

1 OWENSBORO METROPOLITAN PLANNING COMMISSION

2 APRIL 13, 2006

3 The Owensboro Metropolitan Planning Commission
4 met in regular session at 6:00 p.m. on Thursday,
5 February 9, 2006, at City Hall, Commission Chambers,
6 Owensboro, Kentucky, and the proceedings were as
7 follows:

8 MEMBERS PRESENT: Drew Kirkland, Chairman
9 Gary Noffsinger
10 Dave Appleby
11 Scott Jagoe
12 Tim Miller
13 Irving Rogers
14 Jimmy Gilles
15 Nick Cambron
16 Judy Dixon
17 Martin Hayden
18 Stewart Elliott, Attorney
19 Madison Silvert, Attorney.

20 CHAIRMAN: I would like to welcome everybody
21 to our April 13th meeting of the Owensboro
22 Metropolitan Planning Commission. Would you please
23 stand while I give our invocation.

24 (INVOCATION AND PLEDGE OF ALLEGIANCE.)

25 CHAIRMAN: Our first item of business is to
consider the minutes of the March 9, 2006 meeting.
Are there any additions, corrections, questions

(NO RESPONSE)

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

1 MS. DIXON: Move to approve.

2 CHAIRMAN: Motion for approval by Ms. Dixon.

3 MR. HAYDEN: Second.

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

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: Motion carries unanimously.

8 Next item, please.

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10 ZONING CHANGES

11 ITEM 2

12 1600, 1604, 1608 Lock Avenue, 0.342 acres
13 Consider zoning change: From R-4DT Inner-City
14 Residential to R-1T Townhouse
15 Applicant: Homes by Benny Clark, William C. Mitchell

15 MR. ELLIOTT: State your name, please.

16 MR. HOWARD: Brian Howard.

17 (MR. BRIAN HOWARD SWORN BY ATTORNEY.)

18 PLANNING STAFF RECOMMENDATIONS

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

24 CONDITION

25 Widen the existing alley to the rear of the

1 property to 18 feet in width.

2 FINDINGS OF FACT

3 1. The subject property is located in a
4 Central Residential Plan Area where urban mid-density
5 residential uses are appropriate in general locations;

6 2. The applicant's request is consistent with
7 the pattern of residential development in the vicinity
8 with the majority of existing residences located on
9 lots less than 50 feet in width with access from rear
10 public alleyways;

11 3. The applicant's request is consistent with
12 the goal of the Comprehensive Plan to provide a
13 variety of housing types suitable to a wide range of
14 people;

15 4. The applicant's request is consistent with
16 the objective of the Comprehensive Plan to increase
17 inner-city housing density; and,

18 5. The applicant's request promotes the
19 Comprehensive Plan's housing goals to preserve
20 neighborhoods and housing within the inner-city.

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

23 CHAIRMAN: Is there anybody representing the
24 applicant?

25 APPLICANT REP: Yes.

1 CHAIRMAN: Does anybody have any questions of
2 the applicant?

3 (NO RESPONSE)

4 CHAIRMAN: Does anybody on the commission have
5 a question of the applicant?

6 (NO RESPONSE)

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

9 MR. CAMBRON: Motion for approval, Mr.
10 Chairman, based upon the condition and the Findings of
11 Fact 1 through 5.

12 CHAIRMAN: Motion for approval by Mr. Cambron.

13 MR. APPLEBY: Second.

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

16 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

17 CHAIRMAN: Motion carries unanimously.

18 Next item, please.

19 ITEM 3

20 712, 716 Poindexter Street, 0.202 acres
21 Consider zoning change: From I-2 Heavy Industrial to
22 R-4DT Inner-City Residential
23 Applicant: Phyllis West

24 PLANNING STAFF RECOMMENDATIONS

25 Staff recommends approval because the proposal
is in compliance with the community's adopted

1 Comprehensive Plan. The findings of fact that support
2 this recommendation include the following.

3 FINDINGS OF FACT

4 1. The subject property is located in a
5 Central Residential Plan Area where urban low-density
6 residential uses are appropriate in general locations;

7 2. The historical use of the property has
8 been residential in nature;

9 3. Properties adjacent to the subject
10 property to the east across Poindexter Street are
11 zoned R-4DT and residential in use;

12 4. Properties adjacent to the subject
13 property to the west, north and south, although zoned
14 I-2, are residential in use; and,

15 5. Based on the historical use and the
16 location within a Central Residential Plan Area, a
17 residential zoning classification is more appropriate
18 for the subject property.

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

21 CHAIRMAN: Is there anybody representing the
22 applicant?

23 APPLICANT REP: I'm the applicant.

24 CHAIRMAN: Do you have a statement you would
25 like to make or would you rather wait to see if we

1 have any questions?

2 APPLICANT REP: I'll just wait.

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

5 (NO RESPONSE)

6 CHAIRMAN: If there are no questions of the
7 applicant, chair is ready for a motion.

8 MR. GILLES: Motion to approve based on
9 Findings of Fact 1 through 5.

10 CHAIRMAN: We have a motion for approval by
11 Mr. Gilles.

12 MR. ROGERS: Second.

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

15 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

16 CHAIRMAN: Motion carries unanimously.

17 Next item, please.

18 ITEM 4

19 3100 Block Trails Way, 12.054 acres
20 Consider zoning change: From R-3MF Multi-Family
21 Residential to R-1C Single-Family Residential
22 Applicant: Jagoe Development, LLC, National City Bank
23 of KY

24 MR. JAGOE: Mr. Chairman, I need to disqualify
25 myself on Items 4 and 4a.

CHAIRMAN: Let the record show that Mr. Jagoe
is disqualifying himself on Items 4 and 4a.

1 PLANNING STAFF RECOMMENDATIONS

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

7 CONDITION

8 Installation of a 10 foot landscape easement
9 with one tree every 40 linear feet and a continuous
10 six foot high element where the subject property abuts
11 the Wendell Ford Expressway.

12 FINDINGS OF FACT

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

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

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

21 4. The subject property is a portion of a
22 large developing subdivision that is zoned R-1C.

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

25 CHAIRMAN: Is anybody here representing the

1 applicant?

2 APPLICANT REP: Yes.

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

5 (NO RESPONSE)

6 CHAIRMAN: Does anybody from the commission
7 have a question?

8 (NO RESPONSE).

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

11 MR. MILLER: Mr. Chairman, motion to approve
12 based on Planning Staff Recommendations, the condition
13 as stated and Findings of Fact 1 through 4.

14 CHAIRMAN: Motion for approval by Mr. Miller.

15 MR. APPLEBY: Second.

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

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

20 CHAIRMAN: Motion carries unanimously.

21 Next item, please.

22 RELATED ITEM:

23 ITEM 4A

24 The Trails of Heartland, Phase IV, Lots 639-675,
12.054 acres
25 Consider approval of major subdivision preliminary
plat.

1 Applicant: Jagoe Development, LLC

2 MR. NOFFSINGER: Mr. Chairman, this
3 application has been reviewed by the Planning Staff.
4 It's found to be in order. It's found to meet with
5 the minimum requirements of the Owensboro Metropolitan
6 Zoning ordinance, subdivision regulations, and its use
7 is consistent with the adopted comprehensive plan.

8 CHAIRMAN: Do we have somebody representing
9 the applicant?

10 APPLICANT REP: Yes.

11 CHAIRMAN: Does anybody have any questions of
12 the applicant?

13 (NO RESPONSE)

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

16 MR. APPLEBY: Motion for approval.

17 CHAIRMAN: Motion for approval by Mr. Appleby.

18 MR. ROGERS: Second.

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

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

23 CHAIRMAN: Motion carried unanimously.

24 Next item, please.

25 ITEM 5

1 914 Triplett Street, 0.554 acres
2 Consider zoning change: From B-4 General Business to
3 I-1 Light Industrial
4 Applicant: Owensboro Medical Health Systems, Inc.
5 PLANNING STAFF RECOMMENDATIONS

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

11 CONDITIONS

12 1. Revise the approved final development plan
13 with the proposed change in use;

14 2. Maintain the existing access point as
15 approved on the previous final development plan. No
16 new access to East Ninth Street or Triplett Street
17 shall be permitted; and,

18 3. Maintain the existing roadway buffer and
19 landscape element.

20 FINDINGS OF FACT

21 1. The subject property is located in a
22 Business Plan Area where light industrial uses are
23 appropriate in limited locations;

24 2. I-1 light industrial zoning is located
25 immediately west of the subject property; and,

3. The applicant's proposal is a logical
expansion of the existing I-1 Light Industrial zone

1 that will not significantly increase the extent of the
2 zone in the vicinity and will not overburden roadways
3 or other necessary urban services in the affected
4 area.

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

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

9 APPLICANT REP: Yes.

10 CHAIRMAN: Does anybody have any questions of
11 the applicant?

12 (NO RESPONSE)

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

15 MS. DIXON: Move to approve subject to
16 Conditions 1, 2 and 3 and based upon Planning Staff
17 Recommendations and Findings of Fact 1,2 and 3.

18 CHAIRMAN: We've got a motion for approval by
19 Ms. Dixon.

20 MR. HAYDEN: Second.

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

23 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

24 CHAIRMAN: Motion carries unanimously.

25 Next item, please.

1 ITEM 6

2 11144 KY 662, 0.34 acres
3 Consider zoning change: From R-1A Single-Family
4 Residential to A-R Rural Agriculture
5 Applicant: Karen Fireline

6 PLANNING STAFF RECOMMENDATIONS

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

12 CONDITION

13 Submission and approval of a division and
14 consolidation plat by the OMPC to create a lot that is
15 a minimum of one acre in size.

16 FINDINGS OF FACT

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

20 2. The subject property will be a
21 well-proportioned lot over one acre in size once the
22 consolidation plat is approved; and,

23 3. The existing home has frontage and access
24 to KY 662, which is a state maintained roadway.

