendation
for you that addresses those findings. However, we've
not given specific, we were not that specific on each
finding. Just make sure when you do consider this and
if you do make a motion that you specifically address
the situation. If you're uncomfortable in terms of a
finding, then the Planning Staff would be glad to
assist you as well as legal counsel.

RELATED ITEMS:

ITEM 9A

5400 Blk Willow Brook Loop, in an R-1A zone
Consider request for a Variance to eliminate the 20
foot project boundary buffer for the proposed
Whispering Meadows Sudivision, Section 3
Reference: Zoning Ordinance, Article 10,
Section 10.44
Applicant: O'Bryan Development, Inc.

MR. NOFFSINGER: Mr. Chairman, this
particular property is part of an ongoing residential
subdivision. It's a plan development where generally
they will show the lot arrangements as well as show
buildings envelopes, where buildings can be placed on

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a particular piece of property.

In the plan residential development section in our zoning ordinance, it says that along the perimeter of your proposed development you're to provide a 20 foot setback so that your structures are no closer than 20 feet to that property line of your adjoining neighbor.

In this particular case, we feel that the developer will be developing the adjoining property. Because of that, and it will be harmonious with the development that's occurring out there now and in the future, the Planning Staff is recommending that the variance be approved. We make that recommendation based upon what I've just stated to you, as well as there have been other variances of this same nature issued in this development by the board of adjustment. So this is certainly not out of character with this particular development.

Because of this, we feel we can find that the granting of the variance would not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity, because we've already experienced development that is approaching that 20 foot or being developed into that 20 feet setback; it will not cause a hazard or a
nuisance to the public, because this setback is
generally toward the rear lots and does not affect the
public view or use; and it will not allow an
unreasonable circumvention of the requirements of the
zoning regulations.

The applicant comes to you with this
variance consideration in advance. It's not something
that they're coming in saying, hey, we've made a
mistake. They're trying to address this issue up
front. I know I've been a little long-winded on this;
however, it was worthy of explanation to you. I hope
I've explained to you what is being asked of you and
you're clear on the findings.

CHAIRMAN: Thank you, Mr. Noffsinger.

MR. JAGOE: I have a question. Just so I
understand. Each time the applicant comes in and then
we have passed it with the buffer has gone back and
got the variance to eliminate it.

MR. NOFFSINGER: Yes, sir.

MR. JAGOE: As the applicant is moving
through this piece of property, they are zoning as
they go along.

MR. NOFFSINGER: Yes, sir.

MR. JAGOE: You're still keeping the
buffer along the area that's not zoned or is that
being asked to be taken away as well?

MR. NOFFSINGER: Well, this development is
being planned in phases. Phases just like you see
here rather than overall development. The areas in
which we feel will not be developed as a part of this
ongoing development, then they have not requested a
buffer, a variance on that buffer. One has not been
granted. They've adhere to that, but this would be
the areas that are internal to what we believe will be
ongoing into the development.

If we had a master plan, and we're not
doing this in a piecemeal fashion, then this buffer
would not be an issue.

MR. JAGOE: If you had a master plan,
there no assumption as to what's being planned?

MR. NOFFSINGER: That's correct.

Therefore, there would not be a need for that buffer.

CHAIRMAN: Are there any questions from
the audience?

(NO RESPONSE)

CHAIRMAN: Any further questions from the
Commission?

(NO RESPONSE)

CHAIRMAN: If not I believe the Chair
would be ready for a motion.
MR. JAGOE: We may have to ask help from counsel on this one. I guess we're going to ask for -

MR. CHAIRMAN: How about the findings of "will nots."

MR. JAGOE: Would that work?

MR. ELLIOTT: That will work.

MR. JAGOE: Move for approval - -

CHAIRMAN: Wait a minute.

Mr. Elliott, do you agree with the findings of "will nots"?

MR. ELLIOTT: Yes.

MR. JAGOE: With the four findings of will nots as they're stated.

CHAIRMAN: In the form of a motion Mr. Jagoe has made a motion for approval.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 9B

Meadow Run at Whispering Meadows, Section 3, 6.490 acres (POSTPONED from October Meeting)

Consider approval of major subdivision preliminary

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plat/final development plan.
Applicant: O'Bryan Development, Inc.