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

1 CHAIRMAN: Do we have somebody representing
2 the applicant?

3 APPLICANT REP: I am the applicant.

4 CHAIRMAN: Would you like to make a statement
5 or you just want to see if there are any questions?

6 APPLICANT REP: No. See if there's any
7 questions.

8 CHAIRMAN: Thank you.

9 Does anybody have any questions of the
10 applicant?

11 (NO RESPONSE)

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

14 MR. HAYDEN: Make a motion for approval on
15 Staff Recommendations and Conditions and Findings of
16 Fact 1, 2 and 3.

17 CHAIRMAN: We've got a motion for approval by
18 Mr. Haydne.

19 MS. DIXON: Second.

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

22 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

23 CHAIRMAN: Motion carries unanimously. Thank
24 you.

25 Next item.

1 ITEM 7

2 6100-6300 Blocks US 231, 176.902 acres
3 Consider zoning change: From A-R Rural Agriculture
4 and A-U Urban Agriculture to R-1A Single-Family
5 Residential
6 Applicant: Jagoe Land Corporation, Robert B. & Robin
7 Moorman

8 MR. JAGOE: Mr. Chairman, I need to disqualify
9 myself on 7 and 7A.

10 CHAIRMAN: Let the record show that Mr. Jagoe
11 is disqualifying himself on Item 7 and 7A.

12 PLANNING STAFF RECOMMENDATIONS

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

18 CONDITIONS

- 19 1. Install an eastbound separate right-turn
20 decel and storage lane at the US 231 entrance; and,
- 21 2. Extend sanitary sewer to service to the
22 subject property.

23 FINDINGS OF FACT

- 24 1. The subject property is partially located
25 in a Rural Preference Plan Area where urban
26 low-density residential uses are appropriate in
27 very-limited locations and partially located in a

1 Rural Community Plan Area where urban low-density
2 residential uses are appropriate in limited locations;

3 2. Sanitary sewers is proposed to be extended
4 to the subject property;

5 3. The anticipated expansion of sanitary
6 sewer in the Comprehensive Plan to Masonville and the
7 subject property will change the character of the
8 Rural Maintenance Plan Area adjacent to the rural
9 community to be more appropriate for the proposed
10 urban residential use;

11 4. The proposal is a logical expansion of
12 existing R-1A zoning classification located
13 immediately south and east of the subject property;
14 and,

15 5. With the installation of a right-turn
16 decel and storage lane at the US 231 entrance the
17 proposal should not have a significant impact on the
18 roadway network and other urban services that are
19 available in the affected area.

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

22 CHAIRMAN: Do we have somebody representing
23 the applicant?

24 MR. ELLIOTT: State your name, please.

25 MR. BRANCATO: My name is Frank Brancato.

1 (MR. FRANK BRANCATO SWORN BY ATTORNEY.)

2 MR. BRANCATO: Mr. Chairman, if it'd be
3 appropriate, I'd like to take just a couple of minutes
4 to get an overview of the application and the area of
5 interest, and then would stand ready to answer any
6 questions that might be forthcoming from the audience.

7 Is that an appropriate place to put that for
8 purposes of visual?

9 CHAIRMAN: Maybe if we move it just a little
10 bit. That will be much better.

11 MR. BRANCATO: Commissioners, this area
12 involves what is now farmland, 176.9 acres.

13 As Staff noted GRADD recommended that one of
14 the entrances, the one off of Highway 231 be
15 constructed with a deceleration land. The applicant
16 is agreeable to doing that and would bond the
17 construction of the deceleration lane at the time
18 whenever a final plat is recorded to the area
19 northeast of the blue line stream.

20 The blue line stream is the area that runs
21 through the middle of the property. I'll show you
22 where that is.

23 It's the area right here in the center. So
24 whenever final plat in any area northeast of this blue
25 line stream is recorded where the applicant would, had

1 they not previously constructed it, bond the
2 deceleration lane on Highway 231.

3 Highway 231 and Hill Bridge Road will serve as
4 the two entrances to the property. There are other
5 roads that border the property. That's Westerfield
6 Lane, Wilson Lane, and part of Burton Road. None of
7 those roads will be used to access the property.

8 As a matter of condition, the developer will
9 deed restrict any home site that backs up to
10 Westerfield Road, Wilson, Burton and Hill Bridge so
11 that no access to those homes be permitted from those
12 other roads.

13 Deer Park, the subdivision, will be serviced
14 by RWRA and the residents in the proposed subdivision
15 will have sanitary sewers as one of the conditions
16 required as a condition of the rezoning.

17 We understand as typical RWRA that the
18 developer will need to stub out several locations for
19 future expansion of public sewers in that area, but
20 only those persons who desire to have sewers and who
21 would petition RWRA for sewers will have access to
22 that or will have some obligation to pay for sewers if
23 they so desire.

24 As we understand R-1A zoning to screen to
25 adjacent property owners within the zoning of A-U,

1 R-1A and A-R is not required. There is one property
2 though, the property owned by Betty Baird, where a
3 portion of her property is zoned B-4 approximately 60
4 linear feet and consistent with zoning requirements.
5 We would be required and will provide a buffer zone
6 along that 60 linear feet line that's required by the
7 ordinance.

8 The subdivision plans have general lighting,
9 but there are no plans finalized yet; obviously as
10 this is just the zoning application itself.

11 I'd be happy to answer any questions from the
12 commission at this time. If there are none, then I
13 stand ready to answer any questions from the audience.

14 I will tell the commission that we met last
15 week in a community meeting at the fire department for
16 about two and a half hours. It was a good turn out we
17 felt. We invited everybody who was listed as
18 adjoining land owners and sent several more letters
19 beyond that. I think there were about 35 people at
20 the meeting.

21 CHAIRMAN: Thank you.

22 We have any questions of the applicant?

23 MR. RINGLING: Is this the appropriate time
24 for comments?

25 CHAIRMAN: If you've got a question, you need

1 to come to the podium and we'll swear you in and then
2 you can make your comments.

3 MR. RINGLING: I've got a statement.

4 CHAIRMAN: You need to go to the podium.

5 MR. ELLIOTT: State your name, please.

6 MR. RINGLING: Brad Ringling.

7 (MR. BRAD RINGLING SWORN BY ATTORNEY.)

8 MR. RINGLING: My concern is the access to 231
9 Highway. 231 Highway is a very busy highway. There
10 are approximately 17 lots proposed in the subdivision.
11 We were told at the community meeting that for every
12 two houses there would be a driveway coming on to 231.
13 So that's approximately eight more driveways. That's
14 in addition to the main subdivision entrance.

15 I would suggest that if a subdivision is
16 approved there would be restrictions to only allow
17 access to the subdivision at that main entrance. That
18 way you can put a traffic light there, deceleration
19 lanes, whatever you need to do to control the traffic
20 problem.

21 Adding more driveways there I see school bus
22 stops, I see cars coming out. That's a hilly area and
23 it's hard to see already. I cannot imagine eight more
24 additional driveways on that stretch.

25 CHAIRMAN: Thank you.

1 Mr. Brancato.

2 MR. BRANCATO: He did tell you correctly.
3 That on the lots facing 231 there would be a shared
4 driveway for every two lots.

5 So if you look at the main entrance, I think
6 that boils down to three driveways on either side of
7 the main entrance.

8 The area to the north right now looks like
9 there might be an extra driveway, but there's going to
10 be some adjustment in the number of lots that face
11 231. So there would be six driveways that would come
12 out on US Highway 231.

13 If you did nothing today under the current
14 zoning, there could be 17 driveways out on 231 as that
15 property exist right with no action by anybody in this
16 room.

17 So what the subdivision will do is actually
18 limit the access beyond what is permitted today if
19 somebody wanted to go out there, the current owners
20 wanted to go out there and simply divide the property
21 along US Highway 231 and give every new lot a
22 driveway.

23 CHAIRMAN: Are there any other questions?

24 MR. ELLIOTT: State your name, please.

25 MS. BOSLEY: My name is Pat Bosley.

1 (MS. PAT BOSLEY SWORN BY ATTORNEY.)

2 MS. BOSLEY: One big concern that the five
3 home owners on Westerfield Lane would like to bring
4 before the Commission, I will tell you that at the
5 community meeting these were addressed in a fashion.
6 We also would like the committee to know that we are
7 pretty much at Mr. Jagoe's mercy on this situation.

8 We have an incredible water problem on our
9 road. We always have. We have just sort of taken
10 care of ourself. We've cleaned up the debris. We've
11 waded in when we couldn't get in. Our road is a dead
12 end. It is our only access in and out.

13 This past month, the month of March 2006, we
14 had a very typical amount of water on our road, which
15 also goes across Mr. Moorman's property below the AT&T
16 tower which is part of the proposed subdivision.

17 I would like very much to ask permission to
18 share these photos possibly with the committee. There
19 are just three pages.

20 CHAIRMAN: That will be fine.

21 Ms. Bosley, as you're distributing these
22 photos you're making a statement of a water problem
23 which is existing.

24 MS. BOSLEY: Yes.

25 CHAIRMAN: This water problem does exist. Is

1 that your statement?

2 MS. BOSLEY: It exist and it affects our lives
3 tremendously. We cannot get into our homes. Any time
4 there's - - this is not back water. This is head
5 water. I know the engineer has supported why we have
6 this. We really would like this to go on record.

7 We are at the mercy of the decision here
8 tonight. It's not what we - - the type of housing
9 across from us is not what we really thought was going
10 to be there. We thought it was going to be larger
11 acreage and a little bit larger homes which we didn't
12 think would affect us quite as much.

13 The water situation, we're at their mercy as
14 to whether their proposal - - they tell us they can
15 take care of this. We're just going to pray that be
16 correct.

17 We would like you all to take this into
18 consideration for the five homeowners on Westerfield
19 Lane, please.

20 CHAIRMAN: Mr. Cambron.

21 MR. CAMBRON: Ms. Bosley, if I can ask
22 Mr. Brancato a quick question.

23 As I look at this development plan here, it
24 looks like you have some water retention basins
25 through out there; is that correct?

1 MR. BRANCATO: Yes.

2 MR. CAMBRON: This has been done by a
3 certified engineer to take care of any water that was
4 coming off that particular property?

5 MR. BRANCATO: As you know, the water that
6 leaves the property might leave at a great rate
7 post-development than it does today.

8 These are the proposed locations for the water
9 basins. They have not been completely engineered yet
10 because, again, you withhold engineering until you've
11 secured approval.

12 Ms. Bosley is correct about the flooding
13 problem. We will not make that flooding problem
14 worse. We have an opportunity with the cooperation
15 from the county to make it better.

16 What we have discovered is in the southeast
17 corner - I'm going to show where that is. This area
18 right here where the five homeowners live that Ms.
19 Bosley described.

20 There are two tremendously under-sized pipes.
21 That corner happens to be a location where two
22 different water sheds come together. It sheds the
23 water from around 290 adjoining neighbors. Nothing to
24 do with the application here. That's the point at
25 which it comes.

1 Also the five pipes from the current
2 landowners are a little under-sized. So we have those
3 two water sheds that then have to cross three of those
4 pipes. So that's where the choking occurs.

5 We intend to widen the ditch along Hill Bridge
6 Road and can substantially widen it beyond our
7 specific requirements due to the depth of the lot. So
8 if those two pipes were replaced with some help from
9 the county, then there'd be a lot of relief for the
10 adjoining landowners.

11 MR. CAMBRON: Are you widening the ditch on
12 the north side or the south side?

13 MR. BRANCATO: On the subdivision side of Hill
14 Bridge Road. We don't have any authority to - -

15 MR. CAMBRON: I understand that.

16 MS. BOSLEY: We maintain those large ditches
17 on our side ourselves.

18 MR. CAMBRON: And you shouldn't.

19 MS. BOSLEY: We've always just tried to do
20 that. We were just trying do our part just like we
21 clean up all the debris, residual debris from these
22 floods.

23 MR. BRANCATO: Both of those water sheds do
24 discharge in the ditch on their side of Westerfield
25 Road. If some of that water was taken into the

1 subdivision side in the wider ditch, that would give
2 relief as well. That would require some cooperation
3 from county.

4 MS. BOSLEY: The other concern we have is my
5 husband and I have retired after 32 years in a
6 classroom and are breeding Rocky Mountain horses. We
7 are very concerned about the subdivision's affect on
8 us, on the safety of our animals and the safety of the
9 children that are going to be living in the
10 subdivision.

11 My question is: Is this going to incur a lot
12 of liable for us? Kids are kids. We love kids and we
13 certain don't want the blood of any child injured to
14 be on our hands, or your all's hands, or anybody's
15 hands. I don't know how much we can do.

16 There are probably 18 horses on our road at
17 this time between the Gordons and ourselves. I don't
18 know whether just to go on record we're really
19 concerned about our liability due to the number of
20 residential lots that are going right across from us.

21 CHAIRMAN: Let's give Mr. Brancato a chance to
22 respond to that. That really is a little bit outside
23 your scope.

24 MR. BRANCATO: It is. That would be a matter
25 between her and her insurance carrier. Obviously

1 people have some obligation to keep their children and
2 animals in check. I don't know that anything that's
3 being done here or proposed here impacts that.

4 One comment Ms. Bosley made was they had
5 understood and believed that larger homes and larger
6 lots were going to go in this area. That's not
7 anything they I don't believe we ever represented or
8 the landowner represented. It may have been some
9 conversation.

10 MS. BOSLEY: Prior representation.

11 CHAIRMAN: Do you have any further questions?

12 MS. BOSLEY: No. I would like to thank you
13 all very much for hearing us tonight.

14 CHAIRMAN: Thank you.

15 Are there any other questions?

16 Yes, ma'am.

17 MR. ELLIOTT: State your name, please.

18 MS. GORDON: My name is Judy Gordon.

19 (MS. JUDY GORDON SWORN BY ATTORNEY.)

20 MS. GORDON: What I really want to explain to
21 you all is if - - where the ditch is going, and they
22 have a lake, it goes over to Wink's property and that
23 hits Panther Creek. You can't control Panther Creek.
24 When the water flows down Westerfield Lane, goes
25 through the ditches, it goes out on Wink's farm. It

1 comes out on Moorman's farm. All of this water here
2 goes to Panther Creek. Can you control that? You
3 can't. It backs up. When it backs up, that's why the
4 water cannot come out from our property. You can't
5 control that.

6 There is many times that when we had the flood
7 we would take the four-wheeler and go through the
8 fields on Wilson Lane. You can't control Panther
9 Creek. I don't care what they do there, when Panther
10 Creek floods it's backing up at Moorman's. I have
11 rode Moorman's farm for 25 years and that place is a
12 disaster riding. You can't because it backs up. I've
13 rode over by Panther Creek. You can't control it.
14 Who is going to control Panther Creek because that
15 water is going to back up. It can't go nowhere.

16 CHAIRMAN: Let me ask - - I think Mr. Bryant
17 is here. Mr. Bryant is the engineer of the project
18 and that's one of his responsibilities. Let me bring
19 Mr. Bryant to the stand let him address that.

20 MR. ELLIOTT: State your name, please.

21 MR. BRYAN: Don Bryant.

22 (MR. DON BRYANT SWORN BY ATTORNEY.)

23 MR. BRYANT: We really have two situations
24 here with drainage, and she is right. We have a flood
25 zone that extends from Panther Creek up that farm. IT

1 runs along Hill Bridge Road and includes the roadway
2 ditch and takes that large area to the north on the
3 adjoining properties.

4 The flood plain turns and comes up the channel
5 a short distance. We're not proposing anything that's
6 going to change the flow on Panther Creek. We're
7 going to have to accommodate our water. Basin levin
8 392.

9 There's going to be times when there's going
10 to be some minor flooding in that area, but you'll
11 note that we have located our major retention basins
12 in this area as opposed to trying to build residential
13 lots there.

14 The adjoining areas will be built up somewhat,
15 but we have to meet a one to one displacement for
16 anything that we fill in a flood zone. For every
17 cubic yard that we fill, we will put at least one
18 additional cubic yard in storage in that flood plain.
19 Probably more.

20 The ditch along 298 is going to be
21 significantly wide, if you look at those lots.
22 Originally we planned on frontage lots on 298. As we
23 got into the project and saw what was happening there,
24 we abandon that idea. Those lots are significantly
25 deeper than the other lots. We're proposing quite a

1 wide drainage easement there. We're going to open
2 that ditch up probably on the order of something with
3 15 foot bottom, maybe wider, depending on the actual
4 number when we design it.

5 MR. APPLEBY: That's along Hill Bridge Road?

6 MR. BRYANT: Yes, that's along Hill Bridge
7 Road. Pull in, structure under Hill Bridge all the
8 way to Westerfield. We're going to wrap it around and
9 run it up on Westerfield to where the second tributary
10 comes in. This is where most of the water causes a
11 problem on Westerfield. It's not back water. The
12 head water is creating a major problem there.

13 We're going to provide an outlet for that
14 water. With some cooperation, and I think we're going
15 to get that from fiscal court, to install two
16 structures of proper size.

17 We're going to have two outlets. We're going
18 to take the water across Westerfield, route it down on
19 our side, provided an easement for that, and into this
20 improved ditch. We're not proposing that we're going
21 to cure all the drainage problems that exist today on
22 Westerfield. They have major problems. They have
23 almost 300 acres drainage to the intersection, but we
24 can provide a lot of help to them. With those
25 structures I think we can resolve some of the drainage

1 problems that they're experiencing today.

2 MR. CAMBRON: What was the basin number? 392,
3 is that what you said?

4 MR. BRYANT: Base flood is 392. That's the
5 upper reach. That's the extreme upper reach of the
6 designated flood zone. It's right in the area where
7 we have the basin proposed. These basins are just
8 estimated at this point. As we get into the actual
9 design, these basins may become larger. We'll have to
10 see as we get into actual design. We will have to
11 meet the criteria.

12 MR. CAMBRON: In the picture they show water
13 in them now, but, again, those are only seasonal,
14 right?

15 MR. BRYANT: Well, we're proposing wet basins
16 for purposes of esthetics and maintenance as opposed
17 to just dry holes if we have problems. So we want to
18 make these something that people will want to live
19 around. They'll serve the purpose for the retention
20 as well. Seven and a half acres of lake shown on the
21 plan. That's significant.

22 MR. HAYDEN: Mr. Bryant, that basin you're
23 putting there, won't that slow a lot of that water
24 that they are getting on Westerfield Lane? When you
25 have a flood, will that slow some of that water down?

1 MR. BRYANT: Really don't want to slow the
2 water down.

3 MR. HAYDEN: I mean it holds back. I know.
4 Holds it back so it won't all come at one time; isn't
5 that right or not?

6 MR. BRYANT: The water from the Westerfield
7 area?

8 MR. HAYDEN: No. Coming off the property.

9 MR. BRYANT: You're going to have some pass
10 through water for drainage areas upstream of the
11 project. That will not be retained.

12 We'll be retaining the water in additional and
13 run-off that we're creating by going from an open area
14 to street with roof-top driveways. We will mitigate
15 that.

16 MR. CAMBRON: You said possibly some
17 cooperation from fiscal court. Could you elaborate on
18 that a little.

19 MR. BRYANT: We have two structures. There's
20 an existing pipe right at this intersection. Existing
21 pipe under Westerfield is carrying 288 acres. It's
22 five foot equivalent of a pipe arch because there's no
23 more cover provided.

24 We ran some rough numbers. It would take
25 three pipes that size to accommodate for EXACT (CHECK)

1 storm. Not 100 year storm but exact storm. So that
2 gives you an idea of how limited their capacity is
3 now.

4 We've got two basic areas that are merging in
5 a very small ditch with driveway pipes anywhere from
6 18 to about 36 inches. They're all even more so
7 under-sized than the pipe under the road.

8 There is no structure up at the other end of
9 Westerfield. We're proposing the county install one
10 there and then we'll provide an outlet for it with a
11 permanent easement. We think the combination will
12 provide relief.

13 MR. CAMBRON: Have they been open to this
14 suggestion?

15 MR. BRYANT: Yes. We discussed it last week
16 in our meeting at Masonville.

17 CHAIRMAN: Mr. Noffsinger.

18 MR. NOFFSINGER: I have a question of Mr.
19 Bryant.

20 To your knowledge during the periods of heavy
21 rain or back up of Panther Creek, flooding considering
22 100 year storm event, would Hill Bridge Road ever in
23 the past has it or do you anticipate water being over
24 Hill Bridge Road between - -

25 MR. BRYANT: Yes. Base flood of 392. The low

1 point on the highway now is about 390 or just a little
2 over.

3 MR. NOFFSINGER: So it has had a history of
4 water being over that road?

5 MR. BRYANT: For 100 year event. Base flood
6 is based upon 100 year FEMA storm and that's what we
7 go by.

8 MR. NOFFSINGER: In your design of this, will
9 it improve that situation? I'm thinking about access
10 from 231 to this development because your primary,
11 really your only access into this development
12 initially for this phase will be off of Hill Bridge
13 Road.

14 Will there be in your design, are you making
15 improvements to where it would alleviate that
16 situation?

17 MR. BRYANT: We're providing - - their
18 main access is 231 and that's what we're anticipating
19 the bulk of the traffic to use once it's developed.
20 You know, if you have an access point on Hill Bridge
21 Road, then that will be the only access point used
22 temporarily. We really can't do anything with Panther
23 Creek flood plain. Anything we do here is not going
24 to have any impact on the flood plain. We're going to
25 mitigate our project so we don't have that, but we

1 can't fix Panther Creek.

2 MR. NOFFSINGER: But the primary access point
3 into this development initially will be Hill Bridge
4 Road for an indefinite period of time that does have a
5 history of flooding. We don't know at what point in
6 time you'll open the 231 access.