MR. NOFFSINGER: Mr. Chairman, this plan
has been reviewed by the Planning Staff. It's found
to be considered with the adopted Comprehensive Plan
as well as the adopted zoning regulations and
subdivision regulations.

CHAIRMAN: Do we have anybody representing
the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Do we have any questions of the
applicant?

(NO RESPONSE)

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

SISTER VIVIAN: Move for approval.

CHAIRMAN: Motion for approval by Sister
Vivian.

MR. HAYDEN: Second.

CHAIRMAN: Mr. Hayden has a second. All
in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

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ITEM 10

Paddock Pointe, 2.330 acres (POSTPONED from October Meeting)
Consider approval of major subdivision preliminary plat/final development plan.
Applicant: Paul J. Martin, Paddock Swim & Tennis Club, Inc.

MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff. We find it to be consistent with the adopted Comprehensive Plan as well as the adopted Zoning Ordinance and subdivision regulations.

CHAIRMAN: Is there anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions?

(NO RESPONSE)

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

MR. JAGOE: Move for approval.

CHAIRMAN: Motion for approval by Mr. Jagoe.

SISTER VIVIAN: Second.

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

CHAIRMAN: Motion carries unanimously.

Next item, please.

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DEVELOPMENT PLANS

ITEM 11

1026, 1100 West 5th Street, 0.259 acres
Consider approval of final development plan.
Applicant: The Church of the Living God

MR. NOFFSINGER: Mr. Chairman, we've reviewed this application. We find it to be consistent with the adopted Comprehensive Plan, Zoning Ordinance and subdivision regulations.

CHAIRMAN: Is there anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

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MAJOR SUBDIVISIONS

ITEM 12

East Byers Avenue, 54.567 acres
Consider approval of major subdivision final plat
For development transfer only, no surety required.
Applicant: National City Bank, Kentucky

MR. NOFFSINGER: Mr. Chairman, Planning
Staff has reviewed this application. We find the use
to be consistent with the adopted Comprehensive Plan;
although it does not meet all the technical
requirements of the subdivision regulations and zoning
ordinance. It is for property transfer only and we do
have a preliminary development plan on this property
that details how it will be developed in the future
and that no notation is contained on this plat.

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

CHAIRMAN: Let the record note Mr. Jagoe
is disqualifying himself.

Is anybody representing the applicant?

(NO RESPONSE)

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CHAIRMAN: Do we have any questions?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

SISTER VIVIAN: Second.

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

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

CHAIRMAN: Motion carries unanimously with Mr. Jagoe disqualifying himself.

ITEM 13

Hayden Development Company, Inc. 14.584 acres
Consider approval of major subdivision preliminary plat.
Applicant: Hayden Development Co., Inc.

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff and Engineer Staff. Found to be consistent with the adopted Comprehensive Plan, Zoning Ordinance and subdivision regulations.

CHAIRMAN: Is anybody representing the applicant?
APPLICANT REP: Yes.

CHAIRMAN: Anybody have any questions of the applicant?

(NO RESPONSE)

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

SISTER VIVIAN: Move for approval.

CHAIRMAN: Motion for approval by SisTer Vivian.

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 14

H & I Development, 4.246 acres
Consider approval of major subdivision final plat.
Surety (Letter of Credit) posted: $26,335.10
Applicant: H & I Development

MR. NOFFSINGER: Mr. Chairman, Planning Staff has reviewed this plat. Find that the use to be consistent with the adopted Comprehensive Plan. We find that it's consistent with the Zoning Ordinance and subdivision regulations.

CHAIRMAN: Is anybody representing the Ohio Valley Reporting
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APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of the applicant?

(NO RESPONSE)

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 15

Woodlands Plaza, Unit 2, Lots 12-13, 5.234 acres
Consider approval of major subdivision final plat.
Surety (Performance Bond) posted: $200,816.50
Applicant: BAMJAC, LLC

MR. NOFFSINGER: Mr. Chairman, this plat is consistent with the Comprehensive Plan, subdivision regulations and zoning ordinance.