7 MR. BRYANT: We don't have a timetable at this
8 point.

9 MR. APPLEBY: Where is the low point on Hill
10 Bridge Road right now?

11 MR. BRYANT: It's at the structure there where
12 the channel goes directly under, angles under. Right
13 between the two basins.

14 Also there's an existing structure under the
15 entrance to AT&T. This is a larger structure. It's
16 not the bottle neck, but it is significantly
17 under-sized. We're going to do away with that
18 entrance. That will eliminate that bottle neck. The
19 structure under our street access will be designed to
20 accommodate the flow coming from this development, all
21 the flow from Westerfield. So that no longer will be
22 a bottle neck.

23 MR. NOFFSINGER: Mr. Chairman, the reason I
24 bring that up I think in some way that needs to be
25 realized and perspective buyers out there need to

1 realize that that can be an issue and should be
2 handled by a note of some sort at least on the plat
3 that addresses that flooding issue because we've had
4 time and time again. When residents have drainage
5 problems, they call their county elected officials and
6 they call their city elected officials and complain.
7 Rightfully so.

8 Here today we're creating a new situation.
9 Many of these existing residents and existing
10 subdivisions are unaware and we can't do anything
11 about it.

12 MR. CAMBRON: I will disagree. There's a lot
13 of things you can do to alleviate that.

14 MR. BRYANT: We're going to do everything that
15 we can within reason to alleviate the drainage
16 problems that are there. It's beneficial to us from a
17 marketing standpoint.

18 MR. CAMBRON: As you pointed out, the low spot
19 is right there.

20 MR. BRYANT: Got a slight dip right over the
21 pipe. That structure is also marginal capacity wise.
22 It's not near the bottle neck that the others we
23 talked about. That one needs to be looked at. That's
24 a state highway.

25 MR. CAMBRON: It's a state highway. Has there

1 been any talk about possibly raising that highway
2 through there?

3 MR. BRYANT: It hasn't been discussed. We
4 have talked to them about our improvements that are
5 proposed on 231 and they're fine with what we're
6 proposing.

7 CHAIRMAN: Does anybody else have any
8 questions?

9 Yes, sir.

10 MR. ELLIOTT: State your name, please.

11 MR. MARTIN: Larry Martin.

12 (MR. LARRY MARTIN SWORN BY ATTORNEY.)

13 MR. MARTIN: Of course, my main concern I'm
14 one of the families that lives on Westerfield Lane.
15 We're speaking of the drainage. I didn't know if
16 there would be a tape player visible to use this
17 evening, but you're talking about the 100 year flood.
18 Of course, we know the flood of '37. We know the
19 water was up in I think it was '62 or something like
20 that, and in 1997.

21 I'd just like to show you on this map, if you
22 don't mind. When he was speaking of the flood water -
23 - I've got on this video, you know, we were speaking
24 earlier about the head water which is a major problem
25 that we have here on the Westerfield Lane here.

1 Now, when he's speaking of - - we'll go to
2 back water now. When the water was over this road
3 that you asked about, Mr. Noffsinger. Currently the
4 AT&T tower, which is located here, has a drive that
5 runs out to Hill Bridge Road. Their proposal is to do
6 away with the tile that's in there.

7 When that tile was put in there I met with
8 state engineers and all this kind of stuff and they
9 assured me that that culvert would not cause any back
10 water. They said my home was three feet above where
11 the water would be to ever do that. Within two weeks
12 I had water in my garage and I called the state man
13 out there. I said, you might want to get in your
14 little white state truck and come out here and take a
15 look at Hill Bridge Road where you said it's not going
16 to back up and get me in water because my house looked
17 like an island basically.

18 Now, this is the head water we're speaking of.
19 I'm talking about '97. The back water, just picture
20 the AT&T lane coming out here, which you see is
21 actually pretty close to the corner here. The water
22 was actually about 100 to 200 feet east of right here.
23 So this road was completed inundated with water except
24 for the highest part that goes up on 231. There's an
25 incline that goes up 231.

1 There's a major culvert and everything that
2 goes across Hill Bridge Road. It was completely under
3 water. The mile marker sign on Hill Bridge Road, all
4 you could see was the four inch reflector that's on
5 top of the mile marker sign, which would be the water
6 was probably 36 to 42 inches deep.

7 Three days I could not get out this road to go
8 to work. Of course, the other alternative, of course,
9 it's not on the map because it's not - - anyhow, it's
10 to head toward Panther Creek. You used to could go
11 out back that way. Well, there was four feet of water
12 over this road. So in essence where we were back here
13 for three days, unless you had a boat, you were there.
14 You didn't get to go do anything. You couldn't come
15 in. You couldn't go out because of this water.

16 When I did the video, it's dated like March
17 1st. The rain started on February 28th and went
18 through March 1st. I think about 10 inches of rain.
19 It's dated and it shows the head water you got out
20 there.

21 Then it's dated four or five days later where
22 I've got the film of Hill Bridge Road under water from
23 where the back water came up.

24 I mean if you've got new homeowners that come
25 in here, and I know I heard the question about 20 year

1 flood or 25 year flood or whatever you're talking
2 about. If you come in here and you build a 150,000 to
3 a \$400,000 home, to me somebody better be telling them
4 that if you get a rain like we had in 1997, that they
5 could very well be having water in their \$400,000
6 home.

7 Now, I spoke to Mr. Bryant at the meeting up
8 at the fire department at Masonville. He addressed
9 most of this stuff to me, but yet he really couldn't
10 give me satisfaction that this is going to solve the
11 problem.

12 It's just like somebody brought out awhile
13 ago. If this is a four stage or a five stage event
14 before they completely finish all this, what's going
15 to exactly be entailed in the first stage that's going
16 to solve this problem? Is it going to solve the
17 flooding here plus the flooding back here on
18 Westerfield Lane or is it going to just do this? Is
19 it just going to do Westerfield Lane or is it going to
20 do anything at all when you very first start?

21 We're concerned because on this video I've got
22 my house. If I step out my door, I was in water.
23 Front door, back door, six inches of water in my
24 garage.

25 My road that I come in on Westerfield Lane was

1 completely under water. Then like I said, when the
2 back water - - the head water did not flood this part.
3 Now, the head water did cover Hill Bridge Road down
4 here by where the AT&T tower comes in. Then when the
5 head water come out it was gone. The back water
6 started coming up. It went almost to this AT&T tower.

7 So not only do you have head water problem
8 with a major storm - - the pictures that you all
9 looked at that were passed out, right here, which was
10 March of this year. This was not no 1997 rain. This
11 was not no '62 or '37 rain that caused this water
12 right here. I think this was less than two inches and
13 none of us could get out on that particular rain.

14 We're kind of worried as to what is the actual
15 guarantee that this is going to solve the problem.
16 Because pretty much Mr. Bryant when I talked to him he
17 said, well, there's no 100 percent guarantee. Well,
18 if I'm investing in that kind of money in a house, I
19 better have 100 percent guarantee before I go and
20 spend \$400,000 on a house or something like that
21 because I'm going to want to know that in the future.

22 So that was the problem that I was wanting to
23 address with that. I brought the video. I didn't
24 know if it'd be available to see, but it's dated. It
25 shows where I filmed it. You can see the water.

1 Then, of course, the other problem I was going
2 to talk to you was about the entrance to 231 from Hill
3 Bridge Road at 7:00 or 8:00 in the morning.

4 You really don't have a lot of trouble getting
5 out on that road right now, but if you put the mass
6 amount of houses that they're talking about here with
7 the families that are going to get out between 6:00
8 and 8:00 in the morning and try to go out on 231 when
9 you've got a major hill that's blind side when you
10 come out there about where they're talking about this
11 right here, you're going to have accidents unless you
12 install a traffic light or something like that.

13 I've looked at this map when we were at
14 Masonville in every which way I could look at it to
15 try to figure it out. I'm not an engineer, but when
16 he told me, no, I can't guarantee that, then to me
17 that's when I thought, well, something needs to be
18 addressed to give somebody a guarantee. Because if
19 they build these houses and I get flooded, somebody
20 needs to be responsible for that and not just God who
21 brought the rain in.

22 CHAIRMAN: Mr Martin, let's bring Mr. Bryant
23 back and maybe address some of that. I think
24 basically you have two major questions.

25 Mr. Bryant, did you follow that?

1 MR. BRYANT: I think the discussions of the
2 100 year storm we're talking about statistical
3 finding.

4 I would suspect on Westerfield Drive that you
5 have flooding when you have a one to two inch rain
6 because that's all the capacity you have out there.

7 Levitiation. That storm water is coming from
8 behind all those homes. Coming down, running through
9 two ditches, and then branching off into other smaller
10 tributaries, collecting all that water. It's all
11 coming down from behind your homes. You're trying to
12 make that water divert 90 degrees, route it down an
13 extremely small road ditch. Very, very small knee
14 bottom ditch with driveway pipes that are grossly
15 under-sized. That's what's holding the water back and
16 causing Westerfield Drive to flood. That is far above
17 base flood. It's a totally separate issue from
18 Panther Creek and FEMA.

19 There are no flood zones on Westerfield Drive.
20 You have a major water problem, but you do not have a
21 flood zone. You're not even close to one.

22 MR. MARTIN: No, I didn't say flood - -

23 CHAIRMAN: Just a moment, Mr. Martin. He has
24 to finish his statement and then you can make other
25 questions, but you'll have to go back to the podium.

1 MR. BRYANT: What we're proposing is something
2 that's going to give them a great benefit, improve
3 their situation. This situation they're talking about
4 exist today. We're not causing this. But if we can
5 contribute to the solution, then it's a great thing.

6 MR. APPLEBY: Your design will improve the
7 head water situation.

8 MR. BRYANT: The head water.

9 MR. APPLEBY: But it's not going to cure the
10 problem. It's going to improve the situation. The
11 back water situation is another story completely.

12 Now, the homes and the lots that you have
13 fronting along or that actually back up Hill Bridge
14 Road, you'll deal with the flood zone problems on
15 those lots. I assume all of those lots will be built
16 up.

17 MR. BRYANT: We won't have any building pads
18 under 393.

19 MR. APPLEBY: And you'll put the additional
20 capacity back in the retention areas.

21 MR. BRYANT: That's right. Then the over
22 design retention areas where you're getting additional
23 capacities, storage capacities, plus the additional
24 volume we're going to provide along, 298 is going to
25 provide substantial more volume to store some of this

1 water as it does back up to Panther Creek. All you
2 can do is provide a place for storage.

3 MR. APPLEBY: But that's not to say that 298
4 is not going to go under water again.

5 MR. BRYANT: I can't make that statement.

6 MR. CAMBRON: We're not comparing apples to
7 oranges here. We're talking about a development
8 that's going to take care of the water that it has.
9 It's not your all's responsibility to take care of the
10 water that's there now.

11 MR. BRYANT: And I can't guarantee you that
12 all the drainage problems on Westerfield Drive is
13 going to be okay after we're out of there.

14 MR. CAMBRON: But when they're finished,
15 they're going to take care of what's on their property
16 and the flow of it.

17 MR. BRYANT: You've got to understand, this is
18 all site water that's been there probably before those
19 homes were built. Natural water shed. I don't know
20 on anything to change.

21 CHAIRMAN: Does anybody else have any
22 questions?

23 MR. BRANCATO: Mr. Chairman, I wanted to add
24 one thing to what Brian was saying.

25 We can't do anything about the back water on

1 Panther Creek, but other people are doing things about
2 the back water on Panther Creek.

3 The gentleman said he had video from 1997.
4 Well, since 1997 there's been several large retention
5 basins developed further down Panther Creek. Where
6 you get back water is a blockage further down the
7 creek and then it starts working its way all the way
8 back up. There's been several very large retention
9 basins built since '97 along Panther Creek. One of
10 the reasons FEMA is coming in and remapping the flood
11 zone in this area. I can think of three large
12 retention basins behind the Wal-Mart on 431. Some of
13 them are dry basins. Some of them are wet basins.
14 Some of them have pumps on them that only kick on when
15 the water rises to a certain level.

16 So improvements are being made all around the
17 county, but we can only deal with the head water issue
18 and the water leaving the property. That's what's
19 relevant tonight in this rezoning.

20 CHAIRMAN: Thank you.

21 Sir, I believe you have a question.

22 MR. ELLIOTT: State where your name, please.

23 MR. EMMICK: Roy Emmick.

24 (MR. ROY EMMICK SWORN BY ATTORNEY.)

25 MR. EMMICK: I'm a little concerned. I have

1 some property on Westerfield Lane.

2 My question is: Has the main high pressure
3 sewer line been established coming out? As I
4 understand it, it will come from about Deer Park or
5 the community college out to this development.

6 I have a two point question. Has the lines
7 been established and will adjoining landowners be
8 assessed for the expense of this installation even
9 though won't hook on to it at the present time?

10 MR. BRANCATO: Would it be more expedient to
11 wait until everybody is done?

12 CHAIRMAN: Let's see if we can sort of put
13 these together.

14 MR. BRANCATO: An agreement has been reached
15 where the developer is going to pay for the line share
16 of the force main that's going to come out from the
17 college area. It's going to be built along the
18 existing right-of-way on Highway 231 and will enter
19 the property in that northeast corner. From that
20 point that will be laid out in the subdivision.

21 RWRA does require that we build several stub
22 out areas so that adjoining landowners, if they want
23 to petition RWRA for sewers, would be able to do so.
24 None of the adjoining landowners are going to be
25 assessed any of the cost of the sewage system that's

1 going to serve this particular subdivision. It's only
2 the developer that would be bearing this.

3 CHAIRMAN: Mr. Hawes, would you like to make
4 a comment?

5 MR. ELLIOTT: State your name, please.

6 MR. HAWES: David Hawes.

7 (MR. DAVID HAWES SWORN BY ATTORNEY.)

8 MR. HAWES: Joint a point of clarification
9 just to be sure we understand everything that's
10 associated with the sewers.

11 He discussed a lift station. There's going to
12 be a lift station located at this part of the
13 property. The actual force main that comes to town
14 will pump along 231 to tie into an existing part of
15 the system that we have.

16 There will be stubs as mentioned earlier, two
17 other properties. We actually intend to extend sewer
18 service up into the Masonville area. There's three
19 package treatment plants that exist there today. One
20 is Seratoga Mobile Home Park. One at the old
21 Masonville School, currently Beacon School, and then
22 Garden Heights Subdivision. We do plan on extension
23 further up in the area.

24 It's discussed about assessment of cost. When
25 we provide sewer service, and I'll use Road Village as

1 an example. Road Village is in this area here on the
2 map. If Road Village petitions for service, then we -
3 - it doesn't necessarily have to petition for service,
4 but that is our general criteria as we speak today.
5 We like to have a level of commitment from the
6 community that they want a service and then we extend
7 it. At that point once sewer service is available on
8 the property, the property owners are required to go
9 on and they pay their pro rata share cost of that
10 extension.

11 When it's discussed there may be areas on
12 Westerfield Lane, there was some discussion at the
13 meeting about whether or not they wanted sewer
14 service. They will have the ability to have it with
15 this stub out. Then if they request it, then we would
16 probably move there.

17 We have a lot of sewers that we're going to
18 put in the county as requests are made, but we will
19 probably proceed with some of this extension up into
20 these other areas to get rid of these treatment plants
21 as soon as this development is started. We would move
22 forward with some of that construction.

23 CHAIRMAN: Thank you, Mr. Hawes.

24 Does anybody have any questions of Mr. Hawes
25 while he's at the podium?

1 (NO RESPONSE)

2 Do we have any other questions?

3 MR. RINGLING: Brad Ringling.

4 My property and Betty Baird's property just on
5 the back side will be adjoined by approximately 14
6 lots. I'd like some kind of guarantee or assurance
7 that I'm not looking out at 10 or 12 different fence
8 designs.

9 What kind of recourse do I have? The builders
10 have kind of indicated that, no, that won't be a
11 problem. There are covenants that will cover that.
12 Do I have any recourse that that is not the case?

13 CHAIRMAN: Mr. Brancato, do you or Mr. Bryant
14 want to answer that?

15 MR. BRANCATO: I'm not sure I understand the
16 question.

17 CHAIRMAN: The question was in regards to
18 covenants regarding fencing, uniformity or
19 individuality of fencing for 14 different lots.

20 MR. BRANCATO: The deed restrictions are going
21 to restrict fencing to two designs. So there's the
22 possibility of two different types of fences, but only
23 two different types of fences.

24 MR. CAMBRON: Isn't there just seven lots that
25 are going to back up to you, Mr. Ringling; is that

1 correct?

2 MR. RINGLING: Probably about seven, around
3 that, yes.

4 MR. CAMBRON: I believe behind Ms. Baird - -

5 MR. BRANCATO: Ms. Baird's lot is right there.

6 MR. CAMBRON: Yes, I know that. I'm just
7 trying to figure out if they were going to be doing
8 some screening, where that is at.

9 MR. BRANCATO: Well, there's a portion dead
10 center of her property that was for some reason zoned
11 B-4. It's surrounded by A-R. Under the regulations
12 her B-4 property adjoins this what would now be R-1A.
13 So we would have to put 60 foot of screening along
14 that continuous property line.

15 CHAIRMAN: Does anybody else have a different
16 question? I know Mr. Martin has already asked a
17 question. I was going to take somebody else if you
18 have not been to the podium.

19 Yes, ma'am.

20 MR. ELLIOTT: State your name.

21 MS. BAIRD: Betty Baird.

22 (MS. BETTY BAIRD SWORN BY ATTORNEY.)

23 MS. BAIRD: According to this plat there's ten
24 homes that back up to my acreage. As you know, that's
25 real disturbing to me.

1 I moved out to the county to raise horses,
2 have a shop. I have a tack shop out there and I board
3 horses. I've got a vinyl fence all the way around my
4 farm except right here below my pond.

5 If they move behind me and put their different
6 kinds of fences down through there and put it right
7 next to my fence, it's going to look pretty ugly.

8 I just want you all to consider our rights and
9 why we in the county feel this way because every one
10 of us went out in the county to be in the country.

11 To have my privacy and my security, because I
12 live alone, and for my business. I have an alarm on
13 my driveway. If anybody comes in, I know it. They
14 can crawl through that vinyl fence and be in my shop
15 and my house faces toward the highway. They can go
16 through that and get into my shop. I've got \$100,000
17 worth of stuff in there and they can take every bit of
18 it and I wouldn't know it. They could take jewelry
19 and boots. I don't have the saddles, but horse
20 equipment, I've got all kinds of equipment in there.

21 I board horses. I can't guarantee the people
22 that - - well, I'll just have to stop boarding horses
23 because - - that's part of my income. About \$400 a
24 month boarding horses.

25 Like Pat and them said. People can go through

1 your fence. The kids can get in there and throw
2 things at the horses or dogs. Everybody has got a dog
3 except me. You know, packs of dogs can scare the
4 horses and they can go through that fence and be in
5 the highway. It just really, really concerns me.

6 We thought at first another builder was going
7 to put some large nice homes in there, but I
8 understand now, according to this, he can build up to
9 770 houses in there. That's a lot of houses in that
10 one little area there. The ones back here he said
11 they were going to be the smaller homes. Of course,
12 that's where I live. That will affect me.

13 I don't know what else to say except the
14 traffic on 231 right now, there's five driveways, five
15 families that go off of our lots and onto 231. Mine,
16 the Ringlings, the Lashbrooks up there have two, and
17 Judy Blandford has a rental home across there and
18 she's got one. When you take five homes and multiply
19 that times whatever to get 770 homes getting out on
20 that road.

21 I understand the traffic. They did the survey
22 on the traffic there and there's 8,000 vehicles that
23 go on 231 every day. They estimated that if this
24 subdivision went in there that there would be 6,000
25 more. That's 14,000 vehicles that go up there. Any

1 time of the day you can hear sirens go because
2 emergency, fire, police, whatever, ambulances. I
3 don't know how they can handle it.

4 You can go - - sometimes I leave my driveway
5 at 5:30 in the morning and I'm always back by 8:00 to
6 open my shop. Between 5:30 and say 8:30, it's just
7 lined up. I mean you just can't even get out of my
8 driveway hardly. I can't imagine.

9 You go around a curve here and head down
10 toward Owensboro and there's an open stretch there.
11 Everybody is impatient because they have to come
12 through a blinking light up here and there's a speed
13 zone in front my place that's 45 miles an hour. They
14 curve up there in front of Ringlings and Brad's and
15 take off down there. They pass and everything else.
16 Well, if all of these homes are going to have
17 driveways going out into 231, somebody is going to get
18 killed and it's not going to take long to happen.
19 It's just a dangerous place.

20 They're going to have a main entrance there.
21 If they have a pull off, slow down exit or whatever
22 they call it, that's not going to help the traffic
23 problem or help them pulling out because they're going
24 to pulling out all of these driveways on 231. It just
25 can't handle it.