CHAIRMAN: Is anybody representing the applicant?
APPLICANT REP: Yes.
CHAIRMAN: Any questions of the applicant?
(NO RESPONSE)
CHAIRMAN: If not the chair is ready for a motion.
MS. DIXON: Move to approve.
CHAIRMAN: Motion for approval by Ms. Dixon.
MR. HAYDEN: Second.
CHAIRMAN: Second by Mr. Hayden. All in favor raise your right hand.
(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: Motion carries unanimously.
Next item, please.
MINOR SUBDIVISIONS
ITEM 16
7758 Joe Haynes Road, 2.285 acres
Consider approval of minor subdivision plat.
Applicant: Evelyn Hagan
MR. NOFFSINGER: Mr. Chairman, this plan has been reviewed by the Planning Staff. It is found to be inconsistent with the adopted subdivision regulations in that it creates a flag-shaped lot with 50 feet of frontage on Joe Haynes Road extending back approximately 400 feet where it widens out to about a

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two acre tract of land. The Planning Staff may have additional information to add to this; however, the Planning Staff is not recommending it be approved due to the shape of the property and there is additional land here that's available to extend the frontage of the subject tract. With that it's ready for your consideration.

CHAIRMAN: Is anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Does anybody have any questions from the commission?

(NO RESPONSE)

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

MR. APPLEBY: Motion for denial.

CHAIRMAN: Motion for denial by Mr. Appleby.

MR. JAGOE: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

ITEM 17
9575 McCamish Road, 9.243 acres
Consider approval of minor subdivision plat.
Applicant: Paulette E. Howard, Geneva Lake

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

It takes an existing lot that was created back some time ago and consolidates approximately four acres to it. This property is directly in behind the subject property. The Planning Staff is recommending approval of this development or this division although it does exceed the depth to width ratio of three to one that the subdivision regulations speak to. It does have sufficient frontage along the existing county road. It does not create additional tracts of land. It's simply consolidates to the rear of an existing lot of record what couldn't be further subdivided. If it were, it would create additional irregular shape lots. This is really probably the best thing that could happen with this particular four acres given its shape.

CHAIRMAN: Is anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Anybody have any questions of the applicant?
(NO RESPONSE)

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

SISTER VIVIAN: Move for approval.

CHAIRMAN: Motion for approval by Sister Vivian.

MR. ROGERS: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item, please.

ITEM 18

12332 Red Hill-Maxwell Road, 1.56 acres
Consider approval of minor subdivision plat.
Applicant: April D. Hutchason

MR. NOFFSINGER: Mr. Chairman, this plat does not meet the requirements of the adopted subdivision regulations. I'll have to defer to staff in terms of giving you a little bit of history on the property.

MR. HOWARD: Mr. Noffsinger is correct.

The subdivision plat as submitted violates the three to one length to width ratio requirement. It was also part of a subdivision plat that was before this commission in September of 2004 where they actually
consolidated a portion of this property with some
surrounding property so that another lot could be
divided that didn't meet the requirements. It was too
narrow and too long. That was allowed to go through
at that time, though we required that they add a note
to the plat stating that this property shall not be
further subdivided as to create additional irregular
shape lots, not meeting the requirements of the
subdivision regulations. As they've submit this plat,
it violates that note that was placed upon the plat in
September of 2004.

CHAIRMAN: Is anybody representing the
applicant?

MR. ELLIOTT: State your name, please.

MR. POTEAT: State Poteat.

(STEVE POTEAT SWORN BY ATTORNEY.)

MR. POTEAT: Members of the Commission, we
recognize first of all that when that plat was done in
2004 that there was a notation put on there. Mr.
Staples, who is setting back here, is in the process
of attempting to buy that land to move down here from
Louisville. Moving his mother down here with him. We
recognize that the three to one ratio has been in
existence for a few years now. We recognize the
history of how that came about 10 years ago, 14 years
ago. Lots were being created 50 feet wide and 2000 feet in depth. We understand that, but if you look at the plat on this one, what they're requesting the existing 1.56 acres will have 100 foot road frontage across on Red Hill-Maxwell Road.

What Mr. Staples is trying to do is where there's already utility services at the rear of that 1.56 acres, that's where he wants to put a place for his mother. If you look in the parent tract in the circle, you will still have over 100 feet of width left on that one. The three to one ratio as we saw just a moment ago, it's not so stringent that it can't be overcome. You have to look at the circumstances of what's being done. We're creating a lot that already has utility services to it in the back. There's other lots down through there. Again, we've got over 100 foot of road frontage. It's just to get us back where he can do that and hopefully have a place for his mother and then have a place for himself over on the other hill, on that other ten acres that will be remaining. We're just asking that the commission approve there plat for Mr. Staples so that he can go through with this and build a couple of homes out there. Thank you.