1 I'm just asking you all to consider all of us
2 and our rights as homeowners out there and property
3 owners and tax payers and take that all into
4 consideration. I'm just asking you to deny it for all
5 the people. It's just a portion of the people in that
6 area. It would change our whole way of life. Thank
7 you.

8 CHAIRMAN: Yes, ma'am.

9 Are there any other questions?

10 Yes, ma'am.

11 MR. ELLIOTT: State your name, please.

12 MS. WESTERFIELD: Joanna Westerfield.

13 (MS. JOANNA WESTERFIELD SWORN BY ATTORNEY.)

14 MS. WESTERFIELD: First of all I have a
15 statement and then some questions.

16 Good evening, ladies and gentlemen. My name
17 Joanna Westerfield and I am a citizen of Masonville.

18 Like several here I am here to oppose the
19 rezoning of the Moorman farm. According to a letter
20 signed by Keith Harpole, the development is proposed
21 to have 622 dwellings on the property.

22 I guess this is where I need my first
23 question. Does the concept depict 622 homes or 770?

24 CHAIRMAN: If you would, would you summarize
25 your questions, 1, 2 3, and then we'll bring them back

1 and try to ask each one of them rather than bring them
2 back and forth for the benefit of everybody here.

3 MS. WESTERFIELD: That will be fine.

4 The transportation study that was conducted
5 was a study broken down to determine semis, school
6 buses, farm equipment and personal vehicle traffic on
7 Highway 231.

8 I like many others have enjoyed the progress
9 that our area has made over time. It has been just
10 that. A little over time. We are proud that our
11 children can acquire an elementary, a secondary and
12 high school education as well as an associates degree
13 if they so wish without leaving the vicinity.

14 However, we have also accepted the
15 inconveniences that have come with the progress our
16 community has made. We are fully aware that it takes
17 change in order for progress to be made.

18 According to Mr. Harpole's study, each
19 dwelling is proposed to produce approximately ten
20 vehicles trips in a 24 hour period, which corresponds
21 to an additional 6,220 vehicle trips. Currently 231
22 carries approximate 8,500 vehicles in a 24 hour
23 period. These two figures combine total 14,720
24 vehicle trips in 24 hours on US 231. The additional
25 traffic will almost double the volume that is

1 currently on US 231.

2 From College View Middle School the four lanes
3 south merge into two lanes. There are drainage
4 ditches on both sides with guard rails as well.

5 Now, ask yourself: Would you want to travel a
6 two lane highway with 14,000 plus vehicles on any
7 given day and the only protection you have is
8 guardrails?

9 The citizens of Masonville know that this
10 stretch of highway is very dangerous and congested
11 different times of the day.

12 For example, Deer Park Elementary opens at 7
13 a.m. and a school day ends at 2:20. There are 575
14 students enrolled there. Of the 575 students, 200 are
15 car riders. It is not unusual to see traffic lined up
16 to the highway. This number does not include the
17 staff that is employed there nor does it include
18 College View Middle School population and staff
19 located right next door.

20 It also does not include the nine buses that
21 double back and forth transporting students to and
22 from school each morning and each afternoon.

23 At 3:15 you have Daviess County High School,
24 Beacon Central and College View Middle School
25 releasing hundred of students at a time.

1 Please keep in mind this does not include
2 others who are trying to get to and from work.
3 Depending on what time of the year it is, you will
4 encounter farmers hauling equipment to the field.
5 It's a fact of life. It's a Masonville way of life.

6 No matter what time of the day it is, you will
7 encounter semis traveling 231 in both directions.

8 How will Harpole's recommendation a turning
9 lane help individuals trying to exit Hill Bridge Road,
10 which is already an existing problem?

11 Residents of Masonville are fully aware that
12 an attempt to exit Hill Bridge Road is taken at your
13 own risk. It's as simple as that. Take it at your
14 own risk.

15 Which leads to my next point. Deer Park
16 already has 575 students. The Daviess County Board of
17 Education attempts to keep the population below 600 for
18 the elementary level. From now until August 1, seven
19 families could move in to our community and change
20 that figure to 600.

21 Jagoe's proposed plan will essentially drive
22 the student population over 600. Further taxing a
23 school, which is having an increase in population,
24 every year since it has been built which was 1997.

25 In fact, enrollment has now grown from 463 to

1 575 as of today.

2 In the summer of 2003 alone, six additional
3 classrooms had to be added to accommodate the
4 increasing population.

5 Ask yourself: Would you want your child
6 sitting in a classroom with a 24 cap or a 30 cap, with
7 one teacher, no assistant?

8 Jagoe's plan will only compound the
9 community's existing problems.

10 An average home of four with 622 homes means a
11 population increase of 2,488. In essence their plan
12 places another community right next door to an
13 existing one.

14 The sheriff's department currently has four
15 full-time deputies per zoning. They cover west,
16 southwest, east, and southeast Daviess County, which
17 is roughly 400 square miles.

18 With this proposal the sheriff's department
19 will have an additional 2000 plus residents to
20 protect.

21 CHAIRMAN: Excuse me, Ms. Westerfield. Could
22 you get to your questions in case we have other people
23 that might want to ask a question? I believe you've
24 got one question, unless I've been - -

25 MS. WESTERFIELD: The concept, does it depict

1 770 homes or does it depict 622 homes? Has the GRADD
2 data, according to Keith Harpole, does not show or
3 depict how many semis, or how many school buses, or
4 any of that information that travels 231, as well as
5 the farm equipment, personal vehicles. Those are the
6 questions I have.

7 CHAIRMAN: Thank you very much.

8 Mr. Bryant, would you or Mr. Brancato respond
9 to those two questions that Ms. Westerfield had.

10 MR. BRANCATO: Those were about the GRADD data
11 depicting the type of vehicle?

12 CHAIRMAN: Why don't we take the first one
13 first. The number of houses. Is there going to be
14 600 plus homes there or is there going to be 700?

15 MR. BRANCATO: Well, it's depicted at 622
16 single residences. The density under the ordinance
17 permits one per 10,000. So if you use the ordinance
18 density, it would be 770 plus or minus, but the
19 depiction here is 622.

20 CHAIRMAN: How many homes do you all - - are
21 you all going to stick with this or are you going to
22 change?

23 MR. BRANCATO: This is a preliminary plan.

24 CHAIRMAN: Your preliminary plan of 622 homes.

25 MR. BRANCATO: Yes, sir.

1 One thing I think might Ms. Westerfield might
2 not have understood. If you look at the
3 transportation study, it's 8,000 trip. From trip in,
4 there's a trip out too. So that's actually 16,000
5 vehicles, whatever type are using that road.

6 Also to be recognized that it's done over a 24
7 hour period. The peak is much higher. As some
8 residents have described it, the peaks are in the
9 morning and the afternoon.

10 If the road wasn't designed to transport or
11 carry that capacity, then it would have been set forth
12 in the report. Have I answered all the questions?

13 CHAIRMAN: Let me check with Ms. Westerfield.

14 MS. WESTERFIELD: This preliminary plan, does
15 that mean that after it's approved that it can be
16 changed and they could build 770 homes.

17 CHAIRMAN: Let me direct that question to Mr.
18 Noffsinger.

19 MR. NOFFSINGER: Yes, ma'am. The zone allows
20 up to one dwelling unit for every 10,000 square feet
21 that you have. So they could come back in with a plan
22 to maximize, if you will, the number of dwelling units
23 per acres. They could do that. I think what they're
24 here tonight is to show you that this is our plan.
25 We're generally going to stick with. They're going to

1 have land that they have to devote to retention
2 basins, streets and whatnot. I think what Mr.
3 Brancato is presenting is the plan that generally they
4 intend to follow, but we have to be mindful they can
5 amend that plan. They can come back to this board and
6 ask for an amendment. They are entitled to develop
7 that property at whatever density the zoning ordinance
8 allows. That could be up to the 700 plus dwelling
9 units per acre.

10 MR. CAMBRON: Can I make one quick comment
11 here, Mr. Chairman?

12 CHAIRMAN: Yes.

13 MR. CAMBRON: One of the traffic studies, Ms.
14 Westerfield, you were referring to is a traffic study
15 that runs from 298 to 142. That's where those numbers
16 come from. I had a long conversation with Keith
17 Harpole about that. Again, just like Mr. Brancato
18 explained. That are trips in and trips out.

19 I have to agree. There is a lot of traffic
20 but, you know, I think that you would find that
21 they're going to try to address this as much as
22 possible. I'm not going to tell you there will never
23 be a light at 298. I wish there was. This might
24 drive a light to 298.

25 MS. WESTERFIELD: When you say "they're going

1 to address it," who are you speaking in terms of is
2 going to address the traffic problem?

3 MR. CAMBRON: Right now they're going to do
4 this preliminary plan and it's going to be done in
5 stages. I'm just saying that I would think, and
6 correct me if I'm wrong, Mr. Chairman or
7 Mr. Noffsinger, as development grows out there and
8 more people, which there are a tone of people that use
9 that road. No question about it. I'm out there every
10 day, twice a day even if I don't like to. As
11 development grows out there, I think you will see some
12 type of traffic light that would have to be installed.
13 I can't guarantee you that. I don't think anybody in
14 this room could, but I think you would see that
15 happening eventually.

16 MR. NOFFSINGER: Mr. Chairman, if I might
17 address some of Ms. Westerfield's comments, and I'll
18 do that very briefly.

19 In terms of transportation, we rely on the
20 Green River Area Development District for
21 transportation planning. We have them review this and
22 they make recommendations to this commission and our
23 staff as to what improvements are necessary.

24 As we go through the continued development of
25 this property, then it would be monitored to make sure

1 that it is being satisfactorily addressed.

2 This property is located partially and
3 adjoining a growth area. The rural community of
4 Masonville in which the adopted comprehensive plan
5 recommends to grow.

6 If you go back to I believe it was the 1970's
7 201 sewer facility study, sewers have been projected
8 to be extended to Masonville since the late 1970's
9 with that study. It's taken many years to happen, and
10 it may very well happen here with a public/private
11 partnership between the public entities, RWRA, your
12 Daviess County Fiscal Court as well as the private
13 developer, Jagoe Homes.

14 In terms of schools, redistricting, I know
15 that's been brought up on some of the neighbor's
16 minds. The school board has to address that issue and
17 that's not an issue we can address. All we can do is
18 make the school board aware of where development is
19 projected to occur, and we're doing that. Then they
20 sit down and project where the needs are, what changes
21 they need to make.

22 I would say just about, you know, I'd say
23 about anywhere you would locate this development,
24 whether it be here, whether it be the Sorgho
25 community, or on the east part of the county, the

1 school board is going to be faced with the decision
2 what do we need to do to school these additional
3 children. It's not just affecting this area. It
4 could affect any area. The school board is going to
5 have to make those same decisions and address the same
6 issues regardless of where it is. It just so happens
7 here this development is being proposed within your
8 particular area. It is within an area where this
9 urban type growth is projected to occur.

10 MS. WESTERFIELD: I agree with you, Mr.
11 Noffsinger. I think that I speak for myself and
12 several others here. We do not have a problem with
13 this area being developed. Our concerns are 622
14 homes. That is our concern. We don't have a problem
15 with a nice residential area right there. But 622
16 homes figured on a 176 acres. I mean what does that
17 figure to be? Less than a half acre each house. That
18 is our concern, as well as I have another question for
19 the representative.

20 At the meeting at Masonville Fire Department,
21 maybe you can clarify this for me. Was there
22 mentioned or not the possibility of duplexes being
23 built within the subdivision?

24 MR. BRANCATO: There was a possibility
25 mentioned of a common roof over two single residences.

1 That's depicted in this area here as a possibility,
2 yes.

3 MS. WESTERFIELD: Which in turn is called a
4 duplex.

5 MR. BRANCATO: Well, it's called a lot of
6 things. They're called patio homes. The development
7 as laid out is nearly 20 percent smaller than the
8 ordinance permits.

9 CHAIRMAN: Does anybody else got any further
10 questions on things that we have not discussed? I
11 think we've given everybody - -

12 Mr. Bosley, if you'd like one final question.

13 MR. ELLIOTT: State your name.

14 MR. BOSLEY: My name is Mike Bosley.

15 (MR. MIKE BOSLEY SWORN BY ATTORNEY.)

16 MR. BOSLEY: I was at the meeting at the fire
17 department. Mr. Bryant explained everything really
18 well. We've known for a long time - - I live on
19 Westerfield Lane. We have a real problem.

20 He really, I can see how the things that he
21 suggest can really help us in the long run. I guess -
22 - I'm usually a pretty trusting guy, but I don't know
23 if the county will come through.

24 We've dealt with the county and state for a
25 long time and they've never done as much of a study as

1 you've done.

2 The natural flow of the water is right across
3 that little cul-de-sac. Right across from me. When
4 the water gets up, it just shoots across there and
5 goes down to the creek.

6 I heard you say that you would build areas,
7 and there worries me. If that's the way the water
8 flows, I guess what I'm saying is can you essentially
9 build a dam so my water can only go - - you understand
10 my concern?

11 CHAIRMAN: Mr. Bosley, let's ask Mr. Bryant.
12 I think there's going to be a very large drainage
13 easement or ditch or whatever we call them now.

14 Mr. Bryant.

15 MR. BRYANT: Channel. Will have an open
16 channel with capacity to get the water away from
17 Westerfield.

18 The natural flow across the corner of that
19 property is exactly where we're going to route the
20 water. So we're not going to try to divert it in a
21 direction that's not natural. We're going to come up
22 near the end where - - I don't know who owns it.
23 There's a little walking bridge out there, a little
24 foot bridge over on the side of the house where the
25 ditch comes down between the houses and makes a real

1 sharp 90 degree turn.

2 What we're thinking about is taking that
3 channel all the way up to that point and bringing that
4 water directly under the road instead of trying to
5 divert it down Westerfield. That will take that water
6 completely off, if we can get that capacity.

7 That's over half of your water shed. It's
8 almost two-thirds of that 300 acres. To do that you
9 upgrade the other pipe. Now you've got capacity.

10 We'll commit to doing that channel.
11 Improvement on Westerfield have to be done by fiscal
12 court. I can't commit for them, but I think they
13 will.

14 CHAIRMAN: Did you say you previously in one
15 of your other questions, did you say that you all have
16 had contact with fiscal court?

17 MR. BRYANT: Discussed it briefly with the
18 commission last week at the Masonville Fire Station.
19 He was receptive. He was there at the end of the
20 meeting. We'll have to discuss details. We'll be
21 dealing with the county engineer on design approval.
22 So we'll have ample opportunity.

23 CHAIRMAN: Thank you.

24 I think the issue has been well covered. I
25 think everybody has had the opportunity to speak and

1 we appreciate your comments.

2 Does anybody on the commission have any
3 further questions or suggestions?

4 Mr. Miller.

5 MR. MILLER: Mr. Chairman, I just have a
6 question of Mr. Noffsinger.

7 Right offhand is there any plan for the state
8 to four lane Highway 231 in the future?

9 MR. NOFFSINGER: No.

10 MR. MILLER: Not aware of?

11 MR. NOFFSINGER: No.

12 CHAIRMAN: If there are no further questions,
13 the chair is ready for a motion.

14 Yes, sir.

15 MR. MARTIN: I had another - - remember.

16 CHAIRMAN: You have a very brief question?

17 MR. MARTIN: I'll try to make it as brief as I
18 can.

19 MR. ELLIOTT: Identify yourself for the
20 record.

21 MR. MARTIN: Larry Martin.

22 I just want to make a statement because I've
23 heard it said twice tonight by Mr. Bryant and the
24 attorney both. That the culverts in front of
25 Westerfield Lane are way too small to provide what

1 they need to get the water out. I'd like to tell
2 everyone here and the commission that water never
3 backs up at the culvert at my house, the two culverts
4 that are in front of Mike Bosley's house. The water
5 backs up at the corner with the 50 or 60 inch pipe at
6 the corner. That corner floods. When it floods
7 that's when the water comes back towards our house.
8 It's not backing up at our culverts and then
9 eventually getting out there. The water stops out
10 there. It starts bringing it back to us.

11 The other thing, the little white bridge he's
12 talking about is the bridge that runs across the ditch
13 that runs beside my house and my mother-in-law's
14 house. When he's talking about doing something here,
15 I mean I need to know what he's talking about that too
16 because this is my property and I don't know what he's
17 got in mind to try to do that's going to solve in
18 front of my house. Coming in there. What type of
19 culvert. Where he's going to be digging or what he's
20 going to be doing to try to solve this problem with a
21 culvert or whatever he's wanting to do.

22 CHAIRMAN: Let's bring Mr. Bryant back.

23 Mr. Brancato, you're going to take that.

24 MR. BRANCATO: We're not going to do anything
25 to his property. That would be something that the

1 county would do. What we would do is make a wider
2 flatter ditch on the subdivision side of the road that
3 will capture and carry the water from their side of
4 the road faster, but in terms of the pipe that crosses
5 the road, that's going to be up to the county to do.

6 The other thing that I maybe didn't mention
7 earlier is these lots also that back up to Westerfield
8 Road, the backside of those lots will have a 30 foot
9 dedicated easement in part to capture this water and
10 carry the water and also to provide a buffer to the
11 house.

12 One last comment. The comment was made about
13 gradual change. I don't think it's been mentioned
14 that the build out over this 12 to 16 years. It's not
15 going to change over night. That's a long time. It's
16 going to change gradually over that period of time.

17 CHAIRMAN: Thank you.

18 Does anybody else from the commission have a
19 question or a comment?

20 (NO RESPONSE)

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

23 MR. CAMBRON: Mr. Chairman, after hearing all
24 of the concerns from the citizens here, and I think a
25 lot of them have been addressed, I'm going to have to

1 make a recommendation for approval based on conditions
2 1 through 2. I want to read those too.

3 1. Install an eastbound separate right-turn
4 decel and storage lane at the US 231 entrance; and,
5 2. Extend sanitary sewer to serve the subject
6 property.

7 And the Findings of F 1 through 5.

8 CHAIRMAN: Thank you, Mr. Cambron.

9 A motion for approval by Mr. Cambron.

10 MR. APPLEBY: Second.

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

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

15 CHAIRMAN: Motion carries unanimously.

16 Next item, please.

17 RELATED ITEM

18 ITEM 7A

19 6100-6300 Blocks US 231, 176.902 acres
20 Consider approval of preliminary development plan.
21 Applicant: Jagoe Land Corporation, Robert B & Robin
Moorman

22 MR. NOFFSINGER: Mr. Chairman, this
23 application has been reviewed by the Planning Staff
24 and its found to be in order. It is consistent with
25 the adopted comprehensive plan.

1 The previous item was the rezoning regarding
2 that property. We have not given this a formal review
3 because it is a preliminary development plan and does
4 not include the engineering detail that would be
5 necessary for a preliminary plan or for them to go out
6 and start work.

7 Keep in mind this plan does not allow them to
8 go out and move dirt and start work on the
9 subdivision. They will have to come back in with a
10 plan to be considered by this commission to do so.

11 Would recommend if you do approve this
12 preliminary development plan you should consider some
13 type of notation on this plan that would alert folks,
14 perspective buyers, that Hill Bridge Road does
15 occasionally flood and is under water. There may be
16 some time that they're going to be inconvenienced, but
17 I think it is an issue that should be addressed by a
18 note on this plan and the future plans from then on.

19 MR. CAMBRON: Not on the final development
20 plan but on the preliminary?

21 MR. NOFFSINGER: Well, we're only considering
22 the preliminary.

23 MR. CAMBRON: I'm saying should we do it now?

24 MR. NOFFSINGER: We should do that now so that
25 it will carry that forward in the future. Now, I have

1 not discussed that language, or this language was
2 mentioned earlier. The applicant certainly has not
3 agreed to that language at this point and they're
4 talking back and forth..

5 MR. BRANCATO: I apologize. We were talking
6 and I couldn't hear most of what you were saying and I
7 didn't want to scoot them out too fast. Could I ask
8 you to repeat.

9 MR. NOFFSINGER: Yes. The Planning Staff's
10 concern is that for some period of time the only
11 access into this development is going to be off of
12 Hill Bridge Road. It's been evidenced here tonight
13 that Hill Bridge Road does occasionally flood. I
14 think there should be some notation on this
15 preliminary development plan and future plans within
16 that area just to alert folks that Hill Bridge Road
17 does flood on occasion and is over water. Folks may
18 be inconvenienced for hopefully a temporary period of
19 time.

20 Some note addressing that issue so that in the
21 future if residents have a concern and complaints
22 about Hill Bridge Road flooding, at least we can point
23 to that note that, you know, we realize that and we've
24 at least attempted to put you on notice because I've
25 heard nothing here tonight said that we'll actual cure

1 that temporary inconvenience.

2 MR. BRANCATO: We obviously can't cure that
3 temporary inconvenience because we don't own Hill
4 Bridge Road and we don't own Panther Creek.