CHAIRMAN: Any questions from anybody in Ohio Valley Reporting
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the audience?

(NO RESPONSE)

CHAIRMAN: Any questions from the commission?

MR. JAGOE: I've got one.

When we did the lot, in 2004 I guess is when we did that, has the property changed ownership when it was put on the plat?

MR. POTEAT: In 2004 - - I can tell you very quickly.

In 2004 it was owned, part of the property was owned by Patty Peach or Patty Barnett and her mother Pauline Peach and her daughter April Hutchason. Now the entire property is owned by April Hutchason who is selling to, as I said, Mr. Staples who is in the process of purchasing that property. He's the one who actually filed for this.

CHAIRMAN: Was Mr. Staples aware of the previous notation on the property plot?

MR. POTEAT: I'm not sure that he was, but I know that he was aware that there's a three to one ratio. He was made aware of that.

Again, in talking with him and with others, I know that that has been - - I know this commission looks to the circumstances on each case.
I know if we were asking for a 50 foot by 400 foot, you know, I wouldn't do that, but we do have 100 foot of road frontage. That was the standard for many years until -- I know the purpose was to stop the basically destruction of farmland, but this has not been a farm for farm purposes for many years. We're not creating really that irregular of a lot compared to others. We feel like that this is one that we think the commission should approve.

CHAIRMAN: Mr. Poteat, we had looked at this property once before. A notation had been made on it about that.

MR. POTEAT: I understand that.

CHAIRMAN: It's not as if this commission has not considered and made an exception for the said piece of property that we're reviewing again 13 months later.

MR. POTEAT: Mr. Staples understands that and I understand that. The commission can go back and revise that. You have the authority.

CHAIRMAN: We've been very sympathetic. Somebody moving from Louisville, I mean what a deal coming that way too. That's one of the situations I'm sure your client realizes. We're sort of hind ourselves in with. We have made an exception with
this particular piece of property and it is somewhat irregular to begin with and now it's somewhat irregular.

MR. POTEAT: We can always change our minds and we know that. That's what we're asking. As I said, what Mr. Staples is wanting to do is move him and his mother down here and have a place for both of them. That would be a perfect place out there on Red Hill-Maxwell Road.

CHAIRMAN: We're not questioning that.

MR. POTEAT: I understand.

CHAIRMAN: Have you advised or has Mr. Cecil possibly given them other options of drawing up this property to be a little bit more of a uniform parcel?

MR. POTEAT: The only way that -- I don't know that he has. I honestly don't. I don't think he has. We realize that with a three to one ratio that it's not absolute that you will even approve it at 100 foot, 300 feet because of the remaining lot that's over there. If you did that, I don't know whether that's a consideration or not.

The reason they're trying to draw the lot as it is is because there are already utilities back there where they wouldn't have to -- the septic
system is already in. It's been approved. This is from a prior home that was there. I don't know how long ago, but there was another home back there.

CHAIRMAN: Let me ask Mr. Noffsinger.

Is there any vision that you have for where this could be conforming piece of property?

Mr. Howard, are you going to address this?

MR. HOWARD: It's my understanding that Staff has met I guess with the previous owners of this property and developed a way that you could create a lot that is regular shape of the remainder frontage, but it would be over ten acres and still qualify as an agricultural division. The issue I think would be they won't have access to their utilities, but a more regular shape lot could be created.

MR. APPLEBY: You're saying leave a 50 foot right-of-way to a 10 acre tract and the remainder lot would be more regular?

MR. HOWARD: As it stands right now we have a 10.01 acres remaining, which is an agricultural tract. They could extend the road frontage, narrow it down to 50 feet and make a more regular shaped lot. It seems that the potential exist to do something along those lines. I think previously, and maybe not to the applicant, they didn't come in and talk with
us, but other people prior to this we have discussed that option.

CHAIRMAN: It would be a 50 foot by 150?

MR. APPLEBY: No. It makes an ag division of the remainder lot. Am I hearing that right? With a 50 foot of access and it would give this one 150 feet and you move the rear line to make it a more regular shaped lot. That's what I'm hearing.

MR. HOWARD: You could make a lot say 150 by 450. That would meet the three to one requirement and still be over an acre and meet the size requirement for the property as well and still leave 50 feet frontage to the agricultural tract and still be over 10 acres. That would meet all our requirements.

CHAIRMAN: Mr. Poteat.

MR. POTEAT: All I can do is discuss that with him. As I said, Mr. Cecil has not discussed that part of it with them.

MR. STAPLE: That creek is the issue.

CHAIRMAN: You must come to the podium.

MR. ELLIOTT: State your name, please.

MR. STAPLE: Ernest Staple.

(ERNEST STAPLE SWORN BY ATTORNEY.)

MR. STAPLE: The three to one ratio could
be met without a problem. The problem is there's a
creek that runs right on, it's just a small drainage
creek. In the event of flooding, that field has
flooded before. This property generally goes up hill
where the previous utilities are at where we're
wanting to put the house. The utility being there is
not the big issue. The big issue is if I bring that
house down to where it meets the requirements it's in
a possible flood zone. Where it's at there is high
and dry We tried to give as much road front footage
as we could and still keep the property up out of the
flood trouble. If it wasn't for that drainage creek
right there, we could plat it off right there by the
road no problem. We're just trying to keep it high
and dry. That's all.

CHAIRMAN: Mr. Noffsinger.

MR. NOFFSINGER: Mr. Staples, I think
that's about the best justification I've heard on this
particular case because that's a valid point. Very
valid point in terms of when you're considering making
an exception.

In this particular case, we're looking at,
well, if we adjust the frontage, what I'm really
looking at is we're creating one additional
development lot. Is that a good thing? Well,
probably not out in that area. If there's a way to do it, then I start to raise the question, well, why is this shape so important. Then you've raised the issue of the creek and the utilities. Those are valid reasons why you might consider making an exception.

But my question to Mr. Staples is: Where are you going next?

MR. STAPLES: Where am I going next?

MR. NOFFSINGER: Are you going to want another lot?

MR. STAPLES: No.

MR. NOFFSINGER: Where do we cut this off?

MR. STAPLES: We cut it off right here. That's it. There will be no more.

CHAIRMAN: What about the other side of this wedge looking lot? Could you square something off on the other side? We're trying to help you.

MR. STAPLES: I understand.

The reason this property angles, if you look at the plot, right there where it shows the original septic system and all the services there, the property line is actually divided on the other side. The creek is the property line. If we come down further closer to the road to meet the requirements, we're putting the house right in arms way.
CHAIRMAN: I mean the other side.

MR. STAPLES: This side over here?

CHAIRMAN: Yes.

MR. NOFFSINGER: Is that north side?

MR. STAPLES: You could put it right down there in the bottoms too right off the road. There's another creek on this side. So anywhere out here you're going to -- it wouldn't take a hard rain to make trouble. Everything up here is, you know, the whole property -- yes, we looked at that. We tried every way in the world to get it in there. This creek dividing the property the way it was propped up before is a major problem.

MR. POTEAT: You're looking at the north boundary.

CHAIRMAN: Just moving it down.

Mr. Appleby, this is sort of your area of irregular lots.

MR. APPLEBY: In light of the circumstances, I would make a motion for approval with an additional notation on the plat that there be no further -- I would make a motion for approval with that notation that there will be no additional divisions of this property ever.

CHAIRMAN: We've got a motion by Mr.
Appleby for approval based on -- you want to read into your motion the conditions that you have.

MR. APPLEBY: The only condition is that there is no additional divisions of this property of either of these lots.

CHAIRMAN: Okay. Mr. Appleby has a motion for approval on the floor with the condition of no further division of this property in the deed and the plat.

MR. JAGOE: Second.

CHAIRMAN: We have a second by Mr. Jagoe.

MR. STAPLES: Yes. I don't plan on ever putting any more lots on there.

MR. POTEAT: What they're saying is one of the condition in the deed so that everybody who follows along, everybody that sees it is from here on out that condition will be there that they can no further subdivide these two lots if you sold it next year or the year after.

MR. STAPLES: You couldn't really put any more lots.

CHAIRMAN: Mr. Poteat, your client totally understands what we're doing?

MR. POTEAT: I believe he does, Mr. Chairman.
CHAIRMAN: We've got a motion on the floor for approval with the conditions in the deed and on the plot. We've got a second by Mr. Jagoe. All in favor raise your right hand.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Next item.

MRS. STAPLES: I have a question. Could I ask a question?

CHAIRMAN: Yes, ma'am. You have to come to the podium.

MR. ELLIOTT: State your name, please.

MRS. STAPLES: Pauline Staples.

(MRS. PAULINE STAPLES SWORN BY ATTORNEY.)

MRS. STAPLES: The question about the division of the land, you mentioned something about the division. I didn't understand what that was about.

MR. APPLEBY: We're asking that if we grant this division that you agree that there will be no further divisions. You won't cut no more lots off of it.

MRS. STAPLES: No. No. That's all I wanted to know. Thank you.

ITEM 19
MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff. It is out at the Mid American Air Park and this property division comes to you as an exception to the regulations. However, I believe it is for a utility purpose.

MR. HOWARD: It's actually a one acre tract for the Green Belt Park.

MR. NOFFSINGER: So with that we're recommending that it be approved as an exception for public use.

CHAIRMAN: Are there any questions?

Anybody representing the applicant?

(NO RESPONSE)

CHAIRMAN: Chair is ready for a motion.

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

SISTER VIVIAN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Motion carries unanimously.

Ohio Valley Reporting
(270) 683-7383
Next item, please.

ITEM 20

4920, 4930, 4986 Veach Road, 5001, 5015 Sutherland Road, 363.30 acres
Consider approval of minor subdivision plat.
Applicant: James & Lilian Watts, Richard & Paula Christ

MR. NOFFSINGER: Mr. Chairman, this plat comes to the Planning Commission because of I guess you would say it's a plat of correction. The surveyor made an error in performing the work on this property by failing to recognize an existing lot of record and that can happen from time to time. A plat was approved with that error. What we're doing is simply coming back in and showing that existing lot of record and respecting that old property line. It does create I believe a tract that would be non-conforming in shape; however, it does approve the overall situation because we're taking a number of tracts that are land locked that do no have frontage on the public right-of-way and we're consolidating and actually making that situation better. Staff is comfortable with the plat as submitted and would recommend that you approve the plat.

CHAIRMAN: Somebody representing the applicant?

APPLICANT REP: Yes.
CHAIRMAN: Do we have any questions of the applicant?

APPLICANT REP: No.

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

MS. DIXON: Move to approve.

CHAIRMAN: Motion for approval by Ms. Dixon.

MR. HAYDEN: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: Next item, please.

ITEM 21

5695, 5705 Ware Road, 1.677 acres
Consider approval of minor subdivision plat.
Applicant: Miles Simmons

MR. NOFFSINGER: Mr. Chairman, this plat has been reviewed by the Planning Staff. It is an exception to the subdivision regulations. What we have here is two lots that, well, one lot that conforms the one acre minimum size requirement. The other acre doesn't. It's about a half acre. They are making one lot larger. So bring it up to almost a little over three quarters of an acre, but they're making the one acre conforming lot smaller. They're
bringing it just under an acre at about nine-tenths of an acre. This squares up the property and makes certainly makes a better lot pattern. Staff for those reasons would recommend that you approve the plat.

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

CHAIRMAN: Let the record show Mr. Jagoe is disqualifying himself.

Somebody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Any questions?

(NO RESPONSE)

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

MR. APPLEBY: Motion for approval.

CHAIRMAN: Motion for approval by Mr. Appleby.

MR. HAYDEN: Second.

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

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

CHAIRMAN: Motion carries unanimously.

Mr. Noffsinger, I think the chair is ready for one final motion.
MR. NOFFSINGER: Yes, sir.

SISTER VIVIAN: Move to adjourn.

CHAIRMAN: Sister Vivian moves to adjourn. Do we have a second?

MR. APPLEBY: Second.

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

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: We are adjourned.

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

I, LYNNETTE KOLLER, Notary Public in and for the State of Kentucky at Large, do hereby certify that the foregoing Owensboro Metropolitan Planning & Zoning meeting was held at the time and place as stated in the caption to the foregoing proceedings; that each person commenting on issues under discussion were duly sworn before testifying; that the Board members present were as stated in the caption; that said proceedings were taken by me in stenotype and electronically recorded and was thereafter, by me, accurately and correctly transcribed into the foregoing 71 typewritten pages; and that no signature was requested to the foregoing transcript.

WITNESS my hand and notarial seal on this the 2nd day of December, 2005

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

COMMISSION EXPIRES:  
DECEMBER 19, 2006

COUNTY OF RESIDENCE:  
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