5 I don't think it would be - - I do think it
6 might be appropriate to put in the flood elevation
7 level of Hill Bridge Road, but I would hesitate to
8 concur that a plat ought to contain language that says
9 this entrance floods for a number of reasons.

10 First of all I think the flooding on Panther
11 Creek is improving every year. Have seen a lot of
12 improvement.

13 I don't know whether it's one year or five
14 years down the road at which time Hill Bridge Road
15 won't flood. Then we have a plat out there that is
16 saying it does flood. So we'll have inconsistent and
17 inaccurate information at some period of time.

18 Secondly I think Jagoe is pretty mindful that
19 they're building an upscale subdivision and would have
20 a lot of unhappy landowners if they were to come home
21 one day after a two inch rain and find they couldn't
22 get into the subdivision.

23 If you would, I think it would be appropriate
24 to put the flood elevation level in at Hill Bridge
25 Road. I don't think it's appropriate to put people on

1 notice that this is a flooding road because frankly it
2 might not be in just a short period of time.

3 CHAIRMAN: Mr. Brancato, you might want that
4 because this is something that you did not cause.
5 When this does happen, and it looks like presently for
6 the next few years this is going to happen. If there
7 is a notation this has happened prior to and before,
8 it really has nothing to do with any of your building.
9 I think the problem and the solution will be very
10 apparent to people buying in that subdivision. The
11 problem would not lie with you all or the problems is
12 not anything that you have done or developed or
13 physically have any control over.

14 MR. BRANCATO: Would it be appropriate to
15 approve this tonight and put that language in the
16 final plat because we haven't discussed what the
17 appropriate language would be. You're suggestion
18 might be a good one, existing Hill Bridge Road can
19 flood.

20 CHAIRMAN: At the present time.

21 MR. BRANCATO: At the present time. That
22 might be appropriate.

23 CHAIRMAN: Mr. Bryant, are you getting ready
24 to make any comment?

25 MR. BRYANT: May I make a suggestion. Why

1 can't we deal with it at the time of design and see
2 where we've got numbers on our retention and so forth.
3 We're going to build in some additional storage here
4 which might help that situation.

5 CHAIRMAN: Mr. Noffsinger.

6 MR. NOFFSINGER: I have no problem with that.
7 I just want to make sure we're all clear. They're not
8 going to be able to transfer property. They're not
9 going to be able to negotiate to sell lots until they
10 have a final design prepared and approved by this
11 commission. I want to put everyone on notice that
12 that is an issue that we should address.

13 I think eventually, you know, at least Staff's
14 concern goes away once you have the 231 entrance
15 because you have another route other than Hill Bridge
16 Road. Right now we recognize Hill Bridge Road as
17 being a potential problem and conflict that you didn't
18 cause, but you're developing along a roadway that has
19 some flooding issue.

20 If we put that base flood elevation on there,
21 no one is going to know what that means. We might as
22 well just leave that off. Probably folks aren't going
23 to look at the plat. They're not going to see this
24 preliminary development plan. At least we have
25 addressed it on that plan so that we have that to

1 point to in the future for whatever reason. You know,
2 it was an issue. We brought it up, but we moved
3 forward.

4 MR. BRANCATO: Are you suggesting that it be
5 on the preliminary and not the final? All I'm
6 suggesting is that it be on the final after we get all
7 the engineering information and have more accurate
8 data.

9 MR. NOFFSINGER: And that's fine because it's
10 not going to mean a whole lot here tonight. Our
11 discussion is what's meaningful. Whether it's on this
12 preliminary development plan is really not going to
13 matter. What's on that preliminary subdivision plat
14 and your final plans will carry more meaning. We've
15 had our discussion. I'm fine with however the
16 commission wants to proceed.

17 CHAIRMAN: Are you okay, Mr. Brancato, that it
18 will be addressed again?

19 MR. BRANCATO: Yes, sir.

20 CHAIRMAN: But you all may have a solution
21 before we address it again.

22 MR. BRANCATO: We'll at least have more
23 accurate engineering information to address it.

24 CHAIRMAN: Correct.

25 MR. CAMBRON: Motion for approval.

1 CHAIRMAN: Motion for approval by Mr. Cambron.

2 MR. APPLEBY: Second.

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

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

7 CHAIRMAN: Motion carries unanimously.

8 Next item.

9 -----

10 COMBINED DEVELOPMENT PLAN/MAJOR SUBDIVISION

11 ITEM 8

12 Green Place at the Summit, 3.066 acres
13 Consider approval of major subdivision preliminary
14 plat/final development plan.
Applicant: The Summit, LLC

15 MR. NOFFSINGER: Mr. Chairman, this plan has
16 been reviewed by the Planning Staff, Engineering
17 Staff. It's found to be in order.

18 It's found to be consistent with the adopted
19 comprehensive plan, the adopted zoning ordinance and
20 subdivision regulations.

21 CHAIRMAN: Do we have anybody representing the
22 applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Does anybody have any questions?

25 (NO RESPONSE)

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

3 MR. APPLEBY: Motion for approval.

4 CHAIRMAN: Motion for approval by Mr. Appleby.

5 MR. MILLER: Second.

6 CHAIRMAN: Second by Mr. Miller. All in
7 favor raise your right hand.

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10 Next item.

11 -----

12 DEVELOPMENT PLANS

13 ITEM 9

14 925 Maple Street, 2.485 acres
15 Consider approval of final development plan
16 Applicant: River City Industrial Services, Inc.

17 MR. NOFFSINGER: Mr. Chairman, this plat has
18 been reviewed by the Planning Staff, Engineering
19 Staff. It's found to be in order. It's found to be
20 consistent with the adopted zoning ordinance and
21 subdivision regulation.

22 CHAIRMAN: Anybody here representing the
23 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 MR. CAMBRON: Second.

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

9 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

10 CHAIRMAN: Motion carries unanimously.

11

12

MAJOR SUBDIVISIONS

13

ITEM 10

14

Cross Creek, Unit #6, Lots 44-50, 3.424+ acres
Consider approval of major subdivision final plat.

15

Surety (Certificate of Deposit, Certified Check)
posted \$19,767.50

16

Applicant: Pedley Developers, LLC

17

MR. NOFFSINGER: Mr. Chairman, this plat has

18

been reviewed by the Planning Staff and Engineering

19

Staff. Found to be in order. Found to be consistent

20

with the adopted comprehensive plan, subdivision

21

regulations, and its use is consistent with your

22

adopted comprehensive plan.

23

CHAIRMAN: Is anybody representing the

24

applicant?

25

APPLICANT REP: Yes.

1 CHAIRMAN: Does anybody have any questions of
2 the applicant?

3 (NO RESPONSE)

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

6 MR. APPLEBY: Motion for approval.

7 MR. ROGERS: Second.

8 CHAIRMAN: Motion for approval by Mr. Appleby.
9 Second Mr. Rogers. All in favor raise your right
10 hand.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 ITEM 11

14 The Sanctuary, Section 2, Lot 1, 3.118 acres
15 Consider approval of major subdivision final plat.
16 Surety (Certified Check) posted \$4,671.00
Applicant: The Summit, LLC

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

22 CHAIRMAN: Anybody representing the applicant?

23 APPLICANT REP: Yes.

24 CHAIRMAN: Any questions of the applicant?

25 (NO RESPONSE)

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

3 MS. DIXON: Move to approve.

4 CHAIRMAN: Motion for approval by Ms. Dixon.

5 MR. HAYDEN: Second.

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

8 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

9 CHAIRMAN: Motion carries unanimously.

10

11

MINOR SUBDIVISIONS

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ITEM 12

13

716, 718 East 20th Street, 0.352 acres
Consider approval of minor subdivision plat.
Applicant: Floyd & Rosalyn Tapp

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MR. NOFFSINGER: Mr. Chairman, this plat has
been reviewed by the Planning Staff and Engineering
Staff. It does create a situation where we take one
lot and make it more nonconforming, one lot less
nonconforming.

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22

Anyhow, there is a pattern of this type of lot
development within the area. We recommend that you
approve.

23

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CHAIRMAN: Anybody representing the applicant?

APPLICANT REP: Yes.

CHAIRMAN: Does anybody have any questions of

1 the applicant?

2 (NO RESPONSE)

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

5 MR. CAMBRON: Motion for approval, Mr.
6 Cambron.

7 CHAIRMAN: Motion for approval by Mr. Cambron.

8 MR. HAYDEN: Second.

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

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: Motion carries unanimously.

13 Mr. Noffsinger, do you have one more item?

14 MR. NOFFSINGER: One item under new business.

15 Each commission has been familiar with and
16 involved in the OMPC is planning a move to the Center
17 For Commerce in the Chase building.

18 We are asking that the Planning Commission
19 authorize an expenditure of up to \$16, 000 for office
20 furniture, site improvements and whatnot related to
21 that move.

22 CHAIRMAN: Does anybody have any questions of
23 the furniture acquisition?

24 (NO RESPONSE)

25 MR. APPLEBY: Motion for approval.

1 CHAIRMAN: Motion for approval by Mr. Appleby.

2 MR. GILLES: Second.

3 CHAIRMAN: Second by Mr. Gilles. All in favor
4 raise your right hand.

5 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

6 CHAIRMAN: Motion carries unanimously.

7 I think we're ready for one final motion.

8 MS. DIXON: Move to adjourn.

9 MR. HAYDEN: Second.

10 CHAIRMAN: Motion to adjourn by Ms. Dixon.

11 Second by Mr. Hayden.

12 All in favor raise your right hand.

13 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

14 CHAIRMAN: We are adjourned.

15 -----

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

4 I, LYNNETTE KOLLER, Notary Public in and for
5 the State of Kentucky at Large, do hereby certify that
6 the foregoing Owensboro Metropolitan Planning
7 Commission meeting was held at the time and place as
8 stated in the caption to the foregoing proceedings;
9 that each person commenting on issues under discussion
10 were duly sworn before testifying; that the Planning
11 Commission members present were as stated in the
12 caption; that said proceedings were taken by me in
13 stenotype and electronically recorded and was
14 thereafter, by me, accurately and correctly
15 transcribed into the foregoing 84 typewritten pages;
16 and that no signature was requested to the foregoing
17 transcript.

18 WITNESS my hand and notary seal on this the
19 2nd day of May, 2006.

20 _____
21 LYNNETTE KOLLER
22 OHIO VALLEY REPORTING SERVICES
23 202 WEST THIRD STREET, SUITE 12
24 OWENSBORO, KENTUCKY 42303

25 COMMISSION EXPIRES: DECEMBER 19, 2006

COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY